

FLORENCE TOWNSHIP COUNCIL EXECUTIVE SESSION

November 9, 2005

8:00 PM

CALL TO ORDER

Council President Fratinardo called the meeting to order.

SUNSHINE STATEMENT

The Township Clerk read the Opening Statement: Notice of this meeting has been given in accordance with the Open Public Meetings Act. Notice was published in the Burlington County Times on January 2, 2005 and January 16, 2005; given to the Register News for information; posted on the municipal bulletin board.

ROLL CALL

Present: Frank Baldorossi, Bruce Garganio, Elizabeth Ryan, John Fratinardo

Also Present: Mayor Michael Muchowski; Richard A. Brook, Township Administrator; Thomas Sahol, Assistant Municipal Administrator; Dante Guzzi, Township Engineer; Russell Trice, Township Water and Sewer Engineer; William John Kearns, Jr., Township Solicitor; Joy Weiler, Township Clerk

PUBLIC COMMENT

None at this time.

All residents having an opportunity to be heard, MOTION by Garganio; seconded by Ryan to close the public portion of the meeting. All ayes - motion carried.

NOISE ORDINANCE

Administrator Brook sent a short memo outlining the Noise Ordinance. The first Ordinance addressed the time that construction can begin outside. Council then followed up by discussing allowing contractors or homeowners to work inside their home with no specific time period as long as the noise did not emanate outside causing a disturbance to the neighbors. Administrator Brook stated that there are other problems within the community that deal with noise such as stereos, televisions and so on and asked that Council consider incorporating these issues in the Noise Ordinance.

Chief Gordon Dawson also asked that Council consider these issues in the Noise Ordinance, as it would help the police department in assisting the citizens of the community in getting some peace and quiet from those that are disturbing the peace at unreasonable times, in unreasonable manners. He stated that at this time there is only a vague local Ordinance that the police can use to try to address these issues. Chief Dawson reviewed some points he would like included in the Noise Ordinance.

Council Vice President Ryan asked if these types of noises were a chronic problem in the township? Chief Dawson stated cars with the loud stereos in particular but the police department has also received a fair share of calls regarding loud televisions and stereos, especially in apartment buildings. He explained that the summons are not issued for the first offense, but if the police are called a second time this will allow an option for the police officer. In response to

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Council Vice President Ryan's question, Chief Dawson stated that this Draft Ordinance was modeled after other municipalities' Ordinances and is fairly common language.

Council Member Garganio questioned construction work inside a home after hours, which is 8:00 PM, and how it would be enforced? Solicitor Kearns explained that the police officer will have to determine if it was at a level that would reasonably annoy or disturb the quiet comfort or repose of persons in a dwelling.

Administrator Brook stated that if Council was in agreement with this Ordinance, it will be scheduled for December introduction.

SEX OFFENDER ORDINANCE

Administrator Brook asked if Council would like to discuss the Sex Offender Ordinance while Chief Dawson is present? He stated that many municipalities are addressing this topic and asked if Council would like to discuss in further detail and consider for Florence Township.

Council President Fratinardo feels that it may give residents a false sense of security and asked Chief Dawson's opinion? Chief Dawson stated there are a lot of pros and cons. He does feel it would be better served if it were a State law. Chief Dawson would not want such a large radius that a sex offender could not live in the township because that may be a cause for overturning. He believes a 1000' radius is not unreasonable for sex offenders to live.

Council Vice President Ryan asked what would happen to someone who lived within the buffer when the Ordinance was adopted? Chief Dawson explained that Ordinances differ, some give approximately 60 days to move, and others allow them to stay until the lease is up. If they own a home, Chief Dawson does not believe there is an Ordinance that states that they have to move. Solicitor Kearns stated that most Ordinances state that if you were there before the Ordinance was adopted, you can stay there. There are also different distances used in the various Ordinances. Solicitor Kearns expressed concern that the larger the distance, the least likely it would be sustained.

Council Vice President Ryan asked what the violation would be? Chief Dawson stated that violation would be residing in the zone. Solicitor Kearns stated that there are some municipalities that are trying to deal with sex offenders being in the zone as loitering, which can be a difficult thing. He explained that if too many places are restricted the more problematic it is in enforcing it but feels it can be done with schools, daycare and parks as long as a reasonable distance is used. Solicitor Kearns stated that the State bill proposed states 500'. He feels 1000' is appropriate.

Solicitor Kearns reviewed the different level of sex offenders that must register.

Council Vice President Ryan would like to look into adopting an Ordinance but would like to see sex offenders restricted from going into parks. Solicitor believes they can be restricted from the township owned parks but it may be more difficult to keep them from loitering on a street corner. Administrator Brook questioned notification? Chief Dawson stated that sex offenders have to register with the Police Department annually. The Police Department could provide a copy of the Ordinance.

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Council Member Garganio requested a map showing the different radius (500', 1000', 1500' and 2000') for Council to review. Dan Guzzi, Township Engineer, will prepare for December Worksession.

TOWNSHIP WATER AND SEWER ENGINEER

NJDEP Proposed Wastewater Management Plan Changes

Russell Trice, Water and Sewer Engineer, reported that DEP stated that roughly 90% of the Wastewater Management Plans in the State of NJ are out of compliance, and Florence Township is included in that list. Mr. Trice stated that he has been trying to get the township's plan amended and approved since 2002 but has not been able to. He feels the motive is to restrict development throughout the state. They are saying that 90% of the plans are out of compliance therefore DEP is going to revoke all of the plans and reissue them with a designation that every area that is in your sewer service, but is not sewerred, is going to be designated as an area that is to be served by septic system. In some municipalities this will stop development altogether. Florence Township may have an out due to something in the proposed regulations that if you are in one of the State designated planning areas then your exempt from the regulations. Mr. Trice looked at the Wastewater Management Plan and it appears that everything within the townships proposed sewer service area is within one or two of these designated planning areas except the school property, but the Wastewater Management Plan for the school was already approved by DEP.

Mr. Trice feels that there will be a huge outcry over this and if they follow through with it, there will be multiple lawsuits fighting it. He does not believe it will be approved but feels the township should take a position on. After further discussion Council Vice President Ryan suggested that Council approve a Resolution opposing this and send to the League of Municipalities, DEP and the Governor. Administrator Brook will prepare a Resolution for the December 7th meeting.

Wastewater Management Plan

Administrator Brook stated that the township's Wastewater Management Plan has been at the State for approval for several years. The school was separated out and approved. However, the other sections of Route 130 were not. The State advised what needed to be done to receive approval but it sat dormant at the State and difficult to get DEP to talk to the township. Administrator Brook met with representatives of DEP who admitted that their previous reviewers were not skilled at what they were doing. DEP has provided a review letter with what they would like the township to do before they consider approving the amendment, which Administrator Brook asked Mr. Trice to review with the governing body. Administrator Brook does not feel what DEP is asking for is fair and suggested that a meeting be requested with the Commissioners office.

Mr. Trice stated that DEP's first comment is that the build out analysis used in the plan proposal is over four years out of date. Mr. Trice agrees that it is out of date but not four years. It is out of date due to DEP's lack of response. The plan was submitted in 2002. Mr. Trice spoke with DEP and requested that the school property be approved as soon as possible, which DEP did. In March of 2003 a revised plan for the flow projections was submitted for the remainder of the township. That is the last revision sent to DEP and was current at that time. In May of 2004 DEP asked for some other revisions but did not ask for a revision on the flow projections.

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The second comment of DEP's deals with the Craft Creeks contributory area, which is Mallard Creek, Tidewater Farm and Crossroads property area. In the plan one of the developments was designated as being age restricted. DEP looked at the township zoning and commented that the zoning does not stipulate that this area should be age restricted and asked for documentation that it should be age restricted. The flow per unit is less for an age-restricted development.

The third comment had to do with Griffin Pipe's landfill, which is in the sewer service area. Mr. Trice did not allow for any future wastewater flow from the landfill area. DEP stated that either flow projections or some sort of development that may occur there must be provided or the landfill must be taken out of the sewer service area. It is zoned SM. Council in agreement to leave site in the sewer service area and redo the numbers.

One of the last comments has to do with the threat to endangered species. DEP is stating that any area that is identified as being habitats for threaten or endangered species should be excluded from the township's sewer service area. Mr. Trice reviewed the threatened and endangered species areas as outlined on a map from DEP. This is the first step towards preventing development in those areas.

Administrator Brook pointed out that these are new issues and were not in effect when the amendment was submitted two years ago. He suggested that the township go to the Commission and argue the arbitrariness and capriciousness of DEP's actions and how they have unfairly placed a burden on the municipality.

Council Vice President Ryan suggested that the township approach the Commission as soon as possible because there may be a new commissioner that is not familiar with the situation. Council in agreement to move forward.

Curbing at Tall Pines

Administrator Brook stated that curbing in Tall Pines was discussed at the last meeting and it is the township's standard practice to replace curbing when doing road programs curb to curb. Estimates were received for cubing and ADA ramps and also the driveway aprons. Normally the township would not replace driveway aprons unless the grade was significantly altered. Assistant Administrator Sahol looked at the curbing and driveway aprons and reported that they are a monolithic pour. If the curbs were to be repaired the driveway aprons would have to fall along with it. He supplied pictures of some damaged curbs that are part of the apron. All problems areas were noted. Council Member Garganio asked if these three were repaired could the driveway aprons be a secondary pour? The estimate is for the curb and driveway apron damage in Phase I. Assistant Administrator Sahol walked Phase II and did not see any damage or problems. Mr. Trice will get quotes from Pact Construction.

Pact Construction: Current Estimate No. 1 for Tall Pines Water and Sewer

Mr. Trice reviewed and recommended payment of Current Estimate No. 1 to Pact Construction. Resolution will be approved in Open Session this evening.

TOWNSHIP ENGINEER

Update on High School

Dan Guzzi, Township Engineer, reported that the steel for the building is approximately 98% complete. The plan is to have the building closed in by Christmas so the interior work can

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progress. With the exception of the football field, all of the other fields are graded and grass is coming up on most fields. The basin work in the back has been taken care of. The restoration work and site utilities out to Cedar Lane are done. Weather permitting, paving crews should be out next week to at least lay out the base for the driveway and parking lot. Grading and under drains for the football field will begin shortly.

Council Vice President Ryan asked if they were on schedule and on budget? Mr. Guzzi stated that they are fairly on schedule, as for the budget, he does not know.

Administrator Brook stated that he received permission from the school for Mr. Guzzi to discuss his findings regarding a pipe found during the construction in the Tall Pines development. Mr. Guzzi explained that the pipe was found in the street in the Tall Pines development that ran towards the school's property. The school did a series of tests, located the pipe on their property. The pipe runs through the school's property. Nothing from the school's property was found draining into it other than what is being picked up through the ground through separated joints. The pipe ends up on the property behind the school. He believes that pipe was installed years ago to drain that area and predates the Tall Pines development significantly. He stated that the pipe is clogged and stopped up. When it was opened up water came out both directions but not a continual flow in one direction. Based on the grade, the pipe drains through the school property to Tall Pines before it exits into the creek. The School Board is looking into the best way to handle it; whether or not to repair the pipe, block it off or remove the portion on their property.

Council Member Garganio asked if the basin the pipe is coming out of is holding water? Mr. Guzzi explained that it is not a basin but a low area that tends to hold water and probably has for a long time, which is why the pipe was installed. That is the wetlands area that the basin overflow and discharge is in. Once the water came out of the pipe it slowed down to a trickle so its really ground water that is collecting in it.

Administrator Brook asked Bart Shrader, resident of Tall Pines, if he would like to speak? Mr. Shrader, 46 Tall Timber Lane, disagreed with Mr. Guzzi that the water came out as a trickle. Mr. Guzzi explained that the water did come out in force in both directions when the pipe was first opened but slowed to a trickle after several minutes.

In response to questions from Mayor Muchowski, Mr. Guzzi stated that borings were done along the pipe in seven different spots but then they were going off the school property and could not go any further. The pipe was opened up close to the edge of the school property.

Council Member Garganio asked if the starting point of the pipe has been found? Mr. Guzzi stated that it is below the surface or under water off the school property, so he could not continue to dig holes and follow where it begins on private property.

Administrator Brook clarified that the pipe goes off the school's property and is not sure where the pipe begins. Mr. Guzzi stated that is correct. He would have to get the property owner's permission to poke holes and try and find the beginning of the pipe. He explained that the pipe begins on private property, goes through the school's property to Mr. Shrader's property. Mr. Shrader does not agree. He has surveys of both properties.

Mr. Shrader stated that in the past he could not ask Mr. Guzzi questions regarding the school at Council meetings and asked why he could now? Administrator Brook and Council President

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Fratinaro explained that Mr. Guzzi is the Township Engineer and also the School Board's Engineer. The school agreed to share information that they obtained in the tracing of this pipe with the township. Administrator Brook stated that any questions Mr. Shrader wanted to ask Mr. Guzzi with respect to the school he could do that at the School Board meetings. Mayor Muchowski reiterated that the township did not ask Mr. Guzzi to share information; the township received permission from the school for Mr. Guzzi to share information on this particular issue.

Mr. Shrader discussed bringing up the problems he has been having at his house to the township since before the school project started. Mr. Guzzi stated that an employee of his has been at Mr. Shrader's property numerous times crawling in the sinkholes to try and find where the problem is coming from. The township and Mr. Guzzi's office have addressed Mr. Shrader's concerns. Nothing was found and that is because this pipe was so deep. Mr. Shrader stated that other people knew the pipe was there why didn't the township know it was there?

Mr. Shrader mentioned legal action and feels an engineering report that he will have shortly will back him up. Solicitor Kearns stated that assuming the pipe is the cause of Mr. Shrader's problems it is not a township issue, it is not a township pipe, the township did not put the pipe in. It is a private issue between Mr. Shrader and the other property owner. Mr. Shrader does not agree. Solicitor Kearns stated that it is not a governmental issue. Mr. Shrader feels that it is when a conflict of interest is involved. Solicitor Kearns stated there is no conflict of interest and Mr. Shrader has not given anything that proves that it is coming from the school property. Mr. Shrader feels that any information he has given has not been used the way it should be.

TOWNSHIP ADMINISTRATOR **Construction Code Fee Ordinance**

Administrator Brook reviewed the recommended changes to the Construction Code Fee Ordinance, which includes fees for carbon monoxide detectors, hot tubs, spas, decks and fire pumps. With the exception of fire pumps, fees have been charged for these items but are better clarified in this Ordinance. The warehouse figures are solely for the large warehouse volume buildings. Introduction will be this evening in Open Session.

TOWNSHIP SOLICITOR **Railroad Avenue Rezoning**

Assistant Administrator Sahol believes that they will be moving forward with the map revisions on the three (3) parcels on Olive Street. This property has to be addressed separately due to the possibility of impacting Chapter 91 because of the change to the SM Zone.

Discussion followed regarding a proposed housing development of six (6) homes on a cul-de-sac on Railroad Avenue and the expansion of Ready Pac. When Ready Pac expands they will back right up these homes with the road that the trucks will be driving on to access the warehouse. The existing houses in the area have a much deeper yard. Currently the property for the proposed housing is zoned RA backing up to an SM zone. Mayor and Council discussed whether or not to change the RA zone to SM. Council Vice President Ryan suggested that SM Zones should not abut residential areas. Mr. Guzzi stated that the Master Plan calls for the SM Zone to be a buffer between heavier industrial commercial uses and residential.

Mayor Muchowski asked if an Ordinance had to be introduced to send to Planning Board for review? Solicitor Kearns stated that once an Ordinance changing the zoning is introduced, it must go to the Planning Board.

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Mayor Muchowski stated that the application for residential housing is before the Planning Board. Solicitor Kearns stated that if there is an Ordinance that Council is about to adopt, the Planning Board should be aware of it. Once the Ordinance is adopted it is in effect. If the applicant receives approval before the Ordinance is in effect they are protected against changes in the Ordinance.

Discussion followed regarding the area and the difficulty of making improvements that make it more residential friendly. Since Ready Pac has already spoken to the existing property owners and they are happy with the buffers that were incorporated with their expansion, Council Member Garganio does not believe that they will have a problem with changing the zone to SM as long as the same buffers in place for Ready Pac are incorporated into the zone change.

Assistant Administrator Sahol reviewed the area of discussion on the map. He explained that some of the existing houses are in the current SM zone. If the zoning for this parcel were changed to SM, with the statement that the base residential use can benefit from the bulk standards of RA, it would benefit the existing property owners. Currently if a homeowner in this area submits a zoning application the township has to apply the SM standards.

After further discussion it was decided to HOLD until December 7th to give Council more time to review and make an informed decision.

Assistant Administrator Sahol asked if a change is made to the Chapter of the Code under Special Manufacturing that allows for existing residential to get the benefit of the bulk from RA, does notification have to go to everyone that is currently in the SM zone that a change is being made? Solicitor Kearns stated yes. Assistant Administrator Sahol stated that there are two (2) areas in the township that this occurs, Railroad Avenue and Hamilton Avenue.

In advance of the next meeting, Mayor Muchowski asked for a zoning map of the area, a visual map that depicts what is within that area and an administrative understanding of what the governing body is doing, who needs to be notified, and the effect throughout the community. Also, the Ordinance changing the zone to SM in draft form.

OR ZONE

Mayor Muchowski asked that this be held until the December meeting.

BLOCK PARTIES: REGULATIONS

Hold until the December Worksession.

PRIVATE WATER AND SEWER OUTSIDE REPAIRS – REGULATE HOURS

Hold until December.

ROEBLING MAIN STREET FIRE HOUSE: PLANNING USE

Council Vice President Ryan suggested that the governing body start planning for programs for the Roebling Firehouse before applications start coming in for use. She also suggested that a subcommittee be formed. Mayor Muchowski agrees. He stated that a variety of organizations will be seeking to use the facility and regulations need to be set. Council Vice President Ryan asked that administration find out the standards other municipalities follow that have community centers. She would like to see affirmative programming that the township promotes to bring the

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community together. Council Vice President Ryan and Council Member Baldorossi offered to be on the subcommittee.

TRUCKS ON CEDAR LANE, BUSTLETON ROAD & OLD YORK ROAD

Council Member Garganio stated that with the new school being built it may be an opportunity to have the speed limit reduced and limit the truck traffic on Cedar Lane and Bustleton Road. Mr. Guzzi stated that traffic studies and speed counts have been done. He has contacted the County and they will not lower the speed limit. He stated that the faster the vehicles are going the harder it is to argue to lower the speed limit. The speed must be strictly enforced and then a speed study performed. Council President Fratinardo suggested speaking with the Chief of Police regarding enforcement. Council Member Garganio asked that the radar trailer be placed in that area. Mayor Muchowski suggested a sign stating – Future School Site/Opening September/Please Watch Your Speed. Administrator Brook will follow up.

DOWNTOWN TAVERN

Administrator Brook reported that Downtown Tavern is not complying with the security condition on their liquor license. It is very well documented by the Police Department. Chief Dawson is asking for assistance. Administrator Brook recommends that the owners of the Downtown Tavern be asked to attend a Worksession to discuss. If they do not comply after that, a hearing on their license would be held.

WAINWRIGHT PROPERTY

Administrator Brook was contacted by a developer that does warehousing that is looking to develop on the Wainwright tract. He asked if Council would be interested? Council in agreement to talk to him but let him know there is no sewer. Administrator Brook will advise developer.

SALT AND LIGHT

Administrator Brook reported that Salt and Light received their variance for Alden Avenue with the condition that they would give the township four (4) COAH units. They agreed and offered seven (7) to nine (9) units. They also asked if the municipality would waive the permit fees for the building they are rebuilding that was damaged by fire. Administrator Brook is uncomfortable waiving fees but suggested that the municipality consider making a payment in an amount similar to the permit fees for the COAH units, which he believes may be approximately \$3,000.

Administrator Brook would like to have a subcommittee meeting in December regarding third party administrators.

NJ TRANSIT: RAILROAD AVENUE

Mr. Guzzi explained that the right-of-way on Railroad Avenue is narrow and in order to create the minimum roadway, they need to install a stoned shoulder off of the road 4' into NJ Transit's right-of-way. Beneath that would be the storm sewer work to take care of the drainage problems. Mr. Guzzi stated that NJ Transit is willing to grant the access permit and waive the easement fee if the township would take over maintenance of the ditch, which is approximately 100'. It would save the municipality about \$2,000 annually. Administrator Brook does not believe it would take a lot of time or effort to maintain. Mayor Muchowski stated that NJ Transit has not cut the grass on their property on the other side of Centennial Park.

STORMWATER MANAGEMENT ORDINANCES

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Administrator Brook stated that Solicitor Kearns combined all of the various Stormwater Ordinances that are currently in the township code into one significant code amendment. He stated that there are no significant changes and asked if council would like to introduce this evening and adopt in December?

Council Vice President Ryan questioned the feeding of wildlife? Solicitor Kearns stated that those are the recommended Ordinances from DEP as part of the Stormwater compliance. Council Vice President Ryan asked if all the recommendations must be included? Mr. Guzzi believes that they are just recommendations and the township can chose which items apply to them. Will discuss further at December Worksession.

10:30 PM MOTION by Garganio, seconded by Baldorossi to adjourn meeting. Roll call vote - all ayes.

ADJOURNMENT

10:30 PM: Meeting adjourned.

Respectfully submitted,

JOY M. WEILER
Township Clerk

/mab