

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, January 4, 2021
7:00 PM

ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, January 4, 2021, via Zoom in a webinar format. In attendance were:

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

Staff: Dave Pribulka, Township Manager
Dave Modricker, Director of Public Works
Jenna Wargo, Director, Planning and Zoning
Chris Albright, Chief of Police
Centrice Martin, Assistant to the Township Manager

Others in attendance included: Rhonda Demchak, Recording Secretary; Diana Griffith, Centre County PACE Program Coordinator; Bill Keough, Ferguson Township Resident; Jeremie Thompson, Ferguson Township Resident.

I. CALL TO ORDER

Ms. Dininni called the Monday, January 4, 2021, regular meeting to order at 7:36 p.m.

II. CITIZENS INPUT

None.

III. APPROVAL OF MINUTES

Ms. Stephens moved that the Board of Supervisors **approve** the Minutes of December 7, 2020 and December 14, 2020. Mr. Mitra seconded the motion. The motion passed unanimously.

IV. SPECIAL REPORTS

a) COVID-19 (Coronavirus) Response Report

Mr. Pribulka noted that local or regional updates can be found on the Centre Region Ready [Facebook page](#) or the [COG website page](#). Also, information can be found on the [Township website](#) and [State College Borough](#). The Municipal Building remains closed to the general public until further notice. Staff is shifting between in person and working remotely to limit interaction in order to provide a safe environment. The drop-off-box is available and is checked daily. The Public is encouraged to make appointments with staff virtually when possible. The police lobby remains open for walk-ins Monday-Friday during normal hours of operation, but residents are encouraged to meet virtually. The Crisis Team will meet this week to evaluate if staff can return safely to work in the coming weeks. Notifications will be posted to the Township Website.

There have been 8,645 confirmed cases and 52,710 negative cases in the State College area. There have been 145 deaths due to the virus in Centre County. The 16801-zip code is reporting the most cases in Centre County. There have been 595,600 reported cases in Pennsylvania and 16,361 deaths. There were several state-wide restrictions that were in place due to the holiday season that were lifted on January 4, 2021. The PA Dept. of Health is still encouraging safety protocols.

Mr. Pribulka thanked residents and business owners for their patience and understanding as the Township recovers.

b) CENTRE COUNTY PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS (PACE) PROGRAM REPORT

Mr. Pribulka noted that the presentation was a request from a Board member to get better educated and evaluate the Township's position with the program. Mr. Pribulka noted that there is information included in the agenda.

Ms. Diana Griffith, Centre County PACE Program Coordinator, presented. Ms. Griffith expressed gratitude to the Board for their support and making them aware of the recent cut in the Township's 2021 budget. State Legislators remain committed with sustaining the program and recognizing its benefits. The County's contribution to the program remains constant at \$50,000. Ms. Griffith read from the attachment that was included in the agenda.

Ms. Dininni noted that she is very supportive of the PACE program but is interested in how it works.

Mr. Miller asked if the \$150 is part of the payment that farmers would receive and is it in addition to what they receive through the program. Ms. Griffith noted they would not receive any additional funds through the program.

Mr. Pribulka asked for clarification with the part ownership of the conservation easements and what it means for the Township to be part owners. Ms. Griffith indicated that it should be a point of pride for Ferguson Township to be part owners to preserve the farms in the Township. Mr. Pribulka asked that if the easements were to be sold back or removed, would the Township have a say if the easements were permitted to be sold back. Ms. Griffith noted that once the easement is in place, the farm is preserved forever, even if the farm is sold.

Ms. Strickland asked what the easement means in terms of the Township's participation in the program as the years go on. Ms. Griffith stated that the PACE Board is entrusted with the farms and do yearly inspections to ensure the terms are being abided by. Ms. Strickland inquired if the Township receives the annual inspections. Ms. Griffith noted that only the State receives a report, but thinks it is a good idea for the Township to receive and will start sending.

Ms. Dininni asked more in-depth questions on how the program works. Ms. Griffith referred to the handout that was provided in the agenda.

Mr. Bill Keough, Ferguson Township Resident, noted that he was the Chair for the Centre County Ag Land Board for over 20 years. The County Commissioners appointed Mr. Keough. Mr. Keough noted that his silence over the program should not be a sign that he is supportive of the Board's decision to cut the line item from the budget. Mr. Keough's family has a farm that is to be preserved in 2021 and doesn't want a conflict of interest. Mr. Keough clarified that preserved rights can be removed, but it is a very difficult process. Mr. Keough stated that he is not in favor of removing from the budget. Ms. Dininni noted that there would be no conflict of interest for Mr. Keough.

Mr. Pribulka asked for clarification on how the funds are leveraged in the fund balance with some of the county funding. Ms. Griffith will obtain information and send to the Manager.

Mr. Bill Keough, Ferguson Township Resident, noted that there was a time that the Township took money from the budget and placed in the county budget. However, there were concerns with that practice because the Township didn't have control with buying easements and has since stopped.

V. UNFINISHED BUSINESS

1. PUBLIC HEARING – EXTENSION OF EMERGENCY COVID ORDINANCE

Mr. Pribulka introduced the ordinance and noted that provided with the agenda is a copy of an ordinance advertised for public hearing extending the temporary emergency regulations established to reduce the transmission of the COVID-19 virus. The emergency ordinance was adopted by the Board on September 21, 2020 and is set to expire on January 31, 2021. The ordinance that is presented this evening extends those restrictions through June 30, 2021, or at the expiration of the emergency declarations of the Centre Region Council of Governments and the Pennsylvania Department of Health. If the Board agrees to modifying any of the temporary restrictions in the ordinance, the public hearing can be continued to January 18, 2021 for consideration of any amendments prior to the current regulations expiring.

Public Hearing – No Comments were made.

Mr. Miller moved that the Board of Supervisors **adopt** the ordinance extending the effective date of the temporary emergency COVID Ordinance through June 30, 2021, or the expiration of the emergency declarations passed by the Centre Region Council of Governments and the Pennsylvania Department of Health, whichever is earlier. Ms. Stephens seconded the motion.

Mr. Miller noted that this ordinance is important because the virus is worse than when the Board initially enacted the ordinance.

Mr. Mitra noted he supports in extending but asked if the Board should include what the state is recommending in regard to gathering sizes. Mr. Pribulka stated Mr. Mitra's suggestion is a good idea; however, noted that if the Board were to include the state recommendations, but suggested having a "ceiling" because there have been times that the state department has said it is up to the localities to determine. Mr. Mitra concurred.

Mr. Miller moved that the Board of Supervisors **amend** the ordinance stating that if the PA Department of Health guidelines for gathering sizes is less than what would be included in the ordinance, the Township would apply those limitations. Mr. Mitra seconded the motion. The motion passed unanimously.

Mr. Miller moved that that Board of Supervisors **extend** the Public Hearing on the ordinance for January 18, 2021. Mr. Mitra seconded the motion. The motion passed unanimously.

2. PUBLIC HEARING – WORKFORCE HOUSING ORDINANCE

Ms. Wargo presented the ordinance and noted it is included in the agenda packet. In response to the Workforce Housing Ordinance amendments, Planning Staff reviewed the Terraced Streetscape (TS) Zoning District and the Traditional Town Development (TTD) Zoning District and is recommending that Chapter 27, Zoning; Part 3, Residential Planned Development and Mixed Use; Section 204, Terraced Streetscape (TS) District be amended by adding the following to §27-304.3.B.3. Building Height Incentives to read:

3. If a building is complying with §27-716. Workforce Housing, the by right maximum height of 55 feet may be increased to accommodate bonus market rate units, not to exceed 65 feet.

The Workforce Housing Ordinance is codified under Supplemental Regulations in Chapter 27, Zoning and applies to zoning districts where the provisions of workforce housing units are required or incentivized. Currently, the Township requires a contingency of workforce housing to be built in

the Traditional Town Development (TTD) Zoning District and is incentivized in the Terraced Streetscape (TS) Zoning District. Provided with the agenda is the draft amendment to the Workforce Housing Ordinance. This ordinance would be applicable to the following development within the TTD and TS Zoning Districts:

- Ten or more residential dwelling units;
- Renovation of a residential structure that results in ten or more additional residential dwelling units within five years; and
- Conversion of a nonresidential property to a residential property that results in ten or more residential dwelling units within five years.

It expands upon the legacy workforce program by allowing for rentals or owner-occupied units; and provides workforce housing units to be built on-site, off-site, and/or paid through fee-in-lieu. The draft has been received and reviewed by all local, regional and county reviewers.

Public Hearing

Mr. Jeremie Thompson, Ferguson Township Resident, stated that he is opposed of the ordinance because of the high-income ranges to be eligible and there are people commuting from outside of the Centre Region. Mr. Thompson noted that the Township could reduce the carbon footprint of the commuters from outside the region.

Mr. Mitra stated that he supports Mr. Thompson's concerns.

Mr. Miller noted that he believes that trying to extend the ordinance to lower income levels becomes a problem for people because they won't be able to obtain a mortgage.

Ms. Strickland noted that she appreciated Mr. Thompson's comments and thanked the Planning Commission for their hard work on the ordinance.

Public Hearing - Ended

Mr. Miller moved that the Board of Supervisors **adopt** the ordinance amending Chapter 27, Zoning, Part 3, Residential Planned Development and Mixed Use, Section 304, Terraced Streetscape District by amending §27-304.B.3. and amending Chapter 27, Zoning, Part 7, Supplemental Regulations; Section 716, Workforce Housing by repealing it and replacing it in its entirety. Ms. Strickland seconded the motion.

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

3. PUBLIC HEARING – FEE SCHEDULE AMENDMENT RESOLUTION

Provided with the agenda is a copy of the resolution advertised for public hearing amending Resolution 2020-36 by establishing fees in lieu of workforce housing. The additional fees were removed from the resolution considered on December 14, 2020, by establishing fee-in-lieu of Workforce Housing that was approved tonight. The Workforce Unit Fee-in-Lieu for Single Family Attached/Detached Units is \$86,775 and Workforce Unit Fee-in-Lieu for Multifamily Units is \$53,000.

Public Hearing – No comments were made

Mr. Mitra moved that the Board of Supervisors **adopt** the resolution amending Resolution 2020- 36 by establishing fees in lieu of workforce housing. Ms. Stephens seconded the motion.

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

4. CONTINUED DISCUSSION – WEST WHITEHALL ROAD STORMWATER RUNOFF

Mr. Modricker noted that the agenda item is a request from Mr. Bender at 6315 W Whitehall Road. Staff looked at a number of options, completed a site visit, and met with the owner. Mr. Modricker presented a drawing that was included in the agenda packet. Mr. Modricker explained the issue and asked the Board for next steps.

Mr. Modricker reviewed different ways to correct the problem such as installing a cross culvert that would eliminate upstream drainage but would not eliminate anything below the culvert.

Mr. Miller stated that he supports moving forward with the project this year and not going through the CIP process. Mr. Miller reviewed four projects that the Township took on regarding runoff over the past years.

Mr. Mitra asked how much water is being contributed by public and private. Mr. Modricker estimates half of the drainage area including more than half of the impervious area would be directed elsewhere. Of that that area it would be directed elsewhere because it is public right-of-way.

Ms. Strickland asked who is affected by the runoff. Mr. Modricker noted it is only the Bender property.

Mr. Modricker gave a summary of where the water is flowing and where it would not flow if a culvert were placed.

Mr. Pribulka noted that some of the infrastructures can't handle the amount of rain that has increased over the years and that is part of the issue.

Ms. Strickland noted that she would support looking further into this issue and thanked Mr. Modricker for bringing this issue to the Board.

Ms. Stephens asked for Mr. Modricker to elaborate about the concerns of the water line if it is diverted. Mr. Modricker stated that under Whitehall Road there is a Rock Spring Water line in that location but is hoping to be able to go under the water line. There is a process if it can't be lowered because it is in the public right-of-way.

Mr. Pribulka recommended staff to develop a cost estimate before there is a design. Mr. Pribulka encouraged the Board to have this be a part of the Capital Improvement Plan process.

Mr. Miller noted that after the discussions he agrees that it should be part of the CIP now.

Mr. Miller moved that the Board of Supervisors **include** West Whitehall Road Stormwater Runoff project into the Capital Improvement Plan and **authorize** staff to proceed with preliminary work. Ms. Dininni seconded the motion.

Mr. Mitra noted that in this case he would be in favor of a private/public partnership. Mr. Pribulka noted that it could be feasible but complex. Mr. Miller noted he would not support a partnership.

Mr. Miller reviewed his motion.

The motion passed unanimously.

VI. CONSENT AGENDA

- a. Contract 2020-C5, Pay App 1: \$14,603.83
- b. Contract 2018-PWGG Electrical, Pay App 8: \$97,989.39
- c. Contract 2018-PWGG HVAC, Pay App 4: \$46,706.75

Mr. Miller moved that the Board of Supervisors **approve** the Consent Agenda. Ms. Strickland seconded the motion. The motion passed unanimously.

VII. BOARD MEMBER REQUEST – PARKS AND RECREATION ORDINANCE AMENDMENT

Ms. Dininni introduced her request to the Board. Provided with the agenda are several documents for review and consideration by the Board pertaining to the proposed amendment to the Ferguson Township Parks and Recreation Ordinance. Ms. Dininni reviewed the documents.

The following items were reviewed:

- CRPR 1-1122 – Articles of Incorporation.
- CRPR 1-1124 – Amendments to the Articles of Incorporation of the Authority.
Mr. Pribulka will follow up with the Township Solicitor regarding the name change.
- Chapter 16 -101 – Definitions – Ms. Dininni felt there are some definitions that lack clarity and noted that it should state Centre Region Parks and Recreation Authority.
 - Police Officer – Chief Albright stated that they have never appointed a peace officer. Mr. Mitra suggested removing peace officer and adding Ferguson Township Police Officer.
- Chapter 16-102–D-Acts not Unlawful and E-Permits – Ms. Dininni stated that the language is not clear.
- Chapter 16-107-A-To fix Time – Ms. Dininni suggested changing the code. Ms. Stephens suggested changing Time to Hour. Mr. Mitra suggested making the language gender neutral.
- Chapter 16-107-E– Collect Fees
- 27-723 – Food Trucks - Ms. Dininni suggested opening up Ferguson Township Parks for uses in ways that other townships do not.
- Ms. Dininni noted that Centre Region Parks and Recreation recently passed a rule for certain entities to store items in parks. Ms. Dininni expressed concerns over third party's storing items.

VIII. STAFF AND COMMITTEE REPORTS

1. COG COMMITTEE REPORTS

- a. Executive Committee – No Report, but the agenda is attached to the packet.
- b. Transportation & Land Use Committee – No Report, but the agenda is attached to the packet.

2. OTHER COMMITTEE REPORTS

- a. Climate Action & Adaption Technical Advisory Group – No Report, but the agenda is attached to the packet.

3. STAFF REPORTS

- a. Manager's Report - Mr. Pribulka noted that he has accepted to be on the screening of applications for the Schlow Library Executive Director. This week, Mr. Pribulka will be

attending a Hazard Mitigation Webinar; meeting with the Stormwater Fee Consultant, Elizabeth Treadway, Wood; and noted that the Stormwater Work Session will be held on January 12, 2021.

- b. Public Works – Mr. Modricker noted that the road crew is in winter operation and continued work is being done to the Public Works Building.
- c. Planning and Zoning – No report.

IX. COMMUNICATIONS TO THE BOARD

None

X. CALENDAR ITEMS – JANUARY

Stormwater Fee Work Session – January 12, 2021 at 6:00 p.m.
Virtual Coffee and Conversation – January 16, 2021 at 8:00 a.m.

XI. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Mitra motioned to adjourn the meeting. The meeting adjourned at 10:40 p.m.

Respectfully submitted,



David Pribulka, Township Manager
For the Board of Supervisors

Date approved by the Board: 01-18-2021