

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Tuesday, September 7, 2021
7:00 PM

ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Tuesday, September 7, 2021 as a hybrid meeting. In attendance were:

Board: Laura Dininni, Chair
Lisa Strickland, Vice Chair
Steve Miller
Patty Stephens
Pam Steckler

Staff: David Pribulka, Township Manager
Eric Endresen, Director of Finance
Jenna Wargo, Planning & Zoning Director
Centrice Martin, Assistant Township Manager

Others in attendance included: Rhonda Demchak, Recording Secretary; Douglas Mason, Ferguson Township Resident; Charles Suhr, Stevens and Lee Law Firm; Bill Hechinger, Ferguson Township Resident; Judge Casey McClain; Ben Burns, Ferguson Township Resident; Mark Huncik, Ferguson Township Resident; Howard Sylward, Ferguson Township Resident; Mark Kunkle, Ferguson Township Resident; Rhonda Stern, Ferguson Township Resident; Dorothy Blair, Ferguson Township Resident; Joe Green, Ferguson Township Resident; Howard Aylward, Ferguson Township Resident; David Stone, Ferguson Township Resident; Jessica Gracie-Griffin, Ferguson Township Resident

I. CALL TO ORDER

Ms. Dininni called the Tuesday, September 7, 2021, regular meeting to order at 7:00 p.m.

Ms. Dininni reported that there was an Executive Session on August 31, 2021, with regards to a litigation issue.

II. THE PLEDGE OF ALLEGIANCE

III. SWEARING IN OF WARD II SUPERVISOR

Judge Casey McClain presided over the swearing in of Ms. Pam Steckler.

IV. CITIZENS INPUT

Ms. Stern encouraged the Board to include an arts element to the Whitehall Park such as an outdoor amphitheater. With regards to the Terrace Streetscape District (TSD), Ms. Stern asked if the public could give input with their vision of the TSD. Lastly, Ms. Stern suggested having a parking study completed across from the old O.W. Houts property. There is parking on both sides of Butz Street, and it is becoming more dangerous.

V. APPROVAL OF MINUTES

Ms. Stephens moved that the Board of Supervisors **approve** the Regular meeting Minutes of August 16, 2021. Mr. Miller seconded the motion. The motion passed unanimously.

VI. SPECIAL REPORTS

a) University Area Joint Authority

Mr. Mark Kunkle, Board Member, UAJA, reported on the 3rd Quarter that included the start of construction on the Scott Road Pump Station; Whitehall Road Pressure Sewer System will be

completed before the end of 2021 due to permitting issues; a resolution adopting Act 537 Sewage Facilities Plan is being considered for adoption tonight; the authority staff met with the Township regarding the Princeton Drive Sanitary Sewage Replacement in conjunction with Park Hills drainage project; there has been an aeration pipeline replacement at the plant due to leakage; an ozone disinfection project is starting at the plant; a 537 Plant Special Study has been approved by the Centre Region Municipalities and DEP with a completion date at the end of 2022; the aerobic digester and sledge dryer project is underway and this will replace the current composting system; and finally the UAJA is in the process of a rate and tapping fee study.

Ms. Dininni suggested that UAJA keep affordable housing in mind with regards to the rate and tapping fee. Mr. Kunkle acknowledged the suggestion.

b) 2nd Quarter Finance Report

Mr. Endresen reported on the 2nd Quarter Financial 2021 Financial Report that was included in the agenda packet. Mr. Endresen noted that beginning in 2021, the Comprehensive Annual Financial Report became the Annual Comprehensive Financial Report (ACFR). Mr. Endresen reviewed the ACFR.

c) Gypsy Moth Abatement

Mr. Pribulka summarized and explained the two-page memo that was included in the agenda.

VII. UNFINISHED BUSINESS

1. Public Hearing – 2022-2026 Capital Improvement Program Budget

Mr. Pribulka thanked the Board and Staff for their assistance in developing the document and noted that at the August 2nd Regular Meeting the Board authorized a public hearing on the 2022 – 2026 Capital Improvement Plan (CIP). The CIP was presented by the Township Manager and reviewed by the Board of Supervisors at two public special meetings, as well as a hybrid road tour. Changes that have been made by the Board at the special meetings and August 2nd have been incorporated into the document. Provided with the agenda is a copy of the resolution as advertised for Public Hearing. A link to the revised 2022 – 2026 CIP is provided below the narrative.

[2022 – 2026 Centre Region COG Capital Improvement Plan](#)

Public Hearing – There were no comments made.

Mr. Miller moved that the Board of Supervisors **adopt** the resolution for the 2022 – 2026 Capital Improvement Program Plan (CIP). Ms. Steckler seconded the motion.

Ms. Strickland asked if the Transportation Improvement Plan formula can be addressed at budget time or the next CIP. Mr. Pribulka stated that it can be addressed at budget time.

Ms. Dininni reiterated that the Regional Housing Study should include CRPA and being funded through the Township's COG contribution.

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

The motion passed unanimously.

2. Public Hearing – Pine Hall Land Use Appeals Settlement Agreement

Mr. Pribulka introduced the agreement and noted that provided with the agenda is a copy of the settlement agreement involving multiple parties concerning the Pine Hall Traditional Town Development Land Use Appeals.

Ms. Steckler recused herself due to a conflict of interest and sat in the audience during discussion and vote.

Public Hearing – There were no comments made.

Mr. Miller moved that the Board of Supervisors **adopt** the resolution approving a settlement agreement with Residential Housing Land, LLC and Residential Housing Development, LLC to resolve pending litigation in the Centre County Court of Common Pleas Dockets #19-3373, 19-3374, and 19-3395. Ms. Strickland seconded the motion.

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

The motion passed 4-1 with Ms. Steckler recusing.

3. Conditional Use Permit Addendum – 1445 West College Avenue

Ms. Wargo introduced the addendum and noted that an application for a conditional use permit for the use of property located 1445 West College Avenue as a Golf Course Maintenance Facility and Mixed Martial Arts Studio has been filed with the Township by the property owners, Penn State University. The applicant proposes to continue the conditional uses currently operating at the site in accordance with §27-304.2.E,(1) and (2). The Township's Zoning Ordinance and the Municipalities Planning Code require a public hearing on the application, and the Board must take action to approve or deny the application within 45 days following the hearing. The Board held a public hearing on August 16, 2021, and received testimony from Township staff and the applicant's representative.

The Township Manager has prepared a draft decision based on the record from the August 16, 2021, public hearing. No additional testimony will be taken at tonight's meeting. The Board is asked to review and discuss the draft decision and take final action to approve or deny the conditional use permit.

Ms. Wargo reviewed the updated draft decision that included surety. Mr. Pribulka stated that this gives the Township the assurance it needs. Ms. Dininni had clarifying questions that Mr. Pribulka and Ms. Wargo answered.

Ms. Strickland asked if PSU responded to the road off Corl Street question. Ms. Wargo noted that PSU is still trying to find the information to share. The Zoning Officer is investigating as well.

Mr. Miller moved that the Board of Supervisors **approve** the conditional use permit for 1445 West College Avenue subject to the conditions described in the decision written by the Township Manager. Ms. Steckler seconded the motion.

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

The motion passed unanimously.

4. Recreation, Parks, and Open Space Plan Contract Addendum – Park Masters Plans.

Ms. Martin noted that at the July 19th Regular Meeting, the Board awarded a contract to HRG, Inc., to facilitate an update to the Recreation, Parks and Open Space Plan. Staff met with the Project Manager to develop a cost and scope for updates to two park master plans - Fairbrook Park and Greenbriar/Saybrook Park. The parks are included in the draft 2022 – 2026 Capital Improvement Program Budget, and engaging HRG to complete the master plan updates for these two parks will yield a substantial cost savings for the Township. Provided with the agenda is a copy of the supplement presented for approval. The cost of the master planning is an additional \$15,000, resulting in a total contract amount of \$54,500 when added to the \$39,500 awarded to update the RPOS Plan. An additional allocation would have to be budgeted in 2022 to accommodate the added cost but would still be significantly less expensive than addressing the two master plans separately.

Ms. Stephens moved that the Board of Supervisors **authorize** the Township Manager to execute a supplement to the contract to update the Recreation, Parks, and Open Space Plan with HRG, Inc. in an amount not to exceed \$15,000. Ms. Strickland seconded the motion. The motion passed unanimously.

5. Award of Regional Solar Power Purchase Agreement Consulting Services

Mr. Endresen noted that the regional Solar Power Purchase Agreement Working Group (SPPAWG), chaired by Peter Buck, completed work and recommended a consulting firm with expertise in solar energy. The firm will assist in the complete selection process of a developer to construct a solar facility or piggyback on an existing facility allowing the region to purchase electrical service at favorable costs relative to current and expected rates of existing electrical service. The region will share the cost of the consultant based on its current energy use. SPPAWG is asking the municipalities to approve the contract with GreenSky Development Group in the amount not to exceed \$75,000. Ferguson Township's share of the contract is 1.74% or \$1,305.00. Provided with the agenda is a consultant fact sheet that shows the timeline and proposed cost breakdown.

Ms. Dininni advocated for no cutting of trees to build the solar panels. The Board agreed.

Ms. Strickland moved that the Board of Supervisors **authorize** the Solar Power Purchase Agreement Working Group representative, Eric Endresen, to vote to recommend that the State College Area School District retain GreenSky Development Group as the energy services consultant for the regional solar power purchase agreement project. Ms. Stephens seconded the motion. The motion passed unanimously.

6. Ferguson Township Official Map Discussion

Mr. Pribulka reported that on July 19, 2021, the Board of Supervisors discussed amendments to the Ferguson Township Official Map. Specifically, the focus of the item was on the Musser Gap trail connecting Whitehall Road Regional Park to the Gap and Rothrock State Forest. The Board requested input from the Supervisors on additional items to consider for the update.

Ms. Strickland moved that the Board of Supervisors **direct** staff to draft an amendment to the Ferguson Township Official Map incorporating the comments from the Board for further review. Ms. Stephens seconded the motion.

Ms. Strickland asked if there is enough information on 116 Pine Grove Mills for Staff and would parking qualify. Ms. Wargo reviewed the memo that was included in the agenda.

Ms. Strickland noted that her comment at an earlier meeting was not to remove sidewalk designations from the Official Map.

Ms. Dininni noted that there are two lots in the Park Forest area that may or may not be good to acquire for parkland/active transit and suggested sending to the Planning Commission for evaluation. The Board agreed with Ms. Dininni's suggestion.

Ms. Dininni reviewed some of her list on potential Bike and Pedestrian Improvements that included the following:

- Path to Cecil Irvin along Nixon-One house lot length has yet to be finished to get to Cecil Irvin Park. Add single lot length and rest of path along Nixon.
- Add 26 "corridor"/ "shared use path"
- Is shared use path along W College golf course guaranteed public access? Who has the agreement? Put on Official Map for easement acquisition.

Ms. Dininni suggested to send any questions/comments to staff due to the length of the Board meeting is getting.

Ms. Steckler asked if the paths need easements from property owners. Ms. Dininni noted that they would for public access, but in PSU case, we don't. Mr. Pribulka noted that the Official Map is great a planning document.

Ms. Dininni added to the motion that staff will be vetting all questions/comments that they receive and then will send to the Planning Commission for review.

The motion passed unanimously.

7. Draft Ordinance Amendment – Turf Grass, Weeds, & Other Vegetation

Mr. Pribulka reported that the Board reviewed a draft amendment to the Township's Turf Grass, Weeds, and Other Vegetation Ordinance on July 19, 2021. Comments on the ordinance have been incorporated in the revised draft presented this evening. The amendments included an increase in the permitted height of managed turf grass from six inches to eight inches; requirement to establish a mowed buffer around any installation; and removal of the audit provisions, as well as other minor amendments. Provided with the agenda are redlined and cleaned copies of the revised draft.

Ms. Steckler moved that the Board of Supervisors **refer** the draft Turf Grass, Weeds, and Other Vegetation to the Planning Commission for review and comment. Mr. Miller seconded the motion.

Ms. Steckler asked for clarification with the word "may" under 10-103 Green Infrastructure #2 and should it be the word "must". Ms. Dininni noted it should be must. Ms. Steckler asked if a pollinator garden would need to be register. Mr. Pribulka noted that the intent of the ordinance is to focus on property owners to allow for a meadowed area to take the place of turf grass. Ms. Steckler suggested adding language to exclude pollinator gardens/gardens.

Ms. Dininni noted that the 2-foot perimeter around any green infrastructure might not be appropriate to require because it is about planted meadow and a plain meadow.

The motion passed unanimously.

VIII. NEW BUISNESS

1. Consent Agenda

- a. Voucher Report – July 2021
- b. Treasures Report – June 2021 for Acceptance
- c. Contract 2021-C8, Pavement Markings, Pay App 4: \$8,277.17
- d. Harner 4 Lot Subdivision Surety Reduction Request 5: \$101,977.89

- e. Orchard View Subdivision Surety Reduction Request 2: \$89,420.00
- f. Sheetz LDP Surety Reduction Request 1: \$110,488.65

Ms. Strickland moved that the Board of Supervisors **approve** the Treasurers Report and the Consent Agenda. Ms. Stephens seconded the motion. The motion passed unanimously.

2. Public Hearing – Conditional Use Application, 1445 West College Avenue

Ms. Wargo noted that an application for a Conditional Use permit application for the use of property located at 1350 Greenwood Circle to subdivide a “flag lot” has been filed with the Township. Provided with the agenda is the application submitted by David Archibald of SAS Geospatial on behalf of his clients, Jessica Gracie-Griffin and Corey Griffin for the property located at 1350 Greenwood Circle.

The applicant is requesting to subdivide the lot and create a flag lot for a proposed new home. The Township’s Zoning Ordinance and the Municipalities Planning Code require a public hearing on the application, and the Board must take action to approve or deny the application within 45 days following the hearing. As part of an approval, the Board may attach reasonable conditions and safeguards related to the conditional use standards detailed in §27-732. Provided with the agenda is a copy of a memorandum from the Director of Planning and Zoning describing the Findings of Fact from staff and Planning Commission reviews. The Board is asked to conduct a public hearing on the application for a conditional use permit for the Griffin’s flag lot. Chair Dininni will preside over the hearing. This evening, the Board is asked to direct the Township Manager to prepare a written decision to the Board of Supervisors for consideration at the September 20th Regular Meeting.

Public Hearing – There were no comments made.

Mr. Miller moved that the Board of Supervisors **close** the public hearing and direct the Township Manager to present Findings of Fact and a written decision to the Board for consideration at the September 20th Regular Meeting. Ms. Steckler seconded the motion. The motion passed unanimously.

3. Public Hearing – Resolution Adopting Act 537 Sewage Facilities Plan Update

Mr. Pribulka noted that provided with the agenda is copy of the resolution advertised for public hearing approving an amendment to the Centre Region Act 537 Sewage Facilities Plan. Herbert, Rowland & Grubic, Inc. has prepared a Component 3M Minor Act 537 Sewage Facilities Planning Module Update proposing to extend and existing low pressure sanitary sewer main along Whitehall Road. The extended sanitary sewer infrastructure will provide service to two existing residential customers in Ferguson Township. Below is a link to the pertinent documents submitted on behalf of this update.

[Sewage Facilities Planning Module for Act 537 Update \(Component 3M\): Whitehall Road](#)

Ms. Wargo reviewed the map where the extensions are going to be placed.

Mr. Miller moved that the Board of Supervisors **adopt** the resolution adopting an update to the Centre Region Act 537 Sewage Facilities Plan. Ms. Steckler seconded the motion.

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

The motion passed unanimously.

4. Citizen's Right To Be Heard – Reimagine Appalachia Climate Action Strategy

Mr. Pribulka noted that Kim Gobreski of Sedgwick Group, LLC submitted a request under Section 2.20 of the Home Rule Charter – Citizen's Right To Be Heard. The request is for the Board to consider endorsing a letter of support for the Reimagine Appalachia coalition. Per the request, Reimagine Appalachia is a "diverse group of over 100 organizations across OH, PA, KY, and WV [and] put together an ambitious [Appalachian Climate Infrastructure Plan](#) as a roadmap for federal investment in the region." Provided with the agenda is a publication that further describes the campaign.

Ms. Steckler moved that the Board of Supervisors **authorize** the Chair to endorse a letter of support for the Reimagine Appalachia Climate Action Strategy. Mr. Miller seconded the motion. The motion passed unanimously.

5. Windstream D & E, Inc. Franchise Fee Renewal and Audit Authorization

Mr. Pribulka reported that pursuant to the Federal Cable Act, Ferguson Township maintains a cable franchise agreement with Windstream D & E Systems to permit the occupancy of public right-of-way to provide non-exclusive service to customers of Ferguson Township. The agreement is set for a ten-year term and will expire on December 31, 2021. The Act enables the municipality to collect a franchise fee, establish standards for customer service, maintain dedicated channel space for public, educational, and governmental programming (C-NET), and protect competitive equity. The Township has received a proposal from Cohen Law Group to negotiate the renewal of the franchise agreement with Windstream D & E. The scope of work also includes an optional franchise fee audit to ensure the correct amount is being remitted to the municipality.

Ms. Strickland moved that the Board of Supervisors **authorize** the Township Manager to execute an agreement with the Cohen Law Group to negotiate a renewal of the Township's franchise agreement with Windstream D & E Inc., and to conduct a franchise fee audit in an amount not to exceed \$9,350. Ms. Stephens seconded the motion. The motion passed unanimously.

6. Board Member Request – Noise Ordinance Amendment

Ms. Dininni introduced her request that was included in the agenda. Ms. Dininni noted that the ordinance is out of date and was written in the 1980's. Ms. Dininni reviewed her preliminary research.

Ms. Dininni suggested sharing her preliminary list with staff to review so that they can bring back their draft to the Board. Ms. Steckler noted that it will be a difficult task because Ferguson Township is vast. Ms. Strickland is supportive of updating the vague and outdated language. Ms. Strickland is supportive of getting staff's feedback and give them an expectation of the time commitment. Ms. Stephens supports staff reviewing. Mr. Miller stated that he is not convinced there is enough of a problem and is not in favor of moving forward. Mr. Pribulka will work with the Chief of Police on some of the ideas. As for prioritization, Mr. Pribulka will keep it going, but some areas will take more time than others.

Ms. Strickland moved that the Board of Supervisors **direct** staff to draft an amendment to the Ferguson Township Noise Ordinance focused on revising definitions, standards of assessment, exceptions, and prohibitions with the goal of increasing community quality of life, well-being, and ease of enforcement. Ms. Steckler seconded the motion. The motion passed 4-1 with Mr. Miller opposing.

7. Meeting Format Discussion

Ms. Dininni noted that with the resurgence of COVID-19 in the community, the Board should discuss the meeting format of Township Authorities, Boards, and Commissions moving forward. Currently, all meetings are being offered in a “hybrid” format, with both virtual and in-person options available. Township policy requires masking of all individuals in attendance in-person, regardless of vaccination status. There is no state or federal guidance that current prohibits in-person gatherings. As a Home Rule Municipality, all Authorities, Boards, and Commissions of the Township can meet virtually without a physical quorum present except for the Zoning Hearing Board, which will need to continue to meet in-person until the Commonwealth of Pennsylvania permits courtrooms to conduct business virtually.

Ms. Strickland moved that the Board of Supervisors **direct** all Township Authorities, Boards, and Commissions to meet virtually until further notice. Ms. Steckler seconded the motion. The motion passed unanimously.

IX. STAFF AND COMMITTEE REPORTS

1. COG COMMITTEE REPORTS

- a. Finance Committee – Mr. Miller noted that the report is listed in the agenda. The Budget Review Sessions have been set.
- b. Executive Committee – Ms. Dininni reported that she attended the meeting, and that Rich Francke proposed an Ad Hoc Committee to look at Parks Governance.
- c. Human Resources Committee – Ms. Stephens noted that the report is in the agenda, and they discussed mandating the COVID-19 Vaccine.
- d. Facilities Committee – Ms. Stephens reported that they discussed the Ad Hoc Committee on Parks Governance; the maintenance facility lease; and the COG Building Lease in which the COG owns the building.
- e. Joint PSE and TLU Committees – Ms. Strickland reported that they discussed the Centre Region Bike Plan Maps and Tables; Solar Study, and Draft Proposal to Expand Housing Choice and Opportunity.

2. STAFF REPORTS

- a. Manager’s Report – The report is included in the agenda.
- b. Public Works Director – The report is included in the agenda.
- c. Planning and Zoning Director – The report is included in the agenda.

X. COMMUNICATIONS TO THE BOARD

Ms. Stephens noted that the community at Overlook Heights expressed appreciation to Ferguson Township for the block parties over the summer. Also, Ms. Stephens had two community members reach out to compliment the work crew that pick up the branches.

Ms. Strickland had a communication about the road behind the martial arts studio regarding traffic on Blue Course Drive. Ms. Strickland will follow up.

Ms. Dininni had a communication from the Centre County Commissioners about supporting a future endeavor to help incentivize an airline coming to provide additional flights.

XI. CALENDAR ITEMS – SEPTEMBER

a. Ferguson Township upcoming committee meetings:

1. Parks & Recreation Committee - Thursday, September 16, 4:00 p.m.
2. Planning Commission - Mondays, September 13, and September 27, 6 p.m.
3. Pine Grove Mills Small Area Plan Advisory Committee - Thursday, September 23, 4 p.m.
4. Tree Commission – Monday, September 20, 5 p.m.

b. Fall Bike Anywhere Friday – Friday, September 17, 2021

XII. ADJOURNMENT

With no further business to come before the Board of Supervisors, Ms. Stephens motioned to adjourn the meeting. The meeting adjourned at 11:20 p.m.

Respectfully submitted,



David Pribulka, Township Manager
For the Board of Supervisors

Date approved by the Board: 09-20-2021