

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, November 16, 2020  
7:00 PM

### ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, November 16, 2020, via Zoom in a webinar format. In attendance were:

<b>Board:</b>	Steve Miller, Chairman	<b>Staff:</b>	Dave Pribulka, Township Manager
	Laura Dininni, Vice Chair		Dave Modricker, Director of Public Works
	Prasenjit Mitra		Jenna Wargo, Director, Planning and Zoning
	Patty Stephens		Kristina Aneckstein, Community Planner
	Lisa Strickland		Centrice Martin, Assistant to the Township Manager
			Eric Endresen, Director of Finance

Others in attendance included: Rhonda Demchak, Recording Secretary; Jonathan Dietz, Secretary, UAJA; Daniel Bunner, Arborist, SavATree, Jarlath O'Neil Dunne, Director of the University of Vermont's, Spatial Analysis Laboratory, Nina Safavi, Senior Analyst and Project Manager of the University of Vermont's Spatial Analysis Laboratory; Jeremie Thompson, Ferguson Township Resident; Katie Plummer, Ferguson Township Resident; Patrick Tienter, Ferguson Township Resident; Todd Giddings; Ferguson Township Resident; Mark Kunkle; Ferguson Township Resident; Kara Kavala, Ferguson Township Resident; Art Leach, Ferguson Township Resident; Heather Lynn, Ferguson Township Resident; Joe Green, Township Solicitor; Scott Smith, Ferguson Township Resident; Robin Homan, Ferguson Township Resident; Bill Keough, Ferguson Township Resident; Marc McMaster, Real Estate Agent, State College; Jared Erinco; Ferguson Township Resident; Missy Schoonover; Executive Director, Centre County Housing and Land Trust; Hunter Keip; Ferguson Township Resident; Lisa Campbell, Ferguson Township Resident; Sarah Rocker, Ferguson Township Resident; Samuel Leathers, Ferguson Township Resident; Dave Young, Ferguson Township Resident; Shannon Holliday, Ferguson Township Resident

### I. CALL TO ORDER

Mr. Miller called the Monday, November 16, 2020, regular meeting to order at 7:00 p.m.

Mr. Pribulka noted that the Board of Supervisors meeting had been advertised in accordance to the PA Sunshine Act as a virtual meeting via Zoom in a webinar format. There was also an audio conference bridge that was accessible by dialing the Ferguson Township's main line at 814-238-4651 and then dialing extension 3799. Persons attending the webinar as members of the public and wanted to participate were asked to enter their name, municipality, and topic by utilizing the Q&A bubble at the bottom of the screen. C-NET is recording as well. Mr. Pribulka took Roll Call and there was a quorum.

### II. CITIZENS INPUT

None

### III. APPROVAL OF MINUTES

Ms. Dininni moved that the Board of Supervisors **approve** the Minutes of November 2, 2020. Ms. Stephens seconded the motion. Ms. Dininni noted that on page 5 under the stormwater discussion, it should be 2020. The motion passed unanimously.

### IV. SPECIAL REPORTS

a) COVID-19 (Coronavirus) Response Report

Mr. Pribulka noted that regional updates can be found on the Centre Region Ready [Facebook page](#) or the [COG website page](#). The number of COVID-19 cases are on the rise statewide and in the region. The United States exceeded 11 million cases and is approaching 250,000 deaths. The Centre Region Management Council is monitoring closely. Mr. Pribulka noted that as of November 13, 2020, Mount Nittany Medical Center reported 18 new cases in their care from the virus. There have been no indications from Gov. Wolf's office or the Department of Health that the state would go back to yellow or red phase. Appropriate targeted mitigation efforts are currently being considered by the Governor's Office and an update to residents will be forthcoming. A series of protocols to combat COVID-19 during the Thanksgiving season has been released by the Centers for Disease Controls (CDC). The protocols can be found at the Centre Region Ready [Facebook page](#) or the [COG website page](#) for a full list of Thanksgiving holiday recommendations and advisory's from the CDC. The staff person who was COVID-19 positive in October has recuperated and returned to work. There are currently two staff that are exhibiting symptoms and are in self quarantine pending test results. The Municipal Building remains open from 10:00 a.m. – 2:00 p.m., Monday thru Friday. All meetings are by appointment only. There is a Crisis Management Team meeting this week to discuss changes with the staff operations and business hours as conditions worsen in the area. Mr. Pribulka thanked everyone for their patience and understanding as the Township recovers.

b) UNIVERSITY AREA JOINT AUTHORITY REPORT

Mr. Jonathan Dietz, Secretary, UAJA reported that they continue to run affectively. The UAJA is in Phase 2 of the Solar Panel Project. The UAJA will be moving from composting to a digestion process that will produce biomethane and potentially sell the biomethane for green credits. Mr. Miller inquired about the Scott Road Upgrade. Mr. Dietz noted that the project was approved by the DEP. Also, Mr. Dietz updated the Board on UAJA's budget and noted that revenues have been impacted by COVID-19 by 6%, but in good standing.

c) TREE CANOPY SURVEY RESULTS REPORT

Mr. Dave Modricker introduced the tree survey and noted this is the first time Ferguson Township had a survey completed. The presenters were Daniel Bunner, Arborist, SavATree, Jarlath O'Neil Dunne, Director of the University of Vermont's, Spatial Analysis Laboratory, and Nina Safavi, Senior Analyst and Project Manager of the University of Vermont's Spatial Analysis Laboratory. Mr. O'Neil Dunne gave a PowerPoint presentation to the Board. Ms. Dininni thanked the presenters and felt the data will be a useful tool to inform as the Board continues discussions about parks, open spaces, storm water management, etc. Mr. Modricker stated that the Tree Commission reviewed the study at tonight's meeting.

**V. UNFINISHED BUSINESS**

1. PUBLIC HEARING – ORDINANCE AMENDING THE FERGUSON TOWNSHIP ZONING MAP

Ms. Wargo presented the ordinance and noted that in 2016, staff and the Board, along with Environmental Planning and Design as a consultant, undertook the task of comprehensively updating the Zoning Ordinance and the Subdivision and Land Development Ordinance. Zoning Map amendments were deferred until after the other modifications were completed. The areas that are proposed to be rezoned were identified during the comprehensive rewrite, requested by residents, and an attempt to bring additional lots into conformity. These areas were evaluated by staff and reviewed by the Ferguson Township Planning Commission. On September 28, 2020, the Ferguson Planning Commission made a motion to the Board of Supervisors to approve the proposed map amendments. Comments were received by the Centre Regional Planning Agency

and the Centre Regional Planning Commission heard the proposal at the November 5, 2020, meeting and recommended approval. The Board of Supervisors authorized a public hearing for November 16, 2020. The properties have been posted and property owners have been notified of the public hearing this evening.

#### Public Hearing

Mr. Doug Young, Ferguson Township Resident, noted that if he wanted to live on an R1 property he would have moved closer to town and noted that it is a reduction in value. Expressed concerns of what could come next if this is adopted due to fixed income. Ms. Wargo addressed his concerns and noted that the biggest change with Mr. Young's property will be the grass and weed ordinances.

Mr. Dininni moved that the Board of Supervisors **adopt** the ordinance amending the Ferguson Township Zoning Ordinance and Zoning Map as described in Exhibits "A" through "E". Ms. Stephens seconded the motion.

Ms. Dininni commented that perhaps the solution for Mr. Young and others would be to have it become RR. Mr. Pribulka stated that there were discussions in the past to rezone as RR, but it didn't address all the non-conformities. Ms. Strickland expressed some concerns as to why this wasn't rezoned RR after further discussions. Mr. Pribulka stated that the prime driver of the recommendation was not the lot sizes as it was the setbacks. Continued discussions about lot sizes, provisions, and the weed ordinance ensued.

Ms. Dininni read a question from the Zoom chat box. The person wanted the Board to know what the benefit would be to changing Tax Parcel 94C to be rezoned from RA to FG. Ms. Dininni noted that it aligns with the actual uses by the state.

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

The motion passed unanimously.

## 2. PUBLIC HEARING – ORDINANCE AMENDING CHAPTER 27, SECTION 716, WORKFORCE HOUSING

Mr. Wargo presented the ordinance and noted that 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 75 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. The amendment would expand upon the Legacy Workforce Housing Program by allowing for rentals or owner-occupied units. It will provide housing units to be built on on-site, off-site, and paid via fee-in-lieu. The Planning Commission reviewed the draft at the Regular Meeting on October 28, 2020. The Planning Commission recommended not

approving and staff prepared a memo summarizing the discussion items to provide clarity on the recommendations. Comments were received by the Centre Regional Planning Agency and the Centre Regional Planning Commission heard the proposal at the November 5, 2020 meeting and they recommend approval of the ordinance.

#### Public Hearing

Mr. Jeremie Thompson, Ferguson Township Resident, and a member of the Ferguson Township Planning Commission, presented a PowerPoint of his concerns. Mr. Thompson expressed concerns with affordability; the benefits to the developer; limited parking; and the terminology is not clear. Mr. Thompson recommended not approving the ordinance and to send the ordinance back to the Planning Commission.

Ms. Shannon Holliday, Ferguson Township Resident, and a member of the Ferguson Township Planning Commission, stated that she supports Mr. Thompson's concerns. Ms. Holliday stated that she represents part of the African American community and is a single parent holding down three jobs. Ms. Holliday noted that even with three jobs, she would still not qualify for eligibility.

Ms. Strickland 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 §27-304.3.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. Dininni seconded the motion.

Mr. Mitra asked about the wage limits. Ms. Wargo noted that it was rolled over from the original ordinance. Mr. Pribulka noted that it was identified by local housing studies and state and national studies. Ms. Schoonover agreed with Mr. Pribulka's statement and noted that unfortunately in the state and federal program that would aid with the 80-120% incomes, there is nothing available. Mr. Miller suggest looking into the rental programs and perhaps they should have different perimeters. Ms. Dininni expressed concerns with extending to the TSD and is opposed. Ms. Dininni reviewed the concerns of Mr. Thompson and Ms. Holliday and understands some of their concerns. Ms. Strickland asked clarifying questions regarding bonus units. Ms. Strickland expressed her concerns and disagreed with the language around rentals and incentives. Ms. Stephens noted that the language is confusing. Discussion continued with the language, number of residential dwelling units, incentives. Mr. Miller noted that if the Board makes substantial modifications to the ordinance, it will need to be moved to another meeting, and if it needs redone, it will need to wait until another year. The Board agreed that under Applicability the language needs modified. Ms. Wargo will rework the language. Mr. Green noted that the language change is substantial and should be re-advertised.

Ms. Dininni moved that the Board of Supervisors **amend** Section 4, items b and c to include that the number of units that will trigger the ordinance is to add 10 in any existing residential structure that is renovated. Mr. Miller seconded the motion. The motion passed unanimously.

Ms. Dininni moved that the Board of Supervisors **continue** the Public Hearing on December 14, 2020 and advertise the ordinance as amend for the Public Hearing. Mr. Mitra seconded the motion. The motion passed unanimously.

### 3. PUBLIC HEARING – ORDINANCE AMENDING CHAPTER 27, SECTION 205, FAMILY CHILD-CARE HOMES

Ms. Wargo introduced the ordinance and noted that as a result of the current pandemic, Ferguson Township Staff conducted a business needs survey. A key concern was childcare facilities within the Township. Staff reviewed the requirements and process in establishing a Family Child-Care

Facility in the Township. Currently, the use is considered an Accessory Use and requires a conditional-use approval from the Board of Supervisors. 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. On September 28, 2020, the Ferguson Planning Commission made a motion to the Board of Supervisors to approve the proposed amendments. Comments were received by the Centre Regional Planning Agency and Centre Regional Planning Commission heard the proposal at the November 5, 2020, meeting and recommended approval.

Public Hearing – No comments were made.

Ms. Strickland moved that the Board of Supervisors **adopt** the ordinance amending Chapter 27, Zoning, Part 2, District Regulations; Section 205.5—Single Family Residential, Section 205.6—Suburban Single Family Residential, Section 205.7—Two Family Residential, Section 205.8—Townhouse Residential, Section 205.9—Multi-Family Residential, and Section 205.11—Village. Mr. Mitra seconded the motion.

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

4. PUBLIC HEARING – RESOLUTION AMENDING RESOLUTION 2019-30, SCHEDULE OF FEES

Mr. Pribulka suggested that since the Workforce Housing Ordinance is being continued that the Public Hearing for the Resolution Amending Resolution 2019-3, Schedule of Fees be continued until December 14, 2020.

Public Hearing – No comments were made.

Ms. Dininni asked how the fees were established. Mr. Pribulka noted that Ms. Wargo, Ms. Schoonover, and Mr. Schneider worked on the draft figures. The variables considered were the vacant land cost per square foot, and minimum lot sizes per square foot for both Single Family Attached/Detached and Multi-Family Dwellings. Added to the mentioned, the 2020 building cost from the International Building Code Council, that is a cost of construction per square foot multiplied by minimal building lot size. The application for a Single Family Attached/Detached is approximately \$115,000 and approximately \$70,000 for Multi-Family Dwellings. The numbers of fee-in-lieu reflect approximately 75% of the figures. Continued discussion how the fee-in-lieu was established. Ms. Schoonover noted that fee-in-lieu is an item that is very market specific and the data is what land costs in Centre County.

Ms. Stephens moved that the Board of Supervisors **continue** the Public Hearing on December 14, 2020. Ms. Dininni seconded the motion. The motion passed unanimously.

5. CONTINUED DISCUSSION – DRAFT CREDIT POLICY MANUAL FOR THE PROPOSED STORMWATER FEE

Mr. Modricker presented a PowerPoint on a proposed credit program. The Credit Categories included Education and Engagement, Post Construction Stormwater Management, Low Impact Development, and Agriculture Business Operations. Mr. Modricker reviewed the Draft Credit Manual and noted that the manual was included in the packet. The manual has not been reviewed by Staff; however, Staff and the Board will review and give feedback to the consultant. Mr. Miller stated that the manual is well written. Ms. Dininni asked about stormwater basins and credits. Mr.

Modricker reviewed the Credit Amount Table that is in the manual. Continued discussions were held about credit for impervious area from another property.

#### Public Comment

Todd Giddings, Ferguson Township Resident, noted that he reviewed the Draft Credit Policy and stated that the consultant, Wood, created an inappropriate policy for Ferguson Township's high infiltration soils and the source water area for 19 public water supply wells. Mr. Giddings noted that in the current draft ordinance, it doesn't allow for an appeal if the credit would be denied and stated that this should be reviewed.

Mark Kunkle, Ferguson Township Resident, concurred with Mr. Giddings statement and noted that there are many residential homes that were built that the downspouts, driveways, etc., have been sump. There have been no approved designs for many of the property owners, therefore, under the current credit policy there would be no opportunity to apply for a credit. Mr. Giddings stated that the range of credit will need more work to define.

Mr. Bill Keough, Ferguson Township Resident, asked if the Advisory Committee could be reconstituted because there was a lot of good suggestions with the credit plan. Mr. Keough noted that the plan doesn't really meet the needs of Ferguson Township and felt that the plan could be written better for the average person. Ms. Dininni noted that she was glad there was an Advisory Committee but now it is time for the Board to engage with the public directly to understand the implications of the recommendations that have been made. Ms. Dininni encouraged Mr. Giddings to make a list of items that he would change so the Board and public could comment.

## NEW BUSINESS

### 1. CONSENT AGENDA

- a. Contract 2018-PWGG HVAC, App. #2: \$29,188.75
- b. Contract 2018-PWGG General, App. #7: \$366,685.75
- c. Contract 2019-C32e Plumbing, App. #4: \$1,921.32
- d. Contract 2020-C1, Street Improvements-North, App. #3: \$1,303.64
- e. Contract 2020-C4, Suburban Park permits, App. #5: \$6,082.06
- f. Contract 2020-C19 ARLE Detection Upgrade #0261: \$89,173.00
- g. Contract 2020-C19 ARLE Detection Upgrade #0262: \$99,975.00
- h. Voucher Report for September
- i. Voucher Report for October
- j. Board Member Request – Financial Advisory Committee
- k. Board Member Request – General Tax Increase
- l. Board Member Request – Park Maintenance Agreement and Participation

Mr. Dininni moved that the Board of Supervisors **approve** the Consent Agenda and accept the Voucher Reports. Ms. Stephens seconded the motion. The motion passed unanimously.

### 2. REQUEST FOR VARIANCE – 370 AIRPORT ROAD

Mr. Pribulka introduced the variance and noted that it was included in the agenda. The applicant the Grace Presbyterian Church of 370 Airport Road (24-001B-016-0000) is requesting a variance from §19- 115.2 Nonconforming Signs. The municipal sign ordinance prohibits signage in the right-of-way. There was also a sign distance concern identified. The applicant has agreed to go for a variance that would allow them to construct a smaller version. Staff is recommending to the Board to support the request and provide a letter to the Zoning Hearing Board affirming the approval by the Board.

Ms. Dininni moved that the Board of Supervisors **provide** a letter to the Zoning Hearing Board, granting permission to the applicant to apply for a variance on Township property and support the variance request for 370 Airport Road. Ms. Stephens seconded. The motion passed unanimously.

3. PUBLIC HEARING – RESOLUTION AUTHORIZING A GRANT APPLICATION FOR SUBURBAN PARK PHASE I

Mr. Pribulka presented the resolution and noted that the Township received a notice-of-selection for a grant award from the Pennsylvania Department of Conservation and Natural Resources (PA DCNR) in the amount of \$250,000 for Suburban Park - Phase 1. The scope of work is identified in the rendering that is attached to the agenda. The PA DCNR has informed the Township that the grant award was given with land and water conservation funds which is a federal program. Mr. Pribulka noted that there will be some obstacles to get through to obtain the funds.

Public Hearing – No comments were made.

Ms. Dininni moved that the Board of Supervisors **adopt** the resolution authorizing the filing of the grant application to the Land and Water Conservation Program for federal funding administered by the National Park Service for Suburban Park – Phase I improvements. Ms. Stephens seconded the motion. The motion passed unanimously.

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

4. PUBLIC HEARING – RESOLUTION ADOPTING NEW ARTICLES OF AGREEMENT FOR THE CENTRE REGION BUILDING AND HOUSING CODE BOARD OF APPEALS

Mr. Pribulka stated that the resolution is a forward from the General Forum and is included in the packet.

Public Hearing – No comments were made.

Ms. Dininni moved that the Board of Supervisors **adopt** the resolution adopting the new Joint Articles of Agreement of the Centre Region Building and Housing Code Board of Appeals, which includes repealing and replacing the Joint Articles of Agreement for the establishment of a Centre Region Building and Housing Code Board of Appeals dated September 27, 2004. Mr. Mitra seconded the motion.

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

5. DISCUSSION – REVIEW OF DRAFT TREE PRESERVATION ORDINANCE

Ms. Wargo presented the ordinance and the Public Works and Planning & Zoning Department drafted an amendment to Chapter 22, Subdivision and Land Development to establish a new part, Tree Preservation. The intent of this chapter is to encourage the protection of trees through sound land use and tree management practices. This chapter will preserve, protect and maintain existing trees in Ferguson Township, as well as, increase the overall tree canopy and understory with native species and improve tree and ecosystem health on both public and private lands. The Board authorized Staff and the Ferguson Township Tree Commission in September 2018 to draft a Tree Preservation Ordinance. Since that time, the Tree Commission has met to review the ordinance several times. Staff is prepared to provide an overview to the draft ordinance and answer any questions the Board may have. Provided with the agenda is a copy of the draft ordinance. Discussions included timbering and incentives. Mr. Pribulka noted that a goal of the ordinance is

to make it attractive but not too regulatory. Ms. Dininni suggested adding another incentive to the tree preservation and protection.

Ms. Dininni moved that the Board of Supervisors **refer** the DRAFT Tree Preservation Ordinance to the Planning Commission for review and a recommendation. Mr. Mitra seconded the motion. The motion passed unanimously.

## **VI. STAFF AND COMMITTEE REPORTS**

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

- a. Ad Hoc Facilities Committee – The report was included in the agenda.
- b. Human Resources Committee - The report was included in the agenda.
- c. Public Services & Environmental Committee – Mr. Mitra noted that they discussed the establishment of the Climate Action and Sustainability Committee and how it will be structured.
- d. Joint PSE and Public Safety Committees - The report was included in the agenda.

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

- a. Schlow Library Executive Director Recruitment Committee

### **3. STAFF REPORTS**

- a. Manager's Report - The report was included in the agenda.
- b. Public Works – The report was included in the agenda.
- c. Planning and Zoning – The report was included in the agenda.
- d. Chief of Police - The report was included in the agenda.

## **VII. COMMUNICATIONS TO THE BOARD**

None

## **VIII. CALENDAR ITEMS - NOVEMBER/DECEMBER**

- a. 2021 Budget Special Meeting – November 17, 2020 at 6:00 p.m. via Zoom
- b. Authorities, Boards, & Commissions Vacancy Interviews – November 19, 2020, 6:00 p.m. via Zoom

## **IX. ADJOURNMENT**

With no further business to come before the Board of Supervisors, Ms. Dininni motioned to adjourn the meeting. The meeting adjourned at 11:30 p.m.

Respectfully submitted,



David Pribulka, Township Manager  
For the Board of Supervisors

Date approved by the Board: 12-07-2020