

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, April 19, 2010
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, April 19, 2010 at the Ferguson Township Municipal Building. In attendance were:

Board: Richard Killian, Chairman
Robert Heinsohn
Steve Miller
Bill Keough
George Pytel

Staff: Mark Kunkle, Township Manager
Trisha Lang, Director of Planning and Zoning
David Modricker, Director of Public Works
Diane Conrad, Chief of Police
Eric Endresen, Director of Finance

Others in attendance included: Marsha Buchanan, Recording Secretary; Ralph Wheland, Planning Commission; John Spsychalski and Louwana Oliva, CATA; Bill Kelly and Rick Bair, Parente Beard LLC; Walt Schneider, Code Agency; Wes Glebe, 115 N. Butz Street; Bill Hechinger and Pam Steckler, 127 Hoy Street; Joe Gherardi; Rod Stahl; and Dr. Todd Giddings, local hydrogeologist.

II. CALL TO ORDER

Mr. Killian, Chairman, called the April 19, 2010 meeting to order at 7:00 pm.

III. ABC REPORTS

1. John Spsychalski, CATA

Mr. Spsychalski introduced the Board to CATA's new Assistant General Manager, Louwana Oliva, and her daughter.

He said the overall ridership is up significantly, mostly due to the community service routes that serve apartment complexes.

Regarding Technology, Mr. Spsychalski said they are moving forward with Phase 2a of the Advanced Public Transportation Systems (APTS). The key parts of that are an automated bus stop annunciation in the system and an automated passenger counter system on buses. Also, one of their staff members is now seeking ways to update CATA's phone APT application.

Regarding Equipment, he said the bus refurbishment program, which is being undertaken under contract with Coachcrafters Inc. in FL, is continuing. Two 40-foot buses have been refurbished and returned to service. Two more are now undergoing rebuild. A total of 10 units are involved in this program. Another critical issue is the replacement of the CNG tank. CATA received three bids for the replacement of the CNG tanks on its existing fleet. The certification on those tanks expires at the end of 2010, so it is critical that this replacement be accomplished by the end of December of this year. CATA's staff is completing the development of specifications for the issuance of a bid request for 10 new transit buses for which the capital money is in hand.

2. Ralph Wheland, CRPC

Mr. Wheland said in January they had two DRI's, Ferguson Township's 200' buffer, and an increase in density in the Borough due to a change in zoning for affordable housing. They had a rezoning request in College Township from the school district.

In February they had two DRI's, a request in Patton Township for community support of agriculture, and an update from Trisha Lang regarding the TTD and Terraced Streetscape District. They looked at the unified work program.

In March they had a comprehensive plan update from Jim May and a discussion of an RFP for the economic development assessment for the Centre Region. The Transportation and Land Use and CRPC joint meeting is scheduled for May 11th at 7:30 pm. Also, they are undertaking a review and update of the CRPC bylaws.

In April they had another update of the comprehensive plan, discussion on the bylaws, and two work orders with PADOT.

IV. COMMUNICATIONS TO THE BOARD

Mr. Pytel said dog leashes are much longer today than in the 1980's when the dog leash law was passed. He believes dogs should not be allowed in people's yards and suggested defining "leash" in the ordinance. Chief Conrad said people should call the Township when the situation is occurring to speak with the Ordinance Officer, who could inform them of the current regulations.

Mr. Pytel also mentioned an issue regarding jake brakes. In addition, there is an arborist who keeps two of his trucks on property that is not his own. If this is not permitted according to the Township's ordinance, then something needs to be done. Mr. Kunkle said there are two approaches: 1) he can file an appeal of the Zoning Officer's decision; or 2) he can file an application for a zoning ordinance amendment. Mr. Kunkle said this is not the first time that this business-type operation has been occurring out of storage properties. He said they need a permit to do this, and they do not have one. Mr. Keough would like to be educated at some point regarding the nature of the ordinance and what it does and does not prohibit.

Mr. Keough has had communication with area residents regarding the status of the proposed TS District. Ms. Lang said the Planning Commission is reviewing the items sent to them by the Board. They asked for some modeling of shadow information based on building height. Staff had difficulty downloading the software. Once they get to look at that information, a decision should be made regarding building height and incentives. They also discussed University uses. The Solicitor provided a response for Ms. Lang to present to Commission members at their next meeting.

V. ACTION ITEMS

1. PRESENTATION OF REVISIONS TO BUILDING SAFETY AND PROPERTY MAINTENANCE CODE

Since October 26, 2009 Centre Region municipalities have provided comments on the draft Building Safety and Property Maintenance Code. Comments have been under review by the Code staff and municipal managers. There are a few Code regulations where the municipalities disagree. In an effort to

reconcile the divergent interests, the Code Director and the municipal managers have been meeting to reach consensus on a common approach. These meetings provided an opportunity for the managers to learn about the Code issues and to exchange ideas on options for addressing them. The General Forum has referred to the municipalities for adoption by June 1, 2010 the March 10, 2010 draft of the Building Safety and Property Maintenance Code.

The staff is proposing an ordinance to repeal the 2006 Property Maintenance Code and the 2006 Fire code and adopt the new ordinance in total. There are some key areas where changes or additions are being made that need to have focused discussions. The Township's fee resolution will also need to be amended to include a fee for Appeals before the Centre Region Building and Housing Code Board of Appeals under Section 111 of the new Code.

Mr. Kunkle said this has been an ongoing process of trying to repeal and readopt 2006 codes.

Walt Schneider, Director of the Code Agency, said one of the issues noted in the document is the duration of rental. He has addressed this with all municipalities so far. The document has been put forward with respect to duration of rental of 7 days. The anticipation is that this will be addressed later this year, but they felt it was not prudent to push off adoption of the entire document in order to address this one issue. They agreed to look at this more holistically with respect to potential issues with zoning.

Mr. Schneider reviewed the proposed changes.

Mr. Killian also supports what is proposed. The Board's consensus is that this is okay.

Mr. Killian asked for the Board's concerns on the original list. Mr. Pytel asked if there will be a standard code for all municipalities, saying Ferguson Township has some unique requirements. Mr. Schneider said College Township adopted this document effective June 1st, exempting one section. Their specific requirements remained in place the same as they would in Ferguson Township.

Mr. Keough inquired about the fee schedule issue that goes with this. Mr. Schneider said that will be brought in front of this Board for adoption in the future. Mr. Kunkle asked if they would also include the Appeals Board fee. Mr. Schneider said yes; it is anticipated that this will stay the same.

Mr. Heinsohn made a motion to authorize staff to prepare a draft ordinance for the Board's consideration on May 3rd and advertise for potential adoption on May 17th. Mr. Miller seconded the motion. With Mr. Keough voting no, and all other Board members voting yes, the motion passed.

2. PRESENTATION OF 2009 FINANCIAL AUDIT, PARENTE BEARD LLC

Members of Parente Beard LLC provided an overview of the financial audit completed on the Township's 2009 revenues and expenditures.

Bill Kelly, Senior Manager of Parente Beard LLC, showed a list of all the municipalities they represent. They did their audit under **generally accepted auditing standards**. He listed specifics under "Required Communications."

Mr. Kelly provided a brief overview of the audit process and provided an overview of the findings of the report. To analyze government financial statements they look at how the budget was spent and look at the general fund balance. He provided historical information – revenues by source (majority coming from taxes) and general fund expenditures by type for 2008 and 2009. He showed financial statement ratios with comparative data – "balance" ratio (how well the Township is living within its means) and government "liquidity" ratio (how well the Township can pay off its obligations).

In summary, all findings were positive. Mr. Kelly said they will be providing staff with a management letter.

Mr. Pytel made a motion to accept the 2009 Township financial audit and statement as submitted by Parente Beard LLC. Mr. Heinsohn seconded the motion. The motion passed unanimously.

3. AWARD OF CONTRACTS: 2010-C7A, 2010-C7B, AND 2010-C7C

Mr. Modricker provided an overview of the contracts. No action is necessary for Contract 2010-C7B.

Mr. Heinsohn made a motion to award Contract 2010-C7A, Fuel Bid, to Nittany Oil Company in the amount of \$79,587.00. Mr. Miller seconded the motion. The motion passed unanimously.

Mr. Pytel made a motion to award Contract 2010-C7C, Aggregate and Asphalt, to the lowest responsible bidders as set forth in the Director of Public Works memorandum dated April 13, 2010. Mr. Miller seconded the motion. The motion passed unanimously.

4. DISCUSSION OF REGULATIONS FOR COMMUNITY GARDENS

In 2009, the Board was requested to consider an amendment to the zoning ordinance to allow for community gardens within residential zoning districts. The Board referred the matter to the Planning Commission for review and recommendation. The Commission on March 22, 2010 began discussions of the appropriate regulations for community gardens. The Commission requested that the Township not begin to regulate this type of use in great detail. A draft of regulations for the community gardens was provided.

Ms. Lang said the Planning Commission developed two documents related to community gardens. She said the original request came to the Township from a church that would like to house community gardens on their property. This would not apply to residential property owners who have private gardens.

Mr. Keough asked what role the operation guidelines play in this ordinance. Ms. Lang said they did not want to micromanage the site planning. They changed potential regulations to recommendations. Mr. Keough noted with regard to mechanical equipment that sometimes with larger plots it is more

appropriate to have a piece of agricultural equipment come in to do the initial preparation of the ground. Other restrictions state that "all gardens shall be tidied and prepared for winter by planting a cover crop no later than mid-October." Ms. Lang said there are actually two issues – 1) with regard to the cover crop, it may only apply to gardens planted within a floodplain; and 2) tidied and prepared for winter applies across the board. The date was changed to mid-October. Mr. Keough said there are not too many cover crops that could be used that die off in the winter. Mr. Heinsohn would prefer not to require a cover crop. Mr. Pytel asked why they are allowing this in a floodplain. Ms. Lang said staff had recommended to have it outside the floodplain, but the Commission was not satisfied with that. Ultimately their recommendation was that it be permitted. Mr. Pytel would rather the gardens not be permitted in a floodplain than to see a cover crop required. Mr. Miller agreed. Mr. Heinsohn does not like the mid-October date.

Mr. Modricker said the ordinance addresses the agricultural aspect of the floodplain. He suggested keeping this simple, since the floodplain ordinance already addresses some aspects of it. Mr. Pytel said if floodplains are included, they are acknowledging that they will allow people to do something on a floodplain. He suggested leaving it out completely. Ms. Lang said that would be possible.

The Board recommended removing the cover crop and floodplain issues from the document. The Board held a brief discussion on what it means to "prepare for winter." They would not be satisfied with a definition that implies removing all crops from the garden, but if this phrase allows for a winter vegetable crop, they would be fine with it.

Mr. Miller made a motion to authorize staff to prepare a draft ordinance based on discussion of the Board's comments above. Mr. Heinsohn seconded the motion. The motion passed unanimously.

5. PROPOSED SIGN ORDINANCE AMENDMENT

When the Code of Ordinances was amended in 2006, a section from Chapter 19 related to sign regulations was omitted in error. Staff is recommending that the original ordinance language dealing with these particular types of signs for automobile dealerships be readopted and reinserted into Chapter 19 of the Code of Ordinances.

Mr. Keough asked what impact this will have on the Joel Confer variance request. Ms. Lang this is probably a question for the Township Solicitor. They may be considering withdrawing their request. Mr. Keough asked, regardless of what happens, if the fact that they have a plan on the table affects this amendment. Ms. Lang said if they were to propose to change the ordinance right now, it would not have an impact on their request. Mr. Keough suggested that if Confer's decides to withdraw their application, they should be informed of this issue and action.

Mr. Miller made a motion to authorize staff to prepare an amendment to the sign ordinance to re-establish Chapter 19 regulations dealing with automobile dealership signs. Mr. Pytel seconded the motion. The motion passed unanimously.

6. SARATOGA DRIVE DRAFT PARKING ORDINANCE

Mr. Miller now does not think parking should be restricted. If it is restricted, he believes it should only include the area where the busses stop and possibly 100 feet from the intersection on both sides of the

street. Mr. Pytel said there was a study done, which said there should be No Parking on both sides for a longer distance than 100 feet.

Mr. Modricker said the study done in this case was a No Parking study. The recommendation considered the width of the road, geometry, and sight distance. The speed limit study is typically done using an 85th percentile speed. For that to be enforceable, it should be posted within 5 mph either way of the speed that was determined to be safe. In this case the difference is that there is a recommendation from the Township Engineer. However the Board decides to post it, it will be enforceable.

Mr. Miller made a motion that parking be restricted on both sides of Saratoga Drive between Bristol Avenue and a point 100 feet north of Bristol Avenue, and that this be the only restriction. Mr. Heinsohn seconded the motion. With Mr. Pytel voting no, and all other Board members voting yes, the motion passed.

7. MARCH 2010 VOUCHER REPORT

Mr. Heinsohn made a motion to approve the March 2010 Voucher Report. Mr. Miller seconded the motion. The motion passed unanimously.

8. CONSENT AGENDA

- a. March 2010 Treasurer's Report
- b. State College Borough Maintenance Facility Land Development Plan Time Extension
- c. S&A Subdivision Plan – Replot of Tax Parcel 24-4-23/24-3-3, and Subdivision of Tax parcel 24-4-23 – Time Extension

Mr. Pytel made a motion to approve the Consent Agenda. Mr. Miller seconded the motion. The motion passed unanimously.

VI. REPORTS

- In January 2011 the electric rate caps will be removed for customers of Allegheny Power. Since the fall of 2009 representatives of several municipalities, school districts and municipal authorities have been working to learn more about the impact of the rate cap removal and the options available for purchase of generated power. The group has explored options ranging from hiring a consultant to purchase bulk electricity for the County entities to joining an existing electric purchasing cooperative.

The Township participated in a process that included presentations by the South Central Assembly, PLCM – Municipal Utility Alliance, CPEC (Central Pennsylvania Energy Consortium), and Premier Power Solutions. Each of these entities performs a bulk purchasing service for generated electricity for a fee. Allegheny Power will continue to provide distribution of the purchased electricity. Staff intends to invite Municipal Utility Alliance and Premier Power Solutions to quote on the Township's electric needs for a period beginning June 1, 2010.

a. Public Works Director

Mr. Modricker provided detailed information about various 2010 Contracts regarding bids, proposals, and Open House projects. Highlighted were:

Blue Course Drive/SR26 West College Avenue Traffic Signal Study: Trans Associates has been given notice to proceed with a traffic study of the above intersection to address the concerns raised by certain motorists/residents.

Whitehall Road Widening (SR 26 to Tadpole Road): Staff is meeting with the designer, Trans Associates, on April 27th to review the project with PaDEP, and to review right of way drawings with the appraiser, Chris Aumiller. Upon receipt of final right of way plans from Trans Associates, another meeting with affected residents will be arranged to review the status of the project. He will invite effected residents to an open house meeting, and they will be notified of any effected easements or right of ways.

Old Gatesburg Road Extension: Work on the final design and coordination with stakeholders continues. The next progress meeting is scheduled for April 26th. The roundabout is being redesigned to accommodate a WB50 truck. The project is still on schedule for a September bid letting by PaDOT.

b. Director of Planning and Zoning

REVIEW OF REQUESTED USE IN RR & RA ZONING DISTRICT

The Commission had previously discussed the idea of adding hunting preserves as a permitted use in the more rural areas of the Township. Staff did some research on the types of improvements associated with these facilities in PA and was surprised to learn of the magnitude of these uses. The Commission agreed not to spend any further time developing regulations for this use unless requested to do so.

AMENDMENT OF TEXT ASSOCIATED WITH TREATMENT CENTERS

The Commission was made aware of a concern related to the recently adopted regulations associated with the provision of Treatment Centers within the Township. It appears that recent case law has provided ADA protection for such facilities and, as a result, much of the work that was accomplished last year, in an effort to provide for Group Homes in the Township, will need to be re-evaluated and significantly revised.

AMENDMENT OF RIPARIAN BUFFER OVERLAY ZONING REGULATIONS

Based on a recent challenge to the provisions of this recently adopted overlay zoning district, information was provided to the Commission to advise them of the need to make minor revisions to this text. A set of definitions is currently under review by the Township Engineer and, when appropriate language has been drafted, an amendment to the overlay will be proposed.

c. Chief of Police

Part 1 crimes are down by 50%, and year to date totals are down as well. Part 2 crimes were down as well. Non-criminal calls for service were about the same as last year and also year to date. Traffic citations are up for the year, but parking tickets are down. She added the traffic details on that page to provide an overview of when and where they are out in the Township. Most of them are on their grant overtime.

In Patrol Notes, they spent quite a bit of time with the Robbery Task Force. Also, there is a provision for a secondary LUCAS chest compression device to be purchased for use in ambulances. They had quite a few suicides/attempted suicides this month. Some younger children were involved in several instances.

They received information from the Central Booking Center about their costs and what is anticipated in the future. Their costs are calculated based on a 3-year total of the percent of arrests they made

compared to other municipalities. This year the President Judge agreed to raise the booking fees by \$25 per person.

d. COG Committee Reports

- a. Public Safety – Mr. Keough said people are applying for permits, paying the upfront 40% fee, and then never picking the permits up in some cases. The Code office has proposed the wording of a policy that will come before the General Forum in the near future. Based on their discussion, it appears that this is a reasonable policy that deserves the Board's support. Mr. Pytel said they need to understand that a process has been started when someone comes in for a permit. He believes all permits should be issued for one year. Mr. Keough said the new policy would be one where the permit would be terminated after a period of time. Also, they had a lengthy discussion about a proposed study through Public Safety regarding assessing community impact of large events for which they have no data in the Region to measure. They have proposed studying four events to get a general idea of the impact – football weekends, Ag Progress Days, Arts Festival, and Summer Music Festival. They will probably add a negative event (e.g. State Patty's Day). They feel that most of this data exists; it is just a matter of bringing it to a central location.
- b. Human Resources – Mr. Heinsohn said they reviewed their annual performance reviews that are used within COG. No changes were suggested.
- c. Public Safety and Finance Joint Meeting – Mr. Keough said they discussed how they would pay for upgrades to firehouses. Mr. Killian said the consensus was that the host municipality would build the new firehouse. Once built, and the condition is acceptable, it would be turned over to COG for all future maintenance and capital expenditures. Ferguson Township is mentioned as potentially one of the next facilities, but not anytime soon.

I. MINUTES

1. April 5, 2010 BOS Regular Meeting

Mr. Pytel noted that on the last page under the Transportation and Land Use Committee, he was "shocked," not "struck" that the Pine Grove Mills bypass was removed from the list.

Mr. Heinsohn made a motion to approve the April 5, 2010 Board of Supervisors regular meeting minutes as amended. Mr. Pytel seconded the motion. The motion passed unanimously.

II. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Killian adjourned the April 19, 2010 Regular Meeting at 10:01 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors
Date approved by the Board: 05/03/2010