

**FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS
REGULAR MEETING
October 13, 2008**

CALL TO ORDER

Present were Supervisors Donald Lerew, John Shambaugh, Gary Brown, Naomi Decker and Edward Campbell. Also present were Engineer Timothy Knoebel, Solicitor Stacey MacNeal and Secretary Nancy Zentmeyer. Visitors are on the attached sign-in sheet. The meeting was called to order at 7:30 p.m. at the Franklin Township Municipal Building, 150 Century Lane, Dillsburg, York County, PA.

PLEDGE OF ALLEGIANCE AND PRAYER

Chairman Lerew led the Pledge of Allegiance and Vice Chairman Shambaugh gave the opening prayer.

BID OPENING – FUEL OIL

The Township received only one bid for Fuel Oil as follows:

Leffler Energy - \$2.9322 per gallon for a total of \$2,932.20.

Solicitor MacNeal reviewed the bid proposal and noted that it may not be responsive since the Township did not include an escalating clause and one was submitted in the bid. It was suggested to call the local oil companies to see what their price is. Supervisor Decker questioned how many gallons are used a year and what is the capacity to store the fuel oil.

Motion: Vice Chairman Shambaugh made a motion to reject the Fuel Oil bid and that the Township check the bid parameters. **Seconded** by Chairman Lerew. The motion carried unanimously.

APPROVAL OF MINUTES

1. Board of Supervisors Regular Meeting, September 8, 2008

Motion: Vice Chairman Shambaugh made a motion to approve the minutes of September 8, 2008 as submitted. **Seconded** by Supervisor Campbell. The motion carried with Supervisor Decker abstaining.

2. Board of Supervisors, Workshop Meeting, September 13, 2008

Motion: Vice Chairman Shambaugh made a motion to approve the minutes of September 13, 2008. **Seconded** by Supervisor Brown. The motion carried with Supervisor Decker abstaining.

APPROVAL AND PAYMENT OF BILLS

Motion: Vice Chairman Shambaugh made a motion to pay the bills as submitted on the bill list. **Seconded** by Chairman Lerew. The motion carried unanimously.

TREASURER'S REPORT

1. Outstanding Invoice

Mrs. Emlet noted that this invoice was sent after the other invoices due to an incorrect mailing address. This invoice is to be turned over to Solicitor MacNeal. It was noted that this bill was disputed.

Motion: Vice Chairman Shambaugh made a motion to turn this invoice over to Solicitor MacNeal for collection. **Seconded** by Chairman Lerew. Supervisor Decker asked the reason for the dispute. It was noted from Engineer Knoebel that this had to do with a storm water management plan that was needed in order to the property owner to receive a building permit. It was a routine procedure. The motion carried unanimously.

2. M&T Bank, CD Renewal

The CD renewal is needed to be done by the beginning of November. Mrs. Emlet had contacted other banks to receive the interest rates on their CD's. After review of the figures it was noted that this will be discussed at the budget meeting.

3. Budget Information

Mrs. Emlet provided the Supervisors with budget information which will be discussed at the budget meeting.

4. Liquid Fuel Fund

A letter was received from the State regarding the estimated Liquid Fuels allocation for 2009 which is in the amount of \$156,118.94. Mrs. Emlet did contact the State regarding the Liquid Fuel funds and noted that it was okay to have the funds roll over but the funds cannot be used towards the expansion of the township building.

Regarding the CD renewal it was questioned whether it could be moved now or would there be a penalty.

Motion: Vice Chairman Shambaugh made a motion to approve the Treasurer's Report as submitted. **Seconded** by Brown Supervisor . The motion was carried unanimously.

ORGANIZATION REPORTS

1. Police – Chairman Lerew gave the following report: correspondence was received from the Department of the Auditor General that the Township will received \$11,050.19 from the general municipal pension system state aid for NYRPD. Chairman Lerew stated that the cost for police protection will be going up from \$214,576.43 to \$227,433.72 next year at a proposed increase of \$12,857.29. It was questioned what the increases are for and it was noted for vehicle expenses, operation or headquarters etc. The report will be on file. The calls year to date for 2007 were 811 and for calls year to date for this year it is 840.

2. Fire – Tony Baker was present to give the report from Citizens Hose. There were 3 incidents in the Township being at Clear Spring Road, Range End Road and Route 15 at Cabin Hollow Road. October is fire prevention month. The fire company is preparing for Farmers Fair this weekend. Mr. Baker asked that he be placed on the agenda for the budget meeting.

There was no one present from Franklinton Fire Company.

3. EMS – Traci Cook was present to give the EMS report as follows: there were 13 calls in the Township with a breakdown of 11 medical, 1 fire, and 1 motor vehicle accident. Ms. Cook noted that the County has issued new pagers which were recently received. There was training for the new portables which take effect on November 15. Ms. Cook noted that she has submitted 3 grants to help with the new laptops, EMS supplies and a fire grant for the truck and they should know by February if they were approved for the grants.

4. DAA - No one was present to give a report.

5. Emergency Management – Mr. Laurin Fleming gave the Emergency Management report. The last Saturday in September a cooperative drill which was conducted in Carroll Township on Campground Road. This is the first of many drills to be held with at least 2 a year. Franklinton Fire Company and NYCRPD declined to participate. The radios are to be received this coming week.

6. NYCRCP Transportation – Supervisor Brown indicated he had not heard anything regarding the award.

7. Ad-Hoc Committee - Supervisor Brown indicated that the Ad-Hoc meeting is scheduled for tomorrow evening and Articles 6 and 7 are to be discussed along with the Mobile Home article.

8. Building Committee - Mr. Robert Yerger noted that correspondence has been sent to the stakeholders of the Township which includes all chairpersons of boards and committees. This will also be open to the citizens of the Township. Mr. Yerger noted that he will be doing interviews also.

SUBDIVISION AND LAND DEVELOPMENT

1. Letter from Johnston & Associates Re: Sewer and Water Capacity

Mr. Eric Johnston was present requesting that the Supervisors, for large projects, have the sewer and water capacity letter be obtained at the final plan stage. It was noted that with larger subdivisions it would probably be done in phases, that way the developer would only have to paid for the EDU's in that phase. Engineer Knoebel noted that it could be a condition of approval and that notes would need to be placed on the plan. Mr. Johnston indicated that there could also be a legal agreement as this has been done with other municipalities. Supervisor Decker stated that by ordinance the Township should not be doing this. Supervisor Campbell noted that there is a capacity issue. Supervisor Decker asked why the time extensions were given to Lexington Fields, Williams' Townhouse Estates, and Sturbridge Place and also questioned the traffic studies with Derby Farms, which is now denied. It was noted that the changes to the plans are not known at this time. Supervisor Campbell noted that a decision should be made whether or not to have a plan move forward or to find a reason why not to let it move forward or with phasing. The infrastructure was discussed and how this would be done with the phasing of a plan. Solicitor MacNeal noted that phases can stand alone if the other phases are not done. Engineer Knoebel noted that in the ordinance phases are 25% of the development and bonding also needs to be done. There is a need for consideration with preliminary approval as this starts the 5-year period as noted in the MPC. Supervisor Decker suggested that this was a threatening letter from Mr. Johnston to the Township. Solicitor MacNeal stated that sewer and water is needed before getting a building permit.

Attorney Brian Linsenbach stated that he had worked on the agreements for a plan in Carroll Township. Vice Chairman Shambaugh asked if the plans were phased. Engineer Knoebel noted that the preliminary plan is for everything but it does showing phasing. There are still a lot of comments that need to be addressed such as the storm water management plan, they need the HOP etc. Mr. Johnston stated that the Township's ordinance (policy) be revised. Supervisor Brown stated that the Township needs to find a way for this to work. There was discussion on the reservation fee to DAA and that it is paid in a lump sum. Mr. Johnston indicated that there is a cost of \$2,750.00 per EDU and then another \$60.00 quarterly fee which holds the reservation fee.

Motion: Vice Chairman Shambaugh made a motion to table the discussion until there is further study. **Seconded** by Supervisor Decker. It was suggested to talk with Mr. Williams, manager of DAA. The motion carried unanimously

2. Kensington East, Final Subdivision/Land Development Plan

Attorney Linsenbach, Ms. Sarah Tandle, and Mr. Pat McKonly were present to represent this plan. It was noted that the Erosion Control Plan is needed (outside agency) but the cross access easement between lots 18, 19 and 20 has been resolved. At this time Engineer Knoebel noted that his letter of August 28, 2008 the following comments need to be addressed: bonding or installation of related improvements such as property pins, driveways etc., park and recreation fees and the Erosion Control Plan.

Motion: Vice Chairman Shambaugh made a motion to approve the Kensington East Final Subdivision/Land Development Plan subject to any outstanding comments in the Engineer's letter dated August 28, 2008. **Seconded** by Supervisor Campbell. Supervisor Decker stated that there should be a note on the plan the there will be no further subdivision of the back lots. It was noted that this had been done. The motion carried unanimously.

3. Spring Drive Estates, Final Subdivision Plan Sewage Planning Module

Mr. Roger Watson was present to represent the Spring Drive Estates Plan sewage planning module. It was noted that the preliminary plan was approved. Currently the final plan is before the Planning Commission.

Motion: Vice Chairman Shambaugh made a motion to approve the sewage planning module for Spring Drive Estates. **Seconded** by Chairman Lerew. The motion carried unanimously. Supervisor Decker questioned the nitrate studies and Engineer Knoebel noted that it had to be amended as requested by DEP. Supervisor Decker also questioned the planning review comments from YCPC.

4. Quality Greenhouses, Release of Letter of Credit

Correspondence had been received from Quality Greenhouses requesting the release of their Letter of Credit. Engineer Knoebel stated that he needs authorization to do a final inspection and this will then be addressed at next month's meeting.

Motion: Vice Chairman Shambaugh made a motion to authorize KPI to review this to see if the Letter of Credit can be released. **Seconded** by Supervisor Brown. The motion carried unanimously.

REPORTS

Engineer

1. Collinson, Inc., Invoice for Guide Rail Repairs to Capitol Hill Road Bridge

Engineer Knoebel reviewed his letter dated October 8, 2008. The invoice is for \$7,077.54 and the original contract was for \$6,890.04.

Motion: Chairman Lerew made a motion to approve the payment of \$7,077.52 to Collinson, Inc. for the guide rail repair on the Capitol Hill Road Bridge. The increase of \$187.50 is due to an additional 12.5 foot section of guide rail which was authorized by in the field by both the KPI and the Township's Road master. This was installed in order to create a safer approach on the south bound side of the roadway. It is recommended that this invoice be paid. **Seconded** by Supervisor Decker. The motion carried unanimously. Solicitor MacNeal asked if this would be the final payment and it was so noted by Engineer Knoebel. Engineer Knoebel also explained the process of the repairs to this guide rail.

It was noted that the bridge is now up to current standards.

Solicitor

1. Rowbottom Property, Wall in Right-of-Way

Solicitor MacNeal noted the issue is of a self constructed retaining type wall with large stone in the Township's right-of-way which was confirmed by the Engineer Knoebel. Solicitor MacNeal is asking the Board of Supervisors what type of action is needed. It was noted that the property owner could sign an indemnification agreement which would release the Township from any and all liability. This would include if the wall was damaged or if the Township needed to remove the wall for work being performed. It was noted that the wall does not interfere with the road itself but does impede with the drainage and water flow and that the rock wall should be removed and the cart way needs to be restored and reseeded so the water can flow. Mr. Rowbottom noted that this is a fence. Mr. Rowbottom indicated that rocks were moved from the roadway for the water flow and Mr. Rowbottom noted that he has a Cease and Desist Order letter. Solicitor MacNeal noted that this is not a zoning issue but about a building structure. Solicitor MacNeal noted that the Township needs to see the rocks removed from between the road and right-of-way for the drainage. It was noted that it is up to the Supervisors to decide if an indemnification agreement is signed. There was discussion regarding the removal of the structure or indemnification agreement. It was suggested that Mr. Rowbottom meet with the Township Road master Mr. Ocker to determine this. It was noted that the wall was constructed 10' from the road and it is 25' from the centerline. Mr. Rowbottom argued the point that this is a fence and not a wall as the zoning officer noted.

Motion: Supervisor Brown made a motion to authorize the agreement to allow the rock wall to remain. **Seconded** by Supervisor Decker. Vice Chairman Shambaugh asked to debate this issue as this is the Township's liability and does not care for the indemnification agreement. This would allow the rock in the Township's right-of-way but there were no permits, designs, or drawings submitted. The Township needs the right-of-way to do work. Mr. Fahey noted that the right-of-way is 1 foot but the setback requirements go back further. The vote is as follows: Supervisors Campbell and Brown – yes with Vice Chairman Shambaugh and Chairman Lerew – opposed. After discussion of the situation with the Supervisors and Mr. Rowbottom Supervisor Decker voted to abstain. The motion died.

Supervisor Decker asked for discussion regarding the document of agreement. After listening to the pros and cons Supervisor Decker noted that she would like to change her vote to being opposed. Supervisor Brown asked Mr. Rowbottom if he could possibly move the wall 1 foot. Mr. Rowbottom asked why this wasn't addressed over a year ago instead of letting this go on until now when it is almost finished as this will be additional cost to him. Solicitor MacNeal recommended a motion on this issue with indicating a certain amount of days.

Motion: Vice Chairman Shambaugh made a motion to have the wall removed from the Township's right-of-way within 90 days. **Seconded** by Chairman Lerew. The motion carried with Supervisors Brown and Campbell opposing.

2. Past Due Invoices

Solicitor MacNeal noted that there are past due invoices in which she was directed by the Board of Supervisors to send letters. Letters of notice were first sent by Mrs. Emlet, Township Treasurer, in an attempt to collect these monies before August 31^s and Solicitor MacNeal would like to know what is the next step the Supervisors wish to take. It was noted that these are not sufficient amounts. Options for collecting these monies are to go to the District Justice or send to a collection agency. The amounts are not enough to place a lien on the property. Supervisor Campbell noted that it should go to a collection agency.

Mr. Rowbottom noted that he will pay his bill but has been requesting a copy of a letter from the former Solicitor and from KPI, their letter dated 2006. Engineer Knoebel stated that he will have his staff look for this letter. Vice Chairman Shambaugh stated that these invoices should be forwarded to the District Justice. It was noted that Township would have to pay a percentage to the collection agency and the Township needs to prosecute.

Motion: Vice Chairman Shambaugh made a motion to have these accounts be forwarded to the District Justice for collection. **Seconded** by Supervisor Brown. Supervisor Campbell debated between the collection agency and the District Justice. Solicitor MacNeal noted that there are 3 things in filing a complaint: the individual will pay the costs, have a hearing with Engineer Knoebel and herself and then go to a judgment if the costs are not received. Supervisor Decker noted that it should be resolved due to the individual's reason. Solicitor MacNeal indicated that she has not received any responses. The motion carried with Supervisor Campbell opposing.

Building Permit & Zoning Officer

Mr. Fahey reviewed his report as follows:

Mr. Overcash's business has closed and the signs have been removed.

An enforcement notice is needed to be sent to 136 Chain Saw Road for violations and Mr. Fahey will coordinate this with Solicitor MacNeal.

Mr. Fahey started to discuss the Rowbottom issue with the approach on the building which was turned down a year ago and regarding the new submittal. Solicitor MacNeal noted that this should not be

discussed at this time since they are in the 30-day appeal period. The fence around the property is considered a wall which is a structure and needs to comply with the setback requirements.

The kennel on Coffeetown Road which will be submitting a conditional use application will be forthcoming. Other issues noted in Mr. Fahey's report included an abandoned mobile home, an existing business being brought into compliance, and the cutting back of overhanging trees and brush.

Mr. Fahey is also requesting reimbursement of \$30.00 for his cell phone bill. This will be discussed at the budget meeting.

Road master

1. Calvin Hipp, Second Driveway Request

Mr. Hipp is requesting a second driveway on his property for a new garage which is being constructed in accordance with the zoning requirements. The garage is located within the setback requirements but in order for Mr. Hipp to access his garage he needs the second driveway. His septic and well are in the front of his property and in the back there are too many trees. It is noted that there is adequate site distance.

Motion: Supervisor Brown made a motion to approve the second driveway access. **Seconded** by Supervisor Decker. The motion carried with Vice Chairman Shambaugh opposing.

Vice Chairman Shambaugh noted that the road report has been submitted.

2. Parking in Twin Hills

Vice Chairman Shambaugh noted that there is a problem with parking in the Twin Hills development during snow falls. The road crew only plows what they can and the police will not give tickets. There are signs up indicating no parking. Chairman Lerew stated that he would talk with the Road master and Chief Segatti. It was noted that the police are here to do their job. It was noted that if tickets were given out at the first snow fall this might make the residents aware that they need to park elsewhere.

3. Bridge on Water Street

The bridge on Water Street off of Hickory Road needs an estimate on repairs. Engineer Knoebel stated that he can have his structure person look at it. There was discussion on how many cars use the bridge and it was suggested that the Township can always put a weight limit on it.

Motion: Vice Chairman Shambaugh made a motion to authorize KPI Technology to inspect the bridge. **Seconded** by Supervisor Brown. The motion carried unanimously.

4. Water Street

It was noted on Water Street from Ponderosa Park, near the Miller's property, the swale on the corner that is within the right-of-way. Up by Burkholder's the swale has run-off and it should be moved off the right-of-way. It was suggested to send a letter. The swale is on the property owner's side which floods the intersection and the swale should be maintained.

Motion: Vice Chairman Shambaugh made a motion to authorize KPI Technology to send a letter to the property owner. **Seconded** by Supervisor Campbell. The motion carried unanimously.

Park & Recreation

Supervisor Decker noted that the Park & Recreation Board does not meet until next Tuesday and at this time has nothing to report.

OLD BUSINESS

1. Ponderosa Park Site Improvements Bid, Discussion

Engineer Knoebel noted that the Notice of Intent to Award letter had been sent and KPI did receive the performance bonds and insurance but the agreement needs to be signed and then the work is ready to go. Engineer Knoebel noted that the Township may save some money and if this is done it would need a change order. The contractor did some test pits regarding rocks. Supervisor Decker stated that the Township will be receiving money from the Soccer Club. Supervisor Campbell noted his concern and that this is a substantial amount of money and this it is not the time to be spending this type of money. It was also noted that a bridge is needed for the senior path.

NEW BUSINESS

1. PennDOT, State Bike Route

Correspondence had been received from PennDOT requesting the use of low traffic roads for a bike route. Vice Chairman Shambaugh noted that he has a problem as it seems like PennDOT is dumping this on Franklin Township. A right-of-entry, maintenance, and signing agreement was also submitted to the Township. Solicitor MacNeal will review this agreement. Supervisor Decker asked the Solicitor to pay special attention to condition #4. This will be placed on the agenda for next month's meeting.

CORRESPONDENCE

1. YCPC - YAMPO

Supervisor Brown noted that Carroll Township is nominating Mark Hilson as the alternate representative. The Supervisors noted that they are comfortable with Mr. Hilson being nominate as the alternate and to let Carroll Township do the nominating.

2. West Shore Tax Bureau, Approval of Budget, Adoption of Resolution & Appointment of Board and Alternate Members

Vice Chairman Shambaugh stated that the Township needs to approve the budget as there is not much of a choice.

Motion: Vice Chairman Shambaugh made a motion to approve the West Shore Tax Bureau's 2009 Budget. **Seconded** by Chairman Lerew. The motion carried unanimously.

It was noted that the Resolution also needs to be adopted. There was discussion on who should be appointed the Board's member and alternate member. It was suggested that this be done at Thursday's budget meeting.

3. SPCA of York County, 2009 Animal Care & Disposal Agreement and

4. Humane Society, 2009 Municipal Domestic Animal Protective Services Agreement

Both of these items were discussed together. The Humane Society's fee for the year is \$2,075.86 and the SPCA of York County is \$2,258.00. As noted in previous years if the Township goes with the SPCA the Township would also have to contract with an animal control officer which would be an additional cost. With the Humane Society they request a primary and secondary contact person. It was noted that the Township Secretary should be the primary contact and Vice Chairman Shambaugh would be the secondary.

Motion: Supervisor Brown made a motion to appoint the Humane Society with the animal protection services agreement. **Seconded** by Supervisor Decker. The motion carried unanimously.

PUBLIC COMMENT

Mr. Tim Rowbottom noted that he would like to build a steel building but needs a conditional use and zoning determination. There was also the discussion of having a granny flat which would be over 1,000 square feet. It was noted that it is up to Mr. Fahey to make the zoning determination.

EXECUTIVE SESSION

There was no Executive Session.

ADJOURNMENT

Motion: Vice Chairman Shambaugh made a motion to adjourn the meeting at 10:41 p.m. **Seconded** by Supervisor Campbell. The motion carried unanimously.

Respectfully submitted,

Nancy Zentmeyer
Township Secretary