

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, March 16, 2015
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, March 16, 2015 at the Ferguson Township Municipal Building. In attendance were:

Board:	Drew Clemson, Vice Chairman	Staff:	Mark Kunkle, Township Manager
	Steve Miller		David Modricker, Public Works Director
	Elliott Killian		David Pribulka, Assistant Township Manager
	Janet Whitaker		Diane Conrad, Chief of Police

Others in attendance included: Heather Bird, Recording Secretary; Christine Bailey, Wes Glebe, Dennis Charriere, Alex Wiker, Bill Gary, Don Mason, Cristin Mitchell, Mark Torretti, Cathy Vandenberg, Sherry Minarchik, Katherine Watt, Smita Bharti, Laura Dinnini-Cusamano, Mike Twomley, Bill Heckinger, John and Clay Campbell, Gayle Sunday, Don Wolberton

II. CALL TO ORDER

Mr. Clemson called the Monday, March 16, 2015, regular meeting to order at 7:00 pm.

III. CITIZEN'S INPUT

Several residents from Piney Ridge / Kansa Drive discussed concerns with flooding.

Ms. Gayle Sunday, 667 Kansa Avenue, addressed the board regarding concerns with water runoff in Piney Ridge. She stated that since the drains along Route 45 were replaced the amount of runoff has increased significantly. She questioned who would be able to clear out the rear of the property where the stream has filled with debris from the new drainage pipes.

Mr. Clay Campbell stated that the overflow of the stream causes damage to over an acre of his farm land. The stream bed needs dredge but who is allowed to complete this work.

Mr. Modricker presented the original lot plan for Kansa Avenue from the 1960s that shows the topography of the land.

Mr. Don Wolberton, resident, stated the stream is intermittent. The properties have severe erosion and all of the sediment is filling in the stream not allowing for proper flow.

Mr. Modricker reviewed the Piney Ridge paving project that was scheduled for 2015. The flooding discussion began at the Piney Ridge paving open house. The residents would like to know if the Board would want to change the project to include further water control.

Ms. Sherry Minarchik, 621 Kansa Drive, was told there was an easement in the rear of the property near the stream.

Mr. Clemson questioned who owns the property. The consensus is that each homeowner owns up to the stream behind their home. Mr. Modricker confirmed there is an easement behind the houses on Kansa Avenue but not owned by the Township.

Mr. John Campbell stated that the problem has worsened due to the new pipes on Route 45 and now it is the property owners' problem.

Mr. Killian asked what would be cost to get a permit and fix this problem. Mr. Modricker stated he doesn't know the cost of the permits

Mr. Miller asked if this area is a mapped floodplain. Mr. Modricker stated from his limited research he did not see a mapped floodplain. Mr. Miller stated unfortunately nothing can be done about ground water level such as in Fairbrook.

Mr. Clay Campbell asked if the Township can assist by looking into the process with DEP as to who can touch the stream bed. Mr. Clemson suggested a subcommittee with residents and Township staff to locate a solution to this problem. Mr. Killian suggested forming a homeowners association.

Mr. Modricker asked the Board if the capital project planned for Kansa Avenue should continue forward and go out to bid or if the project should be put on hold. The Board discussed the options, such as adding swales to the front of the properties and new driveway aprons for each property and requested Mr. Modricker to report his findings at the next meeting.

IV. COMMUNICATIONS TO THE BOARD

Mr. Miller had one call from a resident about the Toll Brothers Project.

V. ACTION ITEMS

1. GRAY SUBDIVISION – PLAN LAST DATED FEBRUARY 26, 2015 DEADLINE MAY 26, 2015

Mr. Kunkle stated the plan is a subdivision plan to relocate a lot line by eliminating that and relocating that into a larger parcel. At this time the remaining plan comments are minimal.

Mr. Mark Torretti, PennTerra Engineering, presented the plan to the Board indicating where the replot will occur.

Mr. Killian made a motion to APPROVE the Gray Subdivision Plan subject to the completion of the outstanding conditions as set forth in the Director of Planning and Zoning memorandum dated March 4, 2015. Ms. Whitaker seconded the motion. The motion passed unanimously.

2. WEST COLLEGE AVENUE SIDEWALK INSTALLATION DISCUSSION

Mr. Kunkle stated that on February 17th, Mr. Killian discussed a communication he had received from a resident regarding safety concerns when walking on West College Avenue toward the CATA bus stop from Bristol Avenue. Eric Bernier, CATA Director of Information Services has reviewed the location of the bus stop and the potential to move the bus stop closer to the existing sidewalk along West College Avenue and has found this not feasible because of the existing bus route. The Township also received communications from Golden Orchard residents that use the bus stop on the west side of West College Avenue regarding the difficulty and safety associated with access to the bus stop. The Board asked staff to look into the options available. Currently there is a stormwater detention basin that runs parallel to West College Avenue with that being included in the three lots off Saratoga Drive. The Board does have the authority to require those homeowners to install sidewalks. Mr. Modricker included the cost of installing the sidewalks for the Board to review including a cost if the homeowner completed and one with prevailing wage for the Township to complete. Ms. Whitaker asked if the property owners were notified. Mr. Kunkle stated all three are owned by a development company. That company was notified that the topic would be discussed at the Board meeting. Mr. Miller stated this was most likely an oversight on the property; the sidewalks should have been installed when the building was constructed. This sidewalk needs to be installed. The Board is agreement to pass by resolution to requirement to install this sidewalk.

3. FIRE HYDRANT EXONERATIONS

Mr. Kunkle stated the Board received a memorandum from Valerie Snyder, Finance Associate, requesting the Board of Supervisors exonerate fire hydrant assessments on tax parcels 24-004-

021S and 24-004-070G owned by Penn State University, who has a tax exempt status, in an amount totaling \$23.48.

Mr. Killian made a motion to APPROVE the fire hydrant exonerations for tax parcels 24-004-021S and 24-004-070G in an amount totaling \$23.48. Mr. Miller seconded the motion. The motion passed unanimously.

4. NEW AND DRAFT REVISED PERSONNEL POLICIES

Mr. Kunkle stated this will keep the personnel policy up to date with federal regulations and new case law. There are some new policies that will be added which are: Military Leave of Absence Policy and Uniformed Services Employment and Re-Employment Rights Act; Disability Leave of Absence Policy; Worker's Compensation Leave Policy; Non-Work Related Injury Non-Uniformed Employee requesting Temporary Modified Duty Assignment; Recall of Work-Related Injured Employees for Modified Duty; Bring Your Own Device Policy; General Information Technology Policy; and Social Media Policy.

Mr. Pribulka discussed two revised policies including the Cell Phone Usage Policy and the Internet Communications Policy.

The proposed changes include three policies that have been practices but not documented which are: Non-Uniformed Required Minimum Employee Contribution, Employee Assistance Program, and Alternate Work Hours.

The Board authorized staff to prepare the resolution for adoption.

5. CONTRACT 2015 – C3 CIRCLEVILLE ROAD

Mr. Modricker stated bids were opened on March 10, 2015 for Contract 2015-C3. Two bids were received one from New Enterprise Stone and Lime Co., Inc. for \$88,417.50 and Glenn O. Hawbaker, Inc. for \$90,775.80. Mr. Modricker recommended approval of Contract 2015-C3, Circleville Road Paving project to New Enterprise Stone & Lime Co., Inc. in the amount of \$88,741.50.

Mr. Killian made a motion to AWARD Contract 2015-C3 Circleville Road to New Enterprise Stone & Lime Co., Inc. in the amount of \$88,417.50. Mr. Miller seconded the motion. The motion passed unanimously.

6. CONTRACT 2015-C4 PARK LANE

Mr. Modricker stated bids were opened on March 10, 2015. Three bids were received including one from Scott Grannas Construction, LLC for \$56,963.90, Glenn O. Hawbaker, Inc. for \$58,457.20 and New Enterprise Stone and Lime Co., Inc. for \$60,613.45 and. Mr. Modricker recommended approval of Contract 2015-C4 to Scott Grannas Construction, LLC for \$56,963.90.

Mr. Killian made a motion to AWARD Contract 2015-C4 Park Lane to Scott Grannas Construction, LLC in the amount of \$56,963.90. Ms. Whitaker seconded the motion. The motion passed unanimously.

7. CONTRACT 2015-C7A – FUEL CONTRACT

Mr. Modricker stated bids were opened on March 10, 2015. Two bids were received including one from Nittany Oil Company, Inc. for \$70,470.60 and Superior Plus Energy Services, Inc. for 79,876.80. Mr. Modricker recommended approval of Contract 2015-C7A to Nittany Oil Company, Inc. for \$70,470.60.

Mr. Killian made a motion to AWARD Contract 2015-C7a Fuel Contract to Nittany Oil Company in the amount of \$70,470.60. Mr. Miller seconded the motion. The motion passed unanimously.

8. CONTRACT 2015-C7C – ASPHALT AND AGGREGATE

Mr. Modricker stated bids were opened on March 10, 2015. Three bids were received for each portion of this project. Mr. Modricker recommended approval of Contract 2015-C7C items 1, 2, 3, and 4 (aggregate) to Hanson Aggregate in the amount of \$6,267.50, and items 5, 6, and 7 (asphalt) to GOH in the amount of \$53,966.07 under Contract 2015-C7c, Aggregate and Asphalt.

Mr. Killian made a motion to AWARD Contract 2015-C7c Aggregate items 1, 2, 3 and 4 be awarded to Hanson Aggregate in the amount of \$6,267.50 and Asphalt items 5, 6 and 7 be awarded to GOH in the amount of \$53,966.07. Ms. Whitaker seconded the motion. The motion passed unanimously.

9. CONTRACT 2014-C3 ROSEMONT CULVERT / SELDERS CIRCLE

Mr. Modricker stated bids were opened on Tuesday, February 24, 2015. Five bids were received including: John Nastase Construction \$330,400.34, Glenn O. Hawbaker \$334,227.80, Mid-State Paving \$356,754.25, Abel Construction \$358,585.00 and Ameron Construction \$372,972.54. Mr. Modricker recommended approval of Contract 2014-C3 to John Nastase Construction \$330,400.34.

Mr. Killian made a motion to AWARD Contract 2014-C3 to John Nastase in the amount of \$330,400.34. Ms. Whitaker seconded the motion. The motion passed unanimously.

10. VARIANCES

A. COREY J. CONFER, 246 EAST CLINTON AVENUE

Mr. Kunkle stated the variance application is for Corey J. Confer for property at 246 East Clinton Avenue. The applicant desires to pave 11 gravel parking stalls and screen a dumpster located in a Riparian Buffer Overlay Zoning District (RBOD). The variance application references Chapter 27 Section 213 of the Township Code of Ordinances, which prohibits both proposed activities in the RBOD. The application indicates that the 11 gravel parking stalls and the installation of the dumpster predate the ordinance.

Mr. Wes Glebe, resident, asked for clarification on what remaining neutral meant.

Mr. Miller made a motion to REMAIN NEUTRAL on the variance application of Corey J. Confer for property located at 246 East Clinton Avenue. Ms. Whitaker seconded the motion. The motion passed unanimously.

B. TOLL BROTHERS COMMERCIAL, SOUTH SIDE OF WHITEHALL ROAD AT BLUE COURSE DRIVE

Mr. Kunkle stated that on March 2nd the Board of Supervisors approved the Tentative PRD Plan for The Cottages at State College. Per Chapter 27 Section 402 of the Township Code of Ordinances, the applicant is required to submit a Pre-Final Design that must be reviewed and approved by the Director of Planning and Zoning, Zoning Administrator, Fire Chief, water and sewer provider, and Township Engineer within 90 days of submission. Approval must be granted by each of these entities prior to application for Final Design approval. PennTerra Engineering, Inc. has filed for a variance from this requirement on behalf of Toll Brothers Commercial. The variance application is included in the agenda, and indicates that the Final Design submission will include all of the required information for the Pre-Final Design. The ordinance requires that the Final PRD Plan must be approved within 45 days of submission. The applicant has indicated a willingness to grant the Township an additional 45 days for review of the Final Design plan if the variance is granted allowing for a total of 90 days for review. The final PRD plan was submitted on March 6th.

Mr. Clemson asked the purpose of a pre final review. Mr. Kunkle stated it is to allow more time to review the complex factors of a Planned Residential Development (PRD) plan.

Mr. Kunkle stated since the agenda was written he became aware of a Commonwealth Court Case where a municipalities had denied a PRD based on a step included in their process called a land development use plan. This is not a step that is set forth under the MPC and is very similar to our pre final design step. This leads Mr. Kunkle to believe the pre final design in the PRD step is not authorized under the municipalities planning code. Given that the pre final and final review should be combined. By going to the Zoning Hearing Board the applicants subject themselves to any conditions that the Zoning Hearing Board might establish.

Mr. Bill Heckinger, resident, expressed his concerns for allowing the process to be shortened and the risks the shortened time may have on the well fields.

Mr. Kunkle reminded the Board that the tentative PRD has been approved.

Mr. Wes Glebe, resident, questioned the five criteria that must be met in order to be granted a variance. He stated he reviewed the timelines and the times that the Township was warned about going forward with these projects. Could something happen with respect to the well fields and the Township end up being sued? Mr. Kunkle stated the Centre Region Council of Governments approved the regional growth boundary that included this property. The Centre Region Planning Agency had concerns about any development in the watershed could have an impact on the well fields. There could be a larger impact on the well fields if it the lot was developed as straight R4. If the owner were to have a failure in their basin, they would be held responsible.

Ms. Laura Dinnini-Cusumano, resident, gave a presentation – just the facts – on her concern with the shortened review period. She is working to create a wildlife coalition to protect the nesting occurring on the land. Mr. Killian asked her why the additional 45 days is important to her and she responded that it is for the nesting of animals.

Mr. Miller made a motion to SUPPORT the variance application of Toll Brothers Commercial for The Cottages at State College Planned Residential Development subject to the applicant granting a full 90 day review period of the Final PRD Plan from March 24, 2015. Ms. Whitaker seconded the motion. The motion passed unanimously.

11. APPROVAL OF FEBRUARY 2015 VOUCHER REPORT

Mr. Killian made a motion to APPROVE the February 2015 voucher list. Mr. Killian seconded the motion. The motion passed unanimously.

12. CONSENT AGENDA

Mr. Miller made a motion to APPROVE the Consent Agenda including the February 2015 Treasurer's Report. Mr. Killian seconded the motion. The motion passed unanimously.

VI. REPORTS

1. Manager

Mr. Kunkle stated the Board received an invitation to attend a Central District meeting for the Pennsylvania Municipal League. The Township received the 2011 – 2013 pension audits for both the police pension and the non-uniform pension plans. There were two findings. The first in the non-uniform plan was that due to a typo on our AG-385 form for 2014 which certifies the number of non-uniform employees eligible to be counted in the calculation for Act 205 funding. The AG office will send us an additional \$3,873. The second in the police pension plan regarded the Act 205 plan and forfeiture money. Forfeiture monies are allowed to be used to offset current contributions. At the same time these monies were being used in 2011 there was

a corrective distribution of uncollected monies from the foreign casualty insurance premiums. Municipalities received more Act 205 monies than their plan required. These monies were placed in the non-uniform plan and should have been placed into the Police Pension plan. These are not Township funds. A Penn Prime loss control audit was completed by a third party inspector. There were comments on the flammable storage containers and fire extinguisher locations. The Township is ready to submit to the Sustainable PA. The preliminary results indicate 176 out of 300 points a gold level status.

2. Public Works Director

Mr. Modricker stated the crew is transitioning from winter maintenance to spring maintenance. He presented more information on Kansa Avenue and stated he will present more information to the Board at the next meeting regarding this project.

3. Chief of Police

Chief Conrad stated the Part 1 Crimes were up to eight compared to four last February. Part 2 Crimes were close and the total crimes overall were the same for February 2014 and 2015. This year has an increase in other calls for service at 333 over 297 last year. Other activities are down and parking tickets are up. The department is working in the Heights to get the parking issues there straightened out. Department notes include the Department assisted the State College Borough with coverage for the funeral of Officer Bob Bradley. Testing will occur for officers Saturday, April 25th with the anticipation of hiring a new officer in 2016. The police academy starts in January so the hiring process would need to be complete in December. Sergeant Hendrick brought the DUI Memorial Wall to our region to bring awareness to the results of drunken driving.

4. COG Committee Reports

a. Public Services and Environmental

Mr. Killian stated the committee received a report on stormwater. Penn State comes once a year and came to discuss the Act 537 plan amendments as proposed by the University Area Joint Authority. One of the proposed changes to the Act 537 Plan is to bring Penn State under the same plan. The committee did not believe this was a good enough reason to amend the 537 Plan. Mr. Killian proposed a better partnership with the University and UAJA. The University is planning to build a new sewer facility. The committee also discussed an organics recycling survey. The committee decided not to do a mailer and have the survey online only.

VII. MINUTES

Mr. Killian made a motion to APPROVE the March 2, 2015 Regular Meeting Minutes. Ms. Whitaker seconded the motion. The motion passed unanimously.

VII. ADJOURNMENT

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

With no further business to come before the Board of Supervisors, Mr. Clemson adjourned the regular meeting at 9:44 pm.

Respectfully submitted,



Mark Kunkle, Township Manager
For the Board of Supervisors
Date approved by the Board: 04/20/15