

Chadds Ford Township
Delaware County, PA

Board of Supervisors'
Organization and Regular Meeting
7:30PM

Officials Present:

Deborah F. Love, Chair
George M. Thorpe, Vice Chairman
Keith C. Klaver, Supervisor
Judy Lizza, Manager
Hugh A. Donaghue, Solicitor
Joseph A. Mastronardo, Engineer
Matt DiFilippo, Secretary

Call to Order

Supervisors Klaver called the Organization Meeting to order at 7:30PM and reviewed the emergency exits.

2013 Board and Staff Appointments

Supervisor Klaver, as Temporary Chairman for the Reorganizational Meeting, appointed Secretary DiFilippo as Recording Secretary.

Upon motion and second (Klaver/ Thorpe) Deborah F. Love was nominated as Chairman of the Board of Supervisors.

During discussion, newly appointed Chair Love offered the chairman position to Supervisor Klaver who refused.

Upon motion and second (Klaver/ Love) George M. Thorpe was nominated as Vice Chairman of the Board of Supervisors.

Upon motion and second (Klaver/ Thorpe) Matt DiFilippo was nominated as Township Secretary.

Upon motion and second (Klaver/ Thorpe) Barbara Biedekapp was nominated as Township Treasurer and Assistant Secretary.

Upon motion and second (Thorpe/ Klaver) Matt DiFilippo was nominated as Right-to-Know Officer.

Upon motion and second (Thorpe/ Klaver) Resolution 2013 – 01 was passed nominating Judy Lizza as Interim Township Manager.

During discussion, Samantha Reiner, Webb Road, asked if the newly appointed Interim Township Manager's salary was a part of Resolution 2013 – 01? Solicitor Donaghue responded to Ms. Reiner's question and read aloud Resolution 2013 – 01; and, Solicitor Donaghue noted that Manager Lizza has been serving as Interim Township Manager since Monday, December 17, 2012. Within the resolution, the Manager's salary was stated as well as the Manager's mileage reimbursement. Ms. Reiner brought up that the mileage reimbursement should be the federally approved limit of \$.56 and not the \$.62 read in Resolution 2013 – 01. The Board of Supervisors agreed to revise resolution 2013 – 01 and change the Manager's reimbursement rate from \$.62 to \$.56.

Upon motion and second (Klaver/ Thorpe) the BOS unanimously approved to reduce the Manager's mileage reimbursement from \$.62 to the Federally mandated amount of \$.56.

Upon motion and second (Thorpe/ Klaver) appointed Pennoni Associates, Inc. as the temporary Building Code Officers and Inspectors.

During discussion, Supervisor Klaver said that the BOS will be looking for an alternate Building Code Officer and Inspector and will continue discussions with Richard Jensen, the previous Building Code Officer and Inspector. Chair Love offered to set a time limit for the temporary appointment of Pennoni, which was not agreed upon and not set. Also during discussion, Samantha Reiner, Webb Road, asked what the hourly rate would be paid to Pennoni for Building Code Officer and Inspector fees? Engineer Mastronardo responded that depending on the Inspector the fee would be between \$55.00 and \$60.00 per hour, for Residential and Commercial, and for the Zoning and Code Enforcement the rate will be \$60.00

Chair Love also ensured that office hours for the Building Code Officer and Inspector were going to be negotiated and expanded.

2013 Committee Appointments

Upon motion and second (Thorpe/ Klaver) Scott Dickinson was appointed to the Planning Commission for a four year term ending in 2016.

Chair Love was appointed as the Supervisor Liaison.

Upon motion and second (Thorpe/ Klaver) Marc Altman was appointed to the Sewer Authority for a five year term ending in 2017.

Supervisor Klaver was appointed as the Supervisor Liaison to the Sewer Authority.

Upon motion and second (Klaver/ Thorpe) Paul Koch was appointed to the Zoning Hearing Board for a three year term ending in 2015.

Upon motion and second (Klaver/ Thorpe) Amanda Konyk was appointed to the Zoning Hearing Board as an alternate member for a three year term ending in 2015.

Upon motion and second (Klaver/ Thorpe) Deb Reardon was appointed to the Open Space Committee for a two year term ending in 2014.

Upon motion and second (Klaver/ Thorpe) Alan Horowitz was appointed to the Open Space Committee as an ad hoc member for a two year term ending in 2014.

Supervisor Klaver was appointed as Supervisor Liaison to the Open Space Committee.

Upon motion and second (Thorpe/ Klaver) Gary Sharp was appointed to the Historical and Architectural Review Board for a five year term ending in 2017.

Upon motion and second (Thorpe/ Klaver) Farzanna Hassonjee was appointed to the Historical Architectural and Review Board for a five year term ending in 2017.

Vice Chairman Thorpe was appointed as Supervisor Liaison to the Historical Architectural and Review Board.

Upon motion and second (Thorpe/ Klaver) Gary Sharp was appointed to the UCC Board of Appeals for a one year term ending in 2013.

Upon motion and second (Klaver/ Thorpe) Jerome Heisler was appointed to the UCC Board of Appeals for a one year term ending in 2013.

Upon motion and second (Thorpe/ Klaver) Wayne Megill was appointed to the UCC Board of Appeals for a one year term ending in 2013.

Upon motion and second (Klaver/ Thorpe) Garry Paul was appointed as Vacancy Officer for a one year term ending in 2013.

Upon motion and second (Klaver/ Thorpe) Interim Township Manager Judy Lizza was appointed to the Emergency Preparedness Committee as the Emergency Management Coordinator.

Chair Love was appointed as the Supervisor Liaison of the Emergency Preparedness Committee; and, Vice Chairman Thorpe was appointed as the alternate Supervisor Liaison.

Upon motion and second (Klaver/ Thorpe) Anna Marie Murphy was appointed to the Rachel Kohl Library Board of Trustees.

Judge Capelli administered oaths to newly appointed officials, staff and committee members present at the meeting specifically Interim Manager Lizza, ZHB Koch, SA Altman and OS Reardon.

2013 Professional and Vendor Appointments

Upon motion and second (Klaver/ Thorpe) the firm Donaghue and Labrum was appointed as Township Solicitor specifically Hugh A. Donaghue.

Upon motion and second (Thorpe/ Klaver) the firm Levis and Pinto was appointed as alternate Township Solicitor specifically Robert Pinto.

Upon motion and second (Klaver/ Thorpe) Frank Sbandi was appointed as the Township's Zoning Hearing Board Solicitor.

Upon motion and second (Thorpe/ Klaver) Pennoni Associates, Inc. was appointed as the Township's Engineer specifically Joseph A. Mastronardo, P.E.

Upon motion and second (Klaver/ Thorpe) Pennoni Associates, Inc. was appointed as the Township's Sewage Enforcement Officer specifically John Renzo, SEO.

Upon motion and second (Klaver/ Thorpe) Register Associates, Inc. was appointed as the Township's alternate Engineer specifically Jim Fritsch.

Upon motion and second (Klaver/ Thorpe) Ray Ott & Associates was appointed as the Township's professional Land Planner.

Upon motion and second (Thorpe/ Klaver) the Brandywine Conservancy was appointed as an additional Township consultant.

Upon motion and second (Thorpe/ Klaver) United Inspections was appointed as the Township's Electrical Inspector specifically Len Warren.

Upon motion and second (Thorpe/ Klaver) Allen Strickler was appointed as the Township's Animal Control Officer.

Chair Love recognized the following Community Task Forces: Brandywine Valley Scenic Byway Commission, Brandywine Battlefield Task Force, Brandywine Struble Greenway Task Force, Lyme Tick Task Force – a joint venture with the Chadds Ford Civic Association; and, the Supervisor Liaison to the Community Task Forces is Vice Chairman George Thorpe.

2013 Adoption of Resolutions

Upon motion and second (Klaver/ Thorpe) Resolution 2013 – 02 Official Bank Depositories was approved.

Upon motion and second (Klaver/ Thorpe) Resolution 2013 – 03 Mileage Reimbursement for Township Officials was approved.

Upon motion and second (Thorpe/ Klaver) Resolution 2013 – 04 Concordville Fire Company Fire Protection Services Contract was approved.

Upon motion and second (Thorpe/ Klaver) Resolution 2013 – 05 Fee Schedule was approved.

Upon motion and second (Klaver/ Thorpe) Resolution 2013 – 06 County Aid was approved.

Upon motion and second (Thorpe/ Klaver) Resolution 2013 – 07 Special Temporary Sign relief was approved.

Upon motion and second (Klaver/ Thorpe) Resolution 2013 – 08 Township Holiday and Meeting Schedule was approved.

Upon motion and second (Thorpe/ Klaver) Resolution 2013 – 09 Wages and Salaries for Township Employees was approved.

Upon motion and second (Thorpe/ Klaver) Resolution 2013 – 10 Keystone Collects as Township LST Collector was approved.

Upon motion and second (Thorpe/ Klaver) Resolution 2013 – 11 Keystone Collects as Township BPT Collector was approved.

Bruce Prabel, Heyburn Road, gave a presentation concerning Local Services Tax (LST) and Business Privilege Tax (BPT) collection issues with the previous collector, Berkheimer, as well as possible issues going forward under the new contract with Keystone Collects as the Township's new LST and BPT tax collector. Mr. Prabel, among other criticisms such as the potential of Berkheimer "pocketing" late fees without the Township's knowledge; presented late fees and additional fees and arguing they are way too high; deadline dates needed to be pushed back because most Township residents are unaware of the change in tax collector; possible faults with the new collection contract signed with Keystone Collects; Chadds Ford Township Code, specifically CFT Ordinance 116-39; updates needed to the Keystone Collects and Township websites; the Township's Resolution 2012 – 21 being null; questioning the legality of quarterly collections by the two aforementioned tax agencies; and his opinions regarding the different Tax Collection Agencies and incentives for these agencies to do a poor job in hopes of increasing administrative fees on their part to make more money. Mr. Prabel asked that Township Officials re-negotiate the contract with Keystone Collects as the LST and BPT collector because, in re-emphasizing his main point, he believes that the contract passed, specifically Resolution 2012 – 21, was null and void because it was misrepresented, primarily concerning late fees incurred by the Township, because Mr. Prabel remembers the BOS voting for the contract as long as no late fees are incurred by the Township, which Mr. Prabel argues will happen with the new contract.

Chair Love commented that she specifically remembers asking the question about whether or not the fees listed in the contract were in opposition to the Township's Ordinance. Mr. Prabel responded that he thought it was Vice Chairman Thorpe who asked the question and signed the contract based on the response to his question in which he was assured no late fees would be incurred.

Supervisor Klaver said that penalties and fees will have to be a part of any contract for compliance purposes, that monthly reporting will be expected from Keystone Collects as the new BPT and LST Collector, and that these fees will ultimately have to be managed on a timely basis.

Solicitor Kathy Labrum of Donaghue and Labrum, responded to Mr. Prabel's criticisms that the costs to be charged in Resolution 2012 – 21 are to be incurred by Keystone Collects; furthermore, Solicitor Labrum continued by explaining the fees and the contract. She assured that late fees are costs incurred by Keystone and are charged to the delinquent taxpayer, and that there are three: \$10.00 to the delinquent taxpayer, \$50.00 to the delinquent employer, and \$50.00 for a delinquent account servicing fee. She also disagreed with Mr. Prabel's claim that a contract could be voided because of a unilateral mistake.

Paul Koch, Baltimore Pike, asked if the website is enough to communicate with residents going forward and whether or not more should be done to communicate the change in tax collector and deadline dates postponed. Supervisor Klaver responded that improvement in communication to residents will be done by Keystone and the Township; and, the Township will manage the Keystone contract and monitor fees for potential issues.

Marc Altman, Spring Lane, recommended what seems to be a very simple solution to update Township Ordinances or Resolutions to address quarterly remittance and/or fee issues.

Solicitor Donaghue recommend sharing Mr. Prabel's comments with Keystone Collects and thanked Mr. Prabel, and also informed all present that the Board had met with a Keystone representative and that they, Keystone, seems responsive. Solicitor Donaghue also continued that it was his legal opinion that they contract is a valid contract with Keystone Collects and should not be considered null and void and that the Board should approve the resolution before the board and take up the matters with Keystone Collects at the appropriate time.

Supervisor Klaver reported that during the selection process due diligence was performed in influencing the decision to choose Keystone Collects, specifically interviewing local businesses, and he thanked Mr. Prabel for his presentation. Secondly, Supervisor Klaver recommended that any approval recommended by Counsel, include an addendum addressing any points raised by Mr. Prabel that need to be addressed.

After Mr. Prabel's presentation, Chair Love reminded that before the Board, Resolutions 2013 – 10 and 2013 – 11 were moved and seconded before the Board, approving Keystone Collects as the LST and BPT collector and asked for final approval. Vice Chair Thorpe approved, and

Supervisor Klaver approved subject to our reviewing with Keystone to cover to the satisfaction of the board of the several points Bruce indicated in his presentation.

Upon motion and second (Klaver/ Thorpe) the BOS unanimously agreed to accept Keystone Collects as the BPT and LST collector, Resolutions 2013 – 10 and 2013 – 11, subject to amending the contract based on Mr. Prabel’s presentation points, and ultimately satisfying the Board.

Upon motion and second (Klaver/ Thorpe) the BOS unanimously approved using the Delaware County Daily Times for all public notices.

Upon motion and second (Klaver/ Thorpe) the BOS unanimously approved to advertise the 2013 Meeting Schedule in the Delaware County Daily Times.

Upon motion and second (Thorpe/ Klaver) the BOS unanimously approved establishing bonds for Township staff, Treasurer and Secretary in the amount of \$300,000 and Constable in the amount of \$10,000.

Upon motion and second (Thorpe/ Klaver) Chair Love was appointed as the official delegate to the Pennsylvania State Association of Township Supervisors (PSATS).

Adjournment

Chair Love adjourned the Organization part of the meeting.

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Pennsylvania State Police Report

The Pennsylvania State Police, Troop K, Media, PA, submitted a written report.

Approval of Minutes

Upon motion and second (Klaver/ Thorpe) the Board of Supervisors' Workshop minutes of December 3, 2012 were approved.

Upon motion and second (Thorpe/ Klaver) the Board of Supervisors' Meeting minutes of December 5, 2012 were approved.

Supervisors' Report

Vice Chairman Thorpe reported that Solicitor Donaghue had a conference call with the Supervisors and Township Manager on December 14, 2012; and, a meeting among the Supervisors regarding personnel matters on January 5, 2013; and, a meeting among the Supervisors regarding personnel matters on December 27 and December 18, 2012; and, a meeting with Keystone Collects representatives on December 10, 2012.

Manager's Report

Newly appointed Interim Manager Lizza submitted a written report. She reported on strategies concerning BPT and LST collection issues, and reported that she did meet with the new collections agency to establish a relationship with the Municipality. She assured that part of the procedure will be sending Certificates of Occupancy to Keystone Collects on a monthly basis. Manager Lizza also talked about procedures going forward to communicate with all residents and businesses concerning LST and BPT Collections. Furthermore, Manager Lizza reported an update on changes in assessments and improved procedures going forward concerning assessments by the Board of Assessment.

Bruce Prabel, Heyburn, asked if there was a statute of limitations on going back to collect unpaid LST and BPT not paid since 2007. Would the Township be able to send out a letter now, in 2013, to collect back taxes?

Solicitor Donaghue responded that it is his legal opinion that the statute to collect back taxes is five years with respect to BPT and LST collections: 53 Perdon Statute Section 6924.707.

Manager Lizza continued reporting that the January 31 deadline for LST and BPT collections will not apply because of the recent Tax Collection Agency transistion from Berkheimer to Keystone Collects.

Manager Lizza also reported, regarding the assessment issues in the Township, that properties in question have been re-assessed as of 1/1/2013. She emphasized that the County is the authority for assessments in the Township, and that communication and information between the Township and the County should be audited and a procedure to audit this relationship should be discussed, and is being discussed.

Chair Love requested Manager Lizza update the Building Permit to make it clear and accurate so that it is easily understandable, and a place for the address and tax folio exist on the permit. Supposedly in the past, there has been a problem with the clarity of the permits from Chadds Ford Township regarding addresses and folios causing some of the larger properties to not be assessed. One example is the PNC Bank and how the wrong tax folio number was written on the PNC Bank permit. Chair Love asked Engineer Mastronardo to address this issue, and Engineer Mastronardo agreed on an interim basis.

Solicitor Donaghue reported on retroactivity of assessments and how it appears that a property owner has a three year window regarding retroactive assessment Solicitor Donaghue quoted Assessment Law and Procedure in Pennsylvania by “assessment guru attorneys” Goodman and Varnum (sic), “counties in Pennsylvania vary whether on real estate may be retroactively reassessed for tax purposes to allow for omitted land or improvements placed upon the land, which were missed, overlooked and/or omitted by the County and assessor during previous tax years. In Second Class A [which Delaware County is] through Eighth Class, there appears to be no provision for retroactively.

Samantha Reiner, Webb Road, asked why the 2nd Class Township Code, Section 3210, says what it says regarding property assessments.

Solicitor Donaghue responded that he believes reassessment is controlled by Act 72, but will discuss it with County Solicitor Madrin.

Valerie Hoxter, Painter’s Crossing, recalled going back two years to refund a property. Solicitor Donaghue responded that a homeowner has more rights concerning assessment than the taxing authority, in terms of refunds.

Bruce Prabel inquired about his copyrighted spreadsheet and Manager Lizza responded that it was already at the assessor's office upon her arrival as Interim Township Manager, and Solicitor Donaghue added that he sent it to the Board of Assessment; furthermore, Mr. Prabel inquired about an original list he provided in the summer. Mr. Prabel then brought up the LST provision which he refers to as the "George Thorpe" provision, and if residents are being informed; furthermore, Mr. Prabel suggested making it convenient to read the laws regarding LST and BPT provisions on our website, and something on the tax bill suggesting those who rent out their homes being required to pay the BPT tax.

Manager Lizza concluded her report.

Treasurer's Report

Secretary DiFilippo submitted a written report, and presented the Treasurer's Report.

GENERAL FUND RECEIPTS

Miscellaneous Collections & TWP. Reimbursements	\$20,891.08
November 2012 Real Estate Transfer Tax	<u>\$39,595.39</u>
TOTAL RECEIPTS	\$60,486.47

DISBURSEMENTS:

Bills, Wages and ACH Payments	<u>\$75,871.19</u>
TOTAL DISBURSEMENTS	\$75,871.19

General Fund Unrestricted Balance: \$594,896.71

CAPITAL IMPROVEMENT FUND DISBURSEMENTS

New Canon Copier for Office	\$8,468.00
New Server for Office	<u>\$1,999.99</u>
TOTAL CAPITAL DISBURSEMENTS	\$10,467.99

Upon motion and second (Klaver/ Thorpe) the BOS unanimously approved General Fund disbursements in the amount of \$75,871.19.

Upon motion and second (Thorpe/ Klaver) the BOS unanimously approved Capital Improvement Fund disbursements in the amount of \$10,467.99.

Upon motion and second (Thorpe/ Klaver) the BOS unanimously approved the release of an \$800.00 escrow in its full amount to homeowner Lewis Hall, 255 Heyburn Road.

Upon motion and second (Thorpe/ Klaver) the BOS unanimously approved the release of an \$950.00 escrow with \$948.00 to the Township for unpaid engineering bills and \$2.00 to the HOA President Rich Tuttle, Ringfield HOA.

Secretary DiFilippo reported the Open Space fund as having a total of \$1.1 million dollars.

Supervisor Klaver noticed that there is an excess in funds higher than the original excess, and asked the Manager and Treasurer to quantify that excess and make a recommendation for next meeting as to segregate it as a Capital Expenditure or segregate it in our Operating account. Chair Love concurred.

Building Code Officer and Zoning Inspector

Chair Love reported that a written report was submitted.

Paul Koch, Baltimore Pike, requested if he could see a monthly budget v. actual report, and if the information is available for 2012 and whether or not it will be available on a monthly basis at the meetings.

Chair Love responded that it would be available at the next meeting: the final year end budget v. actual for 2012, and the information will be available and a procedure will be discussed whether or not to post it on the website or make it available at the meetings. Supervisor Klaver explained that it would be on a summary basis. Bill Delaney, Creek Road, asked if there would be accruals. Supervisor Klaver responded. Chair Love asked Supervisor Klaver to work with the Manager and Secretary to come up with a report to produce at either the meetings to post on the website.

Engineer's Report

Engineer Mastronardo submitted a written report, and thanked the Board for re-appointment.

Terrance Dear, 267 Harvey Road, and complained about the Bruggemann site, which abuts his property. He complained about Montchanin Design, Register Associates, the removal of trees, the configuration of the building, the destruction of his personal lawnmower because of debris on his property or because of the grading which abuts his property – the grading has created a cliff off of his property and it has become dangerous where someone could fall off of his property and onto the Brueggemann site and get hurt. He also said that the noise exceeds OSHA and EPA regulations, as he measured it and explained his credentials to measure noise. He said that the installation of geothermal system caused him temporary hearing loss. He also reported that an endangered species, the woodthrush, has had some of its habitat destroyed. He expressed his disappointment in the project and its completion and assured that he would not be staying in Chadds Ford to retire which was his original plan. Light pollution from the site also bothers him, and he reported that Brueggemann was broken into over Christmas which raises safety issues regarding theft and home invasion.

Engineer Mastronardo responded that Brueggemann's use is commercially zoned properly and that it was the best use of the property. Mr. Dear exchanged information with Engineer Mastronardo, and Chair Love asked Engineer Mastronardo to meet with Mr. Dear and further document Mr. Dear's criticisms.

Rob King, Ring Road, applauded the Brueggemann site.

New Business

Supervisor Klaver presented considerations for establishing the compensation for the Township's elected Real Estate Tax Collector beginning January 1, 2014. There were questions and discussions concerning the presentation. A special meeting will be set to review the proposed resolution and adopt a formal resolution. The special meeting will be set up the week of January 21, 2013.

Committee Reports

Deb Reardon reported Open Space business.

Public Comments

Valerie Hoxter, Painters Crossing, asked if there was any answer as to why she wasn't allowed public comment at a December 3 Workshop.

Solicitor Donaghue responded that the Sunshine Act applied to the meeting, and that action taken by the Chairman, from legal standpoint, did not violate the Sunshine Act, and that the Chairman invited her concerns onto the next agenda, there was no official action and no deliberation and that his actions, the Chairman's, were perfectly appropriate from a legal standpoint. Ms. Hoxter was invited by the Chairman to speak on the issue at the next meeting.

Valerie Hoxter asked about the Township Manager's salary and whether or not it was mentioned in previous minutes and where it was mentioned in previous minutes. Secretary DiFilippo recalled the Manager's Salary being mentioned in previous minutes as far back as 2008 and agreed to find those minutes and provide those minutes.

Paul Koch, Baltimore Pike, asked what did the salary for the Manager entail? What was involved in the Manager's daily duties. The Manager's duties were discussed. Salary was further discussed.

Debbie Reardon, Open Space, commented on the use of the room and the proposed security system and not establishing zones.

Adjournment

Upon motion and second (Klaver/ Thorpe) the meeting was adjourned at 10:45 PM.

Respectfully submitted,

Matt DiFilippo
Secretary