

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, July 3, 2017
7:00 PM

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, July 3, 2017, at the Ferguson Township Municipal Building. In attendance were:

Board:	Steve Miller	Staff:	Dave Pribulka, Township Manager
	Laura Dininni		Dave Modricker, Director of Public Works
	Peter Buckland		Ray Stolinis, Director of Planning & Zoning
	Rita Graef		Chris Albright, Chief of Police
			Brian Wakefield, Officer

Others in attendance included: Marisa Vicere, Bill Keough, Steve Jackson, Steve Bair, Andy Arnold, Pam Salokangis, Faith Norris, Recording Secretary

II. CALL TO ORDER

Mr. Miller called the Monday, July 3, 2017, regular meeting to order at 7:00 p.m.

III. CITIZENS INPUT

None noted.

Mr. Miller recognized Chief Albright's introduction of Officer Brian Wakefield as the newest officer of the Ferguson Township Police Department. Chief Albright presented a brief history of Officer Wakefield's prior career with the State Police and welcomed him to the Police Department.

IV. PROCLAMATIONS

- a. A PROCLAMATION DESIGNATING THE MONTH OF SEPTEMBER 2017 AS FERGUSON TOWNSHIP SUICIDE AWARENESS AND PREVENTION MONTH AND DESIGNATING SEPTEMBER 10, 2017 AS FERGUSON TOWNSHIP SUICIDE AWARENESS AND PREVENTION DAY.

Mr. Pribulka introduced the proclamation as included in the agenda packet. He recognized Ms. Vicere, President and Founder of the Jana Marie Foundation and Co-Chair for the Centre County Suicide Prevention Task Force. Ms. Vicere talked about mental health and wellness, suicide prevention, personal stories, statistics and ways on raising awareness on mental illness. Some upcoming events planned for September include: September 5th - Suicide Prevention Rally at the Bellefonte Courthouse; September 10th - Community Dinner and service at Millbrook Marsh; and September 28th - MoKita Dialogues at New Leaf Initiative.

Mr. Buckland moved that the Board of Supervisors proclaim that the Township of Ferguson, Centre County, Pennsylvania designating the month of September 2017 as Ferguson Township Suicide Awareness and Prevention Month and designating September 10, 2017 as Ferguson Township Suicide Awareness and Prevention Day. Ms. Dininni seconded the motion.

Mr. Miller read off the full proclamation.

ROLL CALL VOTE: Ms. Dininni: YES; Ms. Graef: YES; Mr. Miller: YES; Mr. Buckland: YES. Motion passed unanimously.

At this time Mr. Miller acknowledged Chief Albright as the new Chief of Police present at this meeting.

b. A PROCLAMATION OF FERGUSON TOWNSHIP DESIGNATING THE MONTH OF JULY AS PARK AND RECREATION MONTH.

Mr. Miller introduced the proclamation that was included in the agenda packet. Mr. Pribulka introduced Ms. Salokangis, Director of Centre Region Parks and Recreation (CRPR). Ms. Salokangis talked in more detail on promoting the parks and July as Parks and Recreation Month through municipal calendars, popup programs that interns have been working on and special events. Ms. Salokangis responded to a question asked on popup programs and that they are going to be posted on the CRPR social media pages. As an example, she went into further detail about one popup program on a scavenger hunt.

Ms. Dininni had some process questions and suggestions on the proclamation in regards to input on the value of park programs and parkland. Ms. Salokangis noted other municipalities as well as Ferguson Township had an opportunity to look at the proposed proclamation and had provided input.

Mr. Miller asked for a motion on the proclamation.

Ms. Graef moved that the Board of Supervisors proclaim that the Township of Ferguson, Centre County, Pennsylvania designate the month of July as Park and Recreation Month. Ms. Dininni seconded the motion.

Ms. Graef read off the Proclamation.

Discussion followed on the value of parks and land assets.

Ms. Dininni moved to amend the proclamation to insert after the second Whereas to read, "WHEREAS, our parks and recreation **land** are ... " and the fourth whereas to read, "WHEREAS, parks and recreation programs **and land assets** increase a community's..." Mr. Buckland seconded the motion. The motion passed unanimously.

Ms. Dininni moved to amend the proclamation to insert the word **can** at the sixth Whereas to read, "WHEREAS, parks and natural recreation **can** improve water quality..." Mr. Buckland seconded the motion.

Mr. Miller asked for a vote on the proposed amendments to the proclamation. The motion passed unanimously.

Ms. Dininni moved to amend the proclamation to add prior to the fifth Whereas to read, "WHEREAS, parks can provide a vital community gathering space". Mr. Buckland seconded the motion. The motion passed unanimously.

Mr. Buckland moved to amend the proclamation to add to the second Whereas to read, "WHEREAS, ...communities, ensuring the health **and happiness** of all citizens, economic **prosperity** and environmental well-being of the community and region;". Ms. Dininni seconded the motion.

Mr. Miller asked for a vote on the proposed amendments. The motion passed unanimously.

Mr. Miller asked for a vote on the proclamation as amended.

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

V. MINUTES

1. June 19, 2017, Board of Supervisors Regular Meeting.

Ms. Graef made a motion to approve the June 19, 2017, regular meeting minutes. Mr. Buckland seconded the motion.

Ms. Dininni moved the Board in Item 4, pg. 6, to add her concern that PSU is not the same type of governmental entity as other MS4 municipalities. Mr. Buckland seconded the motion. The motion passed unanimously.

Mr. Miller asked for a vote on the original motion as amended. The motion passed unanimously.

VI. REPORTS

1. ABC REPORTS

- a. State College Borough Water Authority – Dr. Steven Jackson

Mr. Jackson reviewed meetings since April 3rd on content as provided in the agenda packet. Mr. Jackson met with Township staff on June 6th regarding issues raised in his report in regards to the Nixon-Kocher water treatment plant. Mr. Jackson further highlighted the meeting items from the May 18th SCBWA Board Meeting and detailed revenues and expenditures.

Ms. Dininni called point of order and needed clarification whether questions can be addressed at this time with Mr. Jackson. Mr. Miller ruled questions can be addressed.

Discussion followed on the growth and beneficial use of sourcewater in the Centre Region. Further discussion followed on the Spring Creek watershed. Mr. Buckland noted his concerns on the approach of certain issues, i.e. different science perspectives, and requested that the water authority board address the issues substantively and with more clarity for better understanding in general. Further discussion followed on the subject.

2. COG COMMITTEE REPORTS

- a. Executive Committee. Mr. Miller noted the agenda was provided in the meeting packet.

3. OTHER REGIONAL COMMITTEES

- a. Ms. Dininni reported on the meeting in Mr. Miller's place. Highlights: PennDOT connection on Route 45, PennDOT Connects Program. Discussion followed on upcoming projects.

Mr. Buckland called point of order and asked that Mr. Miller request items of question from the committee reports be placed on the agenda per previous rule. Mr. Miller opted not to place his item of question on the agenda.

- b. Watershed Commission Meeting

Mr. Miller reported the main topic was the MS4 activities. It was reported that we are in the 16th wettest year since the 122 recorded years according to Mr. Giddings and this is good for the wells in the area.

4. STAFF REPORTS

a. Manager's Report

Mr. Pribulka presented his report as provided in the agenda packet. Highlights include that the Township has met its Loss Control Standards for this year; for the Board's review: DRAFT CIP and CAFR FY 2016 report and financial statement of the Township; July 11th is a scheduled road tour; CIP worksession dates will be forthcoming; attendance and panel participation at the CBICC's Economic Development Summit - panel session focused on retention and expansion of existing businesses in Centre County; Board was represented at the June 27th Zoning Hearing Board meeting on the zoning appeal filed by HFL Corporation – request for appeal and variance was denied; Township agreement with Chief Chris Albright who succeeds Chief Diane Conrad as Chief of Police effective June 30th.

b. Public Works Director

Mr. Modricker presented his report as provided in the agenda packet. Highlights include Oak Wilt and LEED Gold Public Works building; engineers and MS4 partners continue to work on a pollutant reduction plan for Chesapeake Bay - presentation to the Board to follow after finalized; working with Amec Foster Wheeler to finalize a stormwater fee feasibility study; Hawbaker contracted paving work at Fairbrook Park and detail of construction activities - completion anticipated by mid-July; Kansa Avenue paving contract is on hold; Martin Street paving project contracted to Hawbaker followed by detail on pipe lining; Meadows Park Improvements project out to bid; installation of a water fountain at Tudek Park and re quoting work to install water line to the butterfly garden; details on Meckley Road paving planned for August; various repairs update; brush and leaf collections and maintenance; next Tree Commission meeting is July 17th.

Mr. Buckland moved that the Board add to the agenda for discussion the Kansa Avenue paving project, discussion limited to 10 minutes. Ms. Dininni seconded the motion. The motion passed unanimously.

c. Planning and Zoning Director

Mr. Stolas presented his report as provided in the agenda packet. Overview: meetings, active plan list, SCBWA proposed text amendment update and recommendation to the Board to have a joint meeting to further discuss the text amendment; Traditional Town development text amendment update and recommendation to the Board; conditional use skate park update; SALDO update; and permit report update.

Mr. Miller moved that the Board add to the agenda for discussion the request for a joint meeting with the Planning Commission. Ms. Graef seconded the motion. The motion passed unanimously.

Ms. Dininni asked the Board if the Planning and Zoning Director can include in future reports the clock/timeframe and planned expiration on The Cottages. Mr. Pribulka responded by stating the general opinion of the solicitor is that the review "clock" is on hold during pending litigation. Mr. Pribulka went into further detail in terms of plan reviews, planning code and litigation. Ms. Dininni had some concerns and went into future detail of those concerns.

Ms. Dininni moved that the Board add to the agenda for discussion the timeframe of the Cottages. Mr. Buckland seconded the motion. The motion passed unanimously.

VII. OLD BUSINESS

1. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES, APPENDIX D, BY REPEALING ALL FORMER OFFICIAL MAPS AND PORTIONS OF OFFICIAL MAPS OF THE TOWNSHIP OF FERGUSON AND ADOPTING A NEW OFFICIAL MAP.

Mr. Pribulka introduced the ordinance as advertised that was provided in the agenda packet. Mr. Stolinas detailed further changes done to the official map and noted that per the Board's request, it does not include parcels for proposed parklands.

Ms. Graef moved that the Board of Supervisors adopt the ordinance and map amending the code of ordinances by repealing all former Official Maps and portions of Officials Maps of the Township of Ferguson and adopting a new Official Map for the Township of Ferguson. Mr. Miller seconded motion.

Discussion followed on some specific areas and eminent domain. Ms. Dininni identified Foxpointe Extension as a concern. Mr. Buckland had some concerns and discussion followed on Foxpointe Drive extension at Whitehall Road. Further discussion included clarification of map plans, using the map as a tool and grant mechanism, cost of development in and out of the growth boundaries, possible changes, roads entering onto Whitehall Road, traffic studies. More detailed discussion followed on growth boundaries and potential use of those boundaries by land owners and tax implications.

Mr. Miller, seeing a consensus that there are potential changes and questions raised from this discussion, asked staff to respond to those questions and for the Board to forward any additional questions to staff for future discussion prior to re-advertising the map.

Mr. Miller called for a roll call vote to adopt the Official Map.

Ms. Graef called point of order to clarify if the person that made the motion can vote against their motion. Mr. Miller ruled yes.

ROLL CALL VOTE: Mr. Miller: NO; Mr. Buckland: NO; Ms. Dininni: NO; Ms. Graef: NO. The motion failed 0 – 4 with all Board member dissenting.

A discussion will be rescheduled to review the questions raised on the Official Map.

2. A PUBLIC HEARING ON A RESOLUTION REPEALING RESOLUTION 2014-08 AND ADOPTING A NEW EMAIL UTILIZATION POLICY FOR AUTHORITIES, BOARDS, AND COMMISSIONS.

Mr. Pribulka introduced the resolution as advertised and provided with the agenda packet. The policy is applicable to any ABC member with a Township email account. If adopted, the policy will be reviewed with the Township members, boards and commissions. He went into further detail of the draft policy as more comprehensive than the previous policy and it captures the applicable statutes and is more useful in terms of how the email account can be used for official business.

Seeing no citizen input, Mr. Miller called for a vote on the email resolution.

Ms. Dininni moved that the Board of Supervisors adopt the Resolution of the Township of Ferguson, Centre County, Pennsylvania repealing Resolution 2014-08 and adopting a new Ferguson Township email utilization policy for authorities, boards, and commissions. Mr. Buckland seconded the motion.

Discussion followed on Sunshine violations, right-to-know law, explanation of resolution, extended discussion on limited personal use language, retention, penalties and interpretation of the email policy. Further discussion followed with clarification needed on non-township business use.

Mr. Keough noted a concern about the blanket policy for volunteers that are appointed as a citizen on the ABC boards that would have to abide by the email policy and noted that there might be a conflict of interest.

Discussion followed on the Administrative Code.

ROLL CALL VOTE on Resolution 2017-15: Mr. Buckland: YES; Ms. Dininni: YES; Ms. Graef: YES; Mr. Miller: YES.

3. Kansa Avenue Update - added as an agenda item. Mr. Modricker updated the Board on the history and referred to his report for reference. The Township withdrew the paving contract that was going out for bid originally without an easement. Previous detailed discussions with the Board, Township staff and citizens input produced a possible solution of an easement with a resident. However, after further discussion with the resident, the easement is on hold due to some factors, i.e., type of drainage pipe required on the property, drainage, maintenance, feasibility and costs. Discussion followed on the concerns and possible solutions. Following discussion, the consensus of the Board of Supervisors was to have Township staff draft a letter from the Board to the affected residents with visuals to show and explain in detail what is needed for the project. The Kansa Avenue paving project has been an ongoing discussion for the past three years and the project will not go forward unless an agreement is reached.

VIII. NEW BUSINESS

1. CONSENT AGENDA

- a. 2017-C6 Curb and Ramp Upgrades Payment Authorizations (3):
\$4,687.30, \$12,792.54, \$70,165.97
- b. 2017-C8 Pavement Markings Payment Authorization, \$23,119.35
- c. 2017-C8 Pavement Markings Payment Authorization, \$32,631.71
- d. 2017-C10 Bikepath and Parking Lot Sealcoat

Ms. Dininni made a motion to approve the Consent Agenda. Mr. Buckland seconded the motion. The motion passed unanimously.

Mr. Miller moved the Fire Station Feasibility Study discussion to the next item of business without objection.

2. DISCUSSION OF STUDY OF DESIRABILITY AND FEASIBILITY OF A FIRE STATION IN FERGUSON TOWNSHIP – MR. STEVE BAIR

Mr. Pribulka reviewed the Desirability and Feasibility Study prepared by Steve Bair, Centre Region Fire Director. Mr. Pribulka requested that the Board provide staff with direction on how to prioritize land acquisition for the fire station.

Discussion followed with Mr. Bair in detail on emergency services that included: Ag easement, environmental factors, cell service, economics, neighboring services, response

time, infrastructure, cost range for the building, progression, timeline based on the growth of the area, ISO rating, the need for a fire station, appropriated budget, development perspective and neighborhood concerns. Mr. Stolinis addressed Ms. Dininni's question on emergency services, including ambulance service, not currently being a primary use in RA districts and that it will be added in the future. Further discussion followed on volunteers and traffic detail. The consensus of the Board was to get a layout of what is needed and direction, public input/survey, growth, process, zoning, timeframes, other locations to consider, what services we currently have in the Township and what emergency and cell services are needed. Further discussion on land acquisition and subdivision of property. Mr. Pribulka suggested a community survey update and feedback be done for public input.

3. APPLICATION FOR ZONING VARIANCE – TOWERCO 2013 LLC, 500 SCIENCE PARK ROAD

Mr. Pribulka introduced the variance application as presented in the agenda packet. He went into detail on the construction of the monopole cell tower. The variance request is proposing an allowance for 1' setback for each 1' of tower height, a total of 119' setback instead of the required 500' setbacks from the nearest adjacent property line.

Discussion followed on an earlier point on the possible need to create an ordinance that allows the Township to collect a fee for cellular towers. Mr. Pribulka addressed Ms. Graef questions on whether there are cell towers in the Township and if there is revenue collected for their usage in the right-of-way. He went into detail on the typical cell phone towers/antenna systems, caps on height and current provisions in the ordinance that allow for collection of revenue for facilities located in the right-of-way. He noted the Township collects a franchise fee from Comcast which is a different type of fee. Mr. Miller noted separate from this discussion in regards to the fire station option, the Township could own the cell tower and lease it for a fee. Ms. Dininni questioned the recommendation to remain neutral since it goes against the rule. Mr. Pribulka used an example for perspective and historically in these cases the Board has taken a position of neutrality based on the merits of the request.

Mr. Miller moved that the Board of Supervisors **remain neutral** on the request for zoning variance for property located at 500 Science Park Road and move forward with the Zoning Hearing Board for consideration. Ms. Graef seconded the motion.

Mr. Miller called for a vote on the motion. The motion failed 2 – 2 with Ms. Dininni and Mr. Buckland dissenting.

Mr. Buckland moved that the Board of Supervisors **oppose** the variance request. Ms. Dininni seconded the motion. The motion failed 2 – 2 with Mr. Miller and Ms. Graef dissenting.

Mr. Miller ruled that the Board of Supervisors has no position or recommendation on the variance request.

4. SOURCEWATER PROTECTION ORDINANCE UPDATE – MR. RAY STOLINAS

Mr. Stolinis presented the latest draft ordinance update as provided in the agenda packet. Reviewed map overlays, timeline of planning meetings and hydrogeological conditions. SCBWA staff attended the May 8th meeting and discussed their position on the overlay proposal. The sourcewater Work Group met on June 15th and plan to meet on July 12th to discuss items of concern from the previous meeting. Concerns touched on included: feedback from Township staff and committee to better fit the language in the draft ordinance with SCBWA's goals and objectives in the 2017 sourcewater protection plan; Work Group

member to talk with the Ag community within Zone 1 areas of the Township that are consistent with the specific proposed zoned area.

Discussion followed that included clarification on grandfathering when wells change ownership, regulatory purview activity and if any effect on land owners in Zone 1. Mr. Stolinas stated the topics are still under discussion regarding Zone 1 areas that could be designated as critical sourcewater protection education areas and the purview does not go under DEP. Further detail on the subject followed. Ms. Dininni asked for more clarification on whether the grandfathering designation is taken out when wells change ownership and the effect on land owners.

**5. DISCUSSION ON LEED GOLD PUBLIC WORKS MAINTENANCE FACILITY –
MR. MODRICKER AND MR. BUCKLAND**

Mr. Modricker did an overview and provided a handout in the agenda packet for basis of design. June 14th was the kickoff meeting for the building with Township staff, Board member Mr. Buckland, architects and site designers. A questionnaire was presented at the kickoff meeting for the sole purpose of expressing the basic needs of the building design in a narrative form response. Mr. Modricker went into further detail on the basis of design document. Mr. Buckland continued the discussion and highlighted enhanced commissioning is part of the requirement for LEED Gold buildings and further discussed the integrated design that falls in line with the state's constitution, the net zero climate resolution, the health and wellbeing of those who work in the building and a prime example of what it can do for the community.

Discussion followed. Ms. Dininni discussed landscaping and rainwater control.

**6. AUTHORIZATION OF EXPENDITURE FOR THE TREATMENT OF OAK TREES –
MR. MODRICKER**

Mr. Modricker reported the incident that was received from a resident of Oak wilt located on Cherry Ridge Road. It was investigated by the Township Arborist. Steps were taken to mitigate the Oak wilt on site and the Township is in the process of issuing a purchase order for a contractor to do the additional service work pending approval. The Public Works Director authorized immediate abatement of the infected tree to prevent transmission of the disease to other oak trees in the vicinity and went into further detail of Oak wilt mitigation, preventative maintenance, tree count and the adopted policy on treatment. Reviewed costs to-date and presented to the Board additional estimated mitigation costs, current budget and appropriations.

Ms. Dininni move that the Board of Supervisors authorize the expenditure for the treatment of oak trees up to \$13,000. Mr. Buckland seconded the motion.

Discussion followed regarding the budget appropriations.

Mr. Miller called for a vote on the motion. The motion passed unanimously.

**7. DISCUSSION ON TIMELINE FOR THE COTTAGES PLANNED RESIDENTIAL
DEVELOPMENT**

Mr. Miller introduced the item to discuss on The Cottages/Toll Brothers plan. Mr. Pribulka noted the question raised earlier in the meeting was the timeline a developer has to record a land development plan and after it has received additional approval. The municipalities

planning code states 45 days. Mr. Pribulka went into further detail on the current land development plan, history of the court documentation, conditional approval and allowed time extensions. Mr. Stolinas further detailed the timeline dates of the legal delays and extensions with the project. In-depth discussion followed with a request from a Board member to have the points raised at this meeting and previous meetings answered in order to move forward regarding the timeline on this project.

The consensus of the Board was to go back to the solicitor on the questions raised and have a response back to the Board in a reasonable amount of time.

8. JOINT MEETING WITH BOARD OF SUPERVISORS AND PLANNING COMMISSION – REVIEW SCBWA TEXT AMENDMENTS

Mr. Stolinas introduced the suggested joint meeting to be set up for discussion regarding the State College Borough Water Authority's (SCBWA) text amendments. Mr. Pribulka went into detail on the other committees' interest in having both the Planning Commission and Board of Supervisors in a joint meeting to discuss the intent of the text amendments prior to a decision being made or recommendation to the Planning Commission. Joint meetings with the Board need to be approved by the Board prior to setting up the meetings.

Mr. Miller asked the Board Members if they would like a joint session. Ms. Dininni asked if a speaker will be attending the joint session to talk about SCBWA sourcewater protection plan. Mr. Stolinas noted the person would be talking at the sourcewater Work Group. Ms. Dininni asked that a presentation come before the Board on the 2017 sourcewater protection plan.

Consensus was the subject does not raise to the level of previous joint meetings and to give a recommendation. Mr. Miller asked that agenda items be sent to him via email to forward to the Planning Commission.

IX. COMMUNICATIONS TO THE BOARD

Ms. Dininni had a communication from a resident on the wash-out on Tadpole/Whitehall roads that may require a longer term fix to alleviate that problem; Board received over 50 emails from concerned residents on the future land of The Cottages PRD; a resident from Pine Grove Mills that has a snow issue with PennDOT; and finally noted several editorial changes in a document presented by Penn State on The Cottages PRD.

X. CALENDAR ITEMS – JULY: None were noted.

XI. ADJOURNMENT

With no further business to come before the Board of Supervisors, Ms. Dininni made a motion to adjourn the meeting. Mr. Miller seconded the motion. Mr. Miller adjourned the meeting at 11:30 p.m.

Respectfully submitted,



David Pribulka, Township Manager
For the Board of Supervisors
Date approved by the Board: 07-17-17