

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Tuesday, September 6, 2011  
7:00 pm

### I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Tuesday, September 6, 2011 at the Ferguson Township Municipal Building. In attendance were:

|               |                        |  |
|---------------|------------------------|--|
| <b>Board:</b> | George Pytel, Chairman | <b>Staff:</b> Mark Kunkle, Township Manager  |
|               | Richard Killian        | Trisha Lang, Director of Planning and Zoning |
|               | Robert Heinsohn        | David Modricker, Director of Public Works    |
|               | Bill Keough            |  |
|               | Steve Miller           |  |

Others in attendance included: Maggie Nicholson, Recording Secretary; Todd Giddings; Eric Vorwald; Vince Romanini; Doug Erickson; Joyce Harvey; Dick Harvey; Tom Songer and Walter Schneider.

### II. CALL TO ORDER

Mr. Pytel, Chairman, called the September 6, 2011 Regular Meeting to order at 7:00 pm.

### III. CITIZEN'S INPUT

Todd Giddings, groundwater geologist and 30 year + resident of Ferguson Township said September 13th is protect the groundwater day per the National Groundwater Association. He has drafted a proclamation for Ferguson Township to increase peoples' awareness of groundwater resources and urge them to take action to protect those resources. He said Ferguson Township has been observed to take a leadership role in the Spring Creek watershed groundwater preservation. Mr. Giddings then read the proclamation.

Mr. Heinsohn made a motion to endorse the proclamation making September 13 Protect the Groundwater Day in Ferguson Township. Mr. Miller seconded the motion. The motion passed unanimously.

### IV. PUBLIC HEARINGS – RESOLUTIONS

- 1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING THE ACQUISITION OF 2.99 ACRES OF LAND BY GIFT FROM LANCE W. AND SUSAN R. BRODIE DESCRIBED AS LOT 41 OF THE WESTFIELD SUBDIVISION**

Mr. Kunkle said a sales agreement by Mr. and Mrs. Lance Brodie has been executed and provides for a transfer of the property by gift without consideration to the Township, with a settlement date on or before September 14, 2011. The Township will have an obligation to pay the outstanding real estate taxes, as well as recording of the final deed. The outstanding taxes due amounts to \$1,153.34; in addition, there will be a prorated share of the 2011 County and School District taxes. The Township will have returned to it a portion of that outstanding amount as some of that amount consists of Township

real estate taxes. He recommends that the Board of Supervisors adopt the resolution authorizing the execution of a sales agreement for acquisition of tax parcel 24-744-001 by gift from Lance W. and Susan R. Brodie.

A motion was made by Mr. Keough to adopt the resolution. Mr. Heinsohn seconded the motion. Mr. Kunkle took a roll call vote of Resolution 2011-17. Mr. Heinsohn-YES; Mr. Keough-YES; Mr. Killian-YES-Mr. Miller-YES; Mr. Pytel-YES. The motion passed unanimously.

**V. COMMUNICATIONS TO THE BOARD**

Mr. Heinsohn said he has been asked by residents for more information about the methadone clinic recently opened in Ferguson Township. Mr. Heinsohn asked if the clinic users are residents of the local area or come from elsewhere. Mr. Kunkle said some are local residents and some come from outside the area and there is a cap on the number of patients that can be treated which is established by the PA Department of Health.

Mr. Keough said the Board has received the latest draft of the Ferguson Township Community Survey. Currently the consultant is working with the committee to select a valid statistical sample and to send out notice to those selected for the survey. The surveys will be distributed in September.

Mr. Pytel said he has heard from citizens about the library funding issue and once he explained the Township's point of view they understood. He has also received calls about the Home Rule Charter amendment referendum regarding the minimum age to serve as a Township Supervisor. He has explained that no 18 year old could be elected and the referendum is not being done for any one person, but to give younger people in general a chance to participate. He also received inquiries about the methadone clinic and explained that the Board of Supervisors had no choice about allowing the clinic to be established in the township in that zoning district as it is considered a medical facility.

**VI. ACTION ITEMS**

**1. DRAFT BUILDING CODE AMENDMENT – DR. WALTER SCHNEIDER, DIRECTOR OF CENTRE REGION CODE AGENCY**

A draft ordinance has been written to correct provisions of the Uniform Construction Code. In 2004 when the Commonwealth implemented the Uniform Construction Code of Pennsylvania (UCC) originally enacted in 1999, each of the Centre Region municipalities wishing to locally enforce the code adopted an ordinance that adopted the UCC and made provision for a local appeals board. This ordinance also included any provisions that exceeded the UCC that the local municipality had in place and was enforcing prior to the 1999 enactment of the UCC. In the case of five of the six Centre Region municipalities this was the provisions of the 1995 CABO and 1996 BOCA codes as locally amended and adopted in 1997. In all cases those amendments are more restrictive than those imposed by the UCC, so the Township is able to maintain those. In the case of the Centre Region municipalities, it was discovered after a review of the ordinances that while the code was being enforced properly it was recommended by PA Labor and Industry that the ordinances be revised. This was reviewed with the Deputy Chief Counsel for the Pennsylvania Department of Labor and Industry and a revised ordinance has been provided for adoption. This document maintains what was in place at the time of the 1999

enactment and coincides with what has been done by the CRCA continuously since that time. Dr. Schneider explained this ordinance amendment and the carry over provisions from the former BOCA codes that are being administered by the Code Agency.

Mr. Heinsohn made a motion to authorize advertisement for a public hearing on an ordinance to amend the Uniform Construction Code. Mr. Miller seconded the motion. The motion passed unanimously.

## **2. HOMESTEAD FARMS ROAD ACCEPTANCE PROCEDURE – MR. DOUG ERICKSON, MANAGER OF PATTON TOWNSHIP**

On August 25, 2010, the Township received a request from the Homestead Farms Homeowner's Association requesting the Township to take ownership of a portion of a private street named Crandall Drive. This request was part of a larger request to Patton Township to assume ownership of the remaining private streets in the Homestead Farms subdivision. Patton Township Manager, Doug Erickson has been working closely with representatives from the Homeowner's Association to fashion a solution to accept all of the streets in the development and payment for the improvements necessary to bring those streets up to Township standards.

Mr. Erickson presented to the Ferguson Board of Supervisors a concept, known as a Neighborhood Improvement District. The establishment of a Neighborhood Improvement District allows for the assessment of improvements over a longer period of time. Since a portion of Crandall Drive is in Ferguson Township, the Township would need to also enact a Neighborhood Improvement District and create documents that would assign the assessments received from property owners in the Township to Patton Township for payment of the improvements made to Crandall Drive within Ferguson Township.

Mr. Erickson said his office will prepare the plan and get it out to the residents and a 3-way agreement will be made between Ferguson, Patton and the Homestead Farm Corporation. Thirty days later there will be a public hearing. Following the public hearing the final plan will be submitted and there will be a 45 day period to file written objections. If no more than 40% of the property owners file objections the plan will be accepted. Homeowners in the development will pay an assessment extended over a 12 year time period to finance the needed improvements.

Mr. Heinsohn asked how many properties in the development are in Ferguson Township. Mr. Erickson said 5 properties are in Ferguson Township. Mr. Heinsohn asked if anyone contacted the 5 to see if they are in agreement. Mr. Brian Black, resident of Ferguson Township who lives in the Homestead Farms development, said he has been in personal contact with the homeowners located in the 5 Ferguson Township homes, he being one of those, and 4 of the 5 homeowners are in favor of the plan.

Mr. Miller made a motion to direct staff to prepare the necessary documents for implementation and schedule a public hearing to receive comments on the preliminary plan on October 17. The motion was seconded by Mr. Heinsohn. The motion passed unanimously.

### **3. PRESENTATION ON DEVELOPMENT OF REGIONAL IMPACT – BENJAMIN HEIGHTS – HARRIS TOWNSHIP**

The Development of Regional Impact (DRI) process was established in conjunction with adoption of the Act 537 Plan for the Centre Region in 2006. This process was put in place with the intent of requiring extensive review of request to extend the sanitary Sewer Service Area (SSA) beyond the Regional Growth Boundary (RGB). Bi-annually, the Centre Regional Planning Agency receives applications endorsed by the host municipality to consider DRI applications. The DRI then is reviewed by the Centre Regional Planning Commission and ultimately forwarded to the General Forum for action. A requirement for approval of expansion of the SSA is that all six Centre Region municipalities must unanimously approve expansion of the SSA in accordance with the adopted 537 Plan. On September 26th, the General Forum will receive the Benjamin Heights – Harris Township DRI for consideration and approval. The Township Planning Commission has reviewed this DRI in order to provide background to its representative to the Centre Regional Planning Commission, Mr. Kevin Abbey

Ms. Lang said she thinks this is a legal question that cannot be answered by a DRI. A second issue is whether this property or others that were excluded was faulty decision making and if so, should there be a review of properties left out of the Growth Area Plan itself. Mr. Heinsohn asked Ms. Lang if it is possible to go back and review these properties that may have been left out of the plan. Ms. Lang said yes, it is doable as there are lists and maps that show these properties.

Mr. Miller asked in terms of the comprehensive plan and regional planning is this something CRPA would recommend. Mr. Eric Vorwald from the Centre Regional Planning staff said from the perspective of the Act 537 Plan and Centre Region Comprehensive Plan, this DRI is not acceptable as it would conflict with the intent of the plan. It would not be advisable to add additional property to the growth boundary when we cannot service what is now within the boundary of the service area. Mr. Keough said he has listened to this position and wonders about the vacant land in the growth area and the realistic expectation that it will be used in the short term, maybe some of these parcels within the growth boundary will not be built in any foreseeable future. Ms. Lang said the regional growth boundary was prepared to accommodate growth over the next 40 years and so those properties in the growth area will expect to be able to use the sewer service when they are ready to be developed.

Mr. Romanini developer of the proposed personal care home said he has received information from UAJA that it can handle more sewage until 2069. He said in answer to a question from the board that they could put in on-site septic if they cannot get on to the sewer system, but that would involve many regulations that he does not want to get into and would be cost prohibitive to the project moving forward. Mr. Tom Songer, owner of the Benjamin Heights property spoke to provide further information about his request to expand the Sewer Service Area and Regional Growth Boundary. This property was assessed for sewer service when the line was originally put in and passed through several owners and had previously been approved for sewer service. Mr. Songer bought the land in 2004 and was told at the time that it was approved for sewer service and he asked for it to be included in the Regional Growth Plan adopted in 2006. He was told then it would not be included, but he could go through the DRI process when he was ready to develop it. The price he paid for the land was based on its access to public utilities. He continued to review the history of the property.

Mr. Miller said he favors the request for the DRI. The DRI process has nothing to do with capacity, but is about the fact that any changes in the boundary have to be unanimous by the municipalities. Questioning the validity of the process is not productive to the request, the DRI process was developed to find a way to avoid redrawing the boundary every few years. Mr. Keough said he was not around when the DRI process was developed and he gets many different descriptions of how it is to be used. Mr. Killian said it is to be a process to review a request on the basis of merit. Mr. Heinsohn said he finds Mr. Songer's argument very persuasive and he endorses the use of the land as it is a good use. Mr. Miller said the DRI is the way to make an exception to the 537 Plan and is the way we should go about approving or not. Mr. Pytel said the final decision will be made at the COG meeting and Ferguson township members will give their input then.

#### **4. APPROVE CONTRACT WITH CITIZENSERVE FOR ZONING, PERMITTING AND PLANNING SOFTWARE**

Mr. Kunkle said recently some new information has been received concerning a common software package for all the municipalities and this purchase discussion should be tabled for 30 days to take some time to evaluate the new software being presented.

Mr. Heinsohn made a motion to wait 30 days to discuss the software purchase. Mr. Keough seconded the motion. The motion passed unanimously.

#### **5. CONSENT AGENDA**

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**

Mr. Kunkle discussed upcoming agenda items.

An Eagle Scout candidate, Nikhil Anatha, is working on a project in Homestead Park to enhance an area of the park with benches and landscape pavers.

A September 11th moment of remembrance ceremony is to be held at the Alpha Fire Company Building at 12:45 Sunday, September 11.

The annual Centre County Association of Officials Fall dinner meeting is being held September 29 at 5pm at the J.K. Yearick Center and Howard Fire Company.

On August 26<sup>th</sup> the DEP approved discontinuance of groundwater pump and treating at Murata Erie/Spectrum Control that was being treated for contaminants in the groundwater. The area's groundwater will continue to be monitored.

September 17-21 Mr. Kunkle will be at an ICMA conference in Milwaukee. Dave Modricker will also be out of town, so Trisha Lang will staff the Board of Supervisor's meeting on September 19<sup>th</sup>.

Mr. Kunkle received a request for a letter of support for Stonebridge Phase V to be included in their application for funding. The Township had provided a letter of support in their first application. Mr. Heinsohn said he was impressed with the previous presentation delivered on this plan.

Mr. Heinsohn made a motion to approve a letter of endorsement. Mr. Miller seconded the motion. The motion passed unanimously.

An updated Township Strategic Plan will be posted on the Township web site for citizens to review.

Ferguson Township received a 2010 Conservancy award for water quality management.

## **2. Public Works Director – David Modricker**

Staff is currently acquiring right of way for Whitehall Road widening project.

Old Gatesburg Road extension is under construction. There will be a traffic signal at the intersection of Gatesburg Road and Blue Course Drive. Horseshoe Circle, Chestnut Street, Old Farm Lane and Ridgewood Circle road projects are complete.

## **3. Planning and Zoning Director – Trisha Lang**

At the August 22 meeting most of the discussion centered on the DRI request.

The Commission reviewed pending zoning amendments in 3 areas, corridor overlay in terraced streetscape; federal regulations relating to ADA; and religious land use acts.

Plans now in the review process are the Galloway Land Development Plan, Landings Phase IV, Turnberry TTD Plan, and Young Scholars school and some of these have been granted many extensions. Mr. Pytel asked about the Landings project being extended 6 times. Ms. Lang said they needed additional time to adjust the plans. Mr. Pytel suggested a final deadline be given to the Landings project. Mr. Pytel suggested Galloway should be given a deadline. Ms. Lang said they will be given a deadline of Sept. 16.

## **4. COG Committee Reports**

### **Parks Capital Committee – Bill Keough**

Mr. Keough said the Parks Capital committee will meet on the 8<sup>th</sup> of September and he will be out of town, so someone else could attend in his stead.

### **Public Safety - Bill Keough**

Mr. Keough said a Public Safety committee meeting was held last week and they reviewed the code, fire and emergency management budgets for 2012. Some time was spent discussing the balance remaining in the code budget and that issue will be discussed at a future time and not tied to the current COG budget review. Another meeting is scheduled for September 14<sup>th</sup> and he will be out of town and unable to attend.

**Public Services & Environmental – Mr. Heinsohn**

Mr. Heinsohn said Halfmoon Township has a request in for some kind of alternative wastewater treatment. This will be discussed further at their September 7<sup>th</sup> meeting. There was also discussion to hire a part time person to work on enforcing commercial recycling, which is required by State law.

**VIII. CALENDAR ITEMS – SEPTEMBER**

Mr. Heinsohn reported he will not be in attendance at the next Regular Board of Supervisors meeting.

**IX. MINUTES**

1. August 15, 2011 BOS Regular Meeting Minutes

Mr. Killian made a motion to approve the August 15, 2011 BOS Regular Meeting Minutes as amended. Mr. Heinsohn seconded the motion. The motion passed unanimously.

**X. ADJOURNMENT**

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the September 6, 2011 Regular Meeting at 9:20 pm.

RESPECTFULLY SUBMITTED,

---

Mark Kunkle, Township Manager  
For the Board of Supervisors

Date approved by the Board: 09/19/2011