

APPROVED

FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES DECEMBER 21, 2011

Call to Order:

Chairman Latimer called the meeting to order at 7:05 p.m. Present were Supervisors Hughes, Overton, Skalish and Brindle. Also present were Solicitor Mark Thompson, Township Treasurer Joan McVaugh, and HARB/Planning Commission Chairman Ralph Olivier. There were 10 members of the public in attendance.

Announcements: Ms. Latimer announced that both the Schultz and the Keen properties have settled representing the last actions of the Open Space Committee.

Public Comment: There was no public comment.

Approval of Minutes:

a. **November 9, 2011 & November 16, 2011:** Ms. Latimer moved, seconded by Mr. Skalish, that the Board approve the November 9, 2011 Minutes, version 1, and the November 16, 2011 Minutes, version 2, as submitted by the Municipal Secretary.

Motion passed unanimously.

b. **Resolution 2011-36:** Ms. Latimer moved, seconded by Mr. Hughes, that the Board approve Resolution 2011-36, regarding the Disposition of Records for the Board of Supervisors Meetings of November 9, 2011 and November 16, 2011, and the Planning Commission Meeting of November 3, 2011. Motion passed unanimously.

Reports:

a. **Treasurer's Report November 2011:** Ms. Latimer moved, seconded by Mr. Hughes, that the Board approve the November 2011 Treasurer's Report which includes the following disbursements: The General Fund with disbursements and transfers of \$139,293.55; the Park & Recreation Fund with disbursements of \$7,438.85; the Open Space Fund with disbursements of \$95,708.24; Emergency Services Fund with disbursements of \$29.99; Fire Hydrant Fund with disbursements of \$399.30 leaving a balance in all funds totaling \$1,547,557.31.

Discussion: Ms. Latimer explained that the disbursements from the General Fund included a \$60,000 disbursement for the Fire Relief Fund which was an in/out of money from the state. The Open Space Fund disbursement included \$73,800 for the Schultz property.

The motion passed unanimously.

b. **Zoning Officer Bldg. Inspector Report:** Mrs. McVaugh summarized the Zoning Officer's Report for the period of October 27, 2011 to November 30, 2011, which included the issuance of 6 permits and 40 various building inspections.

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Planning & Zoning:

- a. Planning Commission Report: Mr. Olivier, Chairman of the Planning Commission, summarized the December 1, 2011 Planning Commission meeting which involved further discussion of the Keen Preliminary Subdivision Plan and a discussion of the Walls final plan, including a recommendation to the Board of Supervisors for conditional approval.
- b. HARB/Historical Commission Report: Mr. Olivier reported that the HARB did not have any business to discuss and therefore did not meet in December.
- c. Walls Final Plan: Ms. Latimer moved, seconded by Mr. Hughes, that the Board of Supervisors accept the Planning Commission's recommendation of December 1, 2011 and approve the Final Subdivision Plan for the Harold Walls property dated April 11, 2011, last revised December 8, 2011 with the following conditions and changes, and approval of the following waivers:

- That the recommended Operation and Maintenance Agreement regarding Declaration of Covenants, Easements and Restrictions concerning stormwater facilities be completed as acceptable to the Township Solicitor and entered into by the applicant and the Township prior to the subdivisions plans being signed and recorded.

With the following waivers:

- Waiver of §22-502.U which requires a landscaping plan in accordance with SLDO §22-16 regarding screening and landscaping, due to the rural nature of the area and the recommendation that a waiver be approved by the Township's consultant, LTL Associates.
- Waiver of the requirements of §22-710 regarding sidewalks, given the rural nature of the area, lack of sidewalks generally in the area and that it would not be in the interest of the Township to require sidewalks at this point.
- Waiver of the requirements of §22-711 regarding street lighting, given the rural nature of the area and the fact that it would not be in the Township's interest to require street lighting at this time.

In addition, approval is conditioned upon the applicant agreeing to 1) the payment of a Traffic Impact Fee in the amount of \$3,510.00 at the time the building permit is issued; 2) the applicant having paid all outstanding and expected legal and consulting review expenses; and, 3) the applicant funding any and all appropriate escrows in accordance with Township policies prior to the plans and agreements being released for recording.

Motion passed unanimously.

New Business

- a. 2012 Budget – Resolution 2011-37: Ms. Latimer moved, seconded by Mr. Hughes, that the Board of Supervisors adopt Resolution 2011-37, the 2012 Franklin Township Budget as advertised. Motion passed unanimously.

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- b. Tax Levy Resolution – Resolution 2011-38: Ms. Latimer moved, seconded by Mr. Hughes, that the Board of Supervisors approve Resolution 2011-38 establishing the 2012 tax rate as follows:
- Tax rate for general purposes, the sum of 1.913 mills which is 19.13 cents on each \$100 of assessed value.
 - For Emergency Services purposes, the sum of .400 mills which is 4.0 cents on each \$100 of assessed value.
 - For Park and Recreation purposes, the sum of .270 mills which is 2.7 cents on each \$100 of assessed value.
 - For Open Space purposes, the sum of .500 mills which is 5.0 cents on each \$100 of assessed value.

The total millage for 2012 is 3.083 mills which is 30.83 cents on each \$100 of assessed value.

Discussion: Ms. Latimer pointed out that the Township has not had a tax increase since 2005.

The motion carried unanimously.

- c. Hess Mill Guiderail Bid Award: Ms. Latimer moved, seconded by Mr. Skalish, to accept the recommendation of the traffic engineer in his memo dated December 14, 2011, to award the 2011 Guiderail Maintenance Program Contract to Long Fence Co., Inc., the lowest responsive bidder with a base bid in the amount of \$26,918.25.

Discussion: Ms. Latimer explained the purpose of the program. Motion passed unanimously.

- d. Sign Ordinance #2011-10/2011-11: Ms. Latimer turned the meeting over to the Solicitor to open the public hearing. Solicitor Thompson opened the hearing and explained that the purpose of the hearing is to consider the approval of two ordinances, one amending the Zoning Ordinance (ZO), and the other amending the Subdivision and Land Development Ordinance (SLDO).

Ordinance #2011-10 amending the Zoning Ordinance concerning Signs: The Solicitor marked the following exhibits: Exhibit T1 – the Ordinance; Exhibit T2 - Solicitor's 12.6.11 letter providing the Ordinance to the Chester County Law Library; Exhibit T3 - Solicitor's 10.14.11 letter providing the Ordinance to the Chester County Planning Commission; Exhibit T4 – Chester County Planning Commission's response dated 10.25.11; Exhibit T5 - the Public Notice which was placed in the Daily Local News giving notice of the hearing; Exhibit T6 - the Proof of Publication that the notice ran on December 8th and 14th, 2011. The Solicitor stated for the record that an ambiguity in the Ordinance regarding the size of the structure supporting a free-standing sign has been corrected to 100 square feet.

The Solicitor called for questions or comments from the audience and the Board members. There being none, the solicitor closed the hearing.

Ms. Latimer moved that the Board of Supervisors adopt Ordinance 2011-10, an Ordinance of Franklin Township, Chester County, Commonwealth of Pennsylvania pursuant to the authority of the Pennsylvania Municipalities Planning Code, amending

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the Franklin Township Zoning Ordinance to revise chapter 27, Parts 2 and 20, to amend the regulations for signs in the commercial zoning district and to permit signs associated with wineries accessory to agriculture. Seconded by Mr. Skalish. Motion passed unanimously.

Ordinance 2011-11 amending the Subdivision and Land Development Ordinance concerning fences and walls: The Solicitor marked the following exhibits: Exhibit T1 – the Ordinance; Exhibit T2 - Solicitor's 12.6.11 letter providing the Ordinance to the Chester County Law Library; Exhibit T3 - Solicitor's 10.14.11 letter providing the Ordinance to the Chester County Planning Commission; Exhibit T4 – Chester County Planning Commission's response dated 10.25.11; Exhibit T5 - the Public Notice which was placed in the Daily Local News giving notice of the hearing; Exhibit T6 - the Proof of Publication that the notice ran on December 8th and 14th, 2011. The Solicitor called for questions and comments from the audience and the Board members. There being none, the Solicitor closed the public hearing.

Ms. Latimer moved that the Board of Supervisors adopt Ordinance 2011-11, an Ordinance of Franklin Township, Chester County, Commonwealth of Pennsylvania, pursuant to the authority of the Pennsylvania Municipalities Planning Code, amending the Franklin Township Subdivision and Land Development Ordinance, to revise Chapter 22, Parts 2 and 7, to address fences and walls. Seconded by Mr. Hughes. Motion passed unanimously.

- e. AGCS Final Completion Resolution 2011-40: Ms. Latimer explained that the purpose of this Resolution is to confirm that the improvements that were detailed in Resolution 2007-20 have been completed. The 2007 Resolution was in lieu of going through a land development plan review process which was waived by the Board of Supervisors due to the nature of the project.

Ms. Latimer moved, seconded by Mr. Skalish, that the Board of Supervisors adopt Resolution 2011-40, a Resolution of the Board of Supervisors of the Franklin Township, Chester County confirming final completion of the improvements constructed by the Avon Grove Charter School pursuant to Resolution 2007-20 on the property located at New London and Peacedale Roads.

Discussion: Mr. Brindle requested, and received, an explanation of an outstanding balance. Motion passed unanimously.

- f. Wyndemere – Resolution 2011-41: Ms. Latimer explained that the Wyndemere Development has gone into receivership and is now held by Beneficial Bank. The Township has been meeting with the Bank to reach a solution regarding how to move forward given the fact that the Township's zoning regulations have changed significantly since the subdivision was initially approved. The result of those meetings is that Phase I of the development will proceed based on the zoning ordinance that was in effect at the time of approval. The second phase of the development will proceed based on the zoning ordinance which is currently in effect. The redesign of Phase II has resulted in the loss of 11 building lots and it has been agreed that those lots will become open space. The Township has arrived at a Declaration of Covenants laying out the steps to redesign Phase II. There are

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documents and agreements that have to be drafted and filed with the County, and Resolution 2011-41 sets out the parameters for that action.

Ms. Latimer moved, seconded by Mr. Overton, that the Board of Supervisors adopt Resolution 2011-41 authorizing the execution and filing of the necessary documents to permit and amend development of Phase 1 of the subdivision of the property known as Wyndemere, recorded as the Crossan Creek Farm, prepared by Hillcrest Associates Inc., dated July 5, 2001, last revised May 21, 2003 as shown on Exhibit B, with all documents and plans subject to final review and approval by the Township Engineer and Township Solicitor to include the following:

- Declaration of Covenants regarding subdivision plan amendments and NPDES permit plan update.
- Developer Agreement between Franklin Township and PA. Real Property Holding LP for Phase I.
- Final Security Agreement between Franklin Township and PA Real Property Holding LP for Phase I with security in an amount acceptable to the Township Engineer.
- Amended NPDES Plans.
- Amended Home Owners Association Declaration of Covenants and Restrictions.

This motion shall also include that the following shall be necessary for development of Phase II:

- Submission of amended final plans and conformity to the improvements shown on Exhibit B for review and approval of the Board of Supervisors which shall include modifications to the NPDES Permit Plan necessary to accommodate the open space.
- Approval of a Developers Agreement for Phase II.
- Financial Security Agreement for Phase II with security to an amount acceptable to the Township Engineer.
- Property owners of Phase II shall obtain approval from the Commonwealth of PA for modifications to the NPDES Permit Plan as may be necessary to accommodate the improvements located in Phase II.
- The filing of documents referred to above is contingent on the payment of all review fees due to the Township by previous and current owners of the property.
- Township Staff, Solicitor and Engineer are authorized to prepare and review all documents and/or plans in order to allow for the development of the property in accordance with the plan, attached hereto as Exhibit B.

Discussion: Solicitor Thompson explained further that that the protection period of 5 years provided by the MPC was no longer in effect. If the applicant doesn't start construction within that time frame he loses the protections provided with the original approval. Also, the Township needed to find a way to bring the development into compliance with the new open space provisions. This was accomplished by the elimination of 11 lots which were previously approved. The newly designed plan also includes a trail easement.

Motion passed unanimously.

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Public Comment: John Auerbach said he was "...curious to see what happened..." "... it sounds like the owner gave up 11 lots to open space...". Mr. Overton explained that it was done to bring the development into compliance with current open space regulations. The applicant is free to build homes in Phase I according to the original plan approval. If he wants to build in Phase II he has to come back to the Township for approval.

Mr. Auerbach asked if the Township had to expend any money as part of this agreement. The Solicitor explained that all review fees are recoverable according to the MPC.

Mr. Bob Brechter thanked the supervisors for their services this year.

Ms. Latimer thanked the other members of the Board and specifically Mr. Skalish for his service over the last 14 months.

Mr. Skalish said he was honored to work with everyone and that he was amazed at the amount of time and effort that it takes to be a Board member. He thanked the Board and said he is proud to say that he was on the Board when several open space projects came to fruition.

Ms. Latimer commented that through the Township's Open Space Program more than 1,900 acres have been preserved. She thanked Supervisor Hughes for his service referring to him as a "Great Supervisor" and she thanked the staff and all of the consultants for their support of the open space program.

She also thanked the residents for their support both by attending the meetings and also through their tax dollars. She mentioned that taxes haven't been raised in 7 years, and the 10 yr road program is half-way completed.

Ms. Latimer said she considered it a privilege to be the Chairman for 2011 and thanked the Board for that opportunity. She stated that although she will continue to serve as a supervisor, she will not accept the nomination of Chairman or Vice Chairman for 2012 due to the need to focus on other responsibilities and because she has been Chairman or Vice Chair for the four years she has been on the Board and it's time to give someone else the opportunity to serve in this capacity. She thanked the staff for all their help and commented that her job as Chairman was much easier because of their help and support. She wished everyone Happy Holidays.

Adjourn: The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Sharon Norris,
Township Secretary

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