

FLORENCE TOWNSHIP COUNCIL EXECUTIVE SESSION

December 12, 2007

8:00 PM

CALL TO ORDER

Council President Baldorossi called the meeting to order.

SUNSHINE STATEMENT

The Opening Statement was read: 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 7, 2007; given to the Register News for information; posted on the municipal bulletin board.

ROLL CALL

Present: John Fratinardo, Bruce Garganio, Jerry Sandusky, Frank Baldorossi

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 M. Weiler, Township Clerk; William Berry, Mayor Elect; Dennis O'Hara, Council Member Elect; Sean Ryan, Council Member Elect

PUBLIC COMMENT

Richard Lotter, 3 Walnut Court, asked if there was an answer to when the ponding in the street in front of his home would be fixed? Administrator Brook replied that he had sent a letter to Mr. Lotter outlining the time period. He explained that the plans and specifications will be available the second week in January, review and modifications will be made within 10 – 14 days, it will then go out to bid and should be awarded the third week in February, work will begin in the early spring. In the interim, if Mr. Lotter was interested, saw cuts could be done along the road to help drain the water during the winter months. Mr. Lotter would like the temporary fix.

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

TOWNSHIP WATER AND SEWER ENGINEER

Aerator Painting: Change Order No. 1 and Current Estimate No. 2

Russell Trice, Township Water & Sewer Engineer, reviewed and recommended Change Order No. 1 and Current Estimate No. 2. This will close out the contract. Administrator Brook stated that he reviewed in depth with Mr. Trice and David Lebak, Water and Sewer Superintendent, to be sure that the numbers were accurate. A Resolution will be prepared for next week's meeting.

Well No. 6, B & H Contracting, Inc.: Current Estimate No. 5

Mr. Trice reviewed and recommends payment of Current Estimate No. 5. This payment covers work through to October 31st; the contractor has completed a great deal more work. The contractor provided an updated schedule giving a start up date of December 26, 2007. That is dependent on if PSE&G comes out when they said they would. DEP also has to take samples of the water to test. If everything goes as planned, the well should be able to be used in early January. Administrator Brook stated that the contractor has stayed truer to their schedule since the last time this was discussed. A Resolution will be prepared for next week's meeting.

TOWNSHIP ENGINEER

Greenbriar: Basin Proposal & Stormwater As-Builts

Dan Guzzi, Township Engineer, stated that the contractor is making progress. Most of the concrete replacement and sign work is complete. He received a proposal from Greenbriar to modify the wet basin opposed to reconstructing it in accordance with the approved plans. He is still waiting for updated information on the storm sewer as-builts but did receive revised as-builts for the storm sewer system, which show that the initial as-builts were incorrect. Based on the new as-builts, it does not appear that the storm sewer lines are as deficient as originally thought. He is waiting for the balance of the storm sewer as-builts so the entire storm sewer system can be evaluated. Basically the proposal is to maintain the water elevation, use the basin as constructed, modify the outflow structure from the basin and avoid having to de-silt and construct the benches. Mr. Guzzi explained that benches are required in wet basins in case someone falls in, then it is not a sheer drop. Lennar has proposed to install a 4' fence around the basin in lieu of installing benches. Council will have to decide. Council Vice President asked if it would have to go before the Planning Board? Mr. Guzzi stated that would be Council's decision. He also explained that the State of New Jersey Department of Environmental Protection (NJDEP) requires benches; if Council endorsed the modification, Lennar would also have to get NJDEP approval. The first decision to be made is on the municipal level. Once Mr. Guzzi receives the final as-builts on the balance of the storm sewer system, he will issue a final report.

Mayor Muchowski questioned how it is documented when a signed, sealed engineer's report is received that says one thing, then the same engineer submits a signed, sealed plan that says it was a mistake. Mr. Guzzi stated that the deficiencies on the first report that are no longer deficient on the second report should be spot-checked. Administrator Brook asked Justin Bloch, Lennar, if their engineer said how that occurred? Mr. Bloch believes that the surveyor in the field wrote numbers down backwards, which would cause a back pitch sewer. His engineer has assured him that everything is right and believes if the township were to check, they would find the same. Mayor Muchowski asked if the engineer gave an explanation of their revised now accurate report? Mr. Guzzi stated that there was no explanation given. Mayor Muchowski feels that an explanation should have been given. Mr. Guzzi does feel that the deficiencies should be spot-checked. Mayor Muchowski would like an explanation of the error, why the plan was corrected and why it is now an accurate depiction of the as-built condition. Mr. Bloch will get an explanation, signed and sealed from the engineer. Mayor Muchowski stated that does not guarantee acceptance but it is a constructive step in the right direction.

Mr. Guzzi stated that he walked the site with Mr. Bloch and went through the punch list with the exception of the trees. Mr. Bloch was going to contact Assistant Administrator Sahol to review the tree issues.

Mayor Muchowski questioned the other items on the punch list besides the trees, basin and as-builts? Mr. Guzzi stated that Lennar has agreed to do all of those items.

Mr. Bloch explained that the problem with the trees right now is that it is wintertime. By the time they received the final list, most of the trees have lost their leaves and they cannot verify which trees are alive and which ones are dead. He is proposing to separately bond the trees since that is an issue that has to be worked out in the springtime. Before Council Member Garganio agrees to bond the trees separately, he would like to work out what is considered an acceptable tree. Mr. Guzzi stated

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that there are so many other items that have to be addressed in regards to the Performance Bond. Mr. Bloch stated that he will be working on a lot of items as the weather breaks throughout the winter and could potentially be finished and have to wait two or three months with no activity before the trees can be addressed. Administrator Brook asked Mr. Bloch if he is proposing a Cash Bond or a Surety Bond? Mr. Bloch stated that he is proposing a Surety Bond. Administrator Brook and Solicitor Kearns feel that a Cash Bond would be so much better. Administrator Brook stated that if there is an issue, pulling a Surety Bond for trees is not a simple task. Solicitor Kearns does not recommend a separate Bond for the trees, a cash guarantee would be fine. Based on the pictures of all the trees Mayor Muchowski and Council Member Garganio feel Mr. Bloch should be able to go over the trees with Assistant Administrator Sahol now. Mr. Bloch feels they need to walk the entire site. Mr. Bloch stated that if Council wants a Cash Bond, that's what he will work on. Administrator Brook explained that Assistant Administrator Sahol will work with Mr. Bloch on an estimate that would more than adequately cover the trees. It is not a Cash Bond that would be cashed at will; the township would only cash if the services are not rendered. Lennar would get the interest.

Mr. Guzzi stated that the Storm Water Management issue will be discussed at the January Worksession. Mayor Muchowski asked Mr. Bloch if it has been indicated to him that NJDEP will allow him to have a wet basin that is silted with no benches, even though they created the standard? Mr. Bloch stated that the intention of the benches by the NJDEP is for safety, he is looking to address the safety by putting up a fence around the basin. The inflow and outflow of the basin will remain exactly the same; the volume of the basin will remain exactly the same. Mayor Muchowski feels that a fence is just a deterrent; there is still exposure if someone gets over the fence. What if a child gets over the fence and falls in. He does not see NJDEP agreeing that the fence will eliminate the need for benching. He asked if Mr. Bloch investigated it with NJDEP yet? Mr. Bloch has not. Mayor Muchowski advised that he should before spending a lot of time, effort and money. Mr. Bloch will investigate with NJDEP before bringing back to the governing body. Council Member Garganio, speaking for himself, stated that if the site standards say it should be benched he thinks it should be benched. He is not willing to waive a safety standard that the State of New Jersey has put in place. Mr. Bloch explained that the benching was put in, but overtime has eroded down to the bottom and caused the silting at the bottom. Mr. Guzzi stated that the wet basin was there during the entire time of construction when a lot of silt from the site got into the Storm Sewer System and silted up the basin. Mr. Bloch stated that it will be a major inconvenience to the residents taking a stabilized site and turning it back into a full blown construction site. Council Member Garganio stated that it is a problem that Lennar created during construction and he wants it done right. He is not willing to waive the approved plans and something that the State of NJ probably will not waive. Council Member Sandusky agrees with Council Member Garganio. Mr. Bloch will speak with NJDEP. Mr. Guzzi will have a report for the January Worksession.

In the meantime, Mr. Bloch will contact Assistant Administrator Sahol to go over the trees. Assistant Administrator Sahol stated that it is easy to determine a healthy tree without leaves. He will bring a Certified Tree Expert from Rutgers as well as a representative from the State of New Jersey Shade Tree Commission with him to help determine the condition of the trees. Council Member Garganio asked if Assistant Administrator Sahol's time could be billed off of Lennar's escrow? Solicitor Kearns explained that normally it is not done for that but for professional's time, but this is going beyond the norm. He will look into and report back.

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Release Performance Bond: 280 Daniels Way with Maintenance Bond

Mr. Guzzi reviewed and recommends release of the Performance Bond conditioned on posting a 2-year Maintenance Bond in the amount of \$313,349.58. A Resolution will be prepared for next week's meeting.

Release Performance Bond: 1100 John Galt Way with Maintenance Bond

Mr. Guzzi reviewed and recommends release of the Performance Bond conditioned on posting a 2-year Maintenance Bond in the amount of \$432,492.30. A Resolution will be prepared for next week's meeting.

Reduce Performance Bond: 270 Daniels Way

Mr. Guzzi reviewed and recommends reduction of the Performance Bond. A Resolution will be prepared for next week's meeting.

Maintenance Bond Release Request: Rite Aid Pharmacy

Mr. Guzzi reviewed and recommends release of the Maintenance Bond. The developer has requested a posting of a cash guarantee in lieu of renewing the Maintenance Bond. The developer anticipates getting the work done within the next month. Administrator Brook received a cashier's check for the amount of work pending, plus 20%. The municipality would be well protected if an issue arose. A Resolution has been prepared for this evening.

Mayor Muchowski asked if they would plant before the spring? Mr. Guzzi stated that they will plant before they get the money back. Release of the cash bond will be contingent on planting and inspection of the trees on a date set by the administrator.

ASSISTANT MUNICIPAL ADMINISTRATOR

Bids: Lease of Space on Elevated Water Tank #1

Assistant Administrator Sahol stated that a bid was received from Metro PCS, which was complete and met the specifications. He has worked with them before and they were very good. He recommends entering into an agreement to lease the space to Metro PCS. A Resolution will be prepared for next week's meeting.

Delaware Avenue: Discuss County's Plan

Assistant Administrator Sahol provided a copy of the revised details showing the parking restrictions and the lane shift on Delaware Avenue from Poplar Avenue to Station Road. The County is proposing 11-foot on the side where parking is allowed and 5-foot on the side where parking will be prohibited. Assistant Administrator Sahol feels it is a good plan and matched what the members of the governing body and the public have discussed in the past. Assistant Administrator Sahol will work with the County on the language and the residents will be notified.

Don Kaminski, 10 McCay Drive, has attended many Council Meetings regarding this issue and feels that this plan is a good improvement over the current situation.

With the upcoming changes in the governing body, Solicitor Kearns advised to introduce the Ordinance in January.

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Calendars

Assistant Administrator Sahol reported that the calendars are in, the Boy Scouts are bagging them tonight and distribution will start on Monday.

Tree Planting Project

Assistant Administrator Sahol stated that the first phase of tree planting in Veterans Park and Waterworks Park has begun.

FINE FOOD & SPIRITS, INC: ABC LICENSE RENEWAL WITH SPECIAL RULING

Joy Weiler, Township Clerk, stated that George Boghean, owner of Fine Food & Spirits, Inc, and Edward R. Petkevis, Esq., Solicitor representing Mr. Boghean, are here this evening in response to the township's request to attend the meeting and provide a detailed written report and schedule on the plans for the ABC License and a schedule of the expected opening date.

Solicitor Petkevis, on behalf of Fine Food & Spirits, stated that they do not have a detailed written report but are prepared to provide a detailed representation to Council as to the plans for the license, where they stand right now, what the hold ups were and how the applicant plans to proceed forward in opening a nice restaurant and bar in Florence Township.

Solicitor Petkevis explained that this license was inactive and they needed to get the services open within a certain period of time but there were delays. With the Special Ruling where the State of New Jersey has allowed a two-year period of time with the approval of Florence Township Council, there is more than sufficient time to get the project off the ground. He understands that the first thing to be done is to submit a Performance Bond to the township, which should be done by the end of the month. After that, building permits need to be obtained. He stated that the architectural and engineering drawings are complete. The only issue now with proceeding with the work is the approval of the ABC License. Mr. Petkevis explained that the project is going to take a substantial amount of money but without the ABC License, it is not worth putting the time and money into.

Council Member Sandusky explained that Council's concern is that no progress has been made. Solicitor Petkevis explained the delays and stated that the problems have all been overcome and Mr. Boghean is ready to proceed. Council Member Garganio asked if the license was approved what the projected opening date would be? Mr. Petkevis explained that if there is a mild winter and there can be some construction through the winter, they are looking at the end of August for construction to be complete. If there is a hard winter that will add on a couple of months of construction.

Solicitor Kearns stated that Council does have control because they would be renewing for the licensing year, which was July 1, 2007 to June 30, 2008, and come back in June 2008 for renewal. If work is not progressing at that time, Council does not have to renew the license.

Mayor Muchowski verified that none of the delays that Mr. Boghean encountered were due to Florence Township? Solicitor Petkevis stated that is absolutely correct. Mayor Muchowski asked if the current condition of the property will be corrected? Solicitor Petkevis stated "yes".

Council Member Elect O'Hara asked if Mr. Boghean has received final approval from the Planning Board? Solicitor Petkevis stated that they do have final approval and no changes have been made to the plans since they received final approval. Mayor Muchowski asked if there were any conditions

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on Mr. Boghean's final approval? Mr. Guzzi will check and report back. Mayor Muchowski offered the assistance of the township staff to make sure they are progressing in the right path.

Council Member Sandusky is satisfied with what was said tonight and hopes it does happen. He believes with renewing ABC Pocket Licenses in the future the applicant should come in before Council to give a status report.

RESOLUTION NO. 2007-184

**AUTHORIZE APPROVAL OF RENEWAL OF PLENARY
RETAIL CONSUMPTION LICENSE FOR 2007-2008
FINE FOOD & SPIRITS, INC.
AS PER SPECIAL RULING**

It was on the MOTION of Garganio, seconded by Fratinardo that Resolution 2007-184 be approved.

On the Question

Nothing at this time.

Upon roll call Council voted as follows:

YEAS: Fratinardo, Garganio, Sandusky, Baldorossi

NOES: None

ABSENT: Ryan

Unanimous approval.

COAH PROPOSAL: SASSMAN SITE – HORNBERGER AVENUE

Administrator Brook stated that Michael Sassman has submitted his proposal and asked that it be presented to Mayor and Council. The proposal is to take an existing unit in town, pay the provider on Alden Avenue \$35,000 and deed restrict it for 30 years. Administrator Brook advised Mr. Sassman, even though it has been done that way in the past, it may be more reasonable to take an existing unit and rehab it. Mr. Sassman asked that his original proposal be presented to the governing body and if it was not acceptable, he would consider moving to purchase a unit or possibly put up a unit over top of the stores on Hornberger Avenue. Council Member Garganio asked what unit he was looking to deed restrict? Administrator Brook stated on Alden Avenue, the affordable home group, Salt & Light.

Administrator Brook was encouraging him to take an existing unit, which is what the ultimate goal is of COAH, if possible, with developers, or restrict a unit over top of the stores. There are eight (8) units over the stores and he is required to provide one (1) affordable housing unit under the current regulations. Mayor Muchowski believed that the direction the township was taking was to handle onsite. Mr. Sassman has the perfect opportunity to do that.

Administrator Brook will advise Mr. Sassman that the preference is onsite and if that does not work, the second alternative is to rehab an existing unit that is run down. Council agrees with that.

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Council Member Elect O'Hara stated that Mr. Sassman made it known at the Zoning Board Meeting that he wanted to have it offsite. Mr. Guzzi stated that as a condition of the Zoning Board approval, Mr. Sassman has to get the COAH obligation approved by Council.

ACTION

APPLICATIONS

A. Social Affair Permit: Florence Fire Company #1, March 1, 2008, Night at the Races

It was on the MOTION of Fratinardo, seconded by Baldorossi to approve the above application.

On the Question

Nothing at this time.

Upon roll call Council voted as follows:

YEAS: Fratinardo, Baldorossi

NOES: None

ABSENT: Ryan

ABSTAIN: Garganio, Sandusky

Motion carries, as per legal advice from the Township Solicitor, William John Kearns, Jr.

RESOLUTIONS

RESOLUTION NO. 2007-193

**RELEASE MAINTENANCE BOND FOR
SHULER PROPERTIES/RITE AID PHARMACY
CONDITIONED UPON POSTING A CASH GUARANTEE BOND
AND FOLLOWING THE SCHEDULE SET BY THE
TOWNSHIP ADMINISTRATOR
*Conditioned upon payment of any and all escrow money due.***

RESOLUTION NO. 2007-194

**AUTHORIZE REFUND
BOYS UPPER DIVISION BASKETBALL PROGRAM
DUE TO PROGRAM BEING CANCELED**

Administrator Brook noted that Resolution No. 2007-193 is conditioned upon amending the date of the installation and a proper inspection in the springtime on a date to be determined by the administrator.

It was on the MOTION of Sandusky, seconded by Fratinardo to approve Resolution No. 2007-193 and 2007-194.

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On the Question

Mayor Muchowski explained that Resolution No. 194 is being done because the basketball program for 14 – 15 year olds was cancelled due to a lack of registrations.

Upon roll call Council voted as follows:

YEAS: Fratinaro, Garganio, Sandusky, Baldorossi

NOES: None

ABSENT: Ryan

Unanimous approval.

CROSS COUNTY CONNECTION BIKE PATH

Council Member Garganio questioned the Cross County Connection Bike Path? Assistant Administrator Sahol will report back at next meeting.

9:12 PM MOTION by Sandusky, seconded by Garganio to adjourn to Closed Session. Roll call vote - all ayes.

ADJOURNMENT

9:12 PM Meeting adjourned.

Respectfully submitted,

JOY M. WEILER, RMC/MMC
Township Clerk

/mab