

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, April 18, 2011
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, April 18, 2011 at the Ferguson Township Municipal Building. In attendance were:

Board:	George Pytel, Chairman	Staff:	Mark Kunkle, Township Manager
	Steve Miller		Trisha Lang, Director of Planning and Zoning
	Robert Heinsohn		Diane Conrad, Chief of Police
	Bill Keough		Eric Endresen, Director of Finance

Others in attendance included: Marsha Buchanan, Recording Secretary.

II. CALL TO ORDER

Mr. Pytel, Chairman, called the April 18, 2011 Regular Meeting to order at 7:00 pm.

III. PUBLIC HEARINGS – RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION AMENDING THE 2010 TOWNSHIP BUDGET BY INCREASING EXPENDITURES FOR STREETLIGHTS, POLICE PENSION LEGAL FEES AND RETIREE BENEFITS, AND TRANSFERRING FUNDS FROM THE CAPITAL CONSTRUCTION FUND TO THE GENERAL FUND CLOSED FUND BALANCE IN ORDER TO PROVIDE A BALANCE BUDGET FOR AUDIT PURPOSES

On April 4th, the Board announced their intention to amend the 2010 Budget for audit purposes. Mr. Kunkle provided details on the budget amendment.

Mr. Keough made a motion to adopt Resolution 2011-7, amending the 2010 Township Budget for audit purposes. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

IV. COMMUNICATIONS TO THE BOARD

Mr. Keough said he and Mr. Heinsohn attended an open house at the Baileyville Community Center last week, where they handed out Township information.

V. ACTION ITEMS

1. 2011 FIRST QUARTER FINANCIAL REPORT

It was noted that the first quarter financial information is not necessarily reflective of the performance of the estimated revenues and expenditures as included in the 2011 Budget, but is constructive as a comparative tool to prior year's first quarter reporting.

Eric Endresen, Director of Finance, reported on actual expenditures for the first quarter, which ended on March 31, 2011. He also compared 2010 first quarter revenues and expenditures to 2011 revenues and expenditures.

Mr. Keough made a motion to receive the 2011 First Quarter Financial Report. Mr. Heinsohn seconded the motion. The motion passed unanimously.

2. REPORT OF FAIRBROOK PARK IMPROVEMENTS AND FACILITY USAGE

Board members were recently made aware of concerns from Ms. Jo Dreibelbis. As a follow-up to her original concerns, Mr. Kunkle requested information from the Centre Regional Parks and Recreation Department (CRPR), as well as the Ferguson Township Police Department. As a result of several neighborhood meetings in 1998, the Fairbrook Park Master Plan was eventually adopted by the Board. The Master Plan reflects the desired improvements that surrounding community residents and park users wanted to see completed on this 23+ acre tract of land. Police incident reports since 2005 indicated that the department has responded to 17 incidents. Finally, CRPR records for the past two years indicated that there were a total of 13 pavilion group reservations. CRPR does not track the use of the pavilion by those individuals or groups that do not make a reservation through CRPR. Additionally, in consultation with the Director of CRPR, the department is *not* recommending the construction of a second picnic pavilion at this time due to the indicated volume of use of the current picnic pavilion. The 2011 budget has appropriated \$41,150 for the construction of the picnic pavilion and associated amenities to Fairbrook Park Phase II.

Reviewing the park master plan has provided some other opportunities for improvements. Ron Seybert, Township Engineer, described some options and costs in a memo dated April 12th, as follows:

- Add second basketball court: \$56,000 (would need further funding)
- Construct one tennis court: \$36,000
- Construct one sand volleyball court: \$30,000

Other Options:

- Play Equipment: Moving or adding new play equipment could be accomplished within the budget.
- Retain funding from 2011 Budget and increase available funding in 2012 to pave lower parking area.

Mr. Kunkle said the option being recommended is to install new play equipment in the lower area of the park.

Mr. Heinsohn made a motion to revise the 2011 Fairbrook Park Improvement Project to appropriate funds for new play equipment to be located in the lower area of the park adjacent to the playing fields per the park master plan. Mr. Miller seconded the motion. The motion passed unanimously.

3. WAIVER REQUEST FOR HILLSIDE FARM ESTATES SUBDIVISION PLAN PHASING UPDATE

This waiver is being requested to preserve the 2003 subdivision approval. With passage of Act 46 of 2010 there has been significant confusion amongst developers and municipalities alike in interpreting the poorly written law. It is too early in the process to have any guidance from court cases and therefore staff has received guidance from the Township Solicitor on how the Act should be implemented locally. Based on their interpretation, a schedule of how the Act impacts the Hillside Farm Estates Subdivision Plan was submitted to the developer and his attorney. The proposed,

modified phasing schedule based on Act 46 has been accepted by the developer. This did not correct the failure to submit the required annual update to the approved phasing schedule.

Ms. Lang said the concern is that the annual updates to the phasing plan were not received for this project in 2010 or 2011. Not providing those updates is akin to not following the phasing schedule. Mr. Sahakian's response indicated that there was some confusion on his part as to whose responsibility it was to provide the annual updates. He requested the Board's forgiveness for missing those updates. The easiest way to do this is to grant a waiver of that requirement, but only for the years 2010 and 2011. Ms. Lang said as the project moves forward the Board should anticipate receiving those updates annually.

Ms. Lang said there are several more projects that fall under Act 46. Mr. Keough asked if Act 46 addressed the annual phasing report requirement. Ms. Lang said no, except in saying that the Township retains the right to require a phasing report for anything that is part of a conditional approval. Mr. Pytel asked what happens in 2012 if they fail to meet the annual phasing schedule filing dates. Ms. Lang said they would be subject to the same loss of vesting for their project. She explained in further detail.

Mr. Miller made a motion to approve a waiver of the missed annual phasing schedule filing dates for the Hillside Farm Estates Subdivision for years 2010 and 2011 only as provided for in Chapter 22, Section 302A of the Subdivision and Land Development Regulations, and further that annual submissions are due in February of each year beginning with February 2012. Mr. Heinsohn seconded the motion. The motion passed unanimously.

4. AMENDMENT TO RIPARIAN BUFFER OVERLAY DISTRICT ORDINANCE

The Planning Commission reviewed the proposed changes at its meeting on April 11th and forwarded the recommended changes to the Board for consideration. In short, the model ordinance developed by the Centre Regional Planning Agency (CRPA) was a good start, but one of the first times the riparian overlay regulations were used, flaws in the ordinance became apparent. The Board is asked to begin discussions on the revised draft. Further review will be required by the Centre Regional Planning Commission (CRPC) before any ordinance amendment can be considered for adoption.

Mr. Keough expressed several thoughts or concerns as follows:

- Page 43, Item B – He asked if homeowners who have some compliance responsibilities under the riparian buffer have the sole financial responsibility for maintenance and preservation. Ms. Lang said yes, but this responsibility has not changed from the original ordinance.
- Page 44 – He asked why the term “swales” was added. Ms. Lang said the review of what language to add and what definitions to use was done in conjunction with Township engineering staff and with the consultant at Pennoni, whose suggestion was to add the term “swale” and a definition for it. Mr. Miller said this actually brings it to the originally intended definition. Mr. Keough asked how the addition of the word “swale” impacts the existing storm water management systems throughout the Township. Ms. Lang said the location of the overlay district has not changed. The intent was simply to clarify that the areas that are included might include something defined as a swale. None of the existing mapping in the Township is going to change. Ms. Lang said the definition of “intermittent stream” is consistent with DEP’s definition and it is not necessarily related to bed and banks.

- Mr. Keough asked if the people who own property in the overlay district know they are in this district. Ms. Lang said notifications and announcements have been sent to all property owners in the district in the past.
- Section C – He noted that this section is very confusing. Mr. Miller said there is also an Appendix to accompany the ordinance, which provides graphic explanations. Ms. Lang provided a simplified explanation as well. Mr. Kunkle quoted language that has been added – “from the center line of the channel” – and asked how the center line will be determined. Ms. Lang said she discussed this with Dave Modricker, Director of Public Works. She described her interpretation of the definition.
- Item F – He asked about the Nevada Division of Water Planning Water Words Dictionary. Ms. Lang said they made an effort to identify every term that would be applicable. The United States Geological Service uses this dictionary as their default resource. Normally when something is not defined, the Township refers to Webster’s Dictionary. In this case, the default resource would be the Nevada Division of Water Planning Water Words Dictionary.
- Page 47 – He asked if the entire section on the official map is being removed. Ms. Lang said they are taking the official map out of this particular ordinance because they do not use the term “official map” anywhere in this section. Mr. Keough suggested that this term would help bring clarity to the reader. Ms. Lang said Item B states that “the establishment of the district applies to the following areas, which shall be identified on the official zoning map.”
- Page 47 – He asked about the reference to “perennial streams.” He said this whole section talks about water, but not about certain types of streams. Ms. Lang provided an explanation.
- In conclusion, Mr. Keough does not believe this is a good piece of legislation and said it needs to be simplified. He commented on this legislation related to agricultural areas in the Township, saying these areas are where the Township’s nutrient management problems primarily exist.

Mr. Heinsohn is a landowner where there is an intermittent stream and he does not support this legislation either. It is well-intended, but the language is confusing, and the financial value of the land is impacted. He said some of the intermittent streams run through agricultural land (where there are animals). He asked if this means land must be fenced off. Mr. Miller said agriculture is specifically exempted in this ordinance because the state law does not give the Township authority in this area. This is essentially for development, not for agriculture. Ms. Lang said, in addition, anyone who currently lives within 100 feet of the stream would not be impacted based on a change they want to make to their house. The ordinance specifically says that the regulations will not be triggered by a zoning or building permit. Mr. Miller explained in further detail. It applies to new development or redevelopment of this site.

Ms. Lang explained the next steps in the process. Mr. Keough asked about the history of how the Riparian Buffer Overlay District Ordinance originated. Ms. Lang referenced the legislative intent and the “whereas” statements in the original text of the ordinance. Mr. Pytel commented on the Chesapeake Bay initiative. Ms. Lang said these regulations are more directed at runoff coming off of open land and getting into streams before having a chance to be treated.

5. ABC APPLICANTS AND RECOMMENDATIONS ON APPOINTMENTS

As a result of the interview process completed by George Pytel and Bob Heinsohn on March 31, 2011, the following appointments are recommended:

Tax Review Board

Zoning Hearing Board Alternate

Thomas G. Hoy – Term 2011-2014

Charles R. Farrell – Term 2011-2014

Lisa R. Rittenhouse – Term 2011-2014

Mr. Heinsohn said they interviewed several individuals. Mr. Keough listed upcoming vacancies for Township ABC's. Ms. Lang said there will be two openings on the Planning Commission at the end of 2011.

Mr. Heinsohn made a motion to appoint the above individuals to the Tax Review Board and Zoning Hearing Board Alternate Positions. Mr. Miller seconded the motion. The motion passed unanimously.

5A. COMMUNITY SURVEY PROJECT

The Ferguson Township Board of Supervisors, agency leaders, and staff are seeking information from residents that will assist with short- and long-term decision making and planning. The Board sees this type of activity as a means to proactively identify issues of concern, receive feedback on current and prospective Township services, and engage residents in the governance process. To gather the desired information, the Board is seeking to develop a contract with Penn State University to develop, conduct, and analyze a survey of residents of the Township.

Mr. Kunkle said in the 2011 Budget they had anticipated doing a community survey. They have looked into groups that may be able to provide that service and had a presentation from the Penn State Department of Agricultural Economics and Rural Sociology. He stated the specific objectives for this study. The survey would be developed over the next couple of months and would begin in September with an initial mailing to a randomly selected sample of residents. The total cost of the survey would be approximately \$13,000.

Mr. Kunkle said there is not a legal statute that requires the Township to conduct a survey of this sort. Mr. Heinsohn does not believe these surveys are beneficial or a wise use of the Township's money.

Mr. Kunkle said one thing they hope to gain from the community survey is an understanding from residents of the best ways of communicating with them as a township.

Mr. Keough made a motion to authorize \$13,054 in project costs for a contract with the Penn State University Department of Agricultural Economics and Rural Sociology to complete a community survey in accordance with the scope of work they have received as of April 1, 2011. Mr. Miller seconded the motion. The motion passed unanimously.

6. AWARD CONTRACT 2011-C2 – HORSESHOE CIRCLE/CHESTNUT STREET IMPROVEMENTS

Bids were opened publicly for the paving of Horseshoe Circle and East Chestnut Street on April 11, 2011. David Modricker, Ron Seybert, and Tonya Jackson of Ferguson Township were present. Also present was a representative from Mid-State Paving. Four bids were received as follows:

New Enterprise Stone & Lime Co.	\$188,564.80
Glenn O. Hawbaker, Inc.	\$242,805.00
HRI, Inc.	\$244,702.00
Mid-State Paving, LLC	\$264,926.50

The engineer's estimate for the contract was \$257,036.00. The 2011 Budget includes \$434,000 for this contract.

Mr. Heinsohn made a motion to award Contract 2011-C2, Horseshoe Circle and East Chestnut Street Project, to New Enterprise Stone & Lime Co. in the bid amount of \$188,564.80 as recommended by Township Engineer Ron Seybert. Mr. Miller seconded the motion. The motion passed unanimously.

7. AWARD CONTRACT 2011-C3 – OLD FARM LANE/RIDGEWOOD CIRCLE IMPROVEMENT PROJECT

Bids were opened on April 11, 2011. David Modricker, Ron Seybert, and Tonya Jackson of Ferguson Township were present. Also present was a representative from Mid-State Paving. Three bids were received as follows:

HRI, Inc.	\$147,740.00
Mid-State Paving, LLC	\$149,597.50
Glenn O. Hawbaker, Inc.	\$242,805.00

The engineer's estimate for the contract was \$129,290.00. The 2011 Budget includes \$172,000 for this contract.

Mr. Keough made a motion to award Contract 2011-C3, Old Farm Lane and Ridgewood Circle Improvement Project, to HRI, Inc. in the bid amount of \$147,740.00 as the lowest responsible bid as recommended by Township Engineer Ron Seybert. Mr. Miller seconded the motion. The motion passed unanimously.

8. AWARD CONTRACT 2011-C9 – MICRO-SURFACING

Bids were opened on April 5, 2011. Tonya Jackson and Eric Endresen of Ferguson Township were present. The following four bids were received:

Asphalt Paving Systems	\$334,280.76
New York Bituminous Products	\$396,549.44
E.J. Breneman	\$431,614.80
Vestal Asphalt	\$481,260.16

The total bid amount includes work for two neighboring municipalities that have chosen to piggyback on this contract. Ferguson Township's share of the contract is \$233,257.78. The budget for this work is \$270,000.00. Asphalt Paving Systems has performed this contract in past years and has worked well with the Township.

Mr. Keough made a motion to award Contract 2011-C9, Micro-surfacing Project, to Asphalt Paving Systems in the bid amount of \$334,280.76 as the lowest responsible bid as recommended by Public Works Director David Modricker. Mr. Heinsohn seconded the motion. The motion passed unanimously.

9. MARCH 2011 VOUCHER REPORT

Mr. Heinsohn made a motion to approve the March 2011 Voucher Report. Mr. Miller seconded the motion. The motion passed unanimously.

10. CONSENT AGENDA

1. March 2011 Treasurer's Report

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

VI. REPORTS

• Manager

- The County Planning and Community Development Office has provided a notice on its West Nile Virus Program, which provides treatment of certain mosquito breeding areas, collection of mosquitoes for early identification of the presence of the virus, and collection of bird specimens that may have carried or be carrying the virus. In 2010 there were two positive cases of the West Nile Virus from dead crows. Stagnant water is a prime breeding area for mosquitoes and should be abated if possible.
- The Township has received the quarterly report from the Westside Stadium Bar and Grill in compliance with its Liquor License. The business remains in compliance with the terms of the license transfer.
- The Whitehall Road Project that is part of the PADOT Project is getting underway. They have some utility poles stored at the Township's facilities. Chief Conrad and Dave Modricker met with representatives of the Water Authority to discuss the best way for them to cross the road and be the least disruptive to traffic. They believe the best way would be to create a detour for twelve hours, from 7:00 pm to 7:00 am. Chief Conrad said if it were to be during daylight business hours, they are estimating that it would take two days and they would have half lane closures. This project should happen within the next few weeks. Mr. Keough made a motion to authorize a letter supporting the above approach to the Whitehall Road Project. Mr. Miller seconded the motion. The motion passed unanimously.

• Public Works Director

Mr. Modricker provided a written report, highlighting the following:

Whitehall Road Widening: Trans needs to finalize the stormwater plans through Corl Acres Subdivision and prepare Final Right of Way Plans.

Contract 2011-C5: The pavilion was delivered to the park. A pre-construction meeting was held with the contractor and work will begin on April 18th, weather pending.

Contract 2011-C17: Blair Excavating was awarded the contract to demolish this abandoned block milking barn. Notice to Proceed has been issued. Work should be completed by May 1st.

• Director of Planning and Zoning

GALLOWAY FINAL LAND DEVELOPMENT PLAN: This plan was submitted to resolve an existing violation on the property located on Nixon Road. The plan was submitted in November 2010 and review comments were forwarded to the consultant more than three months ago. Based on the expiration of the 90-day timeline for the Township to take action on the plan, April 11th was the last Planning commission meeting at which the plan could be considered. A revised plan was received by staff on April 6, 2011. Information provided on the revised plan generated some additional comments and, as a result, the Commission chose to table the project.

The plan for a riding academy on the site must receive conditional use approval from the Board in addition to approval of the Land Development Plan. The applicant has requested this action and identified compliance with the criteria established by the ordinance. The Commission did act to recommend that the Board of Supervisors grant the requested conditional use approval so that advertising for this could take place and the Board could consider this action concurrently with the plan, which will likely come before the Board in May.

GIANT FUEL ISLAND FINAL LAND DEVELOPMENT PLAN: The timeframe for the Township to take action on this plan was to expire on May 1, 2011 and, as a result, this was the last meeting at which the Commission could consider the plan which was tabled at their last meeting in order to resolve a minor number of remaining issues. The information needed to resolve these issues has not yet been received. The applicant's legal counsel was willing to provide a 60-day extension of time for the Township to act on the project. Staff will be meeting with the Solicitor later this week to discuss the project.

CENTRE REGION COMPREHENSIVE PLAN UPDATE: Staff provided a review of Chapters 6 and 7, and forwarded these comments to the CRPA. It appears that the CRPA has closed the comment period on this portion of the DRAFT document. Phase Two of what has been outlined as a five phase process will begin later in April and involves the development of a community survey for release later this year. This survey is intended to supplement the information that was gathered from the sparsely attended public forums that were held in each municipality during 2010. According to the outline, plan adoption is anticipated at the end of 2011.

MASTER PLAN FOR CIRCLEVILLE FARM ESTATES: The plan was received by staff on April 18, 2011. The Planning Commission has agreed to have two members participate in meetings with staff so that the complexity of the project and its compliance with the TTD regulations can be fully understood prior to the plan coming before the Township for formal action. It would be desirable to have at least one Board member join this group.

Mr. Kunkle suggested that an early joint meeting with the Board and Commission to provide a general overview might be worthwhile. The Board requested that staff coordinate a joint meeting of the Board and Planning Commission.

- **Chief of Police Report**

Thefts are up for the month due to car break-ins. Serious crime is the same as last year. Moderately serious crime is down from last year. Total crime is down as well. Non-crime calls for service are about the same, both monthly and year to date. Citations and parking tickets are down.

They have completed the testing process for their two available corporal positions. An announcement of these positions should be made by the next Board meeting.

- **COG Committee Reports**

- Transportation and Land Use* – Mr. Pytel said the Committee is not discussing transportation issues as much as it is land use. The committee discussed the proposal to complete a community survey as part of the Comprehensive Plan update process, as well as the Draft Economic Development Assessment Implementation Phasing. He expressed concern that the discussion has gone in so many different directions that there seems to be no goal in sight.
- Public Services and Environmental* – Mr. Heinsohn said the committee participated in a webinar regarding water quality monitoring project in the Spring Creek Watershed.

I. MINUTES

1. April 4, 2011 BOS Regular Meeting Minutes

Mr. Heinsohn made a motion to approve the April 4, 2011 BOS Regular Meeting minutes. Mr. Miller seconded the motion. The motion passed unanimously.

II. ADJOURNMENT

Mr. Heinsohn made a motion to adjourn the April 18, 2011 BOS Regular Meeting. Mr. Miller seconded the motion. The motion passed unanimously.

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the April 18, 2011 Regular Meeting at 9:00 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 05/02/2011