

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, January 5, 2015  
7:16 pm

### I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, January 5, 2015 immediately following the organization meeting at the Ferguson Township Municipal Building. In attendance were:

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

**Staff:** Mark Kunkle, Township Manager  
David Pribulka, Assistant Manager  
David Modricker, Public Works Director  
Maria Tranguch, Planning & Zoning Director

*Others in attendance included:* Heather Bird, Recording Secretary; Jon Williams, Cottages; Jason Doornbos, Cottages; John Sepp, PennTerra Engineering; Terri and Tom Sowerby, Cottages; Ron Lucas, Cottages; Jeanne Fudrow, Cottages; Roxie Nestlerode, Cottages; Thomas Corman, Tussey Farm Estates; Deanna Nardozzo, Tussey View Estates; Sarah Walter, Centre County Ag Preservation; Bill Keough

### II. CALL TO ORDER

Mr. Mascolo called the Monday, January 5, 2015, regular meeting to order at 7:16 pm.

### III. CONSENT AGENDA

### IV. PUBLIC HEARING – ORDINANCES

1. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AMENDING THE CODE OF ORDINANCES: APPENDIX H, STREETS AND SIDEWALKS BY ACCEPTING: (1) A DEED OF EASEMENT FROM RICHARD J. AND MARTHA F. SHOWALTER FOR A PUBLIC ROAD; (2) A DEED OF EASEMENT FROM GUY A. AND VIRGINIA B. KOCHER FOR A PUBLIC ROAD; (3) A DEED OF EASEMENT FROM DAVID L. AND JOYCE H. BURNS FOR A PUBLIC ROAD; (4) A DEED OF EASEMENT FROM RICHARD L. FYE ESTATE, RAY FYE AND JOSEPH FYE, CO-EXECUTORS FOR A PUBLIC ROAD; (5) AN EASEMENT AGREEMENT FROM CHRISTOPHER J. FAGAN AND REBECCA KAY MOORE.

Mr. Kunkle stated the first four are acceptances of additional right-of-ways along public roads and the fifth one is to allow for the relocation of the Science Park Road bikeway for the placement of a utility pole.

Mr. Killian made a motion to ADOPT Ordinance #996 accepting certain deeds of easement along Marengo Road and Deibler Road and an easement along Science Park Road. Mr. Miller seconded the motion.

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

2. A CONTINUANCE OF A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 27 ZONING, PART 2 DISTRICT REGULATIONS, SECTION 209 COMMUNICATIONS FACILITIES AND TOWERS IN ITS ENTIRETY AND ADOPTING A NEW SECTION 209 WIRELESS COMMUNICATIONS FACILITIES.

Mr. Pribulka stated the public hearing was opened on December 8<sup>th</sup> and continued until this meeting to allow time for the Centre Region Planning Agency (CRPA) to review the proposed ordinance in accordance with the Council of Governments Articles of Agreement. A memorandum was included in the packet from Eric Vorwald, CRPA, stating the proposed ordinance is consistent with the 2013 Centre Region Comprehensive Plan and no specific comments were offered from CRPA. The ordinance establishes guidelines that allow for greater regulation of new facilities both inside and outside the public right-of-way and non-tower structures that are affixed or co-located on existing structures. The Cohen Law Group also reviewed the ordinance for compliance with current federal and state laws. The Cohen Law Group recommended not including Exhibit A, a map of the intersections of arterial/arterial and arterial/collector street classifications where towers will be permitted to accommodate neighborhoods where no above ground utility infrastructure exists, to allow for changes in the future.

Mr. Killian requested the map, Exhibit A, be available on the Township website.

Ms. Whitaker made a motion to ADOPT Ordinance #997 amending the Code of Ordinances by repealing Chapter 27 Zoning, Part 2 District Regulations, Section 209 Communications Facilities and Towers in its entirety and adopting a new Section 209 Wireless Communications Facilities. Mr. Killian seconded the motion.

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

## **V. PUBLIC HEARINGS – RESOLUTIONS**

### **1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, REPEALING RESOLUTION 2014-03 AND RESOLUTION 2014-05 ESTABLISHING A NEW SCHEDULE OF FEES.**

Mr. Pribulka stated several new changes were proposed to be included in the 2015 Schedule of Fees. These include changes to fees that were recommended as a result of an analysis completed by Township staff that compared actual cost incurred to revenue collected for permits issued by the Township. Other proposed changes include amendments to fees charged for refuse and recycling in accordance with the new regional contract, health department reviews and the introduction of new fees for wireless communications facilities.

Mr. Mascolo noted a change to Special Events, Permits Organization, should read 501 (c)(3) not 50 (c)(3).

Mr. Killian made a motion to adopt Resolution #2015-01 establishing the 2015 Township Fee Schedule. Mr. Miller seconded the motion.

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

## **VI. PUBLIC HEARINGS – OTHER**

### **1. A CONTINUATION OF A PUBLIC HEARING ON THE COTTAGES AT STATE COLLEGE PLANNED RESIDENTIAL DEVELOPMENT.**

Mr. Mascolo stated that all of those individuals planning to comment need to be sworn in. Mr. Mascolo then swore in those individuals who planned to comment.

Ms. Tranguch stated that on October 6, 2014, Penn Terra submitted a Tentative Planned Residential Development (PRD) on behalf of Toll Brothers Inc. The proposal is located on three parcels on the south side of Whitehall Road and would extend Blue Course Drive to the proposed Whitehall Road Regional Park. The total acreage of the proposed PRD site is 43.7

acres. The applicant proposed a cottage style development much like The Retreat in College Township. The proposal consists of 268 units, 1,093 beds and has an average density of 6.1 units per acre. On November 3, 2014, the compiled staff and regional review comments were sent to the applicant and later discussed with the applicant on November 19, 2014. Based upon these review comments and discussion, Penn Terra submitted a revised plan on December 15, 2014. A revised Traffic Impact Study was submitted on December 23rd. Both the revised PRD Plan and the Traffic Impact Study are currently under the second review. Staff anticipates having all of the PRD reviews back this week. Staff has begun to draft preliminary Terms and Conditions for the PRD. The larger discussion items for the Terms and Conditions include those items that were mentioned at the start of the public hearing. The Terms and Conditions include the number of unrelated individuals per household for which Toll Brothers is requesting 4.08 unrelated individuals per household. Normally, the regulations would permit no more than three unrelated individuals per household. Another unresolved issue is the riparian buffer ordinance regulations, which stipulate that grading may not occur within the 50 foot floodplain buffer. With regard to parking, a number of review comments on the first review were generated because the parking provided in the original plan was greater than what was required under the PRD regulations and greater than what was recommended in the study provided. The new submission proposes to reduce the space to 1,039 spaces, which would be 0.95 spaces per bedroom. Township staff is working with Toll Brothers to come to a solution on the timing of ownership and approvals. In particular, the land will need to be re-subdivided to include the stormwater facilities, as well as the additional ROW needed for the roundabout. Approval of the preliminary PRD plan is not contingent on the re-subdivision plan; however, a final PRD plan is contingent upon the re-subdivision plan. The last outstanding item is traffic. On November 25<sup>th</sup>, Township Staff met with PennDOT, Centre Region Parks and Recreation, and the applicant to discuss and clarify review comments from the Traffic Impact Study (TIS). The TIS was resubmitted on December 23rd. Until the TIS is revised to the satisfaction of Township and PennDOT reviewers, the traffic impacts will not be known.

Mr. Jon Williams, Williams and Associates, began by responding to Ms. Tranguch's comments above. In regards to number of unrelated per unit, the average is 4.08 but they will be requesting a maximum of 5 per unit. He restated the new parking will be .95 spaces per bedroom.

Mr. John Sepp, PennTerra Engineering, agreed with Ms. Tranguch dates for the plan and study submission.

Mr. Williams presented the location map and revised site plan for the project. The overall general layout did not change, but the specific comments from staff and neighbors were addressed. The biggest changes were reducing the number of parking stalls, increasing the height of the fence neighboring Tussey View to eight feet with vegetation on both sides of the fence, adding bio-swales, relocating the tallest building on the site away from Tussey View, widening the multi-use path, submitting the preliminary landscape plans improving the riparian buffer zone, and revising the stormwater basins. The current R4 zoning permits up to 665 units and the PRD would allow up to 764 units. The plan proposes 268 units, a 60% reduction in the currently allowed density. The impervious surface coverage is less than permitted at 40% coverage. The site has been designated for high density by the Centre Region Comprehensive Plan. The housing is designed to accommodate students. The Blue Course Drive Extension will be constructed as part of this plan. The riparian buffer will be planted to assist with the flow of water. The project will bring a high-quality housing option the local community. All of the dwellings will have sprinkler systems installed. The housing will have 24-hour site management including one onsite property manager. The overall open space is 60% of the site. The

community encourages alternate transportation such as the Centre Area Transportation Authority. Mr. Williams reviewed the typical amenities that may be included on the site.

Mr. Miller made a motion to CLOSE the public hearing on The Cottages at State College Planned Residential Development plan. Mr. Killian seconded the motion. The motion passed unanimously.

## **VII. COMMUNICATIONS TO THE BOARD**

Mr. Killian stated he received a comment about the approachability of the Township Police Department. They are very easy to work with and have been for years.

Mr. Mascolo received a comment for Mr. Modricker stating that individuals complained that Blue Course Drive crossing over West College Avenue should have a right lane turn only. The merge is unsafe. Mr. Modricker advised that he would review the issue with the Township Engineer.

## **VIII. ACTION ITEMS**

### **1. APPLICATION FOR REZONING TAX PARCEL 24-4-10 – 1900 CIRCLEVILLE ROAD**

Mr. Kunkle stated staff received an application for rezoning of tax parcel 24-4-10, 1900 Circleville Road. The property is a one half acre lot and was previously owned by Harry and Irene Corl. The lot was the original homestead for the farm prior to the parcel being rezoned Planned Residential Development. When the land was rezoned to R1 with a PRD overlay, the zoning on the homestead was never changed from Rural Residential (RR). Today this land is an island in the sense that all the surrounding properties have been rezoned. Today, the request is to rezone this property from RR to Multi-Family Residential (R3). The property is surrounded by various zoning including R3, PRD and TTD.

Mr. Killian made a motion to CONSIDER rezoning of tax parcel 24-4-10 and forward the application of William J. and Marcelina B. Rothwell rezone tax parcel 24-4-10 to the Ferguson Township Planning Commission for review and recommendation. Ms. Whitaker seconded. The motion passed unanimously.

### **2. VARIANCES**

#### **a. THISTLEWOOD ASSOCIATES, LOT 12 THISTLEWOOD SUBDIVISION**

Mr. Kunkle stated the variance application is for Lot 12, Thistlewood tax parcel 24-736-12. The applicant is seeking a variance to permit the access driveway to cross a very small area of the riparian buffer. Between the time that the Zoning Administrator received the initial plan and the application that was submitted, the reviewed drawing was changed. Many of the variances were addressed with the new drawing. Only two sections will apply for the variance request.

Ms. Whitaker made a motion to REMAIN NEUTRAL on the variance for Lot 12 Thistlewood Subdivision as it relates to section 213.4.D and 801.I but OPPOSE a variance to sections 213.3.A.2.a and 213.6.A(i) as they are not applicable to the drawing submitted and the existing driveway already crosses the delineated wetland. Mr. Killian seconded the motion. The motion passed unanimously.

### **3. PERMISSION TO FILE VARIANCE APPLICATION FOR LOUIS E. SILVI BASEBALL COMPLEX IMPROVEMENTS**

Mr. Kunkle stated staff has been working over the past year to put together a project to relocate the outfield fence and install lighting at the Township-owned S & A Field on Airport Road. The project includes the installation of new lighting structures and expanding the outfield field fence to meet PIAA field size standards. Some of the construction would take place in a Zone A floodplain. A variance from the Zoning Hearing Board is required to do work in a floodplain. The

Township Engineer has provided a memo indicating that after the work is complete the floodplain would be brought back to a more natural environment.

Mr. Killian made a motion to GRANT PERMISSION for staff to submit an application to the Zoning Hearing Board for a variance allowing for removal of the material and the placement of the lighting structures and relocation of the outfield fence for the S&A field at the Louis E. Silvi Baseball Complex. Ms. Whitaker seconded the motion. The motion passed unanimously.

#### **4. DISCUSSION OF CENTRE COUNTY AG PRESERVATION BOARD MEMORANDUM OF UNDERSTANDING**

Mr. Kunkle stated this is a new initiative created by the Centre County Ag Preservation Board to leverage municipal dollars provided to assist the County in acquiring conservation easements on agricultural properties. The Centre County Ag Preservation Board has requested a Memorandum of Understanding (MOU) that will commit a certain dollar amount toward the purchase of agricultural conservation easements. The County can use this MOU as a confirmation of local match to state funding. The Township Board of Supervisors will have the ability to decide, once the rankings are established, if they want the dollars to go to a particular parcel's acquisition. If the Board is interested in pursuing, the Board will pass a resolution authorizing the Memorandum of Understanding. The 2015 budget allocated \$15,000 toward Ag Preservation.

Mr. Killian asked if we could commit a different amount of money each year. Mr. Kunkle responded yes, and in future years the Township will have the rankings for properties earlier in the year.

Mr. Mascolo asked if the Township has a policy for this. Mr. Kunkle stated there were two policies, one to keep a minimum of \$75,000 to \$80,000 fund balance in the Ag Preservation Fund and the second was to designate \$150 per acre for the acquisition of the Ag Conservation Easements for farms in Ferguson Township.

Ms. Sarah Walter, Senior Planner and Coordinator of the Centre County Ag Land Preservation Program, made a comment that many applications have been received for farmland in Ferguson Township, and that she would expect land in Ferguson to be preserved.

Mr. Bill Keough stated the new plan is a significant change to how things operated in past years. The change is positive according to Mr. Keough. In prior years, Township money was added to the Centre County Ag Preservation budget, and could not be guaranteed to be used toward the purchase of agricultural easements in Ferguson Township. As a result, the Board decided in recent years to hold the money appropriated until a farm in Ferguson Township was selected for the program. However, this precluded the money from being used by the County as local match for state funding. This new plan allows Ferguson to keep the money allocated in their budget and, with the Memorandum of Understanding, the state knows that this money is available for local match.

Mr. Killian requested that Mr. Kunkle present three options.

#### **5. CONSENT AGENDA**

Mr. Miller made a motion to APPROVE the consent agenda including a Payment Authorization for Kuharchik Construction for \$21,000. Mr. Killian seconded the motion. The motion passed unanimously.

## **IX. REPORTS**

### **1. Manager**

Mr. Kunkle discussed correspondence received from a Firearms Industry Consulting Group. The multi-page correspondence dealt with House Bill 80, Act 192 of 2014, which addressed the issue of citizens being able to possess and carry firearms, ammunition, etc. on public property. The group notified the Township that there was an oversight in a 2001 amendment to park regulations dealing with carrying weapons in parks. The amendment stated it was unlawful to carry onto or possess a shotgun, rifle or pistol or make of any other kind in public parks. The notification informed the Township that this amendment was in violation of Act 192 of 2014. The Act allows for organizations to take legal action against the municipality and its officers if these provisions are found and provides for penalties and attorney fees. This has been reviewed by the Township Solicitor who agreed that this is a violation to the Act. The Township communicated with the Consulting Group, stating that an amendment has been prepared to correct these restrictions. The Township Solicitor has indicated that, although an individual may carry the firearms in a public park, the discharge of these firearms can be regulated. The discharge of a firearm could be a safety issue for others in the park. This amendment includes prohibiting the discharge of firearms in Township parks.

Mr. Miller commented that he does not agree with this, but he recognizes that this is state law and must be followed.

Ms. Whitaker requested clarification on the prohibition of the use of rockets. Specifically, Ms. Whitaker requested clarification regarding whether a teacher of rocketry would be able to gain permission to discharge rockets in a park. Mr. Kunkle clarified that the Director of Centre Region Parks and Recreation would be able to grant this permission.

The Board approved the advertisement of the ordinance.

### **2. Planning and Zoning Director**

Ms. Tranguch stated the Planning Commission will meet on January 12, 2015 to determine 2015 schedule, Chair, Vice Chair, Secretary and the CRPC Representatives. The Commission will also hear a draft traffic calming policy and an update on the Turnberry phasing plan. Currently, there are eight plans under review, four have been conditionally approved and four have yet to be heard by the Board.

## **X. MINUTES**

Mr. Killian made a motion to APPROVE the December 8, 2014 Board of Supervisors Regular Meeting Minutes. Ms. Whitaker seconded the motion. The motion passed unanimously with Mr. Mascolo abstaining.

## **VII. 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 8:35 pm to an executive session

Respectfully submitted,



Mark Kunkle, Township Manager  
For the Board of Supervisors

Date approved by the Board: 01/19/2015