

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, June 1, 2015
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, June 1, 2015, at the Ferguson Township Municipal Building. In attendance were:

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| Board: | Andrew Clemson, Vice Chair | Staff: | Mark Kunkle, Township Manager |
| | Janet Whitaker | | David Pribulka, Assistant Township Manager |
| | Steve Miller | | David Modricker, Public Works Director |
| | Elliott Killian | | |

Others in attendance included: Heather Bird, Recording Secretary; Mike Twomley, Lenny and Dick Lundy, Linda Bailey, Duke and Monica Gastiger, Diane Boden, John LeClair, Michael Garrett, Viki Guarrieri, Gabrielle Beldan, Azita Ranjbar, Alicia Cornel, Andy McDinnon, Heather Gilbert, Christine Bailey, Wes Glebe, Pam Steckler, Bill Hechinger, John Sepp, Bab Radzwich, Colleen Unroe, Madeline Radzwich, Laura Dininni.

II. CALL TO ORDER

Mr. Clemson called the Monday, June 1, 2015, regular meeting to order at 7:00 pm.

III. CITIZENS INPUT

Ms. Laura Dininni, resident, stated she is the local committee organizing chair for Solar 2015, which is a national conference that will be held at the Penn Stater July 28th through July 30th. She wanted to inform residents about this program. Individuals may attend one day or all three.

IV. PUBLIC HEARINGS – ORDINANCES

1. **A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AMENDING CHAPTER 19 SIGNS AND BILLBOARDS, PART 1 SIGN REGULATIONS, SECTION 110 COMMERCIAL USES, A. COMMERCIAL USE SIGNS, (1) WALL SIGNS, (E) SPECIAL CONDITIONS.**

Mr. Kunkle stated this amendment modifies the wall sign sizes permitted for commercial buildings with multiple business tenants. The amendment simplifies the application of wall sign regulations from a declining size sign as the number of tenants' increases to a more standardized application which provides wall sign sizes beginning at 64 square feet and reducing to a maximum of 20 square feet when the number of tenants in a building reaches four or more. The Planning Commission has recommended this for approval.

Mr. Miller made a motion to ADOPT ordinance 1001 amending Chapter 19 Signs and Billboards, Part 1 Sign Regulations, Section 110 Commercial Uses. Mr. Killian seconded the motion.

ROLL CALL: Mr. Clemson: YES; Mr. Killian: YES; Mr. Miller: YES; Ms. Whitaker: YES

V. PUBLIC HEARINGS – RESOLUTIONS

1. **A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION FOR ACCEPTANCE OF TRANSPORTATION ALTERNATIVE PROGRAM FUNDS FOR WEST COLLEGE AVENUE STREETScape PROJECT.**

Mr. Kunkle stated the resolution authorizes the execution of a reimbursement agreement for the Transportation Alternative Program Funds for the West College Avenue Streetscape Project.

The total amount of the grant is \$798,585. These types of agreements are very typical with PennDot for projects with grant funding.

Mr. Clemson asked if this funding is for the installation of sidewalks. Mr. Kunkle stated this funding is for the acquisition of any right-of-ways, the construction of sidewalks and the placement of conduit for street lighting for future projects. Mr. Modricker stated a Green Light Go grant application was submitted for improvements at the intersection of Corl Street and West College Avenue.

Ms. Pam Steckler, resident, asked for clarification on the sidewalk installation. Mr. Modricker described the plan. He stated the sidewalk will be eight feet wide with four feet of grass on the street side. In the future trees and light post are planned to be located in the grass area. The sidewalk will end short of Corl Street and will be completed upon receiving the Green Light Go funding.

Mr. Bill Hechinger, resident, asked if this grant carries an authority for eminent domain. Mr. Modricker stated the Township has the power of eminent domain already without the grant, this grant would be used to build improvements and procure right-of-way in accordance with state processes including the use of eminent domain.

Ms. Laura Dininni, resident, asked about the old trees that are currently located in this area. Mr. Modricker stated that without a definite plan designed at this time he would estimate about six trees may be affected. Ms. Dininni encouraged keeping as many older trees as possible.

Ms. Steckler asked about work to the roadway. Mr. Modricker stated nothing with the road is planned with this project but the plan is to keep the curb lines where they currently are and eliminating the center turn lane in some areas for street parking. Ms. Steckler suggested allowing only parking on one side of the roadway with a wider cart way allowing for bike traffic on the other side.

Mr. Killian made a motion to ADOPT resolution #2015-19 authorizing the execution of an agreement with the Pennsylvania Department of Transportation for acceptance of the Transportation Alternative Program funds for the West College Avenue Streetscape project. Ms. Whitaker seconded the motion.

ROLL CALL: Mr. Clemson: YES; Mr. Killian: YES; Mr. Miller: YES; Ms. Whitaker: YES

VI. COMMUNICATIONS TO THE BOARD

Mr. Killian heard from residence of Stonebridge regarding the remedy of high grass in the neighborhood.

Mr. Miller and Ms. Whitaker had communications regarding The Cottages development.

VII. ACTION ITEMS

1. DISCUSSION OF RENEWAL OF FOXPOINTE PLANNED RESIDENTIAL DEVELOPMENT (PRD)

Mr. Kunkle stated a request has been submitted to the Township to approve a new phasing schedule for the Foxpointe PRD. Under the zoning ordinance, Part 4, Planned Residential Zoning District requires that a phasing plan be submitted to the Township each January. The phasing plan for this portion of the Foxpointe PRD was submitted on March 16th. On April 24th the Planning Director rejected the plan based upon two primary reasons; one that the PRD

phasing schedule had not been submitted by the January deadline and two there were uncompleted outstanding conditions from the terms and conditions. An opinion was sought from the Township Solicitor to seek guidance on whether the plan was null and void or if the Board had the right to renew the PRD plan. The solicitor confirmed the Board can renew the PRD plan and attach new conditions to the PRD plan. The following conditions have been attached to PRD renewal. (1) The construction of Foxpointe Drive from Pine Hall Road to Red Willow Road would occur during the development of Section 1C or as part of the Terms and Conditions for a revised Foxpointe PRD submission. (2) That the Township engineer provides either a waiver letter or an updated traffic study for Hunters Chase, Phase 6 or a revised traffic study as provided as set forth in the Terms and Conditions. The results of the updated traffic impact study should be considered in developing new Terms and Conditions for the PRD (3) the developer would agree to construct a hard court recreation facility that will be built in the open space area with Hunters Chase, Phase 10.

Mr. Clemson confirmed this renewal is based upon the master plan originally submitted.

Mr. Kunkle reviewed the proposed plan areas.

Mr. Killian asked about commercial development. Mr. Kunkle stated under the approved PRD Master Plan the commercial sections would be constructed with future phases.

Ms. Dininni asked about the time frame for completion of the roadway. Mr. Kunkle reviewed the phasing plan schedule.

Mr. Miller made a motion to RENEW the Foxpointe PRD subject to the May 7, 2015 phasing plan and any other conditions which the Board determines reasonable to be attached to this approval. Mr. Killian seconded the motion. The motion passed unanimously.

2. DISCUSSION ON RENEWAL OF THE LANDINGS PLANNED RESIDENTIAL DEVELOPMENT (PRD) PLAN

Mr. Kunkle stated the Landings phasing schedule was not submitted by January and therefore the plan needs to be considered for renewal. The conditions that would be recommended for the Board to consider include a requirement to construct an access roadway from Park Centre Boulevard and intersect with Enterprise Drive. This is an access driveway or secondary access to the entire development. Another condition would be to install a landscape buffer along the back of the commercial properties along the access drive. It is anticipated that if the Board does renew the plan another submission will be received.

Mr. Clemson asked what phase will require the construction of the access drive. Mr. Kunkle stated the Board could attach a condition that the access drive must be constructed with the next phase submitted. Mr. Clemson stated he would like phase 4A to be constructed with the access roadway.

Mr. Wes Glebe asked if this subdivision had amenities that were originally promised with the purchase of a home, but the plan is taking too long. Mr. Clemson stated that this may occur but the Board can attempt to attach conditions to push items forward with a plan. Mr. Kunkle added that Open Space areas included with the PRD have been developed with play equipment and walking trails and paths. Additionally, land has been conveyed to the Township to preserve the baseball field used by the State College Teener League and other baseball organizations.

Mr. Killian made a motion to RENEW the Landings PRD plan subject to the May 7, 2015 memorandum conditions one and two and with condition one that the access road driveway

would be constructed with any subsequent submissions of the PRD plan. Ms. Whitaker seconded the motion. The motion passed unanimously.

3. FARM CAFÉ DRAFT ORDINANCE

Mr. Pribulka stated that in October 2014 the Township received an ordinance amendment application from John LeClair and his business partners Duke and Monica Gastiger to amend the rural agricultural zoning district to include a farm café as a conditional use. The Planning Commission has reviewed the draft ordinance amendment at its May 11, 2015 meeting and received comments from the Centre Regional Planning Commission. These comments have all been incorporated in the draft ordinance. The changes include clarification on the maximum permitted total gross floor area, minimum lot size provisions, requirement for paved parking after parking exceeds a certain threshold and clarification on the definition of region. The Board may wish to comment on the use of the word "region" in the ordinance. The Planning Commission recommended the farm café be permitted to sell anything from within the Commonwealth of Pennsylvania; other options to consider include items located solely within the Centre Region, solely within Centre County or the defined regional area of the Pennsylvania Department of Agriculture which would include the counties of Centre, Bedford, Blair, Cambria, Clearfield, Fulton, Huntingdon, Juniata, Mifflin and Somerset.

Mr. Killian recommended the removal of the restraint on the operation hours of between midnight and 7am. Mr. Clemson asked if there would be any other conflicts with businesses operating at any time. Mr. Miller agreed with Mr. Killian and stated that 7am may be a late start for a breakfast service. Ms. Whitaker agreed she would like to permit an earlier start and allow the owner to define the hours of operation.

The Board discussed the options for definition of region.

Mr. Clemson summarized the Board consensus was to eliminate the hours of as long as they don't violate any other ordinances and to define region as defined by the Pennsylvania Department of Agriculture to include the counties of Centre, Bedford, Blair, Cambria, Clearfield, Fulton, Huntingdon, Juniata, Mifflin and Somerset. The Board would also like to have this ordinance advertised and placed on the next Board agenda for adoption as long as the ordinance can be modified without further review by the Centre Regional Planning Agency.

4. DISCUSSION ON JOINT WORKSESSION – BOARD OF SUPERVISORS / STATE COLLEGE BOROUGH WATER AUTHORITY BOARD

Mr. Kunkle state the State College Borough Water Authority (SCBWA) indicated that they would like to have a join worksession with the Board of Supervisors. Mr. Kunkle had initial discussions with John Lichman and stated that the date, time, place and agenda for the worksession are currently being worked on. The Authority requested the Ferguson Board to come up with questions ahead of time to be able to answer more thoroughly at the meeting. The Township has offered to host the meeting. The Board was in consensus to holding this joint meeting.

Ms. Colleen Unroe, resident, asked if the citizens would be allowed to attend and comment at the worksession. Mr. Kunkle stated that the citizens would have time for comment at the beginning of the worksession but during the discussions citizens would only be permitted to observe and not comment.

Ms. Azita Ranjbar, resident, suggested allowing citizens to submit questions before the meeting in order to receive answers. Mr. Kunkle stated citizens should submit these questions to members of the Township Board to be forwarded on to the Water Authority.

Ms. Viki Guarrieri, resident, stated she is very concerned about the proposed Toll Brothers project. She moved here from Bucks County to get away from this type of development. She asked if this project is a done deal. Mr. Clemson stated that at this time it is not a final approved project. She is concerned with students in the area and effects on the water supply. She questioned the option of referendum. Mr. Clemson stated that at this time a referendum can't be done for this project.

5. STATE COLLEGE BOROUGH COUNCIL CALL FOR A TOWN HALL MEETING – STEVE MILLER, TOWNSHIP SUPERVISOR

Mr. Miller presented a statement in response to the letter received from the State College Borough Council call for a Town Hall meeting. Mr. Miller read the following: Recently the State College Mayor and Borough Council sent a communication recommending that we have a town hall meeting about The Cottages development plan. Initially I assumed they were inviting us to a joint meeting between the two municipalities which I would have welcomed as an opportunity to discuss the deeper issues behind recent decisions. The letter we received did not indicate that the Borough Council would be involved in the meeting. Since we have been urged to accept an invitation to a joint meeting I did check with the mayor that this was not an invitation. They were simply presenting us with a course of action for us to follow. Apparently the Borough Authorities believe that since they have much more experience than Ferguson Township in creating and dealing with contentious zoning issues, they are qualified to offer a bit of avuncular advice about the best way to approach this issue. I appreciate that the Mayor and Council would like to help us avoid the appearance of being untutored in the fine art of government and that they are willing to share their own wisdom but on the whole I suspect it will be better for everyone if they were to tend to their own business. While we appreciate their interest in development activities in Ferguson Township, prescribing specific actions such as the Town Hall meetings to other municipalities is not the most productive approach to intergovernmental cooperation. The protection of our water supply is important to the Ferguson Township Board and we are working with the SCBWA to assure that protection. We think that the cooperative efforts of hydro geologists, soil scientists and engineers will do more to protect the wellfields than additional discussion among those of us with less training in these fields. While water issues overall are a regional concern the question of whether this particular plan presents any significant risk to the wellfields is a technical question. We have to rely on the input from experts who have the training and knowledge to make that determination. Further discussion among Board members and others who do not have this training and expertise without that input will not resolve the question of the level of risk involved. However, my initial misconception caused me to think and we all know that can be dangerous because thinking tends to generate ideas and I did have an idea; why not dig a bit deeper and investigate the real issue brought to light by The Cottages development. That issue is the competition between urban density and suburban sprawl. As we fight to limit density in areas central to our region and close to the university pressure develops on the edges. The result of that pressure is sprawl in Ferguson, Patton and College Townships and even beyond. This project is a symptom indicating that the current interaction between density and sprawl is out of balance and may not be stable. Several people have asked me, why this project is not being proposed some place closer to the university. Part of the answer to that question is zoning. The Borough Council has repeatedly ignored the advice of their Planning Commission, Ad Hoc Committees and well paid consultants that they should increase densities in area close to the university. Admittedly, during discussion of the Terraced Streetscape Zoning the Ferguson Township supervisors made the same error. Instead of looking at the Terraced Streetscape concept as opportunity to address the lack of housing very close to the university's west campus we ended up restricting density to a level that may have undermined the viability of the entire concept. As a result five years later we still have not had movement toward development of the Terraced Streetscape. Fortunately, it is never too late to work on relieving that pressure and regaining balance. While not

presuming to tell the Borough how to conduct their own business I would suggest that there are opportunities for us to work together for a common goal. I would like to ask my fellow supervisors to respond to their letter by making a counter-proposal; let's work together. I would invite the State College Borough Council to join us in a combined town hall meeting of the Borough Council and Ferguson Township Board of Supervisors. The purpose of this meeting would be to address The Cottages project within the context of urban density and suburban sprawl. The discussion could focus on places within the regional growth boundary, particularly those located close to the university. These places would include but not be limited to the artificial restrictions on density in Ferguson Township's Terraced Streetscape District, the Borough's West Village and the Collegiate Overlay District and ways to work together to relieve those restrictions.

Mr. Bill Hechinger, resident, stated there is a big difference with urban density in the Terraced Streetscape District and the Toll Brothers Development. With Toll Brothers you are dealing with agricultural land where there is not current development. You can't build a multi-story building in front of where homes already exist.

Ms. Laura Dininni, resident, stated she likes the idea of a town hall meeting and would like that meeting to include Penn State University and the University Area Joint Authority and include Toll Brothers and the Terraced Streetscape District as part of the discussion. This should be brought to COG so that all of the other municipalities can participate with the discussion.

Ms. Pam Steckler, resident, stated that nothing has happened with the Terraced Streetscape District in the last five years because the ordinance is unusable. There is a neighborhood there that has been for many years and if the area is developed for students those long time residents will leave the area.

Ms. Azita Ranjbar, resident, asked what the roll of citizens that are concerned is in this entire process. She feels that the comments and voices are not being heard. What is the best way to productively engage in the process? Mr. Miller stated that for this specific situation a plan has been submitted and the supervisors are limited to what can be done, the only way to deny the plan is to have a sound, scientific backed, reason to deny the plan. The input needs to be received early on in the process. Mr. Clemson agreed with Mr. Miller that they need a solid reason for the plan to be denied. Mr. Killian stated it is not where but when you should approach and become involved in development proposals. He stated citizens made comments before the approval of the tentative PRD plan and those comments were incorporated into the plan.

6. OPEN SPACE REFERENDUM – MR. STEVE MILLER, TOWNSHIP SUPERVISOR

Mr. Miller stated this has been discussed several times in the past about bringing forth and this has not yet been done. This may be the right time to get this on the ballot. Patton Township has had an open space referendum passed two times. Citizens voted to fund the natural and open space areas, such as the Haugh Tract. He proposed placing a referendum on the ballot in November asking citizens of Ferguson Township to vote on providing funding to protect open space, sensitive areas and building riparian buffers. One mil of property tax would generate about \$550,000 per year. It has to be submitted to the County Board of Elections 13 Tuesdays before the November election. He asked staff to look into the Patton Township ordinance and other similar ordinances.

Mr. Killian would be in support of a referendum to protect open spaces but would be opposed it if it were to include recreational activities, such as parks.

Mr. Miller stated the money doesn't need to be used to purchase the land it could be used for a conservation easement.

Ms. Whitaker is in support of the idea.

Mr. Killian proposed changing the name to Natural Resource Protection referendum.
The Board requested staff to look further into the details of this referendum such as costs.

Ms. Laura Dininni, resident, she suggested that the land be rezoned as opposed to acquiring property which would increase taxes.

7. CONTRACT 2014-C4 WESTFIELD / HILLSIDE FARM ESTATE CONTRACT

Mr. Modricker stated bids were opened publicly on May 26, 2015. The bid opening was attended by a number of contractors and staff. The project was bid with an alternate for landscaping. The engineers estimate for the project was \$420,493. The 2015 budget was \$451,000. Five bids were received; the following are the total bid amounts: John Nastase Construction for \$352,157.38, Ameron Construction for \$385,283.05, WG Land Company for \$451,152.13, Mid-State Paving for \$454,897.20 and Glenn O. Hawbaker for \$525,069. Based on the bids received Mr. Modricker recommended awarding the contract to John Nastase Construction in the amount of \$352,157.38.

Mr. Miller made a motion to AWARD Base and Alternate Bids for Contract 2014-C4 to John Nastase Construction in the amount of \$352,157.38 subject to concurrence from DCNR. Mr. Killian seconded the motion. The motion passed unanimously.

8. SPECIAL EVENTS PERMIT – STONEBRIDGE JULY 4TH PARADE

Mr. Pribulka stated the Board received an application for the Stonebridge July 4th Parade. The parade will begin at approximately 10:00 a.m. and proceed through the Stonebridge development. Sgt. Glenn, Ferguson Township Police Department, has reviewed the application and parade route, and has recommended that two officers be assigned to the event to provide traffic control and a roving road closure for the duration of the parade. The cost of providing two officers for the event will be assumed by the applicant.

Mr. Killian made a motion to ISSUE a special events permit for the Stonebridge July 4th Parade for July 4, 2015, subject to the condition that two officers be assigned to the event to provide proper traffic control during the parade. Ms. Whitaker seconded the motion. The motion passed unanimously.

9. CONSENT AGENDA

Mr. Killian made a motion to APPROVE the consent agenda which included an application for submission to the Department of Environmental Protection for Suburban Avenue maintenance by NTM Engineering, Inc. Ms. Whitaker seconded the motion. The motion passed unanimously.

VIII. REPORTS

1. Manager

Mr. Kunkle stated the Zoning Hearing Board denied the variance for Theodore Maninno, 183 Anaconda Drive, to convert a permitted garage with overhead storage space into a residential unit; they also approved a variance for Thomas and Christa Watschke to cover an existing 20 x 30 patio that encroached in the set back. The Board requested a policy to provide guidance on any surplus return from the Pennsylvania Municipal Health Insurance Co-Op. A draft policy was presented that would accomplish three things: (1) return a portion of any surplus received back

to an employee based upon their contribution rate (2) offset cost associated with implementing the Affordable Care Act and (3) provide funding to advance wellness programs among plan participants. Mr. Kunkle stated that a surplus is not received every year so this policy would be dependent upon the performance of the plan in each particular year. Ms. Whitaker stated she likes the combination of all three. Mr. Killian stated he likes the wellness plan. Mr. Kunkle stated a petition submitted by Pam Steckler requesting a public hearing on the Terraced Streetscape District received enough signatures and a public hearing will be scheduled for the June 15th Board meeting. Finally, enclosed with the report was a letter from the PADEP relative to the review of the UAJA Chapter 94 2014 annual report on Annual Wasteload Management. The letter stated the sewage facilities show neither an existing hydraulic or organic overload nor are they projected to be overloaded in the near future.

2. Public Works Director

Mr. Modricker stated he drafted the five-year Capital Improvement Plan for Public Works and has submitted this to the Township Manager and Director of Finance. He is working on finalizing the information for the regional brush collection study that is underway. Public Works will begin work on Circleville Road on June 15th through the 26th and will be working on Park Lane from June 8th to the 12th. There is a seal coating contract currently out to bid. Lastly, some maintenance work includes brush collection; curb side spraying, road side mowing and repairs to inlet and curbing on Circleville Road.

3. Planning and Zoning Director

Mr. Pribulka stated the Planning Commission met May 26, 2015 and discussed the Farm Café draft ordinance and a sketch plan submitted by Stephen White for Haymarket Lot 425. This is property located off of Blue Course Drive adjacent to the Waffle Shop. Mr. White proposed a nine acre development that would include two schools, a church and an athletic field. This development does sit on an area defined as natural area conservation as defined by the Ferguson Township Official Map because of its unique characteristics and upstream stormwater infiltration capability.

4. Spring Creek Watershed Commission

Mr. Killian stated the Commission met last week. Mr. Todd Giddings attended the meeting and praised the Township for its work on water conservation and quality in regards to the Toll Brothers Development. The next meeting the Commission will discuss their mission statement.

IX. 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. Clemson adjourned the regular meeting at 9:10 pm.

Respectfully submitted,



Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 06/15/2015