

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, February 1, 2016
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, February 1, 2016 at the Ferguson Township Municipal Building. In attendance were:

Board: Steve Miller
Janet Whitaker
Laura Dininni
Peter Buckland

Staff: Mark Kunkle, Township Manager
David Pribulka, Assistant Township Manager
Dave Modricker, Director of Public Works
Ray Stolas, Director of Planning & Zoning

Others in attendance included: Heather Bird, Recording Secretary; Cristin Mitchell; Bill Keough

II. CALL TO ORDER

Mr. Miller called the Monday, February 1, 2016, regular meeting to order at 7:00 pm.

III. PUBLIC HEARINGS – RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY PENNSYLVANIA AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES TO DEVELOP A PORTION OF THE LOUIS E. SILVI BASEBALL COMPLEX IN ACCORDANCE WITH THE APPROVED COMPLEX MASTER PLAN.

Mr. Pribulka stated the Township intends to submit an application to the Department of Conservation and Natural Resources Community Conservation Partnerships Program with an application deadline of April 15th. This application would be under the parks development portion of the fund and would be for a \$50,000 grant with a \$50,000 Township match. Mr. Pribulka presented the Louis E. Silvi Baseball Complex master plan and pointed out the work that was completed this year with field lighting and grading and the proposed future work to be done at the complex. If the application were successful, the funds would be used to enhance the ADA accessibility at the complex.

Ms. Dininni asked for some history on the Township ownership of the park and the type of lighting installed. Mr. Pribulka stated the lighting installed is HID lighting. In 2000 the Township acquired this field from Johnson Farm Associates as part of the Landings PRD. This field is the open space requirement for the Landings PRD. The Township has a memorandum of understanding with Johnson Farm Associates, State College Area Teener League and the Landings Property Owners Association where the Teener League maintains the field in perpetuity while the Township retains ownership of the land preserving it as a well maintained hard ball field.

Ms. Whitaker made a motion to adopt Resolution #2016-05 authorizing the submission of a DCNR grant application for development of the Louis E. Silvi Baseball Complex. Mr. Buckland seconded the motion.

ROLL-CALL VOTE: Mr. Buckland: YES; Ms. Dininni: YES; Mr. Miller: YES; Ms. Whitaker: YES

2. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING RESOLUTION 2015-36 BY REVISING FEES FOR CREDIT AND DEBIT CARD PAYMENTS

Mr. Pribulka stated that in the 2016 Fee Schedule there was a new line item for the surcharges the Township would charge for the acceptance of credit / debit card payments. At the time the fee schedule was adopted the fees were not finalized. This resolution will reflect the actual surcharges that will be assessed by MuniPAY.

Ms. Whitaker made a motion to adopt Resolution #2016-06 amending Resolution 2015-36 by approving a credit/debit card use fee of 2.45% of the total charged with a minimum fee of \$3.00. Ms. Dininni seconded the motion.

ROLL-CALL VOTE: Ms. Dininni: YES; Mr. Miller: YES; Ms. Whitaker: YES; Mr. Buckland: YES

IV. COMMUNICATIONS TO THE BOARD

Mr. Buckland stated he was contacted by someone who would like to donate a bench to Cecil Irvin Park.

V. ACTION ITEMS

1. CONTINUED DISCUSSION OF REVISED STORMWATER MANAGEMENT ORDINANCE

Mr. Kunkle stated the Board will recall that at its last meeting on January 18th they received a presentation on the proposed revisions to the current stormwater management ordinance. Following that presentation a representative from the professional design community requested that the Board consider granting additional time for further input. In addition to that request; staff received communication from the State College Borough Water Authority Executive Director requesting the Board delay the matter to allow additional opportunity for a coordinated review and consideration of changes, additions, deletions or clarifications to the language in the ordinance. This is not a time critical matter. The Board did indicate at its January 18th meeting that it would be continued until this evening. Staff is requesting the Board allow additional time to further review the ordinance amendment with the affected parties.

Mr. Modricker stated that the entities that have expressed interest in further review have already submitted written comments to staff and staff has reviewed those and incorporated some of those recommendations into the ordinance.

Mr. Kunkle asked the Board for a suggested time period they will allow for additional input on this ordinance. Ms. Whitaker suggested the March 7th Board meeting.

Ms. Dininni stated there is opportunity for consistency between the stormwater management ordinance and the wellhead overlay protection. Has this been fully integrated in terms of the language and requirements? Mr. Miller stated that at this time the Townships wellhead protection overlay has just begun to be created. Mr. Buckland stated that at this time we only have a model wellhead protection ordinance. Mr. Miller stated the Water Authority would like these to be integrated and that is part of the reason they requested further review of the stormwater management ordinance.

Mr. Buckland stated the further review will allow for discussion of items such as grandfathering certain developments into the previous stormwater management requirements. Mr. Modricker stated he is confident that an agreement can be made on these issues. Mr. Buckland would like to know what these agreements are before the ordinance is amended and he would like to hear further from the Water Authority on wellhead protection. Mr. Modricker stated that these two items can run parallel for a period of time but eventually the stormwater management ordinance should be able to go forward before the completion of the wellhead protection. Mr. Kunkle stated the Water Authority recognizes that the study they completed identifying the recharge areas include very large areas. Mr. Yoxtheimer noted the other night that there are different levels of impact and maybe there is an opportunity to stratify those recharge impact zones. This will be an opportunity to talk to the Water Authority on these issues.

Mr. Buckland stated that he is agreement with the staff recommendation to allow more time to further review the ordinance.

Mr. Kunkle stated staff will be back to Board on March 7th with a matrix of items the parties have agreed to and those items that are still being discussed. Ms. Dininni verified that there will be no voting for this ordinance on March 7th.

Mr. Kunkle asked the Board if they would like anyone else invited to the table for these discussions in addition to the design community and water authority. Ms. Whitaker stated she would like professor, Dr. Fred Cannon who works with purity of water to be invited for the discussions. Mr. Buckland would like to include the Spring Creek Watershed Association. Ms. Dininni suggested including members from the Township Planning Commission.

2. SOURCE WATER PROTECTION ORDINANCE

Mr. Kunkle stated staff's opinion is that the source water protection ordinance would be best as a land use ordinance rather than being included in the stormwater management ordinance but having consistency with definitions across both ordinances is important. Ferguson Township has a different geology than the rest of the region. This may be an item to discuss with the Centre Region Planning Agency as a regional approach or it may be important for Ferguson Township to move faster on this because of the special geology of the land. If this is not done as a regional plan than the Ferguson plan could be used as a model for the other municipalities.

Ms. Dininni would prefer the Township move forward with this ordinance and be a model to other municipalities in the future.

Mr. Kunkle stated staff would recommend forwarding this to the Planning Department and the Planning Commission.

Mr. Miller suggested that the Spring Creek Watershed Commission may have access to additional model ordinances.

Ms. Dininni made a motion to DIRECT the Township Planning Commission working with Township staff, State College Borough Water Authority staff and Rock Springs Water Company to develop a source water protection ordinance for further consideration. Mr. Buckland seconded the motion. The motion passed unanimously.

3. DISCUSSION OF WORKFORCE HOUSING ORDINANCE AMENDMENT – MR. RAY STOLINAS, DIRECTOR PLANNING AND ZONING

Mr. Stolinas stated in April 2015 the Board of Supervisors conducted a worksession on workforce and affordable housing. Prior to the Board's 2015 worksession there was discussion between Township staff, Planning Commission, CRPA staff, Board of Supervisors and a housing work group dating back to September 2013 on guidelines for an affordable housing legacy program to compliment requirements set forth in the Traditional Town Development (TTD) segment of the zoning ordinance. The Ferguson Township zoning ordinance already requires under the TTD workforce housing as an element of new development at a minimum rate of one unit per every ten residential units. For example a total of 91 units have been proposed for Turnberry TTD under multiple phases starting with Phase 2B of twenty dwelling units to be built without legacy consideration. Without a legacy program in place the homes would be lost after first purchase. In order to preserve home affordability through a legacy program, designation of a housing administrator would be part of the proposed ordinance through a memorandum of understanding. Centre County Housing and Land Trust has coordinated with Ferguson Township on a draft memorandum of understanding. Under the ordinance workforce housing is currently defined as housing that is affordable to someone earning between 80 and 120% of the median housing income in Centre County by the latest census data. These units shall not be segregated or clustered within the neighborhood and the structure from the exterior will provide no evidence that distinguishes them from market rate units. Staff presented this draft ordinance

to the Planning Commission who was not in favor of this ordinance. They presented several questions and requested a worksession with the Board of Supervisors.

Mr. Buckland does not question the need or demand for workforce housing in this community.

Mr. Miller stated the ordinance is necessary to go along the requirement for workforce housing be built.

Ms. Dininni stated the Planning Commission was asking for a verification of need for these homes in the community. She would like to see that provided to them. She understands a lot of work has been done on this ordinance and that the workforce housing is already required in the TTD. She would like to see these units remain in the affordable housing market. She stated the Planning Commission also expressed concerns about the effect these homes would have on the appraisal values of homes in the same neighborhood that are not considered affordable housing and of individuals not taking as good of care of these homes because of the profit restrictions when sold.

Ms. Whitaker asked for clarification on what portions of the ordinance are in effect now. Mr. Kunkle stated that the way it is written now is that an affordable home is built, an individual is qualified to purchase the home and then they are permitted to sell the unit at regular market rate. This would eliminate these units from the affordable housing inventory. The idea of the proposed ordinance is to keep the unit in the affordable price range for future buyers. Mr. Pribulka stated this ordinance would not apply to just the TTD but would be able to be applied to any district in the future that the Board would desire to include affordable housing as part of an approved plan.

Mr. Bill Keough, resident & Planning Commission member, stated the stumbling block in discussion with the Planning Commission was the legacy portion of the ordinance. He asked for an inventory of existing homes that fall within the affordable housing range in the Township. He brought up the concerns for the cap applied to the sale of the home and the effect on appraisal values for the neighborhood. He asked if the program would also include duplexes or townhomes or only single family homes. He stated that the Commission suggested a worksession in order for the Board and Commission to discuss the questions raised together.

Ms. Cristin Mitchell, resident & Planning Commission member, suggested that a joint worksession with the Commission, Board and Rachel Fawcett from the Centre County Housing and Land Trust is a great idea.

Ms. Whitaker asked if more models are available to compare to. Mr. Pribulka stated that staff did refer to a number of models in creating this ordinance. The Township created the ordinance with a basic legacy program.

Mr. Miller asked if staff had a time frame for the construction of these units. Mr. Stolinis stated that at this time he does not have a date. Mr. Miller stated that it is important to address this before the first homes come on the market.

Mr. Miller stated that the options before the Board include referring this back to the Planning Commission, to schedule a worksession or to move forward without referring back to the Planning Commission.

Ms. Dininni would like to find a way to provide the information requested from the Planning Commission to both the Planning Commission and the Board of Supervisors. She asked about the requirement for the home to be owner occupied. Mr. Pribulka stated that the existing ordinance does not require it be owner occupied. The existing ordinance only requires the

following four items: a minimum ratio of 1 unit to 10 units cannot be clustered or segregated within a neighborhood, not more two adjacent lots can be workforce housing and no more than any four units can be on one block.

Ms. Whitaker suggested referring this back to the Planning Commission and if needed after that schedule a joint worksession. Mr. Buckland agreed.

The Board consensus was to refer this item back to the Planning Commission for further discussion and needed.

4. PROPOSED ZONING AMENDMENT – ASSISTED LIVING FACILITIES AT TURNBERRY “CROSSINGS AT STATE COLLEGE”- MR. RAY STOLINAS, DIRECTOR PLANNING AND ZONING

Mr. Stolinas stated at the January 25th Planning Commission meeting representatives from a healthcare firm Smith Packett proposed an assisted living facility in Turnberry, Phase 8 which is currently approved for 128 multi family dwelling units with multi buildings at the corner of Havershire and Blue Course Drive. Smith Packett proposed building an assisted living facility on this location. Currently the TTD ordinance lists personal care homes as a prohibited use. Smith Packett presented to the Commission that the facility would have a peak staffing at the proposed facility between 7am and 3 pm, would include approximately 120 units, would be one building with over 85,000 square feet, have 24/7 nursing staff, commercial kitchen, outdoor courtyards, grand dining room and other items. The Planning Commission recommended allowing Personal Care/Assisted Living Facilities in the Traditional Town Development (TTD) District upon staff drafting ordinance language consistent with PA State definitions for such facilities.

Ms. Dininni asked why these uses were originally placed under prohibited uses in the ordinance. Mr. Kunkle stated the original concern was that single family home units would be converted to personal care facilities for four or five people. This amendment would be a more specific definition as an assisted care facility that would require a larger number of beds.

Mr. Buckland asked if this compares to Foxdale. Mr. Stolinas stated this would be a facility where the rooms are rented and not owned.

Ms. Dininni asked if there is an affordability component with these. Mr. Stolinas stated that there is not an affordability component. These would be rented on a monthly fee around mid \$3,000.

Ms. Whitaker asked if these units would be for husband and wife. Mr. Stolinas stated they did not provide that detail at this time.

Mr. Kunkle stated that if the Board is interested in pursuing this first the Township would need to receive an application which would further define the scope of the amendment.

Mr. Miller stated this is a good living arrangement for those who do not need constant care but assistance, more services than an apartment but less than a full care provider.

Ms. Dininni asked what this plan would do for density in the TTD. Mr. Stolinas stated he would gather this information and provide it to her.

Mr. Buckland asked what the demand is for this type of facility. Mr. Stolinas stated Smith Packett stated the need is in this area but they did not provide statistical analysis. Mr. Miller stated that he believes there is a large demand for this in the area. Ms. Dininni agreed, she does think there is a need for this type of housing and that is the price point is good, she also

likes that it will provide employment to approximately 85 employees and have low traffic impact. Her main concern is the management company.

Ms. Whitaker thinks that this is a good fit for the community.

The Board consensus is that they would like to have further information and receive an application for the amendment.

5. APPEAL/VARIANCE APPLICATION MARK D. AND CYNTHIA A. SCANLON 280 TREETOPS DRIVE

Mr. Kunkle stated the appeal / variance application is for Mark D. and Cynthia A. Scanlon who are looking or purchase a lot in the Thistlewood development. Mr. Kunkle presented the full subdivision plan to the Board showing the defined wetlands and buffer yards for this development. This subdivision plan was approved before the riparian buffer ordinance and ridge overlay districts were adopted by the Township. The lot in question is Lot #9 which has a wetland, buffer area and a stream flow channel. The application was filed on behalf of the Scanlons by Attorney Lou Glantz. The buildable area on this lot is a small building envelope on the approximately 1.5 acre parcel. Staff has identified a number of sections of the ordinance that the applications should be seeking a variance to. The variances that would be required for this lot include Chapter 27, Section 2.C.2, requiring a 50 foot buffer around the perimeter of the wetland, Chapter 27, Section 213.3.A.3 a conditional use to cross the area with driveways and utilities (this request would need to come the Board of Supervisors), Chapter 27, Section 213.4.D provides for a stream crossing of driveways in compliance with Sections 213.3.A.1 and 2, Chapter 27, Section 213.6.A.1.d restricts stream crossings to 1 per every 1,000 feet and Chapter 27 Section 801G Wetlands – this would only apply if the structure was proposed to be constructed in the wetland. The proposed house does not currently enter into the wetland but in order to add a deck or steps a variance would be required.

Ms. Dininni asked about the hold harmless language included on the deed. Is this to protect the Township from the owner suing if their home flooded. Mr. Kunkle stated this is the first step in the process for the owner, once the variances were approved they would then submit a land development plan. The hold harmless language in the deed would protect the Township. Mr. Miller stated that he was on the Board at the time this development began and the Board did not support the building of homes here but at the time the zoning did not prohibit the homes to be constructed here. The hold harmless agreement was the way the Township could make it known that it was not recommended to build here.

Mr. Miller stating that the Zoning Hearing Board will need to grant some of the above variances because there is a hardship imposed by the nature of the lot, a home cannot be constructed that doesn't encroach into the buffers. He would recommend urging the Zoning Hearing Board to oppose any application to build in wetland and further that they would not be granting any further variances for building in the wetland. This should be stated upfront.

Ms. Whitaker asked if precedence would be set for any other lots by granting the variances. Mr. Kunkle stated no, the Zoning Hearing Board is required to consider each application as a unique application.

Ms. Dininni asked if the variance applicants have purchased this lot. Mr. Kunkle does not know if they have purchased the lot at this time.

Ms. Dininni is concerned that the more it is developed in this neighborhood that more flooding can occur downstream. Mr. Kunkle stated that the intent of the plan is not achieved if the property owners do not respect those wetlands and buffers that are in place.

Mr. Buckland does not want to see people build into the buffer zone. Mr. Kunkle stated that the buffer area was adopted after this plan was approved.

Ms. Whitaker recommended the Board remain neutral on these variance requests.

Ms. Dininni recommended minimizing the encroachment into the buffer. Mr. Miller agreed with Ms. Dininni and added that there is no encroachment into the wetland.

Ms. Dininni made a motion recommending that the Zoning Hearing Board minimize the encroachment into the buffer and not allow for any encroachment into the wetland. Mr. Buckland seconded the motion. The motion passed unanimously.

6. APPOINTMENT OF CENTRE REGION CODE BOARD OF APPEALS

Ms. Whitaker made a motion to APPOINT the following individuals to the Centre Region Building and Housing Board of Appeals for three year terms commencing February 15, 2016: J. Michael Leakey, AIA, Core Board; Sara K. Lowe, Property Maintenance Board; Adam Fernsler, PE, Lead AP, Core Board. Mr. Buckland seconded the motion. The motion passed unanimously.

VI. REPORTS

1. Manager

Mr. Kunkle stated Jackie Esposito resigned from the Tree Commission. She has one year remaining on her term. Staff recommended advertising for this vacancy. The 2015 audit is underway and must be filed with the Department of Community and Economic Development by April 1st. He anticipates a presentation on the audit to the Board on April 18th. The coffee and conversation was rescheduled for February 17th from 6 – 7:30pm. The Board spoke about the possibility of having a survey completed for the environmental resource preservation referendum. Staff did meet from the survey research center at Penn State. They requested additional information to provide a cost estimate to the Township. The survey would be conducted in May and the results would be evaluated in July.

2. Public Works Director

Mr. Modricker stated Arbor Day is planned for April 29th and Lance King, Township Arborist, is coordinating the event including planting a tree at the Young Scholar school. The Tree Commission will continue to be involved in public outreach for the event. The Board will be asked to adopt a proclamation for Arbor Day. A utility coordination meeting was held regarding the West College Ave sidewalk project to determine utility impacts for the project. All affected utilities except Verizon attended the meeting.

3. Planning and Zoning Director

Mr. Stolas stated the Planning Commission discussed the managed natural landscapes ordinance amendment. Five options were given to Commission which were (1) do nothing - keep the Grass, Weed, and Other Vegetation Ordinance as is (2) Repeal the Grass, Weed, and Other Vegetation Ordinance - taking away any of the enforcement power that the Township has when it comes to overgrown grass, weeds, and other vegetation in the Township (3) Make a Recommendation to the Board of Supervisors to accept the proposed changes to the Grass, Weed, and Other Vegetation Ordinance presented to the Planning Commission at the January 11, 2016 Meeting or (5) Modify the Grass, Weed, and Other Vegetation Ordinance to include Invasive and Noxious Weed Definitions, include the landowner may place a sign (small and uniform) indicating what type of landscape they have and how it is improving the environment and where they can go for more information, and adding an educational component to the Township Website about Natural Managed Landscapes. Again, the Planning Commission was not in favor with either revising language to amend the Grass and Weed Ordinance or regulating

private landscaped areas within the Township. However, the Planning Commission did recommend drafting a hybrid Ordinance with options 4 and 5 to consider at their next meeting on February 8, 2016. Mr. Miller favors continuing the discussion. Ms. Dininni would like the opportunity to discuss this at the Board meeting; she would like to continue the discussion because the goal is wonderful. Mr. Stolas stated that the Planning Commission was provided with a Planning Commission Starter Kit including many resources to assist with their role on the Commission.

4. COG Committee Reports

a. Public Services and Environmental

Mr. Buckland stated the committee met and received input from a citizen. This citizen's complaint was that his family produces zero waste but they still have to pay for trash service. The committee discussed options for allowing someone to be relieved of paying for this type of situation. Mr. Cory Miller from UAJA was there and discussed the possibility of extending the beneficial reuse line to the Mountain View golf course. That will be discussed further at the next committee meeting. They also took a look at resolution 944 from The Borough to be a climate protected community. This will also be looked at further.

b. Transportation and Land Use

Ms. Whitaker stated the committee met today and addressed the five questions that were addressed last October. After discussion the committee consensus was that they have a process in place to identify and prioritize projects. Tom Zilla presented that there are currently seven projects in Centre County coming up in the next four years mainly highway and bridge projects. The Potter Mills Gap project now fully funded and on Atherton Street from Aaron Drive to Park Avenue is also fully funding. The preliminary design for the intersection at route 26 and route 45 is now on the program.

VII. MINUTES

Ms. Whitaker made a motion to APPROVE the January 18, 2016 Board of Supervisors Regular Meeting Minutes. Ms. Dininni seconded the motion. The motion passed unanimously.

VIII. ADJOURNMENT

Ms. Dininni 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. Miller adjourned the regular meeting to an executive session on personnel at 9:09 pm.

Respectfully submitted,



Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 02/16/2016