

**FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS
REGULAR MEETING
August 11, 2010**

ROLL CALL

Present were Supervisors Donald Lerew, John Shambaugh, Gary Brown, Edward Campbell, and Naomi Decker. Also present were Solicitor Stacey MacNeal, Engineer Timothy Knoebel, Treasurer Phyllis Emlet, and Secretary Nancy Zentmeyer. The meeting was called to order at 7:00 p.m. The meeting was held at the Franklin Township Municipal Building, 150 Century Lane, York County, PA. Guests and visitors are on the attached sign-in sheet.

PLEDGE OF ALLEGIANCE AND PRAYER

Chairman Lerew led the Pledge of Allegiance and Supervisor Brown gave the opening prayer.

APPROVAL OF MINUTES

Board of Supervisors Regular Meeting – July 14, 2010

Motion: Vice Chairman Shambaugh made a motion to approve the minutes of July 14, 2010 as submitted.
Seconded by Supervisor Campbell. **The motion carried.**

Board of Supervisors Conditional Use Hearing – May 17, 2010

Motion: Vice Chairman Shambaugh made a motion to approve the minutes of the May 17, 2010 as submitted. **Seconded** by Supervisor Campbell. The motion carried.

Board of Supervisors Conditional Use Hearing – July 8, 2010

Motion: Vice Chairman Shambaugh made a motion to approve the minutes of July 8, 2010 as submitted. **Seconded** by Supervisor Campbell. The motion carried.

Board of Supervisors Conditional Use Hearing – July 19, 2010

Motion: Vice Chairman Shambaugh made a motion to approve the minutes of July 19, 2010 as submitted. **Seconded** by Chairman Lerew. The motion carried.

PUBLIC COMMENT

Allen H. Mohrey, Jr.

Mr. Allen H. Mohrey, Jr. spoke on the storm water drainage with run-off at his property at 710 Range End Road. Mr. Mohrey noted that he had moved into this property in 1990 and his concern is with the property at 708 Range End Road and the driveway. On July 27 the township road master did an on-site inspection. The water problems on Mr. Mohrey's property are due to the debris in the ditch. On July 28 a site inspection with Mr. Martin, resident at 708 Range End Road. was done with Vice Chairman Shambaugh and Road master Ocker. On July 29 the township had a backhoe and operator to clean the area in front of the storm drain and on July 30 Mr. Mohrey contacted Vice Chairman Shambaugh regarding the inspection and his concern with the 50' grass area that was a drainage ditch which is causing soil erosion. Mr. Mohrey stated that he had received a letter from Franklin Township dated February 16, 1995 that was sent to himself and Mr. Martin regarding the driveway permit on the basis he is responsible for the tile and drainage easement of 5' on his access or

panhandle. Mr. Martin was to provide proper drainage. It was noted that Mr. Martin has not maintained the ditch.

Vice Chairman Shambaugh noted that he would like to go to the property when it is raining. It was noted that this needs to be cleaned out to help with the water flow, but there is an issue with the right-of-way. Vice Chairman Shambaugh suggested to remove the vegetation and create the swale again and low enough to drain it. The road master indicated that this is a freshly paved driveway. It was suggested to investigate this further. Mr. Martin has not been contacted, but this will be done.

Bob Jacobs

Mr. Bob Jacobs from Kings Kids Camp informed the Supervisors that Mr. Lyons has been employed with the surveying of the property which will be forwarded to Mr. Johnston. Solicitor MacNeal indicated that they are moving forward with the site plan.

APPROVAL & PAYMENT OF BILLS

It was noted that the bill list is now being provided on the Friday before the meeting so the Supervisors can review and if there are any questions they can be directed to Mrs. Emlet and then given an answer prior to the meeting.

Motion: Supervisor Campbell made a motion to pay the bills as listed. **Seconded** by Chairman Lerew. The motion carried.

TREASURER’S REPORT

Motion: Vice Chairman Shambaugh made a motion to accept the Treasurer’s Report as submitted. **Seconded** by Supervisor Campbell. The motion carried.

1. Township Auditors RFP

Solicitor MacNeal discussed CPA firms. The request for proposals was reviewed along with the timeframe, the advertisement of 30-days prior but to receive the proposals first. The proposals can either be authorized this month or next. The timeframe was to get the proposals out after this meeting, receive the proposals by next month’s meeting and have a couple months to review them and possibly meet with 1 or 2 of the candidates. Once the proposals are received they will be reviewed and it was suggested to meet with some of the firms. The formal resolution can be done at the December Supervisors meeting or at their reorganization meeting. Supervisor Brown noted on page 8 under Audit Review Team it should read Audit Review Proposal Team and also in paragraphs D & E. This should be decided in September. It was noted that it should be decided tonight to send the RFP’s out and advertise. The proposals will be sent to the firms that the surrounding municipalities use. The review team should be open to all of the Supervisors plus Mrs. Emlet. It was noted that regarding a worksession should be scheduled after the next meeting. On pages 1 and 3 it indicates “City” and it should read “Township”.

Motion: Vice Chairman Shambaugh made a motion to authorize to advertise and send out RFP’s. **Seconded** by Supervisor Brown. The Resolution will be filed with the Board of Elections. The motion carried.

2. CD Renewal

Mrs. Emlet stated that Members 1st had the highest percentage of interest of 7 months at 1.25%. \$100,000.00 was moved from the money market account into the CD.

Mrs. Emlet noted that she had also supplied the Supervisors with a projection report based on 7 months as requested.

ORGANIZATION REPORTS

Police – Chairman Lerew gave the police report as follows: at the end of July 2010 there were 727 calls and last year at the same time period there were 637 calls. It was noted that the police are working on the budget for 2011. In 2010 their budget is \$6,311,606.00 and the 2011 projected budget is \$6,521,305.00. Currently for 75 hours of service per week the township pays \$241,515.53 and the projected cost in 2011 is \$249,539.73. The report is on file in the township office.

Fire – Chief Tony Baker from Citizens Hose Co. #1 gave the following report: there were 2 incidents for the month of July in Franklin Township with one being a motor vehicle accident and the other an EMS assist. There were no failed incidents in the township during the month of July. On Saturday, August 28 the fire company will be cutting up vehicles for training purposes.

Chief Mike Whitzel from Franklinton Fire Co. gave the following report: there were 13 calls in the township for the month of July with a total of 119 calls year to date. On July 7 there was a heat related death in the township. Another member has gone through training and became certified. With fundraising there are not good numbers and they are working on the firefighters' relief budget.

EMS - There was no report at this time.

DAA - A copy of the minutes was submitted.

Emergency Management – Mr. Laurin Fleming reported the following: been working as a team getting ready to open the emergency center, and working with the CERT team which is going well. Mr. Fleming stated that he may need the Supervisors assistance as there are problems with 911 Communications with refusing to page out emergency management team and they are trying to work through the problems but may need the Board of Supervisors support. With 911 the ability to communicate with other fire companies from other counties is also a problem. Mr. Fleming hopes the township is moving forward with the dry hydrant program. With the technical and dispatching problems with 911 Mr. Fleming wanted to put the Supervisors on alert and that a letter may be necessary.

NYCRCP Transportation – Supervisor Brown noted that the Route 15 project is in the middle of the 45-day public comment period. On August 18 there will be a public meeting at the Northern High School beginning at 6:30 p.m. which will have a short presentation by the contractor followed by a Q&A period. Within a week the committee will meet to have a discussion on the comments and questions. If there are no major changes there will be a public hearing at the earliest September 23 with the possibility of this being adopted in October.

Building Committee – It was noted that this is still on hold.

SUBDIVISION AND LAND DEVELOPMENT

1. William Messner Subdivision Plan, Time Extension

Engineer Knoebel stated that this is a minor subdivision plan and the additional time is needed for the hydrogeologic study. The time extension is until October 31, 2010.

Motion: Vice Chairman Shambaugh made a motion to accept the time extension for the William Messner plan until October 31, 2010. **Seconded** by Supervisor Campbell. The motion carried.

2. Timothy & Julie Donaldson, Planning Module

Engineer Knoebel noted that this was reviewed last month. This is a minor subdivision but there were issues with the lot size with the hydrogeologic study for the use of the ground water easement which was not approved.

Motion: Supervisor Campbell made a motion to approve the planning module for the Donaldson plan to be forward to DEP. **Seconded** by Chairman Lerew. The motion carried.

REPORTS

Engineer

1. Dry Hydrants Report

Engineer Knoebel gave an update on the dry hydrants. Back in March a program was presented for the sites along with a site plan for each one with and cost estimates. There were up to 9 sites. It was suggested that the road master could do this work. The agreement has been put together and reviewed by Solicitor MacNeal. This agreement will be given to each property owner. There was discussion on 2 locations with one pond at County Line and Whiskey Springs Roads with a cost estimate of \$1,200.00 and the other on Capitol Hill Road at the apartments which would be a pull off and not a dry hydrant with an estimated cost of \$800.00. Authorization is needed to move forward and with the agreements to be executed. Some of the hydrants are in place but they are not part of what was done at the beginning of the year. It was noted that one could be near the greenhouses. Supervisor Decker asked about the supply at the apartments and it was noted it is a stream and there is enough flow and depth but it may be in the right-of-way.

Motion: Supervisor Campbell made a motion to authorize the expenditure of the \$1,200.00 at the Whiskey Springs Road site and \$800.00 at the Capitol Hill Road site but if the estimates by 10% they need to come back to the Board. The kits will be supplied from Adams Electric and it was suggested that the road master contact the Authority for the pipe. **Seconded** by Vice Chairman Shambaugh. The motion carried.

2. Well Ordinance Update

Engineer Knoebel noted that the Planning Commission reviewed this ordinance at their last meeting and there was mixed reactions with part of it. The comments will be put into draft form, go back to the planning commission and then send to the Supervisors. Chairman Lerew questioned the repair of a well over a weekend and stated cannot have this. Engineer Knoebel stated this will be addressed and that this ordinance came from another township and was developed from a DEP template. Supervisor Decker asked why is this necessary. This was drafted when doing other ordinances. Supervisor Decker stated that this should be regulated with the well drillers. It was questioned who will do the inspections. Engineer Knoebel indicated that no one will watch the drilling but in another township the code enforcement officer would handle this at the time the building permit is issued. There was discussion on isolation distances, the drillers report on how deep the well is, testing requirements with providing the permit officer the verification, requirements with geothermal wells as the State does not regulate this and protection for the property owner. Solicitor MacNeal noted that this ordinance could be just for the geothermal wells. Engineer Knoebel informed the Supervisors that there is a regulation that the well produces a quantity of 2 gallons per minutes. Supervisor Brown questioned the distances regarding the geothermal wells. Supervisor Decker questioned the time limit and violations. Solicitor MacNeal noted that

this is a criminally enforced ordinance as it is a health, safety and welfare ordinance. This could be a case by case remedy and this would go to the District Justice. Solicitor MacNeal noted there are 3 remedies – criminally, abating and performance injunction. Vice Chairman Shambaugh suggested that Solicitor MacNeal discuss the liability issue at a later date.

Solicitor

1. Permit Extension Act

Solicitor MacNeal reviewed Act 46 of 2010 which extends approvals until July 2, 2013 related to development, zoning, UCC permits, other building permits and plan approvals. Preliminary approvals were allowed for 5-years but the statute is wide ranging. The township can do this by Resolution, adopt a fee for the extension for 25% up to \$5,000.00. This needs to be advertised in the PA Bulletin. A property owner can send in a written request to extend a permit and then the township has 30-days and can charge a fee for verification letter. Solicitor MacNeal noted the fee for residential is \$100.00 and for commercial/industrial is \$500.00 but does recommend the Board consider charging a fee. If the township does not reply it is assumed extended. The statute is that any municipality can put a notice in the PA Bulletin but there is no penalty if there is no advertisement. It was discussed that PSATS has already taken care of the advertisement.

Motion: Vice Chairman Shambaugh made a motion to authorize Solicitor MacNeal to do a Resolution.
Seconded by Supervisor Campbell. The motion carried.

2. Leininger Property

Solicitor MacNeal stated that Mr. Leinginer and the Township are close to an agreement. A draft copy of the agreement was handed out showing the details. #2.A – Hours of Operation is a big issue and is not acceptable. Solicitor MacNeal indicated that she is working on a revision to that paragraph with regards to the storage units. This is not ready for action but this should be reviewed and comments given over the next month. Some actions are needed such as a bathroom installed and the site plan.

3. Kings Kids Camp

This was already discussed.

4. Keefer Property

Solicitor MacNeal noted her response to the letter from Attorney Walker and noted that Attorney Walker will be given a time frame on the itemized items that still need to be completed. The first to be completed will be the deck and permanent fence will be done within the next month or so. The retaining wall is the next item that will be addressed.

5. Conditional Use Hearing, Jeff Erney – Set Date

Solicitor MacNeal stated that this is for a simple accessory building. After discussion the hearing was set for 6:30 p.m. before the September 8 regular meeting of the Board of Supervisors.

6. Fox Junkyard

Solicitor MacNeal indicated that the Fox property was sold. On July 21, 2010 a letter was sent to the new property owner regarding the junk yard and what they plan on doing with the property, but there has been no response. It was suggested that Mr. Fahey do a site inspection. It was noted that a formal notice of violation could be sent. Solicitor MacNeal will send the formal notice of violation.

7. Fee Schedule Resolution

Solicitor MacNeal stated that she is working on this for the re-organization meeting. There is no action or review needed at this time.

8. Executive Session

A short executive session is needed to discuss pending litigation on the conditional use hearing for Brookshire MHP.

Building Permit & Zoning Officer

Mr. Fahey presented his report. Mr. Fahey gave copies of Chapter 29 out of the UCC IRC "Water Supply & Distribution" with regards to the ordinance. It was noted that some of his hours in his report were not updated and asked if there were any questions. Tracking #2010-7 was discussed regarding a certificate of use at 17 Mill Drive for a restore and store of antique motorcycles. Mr. Fahey stated that this may be more of a hobby shop, but the owner needs to know how they can sell the property. It was questioned what was the use of the building when zoning was enacted. Mr. Fahey indicated that he was at the Brough's and their fence is legal but permits for fences are needed since zoning went into effect. An occupancy permit for the Celebration Community Church was discussed. A steep slope lot is being assessed as a building lot but the burden of proof is on the property owner. Solicitor MacNeal will review the letter but noted that the property owner can appeal.

Road master

1. PennDOT Winter Municipal Services Renewal

There was discussion on renewing the winter maintenance agreement. Supervisor Campbell noted that the township needs a documented plan, a better plan for plowing the roads and does not feel the township should take on the additional roads from the State. It was noted that the township needs to find out their obligation with this agreement since it is year 2 of 5. It was noted that the road master needs to get the help lined up and see if training is needed. Mr. Ron Stevens stated that he lives on Franklinton Road and the road crew did a good job.

2. Quotes for Oil & Chip Rental Equipment 2010

This information is for the State auditors and no action is needed.

3. Signs

On County Line Road residents would like a deer crossing sign installed. At one time Latimore Township had installed a sign but then took it down. It was noted that if the residents want to pay for the sign the township would install it. A cost figure was prepared.

Parks & Recreation

Supervisor Decker stated that the softball organization would like to have a supply shed at Ponderosa Park to store supplies and sell food during games. The shed would be placed near the softball field. It was noted that there is a pavilion with a kitchen at the park. It was suggested to get a proposal from the organization and the township would get a percentage of the income from the stand.

It was also noted that they are working on a permit to cross the stream at Ponderosa Park.

OLD BUSINESS

1. Burning Ordinance

Solicitor MacNeal stated that last month the Supervisors discussed the restrictions and exemptions. It was noted that certain restrictions will apply regardless what type of fire it is. Municipal waste material under Section 4.A.1 was discussed. Section 4.2 the buffer area indicates 50' but some buffers could be 10'. Under Section 4.B the exemptions regarding hours of burning, the contacting of 911, the setting of a fire for instructing personnel, fires for the prevention and control of disease or pests, for recreation or ceremonial purposes, for the cooking of food and to clear land were discussed. Setbacks from the property lines were discussed. With contacting 911 this will be moved to Section A. With open and outdoor burning it was noted that 911 should be contacted. Outdoor furnaces will not be addressed in this ordinance.

2. Waste & Recycling

Supervisor Brown reviewed the trash hauler survey figures and handed out a chart of options. Supervisor Decker questioned why spend the money on a contract for 200+ residents that replied out of 5,000. It was noted that there would be monetary savings to the residents with the possible savings of 20 to 25%. It was noted that the recycling center does not take everything and the contract could have an option of 13 bags per year at a cost of \$50.00. The placement of liens on a property was discussed. Supervisor Brown noted that at PSATS it was indicated there are provisions for the helping of residents that get liens placed on their property. Supervisor Decker stated the recycling center was built with grant money and there are certain conditions that apply with grant money and have they been satisfied. It was also noted that there could be an option to opt out of participating with the trash hauler. It was suggested by Supervisor Decker to have a referendum vote on the ballot for the general election. It was suggested to get some quotes on the rates and then put this information out to the residents. Supervisor Brown asked if there was anything else needed. Some suggestions were the picking up of brush or debris and 1 tire a week. Vice Chairman Shambaugh stated to get some costs to see if we wanted to pursue this any further. Solicitor MacNeal was asked to put out an RFP and also noted that the township has no ordinance in place but the township also has the right to reject any and all RFP's. Solicitor MacNeal noted that a format could be sent out or does the Board want to see it before it is sent out. It was noted that an RFI will get the Supervisors the additional information before the next meeting.

Motion: Supervisor Brown made a motion to authorize the Solicitor to prepare an RFI and send it out to the 3 vendors. **Seconded** by Vice Chairman Shambaugh. The motion carried with Supervisor Decker opposing.

3. Police Contract

Solicitor MacNeal presented copies of a confidential memorandum from Eckert Seamans dated February 2010. Supervisor Campbell questioned if the township pulls out of NYCRPD where would they go for protection. It was noted that it is more expensive to go with Carroll Township or what about going with the State Police. Chairman Lerew noted that going with Carroll Township it would be the same as with NYCRPD as there would be a penalty to leave them. There was discussion on what the State Police would charge and what would be their coverage. Solicitor MacNeal's recommendation before a formal action is to contact the labor counsel again and to get their assistance in dealing with the exit. Supervisor Brown suggested asking them regarding the State Police and the legislation if it gets passed regarding costs. Solicitor MacNeal will contact special counsel, get the extra information needed and make a decision next month.

NEW BUSINESS

1. Resolution for Anti-Township Legislation

The township received information from PSATS regarding the fight against legislation that would eliminate townships, cities, and boroughs. The township had also received a sample Resolution to be adopted.

Motion: Vice Chairman Shambaugh made a motion to adopt Resolution #11-2010 for the Opposition to Forced Local Government Mergers and Consolidations. **Seconded** by Chairman Lerew. The motion carried.

CORRESPONDENCE

1. Stephen & Barbara Cobb, Dog Complaint

Correspondence has been received from Mr. & Mrs. Cobb in Sherwood Forest complaining about the noise from barking dogs in their development. Solicitor MacNeal indicated this has to do about the noise ordinance to the kennel ordinance with zoning. It was questioned if this is an illegal operation and is it not a nonconforming use. The township will also contact the police.

PUBLIC COMMENT

Roger Quigley, Patriot News

Mr. Quigley questioned what the State Police fee would be. Solicitor MacNeal stated that currently there is no fee except for what is paid in taxes.

Clyde Flohr

Mr. Flohr asked about the usage of the pavilions. He suggested that township residents have one price and non-residents have another price. Solicitor MacNeal stated that with some case law this is unconstitutional, but it is a common practice. Vice Chairman Shambaugh suggested the township look at this at the re-organization meeting with the fee schedule and also to have the Park & Recreation Board look at it.

EXECUTIVE SESSION

At 10:45 p.m. the Board of Supervisors went into an Executive Session to discuss pending litigation with no action to be taken.

Respectfully submitted,

Nancy Zentmeyer
Township Secretary