

# FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, August 2, 2010  
7:00 pm

## I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, August 2, 2010 at the Ferguson Township Municipal Building. In attendance were:

<b>Board:</b>	Richard Killian, Chairman	<b>Staff:</b>	Mark Kunkle, Township Manager
	Robert Heinsohn		Trisha Lang, Director of Planning & Zoning
	Steve Miller		David Modricker, Director of Public Works
	Bill Keough		Eric Endresen, Director of Finance
	George Pytel		

Others in attendance included: Marsha Buchanan, Recording Secretary; Anna Peters, 438 W. Gatesburg Road, PA Furnace; and Ron Seybert, Trans Associates.

## II. CALL TO ORDER

Mr. Killian, Chairman, called the August 2, 2010 meeting to order at 7:09 pm. He noted that the Board held an Executive Session before this meeting to discuss a potential litigation.

## III. PUBLIC HEARINGS – ORDINANCES

### 1. PUBLIC HEARING ON AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 10, EATING AND DRINKING PLACES, BY REPEALING PART 2 IN ITS ENTIRETY AND REPLACING IT WITH A NEW AND REVISED PART 2, ENTITLED FOOD ESTABLISHMENTS AND FOOD HANDLING

The proposed ordinance will bring the current ordinance into compliance with current Department of Agriculture regulations with regard to food establishment and food handling licensing. This creates a new title for this section of the ordinance. Mr. Kunkle provided an overview of changes made to the previous Part 2 of the ordinance.

Mr. Heinsohn made a motion to adopt Ordinance 939, the Food Establishments and Food Handling ordinance, repealing and replacing the current Eating and Drinking Places ordinance. Mr. Keough seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

## IV. PUBLIC HEARINGS – RESOLUTIONS

### 1. A PUBLIC HEARING ON A RESOLUTION ADOPTING AND APPROVING AN AGRICULTURAL SECURITY AREA PROPOSAL, WITH ADDITIONS AND MODIFICATIONS

Mr. Kunkle said this is a process the Township needs to go through every 7 years under the Ag Security Law. The new ASA will contain over 175 parcels, representing 4,500 acres of agricultural land. It represents an addition of more than 500 acres to the 2003 ASA.

Ms. Lang said in April the Township contacted people already in the Ag Security Area and identified additional properties that could participate. At the end of July they reached a finalization of that process. She pointed out two maps. In the past the Ad Hoc Committee has agreed that as long as a property has not requested to be *out* of the ASA, they would be considered to remain *in* the ASA.

Ms. Lang said this process was consistent with prior years. The Planning Commission recommended that the Board continue in the way the Ad Hoc Committee recommends. Mr. Keough said three of the committee members have been on that committee previously. They are pleased with the numbers they have in terms of participation in the ASA. This is something that by law is an opt-in situation. It is not something the Township dictates. A person can opt out of the ASA at any time with no penalties or fees, in writing to the Township. Ms. Lang said they lost only two properties to development.

Ms. Lang said the Township owns the land that has been removed from the farm district. Mr. Pytel said there is no way to protect it from farmland. Ms. Lang said forestry would be included because it is considered a horticultural operation.

Mr. Heinsohn asked what security is provided. Ms. Lang said there are essentially 3 benefits, other than the concept of it being a group that it committed to farming: 1) protected from condemnation of property by a public agency; 2) allowed to participate in the county ag preserve program; and 3) protected to some degree through the nuisance law.

**Anna Peters**, 438 W. Gatesburg Road, PA Furnace, expressed concern that her whole farm be included. Ms. Lang provided information on her property. They have added as a new property tax parcel number 24-003-14 (12.8 acres). That will be included in the new ag security area that will be recorded. Ms. Peters just wanted to be sure that both properties would be included.

Mr. Pytel explained that when they put the RA zoning in Ferguson Township, they created agriculture as a business. In the Township they are already protected.

Mr. Keough made a motion to adopt Resolution 2010-20, approving an agricultural security area with additions and modifications. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

## **V. PUBLIC HEARINGS**

### **1. PUBLIC HEARING ON THE 2011-2015 CAPITAL IMPROVEMENT PROGRAM BUDGET**

The CIP Budget is a 5-year financial planning document that projects both revenues and expenditures. Total capital expenditures for this period of time are projected at over \$22 million, representing over 27% of the Township's total budget. The proposed budget will be considered for adoption by the Board on August 16, 2010.

Mr. Kunkle summarized significant projects from 2011-2015, broken down by year. There have been some changes from the 2010-2014 CIP.

Mr. Pytel made a motion to receive the presentation on the 2011-2015 Capital Improvement Program Budget and receive any public input relative to the budget in anticipation of adoption of the 2011-2015 CIP Budget on August 16, 2010. Mr. Miller seconded the motion. The motion passed unanimously.

## **VI. COMMUNICATIONS TO THE BOARD**

Mr. Heinsohn is a member of the C-Net advisory committee. He announced that the assessment for Ferguson Township will only increase next year by \$135.00.

Mr. Pytel received phone calls from a neighbor who has problems on Deepwood Drive with people who are parking in the grass and placing trash in inappropriate places.

Mr. Keough said he met twice with general public groups, once regarding the proposed TSS district and once regarding the W. Whitehall Road project, to find out citizens' concerns.

## **VII. ACTION ITEMS**

### **1. DISCUSSION OF WEST WHITEHALL ROAD STORMWATER DESIGN**

Mr. Modricker provided a summary of the project. The intent has been to finalize the stormwater design and utility relocation plans, so they can better prepare right of way drawings and hold an announced open house with affected property owners. The process has taken longer than expected. Mr. Keough met with Mr. Modricker individually and expressed concerns. On August 2<sup>nd</sup> staff was able to review the final stormwater plans from the design consultant. Mr. Keough expressed his concerns as follows:

- He is concerned about the size of the footprint that the proposal is making (how much land they are taking in order to achieve their goal in widening the road). Problems arise with managing stormwater. Initially there were two stormwater basins proposed – one in an area where there is currently no agriculture and one that is part of an active farm field. The detention basin in the area where there is no farming does not have to exist, which they discovered during their infiltration testing. Mr. Modricker agreed; the stormwater basin in the wooded area is no longer required. Mr. Keough said the other basin is proposed to take active ag land out of production for the purpose of the basin. This is the Lisa Campbell property. In their discussion there were some unknowns. Mr. Modricker said those issues have a bit more resolution at this time. The basin is moved as close to the property line as possible. It extends for a distance, then has a drainageway that goes around the basin to convey upstream drainage from across the road. All together it is approximately 150' in width and 400' in depth for approximately 1.5 acres. It is about a half acre smaller than the plan Mr. Keough originally reviewed. Mr. Modricker said the design consultant put more detail into the drawings, made some adjustments, and did the best she could to minimize the impact on the area.
- He expressed concern about fixing past stormwater issues unrelated to this project. Mr. Modricker said there are 3 different elements: 1) upstream drainage coming from north to south, flowing under the road and across the field, going around the basin; 2) the basin handles runoff generated from the impervious area that is created from the road itself; and 3) it is there to help buffer some effects of upstream drainage.
- He expressed concern about impact to ag land. He respects the knowledge of the engineers. He has only seen one plan to deal with this. They discussed ways of possibly dealing with runoff coming from the light at the intersection, through Corl Acres, off of the road. Right now the plan is impacting one of the Township's active farm fields. He would like to see more creativity in dealing with the water that is proposed to go in and around this detention basin. Mr. Modricker said, preliminarily, when they discussed stormwater, it did not include the construction of basins. After they met with DEP and others, they realized they will need to do some detention based on the size and scope of the project. They also internally looked at options of trying to contain the water through the subdivision. However, the subdivision has

private roads and does not have areas where they could readily construct drainageways. As the design became more finalized, it became apparent that the scope of the stormwater was more than just roadside infiltration. Mr. Keough commented that they are hesitant to deal with access under or through private roads, but are willing to take private property in another location to do things with water. Mr. Modricker agreed that everyone's land is valuable. But he has to provide direction to the designers for what makes sense if this is a project the Board wants to pursue. He said Mr. Keough suggested to run either an open channel or a closed conduit along the wood line between Harner Farms and the next residential property to try to cut off some of that water, convey it a few hundred feet south, and head into a wooded area on a property that is zoned residential. There is still going to be a need for a basin at the location that is proposed.

Mr. Killian asked if alternatives were discussed during the design work. Mr. Modricker said early discussions involved roadside swales for roadside infiltration, etc., and not having stormwater basins. Other discussions involved curbing or piping Corl Acres. Many questions were asked. Then they did infiltration testing to determine where on the project they would be able to do infiltration. There was also discussion about whether they could convey the stormwater through the Corl Acres subdivision. They spent a lot of time looking at that small area and identified on-lot septic and sewer systems. For the rest of the project, the intent was always roadside infiltration. Some of it is driven by permitting requirements. Mr. Killian inquired about the cost in the Corl Acres option versus the currently proposed option. Mr. Modricker did not do a cost comparison there. They did not analyze installing a detention basin.

Mr. Modricker discussed Mr. Keough's suggested alternative of cutting off some of the stormwater before it reaches the proposed stormwater basin on the Campbell property. One way would be to intercept it and construct either a close conduit or an open channel along the property line between Harner Farms and the residential area, take it several hundred feet to the rear, and then discharge the water into the wooded area. Mr. Keough asked, under the current proposal, where the water would go after it leaves the detention basin. Ron Seybert, Trans Associates, showed this on the map. Mr. Modricker provided further detail.

Mr. Seybert clarified that when they looked at the design of the detention basin they considered that the water would go where the land naturally lies. Whether or not the water continues through the neighborhood or is piped along W. Whitehall Road would have minimal effect on the size of that detention basin. He explained this further. The volume they would need to store would not change significantly. It is all coming down to the same location. They have to manage the flow of water from the project. Whether the water actually flows to the basin itself or around the basin, the size of the basin needs to be large enough to manage the change in flow looking at the ultimate ending point downstream. The size of the pond itself would not change much. Some of the water might go around the pond, but the amount of water they are holding back is about the same. Mr. Modricker said they are trying to minimize impact on structures.

Mr. Kunkle clarified that they are only detaining the new impervious area. They are not building a detention basin for the entire Corl Acres subdivision or for the water that flows from State College Ford. They are only building a basin that will control the stormwater from the new impervious area they are constructing. That is why the basin size does not change.

Mr. Heinsohn lives on that road. That field has always been a drainage basin, collecting water during storms. He asked why they cannot continue to farm that area. Mr. Modricker said the proposal would

pond water about 3-5 feet deep up through the 100-year storm. Farming through a basin is a concept he had not considered. Mr. Heinsohn suggested possibly retaining the agricultural use, while still satisfying the stormwater needs. The practical difficulty would be building the type of slope and embankment they would need.

- Another challenge Mr. Keough identified was that there are two standards for the construction of this project – one that PADOT has been authorized to meet and one that everybody else has to meet. They went in with the understanding that they would be able to maintain the PADOT standard from Whitehall Road to Atherton Street. But they found out that they actually need to meet a stricter standard. Apparently, however, there is an option by which the municipality can do something to request being able to meet the PADOT standard rather than the stricter standard. It appears that they are not pursuing the opportunity for being able to meet a lesser standard. If they were able to meet the PADOT standard instead, that might change the need for that detention pond, or clearly impact the size of that pond. If not, he asked if some type of mitigation activity, such as moving the water prior to it reaching the Campbell Farm, would be enough to mitigate the need for that pond. He does not understand what needs to be done to pursue that option or possibility. Mr. Modricker said it is something that is up to the design consultant, who needs to be comfortable with the design. They have been advised of the Township's concern and Mr. Keough's concern. As of August 2<sup>nd</sup>, the design submitted with the proposal for the stormwater basin is the necessary design. Mr. Seybert said the application of one standard versus the other would not affect the need for a basin in this location. It may impact the size slightly, but they would still need a basin there in order to manage the change in flow going through the Corl Acres neighborhood.

Mr. Modricker said certain homes have a drainage easement between them. The design consultant looked at the current drainageway. The waiver request needs to come from the professional engineer who is signing the stormwater plan. There would need to be some sort of socioeconomic justification. Mr. Keough said the current engineer does not see any change in the design based on the two standards.

Mr. Keough asked if there is any impact throughout the entire project where they could make the footprint smaller or have the PADOT standard. Mr. Modricker said on the western portion of the project they have plans for infiltration trenches. Mr. Keough's concern is that they are taking structures from their current ag uses. Some of the land is the most productive land in the county. They need to look again at the footprint. Mr. Modricker said, while Mr. Keough has asked them to minimize impacts on the agricultural community, there comes a point where they are either doing stormwater management or they are not.

Mr. Keough asked if they considered engineered soils. Mr. Seybert said they did infiltration testing first. If they did not have good infiltration rates, then engineered soils would be an option to consider. They also need to consider depth of bedrock, as well as location of septic drain fields where they can or cannot do infiltration. Mr. Modricker explained this in further detail. Mr. Seybert said the infiltration facilities are designed under the conveyance swale alongside the roadway. They are trying not to expand the footprint horizontally.

Mr. Killian asked about the feasibility and cost of design involved with the hedgerow alternative. Mr. Modricker said in terms of cost, they would issue a supplement to the design consultant for \$3-5,000 to do some analysis and design. If going 500' with a pipe at \$70/foot, that would be about \$35,000. It would be ½ or ¼ the cost if constructing an open channel. Then they would need to acquire the area

for the construction of the basin or the closed depression. For ½ acre on a 3-acre parcel, there may be some type of indirect or severance damages to the rest of the parcel. In essence, it would help make the basin on the ag property smaller, but it would not disappear. Mr. Seybert said they have not done the calculations, but looking at the size of the drainage areas, they would still need to manage the stormwater in some way.

Mr. Keough suggested looking at this option in addition to an option involving conveyance under one of the private street areas. He asked how, in combination, that would mitigate the need for and the size of this basin at this location. Mr. Modricker said this would cost about \$3-5,000. Mr. Seybert agreed.

Mr. Pytel said the water could still end up in the farmer's field. If they try to convey the water in three different places, they will still have the same type of water runoff coming off of the road. Mr. Keough said an infiltration swale to take care of that residual water might be all they need as opposed to the basin. Mr. Heinsohn noted that most of those houses have been there for years. He is concerned that an extremely large basin will be needed. Mr. Miller said they are really not mitigating the current location. Mr. Seybert said the design itself will aid in some of those locations where some of the roadside water has had problems with people's drain fields, etc. Mr. Miller said the added impervious is not the cause of the detention; the cause is the additional runoff.

Mr. Keough asked if the Board should authorize staff to incur some additional expenses to the contract in order for this be pursued by professionals. Mr. Modricker said yes; it is a contractual issue. Mr. Keough noted that the other challenge for him is that his is clearly not an engineer and does not have the necessary training to fully understand all of this. Mr. Killian said the engineers have followed a concept to minimize the impact in this situation and to follow engineering physics.

Mr. Pytel said the design they made is what they feel is the best design for that area. Mr. Miller asked if the Board wants to spend more money to pursue other options beyond what the engineering professional has recommended as the best solution to the problem. Mr. Keough asked if the engineers look for the least expensive way to meet the standards. Mr. Modricker said yes.

*Mr. Modricker said unless the Board provides some other direction, staff's intent at this point is to finalize the stormwater design, meet with utility companies to finalize the utility locations in order to better define the right of way impacts, and then have an open house with all affected residents.*

Mr. Kunkle said there may be other ways to design this, but they may not be the most cost effective ways. The challenge they gave to the design consultant was to minimize impacts and do it in the least expensive way in order to complete the project in or under budget. They believe their design met that criteria. There may be other ways to design this project, to capture the stormwater, etc., but it may cost much more. He asked if the Board wants staff to explore options that can achieve the same end result for a greater cost. Mr. Keough said before they give their stamp of approval on the current design, which involves the creation of a detention basin in a currently active farm field, they should be able to say to Ferguson Township citizens and the owners of the property that they have looked into alternatives.

Mr. Heinsohn made a motion to receive the report with the addendum that the basin would be an acre and a half. Mr. Pytel seconded the motion. Mr. Kunkle said this is a critical point. If the stormwater changes, there will be a domino effect throughout the project. He urged the Board to speak up if they have any thoughts that something should be done other than what is proposed by the consulting

engineer and the Public Works Director. With Mr. Keough voting no, and all other Board members voting yes, the motion passed.

Mr. Miller made a motion to authorize the expenditure of up to \$10,000 in engineering fees to look at alternative stormwater handling for this part of the project. Mr. Heinsohn seconded the motion. Mr. Kunkle said this would be for the Corl Acres drainage area. With Mr. Keough and Mr. Heinsohn voting yes, and all other Board members voting no, the motion was denied.

Mr. Keough said the design consultant will be dealing with utilities in the near future as well. There are some locations in this project where guy wires are proposed to even further impede into ag land, beyond where the poles are situated. This creates a safety hazard to the operation of farming. There is an alternative way of dealing with anchoring poles that has to do with them using a second pole that does the same thing from the road side to anchor it. He asked if the Board should discuss this. Mr. Seybert described where the proposed wires would be placed.

## **2. RECEIVE RESULTS OF TRAFFIC STUDY OF INTERSECTION OF WEST COLLEGE AVENUE AND BLUE COURSE DRIVE**

The concern that initially started this request was the way the lanes merged. There was a further request to take a look at any safety or sight distance issues.

Ron Seybert, Trans Associates, described the current traffic plan for this intersection and showed it on the map. Their primary focus of this study was to improve safety at this intersection.

They did a capacity analysis at the intersection. Currently the northbound left turn lane has a substandard level of service. They would be reducing the level of service from C (very good) to E (substandard) for the sake of safety. But they are still recommending that the Township proceed with changing this phasing from a protected/permitted to a protected/prohibited phase in order to improve safety at the intersection. He described the cost to making that improvement. Also, there is a recommendation to enter the afternoon period at 3:00 pm instead of 4:00 pm. To eliminate the merging activity south of the intersection, changing the lane assignment on the approach coming southbound, the curb lane would be assigned that people could only turn right.

The primary things they looked at were: 1) accident/crash experience; and 2) capacity – when they take two shared through lanes and convert them to a dedicated through lane, it changes the lanes people can use and changes the operations at the intersection. Reviewing the crash history provided, there were no crashes related to the merging activity south of the intersection. Mr. Seybert described impacts on level of service for other lanes as well. They are *not* recommending a change in lane assignment for the southbound approach.

Mr. Killian provided a brief summary of the study results.

Mr. Pytel made a motion to receive the results of the traffic study of the intersection of West College Avenue and Blue Course Drive. Mr. Heinsohn seconded the motion. The motion passed unanimously.

Mr. Miller made a motion to authorize proceeding with the installation of a protected/prohibited left turn signal at the intersection noted above. He asked if there is money in this year's budget. Mr. Kunkle said yes; the Board could do a budget amendment at a later date. There are several parts remaining in the process. Mr. Heinsohn seconded the motion. The motion passed unanimously.

### **3. DISCUSSION OF TRAFFIC CALMING POLICY**

Mr. Modricker provided some revisions to the traffic calming policy the Board has been discussing. One change was to include early involvement by the Board of Supervisors in the process. Also, they changed wording to require a certain percentage of people in support rather than a specific number of people. Mr. Pytel asked what happens if there are only 9 people on the street. Mr. Modricker said the 10 people do not have to be on one street. Mr. Seybert said in this part of the process there is a lot of flexibility as to how the Township wants to handle requests like this as they come in. Mr. Killian said this is at the preliminary stage.

Mr. Miller suggested using language such as "half of the households or ten households, whichever is fewer." Mr. Pytel has a problem with people on other streets being able to trigger such a policy to come into effect. Mr. Modricker said to qualify for volume reduction there needs to be a significant amount of traffic. The other issue is speed control. Mr. Miller said they could consider single requests if the Board is involved from the beginning of the process. Ms. Lang said the recommendation is to have the Planning Commission look at this. They may be able to come up with a recommendation for the Board to consider.

Mr. Modricker summarized other key issues. He said when this policy was last in front of the Board, it was intended to update the Township's street classifications. That will need to be done first. Mr. Modricker clarified that the lesser order streets are the ones they are suggesting may be eligible for traffic calming measures.

Mr. Modricker removed a reference to an origin and destination survey. There needs to be discussion with the Commission about what this policy would address. He suggested keeping the policy as simple and effective as possible. Mr. Seybert said the focus is on how many vehicles are reasonable for a residential street. Mr. Modricker said they will need to quantify what they consider to be an acceptable volume of traffic on a residential street. Mr. Seybert clarified a change in the flow chart ("70% concur" was taken out of the flow chart; that would come as part of public involvement after the study is completed).

Mr. Heinsohn suggested that the speed humps on Hamilton Avenue be painted a color other than white. Mr. Seybert said a speed hump is actually an engineered device. He recommended that the Township follow their color guidelines.

Mr. Pytel made a motion to refer the draft policy with any further modifications to the Planning Commission for a recommendation. Mr. Miller seconded the motion. The motion passed unanimously.

### **4. REVIEW OF WHITEHALL ROAD PARK MASTER PLAN**

Mr. Killian said the Board's suggestions have been incorporated into the master plan. Comments should be forwarded to the Executive Director prior to August 19<sup>th</sup>. Mr. Pytel would like to see a basketball court added in the first phase of construction of the master plan.

Mr. Kunkle briefly discussed demographics. He suggested that the consultant might use the most current data available. The population data used is not up to date. He also commented on regional facilities. The beneficial re-use project has had a change in scope and direction, so that section should be updated with current UAJA thinking. The soils have a hydraulic classification of C, but the



consultant has also indicated a potential need to place a restroom facility in the western part of the tract that might be served by an on-lot septic system, so it is important that the soils are compatible to that type of on-lot septic system use.

Mr. Kunkle suggested that a letter be drafted outlining the understanding of the Centre Region COG and the University as to the cost-sharing or responsibility for the access road and pump station. There is an indication in the report that it is likely that this regional park development may precede the University's sale and development of the R-4 tract. In that case, the municipalities may have to proceed with the infrastructure improvements. There needs to be a clear understanding of the intent of the parties involved. Since COG is taking the lead on this, they should be involved. *Board's comment: COG should enter into at least a memo of understanding with the University on this issue.*

Mr. Kunkle added that the cost of the Whitehall Road Phase I improvements is a little over \$10 million. The annual maintenance just for Phase 1 is about \$234,000. The Township will pay approximately \$25-30% of that amount. The operating costs will increase as these parks are completed. The Board's comments, as well as Mr. Kunkle's comments, will be forwarded.

## **5. REVIEW OF HESS FIELD ARTICLES OF AGREEMENT**

Mr. Killian said the Board's position has been that they want the Whitehall Park Master Plan approved by the COG before approving the Articles of Agreement for Hess Field, but they want everything approved in a timely fashion. At the General Forum meeting on August 23<sup>rd</sup>, where the Whitehall Park Master Plan is expected to be approved, the idea is that they have it advertised that the public meeting will be held concurrently with the COG's meeting. As soon as the COG approves the Whitehall Park Master Plan, the COG Chair would recess the General Forum to allow the Ferguson Township Board of Supervisors to hold its public meeting. *The Board concurred.*

Mr. Pytel made a motion to authorize advertisement for a public hearing on an ordinance approving the Articles of Agreement for Hess Field at a special meeting of the Board of Supervisors to be held on August 23, 2010 at the COG General Forum Building. Mr. Heinsohn seconded the motion. The motion passed unanimously.

## **6. REVIEW OF 2011 CENTRE REGION COUNCIL OF GOVERNMENTS PROGRAM BUDGET PLAN**

Mr. Killian said this is a prerequisite of the budget process. They wanted to focus initially on the COG Director's uncertainties going forward. The ultimate result for this issue is to submit comments to the COG Executive Director by August 19<sup>th</sup>.

Mr. Killian summarized the uncertainties as follows:

- **What is the level of borrowing for developing regional parks and for the acquisition of Hess Field?** Mr. Pytel asked, if they borrow \$7.5 million instead of \$9 million, what that does to the regional park. Mr. Kunkle said they are looking at about \$10.1 million, but some of that would be borrowed. Mr. Killian said this was the compromise in order to move forward all three parks. Mr. Kunkle said at that rate, the Township's share is about \$133,000 per year for 25 years.

- **Should the COG be responsible for replacement of capital items at fire stations?** Mr. Keough said the Public Safety Committee will be dealing with this. He would like some guidance from the Board with regard to decisions they should make. Mr. Killian said the current tradition is that the municipality in which the fire station is located builds it and the COG maintains it. Mr. Miller said there have not been any capital improvements yet. Mr. Keough said the generator system that needs to be installed as a replacement item in the main fire station in the Borough cannot physically go in the space where the current generator exists due to changes in Code, etc. Mr. Miller's position is that these buildings are owned by the municipality in which they are housed. The capital improvements to them would fall to the owner. Mr. Pytel noted that Ferguson Township does not have a fire station, but is paying more for fire protection than any other municipality. Mr. Kunkle said from the private sector side he has learned that there is typically a lease between the owner of the property and the tenant. There are different types of leases. In no case does the tenant get any compensation for the improvements made to the property. The improvements are retained by the owner. This may be different in the public sector. Mr. Keough said they are not interested in participating in a mere capital improvement responsibility, but they would prefer to look at some alternatives since they do not own the building.
- **How would the adoption of a fund balance policy affect the COG budget?** Mr. Killian said they should use existing best practices to create a policy. Mr. Keough has a problem with the philosophy of spending all of the money because there is no reason *not* to spend it all. Mr. Pytel inquired about Code. Mr. Miller said there were questions about how the fund balances worked. The representatives from the building industry were satisfied with the discussion. Right now they are working on a better accounting of the pre-paid services.
- **How will adoption of the capital improvement plan affect the COG budget?** Mr. Killian said it should be funded over time. *They are still developing the policy, so it is fine as it is for now.*
- **How will the COG municipalities react to the reduction in level of state aid provided to the Schlow Centre Region Library?** Mr. Killian said they need to make clear to the COG what formula they will consider to determine their share. The main question is whether they should include students or not. Last year they opted to include students in the calculation. *The Board agreed to continue including students.*
- **With the level of building construction activity, what are the financial implications of any of the COG administrative studies?** Mr. Kunkle's comment was that it should remain an enterprise activity, which is self-funded from outside revenues. Unless there are other fees/taxes, they should keep an eye on their expenses. Mr. Kunkle clarified that unless there is another policy change on how to fund the Code office, that could be shifted to a municipal contribution. This would alleviate some of the pressure on them to push all of this into fees.

Mr. Killian noted other concerns as well. He provided a summary on the following areas: Administration; Emergency Management; Codes; Library; Regional Planning and Centre County MPO; Fire Protection; Park and Recreation; and Parks Capital.

*Mr. Killian recommended for the COG program plan that the Board forward Mr. Kunkle's comments, etc. The Board will wait until its next meeting to forward comments.*

## **7. AUTHORIZATION TO SUBMIT TRANSPORTATION ENHANCEMENT GRANT APPLICATION FOR PINE GROVE MILLS STREET LIGHT PROJECT**

Mr. Killian provided a summary. He said there is a 20% match, which would be offset by fundraising activities.

Mr. Pytel made a motion to authorize staff to submit an application for Transportation Enhancement Funding to the Centre County MPO to complete the streetlight project for Pine Grove Mills. Mr. Heinsohn seconded the motion. The motion passed unanimously.

## **8. REQUEST FOR REAL ESTATE TAX REFUND – NEXTEL WIP LEASE CORPORATION**

Mr. Killian summarized. This has to do with an error that is being corrected.

Mr. Keough made a motion to authorize a refund of \$3,414.71 allocated proportionally between the General Fund and the Transportation Improvement Fund to Nextel WIP Lease Corporation for tax parcel 24-004-79L-0001. Mr. Heinsohn seconded the motion. The motion passed unanimously.

## **9. VARIANCE REQUESTS**

### **A. AccuWeather, Inc., 385 Science Park Road, State College, PA**

Mr. Heinsohn made a motion that the Board remain neutral on the variance request of AccuWeather, Inc. Mr. Pytel seconded the motion. The motion passed unanimously.

### **B. Waffle Shop, 102 W. Cinton Avenue, State College, PA**

Mr. Heinsohn made a motion that the Board remain neutral on the variance request for the Waffle Shop. Mr. Pytel seconded the motion. The motion passed unanimously.

## **10. REPORTS**

### **• Manager**

Mr. Kunkle highlighted the following items:

- He provided a response prepared by the Finance Director to the Management Letter that is part of the annual audit. It is intended to provide the Board with the anticipated actions to be taken to address the Management Letter items.
- A request has been received by Mr. Walter King, 250 Toftrees Avenue, to consider increasing the 25 mph speed limit on Martin Street to 35 mph. Mr. Kunkle described this roadway. By design it is intended to slow traffic. *The Board agreed that the speed limit should not be changed.*
- He reported on Zoning Hearing Board matters as follows: 1) Campbell/ Fuller Appeal and Variance; 2) Giant Foods, Inc. Variance; and 3) Scientific Systems Variance.
- He reported on Hay/Kline Board of View. A Board of View was held on the matter of access to the rear lots owned by Hay located off Water Street and Danley Drive. The Board approved a stipulation of the parties to provide access across the property of Hay's, the granting of an easement by the Township and indemnification of the Township, and required consolidation of

the two rear lots into one lot to better meet the minimum lot size required in the Township's R-1 zoning district.

- The PA DEP has notified the Township that due to state funding cuts the Township will not be receiving reimbursement for costs incurred for Act 537 Sewage Management administration and enforcement. Total reimbursement that will not be received is \$5,496.92 for 2008 and \$7,115.95 for 2009. Their 2010 fee schedule was adjusted for these services to collect the entire amount of the cost for the service since no reimbursement was anticipated for 2010 Township costs incurred. Mr. Killian asked if they could address the responsibilities in their notice of non-compliance. Mr. Kunkle said yes. They have an obligation under their NPDES permit to inspect and assure that the Township's stormwater facilities are operating as designed. Mr. Killian proposed a well-written notice to go out to assure that all residents in the area know their responsibilities. Mr. Keough would prefer to have an intermediate step to the letter that involves inviting residents to a meeting, during which the Township presents the positions that are currently before them with regard to their obligations, as well as the history of the HOA and Mr. Coyne. Mr. Killian said the first step is to send a letter. Mr. Modricker asked if the Township Engineer is sending a Notice of Violation. Mr. Miller suggested including with the certified letter a separate document notifying residents that there will be a discussion of this at a public meeting. Mr. Kunkle said this might be something that staff could do in terms of meeting with the public. This is an administrative action that needs to be taken. In the cover letter staff could mention a meeting time. Mr. Pytel made a motion to send a letter of non-compliance, including background information and an outline of the responsibilities, as well as an invitation to a meeting with staff to communication and help facilitate the process. Mr. Keough seconded the motion. The motion passed unanimously.

- **Public Works Director**

Mr. Modricker highlighted the following items:

**Old Gatesburg Road Extension:** An appraisal was received for Galen Dreibelbis's property and sent for review. The next step is to offer just compensation. The project is on schedule for a bid letting by PADOT in September. The utility clearance form was sent in by the Township for approval. Approval was received from the Centre County Conservation District.

**Maintenance:** Major activities include roadside mowing and equipment maintenance, trimming branches over sidewalks for pedestrian clearance, and construction of a retaining wall near PW Building 4.

- **Director of Planning and Zoning**

Ms. Lang said at their regularly scheduled meeting on July 26, 2010, the Planning Commission discussed the following:

**AGRICULTURAL SECURITY AREA**

They reviewed the final mapping for the amended Agricultural Security Area and reviewed the contents of the report to be sent to the Board. The Commission agreed with the recommendation of the Ag Security Area Advisory Committee with regard to the inclusion of all properties previously included within the ASA with the exception of those that specifically requested to be removed. Mr. Keough suggested sending a thank you letter for work done by the ag security team. *The Board consented.*

#### **FINAL PLAN FOR OAK HILL TOWNHOMES PARKING LOT**

The Commission previewed the LDP that proposes the addition of a 20-car parking lot off of Farmstead Lane to serve the Oak Hill Townhome development. This parking is intended to supplement the existing on-site parking and can accommodate parking for visitors or weekend guests, as well as overflow parking associated with special events. The plan is currently being revised by the consultant in accordance with the review comments provided by staff.

#### **FINAL PLAN FOR THE LANDINGS PHASE II – EMERGENCY ACCESS PLAN**

This plan revises the recorded plan for Phase II by adding a 1' wide gravel emergency access. This access will be gated to limit its use. The developer's ability to further develop this PRD has been limited by a cap of 138 dwelling units that was established until such time as a second access was created through the connection of Park Center Boulevard to Blue Course Drive. This cap, established by the previous Terms and Conditions, was modified during the review and approval of the Revised Master Plan to allow for the installation of this emergency access as an alternative. Installation of this access is a prerequisite for any additional development on the site. Mr. Heinsohn asked how it will be gated. Mr. Lang said gates have been installed at both ends so that only emergency vehicles will have access.

#### **DISCUSSION OF APPLICATION OF FEE-IN-LIEU REGULATIONS**

At their last meeting, the Board forwarded to the Planning Commission some questions and concerns related to the application of the fee-in-lieu associated with the mandatory dedication of parkland. The Commission discussed this issue at length and has prepared a recommendation for the Board's consideration. This will be presented to the Board at an upcoming meeting.

#### **I. POTENTIAL AGENDA ITEMS FOR UPCOMING MEETINGS**

- Adoption of 2011-2015 CIP Program Budget
- Ordinance Amending RA Buffer Area
- Comments on 2011 COG Program Plan
- Comments on Whitehall Road Park Master Plan

On August 12<sup>th</sup> at 7:00 pm the Board will hold another public worksession on the proposed TS district.

#### **II. MINUTES**

1. July 19, 2010 BOS Regular Meeting

Mr. Pytel made a motion to approve the July 19, 2010 BOS Regular Meeting minutes. Mr. Heinsohn seconded the motion. The motion passed unanimously.

#### **III. ADJOURNMENT**

With no further business to come before the Board of Supervisors, Mr. Killian adjourned the August 2, 2010 Regular Meeting at 11:04 pm.

RESPECTFULLY SUBMITTED,

Ferguson Township Board of Supervisors  
August 2, 2010  
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Mark Kunkle, Township Manager  
For the Board of Supervisors

Date approved by the Board: 08-16-2010