

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

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

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, November 7, 2011 at the Ferguson Township Municipal Building. In attendance were:

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

Staff: Mark Kunkle, Township Manger
Trisha Lang, Director of Planning & Zoning
Dave Modricker, Director of Public Works

Others in attendance included: Maggie Nicholson, Recording Secretary; Bill Syrott; Ronald J. Woodhead, CRPR; Dan Tomaso; Tyler Roys; Eric Casanave, PennTerra Engineering; Thomas Brown; Rod Stahl; Justin Roberts; and Jim Steff.

II. CALL TO ORDER

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

III. PUBLIC HEARINGS – RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING THE TOWNSHIP TO ENTER INTO A REIMBURSEMENT AGREEMENT WITH WEST PENN POWER COMPANY TO PERFORM UTILITY RELOCATION WORK AS PART OF THE WEST WHITEHALL ROAD IMPROVEMENT PROJECT

Mr. Kunkle said the reimbursement agreement sets forth the parties understanding with regard to the relocation of West Penn Power utility facilities, along West Whitehall Road for a distance of approximately 3.8 miles. The work involved will include relocating West Penn power poles at an estimated cost of \$425,000. The Township's Public Works Director has been actively acquiring the necessary right-of-way for the project which includes replacement right-of-way for these utility facilities.

Mr. Heinsohn made a motion to adopt resolution 2011-21 authorizing the Township to enter into a reimbursement agreement with West Penn Power Company to perform utility relocation work as part of the West Whitehall Road Improvement Project. Mr. Keough 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 A RESOLUTION ON A RESOLUTION APROOVING A SEWAGE FACILITIES PLANNING MODULE FOR THE GALLOWAY LAND DEVELOPMENT PLAN

Mr. Kunkle said the planning module for the Galloway Land Development Plan has been reviewed by the Staff and Planning Commission and is recommended for approval. This planning module allows for an additional on-lot disposal system for the riding and stabling building.

Mr. Miller made a motion to adopt resolution 2011-22 approving the Sewage Facilities Planning Module for the Galloway Land Development Plan. 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 A RESOLUTION ESTABLISHING TEMPORARY TRAFFIC REGULATIONS FOR OLD GATESBURG ROAD FROM SCIENCE PARK ROAD TO BLUE COURSE DRIVE

Mr. Kunkle said this new section of roadway is planned to be opened on Friday, November 11, 2011. The earliest the Board could consider an ordinance establishing the traffic regulations is Monday, November 21. The adoption of this resolution enables the enforcement of the traffic regulations temporarily posted for this section of roadway.

Mr. Miller made a motion to adopt the resolution 2011-23 establishing temporary traffic regulations on Old Gatesburg Road between Science Park Road and Blue Course Drive. Mr. Heinsohn seconded the motion. With Mr. Heinsohn, Mr. Keough, Mr. Killian, Mr. Miller and Mr. Pytel all voting yes, the motion passed unanimously.

IV. COMMUNICATIONS TO THE BOARD

Mr. Heinsohn has received phone calls about some dissatisfaction with the new homes to be built adjacent to the Turnberry TTD. Mr. Keough said he has received phone calls about the referendum on the upcoming ballot in Ferguson Township. Mr. Keough also had a call from a resident asking about the minimum number of voters needed to vote for a referendum to make its passing valid and was informed it takes a simple majority to pass the referendum. Mr. Pytel received calls about signs being put up and if they are accurate and replied that people are allowed to put up signs without regard to what they say as long as it's not illegal or derogatory.

V. ACTION ITEMS

1. CONDITIONAL USE DECISION FOR THE PENNSYLVANIA STATE UNIVERSITY PROPERTY LOCATED AT 1445 WEST COLLEGE AVENUE

On October 3rd, the Board of Supervisors closed the conditional use hearing for property owned by Penn State at 1445 West College Avenue, the former Kissell Motor Sports building. The draft conditions were provided to the Township Solicitor to prepare a conditional use decision for

consideration by the Board and the University prior to the 45 day deadline for rendering a decision, which is November 17. On October 24th, the Township received a draft conditional use agreement from the University. This draft agreement was provided to the Township Solicitor and modifications to the agreement have been completed by the Township Solicitor.

Mr. Kunkle pointed out several of the revisions. The retail space is revised to be 7800 square feet and 8500 square feet for the golf course maintenance area. In paragraph 1, language for permitted principal use other than retail would be allowed. This is a 10 year agreement allowing the retail portion of the building to be occupied for at least 5 of the 10 years. There is a slight change of language, stating if Penn State deviates from the allowed conditional use at any time, the conditional use agreement will terminate. Paragraph 2 requires Penn State to construct the 12 foot wide sidewalk and install landscaping within 90 days of the Township providing the landscaping details. Parking includes 46 spaces on site with 30 of those located in the side yard area where Penn State will be required to install landscaping equal to 5% of the total area. Construction of the additional 7000 square foot building addition that will bring the building into compliance with the terraced streetscape design requirements will be done no later than Dec. 31, 2021.

Mr. Heinsohn said time and effort spent deliberating the Terraced Streetscape area was very time consuming and arduous, and yet the Supervisors are required to hear requests for conditional use. Now transporting an unpermitted use to conditional use has the appearance of favoritism and should not be approved. Mr. Killian said he believes the University is an integral part of the community and has agreed to meet many conditions as requested and therefore we should grant the conditional request. Mr. Miller said the building was purchased with the requested use in mind and the ordinance was passed after purchase, so this conditional use is a good compromise.

Mr. Keough said property owners have two directions for a compromise, conditional use or variance and Penn State chose to request a conditional use, which gives the Township more control. Mr. Pytel said he agrees that Penn State has been willing to compromise to meet many of the Streetscape requirements while working with the Ferguson staff.

Mr. Killian made a motion to approve the conditional use agreement between the Township and the Pennsylvania State University for property at 1445 West College Avenue. Mr. Miller seconded the motion. The motion passed 4 to 1 with Mr. Heinsohn dissenting.

2. 2012 COG BUDGET REVIEW

On October 24th, the COG General Forum referred for review and comment to the municipalities, the 2012 COG Budget, a hard copy of the summary budget was available at the General Forum meeting. Ferguson Townships' share of all COG Programs increased from \$1,419,220 in 2011 to \$1,511,405 in 2012, which represents an increase of \$92,183 or 6.4%. The Township's share of the COG Budget based upon the COG Formula has increased from 24.53% in 2006 to 26.63% in 2012, which is an increase of 2.1%. The most significant increase between the 2011 and 2012 COG budget occurred in the Parks and Recreation and Capital Regional Parks expenditures.

Mr. Keough suggested they go through the index topics and bring up any discussion points. Mr. Pytel agreed and started reading through the budget items.

Mr. Keough said the review of the Code portion of the COG Budget is a good time to mention the purchase of a software package for codes use. Tyler Technologies and Citizen Serve are the two packages being considered. The software issue will be resolved in the next month or so and Mr. Keough will continue to be involved through the Code committee.

Mr. Killian said the Ferguson Township Regional Library contribution is being folded into the Library's overall budget, even though it is not part of the COG Library budget. Mr. Kunkle said you have to be careful about how the Library's support is shown or not shown in the COG budget as it could affect the Library's contribution to be received from the state. Mr. Miller said the COG formula will continue to drive the contribution and we don't want to jeopardize the Library's income by not showing our share in the COG budget.

Mr. Pytel had a concern about the MPO and doesn't like the formula being used for a county function. It is not a fair and equitable agreement for distributing the costs. Mr. Kunkle said the committee for MPO has tabled the discussion for this year, but plan to work on it next year to come up with a better more equitable formula.

Mr. Keough said under the Parks revenue column, other revenue, there is a jump 2011 to 2012 for concession and vending at the parks. Mr. Woodhead, CRPR representative, said the increase is driven by the importance of and need for vending services at Hess Field facility. The increase in the revenues will offset some of the expenses at this site.

Mr. Woodhead said some of the annual contribution to capital gets set aside for future purchases and needs for the aquatic centers while another part is used to pay the loans. Mr. Miller asked about using capital loan repayments versus setting up a capital improvement fund to offset future costs. Mr. Woodhead said that could be done if the municipalities agree.

Mr. Keough asked about the Oak Hall house rental. Mr. Woodhead said it was purchased as part of the park land and the income from renting the house goes into the budget. There is also a rental house at Millbrook Marsh which generates income and provides some security.

Mr. Keough said the supervisors are studying a 103 page budget to discuss and pass on comments to the COG Board. Each category has already been reviewed and prepared in committee and has been discussed in great detail. Tonight was a final review of the proposed budget before presenting final comments to the COG Executive Director. Mr. Pytel said the amount of money the COG is asking for, if this Board does not approve of certain things could do some things on our own in Ferguson Township.

3. REQUEST TO SUPPORT WEST CAMPUS WEATHER SERVICE VIA CNET – DAN TOMASO

Mr. Kunkle said he has had email correspondence received from the Penn State Campus Weather Service and its president Daniel J. Tomaso. The communication is a request to the Township to provide either equivalent CNET viewing time or contribution of \$600 to allow the

continued airing of two broadcasts by the Penn State Campus Weather Service. Board members should determine whether or not an indirect contribution of CNET time or a direct contribution of \$600 to the Campus Weather Service should be provided by the Township.

Dan Tomaso, President of Campus Weather Service and Tyler Roys, Vice President represented the Campus Weather Service. Mr. Tomaso said they provide daily weather forecast on CNET except during Thanksgiving and Christmas break and it is a very professional service. They are requesting funding support from all the townships and have received funding from Harris, Patton and Halfmoon townships so far.

Mr. Heinsohn said the Campus Weather Service is first rate. He does not understand the quota of time in the CNET use by the townships. Mr. Miller said the total share of the CNET use is determined by usage and then assigned in the future. Mr. Tomaso said they are trying to get all the municipalities involved in donating time. Penn State will provide for 50% of the program funding and the other 50% is now agreed to be carried by Harris and Patton, but they would like to have all the municipalities share in the cost. Ferguson Townships' share would be to provide 2 of the time slots. Mr. Heinsohn said he will discuss this at the next CNET committee meeting. Mr. Keough said he wants to give Campus Weather Service the time commitment on CNET. The Board members agreed to support the program, but will have to discuss exactly how to do that at another meeting.

4. CONTRIBUTION REQUEST, FIRST NIGHT STATE COLLEGE

Mr. Kunkle said he has received a request to provide support to First Night State College; the Board has approved a contribution of \$500 in 2010. The contribution went towards sponsoring an ice sculpture, indicating that it was sponsored by the Township. The Board will need to determine whether or not to continue a contribution for 2011.

Mr. Miller made a motion to provide support for First Night State College in the amount of \$500. Mr. Heinsohn seconded the motion. The motion passed unanimously.

5. AWARD OF STREET TREE TRIMMING CONTRACT, 2011 – C14

Mr. Modricker, the Director of Public Works outlined the bids received to complete street tree trimming under contract 2011 – C14.

Mr. Killian made a motion to approve the Contract 2011-C14 to Dincher and Dincher in the amount of \$19,230. Mr. Keough seconded the motion. The motion passed unanimously.

6. DRAFT 2012 FEE SCHEDULE

Mr. Kunkle said the Board has received a draft of the 2012 Township Fee Schedule. Annually, the Staff reviews the current Fee Schedule and recommends modifications based upon cost increases for the services rendered. One item in particular, which the Board should discuss, is the implementation of a rental unit fee that would be charged in addition to the Centre Region Code Administration Rental Inspection. This per unit fee would cover the cost of health inspection and zoning inspections for such items as mold vector and asbestos complaints. Currently, the costs

are incurred for the Health Officers time in resolving these types of rental unit complaints and are not covered under any other fees collected by the Township.

A recommended \$2.00 per unit fee would produce approximately \$5,400 in new revenue to cover the cost of Health Officer Charges to the Township. For renters, it's less than \$20 cents per month added to their monthly rental payment and would be paid for the rental unit's owner.

There was some discussion for and against this additional \$2 fee. This fee schedule will come up before the Board sometime in December for final approval. Mr. Keough requested that there be two resolutions one dealing with the fees excluding the increase in rental permit fee and a separate one dealing with the rental permit fee.

7. FOZARD ENTERPRISES BUFFER YARD VARIANCE REQUEST, 1363 NORTH ATHERTON STREET

Mr. Kunkle said the Board has received a copy of a variance request filed by Fozard Enterprises, LLC for property at 1363 North Atherton Street. The property is located in the Office Commercial Zoning District and is currently being used as a single family residential dwelling. Proposed use is for an optometry office and the requested variance is to allow the property to be developed without installing the required landscaping in the buffer yard.

Mr. Killian made a motion to remain on the variance request. Mr. Heinsohn seconded the motion. The motion passed unanimously.

8. CONSENT AGENDA

A. Pay Authorization

1. Alpha Space Control Co., Inc. – \$801.91
2. Asphalt Paving Systems, Inc. – \$12,034.03
3. New Enterprise Stone & Lime Co., Inc. – \$10,736.06

B. Pay Estimate

1. Old Gatesburg Road Extension – \$309,531.07

C. Surety Reduction

1. The Landings – Bristol Avenue – \$331,937.00

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

VII. REPORTS

1. Manager-Mark Kunkle

1. Upcoming Agenda Items – November 21st
 - a. Readopt Earned Income and Net Profits Tax Ordinance
 - b. Turnberry TTD Master Plan Presentation

2. The Township received a favorable decision by the Commonwealth Court in the matter of Atherton Development v. Ferguson Township.
3. The Township will host an Opening Ceremony on Friday, November 11, 2011 at 11:00 a.m. for the completion of the Old Gatesburg Road Extension project.
4. The 2011 Township budget provided for initiation of an exchange server to host shared calendar and email distribution lists. After evaluating each option staff has determined that the most cost effective method to provide this service is through a Memorandum of Understanding with State College Borough providing for this service for a five year period at a fixed cost.
5. Budget Work sessions have been set for November 15th and November 18th both beginning at 8 a.m. at the Township Building. A Proposed 2012 Township Budget has been provided to the Board members on Friday, November 4th.

2. Public Works-David Modricker

1. A grand opening celebration for the Old Gatesburg Road extension is scheduled for 11/11/11 at 11:11.
2. Tudek Dog Park has had added an ADA accessible concrete walkway from the parking lot of the Tudek barn and farm house to the dog park, installation of fence for a new dog park, installation of a water fountain, a concrete pad, repair and re-grading at the existing dog park.
3. Street Tree Installations contract was awarded to Landscape II and includes the installation of flowering trees at new planting locations along Martin Street. Trees will be planted in November 2011 and in April 2012.
4. Another Street Tree Installations contract was awarded to Lawnscape Ltd. And includes the installation of street trees at new planting locations along Westerly Parkway. Trees will be planted in November 2011 and April 2012.
5. An anonymous letter from a Piney Ridge resident concerning sightline and posted speed limit when pulling out of Wyandotte Lane onto Plainfield Road. After investigating, Mr. Modricker recommends the Township Engineer complete an engineering study and makes a recommendation.

3. Planning and Zoning- Trisha Lang

Ms. Lang said the regularly scheduled Planning Commission meeting was held on Monday, October 24, 2011.

1. TURNBERRY TTD – GENERAL MASTER PLAN

The developer returned with a revised plan but without action from the Zoning Hearing Board on the proposed floodplain crossings. The Zoning Hearing Board will meet to consider this request on November 15th. Based on their detailed discussion of the Master Plan, the Commission anticipates being prepared to make a recommendation to the Board at their next meeting on November 14, 2011.

2. DISCUSSION OF UAJA TREATMENT AND DISCHARGE CAPACITY

At the October meeting of the COG public services and environmental committee, Eric Vorwald made a presentation on the present limitations associated with wastewater treatment and capacity at the existing UAJA facility. The presentation clearly distinguished between the issues of treatment capacity and discharge capacity as well as highlighting how capacity limitations will impact growth in the Region.

3. RR/RA ZONING DISCUSSION

Staff has continued to seek out various resources to provide direction in the continued discussion of the need to amend the existing regulations. This discussion will continue at their next meeting on November 14, 2011.

4. COG Committee Reports

Human Resources-Mr. Heinsohn

Mr. Heinsohn said the committee discussed procedures to follow for disciplining or dismissing employees

Public Services/Environmental-Mr. Heinsohn

Mr. Heinsohn said there was a lengthy discussion of the Atherton Street drainage study and presentation of community sewage disposal solutions pertaining to development plans outside the regional growth boundary.

Mr. Keough asked about looking at natural gas service extensions on a regional basis.

Transportation and Land Use-Mr. Pytel

Mr. Pytel reported there was a discussion of the MPO's and cutting back on costs.

Also discussed the community survey done by COG for regional planning issues. He suggested that the survey results could be compared with the Ferguson community survey results.

Bike paths in the Centre Region were discussed and how to locate and construct paths for work travel, exercise and helping to keep people riding bikes off the road.

Parks Capital – Bill Keough

Oak Hall Park Design will be presented and discussed Wednesday, November 9th. at 7pm at the COG building.

The Visitors Bureau annual meeting will be held 11:30am November 15th at Celebration Hall and an update of the regional parks will be presented.

VI. MINUTES

1. October 17, 2011 BOS Regular Meeting Minutes

Mr. Heinsohn made a motion to approve the October 17, 2011 BOS Regular Meeting Minutes.
Mr. Killian seconded the motion. The motion passed unanimously.

VII. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the November 7, 2011 Regular Meeting at 9:42 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 11-21-2011