

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, May 3, 2010  
7:00 pm

### I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, May 3, 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 & Zoning  
David Modricker, Director of Public Works

Others in attendance included: Marsha Buchanan, Recording Secretary; Walt Schneider, Code Agency; Hugh Mose, CATA; Ronald Woodhead, CRPR; Daniel Klees, College Township; Jim Steff, COG; Christine Bailey, 115 N. Butz Street; and Bill Hechinger and Pam Steckler, 127 Hoy Street.

### II. CALL TO ORDER

Mr. Killian, Chairman, called the May 3, 2010 meeting to order at 7:00 pm.

### III. PUBLIC HEARINGS – ORDINANCES

1. A PUBLIC HEARING ON AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 15, MOTOR VEHICLES, PART 4, GENERAL PARKING REGULATIONS, AS FOLLOWS: 1 SECTION 403, BY ADDING SARATOGA DRIVE AS A STREET WHERE PARKING SHALL BE PROHIBITED AT ALL TIMES IN CERTAIN LOCATIONS

Mr. Pytel made a motion to adopt Ordinance 932, establishing No Parking regulations on both sides of Saratoga Drive from Bristol Avenue to a point 100 feet north. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

2. A PUBLIC HEARING ON AN ORDINANCE REPEALING THE 2006 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE AND FIRE CODE AND ADOPTING THE CENTRE REGION BUILDING SAFETY AND PROPERTY MAINTENANCE CODE 2010 EDITION AS AMENDED, TO BE KNOWN AS CHAPTER 5, BUILDING SAFETY AND PROPERTY MAINTENANCE CODE

Mr. Pytel made a motion to adopt Ordinance 933, repealing the 2006 Edition of the International Property Maintenance and Fire Code and adopting the Centre Region Building Safety and Property Maintenance Code 2010 Edition as amended. Mr. Miller seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

Mr. Kunkle added that Walt Schneider has been in touch with IBC, and they have indicated that the fee for the Region over a 3-year period for posting information on municipal web sites would be about \$2,000. It was suggested that the cost of that be divided by the COG formula, and Ferguson Township's share would be about \$481 to make information available to property owners through the Township's web site.

Mr. Heinsohn made a motion to participate with other municipalities in allowing \$2,000 to be divided according to the COG formula in order to provide information through the Township's web site. Mr. Miller seconded the motion. The motion passed unanimously.

### IV. PUBLIC HEARINGS – RESOLUTIONS

**1. A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR A GRANT FROM THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION FOR A CENTRE COUNTY SOBRIETY CHECKPOINT AND EXPANDED DUI ENFORCEMENT PROGRAM AND AUTHORIZING THE TOWNSHIP MANAGER TO SIGN ALL DOCUMENTS RELATED TO THE GRANT ON BEHALF OF THE TOWNSHIP**

Mr. Kunkle said Ferguson Township has coordinated the Centre County Sobriety Checkpoint and expanded DUI Enforcement Program Grant for the past 15 years. This grant application will fund the program from September 2010 through September 2011. The most recently completed grant and program year of 2008-2009 indicated over 40,600 contacts were made with the public. He provided a breakdown of these. The total grant request is for \$78,150.

Mr. Pytel made a motion to adopt Resolution 2010-12, authorizing the submission of an application for a grant for the Sobriety Checkpoint and an Expanded DUI Enforcement Program for Centre County in the amount of \$78,150. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

**2. A RESOLUTION AUTHORIZING THE EXECUTION OF A DEED OF EASEMENT FROM THE TOWNSHIP TO STATE COLLEGE BOROUGH FOR A PORTION OF THE CATO/STONEBRIDGE/ORCHARD PARK BIKEWAY**

Mr. Kunkle said during the process of completing the connection of bikeway between CATO Park and Orchard Park, there was a need years ago to acquire an easement within the Borough boundaries to connect the bikeway coming out of Haymarket with Blue Course Drive. Recently the Borough asked if the Township would allow the relocation of the bikeway so that it would have a better alignment with the bikeway across Blue Course Drive connecting to Orchard Park, which would allow for better sight distance and a better connection. Mr. Kunkle said there would be a guarantee that it would be built.

Mr. Pytel made a motion to adopt Resolution 2010-13, authorizing the execution of the deed conveying a portion of the CATO/Stonebridge/Orchard Park bikeway to State College Borough. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed.

**V. COMMUNICATIONS TO THE BOARD**

Mr. Pytel received two messages regarding the parking of vehicles on farmland. They are trying to make it permanent instead of temporary, and this is basically illegal in an Ag zone. Mr. Keough said the Ag land owner is working toward a resolution with Township staff.

Mr. Miller received an email from a property owner who felt the grass and weed ordinance was excessive enforcement. Mr. Kunkle believes the property owner has a legitimate complaint about the judgment used by the enforcement officer. In response to that complaint, Mr. Kunkle will be communicating with the property owner, withdrawing his warning notice, and further trying to improve on the good judgment of enforcement officers.

**VI. ACTION ITEMS**

**1. DISCUSSION OF 2010-2011 CENTRE AREA TRANSPORTATION AUTHORITY BUDGET**

Hugh Mose, CATA, provided an overview of CATA's budget. One significant change he mentioned was the planned closure of the Bank of America, which will affect their levels of service and will affect Ferguson Township.

Things for the Township are otherwise consistent. They have asked for an overall 5% increase in local shares. Mr. Kunkle asked if the Township is meeting its 3% required local share. Mr. Mose said yes; Act 44, the state transportation funding measure, introduced new requirements for transit funding.

## **2. DISCUSSION OF REGIONAL PARKS DEVELOPMENT AND FUNDING**

At the COG General Forum meeting on April 26<sup>th</sup> the Parks Capital Committee's recommendation regarding the Articles of Agreement for acquiring Hess Field Softball Complex and the development and funding of three regional parks was forwarded to municipalities for comment by May 11<sup>th</sup>.

Mr. Killian provided an overview of the Draft Regional Park Development Proposal. The Board should review that proposal and provide comments by May 13<sup>th</sup>. The proposal is to consider a municipal contribution of between \$8 and 10 million for the total cost of the three parks, which would include Hess Field. That includes the \$1.7 million already available within the Parks Capital Fund. The other consideration is a period for borrowing, which ranges from 20-25 years. The total annual contribution is not to exceed \$735,000, which is about double the existing amount they are totally contributing. The allocation of the annual contribution would be based on a Modified COG Formula adjusted on a 5-year basis. The Hess Field would be considered a third regional park. The Centre Region municipalities would have to adopt articles of agreement for acquiring the park. Following the three-park concept, the parks are expected to be developed in phases over a 3-4 year timeframe. Going forward there will be a marketing function to seek fundraising opportunities to lower the overall cost of the parks. The Board sought to answer the following questions:

- **What does the Board consider as the scope of the project?** The Board still supports all three parks, which would include the acquisition of Hess Field. Mr. Pytel asked if Ferguson Township will need to pay more than other municipalities for Hess Field, expressing concern about the formula regarding Harris Township's share of the Hess Field acquisition cost. Mr. Killian said the host municipality is paying a share of the acquisition cost.
- **What amenities or facilities should be required?** Mr. Killian asked if there are any absolutes that Board members want to see. Mr. Miller and Mr. Heinsohn agreed that restroom facilities are essential with such a large number of playing fields. Mr. Killian said the cost will go down by opting out of certain amenities. Mr. Kunkle said the potential amenities listed are the basic items that have created a functional regional recreational facility. That has started to form the basis of what the total amount of the three projects would be. Mr. Miller would prefer to have all amenities, but at a minimum everything in the second column would be a requirement. Mr. Killian agreed. Ron Woodhead, Director of Parks and Recreation, said upgrades to the baseball fields would take them above recreational play to a tournament-level facility. Municipal funds are only going to the recreational level. Field conditions are not part of the upgrade; it is really about support facilities.
- **What should the term of financing be?** The proposed term is 20-25 years. Mr. Killian and Mr. Miller would be okay with going up to 30 years. A longer term provides for affordability, but is more overall expense due to interest. Flexibility is important. Mr. Heinsohn agreed. Mr. Pytel believes 30 years is a good option, but does not agree with such an increase in taxes. Mr. Keough asked, from a fiscal point of view, whether the Township is in a responsible position to look at a 30-year timeframe. Mr. Kunkle said the Township has the borrowing capacity. The Board may need to shift prioritization of the Township's existing revenues.

Mr. Kunkle said neither of the two parks originally supported by the Region had master plans, but they knew there was going to be an increase in their contribution. This was built into the last real estate tax increase. Mr. Pytel expressed concern about the Modified COG Formula. The Board agreed with the 20-30 year time range. The total is not to exceed double the current allocation. Mr. Miller said there was a lot of concern on the Parks Capital Committee about the amount of the increase being so great. But if the current contribution is doubled, it is really only an increase of \$7.50 per person per year, so he approves of doubling the current contribution.

- **Should the Modified COG Formula be used?** Mr. Kunkle asked how the two new pools were handled, and what formula was used for municipal contributions toward them. Mr. Killian said they used the Modified COG Formula, reset every 10 years. The current formula is problematic for the Borough. The majority of the Board agreed that this is acceptable. Mr. Pytel disagreed.
- **Should the adoption of the Articles of Agreement for Hess Field coincide with the Whitehall Park's master site plan approval?** Mr. Killian believes so, since this will be an initial indication of how committed the partners are at developing all three parks. Mr. Pytel asked if Hess Field would be purchased using the Modified COG Formula. Mr. Killian said when the Articles of Agreement are adopted, partners would also be committed to adopting the master plan for Whitehall Park. Mr. Kunkle clarified that the *purchase* of Hess Field will be accomplished through existing funds. The *development* of that park could be through use of those funds or through borrowing, where the repayment of that debt would follow the Modified COG Formula. Mr. Killian said in reality there is one large pool of funds that will be designated over a period of time. Mr. Kunkle said when the Region did its needs assessment, the needs at Hess Field were included in the inventory of available softball fields. The family has now decided they want to get rid of that piece of property, and this will lower the number of available fields in the inventory. The fields need to be purchased in order to keep the inventory. Mr. Miller said nearly half of the designated money for the purchase of Hess Field will still go into the overall pot.
- **How will COG Regional Park participants become legally obligated to finance the other two parks once Hess Field is developed?** Mr. Killian said if debt were an issue for all three parks that would cause a legally binding situation, but he does not believe that will be possible. He asked how municipalities would know that their partners are truly committed to developing all three parks once Hess Field was purchased. This is a legal question. Mr. Heinsohn suggested asking for a written commitment from the beginning. Mr. Keough asked at what point this all gets bundled into one project. Mr. Killian said the Board approves the financing of the total three projects. Since that cannot be done timely before Hess Field is purchased, he asked what other mechanism would legally bind them. Mr. Keough asked if a signed letter of understanding would give them more confidence that this would move forward after the purchase of Hess Field in terms of the big picture funding.
- **How does the Board feel about the Hess Field Articles of Agreement?** Mr. Keough asked if there are any additional, deed-specific sellers' requirements that the Township will have to abide by in purchasing this land, or any constraints that the sellers have placed upon the purchaser. Jim Steff, Centre Region COG, said there are two documents – the Articles of Agreement that commit the municipalities to buying Hess Field, which is modeled after the agreement of the Whitehall and Oak Hall parks; and the Sales Agreement. The Articles of Agreement do not approve any master plan for Hess Field, but they will have to go through a master planning process for Hess Field before money is expended.

Mr. Pytel expressed concern about language such as “assume” and suggested adding language to indicate “the cost will not exceed” a certain amount. Ron Woodhead and Dan Klees explained the costs

briefly. Mr. Pytel also expressed concern about wording implying that municipalities could pull out of Hess Field but not out of the other two parks. Mr. Steff said they could withdraw from the *operation* of the park, but not from the *ownership*. Each municipality is required to fulfill its financial responsibility. They have not referred this document to their Solicitor yet. Mr. Kunkle clarified that each municipality is responsible until such a time when they withdraw.

Mr. Keough said this is not raw land; it has specific amenities on it. The ball fields are relatively secure and spaced. He asked how much has to be paid to have someone from the outside do a master plan of this facility, and whether or not this can be accomplished internally. Mr. Woodhead said some money has to be paid, and what is driving that bill is the concern that when the work is completed, it is safe for players, visitors, etc. This is a process that Ferguson Township and other municipalities will be involved with. The amount of money will be anywhere from \$20,000 to \$40,000. Mr. Kunkle said if the Township has any hope of receiving any state grant funding in the future, they have to have a master plan that meets the safety requirements, so that DCNR can see that they qualify for funding from the state.

Mr. Keough asked what the big picture concept is in terms of a marketing effort. Mr. Woodhead said in addition to establishing a base for recreational play at these facilities, they would establish the attractiveness to have their partner groups assist with improving the parks – upgrading, providing more amenities, etc. This would give partner groups something they could identify with. Mr. Woodhead said the big picture for Marketing would be to expand upon users for the facilities. As far as capital improvement marketing, he feels they have a good basis to grow upon. Mr. Heinsohn asked if there is any prohibition to naming these parks. Mr. Woodhead said no, except that Hess Field must include John Hess's name.

Pam Steckler, 127 Hoy Street, asked if these parks will be solely for sports fields, or if they will provide opportunities for bicycling, walking, etc. Ron Woodhead said this has to do with what municipalities would most like to see as part of these regional parks. They have incorporated provisions for bicycles, community gardens, walking, etc. This Board established a minimum threshold.

### **3. CONSIDER AWARD OF CONTRACTS 2010-C1, C2, C8, C9, and C10**

Mr. Modricker provided an overview of Contracts 2010-C1 and C2.

Mr. Heinsohn made a motion to award Contract 2010-C1 and Contract 2010-C2 with Option B to the low bidders. Mr. Pytel seconded the motion. The motion passed unanimously.

Mr. Modricker provided an overview of Contracts 2010-C8, C9, and C10.

Mr. Miller made a motion to award Contract 2010-C8 to Alpha Space Control Company, Inc., Contract 2010-C9 to Asphalt Paving Systems, and Contract 2010-C10 to HRI, Inc. Mr. Heinsohn seconded the motion. The motion passed unanimously.

### **4. DECISION OF PARTICIPATION IN TOWNSHIP AGRICULTURAL SECURITY AREA PROGRAM**

The Township is currently in the process of notifying property owners that are currently or could potentially participate by placing their property in the Ag Security District. The Township received notice for two properties with which it has an ownership interest, the Whitehall Road parkland and mountain acreage on Pine Grove Mountain. Neither of these properties is in the Ag Security District. The COG is half owner of the Whitehall Road parkland and has not determined if it wants to place the Whitehall Road parkland in the Ag Security District. The program does have an opt-out provision, so if the Whitehall tract were placed in the District, it could be removed easily. One potential advantage to placing it in the District

is that it may offer protections to the current farmer, Wasson, should the PSU property be developed. But it would take both property owners to remove it from the program and this may complicate the pending park development.

Mr. Kunkle said the Board can indicate its interest in placing one, both, or none of the above properties in the Ag Security Program. Staff is recommending that neither be recommended for inclusion in the program.

Mr. Miller made a motion *not* to place Tax Parcel 24-004-94G (Whitehall Road Parkland) or Tax Parcel 24-007-044B in the Township's Agricultural Security District. Mr. Pytel seconded the motion. The motion passed unanimously.

## **5. STATUS REPORT OF VARIOUS PLANNING INITIATIVES**

Over the course of the last few months, the Planning Director has been working on a number of planning issues. In order to bring the Board up to current status on these planning initiatives, Ms. Lang provided a memorandum describing the status of each topic and the anticipated additional process or discussion needed to bring each topic to closure. Discussion on each topic was as follows:

**Update on status of ordinance amendments for Community Gardens and Signs for Auto Dealerships** – Comments have been forwarded to the Solicitor, who is preparing those items for a public hearing that may be held at the first meeting in June. Mr. Keough expressed the importance of keeping the community gardens project within this year's growing season. Ms. Lang agreed.

**Amendment of RA Buffer Area Requirements** – This draft has been done. Currently no buffer exists that is as small as 5 feet in width, so this language needs to be prepared. The Commission has seen this draft language. Mr. Keough expressed that he would like the opportunity to talk with staff about a couple of these things he is not sure about. He would prefer not to take any formal adoption action until he has had the opportunity to do that. The Board agreed that this does not need to go back to the Commission for further review.

**Update on Status of Proposed Zoning for West College Avenue Corridor** – The Board held a worksession on February 15<sup>th</sup> and at that time finalized its discussion on the TS zoning provisions. On February 16<sup>th</sup> they voted to forward six items to the Commission for further review and comment. They came to consensus on two of the six items fairly quickly. Four items remain to be resolved. Mr. Heinsohn commented on public/private higher education and conditional use. Ms. Lang said they are a land owner just like any other land owner.

**West Beaver Avenue Study** – They anticipated this would have been completed early in 2010, but having the West College Avenue project going on simultaneously has slowed down the process. The Commission is expected to receive a presentation, most likely on May 24<sup>th</sup>. Mr. Kunkle said the suggestion is that the Township get notification out to the people in that corridor study area, so they can participate and understand background information when it is presented to the Planning Commission.

Christine Bailey, 115 N. Butz Street, asked who the stakeholder is in this study. Ms. Lang said it includes a variety of people (residents, a real estate person, a local landlord, occupants that are not property owners, and two others). Bill Hechinger, 127 Hoy Street, asked why area residents have not been notified of this West Beaver Avenue project. Ms. Lang said this initiative came about as a concern of both the Commission and the Board of the transition in the area and the need to look at stabilizing owner occupancy. It is an analysis of the neighborhood. At this point, the consultant has done work, and input from area residents will come as part of the next step in the process. Mr. Hechinger noted that he and Pam Steckler are essentially stakeholders in this as well. He expressed concern regarding student

apartments. Mr. Killian explained that the conversion of home owner occupied properties turned into rental properties is one of the concerns that brought this study about. Mr. Hechinger suggested that he and other area residents should be receiving incentives. Mr. Keough said the Township is just now getting ready to move into the phase of serious interaction with residents. Ms. Lang agreed. The first portion of the project has included mainly research and the gathering of information.

## **6. APPOINTMENT OF PLCM VOTING DELEGATE**

Mr. Pytel made a motion to appoint Richard Killian Voting Delegate and Mark Kunkle Alternate Voting Delegate to the 2010 PLCM Convention. Mr. Heinsohn seconded the motion. The motion passed unanimously.

## **7. CONSENT AGENDA**

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

## **VII. REPORTS**

### **a. Manager**

- Staff has been working on the consultant selection for competitive energy purchase. They have participated with a group of other municipalities, authorities, and school districts in reviewing proposals from four energy purchasing consortiums. On May 17<sup>th</sup> staff will make a recommendation to the Board and will ask for authorization to enter into agreements to implement the competitive energy purchasing process.
- Mr. Kunkle has been working with Sheldon Corl on a ground lease for a four-acre parcel of land that the Township has acquired for parkland from Hillside Farm Estates. Mr. Corl has farmed this land in the past and the Westfield/Hillside Farms parkland does not have a park master plan as of yet. An RFP for a park master planning consultant is nearly complete and this process should begin this summer. Until a master plan is approved it seems prudent to keep the property in use for agriculture.
- Two variances were heard by the Zoning Hearing Board on April 20<sup>th</sup>. The Whitehill Lighting variance/appeal was withdrawn. The Joel Confer Toyota sign variance was continued until May 18<sup>th</sup> for additional information and further consideration of the matter by the Zoning Hearing Board.

### **b. Public Works Director**

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

**Whitehall Road Widening:** Staff met with the designer, Trans Associates, to conduct a pre-application meeting with representatives of PaDEP and the County Conservation District to discuss storm water and erosion control permits and methodology, and also with Chris Aumiller, appraiser, to review right of way drawings. Staff is suggesting a worksession with the Board of Supervisors in about 4 weeks to provide a more detailed status update on project details prior to conducting an open house in about 6 weeks with affected residents.

**Old Gatesburg Road Extension:** A progress meeting was held on April 26<sup>th</sup> with stakeholders to discuss critical path decisions necessary to keep the project on track. If helpful, staff can also provide more project details at a worksession. The project is still on schedule for a September bid letting by PADOT.

**c. Director of Planning and Zoning**

Ms. Lang said at their regularly scheduled meeting on April 26, 2010, the Planning Commission held a work session, which included discussion about the importance of the adopted Comprehensive Plan as the guide to the future of the Township and the Region and involved a review of the changing trends that will impact future land uses and how future development is designed within the community.

Ms. Lang provided an overview of the Commission's discussion from the April 26<sup>th</sup> worksession. Mr. Keough said Jim May of CRPA is also new to this area, so there is not really a past practice with regard to the update of the Comprehensive Plan. This might be an opportunity where Ferguson Township can get more engaged in the process and have it become a more meaningful document for the Township.

**d. COG Committee Reports**

- a. *Centre County MPO* – Mr. Miller said they continued discussing the LRTP. They passed the by-law change. There was also a report on the I-80 tolling, and the federal decision that it was not permitted. There was discussion about the fact that there is no money in the MPO even for maintenance issues. They made a decision to write a letter to state and federal legislators urging them to provide more money. The highest priorities will be deficient bridges.

**VIII. CALENDAR ITEMS**

The Board agreed to meet on May 10<sup>th</sup> from 5-7pm to discuss the process for conducting more efficient meetings.

The Board agreed to meet on June 7<sup>th</sup> at 6pm for a worksession with Mr. Modricker regarding the Whitehall Road project.

**IX. MINUTES**

Mr. Keough noted on page 84 of the Board's packet that "Mr. Keough said the new policy would be one that would be terminated after a period of time" should be changed to "Mr. Keough said the new policy would be one where the *permit* would be terminated after a period of time."

Mr. Pytel made a motion to approve the April 19, 2010 BOS regular meeting minutes as amended. Mr. Heinsohn seconded the motion. The motion passed unanimously.

Pam Steckler spoke briefly regarding the TS District. She said when it was reviewed by the Board, it was forwarded to the Commission after just 5 pages were discussed, and asked if the rest of it will be discussed at some point. Mr. Miller said the Board did not have questions on the remainder of the document, so they did not discuss it as they did the first 5 pages. Mr. Killian said they have considered the entire ordinance and submitted any comments to the Planning Commission. Revisions from the Commission will come back to the Board for review.

**IX. ADJOURNMENT**

With no further business to come before the Board of Supervisors, Mr. Killian adjourned the May 3, 2010 Regular Meeting at 9:56 pm.



Ferguson Township Board of Supervisors  
May 3, 2010  
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RESPECTFULLY SUBMITTED,

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Mark Kunkle, Township Manager  
For the Board of Supervisors

Date approved by the Board: 05-17-2010