

**HALFMOON TOWNSHIP OPEN SPACE PRESERVATION BOARD  
REGULAR MEETING-MINUTES  
DECEMBER 7<sup>TH</sup>, 2011**

**1. CALL TO ORDER**

Jerry Brown called the meeting to order at 7:03pm. Other members present were Bob Eberhart, Joe Tylka, Brooks Way and Andy Merritt. Staff present was Susan Steele, Manager; Amy Smith, OSPB Administrator; Kathleen Yurchack, Township Solicitor (arrived at 7:05pm) and Rebekah Seymour, Minute Recorder. No Audience present.

**2. PLEDGE OF ALLEGIANCE**

**3. MINUTES**

- *MOTION: Mr Tylka moved to approve the minutes of November 16, 2011; Mr. Way seconded; Vote 5-0-0; Motion carried.*

**4. DISCUSSION REGARDING THE LANGUAGE “NOT SUBJECT TO FUTURE MORTGAGES”**

Ms. Yurchack explained that there are two different options when it came to priority order in mortgages. Ms. Yurchak stated the first was where the open space easement does not have a subordination agreement. Ms. Yurchak explained this would mean that the mortgage was recorded first, the easement would be second and then any refinance or new mortgage would come last. Ms. Yurchak further explained that if the property was foreclosed upon then under this option the easement and any mortgages recorded under would be erased in favor of the first mortgage. Ms. Yurchack then explained the second option would be if the OSPB were to request a subordination agreement from the bank. Ms. Yurchak stated that if a foreclosure were to happen on the first mortgage the easement would not be erased. Ms. Yurchack stated that the OSPB operates under the first option.

Mr. Tylka inquired if the land was foreclosed upon was the OSPB permitted to purchase the land. Ms. Yurchack answered yes but it must be sold within three years or be put into a land trust agreement. Mr. Tylka questioned if the OSPB is operating under the first option then how can they protect the advance payment monies invested in the property by the township if it is sold or foreclosed upon. Ms. Yurchack stated that if only annual payments are being paid at the time, the only thing lost are time and effort but if a 20 year advance was paid then the board is out that money and in a worse case scenario the board might be out 19 years of an advance payment. Mr. Eberhart commented that he had concerns regarding the wording of the language and feels that it prohibits a new mortgage on the property if the property is sold. Mr. Eberhart stated this could be a problem for the potential buyer of the property. Ms. Yurchak stated she would not change the language because it is written according to state law but would be

willing to add language that states the township may be interested in subordinating to the bank. Ms. Yurchak stated she would draft additional language for the next meeting.

## **5. CODIFICATION**

Ms. Steele gave an overview of the discussion held on October 19<sup>th</sup>, 2011 in regards to suggestions of changes to the membership clause. Mr. Brown questioned the decision to remove the requirement of 2 members actively engaged in farming. Mr. Way stated that it might be because in 50-60 years there might not be farmers anymore. Ms. Steele stated that all boards should have term limits and that it is a state statute to have it open to everyone in the community that has an interest. Ms. Steele stated that according to the language now the only way to remove a board member was malfeasance, which is uncommon. Ms. Steele commented that this brought on discussion about the board composition and how they wanted the board comprised. Mr. Brown stated that the original thought behind the requirement of active farmers was to have a diverse opinion and also so that those involved in agriculture would also be able to guide decisions on land that is to be accepted into the program. Ms. Smith suggested Ms. Seymour read back what began the original discussion at the last meeting. Ms. Seymour read back that the discussion began when Mr. Thomson asked what the definition of “actively engaged in farming” was (i.e. supplementary or main income). There was discussion about board composition in regards to keeping the requirement of 2 landowners actively engaged in farming. Mr. Brown stated he felt it was important to have two farmers on the board. Mr. Merritt stated the Board of Supervisors value the input and recommendations of the OSPB and questioned why they needed to be on the OSPB. There was discussion that only one Board of Supervisor member was needed. Mr. Tylka suggested rewriting the membership composition, as stated in the code, and suggested this composition be written in; one member from the Board of Supervisors, one member from the Planning Commission and six landowners (2 of those to be actively engaged in farming). There was a discussion about putting this language in and changing the membership clause to read that the Board of Supervisors would appoint members as recommended by the OSPB leading to the decision to have the language drafted to be put into code.

Mr. Eberhart stated that he was the only one to vote against removing the alternate membership clause. Ms. Steele said that to reverse that motion the Board would have to rescind the previous motion. Ms. Seymour read back the motion from October 19<sup>th</sup>, 2011. Mr. Eberhart stated that the only reason we could have the meetings this past year was because there was alternate members that could give the board a quorum. Ms. Smith stated if the membership was changed there would not be a need for alternates. Ms. Smith stated the concern with alternates is they would not attend the meetings enough to be current on agenda items. Mr. Eberhart stated he still felt there was a need for alternates.

- ***MOTION: Mr. Eberhart moved to rescind the motion made on October 19<sup>th</sup>, 2011 to strike the alternate member clause from the code; Mr. Way seconded; Vote 4-0-1; Messrs. Eberhart, yea; Way, yea; Brown, yea; Tylka, yea; Merritt abstained; Motion carried.***

**6. OTHER BUSINESS**

No other business discussed.

**7. CITIZEN'S COMMENTS**

There were no citizen's comments.

**8. ADJOURNMENT**

The meeting was adjourned at 8:47pm.

- ***MOTION: Mr. Merritt motioned to adjourn the meeting at 8:47pm; Mr. Tylka seconded; Vote 5-0-0; Motion carried.***