

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, December 13, 2010
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, December 13, 2010 at the Ferguson Township Municipal Building. In attendance were:

Board: Richard Killian, Chairman
Robert Heinsohn
Steve Miller
Bill Keough
George Pytel

Staff: Mark Kunkle, Township Manager
Trisha Lang, Director of Planning and Zoning
David Modricker, Director of Public Works
Diane Conrad, Chief of Police
Eric Endresen, Director of Finance

Others in attendance included: Marsha Buchanan, Recording Secretary; Eric Casanave, Penn Terra Engineering; and Bill Hechinger, 127 Hoy Street.

II. CALL TO ORDER

Mr. Killian, Chairman, called the December 13, 2010 meeting to order at 7:02 pm. He said the Board held an Executive Session regarding a Personnel issue prior to this regular meeting.

III. CITIZEN'S INPUT

Bill Hechinger, 127 Hoy Street, commented on the final draft of the proposed TS zoning district. He said there are many references to Chapter 22 in the final draft, but this was never discussed in a public meeting, and he believes this is a violation of the Sunshine Law. Ms. Lang said the reference to Chapter 22 is simply an acknowledgement that the Design Guidelines are being placed in that chapter instead of in Chapter 27. Mr. Kunkle said the content is nothing new; it is just a change in where the Design Guidelines will be codified if the ordinance is passed. They are being codified in Chapter 22 because any deviation from those Design Guidelines can then be handled by the Board as a modification rather than as a variance by the Zoning Hearing Board under Chapter 27. Mr. Hechinger asked who will pay for the concessions to developers. Mr. Kunkle said the Board has not discussed special tax districts. Mr. Keough said the practice they have had in the past calls for the developer to be a major part of infrastructure development, but it is not unusual for the Township to play a role in that as well. Mr. Pytel said the Township is not going to place a special tax on this district as far as things stand now.

Mr. Hechinger also noted that, according to his own measurements, Ray Caravan's building is actually only 45 feet high, not 80 feet high as stated at the last Board meeting.

IV. PUBLIC HEARINGS – RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION ADOPTING THE BUDGET FOR FISCAL YEAR 2011

Mr. Kunkle presented a brief overview of the budget, highlighting revenues and expenditures, as well as large expenses coming up for the Township in the near future.

Mr. Heinsohn made a motion to adopt Resolution 2010-34, approving the Budget for fiscal year 2011. Mr. Pytel seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

Eric Endresen, Director of Finance, said the Township has been working on the Comprehensive Annual Financial Report (CAFR). This year the Township received an award from the Government Finance Officers Association for its CAFR, which should gain recognition for the Township in the future.

2. A PUBLIC HEARING ON A RESOLUTION LEVYING TAXES AND ASSESSMENTS FOR FISCAL YEAR 2011

Mr. Kunkle noted that no changes in any of the taxes or assessments have been proposed for fiscal year 2011.

Mr. Pytel made a motion to approve Resolution 2010-35, adopting Tax and Assessment Rates for fiscal year 2011. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

3. A PUBLIC HEARING ON A RESOLUTION ESTABLISHING CONTRIBUTIONS TO THE POLICE PENSION FUND BY MEMBERS

The resolution will require that Police Pension Fund members contribute 5% of their base salary to the Police Pension Fund for calendar year 2011. In 2010, member contributions were 0.86%. This significant increase in member contributions is due to the poor earnings performance experienced by pension funds across the United States in 2008 and 2009. It is likely that a Pension Plan member will have a similar contribution in 2012.

Mr. Kunkle said annually the Board is required to establish the Police Pension member's contribution to the Police Pension Fund. Due to poor returns on investments in past years, member contributions under state law cannot exceed 5% if the Police Pension Fund members participate in social security, which Ferguson Township officers do.

Mr. Heinsohn made a motion to approve Resolution 2010-36, establishing contributions to the Police Pension Fund by members for calendar year 2011. Mr. Pytel seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

4. A PUBLIC HEARING ON A RESOLUTION ADOPTING A REVISED COMPENSATION PLAN FOR NON-UNIFORM EMPLOYEES EFFECTIVE JANUARY 1, 2011

Annually the Board of Supervisors as part of the Township budget process approves a cost of living increase for employees. In 2011, the Board has approved a 1.2% cost of living increase. In order to keep the pay grades and salary ranges consistent, each of the pay grades and salary ranges are increased by the cost of living adjustment. Employees move through their specific pay range by achieving merit increases through performance evaluations.

Mr. Keough made a motion to adopt Resolution 2010-37, revising the Compensation Plan for Non-Uniform Employees effective January 1, 2011. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

5. A PUBLIC HEARING ON A RESOLUTION SETTING VARIOUS FEES TO BE CHARGED BY THE TOWNSHIP OF FERGUSON

These fees would be effective January 1, 2011. Staff has reviewed the fee schedule to determine if the fees being assessed for services are sufficient to cover the cost of providing that service. Strike out and color printing indicated the areas in the fee resolution that are being recommended for change or addition. The most notable changes were mentioned in writing for the Board's review. Mr. Kunkle highlighted the major changes.

Mr. Heinsohn made a motion to approve Resolution 2010-38, adopting a revised fee schedule for 2011. Mr. Pytel seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

6. A PUBLIC HEARING ON A RESOLUTION AUTHORIZING THE CHAIRMAN AND SECRETARY TO CONVEY A PORTION OF TOWNSHIP OWNED PROPERTY RECORDED IN DEED BOOK 762, PAGE 733, TO THE COMMONWEALTH OF PENNSYLVANIA AS RIGHT OF WAY FOR SR 3018 – WHITEHALL ROAD

Staff has expressed concern to the PADOT Whitehall Road project manager, Paul McClellan, about the amount of stormwater that is conveyed in the swale along the frontage of the Township property that is proposed to be part of the right of way and temporary construction easement for the widening project, and the impact that narrowing this swale would have on the Township's sign.

Mr. Modricker said PADOT is widening and improving Whitehall Road. The Township has indicated a willingness to donate that portion needed from its parcel to accomplish the project. He provided further detail on this project. He reviewed the documents, which were prepared by Interstate Acquisition Services. Mr. Kunkle noted that the slope behind the back side of the sidewalk and the bottom of the drainage swale will be steeper. The Ferguson Township sign will be moved in order to keep it farther away from the drainage system. Also, there is a chance that the sidewalk will be moved over a couple feet, which will allow for a grass strip.

. Mr. Kunkle added that with the improvements being made, there will be a traffic light and other lighting installed at this intersection.

Mr. Pytel made a motion to approve Resolution 2010-39, authorizing the Chairman and Secretary to execute a deed in lieu of condemnation, a temporary construction easement, and related documents. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

V. COMMUNICATIONS TO THE BOARD

Mr. Keough has received continued comments from residents with regard to the Whitehall Road Widening Project.

VI. ACTION ITEMS

1. FINAL LAND DEVELOPMENT PLAN FOR THISTLEWOOD LOT 6

This plan proposes a single family dwelling unit on a 1.5 acre lot in the Thistlewood Development. Lots within the Thistlewood Development are required to have land development plans due to the presence of colluvial soils and drainage easements that need to be respected in locating homes on the site. Given the colluvial soils on the site, the Township has consistently recommended that structures not be constructed with a basement; typically the applicant acquires a geotechnical study that indicates the suitability for construction of a basement subject to certain geotechnical recommendations. In each case, the Township requires that the applicant provide Hold Harmless Indemnification should the structure have damage due to groundwater infiltration.

Ms. Lang said a significant portion of this lot is consumed by drainage easements. The Planning Commission recommends that the Board approve this plan with completion of the outstanding conditions. The applicants are going to put in a basement. She provided background information on this decision. The Township has a Hold Harmless Agreement, as well as the review from CMT. Also, a key factor is keeping the water away from the house.

Mr. Miller made a motion to approve the Final Land Development Plan for Thistlewood Lot 6, subject to the completion of the outstanding conditions as set forth in the Director of Planning and Zoning memorandum dated December 7, 2010. Mr. Pytel seconded the motion. The motion passed unanimously.

2. REVIEW OF CODE EVALUATION STUDY

During the November 22nd General Forum meeting, Mr. Ken Murray, representing Management Partners, presented an overview of the study, and the General Forum referred the study to the municipalities for comment to the Executive Director by February 7, 2011. The study, dated October 2010, included 39 recommendations for improvement in agency operations. These recommendations were separated into low, medium, and high priority suggestions. Generally speaking, recommendations are heavy on improving the agency's application of technology to improve efficiencies and reporting.

Mr. Pytel believes some of the recommendations are not feasible. Mr. Heinsohn commented on the study in general. The COG has a habit of spending money on consultant reports, which often do not provide any more information than what they already know. He believes this money could often be used for more worthwhile endeavors. The COG Director should take a more jaundice view regarding consultant studies. He urged Board members to vote against such studies when they arise. Mr. Miller was quite involved in the fire study, which provided valuable information. He cautioned against making a blanket statement that no consultant studies are worthwhile.

Mr. Keough commented generally that there is a lot of emphasis on plans being submitted electronically. So much of this information is being written for developers and other professionals. He expressed concern about the disconnect with that level of ability to comply with the electronic requirements. Mr. Keough said he believes in efficiency, but expressed concern about the emphasis being placed on technology.

Mr. Keough found several interesting items in the report. He did not notice any references to well head and borehole drilling. He believes there are certain items that need to be discussed in further detail.

3. PLANNING DIRECTOR REPORT ON SUBDIVISION AND LAND DEVELOPMENT PHASING UPDATE

A report was provided for the Board. It concludes that continuing to extend plans that are over a decade old is not in the interest of the Township. Extending phasing schedules into the unforeseeable future does not take into consideration the changes the Township or the Region are experiencing. The difficult decision is whether or not to continue extending outdated plans and their phasing schedules and to develop a policy to provide guidance on the circumstances under which phasing schedules should be extended. The Planning Commission's input should be sought on this important planning matter.

Ms. Lang said the Planning Commission worked on a phasing policy last year, but later agreed to put it on hold. She emphasized the importance of having such a policy. There is a lot of approved but unconstructed development in the Township. At some point, they need to get back to thinking about establishing a phasing policy. She briefly discussed specific plans in the Township. Several of the deadlines within the Township currently have more development than the Township is used to absorbing in this timeframe.

Mr. Keough asked how many different developers are represented in her written list. Ms. Lang said there are only two developers represented. Mr. Keough also asked when Ms. Lang intends to make this an action item before the Planning Commission. Ms. Lang said the Planning Commission discussed this last year. Staff has had limited discussions with developers regarding the potential establishment of a phasing policy. The idea is for developers to be more thoughtful when producing a plan. At some point prior to April 2011 this policy needs to come back before the Board for discussion.

Mr. Keough said there are two sides to any issue. He envisions some of the economic sides for the developer. He would feel good about implementing the original recommended policy in the near future with one further action – to invite the current developers represented, along with Planning Commission members, Board members, Ms. Lang, and Mr. Kunkle, for further discussion of the policy. This would show that various groups are concerned and that this issue is appropriately addressed. This shows the level of commitment at all levels of Ferguson Township. Ms. Lang said Act 46 includes a provision that timeframes for developers could be suspended. Currently every extension given by the Board is at the Board's discretion. Louis Steinberg, Township Solicitor, does not believe Act 46 applies to these timeframes, which are conditions of approval.

Mr. Keough asked about new projects. Ms. Lang said anything between now and July 2013 would be subject to Act 46. Timelines are suspended to allow plans to stay alive an additional five years.

Mr. Killian suggested approving plans project by project, instead of phasing them. Mr. Keough said phasing has some advantages even for the Township in terms of planning, understanding future growth, etc. Ms. Lang said it is important for them to look at a preliminary plan that includes the entire site to understand how it will build out. The only way to approve the entire plan but to build in small pieces is to phase the project. She explained in further detail. Also, the timelines listed do not seem realistic.

Mr. Kunkle explained the difficulty in balancing the benefit of phasing a large project against the constraints that phasing has on the Township changing development regulations during the protected five-year timeframe under the MPC. Combining this with the absorption rates of the Centre Region creates a problem for both the developers and the Township. Also, there are differences between PRD plans and regular subdivisions. There are different approval timeframes and expectations. Mr. Keough

said from a problem solving point of view, they would not need to have a solution before they hold discussions with developers. Ms. Lang said the master plan is now significantly less detailed. They are giving developers more flexibility as time goes on to adjust the master plan.

Mr. Pytel suggested doing this like a PRD, in a worksession setting. He prefers having plans in phases because it allows the Township to know what parts are supposed to be completed when. He asked about the construction of Bristol Avenue. Mr. Kunkle said that is separate issue; it is not covered under a phasing plan. Mr. Keough said there are sometimes too many people in the room at one time for discussions in terms of having a worksession with all Planning Commission and Board of Supervisors members. Mr. Pytel believes they should either have all Board members, or none, be part of such a discussion.

Mr. Heinsohn is not opposed to having a large, collective meeting, but he believes they will continue on an Ad Hoc basis. He does not foresee any real changes being made.

Mr. Miller does not see where a discussion would lead them. The Planning Commission cannot review and make the recommendations. The meetings are open and the discussions are there. He would prefer to have the Planning Commission make a new recommendation and then have an open discussion at a Board meeting after that.

Mr. Killian believes the Planning Commission should discuss a plan first and make the development community aware that a policy will be discussed in a joint session with the Planning Commission and Board of Supervisors. This is a complex, problem solving issue. Mr. Keough suggested have the Commission interact directly with the developers who are impacted. The Commission could then share their recommendations with the Board and they could proceed from there. ***That was the Board's consensus.***

4. NOVEMBER 2010 VOUCHER REPORT

Mr. Heinsohn made a motion to accept the November 2010 Voucher Report. Mr. Pytel seconded the motion. The motion passed unanimously.

5. CONSENT AGENDA

a. November 2010 Treasurer's Report

Mr. Miller made a motion to approve the Consent Agenda. Mr. Heinsohn seconded the motion. The motion passed unanimously.

VII. REPORTS

- **Public Works Director**

Mr. Modricker provided information about various 2010 Contracts regarding bids, proposals, and Open House projects. Highlighted were:

Whitehall Road Widening: On December 7th staff met with two Board members and representatives of the Department of Environmental Protection, as well as designers and property owners, to discuss stormwater and the Whitehall Road Project. As a result, standards for the stormwater design were clarified. At that meeting, the designer indicated preliminarily that they may be able to provide a stormwater design that meets design criteria and does not have a basin as currently proposed.

The Campbells approached the Township and they met with Mr. Kocher and asked that the S Curve realignment be accomplished on the south side all on Kochers' property. They prepared a sketch. At this point, he has not heard back from them.

Old Gatesburg Road Extension: Construction work will begin in the spring.

Westfield South Basin Sinkhole Remediation: This work has been completed. Some restoration work will need to be done in the spring when weather permits.

- **Director of Planning and Zoning**

Ms. Lang reported that the Planning Commission held their last meeting for the year on December 7, 2010. At the meeting they discussed the following that was not part of tonight's December 13th agenda:

TRAFFIC CALMING POLICY REVIEW AND DISCUSSION: The Commission is continuing to work on the development of a Traffic Calming Policy. They reviewed the contents of policies from the cities of Fayetteville, Savannah, and Kent, and discussed the pros and cons of the approaches taken in each of these areas. Over the next several weeks Ms. Lang will be compiling the information so that in 2011 there will be a draft policy ready for further discussion.

While permits for new homes fell from 34 in 2009 to 22 in 2010, if they assume a yearly average of 30 units, the 2010 figure is not as bad as it might seem. Although new home construction was down, permits for additions to existing homes rose from 53 in 2009 to 85 in 2010. This rise may result from a variety of factors but generally serves to increase the value of homes and property in the Township.

Tracking the rental permits issued is also important in providing information regarding trends in the housing market and home values in the Township. The chart shows only a minor reduction from 44 permits in 2009 to 40 permits in 2010.

- **Chief of Police Report**

Part 1 crimes are up slightly from this time last year, but are down year to date. Part 2 crimes are down as well. Other calls for service are up slightly. Citations and tickets are down.

Patrol Notes: They had a DUI crash where the driver was under the influence of synthetic marijuana. There were also two knifepoint robberies at the Subway. There was a fairly quick identification and arrest on that issue. Mr. Kunkle complimented the Police Department for filling in and helping fellow officers during illnesses. They also received a letter from the University thanking the Township's officers for assistance during football games.

- **COG Committee Reports**

1. *Environmental Committee* – Mr. Heinsohn said there will be a report at the next General Forum meeting.

VIII. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Killian adjourned the December 13, 2010 Regular Meeting at 8:58 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 01-03-2011