

**FRANKLIN TOWNSHIP  
BOARD OF SUPERVISORS  
REGULAR MEETING  
June 12, 2013**

**ROLL CALL**

Present were Supervisors Donald Lerew, John Shambaugh, Edward Campbell, John Holder and Naomi Decker. Also present were Solicitor Stacey MacNeal, Engineer Timothy Knoebel and Secretary Nancy Zentmeyer. The meeting was held at the Franklin Township Municipal Building, 150 Century Lane, Dillsburg, 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 gave the opening prayer.

Chairman Lerew announced that the Board of Supervisors met in Executive Session meeting on May 23, 2013 for a personnel matter.

**BID OPENING – STONE, OIL & SEAL COATING**

The bids for CRS-2 Oil are as follows:

<u>Bidder</u>	<u>Price per Gallon</u>	<u>Total Price</u>
Wilson Paving	\$2.50	\$6,250.00
Hammaker East	\$2.34	\$5,850.00

The bids for Single Seal Coating are as follows:

<u>Bidder</u>	<u>Total Price</u>
Hammaker East	\$56,430.55
Stewart & Tate	\$66,071.60

The bids for various stones are as follows:

<u>Bidder</u>	<u>Type of Stone</u>	<u>Price Delivered</u>
Valley Quarries	#2A	\$10.10
	#4	\$12.85
	#3A	\$12.10
	#3 Clean	\$12.85
	#57	\$12.85
	#8 Washed	\$12.85
	#9	\$13.85
	#10	\$12.85
	R4 Rip Rap	\$17.35
	R5 Rip Rap	\$18.35

York Building Products	#2A	\$10.25
	#4	\$13.75
	#3A	\$10.25
	#3 Clean	\$13.75
	#57	\$13.75
	#8 Washed	\$13.75
	#9	\$14.45
	#10	\$13.75
	R4 Rip Rap	\$16.45
	R5 Rip Rap	\$18.45
Pennsy Supply	#2A	\$10.45
	#4	\$12.45
	#3A	\$12.45
	#3 Clean	No Bid
	#57	\$12.45
	#8 Washed	\$13.55
	#9	No Bid
	#10	\$14.00
	R4 Rip Rap	\$14.70
	R5 Rip Rap	\$21.45

**Motion:** Supervisor Campbell made a motion to accept the stone bid from Valley Quarries. **Seconded** by Vice Chairman Shambaugh. The motion carried.

**Motion:** Supervisor Campbell made a motion to accept the CRS-2 oil and seal coating bids from Hammaker East. **Seconded** by Vice Chairman Shambaugh. The motion carried.

### APPROVAL OF MINUTES

#### **1. Board of Supervisors Workshop Meeting – April 25, 2013**

**Motion:** Vice Chairman Shambaugh made a motion to approve the minutes of April 25, 2013. **Seconded** by Supervisor Campbell. Supervisor Decker noted that there were a few minor changes. The motion carried.

#### **2. Board of Supervisors Regular Meeting – May 8, 2013**

**Motion:** Vice Chairman Shambaugh made a motion to approve the minutes of the May 8, 2013. **Seconded** by Chairman Lerew. It was noted that there were a few minor changes. The motion carried.

### PUBLIC COMMENT

#### **1. James Kilgore, Annex Franklinton Borough into Franklin Township**

Mr. Kilgore, a Franklinton Borough resident noted that he had spoken to Attorney Linensbach and he is requesting that the Township take over the Borough. It was noted that a referendum is required from both the Borough and the Township and then the process would be to have it placed on the ballot.

#### **2. Al Smith, Clear View Road**

Mr. Smith noted that 9 months ago he issued a report with ATV's and with a course of action. A proposed

ordinance was submitted by Mr. Smith and this prompted review of the current ordinance. Included is a section to be added for the restriction for recreational ATV's in the ordinance proposed in September. Mr. Smith presented an ordinance to the Supervisors on the operation and use of off-road recreational vehicles. Feedback from the citizens on the revised ordinance was discussed at this time. Supervisor Campbell noted that this proposed ordinance given is not what was advertised.

**David Young, 941 S. Mountain Road** – his issue is regarding residential zoning with horses at 963 S. Mountain Road. In the code there is no reference of animals and how an ordinance deals with animals on a property with regards to setbacks, buildings, stables. He would like clarification on how many animals are allowed. He also referenced the pet ordinance dated 1986 and that the zoning ordinance has no definition and it is not listed as a permitted or conditional use. It was noted that there is no ordinance that defines this and nothing to prohibit this anywhere in the township. Solicitor MacNeal stated that it is not this Board that makes a zoning decision. A person can appeal the zoning officer's decision within 30-days of the date of that decision.

**Roger Davis, 963 S. Mountain Road** – Mr. Davis noted that this is a mini pony which cannot be ridden and is 28 years old. It was noted that he has also had chickens for years. He did receive a letter from YCCD and the area was inspected. The stable is suitable shelter for the pony. The SPCA was also involved.

**Jack Heishman, 965 S. Mountain Road** – noted concerns if this ordinance is put into place. There was also a concern of the manure all over the place.

Mr. Young brought up concerns regarding setbacks and zoning permit approval. The accessory structure that Mr. Davis plans to construct in a Residential zoning district was questioned along with number of animals. Mr. Fahey indicated that he contacted PSATS and the Supervisors have the power to stop the issuance of said permit for safety issues. It was noted that Mr. Young can appeal to the Zoning Hearing Board. Solicitor MacNeal noted that this needs to be uniform and applied throughout the township and this is not in the jurisdiction of the Supervisors. Pets and animal husbandry will be added to the list of zoning items for discussion.

Mr. Young noted that he has an issue with the zoning officer issuing the permit. It was requested that the building permit be withheld until zoning determination is decided. The zoning approval was issued on May 29, 2013. It was noted that the Supervisors cannot overturn the zoning determination but anyone has 30-days to appeal. Supervisor Decker noted that the zoning officer should list on the approval letter what the setbacks are according to the zoning ordinance.

Lois Young – noted that this is beside the sand mound and the effect on the well was a concern. This could impact the neighbors with the waste. Mr. Davis stated that YCCD indicated to him that there would be no problem with run-off. Mr. Fahey said that this is in contention and he cannot issue the permit. Chairman Lerew informed Mr. Fahey that the permit needs to be issued.

### **APPROVAL AND PAYMENT OF BILLS**

**Motion:** Vice Chairman Shambaugh made a motion to approve the payment of the bills as listed. **Seconded** by Chairman Lerew. Supervisor Decker questioned the ZHB decision for Solicitor. It was noted that this will be addressed in executive session. Supervisor Decker noted the amount of the payment compared to what the township has paid in the past. It was noted that an Engagement Letter is needed from Mr. Beneventano. The highest bill received from the previous Solicitor was \$800.00+. Supervisor Decker also questioned KPI's bill concerning Lake Lea in relation to the work that was conducted since the workshop

meeting in relation to the amount of the invoice. It was noted that the bills be paid with the exception of Mr. Beneventano's invoice. The motion carried.

**TREASURER'S REPORT**

**Motion:** Vice Chairman Shambaugh made a motion to approve the Treasurer's report. **Seconded** by Supervisor Campbell. The motion carried.

**ORGANIZATION REPORTS**

**Police** – Supervisor Campbell noted that there has been an increase in calls as there is a certain flex with calls. The police contract needs to be discussed in executive session and pending litigation.

**Fire** – Chief Whitzel from Franklinton Fire Company gave his report with 11 calls in the Township of the month of May with 47 calls for the year. There will be 2 public educational events. There have been meetings with KME and on July 19 the cab will be done so the radios can be installed. There will be training with York Springs. The training list will add extra driving training. There was discussion regarding CDL's. It was noted that some of the members have CDL licenses but the fire company is exempt from having CDL licenses. The fire company is covered by workers compensation. It was also noted that the current insurance company that holds the workers compensation insurance is dropping Franklinton as of July 16 but they are already getting a new insurance company.

There was a report from Citizens Hose Company #1.

**EMS** – A report was submitted noting there were 20 calls during the month of May. The ambulance should be ready by the end of June. Membership reminders will be going out soon.

**DAA** –The minutes were received.

**Emergency Management** – Mr. Laurin Fleming noted that they are moving forward with the improving of the operation at the EOC. The radios are narrow band and the base station is not compatible so it will need to be replaced. There was discussion on getting internet connection to the recycling building. It was noted that a repeater is needed and a cable line needs to be dug.

**NYCRCP Transportation** – Vice Chairman Shambaugh noted that the regional meeting was cancelled and has been re-scheduled but has not been given the date. Everything is moving forward.

**SUBDIVISION AND LAND DEVELOPMENT**

There were no subdivision or land development plans.

**REPORTS**

**Engineer**

**1. Lake Lea Update**

Engineer Knoebel noted that this work is wrapping up and will have more information for the next meeting.

Supervisor Decker questioned the John Haines property and that the pond is full of water. It was noted that an inspection was done and everything is graded to go to the pond. It is now acting and operating as a sediment pond. The yard needs to get stabilized and then address the situation. It is doing what it is supposed to do. It

was noted that there was no discussion with the property owner regarding a pit. Engineer Knoebel said he would be willing to work with Mr. Haines concerning the drainage pit and stormwater issues.

### **Zoning Officer**

A copy of the zoning officer's report had been submitted. On the May 29, 2013 memorandum regarding Roger Davis, #3 regarding the fence and the electric current – it is a poor choice of wording. Solicitor MacNeal has discussed this with Mr. Picarelli.

### **Solicitor**

#### **1. Nuisance Ordinance Adoption**

Solicitor MacNeal stated that she has the ordinance that was advertised. Chairman Lerew noted that the township received written comments from 6 or 7 residents. It was noted that public comment needs to be received first before any action can be taken.

Mike Ryan of Lost Hollow Road presented to the Supervisors a memorandum noting items of concern, such as the vagueness, the enforcement of the ordinance, township costs, civil remedies available for these problems, unnecessary use of the police, and the abuse of the ordinance.

John Peterson of Laurel Run Road noted concern of the length of the noise with vibration, the measurement and operating of equipment.

David Sprigg of By Pass Road stated that he agrees with the 2 previous residents and that it would increase the cost and the number of police response.

Bob McDermott of Baltimore Road stated that he has been turned in on his control burns.

Todd Thornton of Coffeetown Road stated that there would be more cost with the police and this ordinance would open up litigation putting neighbor against neighbor.

Robert Albert of Whiskey Springs Road noted that this type of ordinance needs to protect all citizens and cannot please everyone. Residents need to respect each other.

Robert Yerger of Spring Drive addressed the Board on the issue of noise and considers such complaints could lead to litigation. It was noted that you do not create a policy unless you have to and it seems the only issue is noise.

Supervisor Decker read the letter received from Chairman Bowers of the Township Planning Commission. A copy of this letter is an attachment to the minutes. Supervisor Decker stated that she opposes this ordinance. Supervisor Campbell agrees with the comments and questioned if adding additional exact standards would help. It was noted that this would need to be looked at as a whole for the community. There was more discussion with residents who did not identify themselves.

**Motion:** Supervisor Decker made a motion to reject the Nuisance Ordinance. Supervisor Holder noted that there has been a lot of homework done with this ordinance and the Supervisors did review ordinances from other municipalities. This ordinance would make it enforceable but the township does not have the staff to

enforce it. **Seconded** by Supervisor Holder. The motion carried. A model ATV ordinance was given to the Supervisors tonight.

## **2. Dangerous Structure Ordinance**

There was discussion on what to do with this ordinance. It was suggested to repeal the current ordinance but that would hurt the hearing. The approximate cost for these ordinances is \$3,000.00 to \$5,000.00.

Ron Miller noted that this is wasteful taxpayer money and the ATV Ordinance is a civil matter.

## **3. Authorization to Attend Hearing**

Solicitor MacNeal has been asked to attend the hearing regarding the dirt tract issue on June 27, 2013 at 2:30 p.m. Citations have been issued to the property owner. With township ordinances the DA's office will not intervene. It was noted that the police officers have been informed to enforce the ordinance and it would be in bad faith not to go and follow through.

**Motion:** Supervisor Campbell made a motion to have Solicitor MacNeal attend the hearing on June 27, 2013. **Seconded** by Vice Chairman Shambaugh. The motion carried.

There was discussion regarding this ordinance and since it has never been enforced before Solicitor MacNeal suggested that the township have the hearing and see what happens.

It was asked if the ordinance had passed would the Solicitor attend every hearing.

## **4. Set Date for Workshop Meeting**

It was noted that the next workshop meeting will be held on July 18, 2013 beginning at 7:00 p.m.

## **5. Set Date for Conditional Use Hearing – Christopher Bradley**

As in previous conditional use hearings for accessory structures this hearing will be held before the July 10 regular meeting beginning at 6:30 p.m.

## **6. Executive Session**

Solicitor MacNeal noted that an Executive Session is needed for pending litigation on Pearlman and Boyer with possible action.

## **BCO**

A report by the BCO was submitted. It was noted that both the Lost Hollow Road and Coffeetown Road issues have been resolved.

## **Road master**

A report was submitted by the roadmaster.

## **1. Authorization to Advertise Bids for Paving Project**

The Roadmaster is requesting authorization to advertise bids for the paving project of Chestnut Hill Road. This would be from Spring Drive to Clear Springs Road.

**Motion:** Vice Chairman Shambaugh made a motion to authorize the advertisement of the paving project on Chestnut Hill Road. **Seconded** by Supervisor Campbell. The motion carried.

**Park & Recreation**

There is work still being done on the restrooms at Ponderosa Park. There was discussion on the well testing by DEP and the township still has not received a reply. It was suggested to send a letter to DEP requesting a reply and a copy be sent to Representative Regan.

**OLD BUSINESS**

**1. Stormwater Management Ordinance**

There was discussion on the recently adopted stormwater management ordinance specifically with Section 805 – Penalties for violation of any provision of this ordinance the enforcement would be a summary offense under PA Rules of Criminal Procedure. It was suggested to amend it to read civil instead of criminal.

**Motion** Supervisor Decker made a motion to amend Section 805.a – Penalties of Ordinance #2013-3 to indicate civilly instead of criminally, to remove the PA Rules of Criminal Procedure and to go with the wording in the York County ordinance. It was noted that the motion would have to authorize the Solicitor to amend the ordinance.

**Motion:** Supervisor Decker made a motion to authorize Solicitor MacNeal to re-write the Penalty Section 805 of Ordinance #2013-3 to specify it would be civilly enforced instead of criminally. **Seconded** by Chairman Lerew. Solicitor MacNeal stated that in the Second Class Township Code under Section 1601.C.2 the enforcement of summary offenses is under the PA Rules of Criminal Procedure. Supervisor Decker stated that no one should be criminally charged for a stormwater issue. It was suggested to check out Act 167 to see if it gives any guidance. Supervisor Decker withdrew her motion.

**Motion:** Supervisor Decker made a motion to see if this can be addressed civilly. Supervisor Decker withdrew the motion and noted that she will look into this.

**NEW BUSINESS**

**1. Appointment of Code Enforcement Officer**

It was noted on May 23 interviews were held for the position of Code Enforcement Officer.

**Motion:** Chairman Lerew made a motion to appoint Caroll Myers as Code Enforcement Officer. **Seconded** by Vice Chairman Shambaugh. It was noted at a salary of \$14.00 per hour. The motion carried with Supervisor Decker opposing and Supervisor Holder abstaining.

**CORRESPONDENCE**

There was no correspondence to be discussed at this time.

**PUBLIC COMMENT**

There was public comment as this time regarding who enforces the driveway ordinance and it was noted it is the roadmaster. Also the review of ordinances and minutes were discussed.

**EXECUTIVE SESSION**

The Board of Supervisors went into executive session at 9:53 p.m. with possible action to be taken.

At 11:13 p.m. the Board of Supervisors came back into the public meeting.

**Motion:** Vice Chairman Shambaugh made a motion to terminate the employment of Brian Fahey and advise him to return all Township material and property within five days, to immediately advertise for the position of a part-time Building Code Official, and to temporarily appoint Bob Shelly as Building Code Official until the position is filled on a permanent basis at Mr. Shelly's regular rate. **Seconded** by Supervisor Campbell. The motion carried with Supervisor Decker abstaining.

Respectfully submitted,

Nancy Zentmeyer  
Township Secretary