

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, March 7, 2011
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, March 7, 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; and John Spychalski and Hugh Mose, CATA.

II. CALL TO ORDER

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

III. ABC REPORT – John Spychalski, CATA

Mr. Spychalski reported that CATA's allocation for the Federal Transit Administration will be about \$115,000 less than CATA had projected. On a positive note, there is a major move on federal tax legislation and the natural gas tax credit was renewed. Hugh Mose said the impact for CATA is about \$340,000 per year, but this was only restored through the end of 2011.

Mr. Mose commended CATA's staff for their hard work on State Patty's Day. They carried over 37,000 riders. Mr. Heinsohn asked about a system for drivers seeking help if needed. Mr. Mose stated that they have two-way radios and are able to get quick police response. Mr. Spychalski added that law enforcement agencies were collectively involved in making services successful that night..

Mr. Spychalski noted that CATA has taken steps to reduce the budget in various ways. Staff is reviewing the entire operation to identify possible additional sources of savings, while trying to balance cost reductions against the services CATA provides. Increased gas prices will also affect mass transit use. He noted the importance of vanpool groups.

Mr. Keough asked about the ride-share program. Mr. Mose said the program in general (CATA Commute) includes both car pool matching and the van pool program. They calculate fares for van pools based on their out of pocket costs, plus a small amount to cover replacements costs for the van. But the University covers about half of the cost of the administration of the program; for the rest they use their state and federal money.

IV. PUBLIC HEARINGS – RESOLUTIONS

- 1. A PUBLIC HEARING ON A RESOLUTION ADOPTING AN ENERGY EFFICIENCY ACTION PLAN TO MITIGATE TO THE EXTENT THAT THE TOWNSHIP HAS THE AUTHORITY, RESPONSIBILITY AND ABILITY, THE ENVIRONMENTAL HUMAN HEALTH AND NATIONAL SECURITY IMPACTS RESULTING FROM A TOWNSHIP'S USE OF ENERGY**

An outcome of the Centre Region Greenhouse Gas Emissions Inventory Report has resulted in a recommendation from the COG Public Services and Environmental Committee to adopt a model resolution for consideration by the five townships that are members of the Centre Region COG. The Township has accomplished or made significant progress on many of the energy efficiency action items included in the resolution.

Mr. Keough asked if it is necessary that each Township adopt exactly the same resolution. Mr. Kunkle said there is no obligation to adopt a uniform resolution across the Centre Region. Items may be added or deleted by the Board. Mr. Keough commented on five items:

1. Items 8 and 9 – The operable window item does not differentiate between residential, high rise, etc. There may be some unintended consequences of encouraging high rise buildings across the board.
2. Transportation – He supports car pooling, but asked if they have any incentives for staff to car pool within the Township. Mr. Kunkle said they have a flexible work schedule available to employees. Mr. Keough suggested periodically reminding staff of these incentives.
3. On-site Fuels – He expressed concern that Item 27 is encouraging the relaxation of stringent municipal ordinances. Mr. Heinsohn said the word “encourage” is implied. Mr. Pytel said this entire item should be removed. Mr. Miller said he is for repealing the ordinance completely.
4. Items 31 and 32 – He believes the ability to save energy through geothermal has a good science base. His concern is that the geology in this area will not support the large number of holes necessary to support a system of geothermal at the homeowner level. Ferguson Township is prone to sinkholes, and geothermal drilling could have some negative impacts on that. As a municipality he believes they need to use caution in encouraging geothermal heating as part of a policy or resolution because of the risks involved. Mr. Heinsohn said expertise available when permits are examined should address these concerns. Mr. Keough stated that a permit is granted prior to holes going into the ground.
5. Item 33 – Mr. Modricker said the language noted has the intent to serve all neighborhoods with natural gas. This is not supplied by the Township. Mr. Heinsohn was personally involved in adding this item and believes they should ask developers whether they intend to put gas lines in, etc. This should be an important item in development plans. He realizes there is a distance criteria involved, but they would deal with those issues as they arise. Mr. Modricker said, regarding geothermal energy, hydro-geologists in the Township may be able to address his concerns more effectively. Mr. Pytel asked for more feedback from the Board.

Mr. Miller does not have any major concerns with this document. Mr. Heinsohn said initially what came out of the Borough’s recommendation were generalities, but they wanted to create items that could be acted upon. None of these items are required. He believes they should acknowledge the existence of these ideas and take them under advisement.

Mr. Killian expressed concern that the issue regarding grass heights (Item 27) could get out of control if there is no grass height limit. Mr. Heinsohn said homeowners associations should consider this item. Mr. Killian asked what effect this has on greenhouse gases. Mr. Heinsohn said it has to do with lawn mowers. With the exception of Item 27, Mr. Killian supports the concept. Mr. Pytel agrees that Item 27 should be removed. However, he does not necessarily support geothermal heating. Mr. Kunkle noted two related concepts. The Board discussed this briefly. Mr.

Pytel said a lot of people are pushing low cost housing, but there are so many additional costs being forced upon homeowners (sprinkler systems, for example). He expressed concern about this. Mr. Heinsohn said natural gas provides lower heating costs.

Motion #1: Denied

Mr. Heinsohn made a motion to adopt Resolution 2011-3, setting forth an action plan to mitigate to the extent possible the Township's impacts on the use of energy in furtherance of reducing Greenhouse Gas Emissions. Mr. Miller seconded the motion. With Mr. Heinsohn and Mr. Miller voting yes, and Mr. Keough, Mr. Killian, and Mr. Pytel voting no, the motion was denied.

Beginning of Motion #2

Mr. Killian made a motion to adopt Resolution 2011-3, setting forth an action plan to mitigate to the extent possible the Township's impacts on the use of energy in furtherance of reducing Greenhouse Gas Emissions, but deleting Item 27. Mr. Heinsohn seconded the motion.

Amendment to Motion #2

Mr. Keough suggested removing Item 9 as well. Mr. Keough made a motion to amend the current motion to delete Item 9 in addition to Item 27. Mr. Heinsohn seconded the amendment to the motion. With Mr. Miller voting no, and Mr. Heinsohn, Mr. Keough, Mr. Killian, and Mr. Pytel voting yes, the motion amendment passed to delete Item 9 and Item 27 from the resolution.

Motion #2: Passed

The motion to adopt Resolution 2011-3 as amended passed with Mr. Miller voting no, and Mr. Heinsohn, Mr. Keough, Mr. Killian, and Mr. Pytel voting yes.

V. COMMUNICATIONS TO THE BOARD

Mr. Pytel said a neighbor expressed concern about trash cans remaining in a Township easement at all times. Mr. Kunkle quoted Township regulations which require containers to be removed within 7 days of collection day. Mr. Pytel also received a letter from Meals on Wheels encouraging Board members to choose a day to participate in the delivery of meals.

VI. ACTION ITEMS

1. DORIS SUNDAY FINAL SUBDIVISION PLAN

This subdivision will divide 8.14 acres from the existing Sunday Farm parcel; it is the intent of the Township to purchase this acreage as an addition to the Westfield Hillside Farm Estates Parkland. Prior to the subdivision being prepared, the Board adopted a resolution for condemnation of the property. A deed in lieu of condemnation will be provided at closing; this avoids issues for zoning, as well as real estate tax transfer. After meeting the outstanding conditions and recording the subdivision plan, a closing on the property is anticipated prior to March 31, 2011. Terms for the Township acquiring the property were noted.

Mr. Kunkle said the Planning Commission has reviewed the plan and recommends approval, subject to the completion of the outstanding conditions. Ms. Lang elaborated on the two modification requests. She also corrected two items in the packet. Staff received a revision to this plan on March 4, 2011, and several comments can be removed. She provided a second view of the project.

Mr. Keough asked about Lot 41 that is not able to support residential development. The unique features of this lot are: 1) a storm water basin; and 2) a 20 foot easement identified on the plan for a bike path. Mr. Kunkle said the Township owns that easement. The current bikeway along Nixon Road ends at Sunday Drive. They do not have sufficient right of way to install the bike path from Sunday Drive, along Nixon Road, to the easement location. Mr. Pytel said the Township's easement is a 20 foot easement.

Mr. Killian made a motion to approve the Doris Sunday Final Subdivision Plan, including the modifications presented, subject to the completion of the outstanding conditions as set forth in the Director of Planning and Zoning memorandum dated March 1, 2011. Mr. Miller seconded the motion. The motion passed unanimously.

2. HARPSTER FINAL SUBDIVISION PLAN

This final plan is the re-plot of the remaining 98+ acres of the Ruth C. Harpster Tract in order to convey approximately half of this acreage to adjoining property owners David J. and Caroline A. Dolbin. A modification of the key map for the subdivision regulations is requested.

Ms. Lang said the one remaining item is to provide a copy of the deed joining together the two parcels. She provided an overview of the plan. They cannot record the deed until this subdivision plan is recorded. In this instance they are requesting a modification for the key map. The Planning Commission recommends that the Board grant the waiver.

Mr. Keough made a motion to approve the modification request and the Harpster Final Subdivision Plan, subject to the completion of the outstanding conditions as set forth in the Director of Planning and Zoning memorandum dated March 1, 2011. Mr. Killian seconded the motion. The motion passed unanimously.

3. HARNER VARIANCE REQUEST, 2191 WEST WHITEHALL ROAD

This variance request is to allow for the subdivision of the former Paul Harner home from the remaining farm tract. The new lot to be created would be .6 acres; current zoning for the tract is RA. The property is served by an existing on-lot septic system and private well water, which is located off-site on the adjacent farm property. Minimum lot sizes in the RA Zoning District for residential purposes are one acre. This variance would allow for the creation of a residential lot smaller than the minimum required residential lot size in the RA Zoning District. Further variances would be needed for access, setbacks, and a second septic drainage site. These variance requests are not described in the application, but identified by staff.

The lot could be created as a one acre minimum residential lot, but its configuration would not be rectangular. This appears to be a self imposed hardship and therefore would not qualify for some or any variances. Staff has made suggestions to the applicant, but none have been implemented in the proposed subdivision plan.

Mr. Kunkle provided an overview of the variance request. The tract being created also places an existing greenhouses outside of the building envelope. Given the number of outstanding conditions in violation of the Township ordinance and the inability of the applicant to create a lot that would bring the proposed subdivision into compliance, staff recommends that the Board oppose this variance application. Mr. Pytel added that there is a state (and possibly federal) law that an on-site

septic system cannot be installed on less than one acre. Ms. Lang said in general it is difficult to locate both a well and septic system on any lot that is less than one acre. An additional concern they have about the property is the access point. As they have created this lot, it is wholly dependent on an adjacent lot to operate.

Mr. Heinsohn asked if there is public water on Whitehall Road they could tap into. Mr. Kunkle said yes. Ms. Lang said there would also be the possibility that this parcel could at some point be served by public sewer. But there is still an access issue, as well as a concern about the extension of the existing structure into the setback.

Mr. Keough asked about the hardship. Ms. Lang said there was no discussion about this at their meetings. She believes they want to minimize the loss of farmland.

Mr. Killian made a motion to oppose the variance request(s) for 2191 West Whitehall Road. Mr. Miller seconded the motion. The motion passed unanimously.

4. DISCUSSION OF CCMPO FUNDING FORMULA OPTIONS

Mr. Kunkle said the last MPO meeting was on February 22nd. One item deferred to a future meeting was regarding the Township's December 2010 request that the MPO consider modifications to the funding formula used to determine local shares contributed to the MPO. He noted a misconception of other municipalities at the February 22nd meeting that Ferguson Township would withdraw from the MPO if the funding formula was not changed.

Mr. Kunkle said it is important that the Board assist Mr. Pytel in representing the Township. He prepared some options to begin discussion within the MPO regarding current funding formulas. He provided specific details on cash and in kind contributions, and he offered several options for the Board to consider.

Mr. Kunkle said the current funding formula takes into consideration what is known as the ability to pay. It utilizes a modified COG formula. To change the formula will require a two thirds vote of the MPO.

Mr. Kunkle said it is important that the Board gives a clear indication that they do not have plans to withdraw from the MPO. Also, the Board is interested in presenting some options for alternate funding formulas. These may not be the only options that subcommittees of the MPO may consider.

Mr. Killian suggested amending Option 1 as follows: If they allocate the current amount provided for Centre County, and then allocate the \$193,000 (the total amount paid by other municipalities) based upon population, that makes more sense to him, since what they are doing is counting the population twice. He asked if they are truly using the population to calculate the funding formula for municipalities.

Mr. Pytel will suggest at the next MPO meeting that they create a subcommittee, and he would like to be part of that subcommittee.

5. 2011 FIRE HYDRANT AND STREET LIGHT EXONERATION REQUEST

Mr. Kunkle provided a brief overview of the exoneration request.

Mr. Killian made a motion to approve the Fire Hydrant and Streetlight Exonerations for tax parcels 24-004-21N, 24-002A-006, 24-002A-059, 24-002A-60, 24-002A-61, 24-004-051, and 24-004-51C as set forth in the Tax Administrator memorandums dated February 18, 2011. Mr. Heinsohn seconded the motion. The motion passed unanimously.

6. RITA'S ITALIAN ICE LAND DEVELOPMENT PLAN UPDATE

Ms. Lang discussed the Rita's Italian Ice Land Development Plan. The Board recently granted a 30-day time extension, and Ms. Lang asked if they would grant two additional days, which would be a 32-day total time extension.

Mr. Keough made a motion to follow staff's recommendation to grant an additional two days, making the time extension 32 days in total, for the Rita's Italian Ice Land Development Plan. Mr. Miller seconded the motion. With Mr. Killian and Mr. Pytel voting no, and all other Board members voting yes, the motion passed.

VII. REPORTS

- **Manager**

Mr. Kunkle has completed work on revisions to the Habitat for Humanity for Centre County Community Development Block Grant. After multiple meetings with Centre County Planning staff, UAJA, State College Borough Water Authority and property owners, the revised grant application was submitted on March 7, 2011. The next step is for the County Planning staff to review the application and make a recommendation to the County Commissioners.

Invoicing for the Westfield storm water detention basin was sent in early January. Of the 40 property owners invoiced, 32 have made a payment in full. The remaining eight property owners will have municipal liens filed.

Preparations are underway to coordinate the Ferguson Township Open House, which has been scheduled for May 12, 2011 from 4:00 to 7:00 pm.

Mr. Kunkle provided a draft amendment to the Park Rules and Regulations regarding the open carry of firearms on public property. He quoted the current regulations as stated in the ordinance. This has been determined to be a violation of state law. Discussions have not yet been held formally with other local municipalities. Essentially the revision would not address the firearms issue, except to say that no person shall discharge any firearm within a park or playground. The Board held a brief discussion on considering a regulation on tethered model aircraft, as well as tethered control versus string control. They also discussed air rifles and air pistols as compared to firearms. Mr. Keough said they should give Mr. Kunkle the go-ahead to propose this amendment along with options from other local municipalities. They should work toward a consensus within the Centre Region.

- **Public Works Director**

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

- **Director of Planning and Zoning**

Ms. Lang said at their regularly scheduled meeting on February 28, 2011, the Planning Commission discussed the following items in addition to items discussed at tonight's March 7th meeting:

CONTINUED REVIEW OF THE PARTIAL DRAFT OF THE UPDATE TO THE CENTRE REGION COMPREHENSIVE PLAN: Ms. Lang reviewed chapters of the partial draft with the Planning Commission. Discussion centered on the purpose of establishing a growth boundary and the property methods for sizing the growth area and locating the boundary in accordance with the stated purposes. This information was then utilized to evaluate the information provided in Chapter 2 of the partial draft. This chapter, which provides a socioeconomic profile of the Region, appears to make some faulty assumptions that may in part be based on the data contained in a document identified as the 2010 Centre Region Growth Management Report. Concerns with the numbers in this report were voiced by the Township at a meeting held in August 2010 and again in a lengthy review of the report that was provided following that meeting.

- **COG Committee Reports**

Public Services & Environmental – Mr. Heinsohn said there is a concern for sustainability. Metrics need to be defined. There was also a brief discussion of the laterals in the Township.

Public Safety – Mr. Keough said at their next meeting they will discuss House Bill 377, to remove the requirement to install sprinkler systems from the Building Code. The Committee is being asked to re-endorse the previous actions of the COG to have sprinkler systems be part of the Building Code. Mr. Heinsohn endorses the retention of sprinkler systems. The costs involved are smaller than originally anticipated. Mr. Killian and Mr. Miller support sprinkler systems as well. Mr. Pytel opposes the requirement for sprinkler systems. Mr. Keough recently attended a workshop. He is more in favor of sprinkler systems now than he has been in the past. Additionally, they will discuss Centre Life Link. They will continue to investigate the need to determine a primary provider for each municipality in terms of emergency management services. The Committee has mixed feelings.

Transportation – Mr. Pytel said they discussed the Centre Region Comprehensive Plan Update. He noted a few specific items in the updated plan. They also discussed a study on universal transit.

I. MINUTES

1. February 7, 2011 BOS Regular Meeting Minutes

Mr. Modricker noted that on Page 63 under Whitehall Road Widening the sentence "he described the pros and cons of doing this repair" should be changed to "he described the pros and cons of the storm water pipe alignment."

Mr. Killian made a motion to approve the February 7, 2011 BOS Regular Meeting minutes. Mr. Heinsohn seconded the motion. The motion passed unanimously.

2. February 22, 2011 BOS Regular Meeting Minutes

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Mr. Killian made a motion to approve the February 22, 2011 BOS Regular Meeting minutes as amended. Mr. Heinsohn seconded the motion. The motion passed unanimously.

II. ADJOURNMENT

Mr. Heinsohn made a motion to adjourn the March 7, 2011 Board of Supervisors meeting.

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the March 7, 2011 Regular Meeting at 9:44 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 03/21/2011