

**HALFMOON TOWNSHIP OPEN SPACE PRESERVATION BOARD
REGULAR MEETING-MINUTES
SEPTEMBER 19th, 2012**

1. CALL TO ORDER

Chair Ron Hoover called the meeting to order at 7:10pm. Other members present were Bob Eberhart, Joe Tylka and Andy Merritt. Staff present was Susan Steele, Manager, Amy Smith, OSPB Administrator and Rebekah Seymour, Recording Secretary. No audience was present.

2. PLEDGE OF ALLEGIANCE

3. MINUTES

- ***MOTION: Mr. Merritt moved to approve the minutes of April 18th, 2012; Mr. Eberhart seconded; Vote 4-0-0; Motion carried.***

4. DISCUSSION ON LEASE VS. PERMANENT PURCHASE

Ms. Steele stated that the BOS has asked that the OSPB help to advise them on two different intents they have come up with for the future of the program by making a pros and cons list for a purchase program and a lease program. Ms. Steele further stated that the BOS has put a hold on advance payments and new applicants for a year to see if there is a way to secure the million+ dollars already put into the properties in the program since they are in a vulnerable position in the case of foreclosures. Ms. Steele stated that currently the BOS have three members who would like it to become a purchase program, one says either and one says keep it a lease program. Ms. Steele stated that she had spoken with Ms. Yurchak (not present) and an expert in this area from Philadelphia and both agreed there was currently no way to secure current lease/advances now. Mr. Hoover clarified that it sounded as if the inability to secure the money came from the way the ordinance was written at the time and the land was brought in with that possibly and with the right legal team the lease could be broken in a case such as foreclosure. Mr. Tylka stated that in certain leases the township just doesn't have a security interest supporting an advance due to improper documentation. Ms. Steele stated that typically tax dollars wouldn't be advanced without security and that if any of the properties go into foreclosure now it can't be written off and they would have to go to court because they are tax dollars. Ms. Steele further stated that the unsecured million dollars given in advances was now the main concern. Mr. Tylka clarified that in normal documentation if there is a property with a mortgage in place you would have to go to that bank/lender and negotiate an agreement that the lease would be accepted and this was not done in 15 cases. Mr. Tylka stated that during the 99 years of the lease, the OSPB lein would go away should the property be sold thru foreclosure. Mr. Tylka further stated the risk is the sale removes the Township lien and the only way to collect the advance payment would be by obtaining a judgment against the landowner. Ms. Steele stated that this is why the BOS wanted to clean up the ordinance before more land goes in or more money goes out. Mr. Hoover questioned why no investigation was done before now into these issues coming up to avoid current problems. Ms. Steele stated that at first the ordinance changed a lot and no one knows if it was taken to an attorney when the changes were made to make sure there were no issues before it was originally approved. Ms. Steele further stated that the original ordinance was not set up for advance payments.

Ms. Steele stated that the BOS wanted to know if it would be better to put out more leases or put in a rating system and only take the properties we want. Ms. Steele further stated that currently anything over 11 acres is accepted even if it is already protected by the government or it is undevelopable. Ms. Steele stated that the land already protected could still be put into the program but would not be paid for. There was a discussion on high-risk properties and

current and future property values. There was also brief discussion on looking into a program that would allow changes to be made only by the votes of the citizens, as well as, putting funds into a financial institution that could tightly control them. Ms. Steele stated that it might be beneficial to hire an outside expert for their opinion and expertise.

Ms. Steele gave a brief overview of financial expenditures made by the OSPB to date, as well as, statistics from the County preservation program to help facilitate discussion. There was brief discussion on properties that qualify for the County's preservation program and their relation to the land rating system. Ms. Steele stated that the Board of Supervisors wants a pros and cons list from the OSPB before making a final decision. Mr. Merritt stated that he believes the program should become a purchase program so that the board can be more selective in the land they choose. Mr. Merritt further stated that a 99 year lease made future generations decisions for them if they wanted to sell the property. Mr. Hoover stated that a future generation could do something with the property after the lease is up but in a permanent program no future generation could do something with the land. Mr. Merritt stated he had been given the opinion if you can purchase rather than lease, you purchase. Ms. Steele added that in a lease program the Township pays a lot of money over 99 years and get no permanent development rights. Mr. Merritt stated he believed development is inevitable and that a purchase program would help to manage this. Mr. Hoover disagreed because he believes inevitably there needs to be sustainability programs to maintain open space to grow food on. Mr. Merritt stated he felt the current lease program made it very easy for landowners to break the lease. Mr. Eberhart questioned why he felt this way. Ms. Steele commented that a lease can always be broken and even in the ordinance there were loopholes for this to occur. Mr. Merritt stated that if the Township owned the rights that land would always be protected and there wouldn't be the risk of broken leases.

Ms. Steele reviewed current points on the pros list thus far (full list is in the attached table). There was a brief discussion comparing final costs of preserving land within the two different program options. Mr. Merritt stated he was told with the current lease program the Township would be losing money after about 62 years instead of just owning land right now. Ms. Steele stated that the original referendum, given to the citizens to vote on, for the program stated it would be a purchase not a lease and this fact could create a serious legal problem. Ms. Steele commented that prior to the formation of the OSPB an advisory committee was formed who began to work on the Ordinance with an attorney outside of the area. Ms. Steele stated she spoke to this attorney and he commented that he advised the committee not to take some avenues they were discussing but the committee moved forward without heeding his advice. Mr. Merritt commented that this was why they needed to make sure they had someone who was knowledgeable about these things and advising them as they are being written. Ms. Steele further commented that as well as outside expertise there needed to be open-mindedness about their advisement.

Mr. Tylka stated that a pro for lease would be the ability for the Township to get out of the lease in the event of financial hardship. There was brief discussion about how this pro worked for both the land owner and the preservation board. Mr. Tylka explained the lease was a cheaper way to preserve bigger chunks of land. Mr. Eberhart commented that a landowner can get out of the lease if a permanent preservation method was found for the land.

5. OTHER BUSINESS

No other business was discussed.

6. CITIZEN'S COMMENTS

There were no citizen's comments.

7. ADJOURNMENT

The meeting was adjourned at 9:08 pm.

- **MOTION: Mr. Merritt moved to adjourn the meeting at 9:08 pm; Mr. Tylka seconded; Vote 4-0-0; Motion carried.**

Table of Pros for Both Program Options Discussed and Compiled by OSPB

Pros- Lease program	Pros- Purchase program
For a given number of dollars, preserve more acreage per year	Permanently protected from development
NO appraisal needed, saves about \$5,000-\$8,000 per property	Annual payments go towards purchase rather than lease
Less up-front costs- appraisals, engineering	Less annual administrative costs (legal fees, admin costs), more goes toward purchase costs
Funding Safety Net- can be more flexible with township and township can get out if it if financials dictate	Paying present value for land
Hands over bigger chunks of land to tie up while Township comes up with other avenues to preserve open space	More consistent with original referendum intent
	Tax Abatement benefits for property owners