

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, April 2, 2012
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, April 2nd, 2012 at the Ferguson Township Municipal Building. In attendance were:

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

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

Others in attendance included: Ken and Dolores Sills; Bill Heckinger; AJ Schwartz; Pamela Steckler; Joseph and Delores Homan, and Barbara Donnini, Recording Secretary

II. CALL TO ORDER

Mr. Pytel, Chairman, called the April 2, 2012 Regular Meeting to order at 7:00 p.m.

III. CITIZEN'S INPUT

Ms. Sills stated that she is concerned with the Mercedes dealership near Leisure Lane. There are lighting issues and stormwater runoff issues that are affecting her property.

Mr. Pytel asked whether the lights have been inspected. Mr. Kunkle said that the lights existing on the site right now do not comply with the ordinance and that the business has been cited a number of times. The Zoning Administrator has continued to issue violation notices to the State College Mercedes Benz dealership. This has gone on since they opened over a year ago. With regard to the drainage issue, during construction there were substantial drainage problems, but he was not aware that the drainage issues have continued. Ms. Sills has been working with the Township Engineer.

Mr. Kunkle said there has been a land development plan submitted for creating additional lighted display and this has raised concern. Mercedes of State College is planning on creating additional parking and this would be more impervious area which could exacerbate the drainage problem. Mr. Clemson asked if the township has considered sending a security officer in person to the dealership to determine if the lighting they have installed is really necessary.

Mr. Kunkle said that the issue is not driven by security, but that the dealership wants to draw attention to the vehicles for sale.

Mr. Pytel suggested raising the penalties. Mr. Kunkle said that it doesn't appear that the fines are driving them to a solution at this point in time. Ms. Lang said that the last inspection occurred on March 26th. She said that their original lighting was ten times the brightness permitted by the ordinance and that their current method of solving the problem is to shield the light from going off the property, not change the lights themselves. At the last inspection, they were slightly brighter than permitted and still not in compliance, but much closer than before. Ms. Lang said their fines were \$900 to \$1000 per week, and that Mercedes has not paid any fines. The district justice is considering a warrant.

Mr. Pytel asked Ms. Sills if she noticed a difference in the lighting since some adjustments were made. She said that her house is totally illuminated at night and that she wanted the board to keep this in mind when the dealership asks for more lights to be put up, as is their current request.

IV. PUBLIC HEARINGS - RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE AN AUTOMATED RED LIGHT ENFORCEMENT PROGRAM PROJECT FUNDING AGREEMENT BETWEEN THE TOWNSHIP OF FERGUSON AND THE COMMONWEALTH OF PENNSYLVANIA

Mr. Modricker explained that last year staff applied for funding from the automated red light enforcement program. It was for a protected left hand turn on Blue Course Drive. There was concern about safety at the Blue Course Drive intersection. The Township Engineer found that improvements could be made using the arrow. The Township was successful in receiving a \$35,000 grant.

Mr. Mascolo made a motion to accept the resolution to execute the automated red light enforcement program project. Mr. Clemson seconded the motion.

Roll Call Vote: Mr. Killian – Yes; Mr. Mascolo – Yes; Mr. Clemson – Yes; Mr. Pytel – Yes; Mr. Keough – Yes; adopting Resolution 2012-5.

2. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA URGING THE PENNSYLVANIA GENERAL ASSEMBLY TO ELIMINATE OR AMEND THE STATE PREVAILING WAGE ACT (ACT 442 OF 1961)

Mr. Kunkle said that this act has not been amended since 1961, when a prevailing wage threshold of \$25,000 for public works projects was established. Currently there have been two house bills that would increase this amount from 25,000 to 180,000, and it would be adjusted annually based on the consumer price index. Staff recommendation is that the Board adopt the resolution.

Mr. Keough made a motion to adopt the resolution to eliminate or amend the state prevailing wage act. Mr. Mascolo seconded the motion.

Roll Call Vote: Mr. Killian – Yes; Mr. Mascolo – Yes; Mr. Clemson – Yes; Mr. Pytel – Yes; Mr. Keough – Yes; adopting Resolution 2012-6.

3. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, CREATING A RESTRICTED FUND ENTITLED PINE GROVE MILLS STREET LIGHTING FUND FOR ESTABLISHMENT, INVESTMENT, REINVESTMENT, AND USE OF FUNDS TOWARDS THE COST OF STREET LIGHTING AS A COMPONENT OF A STREETScape PROJECT ON WEST PINE GROVE ROAD

A citizens group entitled the Village Group of Pine Grove Mills and 14 different organizations contributed to the acquisition of individual street lights for a proposed project on West Pine Grove between Water Street and the Lutheran Church. The person that had custody of those funds is moving and approached the Township requesting that these funds be transferred to a restricted fund of the township that would be used for a street light enhancement should grant funds become

available. There is a little over \$21,000 in available funds that would be placed in this special fund if agreed.

Mr. Keough made a motion to adopt the resolution. Mr. Killian seconded the motion. Roll Call Vote: Mr. Killian – Yes; Mr. Mascolo – Yes; Mr. Clemson – Yes; Mr. Pytel – Yes; Mr. Keough – Yes; adopting Resolution 2012-7.

V. PUBLIC HEARINGS

1. A PUBLIC HEARING ON AN AMENDMENT TO THE LANDINGS PLAN RESIDENTIAL DEVELOPMENT TERMS AND CONDITIONS

The Township does not provide maintenance on either side of the Bristol Avenue bike path and the developer has expressed concerns about their responsibility to maintain a small section of the bikeway when the township has obligations to maintain the balance. They are requesting the Board consider a change in the terms and conditions of approval for the Landings PRD and relieve them from that responsibility. They have offered to install benches at the established bus stops along Bristol Avenue in exchange for being relieved from this requirement. Staff sees it as a way of supporting transportation in a more realistic and fulltime manner.

Mr. Killian said asked about the maintenance of the benches. Ms. Lang said that CATA has offered to maintain the benches if it is CATA's standard type of bench.

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

VI. COMMUNICATIONS TO THE BOARD

Mr. Mascolo said that a resident of Pine Grove Mills contacted him about drainage problems. He has discussed this with Mr. Modricker and Mr. Kunkle.

Mr. Keough said he has had several discussions with citizens on the western part of the township regarding the supplemental firefighting water storage tank issue.

Mr. Keough said that he received an email that did not come through the official Board process. He was asked to make a vote on moving forward with an effort to challenge a Comcast's request to the FCC for an exemption from the cable rate increase process for non-competitive service areas in Halfmoon and Benner Townships.. Mr. Keough said he contacted Mr. Kunkle and he indicated that this was something he is familiar with and that staff supported moving forward with legal counsel on behalf of the Centre Area Cable Consortium .

Mr. Kunkle said Comcast has filed a petition to pre-empt both Halfmoon and Benner Township from having the ability to regulate their rates. If there is not more than 51% penetration from a company in a municipality, they have the ability to regulate the rates charged. Mr. Keough said he was asked to vote in an environment that did not allow him to consult with the Board before he voted, so he consulted staff. Mr. Keough said he voted in favor of moving forward with legal counsel to address the Comcast request.

Mr. Killian said that he wanted to address a letter to the editor written about him. He said that he can assure everyone that none of the Ferguson Township tax funds were used to fund his attendance at a conference in Washington, D.C. He did not represent Ferguson Township at the conference. He said it was his own interest and he paid for everything.

VII. ACTION ITEMS

1. West Beaver Avenue Study Presentation

Ms. Lang said that the final draft of the report is in the packet for this meeting. She said there is an examination and analysis of the neighborhood and that the Planning Commission has moved this on to the Board for consideration.

Mr. A.J. Schwartz from Environmental Planning and Design, LLC had a PowerPoint and began to explain the slides.

Mr. Heckinger said at the end of the presentation that West Beaver Avenue right-of-way consists of 26 feet of street curb to curb, 7 feet of grass, sidewalk and a 50-foot right of way. He thinks traffic circles will be tight. He said he agreed with many of the Beaver Avenue recommendations, but he felt the study did not include enough photos regarding parking. He said they are mostly along Harley Alley, the backside of Beaver Avenue, and they border his property.

He showed pictures and said that there are usually 7 cars in the lot that has the most cars near his home. He doesn't feel the houses are large enough to accommodate this number of people.

He felt it needed to be not as profitable for people to rent in the Township. Regarding the right-of-way/alley behind his home, he said that they are shared spaces. He believes there is some ordinance that regulates parking for rentals.

Mr. Heckinger inquired about the rules for renting a property. Mr. Kunkle and Ms. Lang reviewed the steps to obtain a rental permit saying that there is no process, rezoning or plan approval.

Mr. Killian asked Mr. Schwartz if he proposed defining student housing. Mr. Schwartz said if you put a proximity standard on dwelling unit, you must define a student dwelling unit. Mr. Killian suggested that this is discrimination, and said that rules should be based on people, and not the type of people. Mr. Schwartz said that it gets tied back to registration. He said it is controlling "short tenure" and you can discriminate if one is able to tie it back to public welfare.

Mr. Schwartz said the first thing to seriously consider is eliminating the two family option. Some people felt that the property owner has the right to use their land for some economic gain, and he felt that if they have enough of a footprint this was okay.

Mr. Clemson asked when these dwellings were permitted. Mr. Pytel said that this area changed to R2 in 1982. Before this it was nothing. Mr. Schwartz said that the thought was probably that the rental units were okay because they are close to the borough and university.

Ms. Lang said that the transition was discussed, and that staff felt the neighborhood was at a tipping point. She said they would be happy with at least not making it worse. She felt that if the township does not intervene it will just continue to get worse. She said it is around 50/50 in terms of owner occupied and rentals.

Ms. Lang clarified for Mr. Pytel that the action this evening was simply to accept the study, without making any decisions yet. Next, staff will attempt to put together a timetable for implementation of recommendations at the Planning Commission level. She asked if the Board saw any points that should not be brought up at the Planning Commission level.

Mr. Clemson made a motion to accept the report as presented. Mr. Keough seconded the motion. It passed unanimously.

2. Discussion of Requirements for Firefighting Water Supplies for Suburban and Rural Firefighting

Mr. Kunkle said that municipalities in the Centre Region excluding the Borough adopted this regulation relating to firefighting, water supply and firefighting access. Recently the Township has had to utilize those regulations as developments outside of the community water system have developed on those lots. The applicability of these supplemental water supplies is being questioned. Because some of the lots being developed are so far from the stations, many property owners feel that the supplemental water supply tanks would not save lives or a burning structure. Staff has reviewed the regulations and they do think that there is opportunity to refine those regulations further, write them more clearly and the potential that supplemental firefighting water supply can be more strategically and appropriately located.

Mr. Pytel felt that if there is a single family home in a very rural setting, forcing them to put the water in is not worth it. He did feel, however, that if there are a certain number of homes nearby, water may make sense to protect other homes in the area.

Mr. Keough was concerned about who should bear the cost. At the moment, it is the landowner who bears the cost, and the cost is not insignificant. Mr. Keough also said that it is unclear who actually owns the tank, the township or the individual. The township assumes in perpetuity the repair, maintenance, and replacement of the tank. He isn't sure that the township wants to be in the business of doing this on private land.

Mr. Keough felt the ordinance is unconstitutional and that we abandon or rescind the ordinance. Mr. Mascolo and Mr. Clemson agreed it needed to be revisited.

Mr. Steve Bair, Fire Director for COG, said he agrees the ordinance needs to be reworked. He said that his issues are different from the ones being described. He said that the fundamental flaw is that the property may not have been changed or developed but the property owner must put the tank in because the regulation falls under the Subdivision and Land Development regulations. He clarified that his data doesn't support the notion that houses will burn down. He said that the water supply is beneficial. The conclusion he drew based on the model was that for residential style dwellings the tank is worth it, but for commercial it is a waste. Mr. Keough asked what should be done about current enforcement of the existing ordinance. Mr. Mascolo suggested de-enforcing it until it can be changed. Mr. Keough asked if the township can temporarily suspend its application until such time as changes are made. Mr. Pytel was against eliminating the whole ordinance to get small changes. Mr. Keough wanted a plan for the interim. Mr. Pytel insisted that they need to observe the ordinance until it can be properly changed.

Mr. Kunkle suggested that on a case by case basis, the property owner could ask for a modification, which would waive that provision of the sub-division/land development regulations. The Board decided to send this to the Planning Commission.

3. Proposed Revisions to Health Inspection Ordinance

Under Act 106 of 2010 the PA Dept. of Agriculture will no longer inspect food establishments where there is a local health inspector. The local authority will be responsible for licensing in the future. Some retail food facilities will be exempt from licensing such as those selling raw agricultural produce,

soup kitchen, food banks and those that only operate a few days per year. Each food establishment must have at least one certified food employee and this person must be on site or available by phone while the facility is in operation. Mr. Kunkle requested that this amended ordinance be considered at the April 16 Board meeting. He has requested the health officer to review the ordinance. The health officer has indicated that the ordinance is in order. Mr. Kunkle said that he would make one change in the definitions – since much of the ordinance has the term “township” in it, he might refine this to eliminate the word “municipality” for clarification purposes. But other than this, the proposed revisions are consistent with Act 106 of 2010.

Mr. Keough asked if Act 106 specifically states three or less days per year when exempting certain entities. Mr. Kunkle said yes. Mr. Keough asked what implication Mr. Kunkle feels this will have on township costs. Mr. Kunkle said there won't be many additional costs, because the township has had jurisdiction for many years, and the Dept. of Agriculture has had limited inspections, mostly on mobile operations like catering businesses.

Mr. Kunkle said the township's inspection and licensing fees were modified slightly this year to take into consideration billing on an hourly basis versus a per-site basis. Mr. Keough said he is still unclear with regard to people who provide outdoor catering. Mr. Kunkle said they will be inspected and licensed, but the Dept. of Agriculture will not be involved if they have a catering business within the health inspection jurisdiction. Essentially this would be Centre Region jurisdiction. Ferguson Township contracts with State College for health inspection services. For example, if a catering business operated in Clearfield County then it will be covered by the Dept. of Agriculture because it crosses county line. . Mr. Pytel said that they will revisit this on April 16.

4. Variance Application – 1010 West Pine Grove Road

The location of this parcel is zoned RR/Residential and because of the slopes being 25% or greater on this parcel, a land development plan is required for any proposed structures. The plan provided with the application indicates that a structure will be placed in area where there are 10% slopes. In reviewing this, staff has indicated that the board might consider supporting the variance application with certain conditions. Those conditions are that the construction of the proposed implement shed get a zoning permit, that the shed be relocated on lot 4 as shown on the hearing application in an area of 10% slope or less, and that the implement shed be solely used for storage of this property owners equipment for use on this property .

Mr. Mascolo made a motion to support the application. Mr .Clemson seconded the motion with the conditions that Mr. Kunkle stated. It passed unanimously.

5. Centre Regional Park and Recreation Staff Organizational Study

The Board briefly reviewed the proposed Centre Region Parks and Recreation Department reorganization. The reorganization will delineate the duties of the Director and two managers, one for program and one for facilities. Mr. Mascolo felt this was long overdue and is in favor of it. There were no other comments.

6. Consider Letters of Support for State Funding of Libraries and Education

Mr. Killian said that this request for state funding support is really only relevant to the libraries. He said that there is a representative of Ferguson Township on the library board and felt it is in the township's best interest to write this letter.

Mr. Keough said that if we must curb spending at the state or federal level then one has to ask the question if this particular spending is as vital as the spending to support healthcare of children who have no insurance. Mr. Clemson said that public safety and education are losing much funding and Mr. Pytel said he would support it because people usually have expectations of the libraries and schools even if they don't have the funds to implement them.

All were in support of writing the letter.

7. Consent Agenda

Mr. Killian made a motion to approve the consent agenda which includes the surety reduction and payment authorizations. Mr. Mascolo seconded the motion. It passed unanimously.

VIII. REPORTS

1. Manager

Mr. Kunkle said his report is mostly concerned with the April 16th meeting. There are six contracts that public works will be bringing forward. A first quarter financial report, a WAN-LAN inter-municipal agreement, a food establishment ordinance, an inter-municipal agreement with State College for health inspection services and a presentation on our community survey results. Mr. Kunkle attended the Zoning Hearing Board on March 20th where the variance for parking for a proposed senior apartment project in Stonebridge Phase V was approved.

There was an application filed by Giant for a liquor license transfer. The public hearing will occur on May 7. The Board should designate a delegate for PLCM convention in June 19-22. Elliott Killian is attending the convention and will be the Township's voting delegate.

2. Director of Public Works

Mr. Modricker said there are six contracts out to bid. They will most likely appear on the next agenda for action. They include West Whitehall Road, Aaron Drive, Park Centre Boulevard and Martin Street, Pavement Markings and Microsurfacing to name a few.

Mr. Modricker said that HRI is screening the topsoil for the tree lawn area on Old Gatesburg Road. Also being worked on is Tudek Park Phase 3. He also listed a few parks that will have trees and landscaping installed this spring.

Mr. Modricker concluded by saying they are working to create a cul-de-sac at the end of Park Crest Lane, and that monthly brush and leaf collection are underway.

3. Director of Planning and Zoning

Ms. Lang said that she did not have a report.

4. COG Committee Reports

Mr. Pytel said there were two meetings, the MPO and the Transportation and Land Use Committee. Progress is being made on developing a new funding formula to provide support of the MPO and he said that Option 6 Funding Formula which combines mileage and population was particularly considered. The Transportation and Land Use Committee reviewed different items in the economic development plan and the comprehensive plan. The CRPA staff has drafted goals and objectives. Mr. Pytel was not in favor of the establishment of a single point of contact in the economic development plan. The CRPA staff insisted that a single point of contact would make people come into the area and get the plans turned over more quickly.

Mr. Keough asked about the property owner (Mr. Canner) on Route 26 who will be affected by the truck ramp if it is built. Mr. Pytel said there is nothing the township can tell this person at this time since the project has not been funded under the MPO Transportation Improvement Plan.

Mr. Killian said the US Geological survey did a 10 year survey of Spring Creek watershed and used wells in Ferguson Township to gather information. They have a model that the township can use to estimate the amount of ground water, and to see critical areas where water enters the watershed.

Mr. Keough said COG Human Resources Committee meets tomorrow.

IX. APPROVAL OF THE MARCH 19, 2012 MINUTES

Mr. Killian made a motion to approve the March 19, 2012 Minutes. Mr. Clemson seconded the motion. Mr. Mascolo abstained from voting, all others were in favor.

X. ADJOURNMENT

Mr. Clemson made a motion to adjourn the April 2, 2012 Regular Meeting. Mr. Mascolo seconded the motion. With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the meeting at 9:36pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 04/16/21012