

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, April 4, 2016
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, April 4, 2016 at the Ferguson Township Municipal Building. In attendance were:

Board: Steve Miller

Janet Whitaker

Peter Buckland

Rita Graef

Laura Dininni

Staff: Mark Kunkle, Township Manager

David Pribulka, Assistant Township Manager

Dave Modricker, Director of Public Works

Ray Stolinis, Director of Planning & Zoning

Others in attendance included: Heather Bird, Recording Secretary; Kelly Hoover, Hobson McKown, Bill Keough, Ralph Wheland, John Spychalski, Steven Jackson, Jon Dietz, Rachel Fawcett, Tim Schoonover, Deborah Gregory

II. CALL TO ORDER

Mr. Miller called the Monday, April 4, 2016, regular meeting to order at 7:00 pm.

III. CITIZEN'S INPUT

Ms. Kelly Hoover, resident, had questions on the Stormwater Management Ordinance amendment. She talked about the 25-foot distance from a fracture and she suggested putting a larger distance or no distance. Ordinances should be written to protect the environment but still allow for development. She encouraged airing on the side of caution. She also commented about blasting and how it is allowed only as a last resort. She asked who would decide it is the last resort. A municipality can't say no blasting when it affects a mining operation but the state does not have precedence over the municipality for stormwater blasting. Lastly she stated that a judge ruled on the motion to quash for the Toll Brothers Development.

Mr. Hobson McKown, resident, spoke to the Board about his request to remove the Chief of Police and a Township Detective from their duties. He discussed the events that occurred that have resulted in him filing the request for removal.

IV. ABC REPORTS

1. STEVEN JACKSON, STATE COLLEGE BOROUGH WATER AUTHORITY

Mr. Jackson stated there are seven major developments at the Water Authority since October. In December the Authority approved its 2016 operating and capital budgets. Operating revenues were projected to be \$7,065,110 and expenditures were projected to match that exactly. Of the expenses the largest single category was general expenses which includes payroll and office expenses. The capital budget for the Authority is \$1,823,450 with the largest category being water main replacement. The Authority has instituted a tapping fee as a reserve fund which is projected to accumulate \$195,000 in 2016. As of February 2016 the Authority is fiscally sound. In January long-time Authority Board member Allen Philips retired. The State College Borough appointed William Burgos as his replacement. The Authority is currently in the process of implementing a new billing software and is finishing the data conversion and will begin the personnel training phase next. A major and unanticipated expense facing the Authority is the Waddle bridge replacement. The relocation of Authority water lines associated with the bridge work has been estimated to be \$970,000. In November 2015 the Authority was presented with a bill from an engineering firm for their work on the Toll Brothers project in the amount of \$4,023.77. The Authority will not be billing the Township for this expense. The Authority has been notified that in the process of external contracting for painting on its tank number five, that it should have been billed at the prevailing wage rules. This does represent in the interpretation of the Authority a departure from past practices in setting hourly wage rates for

contracted labor. The Authority's accounting firm has determined that interest income from its investments were not sufficient in 2015 to adequately maintain their pension funds. The Authority Board authorized an additional payment of \$125,000 at the end of 2015 to adequately fund its pension liability. The Authority is currently working on converting their packets into electronic distribution.

2. JOHN SPYCHALSKI, CENTRE AREA TRANSPORTATION AUTHORITY

Mr. Spychalski discussed the three stage facility construction project that is under way and that stage one is in the home stretch. Occupancy for this stage could occur before the end of this June. Stage two will be the maintenance and administrative facility. For this stage all of the steel re-enforced beams and flooring is now in place. Stage three will be further down the road and will include the conversion of the existing maintenance facility. Secondly he discussed some passenger service quality improvements which include solar lighting installation at stops on Aaron Drive and Martin Street. Staff is hoping to receive PennDot approval for TAP funding which could occur over the summer. CATA recently completed a strategic planning effort, which is a living document that includes actions for strategic goals. This year the annual public hearing was held as a separate meeting after the adjournment of the regular Board meeting on the advice of management. Members of the public were invited to express their views on CATA and the hearing was successful on attendance. The public hearing brought up changes to the CATA ride service. In May there will be second public hearing regarding the CATA ride service.

3. JONATHAN DIETZ, UNIVERSITY AREA JOINT AUTHORITY

Mr. Dietz stated UAJA is the areas wastewater treatment authority. Currently the plant is permitted for 9 million gallons a day with the current inflows to the treatment plant at 5.5 million gallons a day. There is plenty of flow capacity at the wastewater treatment plant. The maximum amount the treatment plant is allowed to discharge to Spring Creek is 6 million gallons per day. A portion of the water is redirected through the beneficial reuse at the facility. There is a proposal for the extension of the beneficial reuse plan to the Ramada Mountainview Golf Course and Tussey Mountain. This will have an economic benefit and an environmental benefit because both users are currently using the ground water. Currently there are a number of projects which includes odor control for the treatment plant. UAJA has repeatedly urged College Township to limit growth that encroaches the area surrounding the treatment facility because that encroachment causes an increase in costs for odor control. There was an odor control study that was done identifying two major sources for the odor. One is the sludge composting facility and sludge to watering. Conceptual plans have been developed to address those odor concerns. Another project is proposed solar panel and battery system that will be located near UAJA. There will be solar generation of electricity and batteries located there to store the electricity. The batteries will store the electricity and disburse to the facility and steady the electricity to the facility. Lastly he discussed the nutrient issue. Currently there is plenty of flow capacity at the wastewater treatment plant, the current flow is flat in the region. With the increase in growth the treatment plant may not have the capacity to remove the nutrients required in the future. If they can't meet their limits that the state will come in and cut all their limits in half. UAJA can buy nutrient credits on the trade market or to build additional nutrient removal processes. A third option of creating a nutrient management strategy for the Centre Region.

V. PUBLIC HEARINGS – ORDINANCES

- 1. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES, CHAPTER 27, ZONING, AS FOLLOWS: (1) AMENDING SECTION 701, TRADITIONAL TOWN DEVELOPMENT, SUBSECTION 2, RELATIONSHIP TO OTHER TOWNSHIP REQUIREMENTS BY ADDING CHAPTER 27, SECTION 215, AND (2) ESTABLISHING SECTION 215, WORKFORCE HOUSING.**

Mr. Pribulka stated in accordance with the Pennsylvania Municipalities Planning Code Township staff is proposing an ordinance that would amend Chapter 27 Zoning of the Code of Ordinances in two ways. First by establishing Section 215 which includes provisions to regulate workforce housing. The Board reviewed this ordinance as a draft at its regular meeting on March 7th. The ordinance enables the Board to designate by resolution a third party administrator of the Township's Workforce Housing Program. The ordinance also establishes a requirement for workforce housing development agreement. Finally, the ordinance establishing the legacy program where a deed restriction would be placed on a property to be sold at an affordable rate that would maintain that property in the affordable housing stock for a period of 99 years. The second proposed amendment is to amend Section 701, Traditional Town Development Zoning District, by adding Section 215, relationship to other township ordinances, which establishes the current and future development within the Traditional Town Development. Currently there are two districts that the workforce housing applies which includes the Traditional Town Development and the Terraced Streetscape District. By placing the proposed ordinance within district regulations its applying not only to these zoning districts but any future zoning districts the Board may decide to require the Workforce Housing. Several reviewing bodies have reviewed and commented on this proposed ordinance. All the reviewing bodies have expressed support and unanimously recommended approval except the Planning Commission who voted to recommend denial of the proposed ordinance.

Mr. Bill Keough, resident and Planning Commission alternate, stated the Planning Commission doesn't oppose affordable housing but has some issues they would like to discuss in a joint worksession with the Board. One concern is the 99-year term and the sustainability of a home during this period of time because of the cost of maintenance. The first owner will have it best and the second and future owners may incur the large cost of repair upkeep. Mr. Keough again requested a worksession and suggested maybe next Monday following the end of the Planning Commission meeting. Mr. Pribulka stated the 99-year term is used in approximately 1/3 of all affordable housing programs across the country.

Ms. Graef asked about the income guidelines which would put the cost of a home between \$170,000 and \$220,000. She did some quick research and found that there have been approximately 130 recently sold homes in the price point in Ferguson Township. She asked if we do need more affordable housing and that should be determined before it is decided on keeping the homes in the affordability bracket. Mr. Pribulka stated that research indicates there is an immediate need for more workforce housing units in the State College Area School District.

Ms. Graef stated that if our target is defined by the median income value from HUD for a family of four, are we using the right number and how is this calculated. Since we currently have housing stock already in our inventory, should we be looking at a smaller homes or lower value homes. Mr. Pribulka stated that the geographical area used for calculating values would include all of Centre County. Ms. Rachel Fawcett, Executive Director of Centre County Housing and Land Trust, stated that the median income is defined by all of the home programs in the area and calculated from HUD annually, they are correct and accurate. 60% would be lowest income range for someone to have the affordability to own a home. There are a number of homes available in the price range but programs like this help people who are not ready to buy a home the next day and may need additional education or assistance to become a good homeowner.

Ms. Dininni asked where those individuals that don't have a family fit into the calculations. Ms. Fawcett stated that for a single individual the income range would be less than that of a family of four.

Ms. Dininni asked if different types of dwellings can be defined as options within the ordinance. Mr. Pribulka stated that definition would be located specifically within the zoning district ordinance and not in the district regulation ordinance.

Mr. Buckland talked about moving the qualifying range down to the 60%. Ms. Fawcett stated it wouldn't affect them but would the builder be able to construct a home to be affordable to a home buyer in the lower category.

Ms. Graef asked about improvements and incentives to maintain the homes. She asked if there should be something included for an owner to recoup any costs for capital improvements. Ms. Fawcett stated that the ordinance does not currently include any verbiage for capital improvements so that may need to be included as a deed restriction. Mr. Pribulka stated it has been suggested that may be best to include something like that in the MOU agreement. Mr. Miller stated that even though this home were in a program the needed repairs could be considered in with the sale price of the home for the future owners.

Ms. Whitaker leaned toward having the joint worksession with the Planning Commission to fine tune the ordinance.

Mr. Tim Schoonover, President of Board for Centre County Housing and Land Trust, stated that there may be units in the affordable price range now but there is nothing keeping those units in that price range for the future. This ordinance would protect those affordable units in Turnberry for the future. He is concerned with losing the window for Turnberry to keep those homes in the future affordable housing price range. Mr. Pribulka stated the anticipated submission for the next development in Turnberry is May and would include 37 workforce housing units.

Mr. Miller states this ordinance does address the current need to manage those units to be built in the next year and once adopted the ordinance can be amended.

Ms. Dininni stated she supports the diversity in the neighborhoods that this ordinance can create good diversity in our neighborhoods.

Ms. Graef does see the need to move forward now but wants to take the Planning Commission up on a worksession for the future of the Township.

Mr. Buckland stated the market does not solve the affordability problem.

Mr. Buckland made a motion to adopt Ordinance 1012 amending Chapter 27, Section 701, Traditional Town Development and adding Section 215, Workforce Housing. Ms. Graef seconded the motion.

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

VI. PUBLIC HEARINGS – RESOLUTIONS

- 1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING THE TOWNSHIP TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CENTRE COUNTY HOUSING AND LAND TRUST TO SERVE AS A THIRD PARTY ADMINISTRATOR IN ACCORDANCE WITH THE FERGUSON TOWNSHIP CODE OF ORDINANCES, CHAPTER 27 ZONING, SECTION 215 WORKFORCE HOUSING**

Mr. Pribulka stated that the Centre County Housing and Land Trust will be proposed under the newly adopted ordinance to handle the Workforce Housing Program.

Ms. Deborah Gregory, resident, asked what is the financial gain to the Land Trust because that is an important part of the longevity of the program. Mr. Pribulka stated that under the Memorandum of Understanding entered into by the Land Trust, developer and Township. One of the provisions of the agreement is that the developer place in escrow an amount of money determined by the Land Trust. As the units are developed and sold the property owner would be required to pay this money to the Land Trust and that portion would then be returned to the developer from their escrow account. This would give incentive to the developers to market and sell these units.

Mr. Buckland made a motion adopt Resolution 2016-13 approving a Memorandum of Understanding between the Centre County Housing and Land Trust and Ferguson Township. Ms. Whitaker seconded the motion.

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

2. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING THE FILING A DECLARATION OF TAKING FOR CERTAIN TAX PARCELS ATTACHED TO THE RESOLUTION AND IDENTIFIED AS “EXHIBITS A & B”.

Mr. Kunkle stated the Board adopted a similar resolution at its last meeting authorizing the filing of a declaration of taking on certain affected properties. This resolution is specific to properties that are owned by Penn State. At the time that the first resolution was considered, Penn State had accepted the Township's offer of the acquisition of the right-of-way and the Township did not believe there would need to be a declaration filed against Penn State's properties. In the interim there has been difficulty in obtaining the cost estimates from properties that are owned by Penn State but leased to others which have impacts such as signage. Penn State has indicated they have not been able to obtain those impact numbers. In order for the Township to meet the timeframe for having cleared right-of-way by May 23rd that a declaration would need to be filed.

Mr. Buckland made a motion to **adopt** resolution 2016-14 authorizing the filing of a declaration of taking for certain tax parcels attached to the resolution and identified as “Exhibits A & B”. Ms. Dininni seconded the motion.

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

VII. COMMUNICATIONS TO THE BOARD

Mr. Miller and Mr. Buckland were approached by community members about the stormwater basin setbacks.

VIII. ACTION ITEMS

1. AUTHORIZATION TO BID CONTRACT 2015-C1 PINEY RIDGE AS REVISED

Mr. Modricker provided an update and asked for direction on contract 2015-C1. He stated the contract originally includes Wyoming, Wyandotte, Delaware and Kansa. The consideration is should we put this out to bid at this time without Kansa and then when the final design work is ready for Kansa consider putting that out to bid as a separate contract. The scope of work as initially scoped included base repair and paving to be done in 2015. Based on input in April 2015 staff was directed to complete additional research on solving issues with standing water throughout the development. Also at the open house residents provided input and the Township subsequently sponsored a grant application to fund rehabilitating and restoring a section of the channel that flows through and behind Piney Ridge. As part of that investigation, DEP

determined that the unnamed drainage ditch was a regulated waterway. Due to that a permit is needed to install a pipe and a wetland investigation must also be completed. The Township staff is currently in the process of hiring a consultant to delineate and map any wetlands. Once that is done the correct permitting process can be prepared and submitted. This will likely result in Kansa Avenue not being ready to be paved this year. Mr. Modricker's recommendation is to finalize the documents for bidding the project this year to include milling and paving Wyoming, Wyandotte and Delaware and exclude those improvements on Kansa.

Ms. Deborah Gregory, Kansa Avenue resident, discussed the problems in the development. She stated the last five years have been really bad in terms of flooding. She looks forward to the construction and the results.

Ms. Dininni made a motion to **authorize staff** to bid Contract 2015-C1 Piney Ridge Paving Project as revised by removing Kansa Avenue and related drainage work. Ms. Whitaker seconded the motion. The motion passed unanimously.

2. AUTHORIZATION TO SELL 2000 CRAFTCO CRACK SEALER

Mr. Modricker stated the manager has authority to sell certain items less than \$10,000. This item requires Board approval because it is over that threshold being valued between \$12,000 and \$16,000.

Ms. Whitaker made a motion to **authorize** the sale of a 2000 Craftco Crack Sealer equipment #IM-102 in accordance with the Township's Administrative Code. Ms. Graef seconded the motion. The motion passed unanimously.

3. GIANT FOOD STORES, LLC REQUEST TO MODIFY CONDITIONS OF LIQUOR LICENSE

Mr. Kunkle stated resolution 2012-11 approved a liquor license transfer to the Giant Food Store located in the Northland Center. This liquor license transfer allowed them to operate a restaurant and onsite beer sales located in a separate area of the store. Part of the conditions for approval was that Giant Food Stores would need to on a quarterly basis show that they were meeting the intent of the restaurant which was a minimum of 50% food sale to 50% to liquor sales. Giant Food Store has been complying with that requirement of the transfer. By letter dated March 22nd Giant requested relief and a waiver of having to file the quarterly report, not from the requirement to meet the minimum 50% food. They have concerns that the information included in the report is proprietary and the Township would be obligated to release the information under a right-to-know request. Mr. Kunkle stated without the report we don't know if they are complying with requirements of the transfer.

The Board consensus was to leave it as is.

4. INITIAL DISCUSSIONS ON COG PRIORITIES

Mr. Miller stated this was brought forward at the General Forum.

Finance Committee

- Ms. Dininni asked for clarification on the sentence "The committee believed that its role in the COG budgeting process is top down and not bottom up as was suggested at the General Forum meeting"
- Mr. Miller encouraged the Committee about asking C-net to broadcast the Finance Committee discussions on the COG budget
- Ms. Dininni asked for clarification about establishing a formal process for updating changes before the General Forum

Human Resources Committee

- No comments

Transportation and Land Use

- Mr. Miller stated they have done through their priorities thoroughly
- Ms. Whitaker stated the General Form received a good presentation on this.

Public Safety Committee

- Ms. Dininni pointed out the study to be conducted – which will point out projects that should be done but aren't being done

IX. REPORTS

1. Manager

Mr. Kunkle reminded the Board of two events including the Pennsylvania Municipal League meeting on April 19th and the Centre County Conservation District showcase tour on May 13th. Staff has been in touch with the ABC representatives regarding quarterly reports to the Board. The Walker Machining variance was tabled at the Zoning Hearing Board because the applicant will consider a flood plain study and seek a potential map revision. The Township has received a copy of a letter from DEP to Penn State regarding a request for the University to complete a special study regarding the installation of sewage reuse effluent piping. The Township received a letter from Benner Township requesting a letter of support for their DCNR grant application to develop Spring Creek Park Canyon, Phase 2. The COG General Forum approved a similar letter of support. The Board was in support of this letter. The Township has requested PennDot complete a speed limit study on West College Avenue between Buckhout and Corl. A letter was received that they will undertake that study.

2. Public Works Director

Mr. Modricker stated Contract 2016-C1 Paving Project for Blue Course, Sleepy Hollow and Cherry Lane had bids opened on March 29th as well as Contract 2016-C2 Paving Project for Science Park Court, Conover, Kennelworth, Ash and Myrtle Street. Favorable bids were received and a recommendation will be brought to the Board on May 2nd.

3. Planning and Zoning Director

Mr. Stolas stated the Planning Commission met on March 28th and discussed the removal of child daycare/preschool from the prohibited uses in the Terraced Streetscape District. They voted to recommend allowing these as a conditional use and include a definition of preschool. The Board members should have received an email on the proposals for the consultants to consider for revising the Subdivision and Land Development Ordinance. The Board was asked to evaluate those proposals by April 6th. The Planning Commission also discussed Thistlewood Lot 9 which the Board has seen. The plan has gone through the Zoning Hearing Board. It is currently under staff review.

4. COG Committee Reports

a. Transportation and Land Use

Ms. Whitaker stated the Committee set the top five 2017 project priorities that will be presented at the General Forum for potential incorporation into the 2017 CRPA work program. As of today all of the Senior Planner positions have been filled.

X. MINUTES

Ms. Dininni made a motion to APPROVE the March 21, 2016 Board of Supervisors Regular Meeting Minutes. Mr. Buckland seconded the motion. The motion passed unanimously.

XI. ADJOURNMENT

Ms. Dininni made a motion to ADJOURN the meeting. Mr. Buckland seconded.

With no further business to come before the Board of Supervisors, Mr. Miller adjourned the regular meeting at 10:08 pm.

Respectfully submitted,

A handwritten signature in black ink, reading "Mark A. Kunkle", is written over a horizontal line.

Mark Kunkle, Township Manager

For the Board of Supervisors

Date approved by the Board: 04/18/2016