

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, October 5, 2020  
7:00 PM

### ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, October 5, 2020, via Zoom in a webinar format. In attendance were:

**Board:** Steve Miller, Chairman  
Laura Dininni, Vice Chair  
Prasenjit Mitra  
Patty Stephens  
Lisa Strickland

**Staff:** Dave Pribulka, Township Manager  
Chris Albright, Chief of Police  
Dave Modricker, Director of Public Works  
Nick Fugaro, Communications Coordinator  
Eric Endresen, Director of Finance  
Ron Seybert, Township Engineer

Others in attendance included: Rhonda Demchak, Recording Secretary; Elizabeth Treadway, Principal Program Manager, Wood

### I. CALL TO ORDER

Mr. Miller called the Monday, October 5, 2020, regular meeting to order at 7:00 p.m.

Mr. Pribulka noted that the Board of Supervisors meeting had been advertised as a virtual meeting via Zoom in a webinar format due to the number of attendees that were present to hear about the Stormwater Fee Ordinance. Mr. Pribulka posted the google form for attendees to sign up to talk during the public hearing. C-NET is recording as well. There is also an audio conference bridge that is accessible by accessing the Ferguson Township's main line at 814-238-4651 and then dialing extension 3799. Per the Sunshine Act, which allows during a time of disaster recovery to meet virtually, but it also requires that a Roll Call be taken and that elected officials verbally respond. Mr. Pribulka took Roll Call and there was a quorum.

### II. CITIZENS INPUT

### III. APPROVAL OF MINUTES

Ms. Dininni moved that the Board of Supervisors **approve** the Minutes of September 21, 2020. Ms. Strickland seconded the motion. The motion passed unanimously.

### IV. SPECIAL REPORTS

#### a) COVID-19 (Coronavirus) Response Report

Mr. Pribulka noted that Ms. Martin was unavailable to present the Business Needs Survey but will be at the meeting on October 7<sup>th</sup> to present. Trick-or-Treat has been set for October 29, 2020, from 6:00 p.m. – 8:00 p.m. with a rain date of November 1, 2020. There will be a reevaluation of the Trick-or-Treat date due to the COVID-19 Pandemic the week of October 19, 2020. All communication will be delivered via the Township's Website and social media. The Strike Team meeting that was assembled by the PA Department of Health due to the increasing number of COVID-19 cases has completed their review and provided a report on the Emergency Operation Center in Centre County.

Recommendations include enforcement of local ordinances, expansion of Community Partnerships, expanding regional cooperation, and leveraging emergency aid and assistance. Many of these recommendations were either currently in place or being pursued at the regional and county level, coupled with this initiative was a drive-through free COVID-19 testing facility located at the Nittany Mall. The most recent data that Mr. Pribulka viewed the site tested more than 300 participants with 278 testing negative and 23 testing positive for the virus. The majority of positive cases were in the age range of 19 to 24. The test site remains open this week, Tuesday through Saturday from 7 a.m. to 6 p.m. There is no cost, no insurance is required, and no appointment is needed. As of October 1<sup>st</sup>, there are 2,688 cases in Centre County, 26,762 people have tested negative for COVID-19. Most of the confirmed cases are in the 16801 and the 16802 zip codes and a majority of the geographic area of Ferguson Township continues to report zero positive cases. The Center Area Transportation Authority (CATA) is temporarily discontinuing service on its CATA bus commuter routes as of today, October 5, 2020. More information on specific routes impacted can be found online and at CATA bus.com. Ferguson Township, the F route with service to Pine Grove Mills and the S route which serviced Science Park has been temporarily suspended. Mr. Pribulka noted that in response to a question from Ms. Dininni from the last meeting, Mr. Pribulka was informed that approximately 11% of the students quarantining on campus and Penn State's facilities reside permanently off campus. As of October 2<sup>nd</sup>, the Penn State dashboard has 2,678 total positive cases and 2,040 are no longer active. Staff has concluded its business needs survey, however, as Mr. Pribulka noted earlier, Ms. Martin, Assistant to the Manager is unavailable to provide a report this evening. One of the conclusions from the report was there is a greater need for childcare services. Ms. Wargo will be presenting the agenda item later in the evening. Mr. Pribulka thanked the Township for their patience and understanding during the pandemic.

## V. UNFINISHED BUSINESS

### 1. PRELIMINARY LAND DEVELOPMENTS PLAN – 3961 WEST WHITEHALL ROAD

Ms. Wargo introduced the land development plan. A copy of the preliminary land development plan submitted by Gwin, Dobson & Foreman Engineering, Inc., on behalf of their client, State College Borough Water Authority was included in the agenda. The land development plan proposes water pumping improvements to the Kocher Well Fields on Tax Parcel 24-006-055E, located at 3961 W. Whitehall Road. The parcel is 47.7 acres and is zoned Rural Agricultural (RA). The construction consists of two (2) buildings that measure 7 feet 4 inches by 7 feet 4 inches. Each building will be in close proximity to existing well #71 and well #78. There is an existing floodplain that traverse the parcel and no construction is planned within the floodplain. On June 23, 2020, a variance was granted to utilize FEMA mapping for floodplain boundary determination instead of independent Hydrologic and Hydraulic (H&H) study as required by §27-701, Floodplain Conservation. Planning Commission reviewed the plan at their September 14, 2020, Regular Meeting and recommended that the Board of Supervisors approve the preliminary land development plan for 3961 West Whitehall Road—SCBWA Kocher Well Field Water Pumping Improvements.

Ms. Dininni moved that the Board of Supervisors **approve** the Preliminary Land Development Plan for 3961 West Whitehall Road subject to the outstanding conditions as described in the Community Planner memorandum dated September 29, 2020. Mr. Mitra seconded the motion. The motion passed unanimously.

### 2. PUBLIC HEARING – ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT UTILITY FEE

Mr. Pribulka noted that provided with the agenda is a copy of the ordinance advertised for public hearing establishing a utility fee for stormwater collection and management. Mr. Pribulka reminded that in the chat box there was a sign in sheet that was posted to the link and if someone wished to

speak during the public hearing to please make use of the Google Form. The hearing represents a three year-long study to evaluate the feasibility and the structure of a Stormwater Management Utility Fee, while enabling state legislation that has permitted municipalities to establish these has only been in place since 2016. Communities around the country have been establishing these programs since the 1970's as a means to provide a more equitable mechanism for assigning costs based on contribution to the problem of stormwater management. Staff did not have a lengthy presentation scheduled but provided detailed slides and data to the Board and the public in prior meetings, all of which can be accessed from the stormwater fee tab on the Township's website. Mr. Modricker, Director of Public Works, Ms. Elizabeth Treadway of the firm Wood and the Townships Stormwater Fee Consultant, Eric Endersen, Director of Finance, and Ron Seybert, Township Engineer were in attendance to answer any questions. Mr. Pribulka publicly thanked them for their work on the study and the many hours that they spent finding the proposed scope and billing methodology to reflect the current and projected revenue needs for this critical service. Also, Mr. Pribulka thanked the men and women who served on our Stormwater Advisory Committee throughout the process. The Committee was tasked with forming a structure for consideration by the Board including finding the levels of service, providing input on the credit policy manual, billing methodologies and other components of the program. They were not however asked to make a recommendation on whether or not the Township should implement a fee. Also, staff does not have a recommendation to offer on the subject as Fiscal Policy is set by the elected officials of Ferguson Township based on what they believe to be the best interests of our residents with meeting the growing demands on the infrastructure and service delivery. Mr. Pribulka noted that the proposed level of service has been revised to reflect the removal of the acquisition of equipment, the employment of additional foreman and operator, as well as to commit all capital projects related to stormwater management in the first year of the program. This was in consideration of the Board's direction to remove additional staff and to contract out services in the interest of reducing expenditures. No equipment will be purchased with this fund and no staff other than the transition from part-time to full-time employment and stormwater engineer has been incorporated into the first two years of the program. Mr. Pribulka noted that there are no committed expenditures in the proposed program schedule and all expenditures are evaluated year to year along with the entire Township budget. The Board and staff worked to ensure to only include costs that are necessary to achieve the goals established through the budgeting process. Mr. Pribulka reminded that the public can engage with the Board by completing the Google Form that was reference earlier in the evening. Mr. Pribulka recommended that the Board of Supervisors continue the public hearing until October 19<sup>th</sup> during the regular meeting and at the conclusion there will be a vote to be scheduled.

Mr. Miller stated that this is a public hearing and it's a chance for the public to make comments and suggestions. The Board will not be answering questions directly but will be part of the Board's discussion after the hearing. Mr. Miller noted that there will be 60 minutes for public comment.

#### Public Hearing Comments and Questions:

Ms. Davies noted that she sent emails to all of the Supervisors last week and spent a few evenings walking around the Piney Ridge Area. Ms. Davies indicated that most people didn't know what the fee was all about, let alone that there was going to be a Zoom meeting tonight. Ms. Davies expressed concerns with passing such a tax fee during the COVID-19 pandemic because people have lost their jobs, hours have been cut, people are on fixed incomes and can't afford to pay an additional tax.

Ms. Charima Young, Director of Government and Community Relations, PSU, stated that PSU submitted a letter requesting 100% credit. Ms. Young noted that PSU believes that based on the fact that a lot of MS Work permit holders like Penn State do have best management practices that are implemented as permit holders and PSU and has good documentation. PSU mitigates its own stormwater and in addition to that, the University conducted a comprehensive analysis of stormwater impact from PSU properties and found that quite a bit of runoff comes from Ferguson Township onto PSU property. Ms. Young indicated that it is about a 5:1 ratio. Since PSU already mitigates, PSU believes that they qualify to receive an exemption of 100% and asked that the Board take that into consideration. Ms. Young noted that if the Board needs more information, to please let her know.

Mr. Todd Giddings, member of the Storm Water Advisory Committee, noted that he has lived in Ferguson Township for more than 40 years. Mr. Giddings stated that the principle of the ordinances to equitably and proportionately assess property owners in the Township for stormwater runoff is not proportional and is not equitable. Mr. Giddings stated that in fact, Section 8 of the Ordinance does not allow the appeal of a credit application that was denied. The Storm Water Advisory Committee did not have an opportunity at the meetings to develop the credit program fully and so the generic draft credit program is not appropriate for Ferguson Township. Mr. Giddings stated that the Ordinance needs important rewriting and the credit program needs to be developed.

Mr. Alexandru Degeratu stated that in preparation for the meeting he went through the documents that the Township posted and one from Mr. Tom Songer. Mr. Degeratu noted that he would second whatever comments Mr. Songer had.

Mr. Stocks noted that he was sitting tonight with a group of friends that are farmers and businesspeople and residents of the Township. Mr. Stocks stated that the tax is not needed, and Ferguson Township has the highest income tax and the highest real estate transfer tax in the area. Mr. Stocks stated the Township has done some extravagant spending for new equipment, buildings, etc. Mr. Stocks finds it especially offensive at a time when families and businesses are struggling over the pandemic and feels it is a money grab in order to grow the government.

Lisa Rittenhouse, Ferguson Township Resident, noted that she has lived in Foxpointe for almost 20 years and there was an email from her Association that they want to give up one of the parks in the development of Hunters Chase. There is a fee of \$176 per household per calendar year. So, with that being levied on them, along with the homeowner's association dues, Ms. Rittenhouse stated that the fee should be set aside.

Mr. James Steamer noted that he has been living in the Park Hills area for 22 years. He asked if the fee is implemented would it be for the individual taxpayer based on the square footage of impenetrable areas such as driveways, cement etc. Also, Mr. Steamer asked if the fee is implemented could it simply be added to the annual property tax bill. Mr. Steamer stated that he would like to know what the fee is going to be and how burdensome it is going to be. Mr. Steamer noted that this isn't going to be popular if implemented because Ferguson Township already has the highest tax rates in the area.

Mr. Pribulka noted that the Township does have a spreadsheet that's available on the website under the main page that can be utilized to access and identify based on your specific address under the current proposal what that fee would look like.

Ms. Higgins noted that she is here to speak against the implementation of the fee, because it is a tax on the rain that falls on our properties and it is ridiculous. The Township's ability to use its General Funds in a fiscally responsible manner doesn't constitute creation of another fee. There

is no need for the fee. Ms. Higgins stated that she feels the Township is extorting money and finds it disgraceful because it is hitting farmers, nonprofit veterans club, churches, etc. Ms. Higgins requested that the Township learn to manage the money that is currently in the budget.

Mr. John Simbeck, noted that Ferguson Township taxes are \$177 in real estate tax based on Township's website and pay another \$195 to the new SAC fee. This is about 111% increase of what our tax would be. Mr. Simbeck indicated the Township generates a lot of money in the Township and this would add another 10 or 12 percent to our yearly budget. Mr. Simbeck noted this isn't the right way to go and feels a lot of consideration should be taken before it is decided.

Ms. Dawnyelle Holsinger noted that she serves as an advocate for homeowners in Centre County. Ms. Holsinger expressed concerns with passing such a fee during the COVID-19 pandemic because many are suffering with job losses, frozen wages, and increased costs. Housing affordability will become an increasingly difficult goal if the fee is implemented. Ms. Holsinger stated meetings like this need to be in person and is requesting Ferguson Township to consider postponing the fee discussion.

Ms. Harpster noted that he owns farmland in Ferguson Township, that would certainly be affected by the stormwater fee. Ms. Harpster also has separate property that would be affected in addition to that as a resident of this Township for over 60 years. Ms. Harpster stated that she has seen struggles and that the Ag Community has persevered, and this additional fee would be a definite hardship for most people in the farming community. Ms. Harpster feels that voting on the proposal at this time would be a huge mistake and that a lot of people have had to do more with less and the Township should be no exception.

Mr. Larry Harpster stated that he is a farmer in the Western part of Ferguson Township and has been a lifelong resident. The Ferguson Township Ag Committee met on September 21, 2020, for the purpose of discussing and reacting to the stormwater fee proposal. There were 23 different owners in attendance. The Ag Community contributes very little, probably less than 1% of the level of service necessary in the Township to manage storm water. The Ag Community keeps the water it gets from the sky on their farm property as part of its crop and animal management system. Mr. Harpster indicated that they don't send surface water to other surfaces. The Ag Community is already regulated by state and federal government through registered conservation plans, nutrient management, and erosion control measures. Three years ago the Ag Community of Ferguson Township was applauded for its stewardship and contributions to the infiltration system that provides a significant amount of drinking water for the entire Center Region and there was no effort made to reimburse the Ag Community for this critical service. Mr. Harpster noted that they are going to be taxed even more for good intentions and efforts. Mr. Harpster noted that the Ag Community does not agree with the fee.

Mr. Tom Songer noted that he supports the staff for looking at the future and determining what the capital needs will be in respect to maintaining and replacing deteriorated storm surges as well as issues relating to the MS4. Mr. Songer feels in his opinion that the fee can be paid from the Township's current Transportation Improvement Fund (TIP) which is the way the Township has been doing business for many years. Mr. Songer indicated that if the Township can't afford the fee, then perhaps it is time to raise taxes. Mr. Songer suggested creating a Financial Advisory Committee to review budgets and make recommendations in order to save money. Also, Mr. Songer indicated that he served on the Stormwater Advisory Committee for more than two years and the Committee never voted on the issue. Mr. Songer recommends that the Board not vote on or at least table the ordinance until the pandemic is over.

Mr. John Corneal noted that he is a businessperson in Ferguson Township and has been a resident for over 35 years. Mr. Corneal stated that Ferguson Township needs to support the businesses and the community. The Township has the highest taxes and then adding this additional fee, this could jeopardize the community. Also, it doesn't appear the fee has much to do with stormwater, but rather a taxing platform as a member of the MS4 group. Mr. Corneal recommends that the funds should be designated directly for stormwater management only and not be allowed to be used for any other purpose in the Township.

Mr. Pribulka noted that the Township would absolutely earmark any funds that were generated in response to a result of a stormwater fee, it would be its own separate fund that would be purely designated for the purpose of stormwater management. It would be subject to an audit. It would become part of the Township's annual operating budget with full transparency and be able to be reviewed. It would free up other capital for other purposes.

Mr. Lauck noted that he is a lifelong resident of Ferguson Township and the Township has taxed the residents to the end of their ability. Also, with the current pandemic Mr. Lauck recommends holding off on implementing.

Rick Tetzlaff noted that he is a 27-year resident of Ferguson Township and spoke tonight as a member of the board for the Homeowners Association in Aaron Village. Mr. Tetzlaff noted that he is against the fee and their needs to be more time to be put into it and more input from residents. Mr. Tetzlaff inquired about how the credits will be done. Mr. Tetzlaff talked about how Aaron Village was required to put in stormwater basins that could have been placed by the Township. Mr. Tetzlaff stated he is against the fee and should postpone the vote on October 19, 2020.

Mr. Thomas Price thanked the Board for compiling the information and noted that he lives in a rural part of Ferguson Township and his water flows straight into Beaver Branch. Mr. Price stated that the tax just seems unreasonable and with the pandemic that it is absolutely not the time to implement this fee. Mr. Price noted that he feels it is unacceptable to consider this fee because of the financial hardship that people are facing with the pandemic. Mr. Price feels this should be tabled until people can meet in person.

Ms. Eleazer noted that she agreed with most of the other points made especially during a pandemic to increase the fees is absurd and for her personal house, it would be almost an additional 100% tax which is outrageous. Ms. Eleazer noted that she looked at her own personal fee for her house versus her neighbors and noted that the Township is rounding to the nearest 1000 IA, and her property is 23 square feet more than her neighbors and her tax was more than 47% higher.

Bob doesn't understand why the residents should have to pay a fee for the developments that are dumping water onto the roads. Bob stated that he is opposed of the fee and he has several properties in the Township.

Jeanne Fudrow noted that she agrees with the points that is in Mr. Songer's letter. It is well written and also agrees with the comments this evening. Ms. Fudrow asked why the storm water issue isn't addressed regionally.

Mr. Ron Strouse noted that he is representing the Pine Hall Cemetery Association which is a non-profit corporation serving the Centre Region for 128 years and based on the fee spreadsheet the fee would be over \$1,900. This will create additional financial hardship to the association and Mr. Strouse is asking for an exemption.

Ms. Marnie Deibler noted that she is a wife of a farmer in the Township and is a daughter-in-law of a farmer in the Township. Ms. Deibler noted that she agrees with the statement that Larry

Harpster made and many others. Ms. Deibler completely opposes the stormwater fee and would see an equivalent of 100% increase each year in the yearly costs. Ms. Deibler stated that it's shameful that the Board wants to bring the proposal to a vote later in the month during a worldwide health pandemic.

Mr. Justin Kocher noted he has a dairy farm out at the West End of Whitehall Road. The farm is about 800 acres of prime farmland and has devoted his life to it. Mr. Kocher noted that milk prices have been low due to the pandemic and cannot afford the fee. Mr. Kocher noted that his fee would be around \$8,560 a year on top of other taxes. Their farm has been practicing no-till for years to prevent soil runoff, erosion control, and is opposed to receiving a fee for stuff they have been preventing years ago.

Public Hearing concluded after one hour.

Mr. Miller noted that there were several emails received and they will be read. Mr. Pribulka indicated that Nick Furgaro has been tracking the questions tonight and will respond. Mr. Miller asked the Board members to make any comments or statements addressing the comments that were received tonight.

Ms. Strickland thanked everybody who has emailed or called with thoughts, concerns, and suggestions. Ms. Strickland stated that she is not in favor of the fee and while she understands the systems are a vital infrastructure there are a number of concerns about the funding scheme. Ms. Strickland noted that the Board did not task itself nor did it task the Storm Water Advisory Committee to scrutinize the budget freeze, cut, or stretch spending. Also, the assessment of the infrastructure will be done after the fee is imposed. Ms. Strickland stated that the Ag Community would be hard hit by the fee despite having their own nutrient management and conservation plans. There are no hardship exemptions and Ms. Strickland noted that the region and the Township are already exceptionally expensive to live in. The nonprofit organizations that will be affected by the fee includes area churches and they are already losing their donations due to the pandemic. Ms. Strickland stated that Penn State will be exempt from part of the fee because they hold their own MS4 Permit. Penn State knows that whatever they agree to pay it will be used as a basis for what other municipalities intend to charge them in the future. Penn State is doubly motivated to keep that number as small as possible and possibly challenge their duty to pay. With regards to the credit program, Ms. Strickland noted that while it will bring some relief to the burden of the fee, it will create another administrative burden for the Township and it has the potential to reduce revenue by up to perhaps 40% maybe more and this loss has not been modeled in revenue or expenditure projections. Ms. Strickland stated that the timing is her biggest problem with the fee because of the pandemic and would like to delay the conversation. Ms. Strickland suggested a few ideas. Hold off voting on the fee at this time, moving forward with conducting the assessment of the stormwater infrastructure over the next several years, using contracted services prioritized by age of the area, and ecology in scheduled programs provided by the study. The study could be funded by holding off on the planned storm water projects that are in the CIP over the next several years, excluding the Park Hills project, emergency repairs, etc. Ms. Strickland stated that at the conclusion of the assessment the Board could determine the cost of the repairs, the replacements needed and then create a master plan for that and ongoing maintenance at that point. The Board could create a separate fund like the TIP fund as directed in the ordinance to allocate funds to pay for the projects. Ms. Strickland suggested looking into increasing taxes. Ms. Strickland suggested to create a Review Committee to evaluate the ordinance once it's built out. The Board could have a very specific scope of work to critique the finalized ordinance and to review the projected cost, the program plan, and the credit policy manual that will go along with the ordinance.

Ms. Dininni is open to accommodating in various ways adapting to the pandemic and this is the conclusion of a 3-year journey. There were many projects that have been put on hold and would be interested in implementing the first year as half of the fee. Ms. Dininni stated that she is not interested in putting this on hold. Ms. Dininni noted that there was a lot of feedback on the methodology and is willing to explore all the methods.

Mr. Miller requested that attendees not use the chat feature for inappropriate conversations and to not use the chat feature at all.

Mr. Mitra stated that he realizes that this is a very hard time for everyone in the community, especially for businesses who have had revenue loss and some folks, especially in the lower wage bracket have lost their jobs and at this point Mr. Mitra has serious concerns about putting this additional burden on the community. Although Mr. Mitra has concerns, he noted that he liked the idea of a stormwater fee; however, would like the polluters to pay. Mr. Mitra's preference would make this a revenue-neutral fee so that the Township isn't doing this to increase the size of local government. Mr. Mitra would like to discuss the ordinance more because some things are unclear and has received several inquiries. Mr. Mitra inquired what exactly the Township incurs in the rural areas versus what the Township incurs in a growth area and why are the farmers being asked to pay for a problem they didn't create. Mr. Mitra noted that he wants the fee to be fair because he heard a lot tonight about fairness, perhaps have different calculations for rural areas. Mr. Mitra stated that if a property is not generating any storm water, then they should not have to pay. Mr. Mitra strongly agrees with Ms. Strickland on creating an independent committee and suggest that the Board move in this direction.

Ms. Stephens stated that the community is hurting financially due to the pandemic but noted that it would be irresponsible to throw away the hard work that had been done over the last 3-years. Ms. Stephens agrees that the ordinance could be tweaked and would agree to tighten the budget.

Mr. Miller noted he received a lot of the emails asking why a fee and not a tax. It is being called a fee because that is what the State Legislation has enabled the Board to call it. Mr. Miller stated that there will never be a fee structure that everyone will agree on. There is a big emphasis on stormwater runoff, but there is more to the management of the runoff. There are infrastructures that serve the entire Township. There are a lot of costs and ultimately those costs need to be paid. Mr. Miller stated that his preference is to approve the fee.

Discussion ensued with the Board members.

Ms. Dininni noted that the fee is unfairly targeting the agricultural community that does have fewer needs and impacts on stormwater. Ms. Dininni stated that Ferguson Township's mills are very low because agricultural land is valued. Ms. Dininni proposed an amendment to the ordinance and noted PA Senate Bill 1026.

Ms. Dininni moved that the Board of Supervisors **amend** the ordinance to state that the Township's shall not assess on any working farm whose total area of impervious surface does not exceed 30% of the property's total land area, a fee that is greater than twice the median assessment fee imposed on all properties in the Township. Ms. Strickland seconded the motion.

Discussion ensued on the amendment.

Ms. Dininni requested figures to get a better understanding. Mr. Pribulka noted that it would equate to approximately 11% reduction in the Township's total number of billing units under the current fee methodology of a 1000 square foot be reduced by a total of 5,651 approximate billing units. At \$17



per unit outside the regional growth boundary, that equates to approximately \$96,000 in reduced revenue and that maximum agricultural land exposure would be capped at \$102.

Mr. Mitra requested information on how much of the Township's stormwater runoff comes from rural areas and urban areas. Mr. Modricker stated that there is not a quantitative breakout and stormwater fees have been around a long time. Mr. Mitra stated that he is interested in the science of this and wanted to know what the best model would be because it is not evidence based.

Ms. Dininni continued a discussion on the amendment she made.

Mr. Mitra expressed concerns and a discussion ensued about who is creating the problem and who would be paying for it.

Ms. Dininni stated that there was a lot of feedback on implementing a property tax but is not in favor.

Ms. Strickland noted that she did research and although the fees have been around a long time, there is not a lot of data available on the effectiveness of different stormwater utility fee designs. Ms. Strickland suggested looking into a tiered program to look at pervious versus impervious surfaces on a lot.

Ms. Dininni noted that early in the process there was a conversation about not including the regional growth boundary.

Mr. Mitra noted that he is in support of the amendment and does not want to bankrupt the farmers.

Mr. Pribulka respectfully requested that the he is able to research some level of analysis in terms of the legality of it and is not in the position to provide an opinion at this time.

Mr. Modricker requested that staff and the consultant be afforded the opportunity to go over the calculations.

Mr. Miller called for a vote on the amendment to the proposed ordinance. The motion passed unanimously.

Further discussion continued.

Ms. Strickland asked how the cemeteries are being assessed. Mr. Seybert noted that tombstones were not digitized for impervious areas, because it was too difficult with the level of mapping that the Township has. Paved areas were captured but not headstones.

Ms. Strickland asked about different paving materials and how they were going to be assessed. Mr. Modricker noted impervious areas don't infiltrate water and asphalt bituminous pavement, concrete, and crushed hardpack are in that category. Purposefully built pervious pavement would not be that category. Mr. Modricker stated that if it was built, designed and infiltrates water, it will not be considered in the calculation. In the event that it was captured incorrectly, it will be corrected. Mr. Mitra inquired if gravel roads would be pervious or impervious. Mr. Modricker noted that gravel roads are impervious.

Ms. Dininni commented on potentially raising revenue either through a stormwater fee or maybe property tax. Ms. Dininni noted that the Board heard a lot of people talking about how the Township should be managing the money better and discussed ways to cut expenditures. Ms. Dininni also noted that there are a lot of expenditures in the future such as a fire station out in the West End of the Township.

Ms. Strickland noted that there was a lot of feedback on the billing system following the last meeting and has done even more research on how it will impact different property owners in different ways. There was a lot of communication that the ERU might be a fairer model. Ms. Strickland concurs with Mr. Mitra with regards of considering lowering the 1000 square foot grounding point. Ms. Dininni liked the idea of exploring the smaller rounding unit perhaps at 500 square feet. Mr. Pribulka believes that the ERU model creates a perception of equity more so than the 1000 square feet billing model. Since publishing the spreadsheets online, Mr. Pribulka stated that he has heard from several residents that are looking at their fee and in some cases the fee is twice of their adjacent neighbors are paying. Ms. Dininni stated that she favors the 1000 square foot model. Mr. Miller supports the ERU method because it is simpler. Ms. Strickland is in favor of the 1000 square foot model but is open to reconsider. Ms. Strickland asked if there is a possibility of modeling the 500 square feet. Mr. Modricker indicated that it can be a possibility. Ms. Strickland stated she is leaning towards the ERU, but would like to see the models of 1000 sq. ft., 500 sq. ft. and the ERU model. Mr. Miller stated that if a major change is made in the ordinance, the Board can't vote. Mr. Modricker can run different scenarios. Mr. Pribulka stated the amendment regarding the cap on the agricultural fees is significant enough to re-advertise for a new public hearing on October 19<sup>th</sup>. Mr. Modricker and Ms. Treadway will go over the models, and then re-advertise for a public hearing on November 2, 2020.

Mr. Mitra requested from the other Board members their thoughts on low-income exemption and fixed-income exemption. Mr. Miller stated that Mr. Pribulka will need to look at the legality perimeters of exemptions. Mr. Pribulka will do some research for the next meeting. Ms. Treadway noted that there are hardship considerations that have been made in utilities and they're made today, even in places like the power companies where they have established a hardship program. Ms. Treadway noted that the legal review that Mr. Pribulka discussed is very important.

Ms. Strickland requested forming a Stormwater Ordinance Review Committee. Mr. Miller stated that he is not in favor of the committee. Mr. Pribulka noted that he would need more information to decide. Mr. Miller recommend proposing the committee as an agenda item to Ms. Strickland. Ms. Strickland agreed and will propose this for the next meeting.

3. PUBLIC HEARING – RESOLUTION AUTHORIZING THE ENGAGEMENT OF VOYA FINANCIAL FOR NON-UNIFORMED PENSION PLAN SPONSORSHIP SERVICES

Mr. Miller opened the Public Hearing and asked for comment. There were no public comment and the hearing closed.

The resolution was included in the agenda and needed no further comment from the Board.

Ms. Dininni moved that the Board of Supervisors **authorize** to adopt the resolution authorizing the Chairman and Secretary to execute an agreement with Voya Financial for plan sponsorship services for the Township 457 Deferred Compensation Retirement Plans; Post Employment Healthcare Plan; and Roth IRA Plan. Ms. Stephens seconded the motion. The motion passed unanimously.

ROLL CALL: Ms. Dininni – Yes: Mr. Miller – Yes: Mr. Mitra – Yes: Ms. Stephens – Yes: Ms. Strickland – Yes

## VI. NEW BUSINESS

1. CONSENT AGENDA

a. Contract 2019-C32c, Pay Application 6, Electrical: \$7,349.93

- b. Contract 2019-C32a, Pay Application 7, General: \$14,677.50
- c. Contract 2019-C32a, Pay Application 8, General: \$17,557.99
- d. Voucher Report – August
- e. Treasurer's Report for Acceptance – August

Ms. Dininni moved that the Board of Supervisors **approve** the Consent Agenda and **accept** the Treasurer's Report for August . Mr. Mitra seconded the motion. The motion passed unanimously.

## 2. ZONING ORDINANCE AMENDMENT, CHILDCARE FACILITIES – AUTHORIZATION FOR PUBLIC HEARING

Ms. Wargo introduced the Zoning Ordinance Amendment. Based on the results of the business needs survey, staff explored potential options within the Township's control to provide relief to residents and businesses in Ferguson Township. Staff reviewed the requirements and processes of establishing a Family Child-Care Home and a Group Child-Care Home within residential areas of the Township. A Family Child-Care Home is defined as a residence in which out-of-home care is provided, as an accessory use, at any one time, for part of a twenty-four-hour day, for up to and including six children who are not related to the operator and who are 15 years of age or younger. This definition does not apply to: care provided in the home of someone who is a relative to all of the children being cared for or care provided by a relative in the home of children whom are all related to each other and to the relative. A Group Child-Care Home is defined as a residence in which out-of-home care is provided, as an accessory use, at any time, for part of a twenty-four-hour day to more than six but fewer than 16 older school-age children or more than six but less than 13 children of any other age. This definition does not apply to: care provided in the home of someone who is a relative to all of the children being cared for or care provided by a relative in the home of children whom are all related to each other and to the relative. Currently, both uses are considered Accessory Uses, and both uses would follow a conditional use process for approval. The conditional use process is longer and more expensive for the applicant in comparison to a zoning permit approval. Ms. Wargo spent time working with Mr. Ressler on all the zoning districts. Currently it is only permitted as an accessory use in the RR and RA zoning district for both childcare homes. Staff is recommending to amend Chapter 27, Zoning; Part 2, District Regulations; Section 205.5—Single Family Residential (R1); Section 205.6—Suburban Single Family Residential (R1B); Section 205.7—Two Family Residential (R2); Section 205.8—Townhouse Residential (R3); Section 205.9—Multi-Family Residential (R4) and Section 205.11—Village (V) to amend the conditional use for Family Child-Care Homes to a permitted use for Single-family Detached Dwellings in these zoning districts and amend the conditional use for Group Child-Care Homes to a permitted use for Single-Family Detached Dwellings in the Single Family Residential (R1) and Suburban Single Family Residential (R1B) zoning districts. All conditions as outlined in the conditional use process would still be applied to the permitted uses and residents would be able to apply for a no-fee zoning permit for approval as opposed to going through the conditional use process.

Ms. Dininni asked if the larger group homes in R4 are allowed by conditional use. Ms. Wargo noted that they are not allowed within R4.

Ms. Strickland noted that she is supportive of this amendment, but thought the idea was to make it a permanent accessory use. Ms. Wargo noted that she was not employed at the Township when this was written.

Mr. Miller asked if all the conditions that were previously established would still apply. Ms. Wargo stated that yes, but it not a conditional use process. Mr. Pribulka indicated that the one limitation that might be considered would be applied to with this is if the Board would take out the Conditional Use Hearing Process that it would preclude the Board from placing additional conditions beyond

what is included in the supplemental regulations. The Board does have some latitude during the conditional use process to attach items that are not ordained. Ms. Dininni asked if it was temporary. Mr. Pribulka stated that no it is not temporary under the proposal. Ms. Dininni requested making the conditional use process temporary and expressed concerns over the larger group homes. Mr. Miller expressed that he does not have a problem with the family childcare home but suggest looking into group childcare home before approving. Continued discussion ensued regarding the process once the temporary allowances expire. Ms. Dininni prefers to have the larger group homes removed from the ordinance. Mr. Miller agrees to have the conditional use hearing on the larger group homes. Mr. Mitra concurs. Ms. Wargo will note the change.

Ms. Dininni moved that the Board of Supervisors **authorize** advertisement of a public hearing on an ordinance permitting family childcare facilities as an accessory use home occupation in all residential zoning districts for Monday, November 16<sup>th</sup>. Ms. Stephens seconded the motion. The motion passed unanimously.

## **VII. STAFF AND COMMITTEE REPORTS**

### **1. COG COMMITTEE REPORTS**

- a. Executive Committee – No report.
- b. Public Services and Environmental Committee - Mr. Mitra was unable to attend the meeting but there was a discussion on the Climate Action and Adaptation Plan and there will be a future session scheduled. The UAJA Solar Pilot program was discussed.
- c. Joint TLU and CRPC Meeting – Ms. Strickland stated that they met today, October 5, 2020, and had a presentation on the Utility-Scale Solar Projects in the Centre Region. They discussed the Accessory Dwelling Units in the Centre Region and it is in the CRPA work plan. Ms. Strickland encouraged the Board to look at the draft Centre Region Land Consumption Study that was provided in the agenda. Ms. Dininni suggested to revisit the Accessory Dwelling Units.
- d. Finance Committee – Mr. Miller noted that the review of the COG Budget has been completed. The final meeting is Thursday, October 8, 2020.

### **2. OTHER REGIONAL REPORTS**

- a. CCMPO Coordinating Committee CCMPO Coordinating Committee – Ms. Strickland noted that the PennDot Multimodal Transportation Fund Cycle is open until November 6, 2020. CCMPO reviewed the comments that were made about the Long Range Transportation Plan. With regards to the projects in Pine Grove Mills that Ferguson Township requested to separate, Ms. Strickland noted that the Committee did not recommend, but if the Township would have a successful study then the two projects can be separated. Ms. Strickland asked to place a footnote stating that the two projects can be separated if there is a successful study because Ms. Strickland doesn't want it to get lost.

### **3. STAFF REPORTS**

- a. Manager's Report - Mr. Pribulka noted that his report is in the agenda. There will be a Virtual Municipal Leadership Summit on October 29-31, 2020. Board members can attend and to let the Manager know. Ferguson Township was awarded a \$250,000 grant from the Community Conservation Partnership Program for Phase I of the Suburban Park. Ms. Martin took the lead on drafting the application and Mr. Pribulka thanked her.
- b. Public Works – Mr. Modricker's report was included in the agenda. There will be two brush collections that will occur in October. Mr. Modricker updated the Board on the Arborist and

Tree Commission. Mr. Modricker is in the process of reviewing requests for proposals for a solar power purchase agreement.

- c. Planning and Zoning – Ms. Wargo noted that the report was provided in the agenda and noted that the staff is preparing for the public hearings in November and ensuring that it is in compliance with the MPC.

#### **VIII. COMMUNICATIONS TO THE BOARD**

None

#### **IX. CALENDAR ITEMS - SEPTEMBER/OCTOBER**

1. Wednesday, October 5, 2020, Board of Supervisors meeting

#### **X. ADJOURNMENT**

With no further business to come before the Board of Supervisors, Ms. Dininni motioned to adjourn the meeting. The meeting adjourned at 11:05 p.m.

Respectfully submitted,



David Pribulka, Township Manager  
For the Board of Supervisors

Date approved by the Board: 10-19-2020