

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

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

I. ATTENDANCE

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

Board:	Steve Miller, Vice Chairman	Staff: Mark Kunkle, Township Manager
	Richard Killian	Trisha Lang, Director of Planning and Zoning
	Robert Heinsohn	David Modricker, Director of Public Works

Others in attendance included: Maggie Nicholson, Recording Secretary; Tony Fruchtl, Penn Terra Engineering; Thomas Brown; Todd Robinson; Mike Mulauski; Charles Courtney; Erik Schroeder; Paul Kozlevsky; Sonya Kozlevsky; Marc McMaster; and Bruce Seigfried.

II. CALL TO ORDER

Mr. Miller, Vice Chairman, called the July 18, 2011 Regular Meeting to order at 7:00 pm

III. CITIZEN'S INPUT

Mr. Kunkle introduced a letter signed by residents of Ramblewood advising the Board of their concern regarding the impact of "recreational fires" on their neighborhood. Mr. Bruce Seigfried addressed the Board on this issue.

Mr. Seigfried, 198 Val Verda Dr. in the Ramblewood Development, said he wrote a letter concerning the issue of recreational fires being a smoky nuisance in his neighborhood. Ten neighbors also signed the letter and others in the neighborhood feel this is a problem. A contributing factor is the residential nature of the development on ½ acre lots, with 15-25 foot setbacks. He stated some of the people burn brush on the fires and it is practically a nightly occurrence with different people burning, so it is hard to go around and ask each of them to stop. He doesn't want to spoil anyone's fun, but would like a little moderation.

Mr. Miller asked if there is a problem in the winter from wood burning. Mr. Seigfried said it is not a problem in winter as windows are closed, but during the summer windows may likely be open. With no air conditioning people need to have windows open and with air-conditioning, the units suck in the smoke into the home. Mr. Heinsohn asks what is the purpose of the fires. Mr. Seigfried says it is burning for entertainment, campfires. Mr. Heinsohn says we don't have anything in the ordinance, except a nuisance ordinance. Ms. Lang said there is a regulation on open burning administered through the code enforcement office. Mr. Kunkle says this has been a problem at times throughout the Centre Region. He spoke with Walt Schneider, Director of Code Administration to see if there is some way to handle this particular situation. He indicated it is something that will probably be handled at a regional level because it has been raised as a concern in other municipalities. Mr. Heinsohn said the nuisance odor would be difficult to enforce. Mr. Kunkle said we fall under the international fire code which describes what a nuisance fire is. Enforcement and administration would be another story. Mr. Heinsohn says there is no need to burn things, since we have trash and brush removal provided. Mr. Seigfried said two weeks ago on a Friday morning there was a blue haze through the neighborhood and he called the Township office asking what to do and he was directed to the fire inspector Dave Felice. Last Sunday a person was burning a huge brush pile in his back yard right at the edge of the university fields. He spoke again with Dave Felice who told Mr. Seigfried you should call 911 in that case. An officer from the Township would check for an open burn permit and if the burner had none, then would

direct the fire company to send a unit out. Mr. Kunkle said there is a difference between open burning and recreational fire, based upon the size. A recreational fire does not require the fire suppression requirements be on site, but an open burn would require fire suppression equipment, attendants and water on sight. Mr. Killian asked if recreational burning is permitted in our Township. Mr. Kunkle said yes.

Mr. Miller said there is a regional is look into it and the Township will continue to follow this problem.

IV. COMMUNICATIONS TO THE BOARD

Mr. Heinsohn received a communication from an irate neighbor who asked why the Township painted lines on Whitehall Road since it is scheduled for resurfacing. Mr. Modricker said the line painting is done annually because the lines lose their reflectivity which is needed especially at night. The section of Whitehall Road referred to won't be repaved until this time next year, so it really does warrant repainting that section of road. Mr. Heinsohn told the neighbor to rest assured it is being coordinated by the Township.

V. ACTION ITEMS

1. GIANT MARKET FUEL ISLAND FINAL LAND DEVELOPMENT PLAN

This project propose the development of a fuel island associated with the fuel perks program of Giant; a tenant in the Northland Center. The fuel island will be located in the northwestern corner of the Northland Center property where a single family dwelling is currently located. Development associated with the project will include the relocation of the access lane that enters from Blue Course Drive and parallels the parking area to its intersection with North Hills Place; a private street that carries vehicles out to North Atherton Street. Fuel tanker trucks will be required to enter and exit the site using this access drive from Blue Course Drive. The access drive will exit onto North Hills Place in a new location; closer to the traffic light/intersection.

Ms Lang said this project has been ongoing for a while. The planning commission reviewed this project at their meeting on June 27, 2011 and has recommended that the Board conditionally approve the plan subject to the design changes requested. The most important design comment concerns the waiver of the on-site infiltration requirements of the storm water management ordinance. This is a request they are asking for because of the geology of the site. They have provided an alternative plan. The Planning Commission has recommended that the Board of Supervisors deny the request and accept the alternate design provided.

Mr. Killian said he wanted to make sure considerations were made for parking and traffic patterns. Ms. Lang said the developer did a traffic impact study. The current traffic flow is a bit haphazardr. Fuel tankers will come into the site in a new way that will improve the circulation pattern. Some new signing will be added at the intersections of North Hills Place and North Atherton Street which will be part of the signalization plan that PennDot is reviewing.

Mr. Killian asked if the main flow of vehicular traffic will be from Atherton and North Hills Place for this facility. Ms. Lang stated people may just drive through the site for other reasons, maybe just to avoid North Atherton Street or to get gas. It is close to the intersection with North Atherton where there is a left turn signal that help ingress and egress at that location. Mr. Killian asked about the traffic signal. Ms. Lang said PennDot is working on a project for timing the signals along North Atherton Street. The relationship of that project to this project is only that PennDot has to approve the signal for this project.

Mr. Miller reviewed that the storm water issues have been resolved. Mr. Modricker stated he would not support the Township issuing a stormwater design waiver, but the plan submitted with the alternate design is acceptable.

Mr. Kunkle asked what will be the additional signage for the fueling facility. Mr. Charles Courtney, Esq., attorney for Giant Market said they will submit an application for signage for the new addition. Ms. Lang said Giant Market's already did submit signage which was already approved. Mr. Courtney said Giant Market will probably not change their plan. Mr. Kunkle said a traffic island was eliminated because it was an off-site improvement. Mr. Courtney said it was eliminated, because Giant Market, as a tenant of Northland Center, may not have the right to put in the improvement. The location for the traffic island was within an easement and that is on the Weis Market property. Weis Market objected to the channelization island so it was removed from the plan.

Mr. Heinsohn made a motion to approve the Giant Markets Fuel Island Final Land Development Plan subject to the completion of outstanding conditions. Mr. Killian seconded. Motion passed 2-1 with Mr. Killian dissenting.

Mr. Kunkle said after the Board took action approving the Giant Plan he realized we are dealing with two board members being absent. The Board does have a quorum with 3 out of 5. The Home Rule Charter requires that the 3 board members present would have to concur with any action taken this evening, so when Mr. Killian voted no, that would not allow the action to go forward. He asked if the Board want to reconsider the Giant Market Fuel Island Land Development Plan action this evening or put on the August 1st agenda to reconsider the plan? The Board decided to vote again on the plan.

Mr. Heinsohn made a motion to reconsider the previous action. Mr. Killian seconded the motion. The motion was unanimously approved. Then a Motion was made by Mr. Killian to approve the Giant Markets Fuel Island re-submitted Final Land Development Plan last dated July 12, 2011 rejecting the stormwater management waiver request. Mr. Heinsohn seconded the motion. The motion passed unanimously.

2. FINAL SUBDIVISION PLAN FOR BRISTOL AVENUE RIGHT-OF-WAY

The completion of Bristol Avenue between Enterprise Drive and Stonebridge Drive was a condition of the master plan approval for the Landing PRD Revised Master Plan. Since the right-of-way for Bristol Avenue was not linked to any of the revised Landings PRD Master Plan phases, a separate subdivision plan has been submitted, that will convey the right-of-way for this portion of Bristol Avenue to the Township.

Ms. Lang said this plan is unusual because there are no home lots, but just a road right of way. It was reviewed by our consultants and discussed at the planning meeting. The Planning board recommended approval.

Mr. Killian made a motion to approve the Final Subdivision Plan for Bristol Avenue Right-of-Way. Mr. Heinsohn seconded the motion. The motion passed unanimously.

3 FOXPOINTE PHASE 10 FINAL SUBDIVISION PLAN

This final plan involves the subdivision of 20 new lots proposed for single family detached dwelling units, ten lots and one storm water lot are located along the existing Prairie Rose Lane and ten lots and one storm water lot are located along existing Autumnwood Drive. These lots have been made possible by the recent revisions to the depth of the required Agricultural Buffer Area.

The Planning Commission has reviewed this plan and recommended the Board approve it subject to the remaining conditions. There are two minor design issues. One is that the developer has requested a modification to the restriction to cut the Township road prior to a 5 year wait period so that sewer laterals can be added for two of the lots. The Planning Commission recommended this be allowed for lots 203 and 210. Item 2 deals with a requirement that there be distinct delineation between the residential properties and the agriculture zone. The choice was left whether that would be landscape buffering or fencing. It is entirely at the discretion of the Board which of those two requirements they would like to see implemented.

Tony Fruchtl, Penn Terra, the developer has a preference to install Buffer Option B as a 15 foot wide buffer yard. There is an existing tree row along part of this distance which they would like to use and Buffer Yard B would be installed in the remaining unplanted length with appropriate trees as required. Ms. Lang said they are requesting existing landscape serve as part of the required buffer zone. Mr. Fruchtl stated the existing tree row is a mature buffer yard with mature hardwood trees. Mr. Fruchtl said they pulled a storm water management drainage ditch away from the property line in order to maintain these trees. Ms. Lang stated if the Board accepts these trees it would serve the same purpose of the ordinance requiring a buffer requirement. Mr. Heinsohn asks if the trees straddle the property line. Mr. Fruchtl said yes. Mr. Killian asks what percentage of the buffer area consists of these trees. Mr. Fruchtl said it covers about two thirds of the needed buffer area. Mr. Killian asked who maintains the buffer zone. Ms. Lang said the homeowner's association is responsible to maintain the area. Mr. Killian asked if there is a requirement to add more trees as some may die off or supplement the plantings as needed. Mr. Modricker said it is likely in 10 years or so, the homeowners will ask about how to deal with a dead tree. Ms. Lang said there will be notes in the plan stating who is responsible for replacement. Mr. Modricker says if it is on the farmer's side it is their prerogative whether to replace or not. Mr. Killian said if the entire tree line was on a farmer, the Township would have no control. Ms. Lang said we can require information on the plan on what trees are on what property. Mr. Killian said that is a good idea. Mr. Fruchtl said we can coordinate with the buffer line. Mr. Killian said this is the first development plan with a buffer and we should define it in detail so we don't get in trouble in the future. Mr. Modricker says any drainage swale is not compatible with a tree planted buffer zone. Ms. Lang says they have already moved a swale and will supplement trees in the buffer zone. Mr. Modricker said it may

help if we have a tree diagram showing where the trees are located. Mr. Kunkle asked if there is a buffer yard that only considers deciduous trees. Ms. Lang said it is a mix of vegetation. Mr. Fruchtl said the developer is willing to put in more trees, instead of bushes if that is what the Township desires.

Mr. Kunkle said the ordinance already talks about a 15 foot (B) or 30 foot (D) option. If there is another option proposed, it needs to be presented in a plan and the Board will have to grant a modification. Ms. Lang said in the area with no trees they will use either plan. Mr. Miller asked in the existing tree line do we need to require another plan stating what landscape efforts will be required. Ms. Lang said the Board had a discussion at time of preparation of the ordinance about the fact that most areas had a distinct tree row. The Board said it would review the required buffer on a case by case basis as plans come in. Mr. Miller said he would be inclined to require a vegetative buffer where the tree line does not exist and not where there is a current tree line that can be used as the buffer. Mr. Fruchtl pointed out where the current tree line is in the plan.

Mr. Modricker asked where the lots are that need the road cuts to provide sewer laterals. Mr. Fruchtl pointed those out on the map and said these will be the only cuts needed to the road. Mr. Kunkle asked are you also taking out the asphalt bike path and putting in concrete. Mr. Fruchtl said the asphalt bike path will be removed and replaced with a concrete multi-purpose path going in as the homes are built in the development. Estimated time to build this out is 1.5 to 2 years. Ms. Lang said this is a multi use path, so when the development gets to 75% of completion the path will be finished per current regulations.

Mr. Killian made a motion to approve the Foxpointe Phase 10 Final Subdivision Plan subject to the completion of the outstanding conditions. Additionally from lot 210 to 215 a vegetative buffer will be added using the standards of Buffer Yard B. The motion was seconded by Mr. Heinsohn. The motion passed unanimously

4 2011 MID-YEAR FINANCIAL REPORT- MR. ENDRESEN

Mr. Eric Endresen, Director of Finance, presented a short power point presentation that illustrates the financial condition of the Township as compared to 2011 Budget Projections. Generally, the Township is in very good financial shape. On a cash basis we do not recognize revenue and expenditures as earned, but as we actually receive or spend them. Real estate bills have already been collected for the year. General fund revenues exceeded budget by \$760,000 which is real property and earned income taxes. Those should be considered savings to manage our expenses for the rest of the year. On the expenditure side, we are below budget for the first 6 months. The year to year summary shows 2011 better overall for income, general tax revenue (earned income) is up. Expenditures are higher with a general increase across the board. Township The Board received the 2011 Mid Year Financial Report as prepared by the Director of Finance.

5 COG 2012-2016 DRAFT CAPITAL IMPROVEMENT PROGRAM BUDGET

COG staff has prepared a draft of the Centre Region Council of Governments Capital Improvement Program (CIP) Plan, spanning the years of 2012 through 2016. The COG staff has requested comments by August 2nd on the draft document. Township

Mr. Miller said if anyone has a specific comment tonight make it. But if not, he proposed the Board wait until next meeting to do a page by page review when all members are in attendance. Mr. Miller said this is a large capital budget for COG and a large part is capital equipment for regional parks. Prior to this regional plan, Whitehall Road Park was planned to be a Township park. Mr. Miller asked how much of the capital cost that's in the COG capital budget would the Township have to come up with to support our own Township parks? Mr. Miller wants staff to look into the question, if we are spending more through the COG sharing plan than if we had built Whitehall Road Park on our own and maintain it ourselves. The full discussion of this COG budget will be tabled until the August 1st meeting.

6 DRAFT RESOLUTION POLICE PENSION PLAN PROFESSIONAL SERVICES PROCUREMENT

Act 44 of 2009 mandated certain changes to municipal pension systems that fell under Act 205. One of the mandates required annual disclosure of certain information by every entity or contractor, which is a party to a professional services contract with a pension fund. The Township implemented this requirement in 2010. A further requirement, dealt with procurement of professional services for pensions. The Township staff has developed a professional service procurement procedure that could be adopted by the Township by resolution. The Board is asked to review and comment on these documents prior to considering action at their meeting on August 1st.

Mr. Kunkle explained the mandated changes and proposed service procurement agreement. Mr. Killian said he has no concerns with what is being drafted, but when the RFP is written how will it be affected by the resolution. Mr. Kunkle explained that the auditor general would expect us to follow our procurement standards. Mr. Killian said it can be written as a standard but we will have flexibility when the time comes to do a RFP. Mr. Miller said no action is required tonight.

7 APPROVAL OF ADOPT-A ROAD AGREEMENT—MEDI HOME HEALTH AND HOSPICE

This voluntary program, establishes an agreement to maintain refuse and litter collection along specific sections of roadways in the Township. This particular Adopt-a-Road application and agreement is for a section of West Whitehall Road between West College Avenue and Nixon Road.

Mr. Kunkle said the Township has an Adopt-a-Road program that recognizes groups that pick up trash, etc. along the road and the Board needs to approve the agreement.

Mr. Killian made a motion to authorize execution of an Adopt-a-Road agreement between the Township and Medi Home Health and Hospice. Mr. Heinsohn moved to second. The motion passed unanimously.

8 JUNE 2011 VOUCHER REPORT

Mr. Killian made a motion to approve the June 2011 voucher report. Mr. Heinsohn seconded the motion. The motion passed unanimously.

9 CONSENT AGENDA

- A. May 2011 Treasurer's Report
- B. Pay Authorization
 - 1 Alpha Space Control. Co. Inc.—2011 Traffic Markings \$87,1202.36
 - 2 George Weller Construction- Contract 2011-C6, Bikepath Sealcoating \$24,870.60
- C. Pay estimate – HRI, Inc—Old Gatesburg Road Extension Project \$595,228.26

Mr. Killian made a motion to accept the Consent agenda including the Treasurer's Report. Mr. Heinsohn seconded the motion. The motion was unanimously approved

VI. REPORTS

1. Manager

Mr. Kunkle said upcoming agenda items will include the 2012 COG Program Plan, may be discussing amendments to the Building Code, and will have discussion and consideration of the resolution for pension professional procurement standards.

Mr. Kunkle said the Township currently has several liens filed against properties for services rendered. Each lien has a principle amount, administrative fees and interest charges attached to the lien. Municipal lien law allows us to charge a 10% interest rate. Is this an appropriate interest rate to charge, should it be reviewed, etc? Liens with a 10% interest rate may not be appropriate as this adds up over the years and if the properties don't sell, then those liens will not come forward for satisfaction. Mr. Heinsohn said a lien is payment due by the property owner and gets collected at the time of the property transfer. Mr. Kunkle said most of these are properties that failed to maintain, are vacant or abandoned and may need some maintenance. The question this evening is what is the appropriate accumulating interest? Mr. Killian said that the 10% was an average at the time the rate was set and this high rate is an incentive to pay. Why would we want to reduce it, unless we want to give a lower rate as an incentive to pay? Mr. Kunkle said for example, if paid within one year; maybe give a reduction in the interest rate. Mr. Miller recommends we also send an annual notice reminding the property owner to pay the lien that it is still attached to the property. The Board decided not to change the lien interest rate.

July 23rd at 10:30 a.m. there will be a dedication of the Robert Snetsinger Butterfly Garden at Tom Tudek Memorial Park. This event is being coordinated by the Penn State Master Gardeners.

State College Little League will be hosting the State Little League Tournament July 24th to the 30th at the Stonebridge Little League Fields. An events plan has been completed and distributed to the appropriate agencies, EMS, Fire, and Police. A parking plan has been put together by the Little League and approved by the police department.

For the 23rd year in a row the Township has received a performance dividend from its unemployment compensation insurer. The dividend was in the amount of \$1167 and in addition Traci Miller, Accountant, completed online training and the insurer recognized that effort with an additional \$250 bonus.

Windstream and Comcast, video and internet service providers have given notice of a rate increase for their service that will occur on August 1st.

Jim May, Director of Centre Region Planning is conducting a community survey currently to be used in the development of the Comprehensive Plan update. As of Friday July 15, CRPA only had a 9.3% return rate. He has asked the municipalities to provide notice on C-Net covered meetings and place a notice reminding those that received the survey on our web site.

Mr. Kunkle said he will be taking time off July 20 to 26 and David Modricker will be Acting Manager during that time.

2 Public Works Director

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

Whitehall Road Widening Project is one month behind the timeline. Appraisals for right of ways, agreements with utility providers, etc. are being worked on during the month of August. Staff will work to get the project out to bid by October.

Staff plans submit a grant application. The ARLE (Automated Red Light Enforcement) grant applications are due at the end of this month. After discussions, staff suggest the left turn lane on Martin Street that is in their CIP for \$25,000, would be what we apply for through that program. If the board agrees that is what we will pursue. This grant is 100%, no matching funds are needed.

Public works road crew started a new program to remove mulch volcanoes which is mulch piled high around the trunk of the tree that can cause problems to the tree. State College Borough Arborists trained Township public works crew on how to detect and correct this and educate residents.

3 Planning and Zoning Director

Ms. Lang said since the Board did not meet on July 5th, she is reporting on two planning commission meetings, June 27th and July 11th without distinguishing between the two. At those meetings the commission continued to discussed and made recommendations on the Bristol Avenue Right of Way Plan, the Giant Markets Fuel Island Final Land Development Plan, and Foxpointe Phase 10 Final Subdivision Plan. In addition at both meetings they continued to discuss the RA/RR zoning issues and also the draft Traffic Calming Policy.

On July 11th the PC received and reviewed an application for the conditional use approval for a property in the Terraced Streetscape District (TSS). The Penn State University is requesting a conditional use approval to use an existing structure on site without making substantial changes to the site to fit in with the TSS zone permitted uses. The public hearing for this conditional use approval has been advertised for the meeting on August 1st.

4 COG Committee Reports

Mr. Miller says the Executive Committee meets tomorrow and the Executive Director recommends they cancel the meeting this month due to no agenda items needing immediate attention.

FINANCE Committee

Mr. Killian reported the main issue discussed was the COG Capital Improvement Plan.

Human Resources

Mr. Heinsohn said every agency of COG is seriously contemplating expansions of its goals and activities and its personnel.

Parks Capital

Mr. Kunkle said discussion was about retaining design consultants for the parks.

VII. CALENDAR ITEMS –JULY/AUGUST

VIII. MINUTES

Only two persons in attendance were at the June 14 and June 20 meetings, so the Board will wait and review the minutes at the next meeting.

IX ADJOURNMENT

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

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 08/01/2011