

MINUTES OF THE  
EAST COVENTRY TOWNSHIP BOARD OF SUPERVISORS  
MEETING HELD ON NOVEMBER 10, 2008  
(Approved December 8, 2008)

The Board of Supervisors held a regular monthly meeting on Monday, November 10, 2008. Present for the meeting were supervisors W. Atlee Rinehart, Rosemarie C. Miller, Robert F. Preston, Timothy Roland and Ray Kolb. Also in attendance were Bernard A. Rodgers, Township Manager, Mark A. Hosterman, Esquire, and Brady L. Flaharty, Township Engineer.

Mr. Rinehart called the meeting to order at 7:04 p.m. and the pledge was recited.

**Sewer Update**

Mr. Flaharty reviewed the drainage situation at 64 Country Lane noting that it had been addressed by Abonizio Contractors, Inc. and will be checked at the next rainfall to see if the issue has been resolved.

There was a discussion regarding the sewer hook up extension request dated November 5, 2008 from Edward J. Hughes, Esquire on behalf of Finkelstein Partners, Ltd. for 1629 East Cedarville Road. It was noted that the current deadline did not expire until mid January 2009, therefore, the item was tabled until the Board's January 2009 meeting.

There was a brief review of the Phase II sewer activity report indicating the number of sewer permits issued, connections made and taping fees paid versus properties notified to connect. Mr. Preston also requested that the total number of EDU's connected be added to this report.

Mr. Preston asked when The North Coventry Sewer Authority would be releasing to East Coventry Township funds remaining from the construction of the plant expansion. Mr. Rodgers noted that he had spoken with the engineer for North Coventry Sewer Authority who had advised him that any funds remaining would not be returned until after the maintenance period for the various contracts had expired which would be the middle of next year. Mr. Preston stated that the Inter-municipal Agreements should be checked to confirm the requirements with respect to returning funds.

**1. MINUTES**

**Minutes of the October 13, 2008 Monthly Meeting**

There was a review of the minutes of October 13, 2008.

Mr. Preston noted that with respect to the PECO open space grant there had been a discussion on obtaining a permit from the PaDEP for the proposed trail bridge across Pigeon Creek that had not been included in the minutes. Mr. Preston felt that the minutes should not be approved without a mention of that discussion. Also, Mr. Preston inquired about the status of the noise complaint regarding Brownbacks Church. Mr. Rodgers noted that he had spoken to Code Inspections, Inc about this issue. He noted that Code Inspections, Inc. did not have a decibel reader but was trying to locate the proper equipment and operator to address the complaint.

Mr. Kolb moved to approve the minutes of the October 13, 2008 monthly meeting as amended. Mr. Roland seconded the motion.

Mr. Rodgers noted that Mr. Preston had requested that the minutes include the discussion of the permit for the trail bridge and recommended that approval of the minutes be tabled until that discussion could be included.

Mr. Kolb and Mr. Roland agreed to withdraw their original motion.

Mr. Kolb moved to table approval of the minutes of the October 13, 2008 monthly meeting. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

## **2. PUBLIC COMMENT**

Missy King of 10 Eleanor Drive commended the Ridge Fire Company for their help on Election Day.

Sally Kolb of 231 Baptist Church Road expressed her concern that a lawyer paid from Voter Services was at the voting polls looking for and writing up mistakes.

Mrs. King noted the possibility of splitting Voting District 1.

## **3. REPORTS**

### **Township Manager's Report**

#### Chester County Municipal Grant Program Round 21

Mr. Rodgers reviewed the submission of a grant to Chester County in the amount of \$433,129.00 under the Chester County Municipal Grant Program Round 21. The grant funds would be used to match DCNR and Township funds for the purchase of the Wineberry Estates property. He noted that in April the Township had submitted a grant to the DCNR for \$500,000 to be used toward the purchase of the Wineberry Estates property. At that time it was thought that the Township would have to provide a 10% match for the amount of the County grant in the amount of \$50,000 but the 10% match required by the County grant program is for the entire cost of the project and not just 10% of the County grant amount. As a result the 10% Township match would be approximately \$103,668.1. Mr. Rodgers stated that the Board needed to approve a Resolution authorizing the submission of the grant and approving the local match and the signing of a grant agreement both of which needed to be sent to the County. He noted that the deadline for submitting the grant preceded the Board's meeting, therefore, the action could not be taken before submission.

A discussion ensued regarding the amount of the Township's match and the fact that the purchase of the property was dependant on approval of the DCNR grant. If the DCNR grant was not approved then the property could not be purchased. Mr. Rodgers noted that the DCNR grant money was considered part of the local match by the County and the Resolution to be approved by the Township was subject to receipt of those funds.

Mr. Kolb stated he could not see spending another \$50,000 on this open space noting that the Township already owned 120 acres of open space and that the money was needed to address other concerns in the township, i.e., stormwater issues and the items in the Capital Projects report prepared by ARRO.

Mr. Preston recommended that the owner of the property (Gambone) be contacted to ask if they could donate the additional \$50,000.00 and to investigate other possible sources. Mr. Rinehart also noted that additional donations should not be limited to the landowner but to any parties who may want to donate.

Mr. Preston moved to authorize application of the Chester County Grant with \$103,668.10 to be funded by the township, however the township should enter into negotiations to obtain the additional \$50,000.00 to effectively make the township's contract contribution being \$53,688.10 or less. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Preston moved to approve Resolution No. 2008-41 for filing of an application for the Chester County Municipal Grant Program Round 21 assistance and authorize the execution and filing of the appropriate forms with the Chester County Department of Open Space Preservation as amended. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Amendment to resolution being: Fourth paragraph of resolution to read:

“WHEREAS, the municipality will have available \$603,681.00\* as it's required match to complete this project, \*\$500,000.00 of which is to be provided through the DCNR grant and \$50,000.00 shall be provided by seller or another party as a donation to Township's general fund at or before settlement”

Mr. Rinehart moved to approve the Round 21 Grant Contract. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Preston noted monies that have been being collected under Act 209 and noted concerns of spending the money in the allotted amount of time and noted concerns of resources being properly allocated and utilized.

#### Termination of Water Service

Mr. Rodgers reviewed Resolution No. 2008-43 noting that it authorized the assessment of costs incurred as a result of terminating water for non-payment of sewer bills to the sewer customer. Mr. Kolb moved to approve Resolution No. 2008-43 and Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Proposed 2009 Budgets

Mr. Rodgers noted the proposed 2009 budgets have been distributed to the Board. Mr. Rodgers provided an overview of the 2009 budgets as noted below:

	Capital Reserve Fund	General Fund	Highway State Aid Fund	Sewer Capital Fund	Sewer Operating Fund	Traffic Impact Fund	Total All Funds
<b>Beginning Balance</b>	138,798.81	0.00	101,134.39	965,208.18	210,242.78	488,115.77	1,903,499.93
<b>Revenues</b>	58,009.36	4,025,883.26	169,880.00	454,925.00	610,150.00	62,000.00	5,380,847.62
<b>Total Available Funds</b>	196,808.17	4,025,883.26	271,014.39	1,420,133.18	820,392.78	550,115.77	7,284,347.55
<b>Expenses</b>	118,000.00	4,025,883.26	271,000.00	335,734.25	695,952.10	0.00	5,446,569.61
<b>Ending Balance</b>	78,808.17	0.00	14.39	1,084,398.93	124,440.68	550,115.77	1,837,777.94

The general fund has been increased by the local services tax. Mr. Rodgers noted that no general real estate tax increase is proposed but that a tax for fire hydrant maintenance was proposed. It would generate about \$6200.00 to cover the fees charged by the Pa American Water Company for the hydrant service.

Mr. Rinehart moved to authorize advertising of the 2009 proposed budgets for public viewing with adoption proposed for the December 8, 2008 meeting. Mr. Kolb seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Rodgers noted that no general real estate tax increase is proposed.

Mr. Preston requested that a summary of the salaries and telephone expenses be provided by department.

Purchase Order from Exelon for Police Protection

Mr. Rodgers noted that the Township Solicitor and attorney for Exelon were continuing to work on the agreement to provide police services to Fricks Lock. Mr. Preston requested that a priority be placed on completing the Police Service Protection Agreement with Exelon.

Ellis Woods Park

Mr. Rodgers reviewed the status of the Ellis Woods Park Project including Payment Applications No. 4, 5 & 6 and Change Orders Number 6, 7, 8, and 9. He noted that the Chester County Grant Contract expires on December 2, 2008 which is before the Board's December meeting. He noted that all invoices had to be paid by December 2, 2008 and a final request for reimbursement made to the county within sixty days of that date. He requested that the change orders be approved and that the payment applications also be approved with the condition that the punch list items identified by KMS Design be satisfactorily completed before Payment Application No. 9 is made. He also noted that the project was deemed substantially complete by KMS Design Group.

Mr. Preston moved to approve Payment Application No. 4 for \$19,714.67, Payment No. 5 for \$40,397.40 and Payment No. 6 for \$70,763.80 with the condition that Payment No. 6 not be processed until Reading Site Contractors completes the punch list items to the satisfaction of KMS Design Group. Mr. Rinehart seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

There was a brief overview of the requested Change Orders:

Change Order No. 6 –Deduct Meadow Mix A at the area of minimal compaction – contract decrease by \$1,200.00

Change Order No. 7 - Deduct (3) 3” caliper Chestnut Oaks and add (3) 2” caliper Red Sunset Maples – contract decrease by \$780.00

Change Order No. 8 - Deduct line item “remove basketball hoop” – decrease contact amount by \$166.00

Change Order No. 9 - Install stabilization matting on slope – increase contract amount by \$790.00

Mr. Preston moved to approve Change Orders 6 through 9 for Reading Site Contractors. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Meadowbrooke Hunt

Tim Mullray, developer of Meadowbrooke Hunt, was present. There was a discussion regarding the necessity of installing the emergency access drive and the possibility of the Township accepting a fee in-lieu-of having it installed.

Mr. Preston noted that the intent of having the emergency access was for safety aspects and that the Fire Chief should be consulted for his recommendation. The Board requested that Mr. Mullray obtain a letter from the Fire Chief regarding elimination of the emergency access road. Mr. Mullray indicated that he would contact the Fire Chief and seek his recommendation. Mr. Rodgers asked what amount Mr. Mullray was considering as a fee-in-lieu of the installation and Mr. Mullray indicated the amount that was posted as security. Mr. Hosterman stated that in light of the on-going discussions and that the majority of the improvements had been completed the default letter would be extended to the Board’s December meeting.

Mr. Rodgers informed Mr. Mullray that he had met with Mr. & Mrs. Robinson at their property to discuss stormwater problems they were experiencing as a result of his Development. Mr. Mullray stated that he thought he had addressed their concerns and had not heard from them in at least a year. Mr. Rodgers stated that they definitely had concerns and requested that Mr. Mullray contact them.

#### Creekview Subdivision

There was a discussion regarding dedication of the on-site sanitary sewer facilities.

The Township Solicitor stated the he received a letter from the contractor certifying that the work has been completed and that all of the details and final documentation has been completed.

Mr. Rinehart moved to release the original sewer improvement escrows. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Woodcrest Subdivision

Mr. Rodgers noted the developer of Woodcrest would like to dedicate the public improvements to the Township but is one house short on one of the streets of meeting the requirement to have 50% of all houses on each street built before offering dedication of the improvements to the Township. The Solicitor's letter dated October 23, 2008 to Attorney Unruh itemizing the conditions under which acceptance of the dedication would be recommended to the Board was reviewed. Mr. Rodgers noted that the SALDO was amended after this Development was approved to remove the provision requiring construction on 50% of the lots on each street prior to dedication. A new development would not have to comply with that provision.

Mr. Kolb stated that seven (7) sewer manholes are leaking and need to be repaired. Mr. Flaharty, the Township Engineer, noted that the Developer has been in contact with him and will be performing a study to determine what the problems are and take corrective action. Further discussion ensued regarding the proposed conditions in the Solicitor's October 23, 2008 letter with emphasis on snow plowing and sewer. Mr. Kolb stated that the ordinance should be followed.

A discussion ensued regarding the sewer studies by the Developer to determine the source of I & I in the system. The Township Engineer indicated that the Developer thought the I & I was from sump pumps and not the manholes and was intending to examine those connections. Mr. Preston noted concern over the legal authority of the Developer to check sump pumps on private property and the importance of removing the I & I from the system. Upon further discussion it was felt that the Township Engineer should work with the Developer in determining the source of the I & I and that the Solicitor would prepare a 'next step' letter for the Board's review on how the Developer should proceed with dedication.

Mr. Preston moved to authorize the Township Engineer to establish a date for completion of the sewer system and to accept early dedication of the sewer system once completed and certified as such by the Township Engineer, extend the time for installation of the wearing course and to not accept dedication of the streets until the required number of houses have been completed. Mr. Kolb seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Appointment of Code Inspection/Enforcement Position

Mr. Rodgers reviewed the proposals that had been received by the Township and the interviews that had been conducted by the Board. He noted that interviews had been held

with Code Inspections, Inc., Building Inspection Underwriters, Inc. (BIU), Barry Isett & Associates, and Gilmore and Associates, Inc.

Mr. Preston moved to engage the services of BIU for Code Inspection/Enforcement services effective January 1, 2009. Mrs. Miller seconded the motion.

Mr. Kolb stated that although Code Inspections, Inc. has been doing a good job for the Township, BIU is less expensive. Mr. Roland stated that he felt Code Inspections, Inc. is doing a good job, that BIU was not present this evening and that he is satisfied with Code Inspection, Inc.'s services.

Mr. Rinehart called for the vote. Mr. Preston voted yes. Mrs. Miller voted yes. Mr. Kolb voted yes. Mr. Roland voted no. Mr. Rinehart voted no. **The motion** carried with a 3-2-0 vote.

#### Mandatory Sanitary Sewer Connections

Mr. Rodgers noted that 211 letters were sent to residents to connect to the Phase II sewer and eighteen have yet to pay the tapping fee and of those that did pay the tapping fee three have not taken out permits.

Mr. Kolb moved to approve the reports from various reports and committees. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Preston inquired about the amended financial security agreements sent to several Developers. The Township Manager noted that this has been discussed in the past and that he will provide a report. Mr. Preston expressed his concern over the age of these agreements and the continuing rise in costs for completing the improvements.

#### **4. SUBDIVISION AND LAND DEVELOPMENT**

Project: Blossom Meadows II Applicant: All County Partnership

Mr. Preston inquired about the status of the easement for Mrs. Diener's property. The Township Solicitor stated that it was determined that the plunge pool is not on Mrs. Diener's property. Mr. Preston stated he was referring to the water being discharged onto Mrs. Diener's property and the need for an easement from her. The Township Solicitor stated that Mrs. Diener is represented by counsel and the issue of the damage to her property from the discharge and the easement is being addressed. Mr. Preston noted it was his understanding that there was a note on the plan providing for an easement on Mrs. Diener's property and suspected that the note may have been omitted by faulty overlaying of the plans. A discussion ensued with the Township engineer regarding approval of the final plan, the stormwater management plan approved by the County and the easement for the plunge pool discharge.

Mr. Kolb moved to approve Escrow Release No. 11 for \$84,771.49 for Blossom Meadows II. Mr. Roland seconded the motion. Mr. Rinehart called for the vote. Mr. Kolb voted yes. Mr. Roland voted yes. Mr. Rinehart voted yes. Mr. Preston voted no. Mrs. Miller voted no. **The motion** carried with a 3-2-0 vote.

Mr. Preston expressed his reason for voting 'no' was the lack of any resolution on the issues affecting the Diener property.

Project: Painter Tract B

Applicant: Bentley Communities

There was a lengthy discussion regarding approval of the sewer planning module exemption for the Painter Tract B and whether or not approval of a planning module or exemption resulted in reserving sewage capacity. The discussion centered on what conditions, if any, to place on the approval of planning modules regarding the reservation of capacity, payment of tapping fees to reserve capacity and placing of a time limit on the approval of the planning module.

Mr. Preston stated that sewage capacity would not be reserved for Bentley Communities unless it paid the tapping fees thereby purchasing the capacity and planning modules should not be approved unless the tapping fees are paid. The Township Solicitor stated that the Township ordinance(s) require the tapping fees to be paid at the time of building permit application but the Township could consider placing a time limit on planning module approval. It was noted that Act 57 of 2003 contained language about reserving capacity and the payment of rental fees if approved by the governing body. Mr Preston noted that although Act 57 provides for the reservation of capacity, the Township is not governed by Act 57 and he would not want capacity reserved by means of paying the sewer rental fee as provided for in that Act.

Mr. Preston moved to approve the sewage planning module exemption upon receipt of the tapping fees in full. The Township Solicitor stated that constitutes a non-approval until tapping fees are paid. Mr. Preston stated that it is their responsibility to reserve the capacity. The motion died for lack of a second. The Township Solicitor stated that the developer does not want to pay the tapping fees early and Mr. Preston responded that capacity is not guaranteed until tapping fees are paid. Mr. Preston stated that if this item is placed on the exemption and sent to DEP the DEP will not approve it. Mr. Preston stated he would entertain an ordinance modification to charge a fee for guaranteeing capacity for a specific amount of time provided that the tapping fee or a percentage of the tapping fee was paid up front.

After further discussion Mr. Preston moved to authorize the Township Solicitor to look into the issues raised and provide a recommended ordinance with the assistance of the Township Engineer for establishing a fee for reserving capacity, however, the fee is not to be a percentage of the annual sewer rental. Mr. Kolb seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Project: Meadowbrooke Hunt

Applicant: Fulmer Road Associates, LP

This item was discussed under the Manager's Report.

Plan Review Extensions

Mr. Rinehart moved to approve the plan review extension for Berkey-High Subdivision and Bittersweet on Schuylkill LLC. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

## 5. OTHER BUSINESS

Proposed 2009 Budget

This item was discussed under the Township Manager's Report.

Code Enforcement Services

This item was discussed under the Township Manager's Report.

Wineberry Estates Acquisition

This item was discussed under the Township Manager's Report.

Right-to-Know

The Township Solicitor reviewed Resolution No. 2008-42 explaining that the procedures and regulations contained therein were drafted in order to comply with the Right-To-Know legislation approved by the State. A discussion ensued and it was noted that a position should be identified as the Open Records Officer rather than a specific individual. The Solicitor recommended that the Resolution be amended to read, "Township Manager or other individual as designated by the Board of Supervisors".

Mr. Rinehart moved to approve Resolution No. 2008-42 adopting new procedures and regulations for processing right-to-know requests as amended. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Amendment being on Page 2 the language designating Open Records Officer should be "Township Manager or other individual as designated by the Board of Supervisors".

Parks and Recreation

Mr. Kolb moved to appoint Flora Kapp to the Parks and Recreation Committee. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Stoudt's Ferry

Mr. Rinehart moved to release the escrow monies for the Stoudt's Ferry Project. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Phase II Stormwater Management Program

Mr. Kolb moved to approve the Public Involvement and Participation Plan for year 6 of the Phase II Stormwater Management Program with stream clean up designated for the Pigeon Creek from Schuylkill River to the Wade Property. Mrs. Miller seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Ellis Woods Park

This item was discussed under the Township Manager's Report.

Sewer Rental Collection Fees

This item was discussed under the Township Manager's Report.

Ordinances

Mr. Preston moved to authorize advertising Ordinance No. 151 and 152 for adoption at the December 8, 2008 meeting. Mr. Rinehart seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Walter Woesser of 164 Schoolhouse Road requested the Traffic Engineer be solicited for an opinion of the 28' width road item.

Phase 1 Sewer Facilities

This item was discussed under the Township Manager's Report.

**6. DISCUSSION ITEMS**

Fricks Locks Village

This item was discussed under the Township Manager's Report.

**7. PAYMENT OF BILLS**

A discrepancy was noted between the bill summary and bill detail for the Kolb's Dairy Store charges. The item will be investigated.

Mr. Roland moved to pay bills as presented except the NCD bill for \$238.53:

Capital Reserve Fund	\$128.00
General Fund	\$127,162.63
Highway State Aid Fund	\$3,152.07
Sewer Capital Fund	\$153,946.00
Sewer Operating Fund	\$16,078.22
<u>Water Users Fund</u>	<u>\$322.45</u>
	\$300,789.37

Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Kolb moved to pay the NCD bill for \$238.53. Mr. Rinehart seconded the motion. Mr. Preston voted no. Mr. Rinehart called for the vote and **the motion** carried with a 4-1-0 vote.

**8. ADDITIONAL INFORMATION BROUGHT BEFORE THE BOARD**

Mr. Preston noted there was back up for the first bill from the North Coventry Municipal Authority but not the second. Mr. Preston reviewed the October 30, 2008 letter from North Coventry Municipal Authority providing a preliminary estimate of its operating costs for the next fiscal year. He expressed his concern for the projected 8.62% increase in operating costs and inquired why the costs were projected to increase that much.

**9. ADJOURNMENT**

The monthly meeting adjourned at 10:40 p.m.

Respectfully submitted,

Bernard A. Rodgers  
Township Secretary