

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Tuesday, February 22, 2011  
7:00 pm

### I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Tuesday, February 22, 2011 at the Ferguson Township Municipal Building. In attendance were:

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

**Staff:** Mark Kunkle, Township Manager  
Dave Modricker, Director of Public Works  
Trisha Lang, Director of Planning and Zoning  
Diane Conrad, Chief of Police

Others in attendance included: Marsha Buchanan, Recording Secretary; Bill Hechinger, 127 Hoy Street; Tim Havener, Firearms Owners Against Crime; Eric Casanave, Penn Terra Engineering; George Henning and Catherine Alloway, Schlow Library; Sue Mascolo and Ron Woodhead, CRPR; Tony Fructl, Penn Terra Engineering; Bob Poole, Andy Haines, and Dave Palmer, S&A Homes; Cecil Irvin; Harry Marshall, Sunday Drive; Carolyn Sachs, Lightner Lane; Paula Greaser, Lightner Lane; Lani Daubenspeck, 101 Lightner Lane; Louis Glantz, representative of residents on Lightner Lane; Christa Watchske; Rich Kutch; and Richard Shore. Others were present who did not sign in.

### II. CALL TO ORDER

Mr. Pytel, Chairman, called the February 22, 2011 Regular Meeting to order at 7:00 pm.

### III. CITIZEN'S INPUT

**Bill Hechinger**, 127 Hoy Street, asked why the TS District is exempt from the redefinition of "family" as stated in the ordinance. He asked how many unrelated people can live in an apartment or condo within the TS District. Mr. Pytel said three. Mr. Hechinger asked additional questions about the Supervisors terms and voting wards and was directed to the Township web site for this information.

**Tim Havener**, Firearms Owners Against Crime, read part of the constitution to provide a context for his discussion. He expressed concern that the Township's Park Regulations Ordinance does not match state law. Citizens have a right to bear arms without question. Open carry without a permit is legal in the state of PA. If the intent of this law is to provide some way of disarming a citizen who is carrying openly, that would be a violation of state law, and essentially a crime.

Mr. Pytel said this ordinance was formed as a protection to citizens that visit parks in the Centre Region. He noted that this is a regional issue and that the municipal solicitors will be asked to provide guidance on this matter.. Mr. Keough suggested that Mr. Kunkle add one piece to the inquiries he makes regarding this, answering the question of whether rescinding the firearm prohibition in public parks removes the option of the school districts to use these facilities. Mr. Pytel said their Solicitor will look into this issue.

**Eric Casanave**, Penn Terra Engineering, spoke on behalf of the Oak Hill Townhomes Land Development Plan, approved by the Board in November 2010. They presented the plan to the Township for a signature on February 14, 2011, not realizing the plan deadline was December 30, 2010. He requested either re-approval of the plan or a time extension.

Mr. Kunkle reviewed the timeline of the plan with the Board. The options are to waive the submission deadline and allow the plan to proceed; grant a time extension to have the plan signed and recorded; or have them resubmit the plan and go through the process again.

Mr. Miller asked why they did not meet the deadline. Mr. Casanave said he inherited the plan from other personnel and was not aware of the plan deadline. Ms. Lang explained the deadline in further detail. At this point they are also beyond the 90-day timeframe for recording the plan.

Mr. Killian asked about the condition of the plan received. Ms. Lang said it addresses all remaining comments with the exception of execution of the storm water management agreement. She also explained what this would do for staff's timeframe.

Mr. Keough made a motion that the Board retroactively grant a time extension for the Oak Hill Townhomes project until February 15, 2011. Mr. Killian seconded the motion. The motion passed unanimously.

#### **IV. ABC REPORTS**

##### **A. George Henning, Schlow Library**

George Henning introduced Library Director Cathy Alloway. Ms. Alloway provided the Schlow Centre Region Library Benchmark Report and explained the benchmark report process. In 2008 Schlow Centre Region Library performed above average when compared with similar libraries nationwide and had very low personnel costs. Ms. Alloway explained Schlow's other rankings. She said last year's fundraising efforts were a huge success, as they raised \$50,000. She also noted that Schlow is used heavily by the municipalities that fund it.

Mr. Kunkle asked, comparatively speaking, what Schlow's volunteer effort is. Ms. Alloway said they are average in this area. She added that Schlow anticipates additional funding cuts, so they carried over a larger than normal designated fund balance this year. Mr. Keough asked if they have been able to do any meaningful user surveys. Ms. Alloway said she would like to include a random phone survey in the next strategic planning process. In addition, there are suggestion forms available inside the library; a large number of the materials they order are based on forms filled out by library users. Mr. Keough said because of the changing electronic age it may be appropriate in the near future to offer a community based education program to make area residents aware of the breadth of the services offered by Schlow Centre Region Library. Ms. Alloway said they also have a new part-time marketing person.

## **B. Sue Mascolo, Centre Region Parks and Recreation**

Ms. Mascolo provided the 2010 Annual Program Report. She highlighted aquatics, adult sports, summer day camps, Centre Region Senior Center, Youth Sports and Programs, Special Programs and Events, Millbrook Marsh Nature Center, and Facility Reservations. In addition, Ms. Mascolo provided the 2011 Goals and Work Plan for CRPR. She noted a "Young Lungs at Play" sign they plan to post in an effort to prevent people from smoking in area parks.

## **V. PUBLIC HEARINGS – ORDINANCES**

### **1. A PUBLIC HEARING ON AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 5, CODE ENFORCEMENT, PART 3, BUILDING SAFETY AND PROPERTY MAINTENANCE CODE 2010 EDITION, TABLES 404.5.1 AND 404.5.2 RELATIVE TO MINIMUM HABITABLE SPACE**

At the Board's January 31, 2011 special meeting, the Board discussed a request to amend the Property Maintenance Code related to minimum habitable space requirements. These requirements apply to rental units only. The request was made in light of some older homes having smaller bedrooms than homes built in the 80's and 90's. The bedroom size establishes the number of people permitted per bedroom based on the minimum square footage required per person. This change in minimum habitable space for rental units would be consistent with current new construction standards under the International Building Code for minimum bedroom size. At the January 31, 2011 meeting, the Board authorized advertisement of this ordinance for public hearing.

Mr. Killian made a motion to adopt Ordinance 948, amending the 2010 Building Safety and Property Maintenance Code relative to minimum habitable space for rental housing permit units. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller, and Mr. Pytel all voting yes, the motion passed unanimously.

### **2. A PUBLIC HEARING ON AN ORDINANCE AMENDING THE CODE OF ORDINANCES, APPENDIX H, STREETS AND SIDEWALKS, BY ACCEPTING AS PUBLIC STREETS THE FOLLOWING: 1) DEED OF DEDICATION FROM S&A HOMES, INC. FOR SECTIONS OF NIXON ROAD; 2) DEED OF DEDICATION FROM S&A HOMES, INC. FOR A SECTION OF OLD GATESBURG ROAD; AND 3) DEED OF DEDICATION FROM SCHREYER IRREVOCABLE TRUST FOR A SECTION OF NIXON ROAD**

These offers of dedication are the result of approval of the subdivision of lands of S&A Homes, Inc. Preliminary/Final Plan Re-plot of tax parcel 24-4-23 and tax parcel 24-3-20, as well as subdivision of tax parcel 24-4-23 record plan. These additions to the current right of way of Old Gatesburg Road and Nixon Road will help bring those sections of roadway into compliance with minimum right of ways of 50 feet.

Mr. Killian made a motion to approve Ordinance 949, accepting deeds of dedication for additional right of way on Nixon Road and Old Gatesburg Road. 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 AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 27, ZONING, PART 2, DISTRICT REGULATIONS, SECTION 206, YARD REQUIREMENTS, AS FOLLOWS: 1) BY DELETING THE EXISTING SUBSECTION I AND**

**SUBSTITUTING THEREFORE A NEW SUBSECTION I; 2) BY ADDING A NEW SUBSECTION J; AND 3) MAKING EXISTING SUBSECTION J, SUBSECTION L**

This ordinance was postponed for action until February 22<sup>nd</sup> to allow time for public hearing on an amendment to the Terms and Conditions to the Foxpointe PRD. At the February 7<sup>th</sup> meeting, the Board received a request from Bob Poole, President of S&A Homes, Inc., to amend the Terms and Conditions for the Foxpointe PRD to retain the 200 foot buffer for a period of five years from the date of approval of the revised Terms and Conditions prior to the buffer yard being reduced to 50 feet within the PRD. The Planning Commission reviewed this request on February 14<sup>th</sup> and recommended approval of the revision to the Terms and Conditions.

Mr. Kunkle said this is an amendment to the zoning ordinance to allow the reduction of the 200 foot buffer that has been established on lands rezoned for agriculture to 50 feet. Action on this was postponed from the February 7<sup>th</sup> meeting so there could be an amendment to the Foxpointe Master Plan Terms and Conditions for Phase 1B. A request was received by letter from S&A Homes, Inc. to amend the Terms and Conditions to allow for the retention of the 200 foot buffer shown on their PRD master plan for a period of up to five years, at which time they could apply for a reduction in the buffer yard to 50 feet. The proposed amendment under the PRD would require them to retain the 200 foot buffer for that five year period.

Mr. Killian made a motion to adopt Ordinance 950, but believes the two issues should be kept independent. Mr. Miller seconded the motion.

**Harry Marshall**, Sunday Drive, expressed his opposition to reducing the 200 foot ag buffer to 50 feet. He said the 200 foot buffer should be retained and a modification should be made to allow for reasonable use by the homeowner. This could alleviate the current problem, while continuing to ensure the safety and welfare of the residents. Mr. Marshall said there is currently a large amount of residential land within the Township's growth boundary. He said he was on the Planning Commission for six years. Each time the Commission discussed this issue, its recommendation was unanimous to retain the 200 foot buffer. He believes that reducing the buffer would provide a benefit to developers at the expense of the neighboring homeowners, and the 200 foot ag buffer should therefore be retained.

**Carolyn Sachs**, Lightner Lane, expressed her opposition to reducing the ag buffer from 200 feet to 50 feet. She believes the 200 foot buffer zone was put in place to provide protection for residents at the boundaries of multiple land uses. Fifty feet is not very far. She said Ferguson Township is not the only community facing this issue of suburban growth and encroachment onto farmland. Studies show there are many benefits to a 200 foot buffer. She urged the Board to consider water quality, rural dwellers, safety of residents, etc., rather than profit-driven interest of a privileged few.

**Louis Glantz**, representative of residents on Lightner Lane, suggested a change to the ordinance to address some of the water issues. In paragraph I.1.a, he suggested adding the language "and the agreement of the owner of any property located adjacent to the property line affected by the reduction in the buffer area."

This would address some of the water issues on Lightner Lane without infringing greatly on the developer of the adjoining property.

**Cecil Irvin** said he worked on this issue for about 30 years. Since his time on the Board, he is in support of reducing the ag buffer from 200 feet to 50 feet. He believes the 200 foot buffer is wasting land. Prime soil should be preserved. There are very little pesticides used anymore. Current lots are large enough.

**Lani Daubenspeck**, 101 Lightner Lane, said the residents of Lightner Lane did not understand that the agreement they had with S&A Homes was limited to five years. She urged the Board to vote no on this ordinance. The minor addition suggested by Mr. Glantz would satisfy all of their concerns and still enable property owners to have decks if they so desire. She believes this ordinance is improperly balanced. Ms. Daubenspeck noted many reasons for this, including the fact that Lightner Lane has storm water issues. She urged the Board to consider the chemicals used on crops, etc. She said their houses are inside the buffer zone.

**Paula Greaser**, Lightner Lane, said this issue has been ongoing and affects a broad spectrum of people. She expressed opposition to reducing the buffer. In the past the phrase "waste of land" has been used. She believes this was said in terms of the fact that this was land that could be developed. Buffers offer a variety of benefits for land. She provided examples. Ms. Greaser's main concern is her house. Her property is zoned RA, but she is not a farmer. She is supposed to have a 200 foot buffer on her side, and S&A Homes should have the same buffer.

**Mr. Heinsohn** is in opposition to reducing the 200 foot ag buffer to 50 feet. First, he said they are considering land in close proximity to homeowners, farmers, etc. Consequently the issues under consideration involve farmers and residents who bought their homes and made financial arrangements assuming the 200 foot buffer zone would be there. Second, Mr. Heinsohn believes the Board should support their Planning Commission. Reducing the buffer to 50 feet provides a huge financial windfall to developers, but he does not believe this is a compelling reason to change things. He was glad to see in the revised ordinance that accessory structures would be allowed. Health effects of chemicals are grossly exaggerated. He opposes the ordinance amendment.

**Mr. Killian** said legally they were not able to grandfather this revision. Ms. Lang agreed. It is difficult to treat each property differently. The advice from their Solicitor was that there was to be no grandfathering of certain parcels. Mr. Killian asked if the storm water management plan has to be considered when the plan goes forward for the current buffer within the Foxpointe PRD development. Mr. Modricker said yes; if that phase of development comes in for a final plan, it would need to meet the storm water ordinance. Water issues would have to be mitigated on their property and would therefore not affect adjacent properties, but there is a note in the Terms and Conditions of the PRD that limits the discharge out of Lightner Lane to a very small amount, if anything at all. To date he has not seen a successful remedy to the existing storm water issues.

Ms. Lang said the current master plan shows the property with a 200 foot buffer, which could be changed at any time by requesting an amendment to the Terms and Conditions. With or without the 200 foot buffer, the property would need to be designed according to existing storm water management requirements, etc.

Mr. Killian asked if the proposed revisions in the text can be approved now without advertising. Mr. Kunkle said no; there are new requirements based on court cases that any changes to land development, zoning regulations, etc. must go back through the county or a county-designated planning agency for review and comment from the Board of Supervisors. Mr. Killian said this buffer deals with structures. Ms. Lang said there is an underlying setback, but currently structures and swimming pools are prohibited within the buffer.

Mr. Killian said he was not in support of reducing the 200 foot buffer to 0 feet, but he is now in support of amending the 200 foot buffer to 50 feet because what the Township is creating are 200 foot strips. The

intention was that as properties sold the developer would not sell to the property owner, therefore creating a large back yard. The intent was that a farm would continue to be used as a farm.

**Mr. Miller** addressed some misconceptions. He said the purpose of the buffer amendment is not to benefit developers; they were not involved in the creation of this. After several discussions with previous Board members, Mr. Miller realized that there is an effect over time of taking land that was farm land and turning it into a big back yard. He is in support of reducing the ag buffer to 50 feet. Also, the amendment did not come about as a result of residents wanting to build a patio; that was a completely separate issue that came up after this was well underway. In addition to the question about farmland, he is also convinced that as they are putting a buffer zone on the R-1 side, there will be a 200 foot zone of residential land that cannot be used for residential purposes. He does not believe this is right. He is in support of the ordinance amendment.

**Mr. Keough** has been against this proposal since its beginning. He is intrigued by the additional language suggested by Mr. Glantz because he feels it adds a piece of fairness to this ordinance. This ordinance will allow properties that have been developed under the 200 foot buffer plan to be rolled back to 50 feet in some circumstances. Ms. Lang agreed, but said this issue goes deeper than that. Mr. Keough said if they roll back the 200 feet and the "no structure" rule applies to both sides of the line, that will move the "no structure" rule for all farmers to 50 feet. Ms. Lang said it provides the possibility to do that. It does not automatically change anything.

Mr. Keough said one of the limiting factors in this Township to residential growth is the primary growth area. To change this area requires a positive vote by all members of the COG. He does not agree that this change will limit the loss of farmland. Their farmland is protected by the primary growth area, and expansion will be highly limited throughout a fairly long period of time. He also believes developers in this Region sell homes at a premium value with large back yards, and some structure limitations are not necessarily negative. He sees as a negative the current interpretation in their zoning ordinance of what can be allowed in the 200 foot buffer and how far into the buffer. He believes the 200 foot buffer should be retained and revisions made to what is allowable within that buffer zone. He thinks the primary growth area will continue to protect farmland in Ferguson Township for many years.

**Mr. Pytel** believes trying to add Mr. Glantz's suggested language would be a change to the advertised ordinance. The 200 foot buffer limited structures within the buffer. If the Township is going to allow certain structures, then the 200 foot buffer would no longer be in existence anyway. The 50 foot buffer amendment is a compromise between 200 feet and 0 feet. Mr. Pytel added that he cannot protect a homeowner from certain chemicals, but he believes the 50 foot buffer will protect the farmer.

With Mr. Heinsohn and Mr. Keough voting no, and Mr. Killian, Mr. Miller, and Mr. Pytel voting yes, the motion passed.

## **VI. PUBLIC HEARINGS**

### **1. A PUBLIC HEARING ON AN AMENDMENT TO THE FOXPOINTE PRD MASTER PLAN TERMS AND CONDITIONS FOR PHASE 1B**

On February 7, 2011, the Board received a request for an amendment to the current Foxpointe PRD Master Plan Terms and Conditions for Phase 1B to retain the 200 foot buffer along the boundary of this phase of the PRD with the Barker Subdivision for a period of five years from the date of the Board of Supervisors' approval of the amendment of the Terms and Conditions. At the end of the five year period,

the 200 foot buffer would be reduced to the 50 foot buffer requirement. Amendment of the Terms and Conditions for a PRD is found in Chapter 27, Zoning, Section 407(8).

Ms. Lang clarified that the Findings of Fact answer specific questions, but some of those questions do not have any relevance to what is being amended.

Mr. Miller made a motion to approve the amendment to the Terms and Conditions of the Foxpointe PRD for Phase 1B of the Master Plan to require a 200 foot buffer to remain in place until February 22, 2016, at which time it could be reduced to 50 feet of buffer area with submission of a revised PRD Master Plan. Mr. Heinsohn seconded the motion.

Discussion was as follows: Mr. Keough is not convinced that there is a satisfactory agreement within affected parties. Mr. Miller, Mr. Heinsohn, and Mr. Pytel supported the proposal.

With all Board members voting yes, the motion passed unanimously.

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

Mr. Heinsohn met with residents of Corl Acres on February 17<sup>th</sup> concerning storm water runoff that is impacting their land. Design defects can lead to litigation for the Township and can be harmful to the residents as well.

Mr. Keough received a phone call and an email regarding future funding and cost issues that the Township may be facing. Some people in the area are asking state legislators to look at broadening the limitation on prevailing wage.

Mr. Pytel received a phone call from someone in Park Hills expressing concern that the Township has not been plowing in front of his house.

## **VIII. ACTION ITEMS**

### **1. STONEBRIDGE PRD PHASE 5, FUTURE DEVELOPMENT PROPOSAL**

Ms. Lang said this is the last phase of the Stonebridge PRD development. The final Phase 6 was conveyed to the adjacent Landings PRD. The subdivision took place. This proposal is for the developer to construct affordable senior housing on the site. There are less than 128 units in this proposal. They only need comment from the Board with regard to the funding.

**Andy Haines**, S&A Homes, said they are looking to do a mix of affordable and market rate senior housing on the site. This would be a 55senior community. They are looking at financing to help develop the site. For the affordable portion, every senior resident must make less than \$35,000 per year. A related entity of S&A Homes would be the owner of the development. It would be managed by NDC Property Management. +

Ms. Lang said the Planning Commission recommended approval. This is in many ways infill development, so the quality needs to be good. Providing this alternative is forward-thinking in terms of the changing demographics in the area.

Mr. Keough made a motion that the Board authorize a letter of support to be provided for a senior independent living project for Stonebridge Phase 5. Mr. Heinsohn seconded the motion. The motion passed unanimously.

## **2. DISCUSSION OF CENTRE REGION ENERGY EFFICIENCY MODEL RESOLUTION**

This resolution is a result of the Centre Region Gas House Pilot Project presented to the General Forum in November 2010. The General Forum has requested that the participating municipalities consider adoption of the resolution by March 2011. Staff is requesting that the Board review the contents of the model resolution and provide direction on development of a final resolution for the Board's consideration for an upcoming meeting in March.

Mr. Heinsohn said these are guidelines for municipalities to implement as they deem necessary. The Public Services and Environmental Committee's concern was dealing with actionable items that municipalities could address. Mr. Miller said most of the items listed are things the Township is already doing. Mr. Keough finds many of the items commendable, but he sees a mix of things the Board has direct control over and things they do not. Mr. Heinsohn said those vague statements were advisory.

Mr. Kunkle said as a resolution this would not have the effect of the law. There would not be an enforcement issue unless they took a provision of this and incorporated it into a building code, property maintenance code, etc. Mr. Keough expressed his concerns. He would like to adopt these in an informal capacity to be targets in terms of Township operations but leave out some of the things over which they have no control.

Mr. Killian said if nothing else they have the concept of sustainability. The internal things make sense because they are part of their strategic plan. As far as an educational program for residents, there may be other sources they could use.

Ms. Lang mentioned that one of the goals under land use in the Strategic Plan is to develop land use/zoning regulations to support sustainable development, preserve ag land and open space, etc. One of the externally focused goals is to look at sustainable development patterns in the community through ordinance adoption. Mr. Pytel said one of their biggest complaints in the Township is that people do not maintain their properties (mowing grass, etc.). Mr. Killian suggested first categorizing the list according to items they have control over and those they do not.

Mr. Kunkle said the goal of adoption is March, so the Board can continue to discuss this document throughout February and March.

## **3. REFUND OF PHEASANT RUN REAL ESTATE TAX 2010**

On January 19, 2011, the Court ordered a revision in the assessed value of tax parcel 24-014-027 to \$1,180,800. This revision in the assessed value resulted in a refund of overpaid real estate tax for the Pheasant Run Apartments Limited of \$1,403.41.

Mr. Kunkle said this will come out of the Township's budget.



Mr. Killian made a motion to approve the refund of 2010 Real Estate Tax based on a revised assessed value for tax parcel 24-014-027 of \$1,403.41. Mr. Miller seconded the motion. The motion passed unanimously.

#### **4. RITA'S ITALIAN ICE LAND DEVELOPMENT PLAN**

This plan was originally submitted on May 28, 2009. Due to some circumstances that are not totally within the control of the applicant, the plan cannot be implemented. There are many outstanding conditions that have not been addressed over the course of the last 21 months. After numerous plan deadline extensions, the plan expires on March 2, 2011. Action by the Board to deny the plan due to the plan deficiencies listed is required or the plan would be a deemed approval. Ms. Lang provided a brief overview.

Mr. Keough made a motion to deny the Rita's Italian Ice Land Development Plan based on the plan deficiencies contained in the Director of Planning and Zoning memorandum dated February 17, 2011. Mr. Heinsohn seconded the motion.

Discussion was as follows: **Richard Shore**, Rita's Italian Ice, said the holdup has been getting approval from the Northland Shopping Center owner Edens and Avant. He finally got approval from Edens and Avant a few months ago, but then there was a change in ownership. He has been assured by the real estate agent that the new owners will sign the agreement. Weis Markets is willing to sign as well after receiving a signed agreement containing updated information from the new owners of the Northland Shopping Center. Mr. Shore explained that he has not submitted pieces of information addressing plan deficiencies because he wanted to submit everything all together. He requested a time extension from the Board of Supervisors to get the agreement back from the new owners of the Northland Shopping Center.

Mr. Keough asked about the status of the deficiencies of the plan dated October 2009. Mr. Shore said they have been reviewing issues and have addressed them. Mr. Pytel expressed concern that Mr. Shore has not submitted any responses to the plan deficiencies. Mr. Keough asked if there is an option to provide an extension of less than 90 days. Mr. Miller suggested granting one more 90-day extension based on circumstances presented.

Mr. Keough withdrew his original motion.

Mr. Miller made a motion to grant a 90-day time extension to Rita's Italian Ice. Mr. Heinsohn seconded the motion. With Mr. Keough, Mr. Pytel, and Mr. Killian voting no, and Mr. Miller and Mr. Heinsohn voting yes, the motion was denied.

Mr. Miller made a motion to grant a 30-day time extension to Rita's Italian Ice. Mr. Heinsohn seconded the motion. With Mr. Pytel and Mr. Killian voting no, and Mr. Miller, Mr. Keough, and Mr. Heinsohn voting yes, the motion passed.

#### **5. JANUARY 2011 VOUCHER REPORT**

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

#### **6. CONSENT AGENDA**

- A. January 2011 Treasurer's Report
- B. Surety Releases
  - 1. Thistlewood Lot 45 – Owner Improvements
  - 2. Thistlewood Lot 45 – Developer Improvements

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

**IX. REPORTS**

- **Manager**

Mr. Kunkle and the Township Solicitor have received notice from Timothy Havener, President of the Central Chapter of Firearms Owners Against Crime regarding the Township's ordinance that regulates firearms in Township parks. This matter came to the attention of the municipal managers in December 2009. More recently a presentation by Mr. Havener was made at a meeting of the Centre County Commissioners and a related article appeared in the Centre Daily Times. The Solicitor has arrived at the opinion that the prohibition of firearms in parks is not permitted, and an amendment to the parks regulations should occur.

Mr. Keough said consideration should be given to the fact that school districts may be using some of the Township's park facilities for athletic events. Mr. Kunkle will forward this on to Lewis Steinberg as they are debating this issue. Mr. Pytel expressed concern about a statement made by Mr. Havener. Chief Conrad said open carry of firearms is not the norm in Centre County. The Board had a brief discussion on this issue with Chief Conrad.

The 2011 Scotia Gamelands Controlled Burn will occur again this year. The state has divided the proposed 632 acres into 4 compartment areas. Mr. Kunkle provided a copy of the four areas proposed for the controlled burn. Only one area per day could be burned and only under certain conditions. The burn window is from mid-March to the first week in May. Notice will be provided via roadway signage boards, C-Net and Channel 4 scrolling messages, and media releases.

The Centre County Township Officials Spring Meeting will occur on March 30<sup>th</sup>.

- **Public Works Director**

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

**Whitehall Road Widening:** This month they had a utility relocation meeting. Mr. Modricker described the necessary process as a result of the realignment of the curve near the Kocher and Campbell property. They also had a meeting with Corl Acres property owners whose properties are affected by the new storm water pipe alignment. Mr. Modricker showed this area on the map. He briefly described objections from residents and ways they are addressing those issues. He described the pros and cons of the storm water pipe alignment. Mr. Kunkle said there is an existing easement that was designated for drainage, so that is the natural flow of water. The channel has been compromised in a variety of ways. Mr. Modricker said they will need to do additional surveying on Fir and Spruce streets.

The Board held a brief discussion regarding Mr. Modricker's recommendations. Mr. Kunkle said they will do channel improvements, but he asked if the Board wants the drainage in that channel re-established. The Board discussed this briefly as well. Ms. Lang said under the current ordinance they would have the ability to do surface cleaning without any approval. Mr. Kunkle elaborated.

*The Board agreed that if it is able to be done, the Township should complete the work.*

**Old Gatesburg Road Extension:** HRI has indicated that work on this project is scheduled to start March 1<sup>st</sup> and will begin near Blue Course Drive and proceed toward Science Park Road. The first elements of work include construction of erosion and sedimentation control devices.

**Contract 2011-C5:** This project will be out to bid the week of February 22<sup>nd</sup>. Work includes a paved path, sidewalk, sand volleyball court, and a pavilion. An open house was held on February 7<sup>th</sup>. A section of path along the Sylvan View side of the park is not installed at this time since it will be disturbed by future grading of a storm water basin in this area. Once the basin is built, the path should be constructed to connect to Birch Court.

**Contract 2011-C17:** A contract has been signed to remediate asbestos found in the boiler insulation and window and door caulking. Once the asbestos has been remediated, requests for proposals will be solicited to demolish the abandoned block milking barn.

- **Director of Planning and Zoning**

**DISCUSSION OF RA AND RR ZONING DISTRICT REGULATIONS:** The Commission reviewed the memorandum prepared for the Board, which outlined the discussion between staff and Board members Keough and Heinsohn, and identified the concerns regarding the current zoning provisions. Commission members Crassweller, Wheland, and Harkcom were not in attendance at this meeting, leaving the less farm-oriented members to discuss the issue. The Commission is suggesting that they be permitted to consider the matter further at their first public meeting in April and that they be provided with the opportunity to frame all of the existing or perceived issues before seeking outside assistance to “fix” any problems. Commission members have indicated an interest in having Board member Keough and/or Board member Heinsohn present at this meeting to ensure complete understanding of the concerns they wish to see addressed.

**RELEASE OF PARTIAL DRAFT OF UPDATE TO CENTRE REGION COMPREHENSIVE PLAN:** A partial draft of the portion of the Plan Update that will address the inventory and assessment of existing conditions was released by CRPA for review and comment by CRPC. Ms. Lang remains concerned about the process for both public input and input by municipalities prior to completion of this document. The amount of public input received amounts to less than one one-hundredth of a percent of the more than 86,000 residents of the Centre Region. The Planning Commission has received one presentation on the proposed update, but unless members were present at the one public meeting held at the Township, there was no opportunity for review or comment. As a result, Ms. Lang will be reviewing the chapters of the partial draft with the Township Planning Commission and providing interim comment to CRPA staff in the hope of ensuring that the final draft of the document is acceptable. The information that has been released so far has raised several concerns.

- **Chief of Police**

Part 1 and Part 2 crimes were both down for January compared to last year. Calls for service were also down slightly. Traffic citations were down significantly for the month, but parking tickets were up.

January was a busy month for training. The Crisis Intervention Team, based on a grant obtained through the County, had a class of 21 people, 15 of whom were police officers. They are in the process of promoting two police officers to corporals. Officers were busy with regard to the recent robberies and burglaries in the area. Chief Conrad updated the Board on the local business that was scammed, as well as copper thefts.

- **COG Committee Reports**

- a. *Parks Capital* – Mr. Keough said the consultant presented a potential blueprint of moving forward with regard to the amount of money they have for funding compared to the amenities to be built at the Oak Hall and Whitehall Road parks. This plan varies a bit from the plan Mr. Kunkle had sent out previously. One concern they have had is with the addition of the fourth field of Oak Hall, and the fact that in the initial presentation certain things would not be done that were in the original plan. That was revisited by the consultant. He presented a scenario for the same amount of money the amenities that could be produced at both parks. He made the assumption that the original expense for the road entrance amenities is now proposed to be covered with alternate funds, not loan funds. The Township and the University are in negotiation with regard to that issue. This freed up loan money for the projects themselves. He described the contingency funds that were discussed and the alternate proposals presented. They have reinstated the projects in Phase 1. This will be presented at the upcoming COG meeting. Nothing has been received in writing with regard to the University's participation in the entranceway to the park.
- b. *Finance* – Mr. Killian asked whether the Board wants to join the Library. He stated two issues for the Township: 1) they are able to provide a budgetary control in not being a member; 2) the Township's cost allocation formula includes students. Mr. Heinsohn believes they should leave things the way they are. Mr. Miller would consider it if they could work out an agreement on the funding formula. Out of control spending has been taken care of by the economy. Mr. Keough asked about other alternatives for the funding formula. Mr. Killian said there is a big difference between the existing formula and the COG formula. Mr. Keough expressed concern about the level of COG funding they seem to be carrying across the board versus other municipalities. He asked about voting Board membership (two Board members voting) if they would rejoin the Library. Mr. Killian said that should be taken into consideration. He said the down side would be budgetary control if that is a concern. The down side of keeping things the same would be that the Township's COG partners have an issue with the Township not being a member of the Library. Mr. Pytel believes they should keep things the way they are. He said Ferguson Township has always supported the library.
- c. *Executive* – Mr. Miller said at the next General Forum meeting they will discuss these regional parks issues: 1) DRI for Whitehall Road; 2) Hess Field Master Plan; 3) Oak Hall Phase 1 Master Plan; 4) Whitehall Road Phase 1 Master Plan; 5) Timeline; and 6) Loan. There is expected to be quite a bit of discussion on several of these items.

**I. MINUTES**

Mr. Miller made a motion to approve the January 31, 2011 BOS Special Meeting Minutes. Mr. Killian seconded the motion. The motion passed unanimously.

**II. ADJOURNMENT**

Mr. Killian made a motion to adjourn the February 22, 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 February 22, 2011 Regular Meeting at 11:24 pm.

RESPECTFULLY SUBMITTED,

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Ferguson Township Board of Supervisors  
February 22, 2011  
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Mark Kunkle, Township Manager  
For the Board of Supervisors

Date approved by the Board: 03/07/2011