

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday September 15, 2014  
7:00 pm

### I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, September 15, 2014 at the Ferguson Township Municipal Building. In attendance were:

**Board:** Richard Mascolo, Chairman  
Elliott Killian  
Steve Miller  
Janet Whitaker

**Staff:** Mark Kunkle, Township Manager  
David Pribulka, Assistant Township Manager  
David Modricker, Director of Public Works

*Others in attendance included:* Heather Bird, Recording Secretary; David and Joyce Burns, Burns Subdivision

### I. CALL TO ORDER

Mr. Mascolo called the Monday, September 15, 2014, regular meeting to order at 7:00 pm.

### II. CITIZENS INPUT

### III. PUBLIC HEARINGS – ORDINANCES

1. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES, CHAPTER 19, SIGNS AND BILLBOARDS, PART 1, SIGN REGULATIONS, AS FOLLOWS: (1) SECTION 102, DEFINITIONS, BY DELETING THE EXISTING DEFINITION OF “SIGN OFFICER” AND SUBSTITUTING THEREFORE A NEW DEFINITION FOR “SIGN OFFICER”; (2) SECTION 110, COMMERCIAL USES, SUBSECTION A, COMMERCIAL USE SIGNS, (5), BILLBOARDS AND OFF-PREMISES SIGNS, AS FOLLOWS: (I) BY DELETING THE EXISTING (A), NUMBER, AND SUBSTITUTING THEREFORE A NEW (A), NUMBER, AND (II) DELETING THE EXISTING SUBSECTION (G), SITE PLAN AND CHANGING THE EXISTING SUBSECTION (H), ENGINEERING CERTIFICATION TO (G); AND (3) SECTION 112, PERMITS, BY DELETING THE EXISTING SUBSECTION 3, ISSUANCE OF PERMITS, AND SUBSTITUTING THEREFORE A NEW SUBSECTION 3, ISSUANCE OF PERMITS.

Mr. Kunkle stated the ordinance was amended in response to the Nittany Outdoor Advertising, LLC and Stephanas Ministries vs. College Township a U.S. Federal court decision. The impact of that decision was taken into consideration with the Ferguson Township Sign Ordinance. The Sign Officer (Zoning Administrator) and Director of Planning and Zoning met with representatives from College Township and the Township Solicitor to determine what amendments should be made to the Township Sign Ordinance to keep it in compliance with the U.S. Federal court case. The definition of the Sign Officer has been determined to be the Ferguson Township Zoning Administrator, a change in the review and permitting period for billboard signs was made to allow for a 30 day review period upon submission of an application and payment of all fees. Should the Sign Officer fail to notify the applicant of the action taken, approval or denial, the application would be considered approved as submitted. Finally with regard to billboards and off premise signs the amendment provides for special exception that these signs would be granted by the Zoning Hearing Board.

Mr. Miller made a motion to ADOPT Ordinance #993 amending the Code of Ordinances, Chapter 19, Signs and Billboards. Ms. Whitaker seconded the motion.

ROLL-CALL VOTE: Mr. Killian: YES; Mr. Mascolo: YES; Mr. Miller: YES; Ms. Whitaker: YES

#### **IV. PUBLIC HEARINGS – RESOLUTIONS**

- 1. PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AUTHORIZING THE CHAIRMAN OF THE BOARD OF SUPERVISORS TO SIGN A DECLARATION OF RESTRICTIONS AND COVENANTS TO MAINTAIN THE REQUIRED POST CONSTRUCTION STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICES REQUIRED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Mr. Kunkle stated this document is part of our NPDES permit for the West Whitehall Road improvement project to guarantee the best management practices that were part of the NPDES permit for that project will be maintained. This document must be recorded with the County Recorder of Deeds. This will need to be recorded in order to close out the permit.

Mr. Modricker stated that this is a new requirement that the County is responsible for. Typically transferred from one party to another but in this case it is a statement that the Township will maintain the stormwater controls.

Mr. Killian made a motion to ADOPT Resolution #2014-31 authorizing the Chairman to sign a declaration of restrictions and covenants to maintain the required post construction stormwater management best practices. Mr. Miller seconded the motion.

ROLL-CALL VOTE: Mr. Killian: YES; Mr. Mascolo: YES; Mr. Miller: YES; Ms. Whitaker: YES

#### **V. COMMUNICATIONS TO THE BOARD**

Mr. Killian attended the Share the Path event.

#### **VI. ACTION ITEMS**

- 1. BURNS SUBDIVISION – PLAN LAST DATED SEPTEMBER 5, 2014, PLAN DEADLINE DECEMBER 8, 2014.**

Mr. Kunkle stated this plan is for a replot of two adjacent lots resulting in the enlargement of one lot from 1.45 acres to 2.19 and reducing the size of the other lot from 3.63 to 2.58 acres. The Director of Planning and Zoning outlined the conditions for approval as recommended by the Planning Commission.

Mr. Killian made a motion to APPROVE the Burns Subdivision Plan subject to the completion of the outstanding conditions as set forth in the Director of Planning and Zoning memorandum dated September 9, 2014. Ms. Whitaker seconded the motion.

The motion passed unanimously.

- 2. 2015 MINIMUM MUNICIPAL OBLIGATION PENSION CERTIFICATION**

Mr. Kunkle stated the Board annually receives an Act 205 Minimum Municipal Pension Certification as required by the Act which must be certified to the Board before September 30<sup>th</sup>. The certification indicated the total pension cost of \$427,744. The Township anticipates receiving funding from the Commonwealth of \$279,673.81 through the Act 205 funding leaving a net cost to the Township of \$148,070.30. This is an increase from 2014 to 2015 of approximately \$65,685. 2015 should be the peak year of Township contribution to the pension plans as a fall out from the 2007-2009 market downturns. Secondly in anticipation of the Board approving the addition of two new Public Works employees, an Arborist and the potential promotion of one officer to Sergeant these salaries were factored into the calculation.

### **3. 2014 HALLOWEEN DATE**

Mr. Kunkle stated the General Forum received a recommendation from the Police Chiefs from State College Borough, Ferguson and Patton Townships recommending the Halloween Trick or Treat night to be on Thursday, October 30<sup>th</sup> between the hours of 6pm and 8pm.

Mr. Killian made a motion to ESTABLISH Trick or Treat night in Ferguson Township on Thursday, October 30<sup>th</sup> between the hours of 6pm and 8pm. Ms. Whitaker seconded the motion.

The motion passed unanimously.

### **4. HORSESHOE CLOSURE APPLICATION / APPEAL**

Mr. Kunkle stated the Board received a request for closure of the northern portion of Horseshoe Circle for a neighborhood block party. Typically these reviews go to the Police and Public Works departments for review and can take approximately 30 days. The applicant was not aware of this time frame and this would not allow for the amount of time. The permit was denied by Mr. Kunkle because Horseshoe Circle is on the listing as a road that is not permitted to be closed. The appeal process is before the Board of Supervisors. Mr. Kunkle recommended that if the Board approves this closure it be reviewed by the Police and Public Works departments and the applicant be required to accept any conditions placed by these departments.

Mr. Killian asked if this road has been closed in the past. Mr. Kunkle stated that yes in the past they have held a neighborhood party and closed the road.

Ms. Whitaker asked if there is a neighborhood association involved in the party. Mr. Kunkle responded no.

Ms. Conrad stated that police do not anticipate any problems with this closure.

Mr. Kunkle stated a concern would be temporary tents or items in the roadway.

Ms. Conrad stated as long as they apply to the conditions, no problems should occur.

Mr. Killian made a motion to APPROVE the request for closure of Horseshoe Circle on September 28<sup>th</sup> from 2pm to 8pm subject to the conditions provided by the Police and Public Works Departments. Ms. Whitaker seconded the motion.

The motion passed unanimously.

### **5. TRESSLER SUBDIVISION DISAPPROVAL**

Mr. Kunkle stated that absent the applicants meeting the conditions without denial from the Board the plan would be considered approved and would not need to meet any remaining conditions. The outstanding items as reason for denial of the plan would be failure to meet Chapter 22 Section 513.2B fee in lieu of parkland, Chapter 22 Section 402 dedication of additional right-of-way for Nixon Road, Chapter 22-Section 304.7 requiring a digital copy of the plan, Chapter 22-402.D final house numbers, Chapter 22 Section 401.A.4 and 4-1.B(2) the plan must be signed and all fees paid to the Township and Chapter 22 Section 401 all signature blocks must be completed. These six conditions were not met and are the reason for the denial of the plan.

Mr. Killian asked if the applicants were notified about the denial. Mr. Kunkle stated that the Director of Planning and Zoning attempted to notify the applicant and engineering firm for the plan to receive submission of a 3<sup>rd</sup> and final time extension.

Mr. Killian made a motion to DENY approval of the Tressler Subdivision Plan dated November 20, 2013 subject to the six conditions set forth in the memorandum from the Director of Planning and Zoning dated September 15, 2014. Mr. Miller seconded the motion.

The motion passed unanimously.

## **6. CONSENT AGENDA**

Mr. Killian made a motion to APPROVE the consent agenda including a Payment Authorization for Alpha Space Control, Road Striping \$57,754.25, Surety Reduction for Foxpointe Phase 10 \$9,690, Surety Revision for Stonebridge Section V \$61,502 and Time Extensions for Hunter's Chase Phase 8 and CATA Land Development Plan. Mr. Miller seconded the motion.

The motion passed unanimously.

## **I. REPORTS**

### **1. Manager**

Mr. Kunkle stated staff has met with the Director of the Smeal Business College APEX Program to discuss a project to complete a market analysis of the West College Avenue TSD. The purpose of the project is to determine the intensity of the permitted uses and the viability of these uses through market data analysis. The goal is to determine if the required retail to residential ratio is correct. This project will compete with potentially 60 projects in total, with 16-18 projects undertaken by the MPA students in the program. The Township will know if the project was selected sometime in November/December. Staff also met with representatives of Toll Brothers on the Campus Living PRD project. A plan is scheduled to be submitted on October 1 for review and the concept plan presented to the Board on October 6. The Board and public have been invited to attend a dedication ceremony at the Lions Club Community Park for the naming of a section of Route 45 in honor of Sergeant Adam Hartswick. The CATA ground breaking will be on October 10<sup>th</sup>.

### **2. Public Works Director**

Mr. Modricker stated the overhead street light at Martin Street and Park Crest Lane is in process. West Penn Power is awaiting payment to begin work. Rosemont Drive / Selders Circle is a drainage improvement project that next year should have the University Area Joint Authority work completed. The Township will be completing the drainage portion next year. Staff is working on the 2015 Capital Road Improvement projects. Staff has been surveying at the State College Teener League Baseball field for improvements. Homestead Park pavilion was awarded to LandServ and although the work has not begun it is expected to be done this fall. Safety improvements have been completed at Blue Course/West College Avenue. A few streets within the Traditional Town Development are out for bid for winter maintenance.

### **3. Planning and Zoning Director**

Mr. Kunkle stated the Planning Commission received a presentation about a proposal to build a farm cafe and cidery within the rural agricultural district. This item will be on the Board agenda for feedback on at their October 6<sup>th</sup> meeting. The Planning Commission also discussed converting some of the Traditional Town Development (TTD) land into Industrial Research and Development (IRD). The Commission does not see the demand for additional IRD land.

### **4. Chief of Police**

Chief Conrad stated the Part One crimes were 12 for the month which were the same as last year and overall this year these crimes are down. Part Two crimes were 66 this year compared to 65 last year with these also down year to date. Total crimes are down 6% year to date, this follows a national trend. Other calls for service are down 1% for year to date. Traffic citations are down for

the month but up year to date, everything else is down except for traffic stops and citations. Particular case notes include the August pipe bomb, this defendant remains in jail with \$500,000 in bail. At the Tudek Dog Park there was the third case of a small dog being substantially injured by a larger dog due to the owners placing the dog in the large dog area. There were two deaths and although the automobile crashes were down, three of these had very serious injuries.

## **5. COG Committee Reports**

### **a. Finance**

Mr. Mascolo stated the committee reviewed the COG audit, with no major comments other than a deficiency with approved invoices by the Finance Committee. The committee authorized an expenditure of approximately \$51,000 for an emergency purchase of a used aerial ladder truck for Alpha Fire to replace the Stuphan aerial ladder truck that was removed from service at the direction of the manufacture. A financial services update was presented and everything is on schedule. The committee received a letter from University Area Joint Authority requesting an update of the Centre Region Act 537 Sewage Facilities Plan.

### **b. Human Resources**

Ms. Whitaker stated the committee approved the job description for the new Human Resources Officer position. The committee compared the Fair Labor Standards Act position exemptions and overtime regulations to the COG policies and found that COG is in compliance. This past Saturday the assessment training center was used for the new position of Assistant Fire Chief.

### **c. Public Services and Environmental**

Mr. Killian stated the committee had the SEDA COG discuss energy audits for municipalities. One was completed for the State College Borough and these audits propose ways to change items to save energy. An update to the Act 537 Sewage Facilities Plan was discussed and includes extending the beneficial reuse line and making Penn State on the same plan, the treatment capacity and extending sewer service to Halfmoon Township. The committee discussed the new contract for refuse and recycling.. The new contract is with Advanced Disposal and the committee rejected the idea of charging customers \$1 a month to receive recycling coupons.

### **d. Transportation and Land Use**

Mr. Miller stated the committee discussed the Memorandum of Understanding between COG and CBICC for point of contact for developers and businesses located outside of the area. They received a presentation on the Redevelopment Capacity Report which will be occurring over the next year to determine where the potential for redevelopment is located within the Centre Region. Lastly, an update was received on the scheduling for the bicycle plan that is being completed in response to the study and application for a bicycle friendly community.

## **IX. MINUTES**

Mr. Killian made a motion to APPROVE the September 2, 2014 Regular Meeting Minutes. Ms. Whitaker seconded the motion.

The motion passed unanimously.

## **VII. MISCELLANEOUS**

Mr. Miller discussed the idea of having the Township rejoining the Library as full membership. Would the Board agree to this and like the Township Manager to look into the details. Mr. Miller stated that the issues that occurred years ago for the Township to get out of the membership have long passed and it is time to rejoin. The Board had a consensus to go forward with looking into rejoining at full

membership. Mr. Miller also recommended that the Township should have a second member to the Library Board.

**VIII. ADJOURNMENT**

Mr. Killian made a motion to ADJOURN the meeting. Ms. Whitaker seconded the motion. The motion passed unanimously.

With no further business to come before the Board of Supervisors, Mr. Mascolo adjourned the regular meeting at 7:54 pm.

Respectfully submitted,



---

Mark Kunkle, Township Manager  
For the Board of Supervisors  
Date approved by the Board: 10/06/2014