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FRANKLIN TOWNSHIP BOARD OF SUPERVISORS' MINUTES September 21, 2016

Call to Order:

Mr. Auerbach called the meeting to order at 7:05 p.m. Present were Supervisors Dea and Torres. Supervisor Schenk was absent and Supervisor Snyder arrived at 8:36 p.m. Also present were Township Solicitor Mark Thompson, HARB & Historical Commission Chairman Paul Lagasse, Planning Commission Chairman Dave Hoffman, Manager/Treasurer Joan McVaugh and Secretary Sharon Norris. Ellen Kohler was present representing the White Clay Creek Wild & Scenic Management Committee. There were 4 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 August 17, 2016:* Mr. Auerbach moved, seconded by Mrs. Dea that the Board approve the August 17, 2016, v1 Minutes, as presented by the Township Secretary. Motion passed 3-0.
- b. *Disposition of Records – Resolution 2016-21:* Mr. Auerbach moved, seconded by Mr. Torres, that the Board approve Resolution 2016-21 regarding the Disposition of Records for the Board of Supervisors' meeting of August 17, 2016 and the PC meeting of July 7, 2016. Motion passed 3-0.

Reports:

- a. *Treasurer's Report for August 2016:* Mr. Auerbach moved, seconded by Mrs. Dea, that the Board approve the August 2016 Treasurer's Report which includes the following disbursements: The General Fund with disbursements and transfers of \$110,333.82; the Park & Recreation Fund with disbursements of \$10,943.27; the Open Space Fund with disbursements of \$7,172.61; the Traffic Impact Fund – East, with disbursements of \$40,908.81; the Traffic Impact Fund – West, with disbursements of \$39,318.40; 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 \$888,277.90.

Discussion: Mrs. Dea inquired about the difference in the Park & Rec Fund balance this year compared to last year and Mr. Torres questioned the difference in the balance of the Capital Reserve Fund compared to last year. Mrs. McVaugh explained that last year the Park & Rec Fund included additional income from the fee-in-lieu payments received from the Wyndemere build-out and the difference in the Capital Fund is because the road program was paid earlier this year than last year.

Motion passed 3-0.

- b. **Zoning Officer's Report:** Chairman Auerbach reported that during the month of August, 9 new permits were issued, including 2 new homes – one in Colonial Meadows and one in Forrest Glen. There were 40 various inspections performed. Building/Zoning fees collected were \$5,288.95; Recreation and Impact Fees \$5,290.19; and Miscellaneous Fees were \$1,965.00. There is one ongoing zoning issue. Mrs. Dea requested an update on the 1006 Wickerton Rd. property, discussed at last month's meeting regarding the burning of animal

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waste and landscaping debris. Mrs. McVaugh advised that the residents are still burning trash and animal waste but they are doing so after 10 p.m. which makes it difficult to know exactly what they're burning. The Zoning Officer assumes they are burning their own trash, which is permitted, however he will continue to check on them. The SPCA has removed a cow from the property which was in very poor health. Mrs. Dea also inquired about the resident on Auburn Rd. who was installing a driveway without a permit. Mrs. McVaugh advised that a Stop Work Order was issued and he has now obtained the proper permit. Mr. Torres asked about the 1620 New London Rd. property which is on tonight's agenda and will be discussed at the proper time.

- c. Planning Commission Report(PC): Chairman Dave Hoffman provided an overview of the September 1st PC meeting, at which the Gourmet's Delight Preliminary Plan was reviewed. The applicant's latest review letter, dated August 31, 2016, was not received until the day of the meeting and was reviewed for the first time during the meeting. Dr. Hoffman highlighted some of the items that were of significant interest to the PC members and the residents that were in attendance, i.e., the sight distance for the new Auburn Rd. entrance and the potential increase in truck traffic; stormwater management calculations; whether the Township will have the right to inspect the maintenance and operation of the stormwater facilities; the blanket easement agreement and O & M Agreement. After reviewing the letter, several issues were raised by the residents, specifically ground water use and the affect it will have on neighboring wells. The PC could not discuss this and other issues put forth by the residents because they did not pertain to the documents that were in the PC's possession. At Dr. Hoffman's request, Mr. Talwin has provided a list of questions so that they can be considered for discussion at the next PC meeting. Mr. Torres inquired if the situation with Artesian taking water from a neighboring township several years ago was relevant to Gourmet's potential need to drill more wells to run their processing operation and if so, does it signify a loophole in the ordinance. Solicitor Thompson advised that the two are not similar because Artesian is a public utility and he is not aware of any loopholes in the ordinance. Mr. Talwin asked if the Township Solicitor should be at the next PC meeting and Dr. Hoffman said that decision is up to the Board of Supervisors. Complete details of all of the discussions that occurred at the meeting may be found in the approved minutes when they are available.
- d. HARB/HC Report: Chairman Paul Lagasse reported on the September 7th meeting of the HC and the HARB. The topics discussed included the following: An update on Eastern Shore Natural Gas Pipeline's (ESNG) progress and a review of the artifacts discovered during the archaeological survey along the route of the pipeline; HC's submission of comments to the Federal Energy Regulatory Commission (FERC) concerning work proposed by ESNG for 2017; PennDOT's roadwork schedule on 896 which has not progressed as expected; HC's talk on taverns has been postponed until Fall 2017; HC's Facebook page is progressing and is expected to be available in October and will be advertised at the polls on election day, weather permitting; the September 8th program on Vintage Baseball was a success; October 15th from 6:30 to 8:30 p.m. all are invited to the London Tract Meeting House for the return of the "Historic Haunting" which includes a tour of the cemetery and the haunted trail, where "souls of past lives" may visit to share their past life experiences! The house will be open and refreshments will be available. The event is free – raindate is October 16th. The HARB also discussed PennDOT's slow progress and training opportunities.

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- e. FSA Report: Mr. Jim German of the FSA reported that membership is full for the season with 35 registered members. There were five openings which were filled by the first five Township residents on the waiting list. On September 10th and 11th, an efficiency shoot was held for the members, 22 members qualified for archery and 25 members qualified for shotgun proficiency. There will be a make-up day for those who could not make it on those days. Archery season began on September 17 and closes November 26, 2016. It opens again on December 26 and closes January 28, 2017. Shotgun season opens November 26 and closes December 10, 2016 and reopens on December 26 and closes January 28, 2017. The safety zones have been marked on the preserves. The FSA has performed several community service projects, including dead tree removal and clean-up of Banffshire parking lot and maintenance of grassy area around entrance to Banffshire; road clean-up of Chesterville and Creek roads; participation in the Great American Clean-up; Ford Farm trail maintenance and mowing; and sanding and painting the Township picnic table. The Board expressed their appreciation for their service to the Township.

Business:

- a. Multiple Uses Property in SU District: This discussion is regarding the property at 1620 New London Road which has been the subject of several complaints including spilling oil from lawnmower repair and noise from the tenant's trucks early in the morning. DEP has addressed the oil spill and will perform follow-up inspections. The Township Zoning Officer determined that there were 3 uses on this property, i.e. 1) landscaping business, 2) lawn mower/engine repair business, and 3) residential. It is zoned for 1 use by right. In order to have more than 1 use the owner needs to go through the Conditional Use (CU) process. The property owner, Jason Bryde, and his father Gary, an attorney, were present at the meeting. There is a tenant living in the house on the property who was doing mower and automobile engine repair. That business will no longer be in operation and the tenant is in the process of removing the mowers and cars from the property. The remedial repairs required by DEP due to the oil spill have been completed. There are three storage buildings on the property, one of which is being used for internal storage of equipment for an off-site landscaping business (run by Jason Bryde); and the other two are being used to store equipment for an off-site sub-contracting business for installing fiber optics. There are two large utility trucks associated with the sub-contracting business which are parked next to one of the storage buildings. The uses on the property have been reduced to 1) residential and 2) storage. The Bryde's are seeking input from the Board regarding the CU process. Jason has talked to the neighbors regarding their concerns which include noise, headlights from the trucks leaving early in the morning and returning after dark and the unsightly look of the mowers and cars being repaired. Most of these issues will be improved by the cessation of the mower/automobile engine repair business and Jason will be installing a landscape buffer to help shield the neighbors from the trucks' headlights. The owners are required to install a 25ft. asphalt apron to the driveway off 896. The consensus of the Board is not to object to the owner's Conditional Use Application to allow two uses on the site. The owners need to apply for a Conditional Use Hearing. All the neighboring residents will be formally invited to attend the hearing to voice their concerns and have their questions answered.
- b. Stormwater – Christina Watersheds Partnership Pilot Project (CWPPCP): Ellen Kohler of the White Clay Wild and Scenic Association returned to update the Board on the CWPPCP. Ms. Kohler informed the Board that London Grove and New Garden have agreed to

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participate in the collaboration project and have adopted the Resolution. Avondale Borough is willing to participate but didn't have the resolution ready and will pass it at their October meeting. She will be meeting with West Grove Borough this week and believes they will also be passing the resolution. London Britain is counting on be exempted from the MS4 process by the Department of Environmental Protection (DEP). Ms. Kohler assured the Board that DEP is now in full support of the collaboration process. She talked about the advantages of collecting data by implementing monitoring across municipalities to determine the source(s) of the sedimentation and sharing the cost of implementing mitigation plans. Mr. Torres inquired about the availability of grant money to help with the costs of the monitoring, etc. Ms. Kohler indicated that she believes there may be grant money available through various private organizations such as Stroud Water and later said that there may also be federal grant money available. Mr. Auerbach referenced the 20-year plan prepared by the Township Engineer which is estimated to cost the Township an average of \$100,000/year for 20 years or \$2,000,000. He said he would like to see examples of how the collaboration project saves money. Ms. Kohler reiterated the advantage of partnering with another township to find solutions to issues that affect both townships and sharing the costs of those solutions. Also partnering with another township to seek and apply for grant money could be advantageous. Mr. Auerbach mentioned that a multi-municipal legal agreement outlining the responsibility of each municipality would be necessary and would be a complex, time-consuming task to undertake. Solicitor Thompson said an ordinance would be required. Mr. Torres asked if the Township, through the collaborative monitoring process, found that 80% of the source of the sediment was outside of Franklin Township would the Township still be subject to the MS4 regulations which have the potential to cost \$2,000,000 over the next 20 years. Ms. Kohler indicated that if that were the case, she believes the Township would not have to comply. Supervisor Dea said she is ready to adopt the Resolution. Supervisor Torres said he is in favor of adopting the Resolution but didn't want to do so with two supervisors absent. Chairman Auerbach stated that he would like to table the discussion until the October 19th BOS meeting because he has not had time to talk to the principals of the other townships regarding the CWPPCP and he does not want to adopt the Resolution until the full Board is present.

- c. Conservation Easements: Geoff Shellington of the Chester County AG Preservation/Open Space Preservation Department contacted the Township Manager about two property owners who want to place conservation easements on their properties. A two-parcel property located near Pennock Bridge and Guernsey Roads, totaling approximately 55.3 acres and a 28.1 acre parcel located on Walker Road adjacent to the Peacedale Preserve are the subject properties. It was noted that all three parcels would be attractive to developers because they are relatively flat and have no woods or steep slope restrictions. It was also noted that although more houses would bring revenue into the Township, the reality is that the cost of increased services has been shown to be greater than the increase in revenue. Total acreage is 83.4 acres at a cost of \$5,000/acre. The County proposes to contribute 55% of the cost of the easement and asked that the Township contribute 45%, payable over 5 years. Total cost to the Township would be \$187,650 payable in 5 installments of \$37,530. Mr. Auerbach reviewed the Township's current debt position which includes the current open space loan which has a current balance of \$2,916,000 and a payoff date in 2039 and the Park Loan which has a current balance of \$108,000 and a payoff date in 2018*. (*It was later determined that the payoff date is 2019.) Although Mr. Auerbach believes that these three

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parcels meet the criteria for open space conservation to a greater degree than some of the properties that were previously preserved, there is no money in the Open Space Fund and he does not support increasing taxes to purchase these easements. Mr. Torres has a different opinion. He believes that the Board should look for a way to take advantage of this opportunity and not be responsible for a legacy of 25-50 unwanted new homes in the Township. He believes they should be able to find \$37,500/per year in the budget, which will become much easier when the park loan is paid off. Mrs. Dea agreed, stating that she believes they should try finding the money in the budget to do the deal, but she does not support raising taxes to do so.

Note: Supervisor Dave Snyder arrived at this point in the discussion at 8:36 p.m.

Mr. Auerbach updated Mr. Snyder on the discussion. Mr. Snyder stated that he will vote No to purchasing the easements stating he is totally against the concept of open space and does not support doing the deal. Chairman Auerbach said he would vote No tonight but since there are two for and two against, he tabled the discussion until the full board is available.

- d. Keen 3-Lot Escrow Release: Mr. Auerbach moved, seconded by Mr. Snyder, that the Board of Supervisors, based on the recommendation of the Township Engineer, authorize Escrow Release #1 in the amount of \$21,123.80 for the Keen 3-Lot subdivision. Motion passed 4-0.
- e. Ordinance 2016-08: Mr. Auerbach explained that although the residents own the rights-of-way on their properties, the Township has access to the rights-of-way, and is obligated to ensure that bushes and trees, etc., that may impede safe travel on the roads, are removed in a timely manner. This Ordinance will permit the Township to bill residents for the associated cost of this service if the residents do not comply within 21 days of being notified by the Township. Mr. Auerbach moved, seconded by Mrs. Dea, that the Board of Supervisors enact Ordinance 2016-08, amending Chapter 10, Health & Safety, to add a new Part II governing trees in Township Rights-of-Way. Motion passed 4-0.
- f. Draft Ordinance Discussion:
 - a) Sign Ordinance – Ordinance 2016-09: Because of the rising popularity of large, TV-like billboard signs, one of which is currently being constructed in the Oxford area, the Board requested that Solicitor Thompson draft an ordinance to regulate these types of signs. Solicitor Thompson has provided two options for the Board’s consideration – one fully restricting the use of such billboards and one regulating their use by place and time. It is clear that Franklin is not a business oriented township and most of the roads are rural country roads that do not present attractive sites for such advertising. The only roads where it would make sense for a business to erect such signs would be Rt. 896 and Rt. 841. Mr. Auerbach said that the support for these signs comes from the police and fire companies that want to use them for Amber Alerts and other safety alerts. The majority of the Board supports the first option which fully restricts such billboards in the Township. Since this is a zoning issue, the Board will ask the Planning Commission to review the ordinance at their next available meeting.
 - b) Mini Cell Tower Ordinance – Ordinance 2016-10: Mini cell towers continue to be a topic of interest and concern to townships. The Solicitor has drafted an ordinance which sets forth provisions for a new Section 1705 of the Zoning Ordinance. The new provisions distinguish between: i) Tower-Based Communications Facilities Outside the Rights-of-Way (which are permitted in the Industrial District) and ii) Tower-Based Facilities in the Rights-of-Way which are the DAS systems the Township consortium is concerned about. Also added to the draft are provisions governing Non-Tower Wireless Facilities in the

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Rights-of-Way requiring co-location on existing poles, such as existing utility poles or light poles. Chairman Auerbach noted the complexity of this ordinance and suggested providing it to the Planning Commission and attending the meeting at which they review it in order to better understand the details of the ordinance. The Solicitor provided an overview of the proposed ordinance and offered to provide a basic explanation of the provisions to assist the PC in their review which will not take place until after the Gourmet's Delight Preliminary plan review is complete.

- g. Township Office Renovation update: Mr. Auerbach provided an overview of the work that has been completed in the manager's new office. The contract was awarded to Tim Siple, the low bidder, and work is progressing. The contractor anticipates the office will be finished by the end of September. The next step is to create a scope of work for the ADA compliant restroom in the meeting room.
- h. Municipal Complex Site Plan update: Mr. Torres updated the Board on this project which initially will consist of screening two areas: 1) between the Ford Farm parking lot and the neighbor's fence, and 2) screening the work/storage lot from the Brady property. Regarding #1, Mr. Kealy of Landscapes by Design has submitted a revised plan which basically replaces the deciduous trees with evergreens for approximately the same cost as the original proposal. #2 screening of the work/storage area, the basic concern with landscape screening is the amount of space that will be lost due to the plantings. Also the plants that were previously discussed included Arborvitae and there was a concern because deer like the Arborvitae. However, Mr. Kealy said they do not like the species of Arborvitae that he proposed. Mr. Torres said that the new plantings will not take up any more space than the Douglas Firs which have now been removed. The only recommendation Mr. Kealy had to replace the Arborvitae is the Juniper Emerald Green which has a lesser width of approximately 10 ft., but is more expensive and is slow growing. Rather than make a decision at this stage, Chairman Auerbach suggested that the staff assemble some information regarding fencing options for the Board to consider. Regarding item #1 of the screening project, Mr. Auerbach moved, seconded by Mr. Torres, that the Board of Supervisors authorize Landscapes by Design to begin the Municipal Complex Screening Project at a cost not to exceed \$2,000. The first planting will take place to the left of the drive behind the Ford Farm parking lot. Motion passed 4-0.

Public Comment: There was no public comment.

Adjourn: The meeting was adjourned at 9:48 p.m.

Respectfully submitted,


Sharon Norris
Township Secretary