

**HALFMOON TOWNSHIP OPEN SPACE PRESERVATION BOARD
REGULAR MEETING-MINUTES
NOVEMBER 16th, 2011**

1. CALL TO ORDER

Chair Ron Hoover called the meeting to order at 7:02pm. Other members present were Bob Eberhart, Ben Pisoni, Denny Thomson, Joe Tylka, Jerry Brown, Brooks Way and Andy Merritt. Staff present was Susan Steele, Manager; Amy Smith, OSPB Administrator; Kathleen Yurchack, Township Solicitor (arrived at 7:16pm) and Rebekah Seymour, Minute Recorder. No Audience present.

2. PLEDGE OF ALLEGIANCE

3. MINUTES

- ***MOTION: Mr. Pisoni moved to approve the minutes of November 2, 2011; Mr. Thomson seconded; Vote 8-0-0; Motion carried.***

4. PETERS & FRILING LAND RATING SYSTEM AND DESCRIPTION

The Board reviewed the land description provided by Mr. Thomson. Discussion ensued regarding steep slopes and arterial/local/collector streets. Mr. Way stated he thought that Peters application 2011-33 had 10 of the 40 acres set aside for light industrial (commercial use). After review it was determined there was no acreage set aside for light industrial. Ms. Smith said she would type up a copy of the rating systems for board members to sign.

Sandra P. Peters – 2011-32 – 31.5 acres

2.52 points for being over 11 acres to 50 acres
+2 points for being farmed 25% surface area for previous 5 years
+1 merit points for wildlife habitat
Total Points 5.52

- ***MOTION: Mr. Thomson moved to award this property +1 point for wildlife habitat and move this application forward to the Board of Supervisors; Mr. Pisoni seconded; Vote 8-0-0; Motion carried.***

Sandra P. Peters – 2011-33 – 40.25 acres

2.72 points for being over 11 acres to 50 acres
+2 points for adjoining an arterial street
+2 points for being farmed 25% surface area for previous 5 years
+1 merit points for class I soils
Total Points 8.22

- ***MOTION: Mr. Thomson moved to award this property +1 point for class I***

Soils and move the application to the Board of Supervisors; Mr. Pisoni seconded; Vote 8-0-0; Motion carried.

Wayne M. & Margaret E. Friling - 2011-34 – 30 acres

2.4 points for being over 11 acres to 50 acres
+1 point for adjoining another parcel preserved in the OSPP
+2 points for being farmed 25% surface area for previous 5 years
-1 point for containing more than 25% steep slopes and/or hydric soil
+1 merit point for class II soils
+1 merit point for the quality of the present forest
Total Points 6.4

● ***MOTION: Mr. Thomson moved to award this property +1 point for class II soils and +1 for the quality of the present forest and move the application forward to the Board of Supervisors; Mr. Pisoni seconded; Vote 8-0-0; Motion carried.***

- 5. WAIVER REQUEST ON 60 DAY NOTIFICATION FOR LAND TRANSFER FROM ADALINE STINE TO BARRON & LYNNE STINE**
Ms Yurchak stated that in the ordinance the provided process for a land transfer is that the owner submits to the township a request for approval of the transfer 60 days before to make sure there is time to review. Ms. Yurchak stated that the transfer should be approved if no changes are made to the easement (primarily to notify purchaser of an easement) and that availability of public access will remain the same or increase. Ms. Yurchak commented that in the transaction the land is being conveyed to the son and after review of the deed she saw no reason to deny this request. Mr. Eberhart questioned if the transfer even required a waiver. Ms Yurchak answered that it does not necessarily need a waiver and that the ordinance says a written request must be submitted 60 days before the proposed transfer and that the board (township) must send written approval before the transfer can take effect.

Mr. Thomson questioned if there were any issues within the transfer in regards to access. There was a discussion on whether the right of way would carry over in the transfer or any future transfers. Mr. Way stated it would because Mr. Barron and Ms. Lynne Stine would have to sign an acknowledgement of the open space board for the transfer to occur that includes a specification for a right of way. Ms Yurchak stated that the right of way was in the deed but she would double check on that.

- ***MOTION: Mr. Way motioned to recommend approval to Board of Supervisors for the transfer to occur; Mr. Brown seconded; Vote 8-0-0; Motion carried.***

6. FIVE YEAR REVIEW RECOMMENDATION DRAFT APPROVAL

Ms. Steele stated that the first recommendation was regarding lease documentation creating a non-refinance condition for landowners and that after Ms. Yurchak clarifies the policies the language might want to be revised. Ms. Yurchak explained what the provision in this lease was for. Ms. Yurchak stated that if the property that goes into open space has a mortgage and is foreclosed upon then the easement is voided out because it is second to the mortgage. Ms. Yurchak stated that the township takes that risk. Ms. Yurchak stated that when the township gets a property into the program and it goes into title review they can see the mortgage and decide if the property is worth the risk (part of risk analysis). Mr. Tylka questioned whether the lease goes away because the board did not get an agreement with the mortgage holder at the time. Ms. Yurchak confirmed this and stated that the OSPB does not get subordination agreements at this time because it would be difficult to get properties into the program. Mr. Tylka questioned why the lease goes away and how it was different from a commercial building with a mortgage that has leases. Ms. Yurchak stated that it was different because the lease was an easement on the property; that it is listed as a conservation easement under property interest. Ms. Yurchak explained that an existing mortgage would be first and in the event of foreclosure anything under that gets wiped out but with a new mortgage the lease would be first to that new mortgage. Ms. Yurchak suggested that the board protect refinancing with language in the lease agreement so that a landowner can get a mortgage or refinance much more easily. Mr. Tylka questioned if there could be an agreement with lenders that the bank can have their first position but they can not close out Halfmoon Township and their position on the lease. Mr. Brown suggested that the board better research that before making that kind of request. Ms. Yurchak stated that the difficulty in this clause was that no one refinances the same way so it's hard to make a general clause to cover every scenario. Mr. Way pointed out that if the property is sold then the lease becomes the first priority automatically.

Mr. Merritt stated that if the lease is first it might create a hardship for the landowner to get a mortgage since some banks won't take the risk of being second. Mr. Merritt stated that a landowner might want to get out of the program to get a lease and then come back in. Mr. Tylka suggested that the board provide an explanation to those in the program who want to refinance or get another mortgage of the process for them to do so. There was a discussion about refinanced priority order in which some board members wanted to know about making a subordinate mortgage agreement. Ms. Yurchak stated that it would require a very expensive appraisal and Ms. Steele said that doing so would increase attorney fees. Mr. Brown's concern with that was if we have to cut down up front payments because of the subordination people would be scared away from the program. Ms. Steele asked if they wanted to change the refinance clause now or talk more about what they had. Mr. Way suggested that this issue be tabled until the next meeting.

Ms. Steele read through the priority order of advance payments and stated that there would be no suspending of advance payments since this priority was being

put into affect. Ms. Steele stated it was at the board's discretion if it was a 5, 10, 15 or 20 year advance. Ms. Steele also explained the process of application for advance payments. Mr. Eberhart questioned if this priority order was enforceable; was it in the code or ordinance. Mr. Tylka stated it was more just a tool to help in decision-making for advance payments. Mr. Eberhart questioned if it applied retroactively to those under that old ordinance. Ms. Yurchak stated that it did because it did not impede on the individual's rights. Discussion ensued about which ordinance properties fell under the new or old ordinance. Ms. Steele then stated that the next recommendation was to correct inconsistencies between the ordinance and lease which was started in August through the codification. Ms. Steele stated some of the recommendations could not be discussed because Ms. Yurchak did not have enough time to look over the documentation due to other obligations. Ms. Steele stated the Board had agreed on the map provided by Centre Region Planning Agency to attach to the ordinance and lease agreements.

7. OTHER BUSINESS

No other business discussed.

8. CITIZEN'S COMMENTS

There were no citizen's comments.

9. ADJOURNMENT

The meeting was adjourned at 9:07pm.

- ***MOTION: Mr. Merritt motioned to adjourn the meeting at 9:07pm; Mr. Tylka seconded; Vote 8-0-0; Motion carried.***