

**FRANKLIN TOWNSHIP YORK COUNTY PA
BOARD OF SUPERVISORS (BOS)
REGULAR MEETING MINUTES
September 13, 2023 - 6:00 PM**

(X) Chair Mark Wenrich (X) Vice Chair Dave Buckwash (X) Supvr. Naomi Decker (X) Supvr. Duane Anthony (X) Supvr. Kevin Cummings (X) Engineer Phil Brath (X) ZO Wayne Smith (X) Treasurer/Asst. Sec. Pam Williams (X) Solicitor Bret Shaffer (X) Secretary Traci Kauffman

Call to Order – September 13, 2023, Franklin Township Board of Supervisors (BOS) Meeting was called to order at 6:00 pm by Mark W. The meeting was held in person at 150 Century Lane, Dillsburg, PA. Visitors in attendance are listed on the meeting sign-in sheet.

Pledge of Allegiance and Prayer – Pledge and prayer were led by Mark W.

Police – A written report was provided.

Approval of Minutes –

A motion was made by Kevin C. to approve the BOS Regular Meeting Minutes of August 9, 2023. Second by Naomi D. There was no discussion. The motion carried.

Public Comment (written request pertaining to Agenda items only) – Esther King, of 55 Barrens Valley Road was present to discuss the Old Cabin Hollow Road, York County Bridge #235 and the problems that could be caused by the proposed renovations that may be implemented. She provided a current copy of the County plan from Herbert, Rowland & Grubic, Inc. of Harrisburg, PA to renovate the bridge. Discussion ensued. Engineer Phil B. and Roadmaster Andy G. will review the renovations and inquire of the County whether any modifications could be considered, by leaving it as a one lane bridge, so that it does not cause speed issues and increased traffic within the Township. This issue will be revisited at the October meeting.

Organization Reports:

Fire – A written report for August 2023 was provided. Chief Morales indicated that there were twenty-one calls for August, four in Franklin Township for a total of seventy-five for the month. Chief Morales indicated they are applying for a grant to replace equipment; Farmers Fair preparations are under way. Prints are being provided to the fire company for the new engine for approval. The Rescue Truck will be paid off by the Township in November and the registration plates will need to be changed from Emergency Services to Municipal plates. Daily maintenance, repairs and state inspection are currently being handled by the Fire Company. More information needs to be provided upon the plates being changed regarding who is responsible for the upkeep and maintenance.

EMA – There was no report.

DAA – The written minutes were provided.

EMS – Penn State – A written report was provided.

BCO/Land & Sea Services – A written report was provided.

ZO/CEO Report – August 2023, written and verbal report was provided by Wayne Smith.

Engineer – A written report was provided.

A complaint regarding where signs were placed for left hand turns on Route 15 blocking the line of sight for tri-axle trucks will be taken care of by Penn Dot.

Phil B. requested that the BOS approve a specialist to help with the Water Street Bridge Replacement and Wetland Delineation report. The Wetland Delineation is over five years old and a new one is required. A new PNDI will need filled out and will be looking for Bog Turtles and Long-Eared Bats.

A motion was made by Mark W. to give Phil B. permission to move forward with the updates for Water Street. Second by Duane A. There was no discussion. The motion carried.

Lexington Fields –

A first executive session was held at 6:32p.m. to discuss legal issues pertaining to the Lexington Fields plan. Thereafter, the Board returned at 7:24p.m. to discuss the plan with the developer.

Present for the developer were Phil Garland, Attorney David Getz, and Engineer Eric Johnston. The Solicitor asked whether the Developer wished to begin with a review and vote on the waiver requests. Mr. Getz indicated any order of proceeding was acceptable. The Township Engineer reviewed the four waiver requests, and discussion ensued between the Board and the developer as to each point. It was discussed by the Board whether sewer lines were preferable within or outside the cartway. Mr. Garland indicated the installation in the cartway was an acceptable industry standard. Pros and cons of locating the sewer lines in the cartway were reviewed between the Board and the Township Engineer. Supervisors Cummings and Anthony both raised concerns with the request to waive vertical curbing and the request to begin the sidewalk within 1' of the ROW. It was noted by the Solicitor and confirmed by the Township Engineer that the SALDO in effect at the time of this plan had conflicting provisions, such that some accommodation was required with where to locate the sidewalk in relation to the ROW. The Solicitor said that this waiver request was only being sought for Oakdale Drive; however, the Township Engineer noted that the roadway widths had been changed throughout the development since the last version of the plan, at which point the Solicitor agreed that it was likely in the developer's best interest to ask for the waiver as to the entirety of the development. After further discussion, the developer indicated that the waiver request was being sought as to the entire development. Mr. Getz stated that the proposal would give the future homeowners the benefit of knowing that their private property commenced at the sidewalk. On the issue of vertical vs. slant curbs, the Township Engineer and Supervisor Cummings both expressed concern that, especially in a dense residential area, slant curbing would encourage street parking if not also parking in yards, creating public safety issues. The developer and the Board discussed the request to waive the installation of sidewalks along Bypass Road and Baltimore Road. Resident and adjoining property owner David Sprigg commented that students are currently picked up from the surrounding homes on Baltimore Road. Discussion followed as to whether the streets would ultimately be accepted for dedication, as school buses will not typically enter private streets. Clarification was sought by the developer as to whether sidewalks would be required along both sides of Bypass Road or just one, and the developer indicated a preference that if the waiver was not granted in full, then only one sidewalk on one side of Bypass be required without any sidewalk on Baltimore Road.

Following the discussion of the waiver requests, motions were made as follows: Supervisor Cummings moved to grant the waiver as to Section 515.a.3 so that the developer could install sewer lines in the cartways; Supervisor Anthony seconded. The motion passed 4-1 with Supervisor Decker opposed. Supervisor Cummings then moved to grant a waiver of Section 508.a.2 to allow slant curbs; Supervisor Wenrich seconded, and the motion passed 4-1 with Supervisor Decker opposed. Supervisor Cummings made a motion to deny any waiver as to Sections 508 and 509, which denial will require sidewalks on both sides of Bypass Road and Baltimore Road. Supervisor Buckwash seconded the motion, and the waiver request was denied by vote 5-0. Supervisor Anthony motioned to grant a waiver as to 509.c to allow the developer to commence the sidewalk within 1' of the ROW throughout the development; this motion was seconded by Supervisor Cummings and passed unanimously, 5-0.

Mr. Getz requested conditional approval, noting that there were likely to be a number of conditions. Discussion ensued. Supervisor Buckwash presented a list of talking points for discussion, after which Mr. Getz, Mr. Garland, and Mr. Johnston talked through whether any of the points could be addressed by the acceptance of conditions. The developer offered that being able to subdivide the former Hartman property to include part of it in the development could eliminate a number of the Board's concerns with Oakdale Drive. Discussion between the Supervisors, the Township Engineer and the Township Solicitor ensued as to whether any part of the former Hartman property could be incorporated into the Lexington Fields development without rendering the entire development subject to the SALDO and Zoning Ordinance now in effect. All parties for the developer objected to any application of the current SALDO and Zoning applying to both any addition and the rest of the development. The Solicitor explained that there were concerns that the ROW on Oakdale Drive would eventually be offered for dedication but the area within the ROW was not entirely part of the development, rather part of the ROW was by easement over adjacent property.

The developer indicated that the other items discussed by Supervisor Buckwash were generally acceptable if they were to be made conditions of approval. However, the developer refused to provide a turning lane on

Route 194 earlier than Phase III of the subdivision. The developer and the Solicitor discussed whether phasing within 15 years was a requirement of the MPC and how the change from 3 to 4 phases impacted the plan. The plan as submitted in 2009, noted the Engineer and the Solicitor, had phasing spread over three phases totaling 15 years and commencing in the year the preliminary plan was voted upon. The Board asked whether five lots could be converted from building lots to parking lots and whether on-street parking could be eliminated entirely. Supervisor Wenrich expressed concern that the plan had changed numerous times, and several Supervisors noted, just when they'd thought they would be reviewing the plan in several prior instances, new plans would be submitted. Supervisor Decker stated that, regardless of the procedure in other Townships, each version of a plan in Franklin Township should receive the Board's attention and not be worked out between the parties' engineers without the Board being part of that process. Supervisor Decker also indicated that prior correspondence from Trans Associates questioned whether the access to Glenwood could ever be done safely and emphasized that prior traffic studies had anticipated two entrance points onto 194. Mr. Getz offered that, between Wheatstone Way and Bypass Road, there were three access points to 194, which the Board noted was not 3 direct accesses. Supervisor Decker requested that any plan maintain a second access onto 194, to which the developer objected, arguing that the only way this could be done would be to acquire additional property. It was also discussed as to the status of the developer's rights to use the Byers' property for access at different points of the planning process, with Attorney Getz representing that the property was currently under contract for purchase but not yet conveyed.

The developer and the Board agreed to take a break from discussions. Those parties there for the developer stepped outside to discuss the plan while the Board carried on with other agenda items, noting that they would have another executive session at the appropriate time.

Approval & Payment of Bills – A motion was made by Kevin C. to approve and pay the bills. Second by Duane A. There was no discussion. The motion carried.

Treasurer's Report – A motion was made by Kevin C. to approve the Treasurer's Report. Second by Dave B. There was no discussion. The motion carried.

Treasurer's Memorandum – Permission was given to apply for the 904 Recycling Grant through DEP. A motion was made by Kevin C. to apply for the 904 Recycling Grant. Second by Duane A. There was no discussion. Motion carried.

The next Budget Workshop meeting will be held on October 4, 2023 at 6:00 p.m.

Need to designate the ARPA Funds.

Roadmaster's Report – Roadmaster road reports are included in your packet.

A motion was made by Mark W. to allow D. E. Gemmill to provide line painting on Ridge Drive (4,700 ft), Big Dam Road (908 ft), Lost Hollow Road (2,184 Ft), County Line Road (11,800 ft + 350 ft) and Glenwood Road (5,878 ft) at a cost of \$5,450. Second by Dave B. There was no discussion. Motion carried.

Solicitor's Report –

The Resolution for Fire Company Funds Increase was presented for approval.

A motion was made by Dave B. to accept the Resolution as written. Second by Duane A. There was no discussion. The motion carried.

The Ordinance for BOS Salary Increase was presented with the need for approval to advertise.

A motion was made by Mark W. to advertise the BOS Salary Increase Ordinance. Second by Kevin C. There was no discussion. Abstain: Dave B. because he is up for re-election. The motion carried.

For progress on the updates for the Zoning Amendments/Ordinances, Bret S. would like to have an Executive Session regarding the legal opinion on Marijuana Growing/Processing Dispensaries.

No new information was provided for the Employee Drug/Alcohol Policy for the handbook.

No new information was provided for the SFTF (Small Flow Treatment Facilities).

An Executive Session will discuss Lexington, Miller/Water Street and the Zoning Ordinance later in the meeting.

New Business –

Disposal of old desk phones was requested. They will be taken to an electronic recycling station.

A Halloween/Trick or Treat date was set. A motion was made by Mark W. to set Trick or Treat on October 26, 2023 from 6 to 8 p.m., rain or shine. Second by Duane A. Opposed: Kevin C. and Naomi D. The motion carried.

Discussion to revisit a request for a single trash hauler will be placed back on the October agenda. Discussion ensued.

The SPCA Brougner Companion Animal Shelter provided information and a contractual agreement on their services. The BOS has decided not to take any action on their services at this time.

A motion was made by Mark W. to add to the agenda under New Business a paving repair for County Line Road and Bethel Church Road. Second by Dave B. There was no discussion. The motion carried.

When PennDot paved they never fixed the transition and there is a “hump” and a wedge of road needs filled in. Roadmaster Andy G. was given authorization to look at the repair and determine what it would cost and contact PennDot to figure out who will make the repair.

Old Business –

Pam W. and Dave B. will attend a meeting with the Daewood representatives on Tuesday, September 19, 2023. They will be providing information on different loan opportunities. Daewood is assisting in getting funding for the building improvements and we will need to provide a scope of the work and advertise for three bids. The architect will work with engineering assistance to provide this information.

There is no new information regarding office procedures.

A motion was made by Mark W. to re-advertise for the vacancy on the Planning Commission. Second by Dave B. There was no discussion. The motion carried.

Correspondence –

The PA Broadband Five Year Action Plan was provided for informational purposes..

Information was provided by the York Co. Agri. Land Preservation Board with an invitation to attend a luncheon. No one is available to attend at this time.

Add on Items – There were none.

Public Comment – Dave Sprigg of 6 By Pass Road inquired when the By Pass Road Bridge construction would commence. Discussion ensued. Phil B. indicated that the Township is still working with DEP regarding a few issues.

Executive Session

The second executive session was held at 10:22p.m. to discuss legal issues pertaining to the Lexington Fields plan, legal issues surrounding the proposed zoning ordinance provisions relating to marijuana dispensaries and growers/processors, and the Water Street litigation.

Following the second executive session, the Board returned at 11:41p.m., and the solicitor asked whether he could list for the developer a summary of the items that had previously been discussed and where it seemed there had been some consensus. Attorney Getz indicated that starting the plan phasing this year, with the total phasing schedule being 15 years, would be acceptable. Supervisor Wenrich indicated that any approval would need to be conditioned on the turning lane on 194 being installed during Phase I of the plan. The developer indicated concern that a turning lane is contingent on PennDOT review, so the developer would not want to start phasing prior to PennDOT approval. The Board raised concerns with PennDOT approval being an open-ended process that could extend phasing indefinitely. The developer agreed that any application for the permit would be submitted to PennDOT within 6 months and that it would be diligently pursued. However, the developer did not want the 15-year phasing schedule to commence until 1 year after the approval granted by PennDOT. This again raised concerns for the Board, with Supervisor Decker indicating that it was not unreasonable to start the 15-year schedule within 2 years from the submission of the application. The developer rejected any such limitation but reconsidered and agreed that 3 years from application would be acceptable to start the clock for

phasing regardless of whether PennDOT had yet granted the permit. The developer also indicated that nothing it would be doing would bind the Township to accept dedication of the roads, rather the roads would simply be offered for dedication at the Township's discretion. The developer also offered that it would submit any portion of the former Hartman property to be consolidated with the rest of the development for consideration under the present SALDO provisions, but with the understanding that it reserved the right to seek waivers to be considered by the Township. This was in addition to any remaining part of the former Hartman property being subject to the SALDO and Zoning that may then be in effect whenever it is developed in the future.

The Township Solicitor thanked the developer for its patience during the lengthy executive session, explaining that the legal issues involved were significant and that no one wanted the matter to return unnecessarily to court for resolution. After additional discussion, Supervisor Cummings made a motion to conditionally approve the plan, subject to the developer's acceptance of the conditions discussed (and listed below). Supervisor Anthony seconded and discussion was held. Supervisor Cummings spoke first, acknowledging that this plan presented the most difficult issue to vote upon while he has been a supervisor, specifically because of the density of the development. Mr. Garland indicated that he appreciated the respect that Mr. Cummings had shown him throughout the process. Supervisor Cummings indicated to the developer his personal objection to such a dense development, especially with regard to safety matters, but Supervisor Cummings stated that he did not see a legal basis for denial of the plan; he encouraged the developer to take steps going forward that might ameliorate the density. The other supervisors indicated continued concern with the access points, including specifically Glenwood Road, as several supervisors had expressed concerns that traffic at that point would have limited visibility and the area was likely to see an even greater influx of traffic there. Supervisor Decker stated for the record why she opposed was "#1. Do not agree with Oakdale as the second access, it directs traffic to the intersection of US Route 15 and Glenwood, a very dangerous intersection. #2. The remanded plan did have a proposal for a second access on US 194 for Emergency Management. The traffic specialist said it was necessary for Emergency Management and now that access does not exist. #3. There were insufficient traffic impact studies for US Route 15 and Glenwood Road intersection which has traffic problems. Glenwood is going to be traveled on, jeopardizing our constituents." At the conclusion of the discussion, the Board voted, with Supervisors Cummings, Wenrich, and Anthony in favor, and Supervisors Decker and Buckwash opposed. The solicitor then turned to the developer and specified that, because the plan was approaching the action deadline and the motion just passed by the Board was contingent on acceptance of the conditions by the developer, the developer's consent was needed before the Board adjourned the meeting. Mr. Getz confirmed with Mr. Garland that the conditions were acceptable and stated on the record that all the conditions were acceptable. Those conditions are as follows:

*The former Hartman property shall be subdivided with a portion to be consolidated with the Lexington Fields development. The portion to be consolidated shall comply with the SALDO now in effect. The portion not consolidated shall comply with the SALDO and Zoning that shall be in effect when it is developed in the future. The developer may seek waivers, which shall be reviewed for grant or denial by the Board. With the addition of part of the former Hartman property, the developer shall ensure (1) that the Oakdale cartway is centered in the ROW; (2) that Oakdale does not require changing topography within 25 feet of the adjacent property; (3) the need for the retaining wall shall be eliminated; (4) there shall be a line-of-sight easement and access drive radius easement on either side of the Oakdale access onto Glenwood.

*The lefthand turning lane on 194 shall be created as part of Phase I.

*All phases shall be complete in 15 years, with the 15 years commencing 1 year from the issuance of the PennDOT permit; however, under no circumstances shall the 15 years commence later than 3 years from the submission of the application to PennDOT, which applicant shall submit within 6 months and provide notice to the Township thereof.

*The developer shall not appeal the denial of the waiver request made pursuant to Sections 508 and 509 and pertaining to sidewalks on both sides of Bypass Road and one side of Baltimore Road; however, the developer shall not be required to install sidewalks in any recognized wetland or watercourse.

*The developer shall eliminate 5 building lots within the development, which shall instead be converted to overflow parking. These lots shall be interspersed reasonably throughout the development based on the anticipated need of the residents and the Township shall not unreasonably withhold approval of which lots are

designated for said parking. Developer indicated a willingness, but is not bound, to convert additional end lots to parking over and above the 5 hereby required.

*The developer shall pay the rec fee at each phase, based on the current fee of \$1,200 per lot.

*Acceptance of dedication of the roads shall remain at the Township's discretion.

*The developer shall meet each of the other points set forth in the Township Engineer's review letter dated August 3, 2023, at Sections II, III, V, and VI, modified as follows: The developer must eliminate either Lot 20 or 21 to provide access to Lot 290. The reference at Section II.13.d should read 505.n. The engineer's suggestion at III.8 shall be required. Deeds of dedication shall be subject to review prior to any acceptance by the Township, which acceptance shall remain at its discretion.

*There shall be no street parking permitted in the development.

*The Township as a condition of approval reserves the right to review any additional studies by the developer or a third party that may impact final plan approval and which may impact what has been presented in the preliminary plan.

*The final plan shall comply with all final plan requirements of the SALDO in effect at the time of the original submission.

*Third party approvals, including highway occupancy permits, water and sewer design, and demonstration of water/sewer capacity shall not be required until final plan approval.

Adjournment –

A motion was made by Dave B. at 12:26 p.m. to adjourn. Second by Duane A. There was no discussion. The motion carried.

Respectfully submitted,

Traci Kauffman

Traci Kauffman, Secretary
Franklin Township

With the Assistance of:
Solicitor Bret Shaffer, Esq.