

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, April 4, 2011
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, April 4, 2011 at the Ferguson Township Municipal Building. In attendance were:

Board:	George Pytel, Chairman	Staff:	Mark Kunkle, Township Manager
	Steve Miller		Dave Modricker, Director of Public Works
	Richard Killian		Trisha Lang, Director of Planning and Zoning
	Robert Heinsohn		
	Bill Keough		

Others in attendance included: Marsha Buchanan, Recording Secretary; Galen Dreibelbis; Fred Henry; Tom Brown and Thomas Stahl.

II. CALL TO ORDER

Mr. Pytel, Chairman, called the April 4, 2011 Regular Meeting to order at 7:00 pm.

III. CITIZEN'S INPUT

Galen Dreibelbis requested a time extension for the Dreibelbis Subdivision Plan, which was approved by the Board of Supervisors. He said he had satisfied the technical issues by March 15th, but he still has an issue of a shared access easement, as well as a few other issues. There were miscommunications between the Township and his engineer, so he missed the extension date by one day. Ms. Lang said the plan was approved on January 17th. The plan's 45 days to address the conditions of approval expired in early March. There are a few outstanding items. On March 30th, the 90-day deadline, Mr. Dreibelbis' consultant from Keller Engineering submitted the mylars for signature.

Mr. Miller made a motion to grant a 30-day time extension for the Citizen's Bank Subdivision Plan. Mr. Killian seconded the motion. The motion passed unanimously.

IV. PUBLIC HEARINGS – RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES TO ACQUIRE ADDITIONAL PARKLAND FOR ADDITION TO THE WESTFIELD HILLSIDE FARM ESTATES PARK

This resolution would authorize the submission of a grant application to DCNR for funding toward the acquisition of an 8.14 acre tract of land to be consolidated with the existing 5.5 acres forming the Westfield/Hillside Farm Estates Park. The total project is estimated at \$157,580 with a grant request of \$79,000. Grant applications are due by April 20th and will be filed electronically with DCNR.

Mr. Kunkle said he has received a retroactive letter allowing the Township to proceed with the acquisition of the additional 8.14 acres of land from Doris Sunday Harpster.

Mr. Keough made a motion to approve Resolution 2011-5, authorizing the submission of a grant application to DCNR for Parkland Acquisition. 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. Heinsohn reported that after the Board's discussion at their last meeting, he urged Dr. Kocher to seek her attorney's advice and attend to any issues needing to be addressed. In addition, Mr. Heinsohn noted that Joe Homan appeared at the last meeting asking the Board to reconsider their vote on the RA buffer amendment. He believes the Board should have been more courteous to Mr. Homan in answering his concerns or questions.

Mr. Keough received a letter on April 4th from Jo Dreibelbis regarding Fairbrook Park.

VI. ACTION ITEMS

1. TROSTLE FAMILY TRUST FINAL SUBDIVISION PLAN

Ms. Lang said the applicant requested some modifications of the subdivision ordinance before proceeding with having the plan prepared for approval. She showed the plan on the map. She said the plan was submitted and reviewed. There are a few outstanding items, but most are administrative. The Planning Commission recommended conditional approval of the project.

Mr. Keough clarified that the parent tract is zoned RA. Ms. Lang agreed and said this entire portion of the Township is zoned RA. Access to the property comes out on Dry Hollow Road in Warriors Mark, Huntingdon County. Fred Henry said he attended the recent Warriors Mark Planning Commission meeting and will attend the Board of Supervisors meeting there as well. The township there has no problems with the proposed road name.

Mr. Miller made a motion to approve the Trostle Family Trust Final Subdivision Plan, subject to the completion of the outstanding conditions as set forth in the Director of Planning and Zoning memorandum dated March 30, 2011. Mr. Killian seconded the motion. The motion passed unanimously.

2. DISCUSSION OF SCHLOW CENTRE REGION LIBRARY FUNDING AND MEMBERSHIP

On March 22nd the COG Executive Committee considered a recommendation from the Finance Committee regarding changes to the Schlow Centre Region Library Funding Formula and Ferguson Township's membership in the Library Articles of Agreement. The March 14, 2011 Finance Committee meeting resulted in a recommendation to the Executive Committee that the General Forum discuss the following concepts:

- Amending the Joint Articles of Agreement for the Regional Library Program as to permanently assigning Ferguson Township two voting representatives on the nine person library board, and
- Beginning with the 2010 COG Budget, including the circulation of library material to students who live on the University Park Campus of the Pennsylvania State University in the funding [formula] program for the Regional Library Program, and
- Referring these concepts to the participating municipalities for review with comments forwarded to the COG Executive Director by May 3, 2011 for distribution to the Finance Committee.

The Executive Committee received this recommendation and has tabled further discussion until Ferguson Township has additional opportunity to consider the potential funding formulas. Steve Miller

completed an additional analysis relative to cost per person based on population, and this was provided for the Board.

Mr. Miller said this will go back to the Finance Committee or the Executive Committee in April, and it may show up at the General Forum in April as well. The last time they discussed this they were not clear on the direction they should go. One significant issue is that the Township needs to have a handle on how much it would be committed to spend annually. The fear is that because there are six votes on the budget, with Ferguson Township having one of those votes, and because the Township has a strong financial interest compared to some municipalities, they should have more influence in approving the library budget. The Finance Committee's recommendation addressed two issues: 1) the funding formula; and 2) the suggestion of having two representatives.

Mr. Miller would like to get a clear idea from the Board as to how they would like to proceed. Ferguson Township pays by far the highest per capita amount to the library. He asked what the minimum necessary conditions would be in order for the Board to join the library as members of the Library Articles of Agreement.

Mr. Keough said there were three funding options identified. Option #3 (COG Formula) from a fiscal point of view would be favorable in terms of trying to contain Township costs as part of a library formula, but this option shows Harris Township as having to take a significant hit. He does not believe this is a good idea. Mr. Miller said Halfmoon Township would require a significant increase as well, and Mr. Stephenson, Chair, Halfmoon Township Board of Supervisors indicated Halfmoon would leave the Library Articles of Agreement in that case.

Mr. Killian said the Township sets its contribution based on Option #2, (All Library Users including University Students) so that is the preferred position. Mr. Heinsohn said students on campus use books as other area residents do, so he believes they should be counted in the funding formula. Mr. Miller is somewhat against Option #2 at this time due to the history of Ferguson Township. Right now Ferguson Township has complete control over the amount it contributes to the library, so many people do not see a reason for the Township to join the Library Articles of Agreement.

Mr. Pytel does not believe Ferguson Township should be part of the Library Articles of Agreement for the library. He has no problem paying the library. The Township is a member of the library, but not of the Library Articles of Agreement. He sees no benefit of rejoining the library through the COG at this time.

Mr. Heinsohn believes they should avoid Option #3 because the standard COG formula needs to be readdressed. They pay on the basis of circulation, which does not completely line up with the standard COG formula. Mr. Miller said the real question will not be the formula, but if the other municipalities agree to go with Option #2, whether the Ferguson Township Board would be interested in joining the Library Articles of Agreement.

Mr. Killian said the Finance Committee was asked to determine what it would take in order for the Township to rejoin the Library Articles of Agreement. The bottom line is budgetary control; that is why the Township chose not to participate in the Library Articles of Agreement. He expressed to the Finance Committee that Ferguson Township places importance on: 1) the funding formula; 2) having two representatives; and 3) budgetary control. There is a potential that the Board will rejoin the Library Articles of Agreement. The two questions are what it would take for Ferguson Township to rejoin and

what the COG partners have to offer. They are focused on the formula. Mr. Killian spoke about budgetary control.

Mr. Pytel asked what the benefit would be to Ferguson Township for rejoining. Mr. Killian said they would need to be in the same position they are now, but have two permanent seats, with the funding formula they prefer. It all boils down to budget control. Mr. Pytel does not see them gaining anything by rejoining the Library. Mr. Keough asked, for the budget portion, whether unanimous approval would need to be one of the conditions for the Board rejoining. The Board agreed.

Mr. Keough said libraries in general nationwide are one of the objects of major cuts in federal and state funding. As a COG they may have to deal with some difficult decisions regarding the overall operation of the library to their citizens. He does not believe the municipalities will be able to assume the difference in revenue between what they have lost with federal and state funding and what they need to make up with local revenue in order to maintain the same level of service. He is not opposed to indicating that there should be unanimous agreement among COG members in terms of the budget. He would prefer Option #2 with a change requiring unanimous approval of the Library budget. Mr. Heinsohn added that fees should be adjusted to the service, or visa versa. Mr. Kunkle said the state has a mandate as to how long the library must be open.

The Board's consensus was to go with Option #2 with a unanimous vote. Mr. Miller said they propose a unanimous vote, going with Option #2, with Ferguson Township retaining two permanent seats on the library board. The Board agreed that they would be in opposition if the other municipalities could not support a unanimous vote.

3. REAL ESTATE TAX REFUND – STONEBRIDGE HOMEOWNER'S ASSOCIATION

The Township received notification that, due to an error made by the Centre County Tax Assessment Office, there is a Real Estate Tax Refund due to the Stonebridge Homeowner's Association as follows:

Tax Parcel Number	Amount
24-004-071K	\$69.07
24-466-061	\$6.08
24-476-34	\$6.17

Mr. Killian made a motion to authorize the refund of 2011 Township Taxes for Tax Parcels 24-004-071K, 24-466-061, and 24-476-34. Mr. Heinsohn seconded the motion. The motion passed unanimously.

4. PROPOSED ORDINANCE AMENDING TOWNSHIP PAVE CUT ORDINANCE

In reviewing the limits of liability required from applicants receiving a highway occupancy permit, Township staff noted that the current limits of liability are below recommended levels. The proposed amendment to the Township's pave cut and right of way occupancy regulations would revise the minimum insurance requirements from a contractor receiving a permit to work within the Township's right of way. The Township requires applicants for occupancy permits to provide a certificate of insurance. Based on a recommendation from PennPrime Insurance underwriters, the Township's limit of liability requirements should be increased from \$300,000 to \$500,000. This would provide sufficient coverage and meet the limitations of the Municipal Tort Liability Law.

Mr. Modricker said there are 25 or less non-contractors per year who apply for a permit. They require the same insurance from everyone, if they are issuing a permit to a contractor. There is no cost if they have that type of insurance. If not, they would need to purchase the insurance. Homeowners are not typically involved individually, only contractors. Mr. Keough expressed concern that some of the rules and regulations within the Township are aimed at contractor work. If individual landowners would do the work, these costs would become prohibitive in some cases. Mr. Modricker said this may not be as large of an issue as it seems.

Mr. Kunkle said they need to balance the cost to the individual against the cost to the entire population of the Township. He provided an example. They are suggesting that there is adequate insurance coverage for costs that the Township might incur due to an object being placed in the right of way that may create a hazard and cause damage or injury to someone else. Mr. Keough has no problem with there being thresholds that trigger certain actions, but he believes they have avoided recognizing thresholds in the Township. Mr. Modricker said there is a section in the right of way ordinance that talks about landscaping. Mr. Keough said this is part of a bigger picture that is pervasive in a variety of places. He suggested that they identify thresholds as they are writing ordinances. Mr. Miller suggested that most people who have a mortgage probably already have liability insurance, so this should not be such a burden on most homeowners.

Mr. Miller made a motion to authorize advertisement of an ordinance amending the Township's pave cut and right of way occupancy ordinance, increasing the limits of insurance liability requirements for certificates of insurance. Mr. Heinsohn seconded the motion. The motion passed unanimously.

5. 2010 BUDGET AMENDMENT

In accordance with the Home Rule Charter, Article VII, any amendment to the Township Budget after adoption requires that the Board declare an amendment to the budget two weeks prior to public hearing on the amendment. This amendment to the 2010 Budget is necessary for audit purposes in order to bring the entire budget for each fund into balance. The amendment provides for increased expenditures for street lights, police pension legal fees, and retiree payroll. In order to accomplish this, a reduction of the respective fund balances will need to occur. In addition, the Capital Construction Fund will be closed and remaining funds will be transferred to the General Fund.

Mr. Kunkle said the deficiency in the police pension fund occurred because: 1) the Plan filed for an IRS determination letter and incurred legal fees; and 2) an officer retired earlier than anticipated, so payment needed to be made early.

Mr. Killian made a motion to authorize advertisement of the 2010 Budget Amendment for audit purposes. Mr. Miller seconded the motion. The motion passed unanimously.

6. VARIANCE APPLICATION – 2188 SANDY DRIVE

This property address is currently a vacant parcel and is proposed to be developed as a physician's office. The variance request is for relief from the landscaped buffer yard requirements.

Mr. Miller made a motion to remain neutral on the variance application for the landscaped buffer yard variance for property at 2188 Sandy Drive. Mr. Heinsohn seconded the motion. The motion passed unanimously.

VII. REPORTS

- **Manager**

- The PA League of Cities and Municipalities is having its annual convention. Registration is necessary.
- The Board has heard presentations on the need to amend firearms regulations in parks. Currently firearms, and the discharge of firearms, are prohibited in their public parks. The Board has been informed that municipalities do not have the ability to prohibit the carry of firearms in public parks. A resolution has been presented to the Board, which requests that the League of Cities include in their resolutions and adopted policy for legislative action an effort to add the same firearms exemption that is extended to courtrooms and schools to public parks and municipal buildings. Mr. Miller is in favor of having a similar resolution. Mr. Killian agreed. Mr. Pytel agreed, but said this should also be sent to the COG. Mr. Miller made a motion to adopt Resolution 2011-6, with the addition of sending this to the COG for their adoption. Mr. Keough seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.
- Mr. Kunkle said they are working closely with Penn State Extension Services to complete a community survey sometime between this fall and next spring. The cost of the survey is more than what they had budgeted in the 2011 budget. Mr. Keough suggested including this on the agenda for their next meeting. The Board agreed.

- **Public Works Director**

Mr. Modricker provided detailed information about various 2011 Contracts regarding bids, proposals, and Open House projects. Highlighted were:

Whitehall Road Widening: Trans Associates completed the survey of two poles owned by Allegheny Power that are within the high voltage easement area of Penelec, and completed the survey along Fir Drive and Spruce Avenue. Trans needs to finalize the storm water plans through Corl Acres Subdivision. They should submit Final Right of Way Plans in April. There will be a scheduled Open House with Corl Acres residents in May.

Contract 2011-C19: Expected to be bid in April, this phase of work includes a pavilion, benches, tables, landscaping, trash receptacles, and grills. Mr. Heinsohn said the letter received on April 4th references young people causing trouble in the park. Chief Conrad can address this issue at the next meeting, and Mr. Kunkle can provide information in the interim. Mr. Kunkle noted that they go through a park master planning process, which includes all neighbors surrounding the park. The master plan incorporates the desires of area residents and sets the tone for how the park will be developed. He said the townships and the Borough typically handle all of the capital improvements in the parks, and CRPR handles repairs, maintenance, etc. Mr. Keough expressed concern about people skateboarding from the pavilion roof to stacked picnic tables.

- **Director of Planning and Zoning**

GIANT FUEL ISLAND FINAL LAND DEVELOPMENT PLAN: The Commission discussed outstanding issues. Giant, a tenant in the Northland Center, wishes to construct a fueling facility in the vicinity of the property's intersection with North Hills Place. The issues that need further resolution include the use of the property owned by Weis Markets and clarification of the intended use of the proposed vestibule expansion, also shown on the land development plan. The Commission tabled action until their next meeting on April 11, 2011.

REVISIONS TO RIPARIAN BUFFER OVERLAY DISTRICT ZONING REGULATIONS: In April 2010 staff advised the Commission that there had been a challenge associated with the administration of these regulations as adopted and that the Township would work with its solicitor to determine what changes were necessary to address the limitations of the ordinance as revealed by that challenge. Since then, staff has worked with engineering staff and the Township's engineering consultant to develop appropriate language. In reviewing how to incorporate the revised language, it became clear that the adopted regulations lacked clarity and, in their existing condition, were difficult to interpret and administer. While this resulted in a significant amount of change to the text, in the end the original intent and purpose of the ordinance was retained. As a result of the amount of change in the text, the Commission asked for additional time to review the revised regulations.

Mr. Keough asked about the opportunity Ms. Lang had to communicate with the COG consultant. She said they agreed to make changes with regard to the topics that were discussed. The consultant understood the issues discussed at that time, but she is not sure that all issues were discussed. Mr. Kunkle said the main issue dealt with the staffing required to accomplish the economic development goals of the report. It does not appear that there is a sufficient staffing at COG or sufficient communication with other parties that are currently involved in economic development activities in the County. That will take some relationship building if they are to have a substantive impact on economic development in the Region or in the County. Also, there is a question of whether there is really a concern about economic development in the Centre Region. They need to attempt to be as competitive as other areas that provide incentives to attract people to this area. It depends on the involvement that Centre Region officials want to have in economic development going forward.

CENTRE REGION COMPREHENSIVE PLAN UPDATE: Copies of the entire draft were provided for Commission members. The Commission had been reviewing small segments of the document as they were released. However, the draft, which includes only the inventory and assessment of existing conditions, is now over 100 pages long, and a new strategy is needed to allow for review in a timely manner. Staff will highlight each chapter in this portion of the document and provide this information to Commission members for further discussion. Comments will then be forwarded to the Centre Region Planning Agency.

- **COG Committee Reports**

- a. *Public Safety* – Mr. Keough said he recently traveled with committee members and COG staff to meet with Senator Corman to discuss the sprinkler issue. The legislature is poised to rescind the requirement for sprinklers in residential homes throughout PA from the Building Code. The position supported by the COG and Public Safety to Senator Corman was, while they may rescind the sprinkler requirement statewide, to allow in this legislation for a local option to opt in. That way if a municipality has the appropriate infrastructure they would be in a position to opt into the requirement for sprinklers. Mr. Pytel said this issue will be presented at the local convention. He questions whether municipalities would be held liable for choosing not to participate in this requirement.
- b. *Finance* – Mr. Killian said they received one bid for financing for the advancement of regional parks. The terms seem favorable. Mr. Kunkle said the Committee will recommend to the General Forum acceptance of the quote from the bank. The analysis from Concord Financial indicates that the bank loan is a better option than a bond issue. This will be before the General Forum on April 24th.

I. MINUTES

1. March 21, 2011 BOS Regular Meeting Minutes

Mr. Keough suggested that the editor's note under Item 3 on Page 27 be removed since this information was not part of the record.

Mr. Heinsohn made a motion to approve the March 21, 2011 BOS Regular Meeting minutes as amended. Mr. Miller seconded the motion. The motion passed unanimously.

II. ADJOURNMENT

Mr. Heinsohn made a motion to adjourn the April 4, 2011 BOS Regular Meeting. Mr. Keough seconded the motion. The motion passed unanimously.

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the April 4, 2011 Regular Meeting at 8:40 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 04/18/2011