

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, February 6th, 2012
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, February 6th, 2012 at the Ferguson Township Municipal Building. In attendance were:

Board: George Pytel, Chairman
Richard Mascolo, Vice Chairman
Elliott Killian
Andrew Clemson
William Keough

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

Others in attendance included: Barbara Donnini, Recording Secretary;

II. CALL TO ORDER

Mr. Pytel, Chairman, called the February 6, 2012 regular meeting to order at 7:01 pm.

III. CITIZEN'S INPUT

No citizen input.

IV. PUBLIC HEARINGS – ORDINANCES

V. PUBLIC HEARINGS - RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION AUTHORIZING THE TOWNSHIP TO ENTER INTO A REIMBURSEMENT AGREEMENT WITH VERIZON PENNSYLVANIA, INC. TO PERFORM UTILITY RELOCATION WORK AS PART OF THE WEST WHITEHALL ROAD IMPROVEMENT PROJECT

Mr. Kunkle gave an overview of the project indicating that the project should be up for bid sometime in February. Verizon has provided an estimate to move and upgrade their facilities, of which the Township would be responsible for 58%. The Board is considering whether or not to enter into the resolution and reimbursement agreement for the facilities. Mr. Modricker added that Verizon claims the cost estimation is a "scope," and not something one can put a cost on by looking at.

Mr. Keough wanted to know what cost upgrade is referring to. Mr. Modricker clarified that any betterment costs are borne by Verizon. As an example, copper vs optical fiber line (additional upgrade cost borne by them).

Mr. Mascolo made a motion to approve the resolution authorizing the Township to enter into a reimbursement agreement with Verizon to perform utility relocation work as part of the West Whitehall Road improvement project. Mr. Killian seconded the motion. Roll call vote: Mr. Killian – YES; Mr. Pytel – YES; Mr. Mascolo – YES; Mr. Clemson – YES; Mr. Keough – NO; Resolution 2012-1 passed.

2. A PUBLIC HEARING ON A RESOLUTION ADOPTING A REVISED COMPENSATION PLAN FOR NON-UNIFORM EMPLOYEES RETROACTIVE EFFECTIVE JANUARY 1, 2012

Every year the Board updates the salary schedule for non-uniform employees for each grade level by the amount of the cost of living approved by the Board in the budget. For 2012, there is a 2.8% cost of living increase.

Mr. Keough made a motion to approve the resolution adopting a revised compensation plan for non-uniform employees. Mr. Clemson seconded the motion.

Roll call vote: Mr. Killian – YES; Mr. Pytel – YES; Mr. Mascolo – YES; Mr. Clemson – YES; Mr. Keough – YES; Resolution 2012-2 passed unanimously.

VI. COMMUNICATIONS TO THE BOARD

Mr. Keough received calls from individuals inquiring about Whitehall Road Project. He also received calls about the requirement for 4,000 gallon fire suppression tanks for certain properties outside the public water supply system.

Mr. Pytel received questions about Whitehall Road, but the people requesting information were ultimately satisfied with the project. He also received a complaint that the Board was not giving money to the library. He stated that Ferguson Township is giving to library, they just not a member of the COG library fund.

Mr. Pytel also mentioned that Mr. Kunkle received a letter from someone at Park Hills about the Board cutting the trees to put in playground equipment. Mr. Kunkle answered their letter explaining that the equipment was old, outdated and did not meet safety standards.

Mr. Killian stated that he thought the intent of the woman was to get bushes replanted where the old ones were taken away and asked about planting bushes where old equipment used to be.

Mr. Kunkle said this would reduce visibility into the park and also ADA requirements. Mr. Pytel said people can hide in shrubs and that having the playground open, particularly to the road, is important.

VII. ACTION ITEMS

1. 2011 Fourth Quarter Financial Report

Mr. Endresen presented a Powerpoint on the fourth quarter financials. He first explained that, when looking at the revenue figures, if there is a negative number it means that category surpassed budget. If positive, it's under budget. Mr. Endresen explained that the method used is not accrual accounting, and that the numbers are unaudited. The first slide was year-end results broken into groupings.

Taxes exceeded budget, and all subcategories were over budget except the real estate transfer tax which was under budget. Expenditures were within budget at the fund level, and no budget adjustments were necessary. Capital projects were under budget.

Mr. Endresen provided a chart that depicts the difference between the years 2010 and 2011 and there is a significant difference in the general fund net revenue. He predicts the general fund balance will drop off. Taxes revenues in the years 2010 and 2011 were similar.

Mr. Keough wanted to know if it was possible to compare prior years as well to identify trends and Mr. Endresen said he would include this in a future report.

2. Harner Final Subdivision Plan

Ms. Lang explained that there are four modifications that the Board of Supervisors must consider. The Planning Commission was opposed to granting the modification to not connect to the public water. Ms. Lang referred to the plan and explained that the private water well is not at or beyond the required isolation distance away from the on-lot sewage system.

Ms. Lang noted an existing fire hydrant is located 1200-1500 feet from easternmost portion of the lot. Mr. Mascolo questioned the purpose of the existing water tank on site. Mr. Harner clarified that the 500 gallon water tank on their property is not used for water, but for spraying operations.

Mr. Harner explained that there are many fire hydrants within several thousand feet from their home. He stated that he believes there are an adequate number of fire hydrants. Mr. Kunkle clarified that there are no fire hydrants along this portion of Whitehall Road because most of the homes are not hooked up to the public water system so there is no way to pay for a fire hydrant. Mr. Mascolo clarified that hooking up to the water system still does not make this property meet the fire suppression requirements. Mr. Harner explained the various costs associated with hooking up to the public water and estimated this will cost him over \$8,000.

Mr. Pytel wanted to know if just putting in a fire hydrant would be a cheaper solution. Ms. Lang clarified that the water well that provides potable water to the property is the main concern of the Planning Commission.

Mr. Harner said the well is tested annually and always come back with safe results. He also said that this well is not serving his or Tom's house for water, but that a second well, not depicted in the plan and is located at the intersection of Whitehall Road and West College Avenue is their main source of water.

Mr. Harner noted that there exists an agreement that requires the greenhouse to be deconstructed if the house is sold to anyone other than a member of the Harner family and this information is not mentioned in the paperwork provided to the Board.

Mr. Keough expressed concern about the 4,000 gallon fire suppression water tank requirement because he does not believe that there is a location where the tank could be placed on the property Ms. Lang said that this lot does not meet nearly any of the water or sewage

requirements, so it is difficult to answer the question as to where to put the tank. Mr. Keough said he would be comfortable waiving the public water requirement if they were to install a hydrant.

Mr. Killian stated that he thinks hooking up to the public water system is important.

Mr. Mascolo stated that his opinion is to hook up to the public water and install a fire hydrant.

Mr. Mascolo made a motion to approve the final subdivision plan with the addition of requiring connection to public water for the property and also putting a fire hydrant within 1,000 feet of the property.

Mr. Harner requested to put a hydrant halfway between the intersection and the other hydrant and the board felt this was a good suggestion.

Ms. Lang explained that sale of the house and driveway access are other concerns for this request.

Mr. Clemson seconded the motion. It passed unanimously.

3. Lots and Parcels Created without Subdivision Approval

The Board engaged in a lengthy discussion about residents who have recorded deeds which created parcels in the past without going through the proper subdivision process with the Township. Some of these property owners are now approaching the Township looking for assistance because they need to sell their property, or perform some other action and are being hindered because of their noncompliance with the subdivision procedure. Staff asked the Board how they should approach these types of situations.

Mr. Keough asked about the location of the properties, and Ms. Lang clarified that most of these properties are in the RR or RA zoning districts, but some exist within the Regional Growth Boundary. The Uniform Parcel Identifier (UPI) system was adopted in 1992 by the County, and has required that parcel created since that date to obtain a UPI prior to recording a deed. Mr. Keough explained that he knows of such instances, because the residents were pressured by the railroad company as far back as the 1940s to buy the former railroad right-of-way which was conveyed by deed. He also brought up the issue of Tadpole Road and how deeds did not reflect the relocation of roads. He suggested the Board engage in a work session, possibly with the Planning Commission, to brainstorm how to resolve these issues without being punitive.

Mr. Mascolo suggested that the Board grandfather any deeds created prior to 1992. Ms. Lang and Mr. Kunkle clarified that it wouldn't be grandfathering because the township's subdivision ordinance has been in effect since 1961.

Mr. Harner agrees with Mr. Mascolo and Mr. Keough that there has to be some kind of grandfathering because not everyone can spend upwards of \$16,000 to comply with current subdivision requirements.

Mr. Killian suggested that the Board look at the properties on a case by case basis, and that if the Board notices a pattern, then a work session may be appropriate. Mr. Clemson agreed with Mr. Killian, but Mr. Keough still felt that a separate meeting was necessary. Mr. Harner agreed with Mr. Keough about sitting in a work session and talking through the situation.

Although there was no vote, the Board was opposed 4 to 1 to Mr. Keough's suggestion to a joint worksession with the Planning Commission.

In summary, parcels created without proper subdivision that have non-conformities with the subdivision and zoning ordinance will be required to obtain variances or modifications as necessary on a case by case basis.

4. Route 26 Pine Grove Mountain Phase Two Lower Truck Escape Ramp Project

Chestnut Street East is the identified location for the second lower truck runaway ramp. Part of the process is an environmental study and to complete preliminary design of the runaway ramp. About \$200,000 was allocated in federal fiscal year 2010-11, and another \$75,000 allocated in 2011-12. Currently, PennDOT has engaged in a contract with Skelly & Lloyd for the environmental portion of the evaluation and the contract is for \$102,000, so roughly \$98,000 in 2010-2011 federal funding and \$75,000 in 2011-2012 federal funding would be used to complete preliminary design process. Township requested the Centre County MPO to reallocate the remaining funds to study the alignment of the intersection of Pine Grove Rd/Nixon Rd and Water Street. The \$200,000 from years 2010/11 has already been allocated and these funds cannot be move into another fiscal year. The recommendation, based on a meeting with CCMPO staff and PENNDOT staff is to complete the environmental and design study for truck runaway ramp so there is a deliverable, and then obtain public input on the design and other options to the runaway ramp. At this point in time though there is no complete deliverable. Mr. Modricker urged the Board to complete the project underway, even though if money could be moved, there is no guarantee there are other additional funds to complete an intersection study.

Mr. Keough said there are no construction funds for the project as of now. Mr. Pytel said there could be funds coming in. If the money shows up PennDOT will complete the project. He felt the important part was to get people behind the intersection project during a community meeting. If enough people express interest in the intersection study, the project can be considered for advancement in the Transportation Improvement Plan (TIP).

Mr. Keough was in contact with the homeowner whose house is directly affected by this project, and would have to be removed, and said the homeowner wants to know what is going to happen because this will affect the sale of his home.

Mr. Killian wanted to know if we can get public feedback before design is completed. Mr. Kunkle responded that they need the ramp design to be able to adequately address questions from the public.

Mr. Mascolo made a motion to notify the CCMPO that the Township withdraws its request to shift funds to study the intersection of Pine Grove Road/Nixon Road/Water Street and encourage the completion of the lower truck runaway truck ramp project. Mr. Clemson seconded the motion. It passed unanimously.

5. Sidewalk/Bikeway Snow Removal

Mr. Kunkle said there have been requests from the Pine Hall Development Company to exempt a section of the sidewalks along Old Gatesburg Road extension between Science Park Road and Blue Course Drive of snow requirement for remainder of this winter. Johnson Farm Associates requested a one year waiver for terms and conditions of the approval of the PRD that requires bikeways along new portion of Bristol Avenue be maintained during winter. The Township does not maintain the other legs of bikeway, so Mr. Kunkle feels this is a logical request.

Mr. Keough made a motion to approve the bikeway/sidewalk snow removal requests. Mr. Mascolo seconded the motion. It passed unanimously.

6. Contract 2012-C1A Whitehall Road Tree Removal

On Jan 31, the Township opened bids for this contract, and received 4 responses. The tree removal along West Whitehall Road needs to be started in advance of utility work, but funding would come out of same fund as for Whitehall Road construction. Mr. Modricker recommended Dincher & Dincher, at a price of \$20,990, because they have completed quality work for the Township in the past.

Mr. Keough made a motion to approve a contract with Dincher and Dincher at a bid price of \$20,990 Mr. Mascolo seconded the motion. Mr. Clemson was not in the room for the vote. All others were in favor and the motion passed.

7. Gates Farm PennVest Application

The applicant is requesting funding to implement best management practices in a concentrated animal area used during non-grazing periods of season, particularly addressing manure runoff which is a concern of the Chesapeake Bay Strategy. They claim this would be an improvement to an adjacent stream.

Mr. Keough wanted to know if the proposed improvements are in compliance with Township regulations, and Ms. Lang confirmed that it is.

Mr. Keough made motion to support the request. Mr. Killian seconded the motion. It passed unanimously.

8. Appointment to Centre Region Building and Housing Board of Appeals

Mr. Kunkle explained that these were recommended by the COG General Forum for approval.

Mr. Clemson made the motion that the Board approve the General Forum's recommendations for 3 years terms. Mr. Killian seconded the motion. It passed unanimously.

**9. Variance – EN DI LU (Agent for Centre Realty Trust) Northland Center
285-293 North Atherton Street**

The applicant is requesting a variance to expand restaurant area within the Northland Shopping Center. The requirements for the number of seats they anticipate having in restaurant exceeds number of parking spaces allocated to retail spaces. They are required to have 76 parking spaces, but there are 60 parking spaces currently allocated, so they are seeking a variance for 16 spaces. In prior action, the Zoning Hearing Board has already granted reduction of parking spaces in Northland Center by a total of 60 spaces for Giant, and Giant is also anticipating construction of a restaurant area in front of store that would require additional parking space variances.

Ms. Lang said they prefer to see tenant spaces filled with office, retail, or commercial use. However, parking is becoming an issue.

Ms. Lang says that the Township suggested Giant complete a study, which they did, and their results showed that even on what they conclude to be their busiest weekends, the parking lot isn't full.

Mr. Mascolo made a motion to remain neutral. Mr. Killian seconded the motion. It passed unanimously.

10. Appointment to West College Avenue Streetscape Steering Committee

Mr. Kunkle wrote a letter on January 20 to over 30 non-university property owners in the West College Avenue area and only one responded and was interested. Mr. Kunkle advised that the board appoint this person, Robert Veronesi, to the Steering Committee.

Mr. Keough volunteered to be the Board member on the committee.

Mr. Mascolo made the motion to appoint Robert Veronesi and Bill Keough to the Steering Committee. Mr. Killian seconded the motion. It passed unanimously.

11. Consent Agenda

Mr. Killian made a motion to approve the Consent Agenda. Mr. Mascolo seconded the motion. It passed unanimously.

VII. REPORTS

1. Manager

- Mr. Kunkle indicated that he released requests for proposals for the West College Avenue Streetscape design plan, and that responses are due back Feb 21.
- The Township has received audits for police and non-uniform plans for Jan 1, 2008 – Dec 31, 2010. An audit of the non-uniform pension plan did note a late filing finding, which resulted in a loss of \$6,120 in state aid. This oversight has been corrected.
- The Township has been notified that an application for County Liquid Fuel Funding was not approved. The staff will apply again this year for funds towards the West Whitehall Road project.
- CATA has sent a letter requesting comments on continuing a pilot project for the exterior bus advertising program. Comments are due March 1st. They have in the past year executed exterior advertising contracts for over \$40,000, which is about \$10,000 more than they anticipated. Mr. Killian expressed concern about policy for accepting ads, and Mr. Kunkle explained that CATA does have an established policy regarding which ads they will accept. The Board supported CATA continuing the exterior bus advertising program.

2. Director of Public Works

Mr. Modricker said that the award date for the West Whitehall Road project is scheduled for March 19th. Pre-bid meeting is on March 6, and opening bids is on March 13. Construction on this section of roadway will start in April and will continue through Oct 2013, which is two construction seasons. The staff is working together to finalize acceptable road standards for the TTD, and engineering studies are underway. Board and property owners will be notified of 2012 open houses regarding capital projects.

3. Director of Planning and Zoning

Ms. Lang asked the Board to review the memo about the Planning Commission meeting. The Board had no questions about these items.

4. COG Committee Reports

Human Services/Resources- The next meeting is scheduled for tomorrow.

Park Capital Meeting- Mr. Mascolo announced this meeting will be held this Thursday.

MPO and Transportation- Mr. Pytel said that last year, the MPO brought in a new member at no cost, and that Ferguson Township is currently paying more than any other municipality. The MPO has created a subcommittee that is currently studying option for a fair and equitable way of paying for the MPO. The committee did not want to do anything until the end of this year. Mr. Pytel said he is now on the committee. He reported that he has stated to the MPO Coordinating Committee that unless an equitable way can be established for paying for the MPO, Ferguson Township would like to continue to have a vote but not have to contribute similar to other non-paying MPO representatives.

Mr. Kunkle suggested that the Board review a copy of the MPO bylaws before making a decision.

Mr. Keough expressed concern about whether it is in the best interest of Ferguson Township to respond the way Mr. Pytel suggests.

Mr. Killian suggested that Ferguson Township come up with its own formula for contributions and propose it to the MPO. Mr. Pytel said this was already done and that the MPO Coordinating Committee didn't want to look at it any further.

Transportation Meeting

It was suggested by CATA and the Transportation Committee that the Centre Region municipalities would benefit from transit services to areas outside of the region. The benefit would be fewer cars in the Township. Mr. Pytel wanted to know how much money would be required of Ferguson Township before it supports this idea so that the Township doesn't fall into the same trap as the MPO. Mr. Pytel listed the members on the committee, which include two representatives from PennDOT.

Mr. Mascolo said most communities do not want this, or many other even more necessary services, so he does not feel money should be put to this cause.

Mr. Pytel discussed the Communications Emergency Vehicle that is shared between Ferguson Township, Patton Township, State College Borough, Centre County and the Pennsylvania State University. Mr. Clemson explained that he chaired the operations committee that wrote the grant that got funding, and that everyone had a share in the vehicle, and that there was a policy on usage.

Mr. Kunkle explained that one issue is that when the County use the vehicle to go to non-participating municipalities, so there is no charge. He also stated that he doesn't think it's a COG issue.

Mr. Pytel stated that he feels that if the consortium is going to keep a vehicle, they should at least keep it modern because it is an emergency vehicle.

Mr. Kunkle articulated that the only piece not in place regarding this vehicle is funding of the depreciation cost.

VIII. MINUTES

Mr. Mascolo made a motion to approve the minutes. Mr. Clemson seconded the motion. It passed unanimously.

IX. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Mascolo made a motion to adjourn the meeting. Mr. Killian seconded the motion. Mr. Pytel adjourned the February 6, 2012 Regular Meeting at 10:15 p.m.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 02/21/2012