

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, June 5, 2017
7:00 PM

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, June 5, 2017, at the Ferguson Township Municipal Building. In attendance were:

Board: Steve Miller
Janet Whitaker
Laura Dininni
Peter Buckland
Rita Graef

Staff: Dave Pribulka, Township Manager
Dave Modricker, Director of Public Works
Ray Stolinis, Director of Planning & Zoning
Lindsay Schoch, Community Planner

Others in attendance included: Joseph Green, Kelli Hoover, James Himes, David Hughes, Scott Pflumm, George Pytel, Bernie Hoffner, Andy McKinnon, Joseph Green, Bernie Hoffner, Walt Schnider, Todd Giddings, Ann & Don Thompson, Kim Intorre, Pat & Sharon Houser, Virginia Belsu, Michelle Spiering, Melissa Poulsen, Ann Susan Bruer, Evergreen, Terry Molten, Cathy & John Tennis, Sarah Rafacz, Brian Replogle, Angrea & Tom Pollok, Sara Verti, Sherry Minarchick, Bonnie Wood, Art Curtzc, Gayle Sunday, Bill Hechinger, Pam Steckler, E. Kerchner, Darryl Slimak, Faith Norris, Recording Secretary

II. CALL TO ORDER

Mr. Miller called the Monday, June 5, 2017, regular meeting to order at 7:08 p.m.

Mr. Miller announced that the Board held an executive session on a litigation matter directly before the June 5, 2017, meeting.

III. CITIZENS INPUT

Mr. Miller asked for any items not on the agenda.

A number of citizens spoke on the stormwater management issues, history and on-going development of the area. Discussion on legal, quantitative and technical land use of the property that Toll Brothers is planning on purchasing from Penn State for a cottage-style student housing PRD plan. Some citizens spoke on the conservation needs of the watershed of the land along West Whitehall Road/Blue Course Drive and what impact student housing would have on the local community. A suggestion was made to have more public forums to educate the community and citizens on the proposed land purchase.

Also discussed was the PA Human Relations Act of 1955, PL 744 #222, amended June 25, 1997, specifically regarding the absence of sexual orientation in fair housing legislation.

IV. MINUTES

1. May 15, 2017, Board of Supervisors Regular Meeting

Ms. Dininni noted Pg. 4, ¶ 2, replace *science* with *signs*;

Ms. Dininni made a motion on Page 7, item 7, remove *Whitehall Road Regional Park* in both places (¶'s 1 and 2) and replace with *potential passive parkland* designation. Mr. Buckland seconded the motion. The motion passed unanimously.

Ms. Graef made a motion on Pg 4, ¶ 5, last sentence to change *noted* to *needed*. Mr. Buckland seconded the motion. The motion passed unanimously.

Ms. Dininni made a motion on Pg 8, under item 10, ¶ 1 & 2 to include content of discussion of chairperson's idea to pay for the road and Ms. Dininni's objection to that idea. Mr. Buckland seconded the motion. The motion passed 4 to 1 with Ms. Whitaker dissenting.

Mr. Miller noted the motion on the table previously made by Mr. Buckland to approve the minutes as amended. Ms. Dininni seconded the motion. The motion passed unanimously as amended.

V. REPORTS

1. COG COMMITTEE REPORTS

a. Executive Committee

Mr. Miller noted the agenda is in the packet from last month. No report.

b. Public Services & Environmental Committee

Mr. Miller attended the meeting in Mr. Buckland's absence. Discussion highlights included Act 537 Plan Special Study on the proposed extension of beneficial reuse system to the Mountain View Country Club and other locations. This item was recommended for presentation at the June 26th COG General Forum and a follow-up at the PSE Committee meeting on August 3rd with intent to have approval by August 28th. Review of how the regional growth boundary and sewer service areas are administered. This item was recommended for the COG General Forum and a report has been prepared by staff recommending possible changes. The report is available from COG Planning. A Solar Power Basics factsheet will be included as Matter of Record in the General Forum agenda.

c. Transportation & Land Use Committee

Ms. Whitaker reviewed the highlights the meeting. Discussion highlights included detailed suggestions and examples for the Assessment of Land Development Plan Review Process. The next meeting is Monday, July 10th at COG.

2. OTHER REGIONAL COMMITTEES

a. Spring Creek Watershed Commission

Mr. Buckland gave an overview of topics discussed at the May 17th meeting at the Municipal Building. Topics included geology and water resources, update and release of the online Spring Creek Watershed *Atlas*, and Phase II of the Spring Creek Watershed Management Plan. Further technical information and conservation was discussed on the watershed and plans. Public education articles are available online. Mr. Miller noted the Spring Creek Watershed Meetings are recorded on C-Net and may be viewed online.

b. Parks Capital Committee

Ms. Graef said the meeting has been cancelled for June 8th. No agenda items for consideration at this time. The next meeting is scheduled for July 13th at 12:15 p.m., Forum Room, COG.

3. STAFF REPORTS

a. Manager's Report

Mr. Pribulka summarized the report included in the agenda packet. On May 30th we closed on a purchase of conservation easements for three parcels near Piney Ridge Development; the Township received reimbursement from PA Municipal Health Insurance Coop for unused premium in 2016; 2016 Independent Auditor's Report had an adverse opinion due to the way the authority prepares balance sheets using DCED's reporting mechanism-went into further explanation of this topic; memorandums from liaison to SCBWA summarizing meetings and recent denial of a variance request for a water treatment plant near Nixon Wellfield; clarification of water as essential services in the Township vs the actual building of the treatment facility that does not fall under the category definition-went into further detail on this item and will be having a future meeting with the Township's liaison to further discuss the Township's position;

The CBICC Economic Development Summit meeting is Tuesday, June 20th at 4:00 p.m., Mountainview Country Club. Mr. Pribulka asked to let him know if anyone is attending and has not yet RSVP'd and he will RSVP for them. As of last month the Township has paid its last general obligation payment and is essentially debt-free except for the obligation to Council of Governments.

b. Planning and Zoning Director

Mr. Stolinas reported the Active Plan List was included with the agenda packet along with the current land development subdivision applications. The new format includes the last set of approved minutes from May 8th. Planning Commission met on May 22nd and discussed the Draft Traditional Town Development Text Amendment. Mr. Stolinas read off the report as presented in the packet. May 2017 in comparison to May 2016 permit reports were included with the packet. Sourcewater Protection Work Group Meeting will be on June 14th.

c. Public Works Director – No report.

VI. OLD BUSINESS

1. ORDINANCE REPEALING THE CENTRE REGION BUILDING SAFETY AND PROPERTY MAINTENANCE CODE, 2010 EDITION AND AMENDMENTS, AND ADOPTING THE CENTRE REGION BUILDING SAFETY AND PROPERTY MAINTENANCE CODE, 2017 EDITION, AS AMENDED, TO BE KNOWN AS CHAPTER 5 – PART 3 – BUILDING SAFETY AND PROPERTY MAINTENANCE CODE.

Mr. Pribulka introduced the ordinance as advertised for public hearing that adopts the 2017 addition that included several Board-approved items that staff was directed to amend. Overview of changes: definition of residential rental property-renting one (1) night or more needs to meet the requirements of the rental housing program, removal of the authority of Public Works Director and Township Arborist to enforce the hazard tree provisions, and Centre Region Code Director has added language to allow the Township, if desirous, to participate in the "points" system for rental housing that could revoke a holder's permit if a certain amount of points for nuisance violations are accumulated. Mr. Pribulka noted that this change does not obligate the Township to participate.

Mr. Whitaker made a motion that the Board of Supervisors **adopt** the ordinance repealing the Centre Region Building Safety and Property Maintenance Code, 2010 Edition, and adopting the Centre Region Building Safety and Property Maintenance Code, 2017 Edition, as amended. Ms. Graef seconded the motion.

ROLL CALL vote on ordinance #1032: Mr. Miller-YES, Ms. Whitaker-YES, Mr. Buckland-YES, Ms. Dininni-YES, Ms. Graef-YES. The motion passed unanimously.

2. ORDINANCE REPEALING THE CODE OF ORDINANCES, CHAPTER 19, SIGNS AND BILLBOARDS AND REPLACING IT WITH THE CHAPTER 19 SIGNS AND BILLBOARDS

Mr. Stolinas introduced the ordinance as advertised for public hearing adopting a new Chapter 19, Signs and Billboards. It has been substantially modified to comply with the United States Supreme Court decision in *Reed v. Town of Gilbert* requiring content neutrality in all municipal sign regulations and further modifications have been added to provide for new types of signage, improve the ability for residents and businesses to interpret and apply the regulations, and make the ordinance more "business-friendly."

Ms. Dininni needed clarification on digital display message centers and was not in favor of placing these message centers in R1-4, RA and RR areas. Discussion followed on permitted uses and sign requirements.

Mr. Pribulka clarified that the Board would have to take action on the ordinance as advertised and then reintroduce for future advertisement if making substantive amendments.

Ms. Dininni made a motion to postpone the Sign and Billboards ordinance. No second was offered.

Ms. Graef made a motion that the Board of Supervisors **adopt** the ordinance repealing Chapter 19, Signs and Billboards in its entirety and adopting a new Chapter 19, Signs and Billboards. Mr. Buckland seconded the motion.

ROLL CALL vote on ordinance #1033: Ms. Whitaker-YES, Mr. Buckland-YES, Ms. Dininni-NO, Ms. Graef-YES, Mr. Miller-YES. The motion passed 4 to 1.

3. DISCUSSION ON KANSA AVENUE DRAINAGE PROBLEMS

Mr. Miller introduced the discussion and noted this topic has come before the Board numerous times. Mr. Modricker did an overview and history of the Kansa Avenue paving project that is part of the Piney Ridge Development. A memorandum from the Public Works Director was included with the agenda outlining the discussions that have been held to-date on the Kansa Avenue activity. The project is currently out for bid and is scheduled for opening on June 13th.

A number of residents spoke about the need for a suitable drainage system on Kansa Avenue prior to paving the road. A suggestion was made to put in an underground ditch/pipe instead of an open drain. A clarification was made about the process and technical details of the project. The pump station in the area addresses sewage and not stormwater. Other discussions included site improvements, nearby access, open space, sloping, water flow direction, and eminent domain. Following the discussion, the consensus was not to pursue paving the road without drainage and to withdraw the bid. A contractual agreement with piping system was suggested with one of the resident's in attendance and will be pursued to move forward with the project and bidding process for next year. The project will not go out for bid if an easement is not provided by the property owner.

4. PROPOSED ORDINANCE AMENDMENT – PET DAYCARE FACILITY IN THE IRD

Mr. Pribulka introduced the proposed ordinance amendment as presented. The application was received April 14th from Robert and Judy Burgess of 3020 Research Drive to add Pet Daycare facilities as a permitted use by right in the Light Industrial/Research and Development (IRD) Zoning District. At the May 2, 2017, meeting, the Board of Supervisors directed staff to develop a draft ordinance amendment that considers Pet Daycare Facilities in the IRD as a Conditional Use.

The floor was open for public comment. Staff clarified location, guidelines, options, flexibility and lot size. Ms. Graef needed clarification on pet care for outdoors and Mr. Stolinas clarified the ordinance for outdoors. Discussion followed on Pet Care and Pet Daycare ordinances.

Ms. Dininni made a motion to refer the draft Pet Daycare Facility in the IRD ordinance to the Planning Commission with an increase in the minimum lot size to .75 acres. Mr. Miller seconded the motion. The motion passed 4 to 1 with Mr. Buckland dissenting.

5. REZONING REQUEST – TAX PARCEL 24-004-,067-0000, 71.9 ACRES (HARNER FARMS)

Mr. Stolinas introduced the tax parcel, with complete application and map, as presented. The current zoning designation of the property located at 2177 West Whitehall Road is currently designated Rural Agricultural (RA) and Corridor Overlay. The proposed designations are General Commercial (C), Single Family Residential (R-1), and Two Family Residential (R-2). The property is located within the Regional Growth Boundary/Sewer Service Area of the Centre Region.

Mr. Pribulka clarified designated areas on the map. It was clarified action at this time, if the Board is interested in moving forward, is to refer the request to rezone the property to the Planning Commission. Mr. Miller clarified no subdivision was submitted with this request.

Discussion included whether there will be public comment for future residential/commercial developments with home energy efficiencies prior to approval of zoning changes or amendments. Further discussion and clarification was addressed on how the zoning and code process work and energy efficiencies.

Ms. Graef discussed rules in the current ordinance regarding buffers along properties that are built next to an RA zone. Look at parameters for farmers right to farm and compliance.

Ms. Dininni made a motion that the Board of Supervisors refer the rezoning application to the Planning Commission for consideration and a recommendation. Ms. Whitaker seconded the motion. The motion passed 4 to 1 with Mr. Buckland dissenting.

VII. NEW BUSINESS

1. CONSENT AGENDA

- a. Award of 2017-C9 Microsurfacing Contract
- b. Adopt-A-Road Agreement, West Whitehall Road – Byers, Campbell, and Houck Families
- c. Award of 2017-C22 Meckley Road
- d. Payment Authorization – Contract 2017-C6, Curb and Ramp Upgrades

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

2. REQUEST FOR SIDEWALK INSTALLATION – TEABERRY LANE

Mr. Pribulka introduced the request as presented along with an aerial map and estimated cost. The request was received from Mr. Darryl Slimak, Esq., 821 Teaberry Lane on behalf of the Teaberry Ridge Homeowners Association to install a sidewalk along the northern side of Teaberry Lane in the vicinity of its intersection with Blue Course Drive. The obligation rests on the Township to construct the sidewalk. Presentation and discussion followed on the history and technical details of the proposed sidewalk project.

Ms. Dininni inquired about instituting a budgeted sidewalk plan to connect unlinked sidewalks. Mr. Modricker clarified that sidewalks are historically not part of the Capital Improvement Plan unless there is grant funding for it. Following discussion of ongoing maintenance costs, the Board consensus was to look into an agreement with the Teaberry Ridge Homeowners Association for maintenance of the constructed sidewalk, and that the Township would include an appropriation to pay for its construction. Ms. Graef suggested getting in touch with the Transportation Planner from Centre Regional Planning Agency for bike plan information.

3. FERGUSON TOWNSHIP OFFICIAL MAP – AUTHORIZATION FOR PUBLIC HEARING

Mr. Stolinis presented the Draft Official Map as presented. Staff completed a draft update in accordance with the provisions of the Pennsylvania Municipalities Planning Code. It is considered a planning tool adopted by the Board of Supervisors assisting in long-range planning for new public uses and infrastructure. The updated map is an improved layout over previous iterations and is consistent with comments received during public forums and review by the Township and regional planning commissions. A memorandum was provided by the Director of Planning & Zoning and Community Planner that reviews the proposed additions and revisions to the 2008 Official Map that is adopted by ordinance at a public hearing. An online link was provided due to size limitations of the agenda packet.

Public discussion followed. Citizens spoke about their concerns on the use of the proposed Whitehall Regional Park, passive parkland use designation and conservation of those areas in alignment with community interest. Discussion followed on any constraints for building on the land. A suggestion was to use the land for a young farmers' research study. Mr. Pribulka clarified the map's use, eminent domain and designations.

Ms. Dininni made the motion that the Board of Supervisors **authorize** the ordinance adopting the Ferguson Township Official Map for public hearing. Mr. Buckland seconded the motion.

Ms. Dininni followed with discussion in more detail on the value of soil and floodplain maps as a planning tool for land use and, in particular, for the proposed Whitehall Regional Park in regards to natural conservation. Mr. Miller commented that the map is basically ready to go; however, unless a park is placed on the Official Map at this time, the designation of lands around the proposed Whitehall Regional Park is not needed due to being protected by current RA zoning and would require rezoning and extension of the regional growth boundary for any development to occur.

Mr. Miller made a motion to amend that the designation of passive parklands (Proposed Parkland) be removed from the map. Ms. Graef seconded the motion.

Discussion followed on the removal of the passive parkland designation. Ms. Dininni clarified and discussed intended land designations for the protected areas and open space for future use. Ms. Graef further clarified the parcel is designated on a number of maps as Agricultural and suggested the property owner needs to be factored into the conversation if any changes in designation are to be made to have a continued open dialogue on the future land use. Mr. Buckland suggested to place the land that Penn State owns between Whitehall Road and Rt. 45 into a conservation easement to ensure that it is preserved. Further discussion followed on passive park designation vs. agricultural use and designation/intent to acquire waterways prior to development.

Matter of record. Ms. Dininni clarified the cost it would take for the Township to acquire the land in order to preserve the open space passive park multi use area if they chose to.

Ms. Graef discussed the differences between passive park/easement vs. Ag production.

Ms. Graef called the question to take a vote on the amendment. Ms. Dininni called point of order and clarified that passive park designation does not take a parcel out of active Ag production. Mr. Miller asked to take a vote on calling the question. The motion passed 4 to 1 with Ms. Dininni dissenting.

Mr. Miller asked for a vote on the amendment to remove designation of passive parkland. The motion passed 4 to 1 with Ms. Dininni dissenting.

Mr. Miller asked for a motion to authorized the ordinance adopting the Ferguson Township Official Map for public hearing. Ms. Dininni asked for discussion. Ms. Graef called the question. Mr. Miller asked for a vote on calling the question. The vote failed due to not having two-thirds vote with Ms. Dininni and Mr. Buckland dissenting.

Ms. Dininni wanted clarification on whether there can be discussion prior to making an amendment or a motion only. Mr. Buckland clarified that any proposed amendment put forward or seconded is an item that can be discussed. Mr. Miller asked for discussion. Ms. Dininni discussed Beaver Branch and waterway designations. Mr. Miller clarified designation for waterways would be intent to acquire if a development plan comes in.

Mr. Buckland called point of order. Mr. Buckland noted he is in favor of future versions of the Official Map; however, this one needs a vote to move forward and called the question.

Mr. Miller asked for a vote on calling the question. The motion passed 4 to 1 with Ms. Dininni dissenting.

Mr. Miller made a motion that the Board of Supervisors **authorize** the ordinance adopting the Ferguson Township Official Map for public hearing. The motion passed 4 to 1 with Ms. Dininni dissenting.

No further discussion or amendments were made.

4. APPLICATION FOR ZONING APPEAL AND VARIANCE – HFL CORPORATION, 1217 N. ATHERTON ST./114 W CHERRY LN.

Mr. Stolinas presented the appeal as applied for a proposed 3-story multi-use building on W. Cherry Lane that is located within the General Commercial zoning district and the variance application suggestion the ordinance is inconsistent in the Multi-family dwelling definition under §27-1202 and Accessory Use regulation under §27-204 A.(2) relating to dwelling units in commercial buildings. Mr. Stolinas went into further clarification and definition of the multi-family residential ordinance.

Mr. Miller recommended two separate motions. One for the zoning appeal and one for the variance.

Mr. Buckland made a motion that the Board of Supervisors **oppose** the request for zoning appeal by HFL Corporation. Mr. Miller seconded the motion. The motion passed 4 to 1 with Ms. Dininni dissenting.

Mr. Buckland made a motion that the Board of Supervisors **remain neutral** on the variance application for the zoning/appeals by HFL Corporation. Ms. Whitaker seconded the motion. The motion passed 4 to 1 with Ms. Dininni dissenting.

5. DESIGNATION OF A PRIMARY TOWING AND VEHICLE STORAGE FACILITY TO PROVIDE SERVICES TO THE FERGUSON TOWNSHIP FOR TOWING AND IMPOUNDMENT OF DISABLED, ABANDONED, OR ILLEGALLY PARKED VEHICLES, OR VEHICLES IN VIOLATION OF ANY PROVISION OF THE LAW OR ORDINANCES OF FERGUSON TOWNSHIP.

Mr. Pribulka provided some history along with a copy of the application that meets all of the criteria under Section 504 of Chapter 15, Motor Vehicles and Traffic, Part 5, Immobilization, Removal, and Impoundment of the Ferguson Township Code of Ordinances. The Resolution was adopted by the Board establishing the criteria and staff had solicited applications to provide for the approved services for towing and storage facilities. One application was received as the primary towing company from John Tennis Towing.

Ms. Whitaker made a motion that the Board of Supervisors designate John Tennis Towing as the primary towing and storage facility of Ferguson Township. Ms. Graef seconded the motion. The motion passed unanimously.

6. AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH PETS COME FIRST TO PROVIDE KENNEL SERVICES TO THE TOWNSHIP AS NEEDED

Mr. Pribulka introduced this as a funding line item that was approved by the Board in 2017 to allow the Township to enter into an agreement with *Pets Come First* to board stray animals on an as-needed basis. This is due to the typical protocol of using local veterinarians that are, at times, not available because they are at capacity. The Township Solicitor has reviewed the agreement with no objections. A copy of the agreement was provided with the agenda.

Following discussion on the terms of the agreement, it was the consensus to amend the agreement as follows:

Mr. Miller made a motion to strike the wording under item 12, second sentence stating "In no case shall municipality incur any additional expenses for quarantine." Ms. Dininni seconded the motion. The motion passed unanimously.

Ms. Whitaker made a motion that the Board of Supervisors **authorize** the Township Manager to enter into an agreement with *Pets Come First* to provide kennel services to the Township. Ms. Graef seconded the motion. The motion passed unanimously.

VIII. COMMUNICATIONS TO THE BOARD

Ms. Garef noted a communication from a resident in Overlook Heights community regarding construction/diversion of traffic and the issue with a line-of-sight and parked vehicles. Ms. Dininni had communication from residents stating to keep passive parkland designation on the Official Map along with a question on why the tax monies are being used for the Penn State sidewalks. Mr. Pribulka noted it is state right-of-way and not Township. Ms. Dininni asked staff if there is a way to save taxpayer dollars on paying for sidewalks on state highways and if there is a way to require the property owner to pay for the sidewalks on their land. Mr. Modricker clarified the question on whether the Township can use an ordinance that would require private property owners to install a sidewalk applicable on a state highway. There was no answer at this time. Noted was how well the Planning Commissions minutes were written.

IX. CALENDAR ITEMS – MAY/JUNE

No calendar items.

X. ADJOURNMENT

With no further business to come before the Board of Supervisors, Ms. Graef motioned to adjourn the meeting. Mr. Buckland seconded the motion. Mr. Miller adjourned the meeting at 10:56 p.m.

Respectfully submitted,



David Pribulka, Township Manager
For the Board of Supervisors
Date approved by the Board: 06-19-17