

**FRANKLIN TOWNSHIP  
BOARD OF SUPERVISORS  
CONDITIONAL USE HEARING &  
REGULAR MEETING  
September 10, 2014**

**ROLL CALL**

Present were Supervisors Donald Lerew, John Holder, Naomi Decker and David Sprigg. Also present were Solicitor Bret Shaffer, Engineer Fred Heerbrandt, 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.

**CONDITIONAL USE HEARING – MARK BERGER – 6:37 p.m.**

The conditional use hearing is for Mr. Mark Berger, 128 Tuckahoe Road, who was sworn-in at this time. Mr. Berger is requesting a home occupation in the Open Space zoning district to operate an inspections and emissions garage. Mr. Berger stated that no junk will be stored at the site. Mr. Berger has no employees and works on light trucks and cars only. His garage was previously located at 121 Twin Hills Road.

Mr. Tim Shughart, 124 Tuckahoe Road was sworn-in at this time. Mr. Shughart proceeded to inform the Supervisors of the issues between himself and Mr. Berger. In 1999 land was sold to Mr. Berger because of him building on Mr. Shughart's property. Mr. Shughart indicated that he needs to have his property surveyed every couple of years because of the pins being pulled. Pictures were taken of the properties for the Supervisors to review. It was noted that Mr. Berger now has a patio encroaching on Mr. Shughart's property. There was discussion on the location of the sand mound. The current garage is by Mr. Shughart's property line and it was noted again that the surveying pins were pulled out. It was noted that the Township was sent a letter from Mr. Shughart's attorney advising them of this situation. The 7 pages of photographs were entered as Exhibit A. The subdivision plan of Mr. Shughart's is public record. Mrs. Diane Shughart was sworn-in at this time and stated that she opposes the business as customers are coming up their driveway. The letter from Attorney Linsenbach dated April 8, 2013 was entered as Exhibit A for Mrs. Shughart.

Carroll Myers, Zoning Officer was sworn-in. Ms. Myers stated that she had received complaints regarding the commercial type businesses that were being conducted. Two site visits were conducted at the Berger property and a pole structure with 2 PA Keystone signs advertising inspection and emissions were visible. Mr. Berger had conducted his business across the road from 2006 – 2009. It was noted that a previous zoning officer, Brian Fahey, gave a use certificate for the business and in 2008 a zoning and building permit for the structure was issued. Ms. Myers indicated that an enforcement notice was sent.

Mr. Berger clarified the accusations made against him. He did not pull any survey pins and did not build over his septic system. He did move the mailbox after a tree fell on it. Mr. Berger did pay Mr. Shughart \$9,000.00 for the land that was sold to him. The garage is between 25' to 50' from the property lines. It was noted that the delivery of parts could be as much as twice a day. His business hours are from 7:00 a.m. until 4:00 p.m. Vehicles will sit at his property for 1 maybe 2 days. Mr. Berger does have 2 unregistered vehicles but they are his own.

Mr. Mike Frey, 101 Tuckahoe Road, was sworn-in. Mr. Frey stated that the township let Dave Leininger put in an industrial park and has 6 businesses there with auto shops and construction.

The Board of Supervisors recessed the hearing at 7:30 p.m. and reconvened at 7:43 p.m.

**Motion:** Supervisor Holder made a motion to continue the hearing based on the complaints that were voiced and that the Solicitor sends a letter to Mr. Berger. The next hearing will be held on October 8, 2014 beginning at 6:00 p.m. **Seconded** by Supervisor Sprigg. The motion carried.

It was noted that Mr. Berger is ok with the continuation hearing date.

The Supervisors recessed at 7:45 p.m. before the start of their regular meeting. The meeting reconvened at 7:53 p.m.

## **REGULAR MEETING**

### **PLEDGE OF ALLEGIANCE AND PRAYER**

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

Chairman Lerew noted that the Supervisors held an Executive Session on September 8, 2014 for personnel matters and an Executive Session was held before the end of the Conditional Use Hearing this evening.

### **APPROVAL OF MINUTES**

#### **1. Board of Supervisors Regular Meeting – August 13, 2014**

**Motion:** Supervisor Holder made a motion to approve the minutes of the August 13, 2014 as submitted. **Seconded** by Chairman Lerew. Supervisor Decker noted that there a few simple changes. The motion carried.

#### **2. Board of Supervisors Workshop Meeting – August 20, 2014**

**Motion:** Supervisor Decker made a motion to approve the minutes of the August 20, 2014 meeting as submitted. **Seconded** by Supervisor Holder. The motion carried.

### **PUBLIC COMMENT**

#### **1. Brian Fahey, Capitol Hill Road**

Mr. Fahey noted concern in the area of the Clear Spring Apartments. There are children along the road and are dodging cars as they come along. The police have been called but apparently nothing has been done since it is still happening.

#### **2. Kevin Cummings, Chainsaw Road**

Mr. Cummings asked about the use of the fire engine which has been discussed at previous meetings. Supervisor Sprigg noted that this has been discussed about setting a policy. A review of the contract states that the fire chief has the authority to set policies, therefore the Township will not establish a policy.

#### **3. Bob McDermitt, Baltimore Road**

Mr. McDermitt stated that he had a successful control burn on Saturday and called the police regarding the barking dogs.

#### **4. Kevin Cummings, Chainsaw Road**

Mr. Cummings stated that he moved here from New York City and was there during 9-11 and thanked the volunteer firefighters for the work that they do. He had 7 friends killed on 9-11.

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

**Motion:** Chairman Lerew made a motion to approve the bills. Mrs. Shoffner questioned the KPI checks. **Seconded** by Supervisor Decker. Supervisor Decker noted that there are 2 invoices from February and since the township received further explanation that the invoices should be paid less the 15%. The motion carried. Solicitor Shaffer noted that the refund of 15% to Remcon should be paid.

**Motion:** Chairman Lerew made a motion that KPI approved Ron Miller the 15% refund of the invoices for an amount of \$726.94. **Seconded** by Supervisor Holder. The motion carried.

#### **TREASURER'S REPORT**

**Motion:** Chairman Lerew made a motion to approve the Treasurer's Report. **Seconded** by Supervisor Decker. Supervisor Decker noted that the township received a sizeable amount and should consider putting it in its own account with regards to the interest. Mrs. Shoffner stated that she opened a money management account. Mrs. Shoffner noted that there was a Liquid Fuels audit recently and there were questions about the Lake Lea bills regarding this being a project and being approved, but if not the township will need to replace this from the Highway Fund. The By-Pass Road project was also discussed and it was suggested to call the representative from PennDOT, Municipal Services. The motion carried.

It was noted that the bonding for the Treasurer needs to be increased from the \$1,000,000.00 that is now in place.

#### **1. Set Budget Workshop Meeting**

After a brief discussion the budget meeting was set for September 25, 2014 beginning at 7:00 p.m.

#### **BCO REPORT**

A report was submitted of the building permits issued for the month of August.

#### **ZONING OFFICER REPORT**

The zoning report was submitted. Bob Shelly has been contacted regarding the barn structure on Whiskey Springs Road and it was noted that he cannot take action on this because the township does not have a property maintenance code. There has been no progress on the properties at Glenwood Road and By Pass Road and they remain in non-compliance. It was noted that the Solicitor can either send a final warning or take the property owners before the District Justice.

#### **ORGANIZATION REPORTS**

**Police** –Supervisor Sprigg noted that he had nothing to report at this time except that next Tuesday they will be voting for the new budget. The township's portion has gone up \$11,800.00 and this is mostly going toward the pension plan.

**Motion:** Supervisor Decker made a motion to support the budget increase of \$11,800. **Seconded** by Supervisor Holder. The motion carried.

**Fire** – Chief Whitzel of Franklinton Fire Company presented his report. There were 8 calls in the township for the month of August. The medical assist calls were reviewed again.

Citizens Hose Company noted that they had 4 calls in the township for the month August. Their fund drive information has been sent out. Letters have been sent out regarding their budget.

**EMS** – A report was submitted. The fund drive information was presented to the Supervisors. 2,084 have been mailed out and 394 memberships have been received. With regards to finances they billed for \$863,000, collected \$332,000 and wrote off \$436,000. There is still \$169,000 owed from bills that were sent out. In August there were 20 calls in the township. At the November BOS meeting the West Shore EMS will be here to give an update. October 4 there will be a grand open house from 12 noon until 4:00 p.m., it is also education day and the kickoff of fire prevention week is also coming up.

**DAA** – Minutes were received from the DAA.

**Emergency Management** – There was no one present to give a report but it was announced that there is a drill being held on September 13.

**NYCRCP Transportation** – There was nothing to report at this time.

## **SUBDIVISION AND LAND DEVELOPMENT**

### **1. Lobar Equipment Storage Facility, Preliminary/Final Land Development Plan, File #2014-01-24**

A memorandum from the Township Engineer dated August 12, 2014 was addressed regarding the comments. The E&S Plan was received along with the NPDES permit. The financial security estimate has been provided and this is being finalized. The applicant has agreed to pay the recreation fees.

**Motion:** Supervisor Decker made a motion to approve the Lobar Equipment Storage Facility, Preliminary/Final Land Development plan provided the conditions of the engineer's letter dated August 12, 2014 are fulfilled. **Seconded** by Supervisor Holder. The motion carried.

### **2. Verizon Wireless, Preliminary/Final Land Development Plan, File #2014-04-17**

A revised plan was reviewed by the Engineer with comments noted on a letter dated September 3, 2014. The applicant is still waiting for approval of the E&S Plan and the NPDES Permit. The estimated financial security will be in the amount of \$101,436.50 which is adequate. A letter from the electric and telephone service providers confirming that an agreement has been reached to provide underground utility service is still needed. An amount of \$1,590.00 will be paid for the recreation fee. The Operational and Maintenance Agreement needed to be executed. An additional note to the plan regarding the easements on existing and proposed drives is for municipal access.

**Motion:** Supervisor Holder made a motion to approve the Verizon Wireless plan conditioned upon meeting the requirements from YCCD and the comments of the September 3, 2014 letter from the township engineer. **Seconded** by Chairman Lerew. The motion carried.

### **3. Quality Greenhouse, Land Development Plan – Recreation Fees.**

A letter was received from Quality Greenhouse seeking relief of the recreation fees of \$15,800.00. Supervisor Decker noted that the 2 previous plans are commercial in nature and they are paying recreation fees.

**Motion:** Supervisor Decker made a motion to leave the recreation fee as it was set at \$15,800.00.  
**Seconded** by Supervisor Holder. The motion carried.

### **4. Harry Fox Final Subdivision Plan, Placement of Monuments**

There was a brief discussion regarding the placement of monuments. It was noted that the concrete monuments need to be 4” square at the bottom and 3” square at the top. It was noted that the surveyor placed rebar with PVC pipe and then put concrete at the base.

**Motion:** Supervisor Sprigg made a motion to have the proper monuments set prior to recording the plan.  
**Seconded** by Chairman Lerew. The motion carried. It was noted that it needs to be flagged when set.

Chairman Lerew commented on the grading being done at the Quality Greenhouses site. Engineer Heerbrandt stated that he did check the site and there is more construction work being done with the stormwater facilities, putting up frames, clearing the pad, and a retaining wall was constructed. There was discussion on the drop off along South Mountain Road. It was noted that there is no grading being done in the right-of-way, which is 30’, but there is a 25% slope out of the right-of-way. It was suggested to request the State to put up railing as this is a dangerous situation.

## **REPORTS**

### **Engineer**

#### **1. Westbrook Property, S. Mountain Road**

It was noted that the Westbrook’s neighbor called the township office regarding the placement of the garage which the access was supposed to be from the side but is now in front. There was discussion on the paving and the effect of the grading. It was recommended to authorize the Township Engineer to contact Mr. Westbrook to have him provide a sketch to the Township Engineer. The Board of Supervisors so directed Engineer Heerbrandt to contact Mr. Westbrook.

#### **2. Dry Hydrants**

Engineer Heerbrandt stated that he had met with Chief Whitzel regarding the dry hydrants and it was noted to get a project going and the review of the site investigation from KPI for the site on County Line Road was done. Township personnel are to help with the installation with assistance from Adams Electric. The township engineer will contact Adams Electric.

### **Solicitor**

#### **1. Steep Slope Overlay – Zoning Ordinance Amendments**

Solicitor Shaffer discussed the steep slope overlay and stated that there needs to be authorization for a new zoning map with 15% steep slope on the South Mountain and 25% on other areas in the township. This would need to be reviewed and then have a meeting. It was noted that this will be tabled for now.

#### **2. Stormwater Management Ordinance**

It was noted that the ordinance has been advertised with the changes. There was a wrong date and #6 was omitted. The adoption of this ordinance would also include the handbook.

**Motion:** Supervisor Holder made a motion to adopt the stormwater management ordinance #2014-2 along with the handbook. **Seconded** by Supervisor Sprigg. The motion carried.

### **3. Executive Session**

Solicitor Shaffer stated that an executive session is needed.

### **4. Twin Hills Park Letter**

Solicitor Shaffer stated that he has drafted the letter that will be going to the property owners tomorrow in the Twin Hills development that are encroaching onto the park property. The letter will state that they need to contact the township office to update their encroachments within the next 90 days and/or if they have any hardships.

### **5. Merit Land Sale**

Solicitor Shaffer stated that the Merit Land Sale was to take place on Friday, September 12, 2014 at 9:30 a.m. with Supervisor Sprigg witnessing the transaction but this has been cancelled since the order of sales need to be adopted by ordinance for the sale of the land. There needs to be authorization of the advertisement of the ordinance and these needs to be settled within 60 days of the signed order of the Judge.

**Motion:** Supervisor Holder made a motion to authorize the advertisement of the ordinance approving the sale of properties to Merit. **Seconded** by Chairman Lerew. The motion carried.

### **Road master**

A report was submitted.

### **Park & Recreation**

It was noted that Ponderosa Park is being cleaned up. It was asked when the highway department is going to trim trees. The annual soccer tournament will be held again over the Columbus Day weekend which is October 11<sup>th</sup> and 12<sup>th</sup>.

### **OLD BUSINESS**

Chief Whitzel noted that the engineer may not be able to get the pipe needed for the dry hydrants from Adams Electric and asked if the Supervisors would authorize the engineer to purchase the pipe instead of delaying the project.

**Motion:** Supervisor Decker made a motion to authorize the purchase of pipe for the dry hydrant project. **Seconded** by Supervisor Holder. The motion carried.

### **NEW BUSINESS**

#### **1. Set Date for Trick or Treat Night**

It was noted that the surrounding municipalities had been contacted and October 30<sup>th</sup> from 6pm – 8pm is the date they have set.

**Motion:** Chairman Lerew made a motion to have Trick or Treat Night on October 30<sup>th</sup> from 6pm – 8pm. **Seconded** by Supervisor Holder. The motion carried with Supervisor Decker abstaining.

## **2. Resignation of Tax Collector**

A letter was received from Mr. Lastoskie that he will be resigning as tax collector at the end of the year. This position will be advertised but the Supervisors do have names from the previous interviews.

## **3. UCC Guidelines for Township Building Renovations**

It was noted that Bob Shelly, Building Inspector, has submitted what guidelines the Supervisors need to follow when they do renovations to the township building.

## **CORRESPONDENCE**

### **1. Art Spiece, Spring Drive**

A letter was received from Mr. Spiece requesting the release of escrow funds that he put up when a building was constructed on his property and he needed a retention pond. This was done in 2001.

**Motion:** Supervisor Decker made a motion to release the money from the escrow account to Mr. Spiece. **Seconded** by Chairman Lerew. The motion carried. Supervisor Decker noted that there are other escrow funds that need to be released.

### **2. York County Association of Townships of the Second Class Convention**

This convention is to be held on November 13, 2014.

**Motion:** Supervisor Decker made a motion to pay the fees to whomever plans on attending the convention. **Seconded** by Chairman Lerew. The motion carried.

### **3. PSATS PA Municipalities Pension Trust & Health/Life/Disability Trust**

It was noted that this information was recently received and that the Supervisors need to review and act on it at the October meeting.

## **PUBLIC COMMENT**

### **1. John Keen, Twin Hills**

Mr. Keen thanked the Board for the letter that will be going out and asked if the 90-days will start from tomorrow and it was so noted.

## **EXECUTIVE SESSION**

The Supervisors went into an executive session at 9:40 p.m. with no action to be taken.

Respectfully submitted,

Nancy Zentmeyer  
Township Secretary