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FRANKLIN TOWNSHIP BOARD OF SUPERVISORS' MINUTES August 17, 2016

Call to Order:

Mr. Auerbach called the meeting to order at 7:04 p.m. Present were Supervisors Dea, Schenk, Torres and Snyder. Also present were Township Solicitor Mark Thompson, HARB & Historical Commission Chairman Paul Lagasse, Manager/Treasurer Joan McVaugh and Secretary Sharon Norris. Ellen Kohler representing the White Clay Creek Wild & Scenic Management Committee was present for the MS4 discussion. LTL Engineer Linda Cluck arrived at 7:15 p.m. No members of the public were 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 July 20, 2016: Mr. Auerbach moved, seconded by Mr. Snyder that the Board approve the July 20, 2016, v2 Minutes, as presented by the Township Secretary. Motion passed 5-0.
- b. Disposition of Records – Resolution 2016-20: Mr. Auerbach moved, seconded by Mr. Snyder, that the Board approve Resolution 2016-20 regarding the Disposition of Records for the Board of Supervisors' meeting of July 20, 2016. Motion passed 5-0.

Reports:

- a. Treasurer's Report for July 2016: Mr. Auerbach moved, seconded by Mr. Torres, that the Board approve the July 2016 Treasurer's Report which includes the following disbursements: The General Fund with disbursements and transfers of \$82,304.82; the Park & Recreation Fund with disbursements of \$7,712.78; the Open Space Fund with disbursements of \$7,172.61; the Traffic Impact Fund – East, with disbursements of \$16,785.85; the Capital Reserve Fund with disbursements of \$12,042.75; the Highway Aid Fund with disbursements of \$117,882.91; the Emergency Services Fund with disbursements of \$29.99; and the Fire Hydrant Fund with disbursements of \$580.80, leaving a balance in all funds totaling \$937,942.75. Motion passed 5-0.
- b. Zoning Officer's Report June 2016: Mr. Auerbach reported that during the month of July, 6 new permits were issued and 46 various inspections were performed. Building/zoning fees collected were \$115.50; Recreation and Impact fees 0; and \$840.00 in miscellaneous fees were collected. There are 3 ongoing zoning issues. Mr. Auerbach inquired about the oil spill issue at 1620 New London Road. Mrs. McVaugh advised that the DEP issued a violation notice to the property owner on August 4, 2016. Regarding the 1006 Wickerton Road issue of burning landscape material and animal waste, Mrs. McVaugh advised that a homeowner is allowed to burn trash from their home but is not permitted to bring in trash from another location nor are they permitted to burn animal waste. The Zoning Officer is working with the Solicitor to determine if there are violations.
- c. Planning Commission (PC) Report: The Planning Commission did not meet in August.
- d. HARB/HC Report: Mr. Paul Lagasse, Chairman of both the HARB and the Historical Commission, reported that neither of the Commissions met in August. Mr. Lagasse advised

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that the Township's Historical Commission, in conjunction with the New London Area Historical Society, will co-sponsor a talk on Vintage Baseball in the 1860s on September 8th at 7 p.m. at the New London Township Building located at the intersection of State and East Avondale Roads. The speaker is Jonathon Kilpatrick, a teacher in the Kennett Consolidated School District and a player on the Eclipse Baseball Club of Elkton, MD. Mr. Lagasse also reported that Eastern Shore Natural Gas's (ESNG) work on the Kemblesville Loop is scheduled to begin on August 29th. Mr. Auerbach is invited to ESNG's preconstruction meeting on August 23rd in Cochranville and will report back to the staff and Board. The Historical Commission will submit comments to the Federal Energy Regulatory Commission (FERC) regarding their environmental assessment of ESNG's planned work and the historic properties that may be affected. The Board members commented on the apparent lack of public interest in the pipeline work.

Business:

- a. Christina Watersheds' Partnership Pilot Collaboration Project: The Department of Environmental Protection (DEP) has charged the townships in the Christina Watershed to remove nutrients and sediments from impaired streams as a requirement of the Municipal Separate Stormwater System (MS4) permit. The first permit application, submitted in 2012, was denied. The revised MS4 application and Total Maximum Daily Load (TMDL) strategy was submitted in December 2015, in compliance with DEP's requirement that each township work independently to improve the impaired streams in the watershed. The White Clay Wild and Scenic Association has now introduced a pilot program which would allow certain townships in the same watershed to collaborate, with the expectation that working together will provide the opportunity for a greater impact due to a more efficient application of BMPs over a larger area. Ms. Ellen Kohler of the White Clay Wild and Scenic River Program presented the details of the pilot project, as described in the one page draft overview dated 7/14/16 titled "Christina Watersheds Partnership Pilot Collaboration Projects". Other documents referenced in the discussion include a 6 page "Full Proposal Project Narrative", an organizational chart for the Christina Watersheds Partnership Project Team & Sponsors and a map delineating the pilot areas. Franklin Township is included in the "Suburban" Pilot Area depicted in green on the map and would potentially partner with the Boroughs of Avondale and West Grove and the townships of London Grove, New Garden and London Britain. Ms. Kohler explained that DEP cannot require that the individual municipalities participate in this project and she is meeting with each township to determine their level of interest. Participation in the partnership program requires a two-year commitment and financial support of \$1,000/year (total \$2,000). At this point the Borough of Avondale and London Grove Township have expressed preliminary interest in participating, although Ms. Kohler has not yet met with their supervisors. Linda Cluck, LTL's engineer who was instrumental in the preparation of Franklin's revised MS4 permit application, was introduced by Chairman Auerbach and spoke about some of the technical challenges involved in controlling sediments and nutrients and the expertise that will be available to the participating townships, specifically Stroud Water who has been involved in monitoring the streams and will be helpful with structuring the monitoring systems. She expressed her opinion that these monitoring systems will be much more effective working with several municipalities because of the way the streams flow. Chairman Auerbach had questions regarding the project team and sponsors and how the project will be funded, and he

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commented on the need for an intergovernmental agreement if the municipalities agree to this approach. Ms. Kohler said that most of the funding is coming from a grant that will be managed by the William Penn Foundation and agreed with the need for an agreement. She advised that York and Berks Counties in PA have implemented collaborative plans and she will forward copies of their agreements for the Board's information. There were questions from the supervisors regarding the Township's plan that has been submitted with BMPs that have not been tested for performance and no feedback has been given. Ms. Kohler indicated that DEP intends to be more flexible with the multi-township plans – if something doesn't work, townships will be able to change the plan. Engineer Cluck said that much of the work that has been previously done will be folded into the collaborative plan. Chairman Auerbach stated that he will only be interested in implementing BMPs that have performance data that supports their success at achieving the results required by DEP. Engineer Cluck indicated that one of the advantages of this approach would be the ability to bring in experts to substantiate the probability of success of various BMPs. There was discussion regarding the time line for a decision on the collaborative approach and Ms. Kohler indicated that the Township would need to have something back to DEP by September 2017. Engineer Cluck mentioned that her preparation for this project includes attendance at a workshop on September 20th and updating several documents in accordance with the 2010 census. Mr. Auerbach requested her to prepare a bullet list of the work that LTL plans to do to meet the 2017 deadline for discussion at the September Board of Supervisors meeting. The consensus of the Board is to pursue additional information regarding this pilot program and wait to see if the other townships/boroughs are interested in participating.

- b. Township Office Renovation Update: Mrs. McVaugh advised that she is waiting for estimates from two contractors. The third contractor she contacted isn't interested in bidding on the project. She is looking for a third contractor.
- c. Municipal Complex Site Plan: Supervisor Torres led the discussion referencing two proposals from Tom Kealy of Landscapes By Design, Inc. dated August 15, 2016 and a design drawing of the areas to be landscaped with the names and sizes of plants, and the number of each plant variety that he needs to complete his plan. There were questions from the Board and Township Mgr. regarding some of the plant types, specifically Arborvitae which may not be a good choice based on its attractiveness to the deer population. Regarding the proposal for the area extending from behind the salt shed to the edge of the Township property, Mgr. McVaugh expressed concern about losing approximately 16 ft. along the property line to allow for the growth of the landscaping material and suggested installing a 6 ft. privacy fence as an option, or some type of tree that has a much smaller diameter. Mr. Lagasse mentioned a type of small tree or shrub called Privet which is part evergreen and part deciduous, typically used in hedges and can be seen along Chambers Rock Road. He also suggested not using the Fat Albert Blue Spruce variety of evergreen which is subject to disease. American Holly was suggested as an alternative. Mrs. McVaugh expressed concern about the use of deciduous trees as buffers because they lose their effectiveness when they drop their leaves. Supervisor Torres will discuss the concerns with Mr. Kealy and will report back to the Board. Mr. Auerbach said he would like to get the area behind the parking lot landscaped this fall.
- d. Ordinance Tweaks: This is a discussion to determine which ordinances the Board would like the Planning Commission to review for possible revision. Manager McVaugh presented a list of issues she and the Building Official have encountered while administering the Zoning

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and Subdivision and Land Development ordinances. The Board discussed each issue with the following outcome:

- **Revise definition of “structure”:** More information needed from the building official.
 - **Accessory Structure:** More information needed from building official.
 - **Two residences on one parcel in the Ag District:** Currently the zoning allows for multiple houses on one parcel in the Ag District. The Board felt that only one additional house should be permitted and the parcel must be large enough to meet the setback requirements, host well and septic and have the ability to be subdivided.
To be reviewed by the PC.
 - **Signs:** The issue began with adding “brewery” to Zoning Section 27-2006, Sections 1C and E which deal with winery as accessory to Ag. The Board questioned why winery was singled out and maybe the whole section should be deleted.
To be reviewed by the PC.
 - **Fences:** This issue stemmed from a resident placing their fence in a stormwater swale, causing flooding. The Solicitor advised that if the swale was part of the subdivision plan, the Township had the legal right to have the homeowner remove the fence.
To be reviewed by the PC.
 - **Engineered Stormwater Plans (For Residents only):** Currently the ordinance requires that residents must submit stormwater plans that are signed and sealed by the Engineer who developed the plan. Once the plan is submitted, it is reviewed by the Township Engineer – therefore the plan is reviewed twice by an engineer and paid for twice by the resident. The Board is concerned about the financial burden this places on residents. The Solicitor will check with other townships to see how they handle stormwater review and will get back to the Board.
 - **Stormwater Accumulation:** The Township has had difficulty calculating a property’s additional impervious coverage due to the language in the stormwater ordinance. The Solicitor is researching how additional impervious surface should be calculated once the stormwater project is completed with the appropriate BMP (such as dry well or rain garden) and will report back to the Board.
 - **Stop Signs and Roads with Speed Limits of 35 MPH or less:** Administrative update. To be enforceable, the ordinance must have current information.
 - **High Grass:** The ordinance has different height requirements in several different places. The requirement is no higher than 18”. This is an administrative update.
 - **Driveway Bridge Repairs:** The Building Official is concerned that emergency vehicles may not be able to access properties with driveway bridges in need of repair. The Board is reluctant to require residents to secure a permit to repair their driveway bridge.
- e. *Right To Know Discussion:* Mr. Auerbach stated that this topic is very relevant at this time because of the Gourmet’s Delight’s development plan which will be on the Planning Commission’s September 1st meeting agenda. The Board has expressed their preference for providing information to the residents as soon as it is received. This issue surfaced as a result of a resident’s Right-To-Know request for a copy of the Gourmet Land Development Plan prior to review by the Planning Commission. The Township was advised that duplicating land development plans is in violation of copyright laws and therefore the request was

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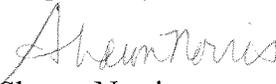
denied. The Township asked if they could post the plan on the website with a disclaimer that this is copyrighted material and cannot be duplicated. The Township Solicitor has advised that residents can come to the Township office and view the plan but may not duplicate it and described this as a murky area of the Right-To-Know Law. He suggested that the Township Manager contact the applicant and ask permission to post the plan and, if granted, to request that they put their permission in writing. Mr. Auerbach requested Mrs. McVaugh to ask the applicant for permission to post the plan on the website and to sign a release to that effect. Solicitor Thompson will continue to research the matter.

- f. Trees in the Right-of-Way: Mrs. Schenk led the discussion and expressed her opinion that a tree in the right-of-way (ROW) belongs to the property owner and if it is dead it is the property owner's responsibility to remove it. The Solicitor confirmed that even if trees are in the ROW, they still belong to the property owner and are the property owner's responsibility. However, in situations where the property owner is not dealing with the dead trees and it becomes a safety issue, the Township must take action. The Solicitor will draft an ordinance that enables the Township to notify affected homeowners of the need to take down dead trees. If the homeowner fails to do so in the allotted time, the Township will be able to remove the dead trees and bill the property owner. Mr. Auerbach moved, seconded by Mrs. Schenk, that the Board authorize the Solicitor to draft and advertise an ordinance for adoption at the September meeting, for managing the removal of dead/dangerous trees within the Township's right-of-way. The motion passed unanimously.

Public Comment: There was no public comment.

Adjourn: The meeting was adjourned at 10:12 p.m.

Respectfully submitted,


Sharon Norris
Township Secretary

BOS Mtg. 08.17.16.v.1.ER