

APPROVED

FRANKLIN TOWNSHIP BOARD OF SUPERVISORS' MINUTES July 20, 2016

Call to Order:

Mr. Auerbach called the meeting to order at 7:07 p.m. Present were Supervisors Dea, Schenk, Torres and Snyder. Also present were Township Solicitor Max O'Keefe, Planning Commission Vice Chairman Mark Harris, HARB & Historical Commission Chairman Paul Lagasse, Manager/Treasurer Joan McVaugh and Secretary Sharon Norris. There were 6 members of the public in attendance.

The meeting was commenced with the Pledge of Allegiance to the Flag.

Public Comment: There was no public comment.

Approval of Minutes:

- a. *BOS Minutes of June 15, 2016:* Mr. Auerbach moved, seconded by Mr. Snyder that the Board approve the June 15, 2016, v2 Minutes, as presented by the Township Secretary. Motion passed 5-0.
- b. *Disposition of Records – Resolution 2016-18:* Mr. Auerbach moved, seconded by Mr. Snyder, that the Board approve Resolution 2016-18 regarding the Disposition of Records for the Board of Supervisors' meeting of June 15, 2016 and the Planning Commission Meeting of June 2, 2016. Motion passed 5-0.

Reports:

- a. *Treasurer's Report for June 2016:* Mr. Auerbach moved, seconded by Mr. Torres, that the Board approve the June 2016 Treasurer's Report which includes the following disbursements: The General Fund with disbursements and transfers of \$121,118.53; the Park & Recreation Fund with disbursements of \$13,806.18; the Open Space Fund with disbursements of \$7,172.61; the Traffic Impact Fund – East, with disbursements of \$15,553.77; the Highway Aid Fund with disbursements of \$39,297.00; the Emergency Services Fund with disbursements of \$50,565.99; and the Fire Hydrant Fund with disbursements of \$580.80, leaving a balance in all funds totaling \$1,044,836.92.

Discussion: Mr. Auerbach commented on the Traffic Impact Fund-East expenditure and Mrs. McVaugh explained the difference between Traffic Impact Fund East and West. Mrs. McVaugh also explained the Emergency Services expenditure. Motion passed 5-0.

- b. *Zoning Officer's Report June 2016:* Mr. Auerbach reported that during the month of June, 9 new permits were issued (including 1 new home permit) and 29 various inspections were performed. Building/zoning fees collected were \$4,688.35; Recreation and Impact fees 0; and \$1,835.00 in miscellaneous fees was collected. Mr. Auerbach read the Zoning Officer's status report. There are 4 ongoing zoning issues. The Board discussed these issues along with an additional property that has received several complaints about burning landscaping material and animal waste. All of these issues are being processed by the Zoning Officer and Mrs. McVaugh will continue to follow-up with him regarding his progress toward resolving them.

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- c. Planning Commission (PC) Report: Planning Commission Vice Chairman, Dr. Mark Harris, reported on the July 7th Planning Commission Meeting at which the Commission recommended that the Board approve Gourmet's Delight Final Minor Subdivision Plan. Details of the Planning Commission's final review can be found in the approved minutes of the July meeting.
- d. HARB/HC Report: Mr. Paul Lagasse, Chairman of both the HARB and the Historical Commission, reported that neither of the Commissions met in July. Mr. Lagasse has been monitoring the activities of Eastern Shore Natural Gas (ESNG) in deciding the route of the pipeline. He reported that Delaware's legislators have supported ESNG's request for an expedited decision regarding the Kemblesville Loop and, as previously reported, a decision is expected by the end of July. Mr. Lagasse provided information obtained from ESNG's June posting which contained detailed maps of the work that is proposed in the Township.

Old Business:

- a. **Public Hearing: Ordinance 2016-06 – Brewery as Accessory to Agriculture Ordinance**: In accordance with the Municipalities Planning Code (MPC), Solicitor Max O'Keefe opened the Public Hearing regarding Ordinance 2016-06, an Ordinance Amending the Franklin Township Code of Ordinances, Zoning, Chapter 27, Section 1718 to add a Brewery Use as a Use Permitted Accessory to Agriculture by Conditional Use. The Solicitor named the following Exhibits:

- Exhibit 1: Proof of Publication in the Daily Local News on July 7th and July 13th, 2016;
- Exhibit 2: Act 247 referral letter to Chester County Planning Commission (CCPC) dated June 16, 2016;
- Exhibit 3: CCPC review letter dated June 28, 2016;
- Exhibit 4: Full text of the proposed Ordinance.

The Solicitor summarized the purpose of the proposed Ordinance and asked for questions or comments from the Board. Mr. Auerbach referenced the thorough review of the Planning Commission members and alternates and expressed his support for the enactment of this Ordinance. There was some discussion among the other members of the Board but no issues were raised. There were no comments from the public.

Mr. Auerbach moved, seconded by Mrs. Schenk, that the Board of Supervisors enact Ordinance 2016-06, amending the Township Code of Ordinances, Chapter 27, Section 1718 to add a Brewery Use as a Use Permitted Accessory to Agriculture by Conditional Use. Motion passed 5-0.

The Solicitor closed the Public Hearing for Ordinance 2016-06.

- b. **Public Hearing: Ordinance 2016-07 – Revising Simplified Approach section of Stormwater Ordinance**: In accordance with the MPC, Solicitor Max O'Keefe opened the public hearing regarding Ordinance 2016-07, an Ordinance to amend Chapter 19 Stormwater Management, to replace the current Appendix 19-A with a revised Appendix 19-A, Simplified Approach to Stormwater Management for Small Projects. The Solicitor named the following Exhibits:
Exhibit 1: Proof of Publication on July 7th and July 13th, 2016 in the Daily Local News;
Exhibit 2: Full text of Appendix 19-A Simplified Approach to Stormwater Management for Small Projects.

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The Solicitor summarized the purpose of the Ordinance and asked for comments from the Board. Mr. Auerbach explained that the Simplified Approach has been successfully used by a number of residents. There were no comments from the public.

Mr. Auerbach moved, seconded by Mrs. Dea, that the Board enact Ordinance 2016-07, amending Chapter 19, Stormwater Management, to replace the current Appendix 19A with a revised Appendix 19A Simplified Approach to Stormwater Management for Small Projects.

Motion passed 5-0.

Solicitor O'Keefe closed the Public Hearing for Ordinance 2016-07.

- c. Township Office Renovation Update: The Board continued the discussion regarding the proposed renovation of the Township office. The first stage is to renovate the back office to accommodate the Manager. This will allow the Manager to move out of the meeting room so work can begin to make the meeting room restroom ADA compliant. Mr. Auerbach reviewed the scope of work that he prepared for the renovation of the back office. The consensus of the Board was to authorize the Township Manager to obtain estimates based on the scope of work after Mr. Auerbach breaks down the work by trade.
- d. Municipal Complex Site Plan: There was a brief discussion regarding landscape buffering. Supervisor Torres will contact a landscaper he knows to get some advice and Mr. Auerbach will ask for input from two adjoining township supervisors who are in the landscaping business.

Extensions:

- a. Gourmet's Delight: Mr. Auerbach moved, seconded by Mr. Torres, that the Board of Supervisors accept the offer of an extension of time to the review clock for the Gourmet's Delight Preliminary Land Development Plan Phase 1, 2 & 3 Composting Facility dated April 25, 2016 to October 20, 2016. Motion carried 5-0.

Escrow Releases:

- a. Wyndemere Phase 2, Release #12: Mr. Auerbach moved, seconded by Mrs. Schenk, that the Board, based on the recommendation of the Township Engineer, authorize the release of Escrow No. 12 for Phase 2 of the Wyndemere Subdivision in the amount of \$190,321.71. Motion passed 5-0.
- b. Wyndemere Financial Security Release Phase I: Mr. Auerbach moved, seconded by Mr. Snyder, that the Board based on the recommendation of the Township Engineer, authorize the release of \$20,760, the financial security posted for the Wyndemere Phase 1 Non-Dedicated items. Motion passed 5-0.

New Business:

- a. Gourmet's Delight Final Minor Subdivision Plan/Parcel Line Change: The project is located at 420 Auburn Road and proposes combining separate parcels owned by Gourmet as well as the exchange of land between Gourmet and the landowner to the south. No new lots or improvements are included in the plan. The Planning Commission has recommended approval of the plan. Mr. Ken Crossan, representing the applicant, presented the plan which proposes the following:
 - Extinguish the lot line between Parcel No. 72-2-10.3 and 72-2-12, creating one lot, Parcel No. 72-2-10.3. Parcel #72-2-12 is eliminated.
 - Lot A (1.7815 acres) will be conveyed from #72-2-10-3 to #72-2-11;

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- Lot B (1.4245 acres) will be conveyed from #72-2-11 to #72-2-10.3;
- Lot C (0.5781 acres) will be conveyed from #72-2-11 to #72-2-10.3.

Following these changes Parcel 72-2-10.3 will contain 32.4518 acres and three dwellings with associated outbuildings and Lot 72-2-11 will contain 17.0305 acres and one dwelling with associated outbuildings. There were questions from Mr. Pat Talwin, a resident, and Supervisor Schenk regarding the rights-of-way along the affected roads. Mr. Crossan explained that the rights of way were not affected. Paul Lagasse inquired about setbacks that aren't shown on the plan. Mr. Auerbach said the setbacks will be recorded on the development plan which will be submitted at a later date. Supervisor Torres asked about a set-back on a non-conforming building.

Mr. Auerbach moved, seconded by Mr. Snyder, that the Board of Supervisors approve the Gourmet's Delight Mushrooms' Final Minor Subdivision Plan, Parcel Line Changes, dated April 25, 2016, last revised June 23, 2016 with the following waivers as recommended by the Planning Commission at their July 7, 2016 meeting and by the Township Engineer in his June 29, 2016 review letter and by the Township Sanitary Engineer in review letters dated April 25 and June 29, 2016:

Subdivision and Land Development Ordinance (SALDO):

- §22-202 – Regarding Definition of a Minor Subdivision;
- §22-502.L(14) – Regarding Location of Existing Wells and Septic Drain Fields;
- §22-502.M(1) – Regarding Contours;
- §22-502.M(8) – Regarding Delineation of Wetlands;
- §22-503.A – Regarding Plans Drawn to Scale.

Site Design Standards:

- §22-717.1.B – Regarding Survey Monuments;
 - §22-722.11.D – Regarding Location of Existing and Replacement Sewage Locations.
- Motion passed 5-0.

- b. Announcement – ZHB Attorney: Kim Venzie, an attorney with the firm employed by the Township solely for the Gourmet's Delight Land Development Zoning Hearing Board hearings, is moving to another firm. The subject for discussion involves whether to continue to use Ms. Venzie's services for the Gourmet's Delight ZHB hearings. It would benefit the Township because the ZHB would not have to bring another attorney up to speed on the issues and the cost of her services will remain the same. The sense of the Board is to continue with Ms. Venzie.
- c. Resolution 2016-19 – Sterling Act: Mr. Auerbach moved, seconded by Mr. Torres, that the Board adopt Resolution 2016-19, a Resolution requesting an amendment to the Sterling Act to require that up to 1% of Philadelphia Wage Tax paid by non-residents of Philadelphia be remitted to the Municipality in which the taxpayer resides.
- Discussion**: Mr. Auerbach explained the Sterling Act and stated that, although it may never benefit the Township, there is no downside to adopting the resolution. CCATO also recommends that the Township do so. Motion passed 5-0.
- d. Mini Cell Tower Discussion: Mini cell towers continue to be a topic of interest and concern to townships as these companies are claiming utility status and are able to locate these mini towers in rights-of-way (ROW) usually reserved for phone/cable/electric utilities, without the property owner's consent. The towers range from 70-120 ft. high and can be placed in the ROW of the home owner's front yard. Solicitor O'Keefe updated the Board on what can be done to legally protect the Township residents and to control where these towers are placed

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if/when it becomes an issue in the Township. Lamb McErlane has a generic ordinance which could be made specific to the Township's requirements. The consensus of the Board was to have Lamb McErlane provide a generic draft for discussion purposes and the supervisors will do their own research in the interim.

- e. LED Billboard Discussion: The Board believes that the Sign Ordinance may need to be revised to include off-site billboards. They have asked the Solicitor for advice on this matter. Mr. Auerbach advised that he and Supervisor Schenk attended a couple of board meetings in Lower Oxford where they approved the installation of a very large LED billboard – 4x the normal billboard size. Solicitor O'Keefe explained that there are different categories of billboards. An "Off-Site" billboard is one that advertises something that is not produced on the property where the billboard is located and it may or may not be LED or electronic. The Township cannot have an ordinance that bans Off-Site billboards. However the Township can tailor an ordinance according to the characteristics and zoning of the Township in an attempt to control their location. He also believes that it will soon be illegal to totally ban LED billboards. The Township will be able to regulate them in terms of how many times the message changes and the brightness of the LEDs, and perhaps the hours of operation, but it will not be possible to totally prohibit them. The Solicitor will review the sign ordinance for possible revision and/or will provide a draft ordinance for the Board's review.
- f. Right-To-Know Requests: Based on a request from a resident to obtain a copy of a plan which was submitted to the Township for review, the Township's responsibilities under the Right-To-Know-Act (the Act), with respect to what is considered public information, were discussed. In general, the Board is in agreement that they want to be as transparent as possible and allow the residents to have access as quickly as possible to information received by the Township regarding development plans, including review letters from engineers/consultants and government agencies. Chairman Auerbach expressed his opinion that once information is submitted to the Township it is considered public information and should be available to the residents. He stated further that he would like to see the Township develop a written policy stating their intent to make such information available upon request. Such a policy would be approved by the Township Solicitor. Solicitor O'Keefe agreed with the concept of being transparent but cautioned that any written policy must be entirely consistent with the Act because not only does the Act say what has to be provided on request, it also sets out very specific exemptions regarding what you *may* withhold from the public and what you *must* withhold. The Act also clearly states that the Township cannot release information or produce and disseminate information that may be inconsistent with standard federal and state law. The copyright law is a federal law that the Solicitor described as a law protecting works of authorship, which could be interpreted to include development plans. Township Mgr. McVaugh brought up the issue of review letters from Township consultants as well as state and county agencies that are actually paid for out of the developer's escrow funds. Are they considered public information by the Act? It became clear that this is a complicated issue that requires additional research and discussion. Mr. Auerbach suggested that the text of the Act be reviewed by the supervisors for further discussion at next month's meeting.


Public Comment: Mr. Zach Elwyn, PC member, advised that he was told by Verizon that the Township is preventing Verizon from providing FIOS TV to the Township residents. This is not the case. Verizon has installed the infrastructure in 94% of the Township but they will not bring

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FIOS TV service to the Township. Mr. Elwyn was given the contact information for the Township Representative at Verizon, Daniel Reavy. He can be reached at Daniel.j.reavy@verizon.net, or 215-362-1900. He has asked to be notified when a Verizon representative states that the Township is responsible for holding up FIOS TV in the Township. Mr. Elwyn also asked if there is anything that can be done about the blind hill on Gypsy Hill Road which creates an unsafe condition when exiting his driveway. He inquired about removing the trees from the right-of-way and was told that he is permitted to do so. He also commented on the general topography of the area which makes Gypsy Hill Road unsafe.

Adjourn: The meeting was adjourned at 9:33 p.m.

Respectfully submitted,


Sharon Norris
Township Secretary

BOS Mtg. 07.20.16.v.2.ER