FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting Monday, June 18, 2012 7:00 pm

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, June 18th, 2012 at the Ferguson Township Municipal Building. In attendance were:

Board: George Pytel, Chairman **Staff:** Mark Kunkle, Township Manager

William Keough

Elliott Killian

Trish Lang, Director of Planning & Zoning
Dave Modricker, Director of Public Works

Diane Conrad, Chief of Police

Others in attendance included: Barbara Donnini, Recording Secretary; Mark Keene; Kevin Lewis; Keith Jervis; Bob Poole; Lani Daubenspeck.

II. CALL TO ORDER

Mr. Pytel, Chairman, called the June 18, 2012 Regular Meeting to order at 7:00 pm.

III. INTRODUCTION OF NEW POLICE OFFICER

Chief Conrad introduced the Township's newest Police Officer, Dan Lewis. He attended Bloomsburg University Community College and then spent two years at the University Park campus. He received a Bachelor's degree in Crime, Law and Justice.

IV. CITIZEN'S INPUT

Mr. Keene stated that he wanted to clarify previous questions the Board of Supervisors had about the Calvary Baptist Church DRI process. Firstly, he said that the 40 acre property on Old Gatesburg Road that he mentioned at the previous meeting didn't have access to Old Gatesburg Road. These were the aforementioned traffic issues, not that someone from the Township stated there would be traffic issues. Mr. Keene continued, saying that the Church plans to subdivide the property into smaller parcels to make it more acceptable in the DRI process. He said that one of the terms of the DRI is that 28 acres are separated. Mr. Keene said that Harris Township has this land right now, and after the DRI is approved, the subdivision will go through.

Mr. Pytel stated that the Church cannot get sewer access unless the property is subdivided and Mr. Keene said that he understood this.

Mr. Keene said that Centre Regional Planning Commission unanimously voted to recommend approval of the DRI.

V. PUBLIC HEARINGS – RESOLUTIONS

A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, ESTABLISHING TEMPORARY PARKING REGULATIONS ON BRISTOL AVENUE

Mr. Kunkle explained that a portion of the roadway is a three lane striped area, with center turning lane. He said that parking along the section without a center turning lane is designated with restricted parking from 2am – 6am on the North side, and no parking on the south side. Mr. Kunkle explained that the proposal is to restrict the parking area on the North side of Bristol Avenue from the end of the 2 a.m. to 6 a.m. no parking area to Park Centre Boulevard and no parking on the south side. He explained that this will be temporary, in effect for 90 days, and then the Board can decide whether to adopt an ordinance or not.

Mr. Keough asked if this stretch of road is impacting the nearby soccer fields. Mr. Kunkle said that the little league parking will not be affected, as this part will remain just no parking from 2am - 6am. He

said in the future, this may be posted as no parking, which would impact the on street parking available to the little league. However, Mr. Kunkle said that the little leagues have proposed to create a 30 space lot in the grass area just off of Bristol Avenue to accommodate their needs.

Mr. Killian made a motion to adopt the resolution establishing temporary parking regulations on Bristol Avenue. Mr. Keough seconded the motion.

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

1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA ESTABLISHING REGULATIONS FOR A TEMPORARY STOP INTERSECTION ON WEST GATESBURG ROAD

Mr. Modricker explained that at the request of residents, he and the Township Engineer looked at the intersection. He said that there are chevrons and advisory speeds posted for the curves. Mr. Modricker explained that there are two private roads, Rhodes Farm Lane and West Ridge Lane, and then Gatesburg Road, which is a paved Township road. He said that in addition to the advisory speeds and curve signs, the intersection does warrant a 3 way stop. Mr. Modricker said that two weeks ago there was an accident at the intersection, as a driver thought the road continued in a straight direction.

Mr. Modricker said that this temporary assignment will last for 90 days, at which point the Township will follow up and if the stop signs are working make it an ordinance.

Mr. Keough made a motion to adopt the resolution establishing regulations for a temporary stop intersection on West Gatesburg Road. Mr. Killian seconded the motion.

Roll Call Vote: Mr. Killian – Yes; Mr. Pytel – Yes; Mr. Keough – Yes Passing Resolution 2012-17.

VI. PUBLIC HEARING

1. CONTINUATION OF A PUBLIC HEARING ON A RESOLUTION TO THE FOXPOINTE PLANNED RESIDENTIAL DEVELOPMENT MASTER PLAN AND ASSOCIATED TERMS AND CONDITIONS

Mr. Kunkle explained that at the last meeting, the Board decided to continue this public hearing, amendment number 5, which reduces the 200 ft. buffer to a 50 ft. buffer. He said the final determination was being delayed until Township staff could put together a list of terms and conditions that would follow the amendment. Mr. Kunkle explained that the amendment would apply to Section 1D, and that the buffer would be planted along the property line which borders Happy Valley Vineyard and Winery. He said that placing a statement in the deeds of these new lots explaining potential issues of living so close to agricultural land was discussed as well. Mr. Kunkle said that an additional condition is a requirement that a utility easement be provided from a public street in the PRD to a tax parcel owned by the Daubenspecks should they decide to connect to sewer or water, not that they are required to.

Mr. Kunkle explained that an additional requirement is for the developer to provide a written offer to the current owner Daubenspeck for a complete bacterial and water test on the owner's private water well to be collected by qualified lab technician. He said the sample would need to be collected prior to construction activity of lots in the PRD so that there is a baseline for the future in case of contamination.

Mr. Keough asked about the trees proposed for the buffer. Mr. Modricker said that the trees include a 6 ft. high White Spruce, a 6 ft. high viburnum, and large Douglas Firs. He said that the trees are evergreens and the shrub is deciduous. Mr. Keough expressed concern that sometimes it takes trees 10 or 15 years to become an effective barrier in terms of size. Mr. Keough said that Mr. Stewart, owner of the Vineyard, called him before the meeting and stated that he was in favor of a planting

buffer as opposed to a fence buffer. Mr. Keough asked if the Board is locked to the terms and conditions at this stage and Ms. Lang said that the Township agreed to provide a landscaping plan that's an acceptable buffer for remaining lots, however this detail can be changed.

Mr. Kunkle said this buffer planting issue will be in the subdivision plan. Mr. Keough clarified that if the current buffer language is adopted, there still can be further discussion about what specific plants will be in the buffer and Ms. Lang said yes, because the planting plan is not labeled as an exhibit. She said that the subdivision would require separate approval and the landscaping can be approved at that time.

Mr. Keough said a citizen asked about the bike path. He asked where the bike path is discussed in the process. Ms. Lang said that currently the bike path is shown on recorded plans, and they are in phase 7. Ms. Lang said that phase 9 is not yet subdivided. She said that phases 9 and 10 will be developed if the buffer is reduced. Ms. Lang said that phase 7 includes a 10 ft. bike path along certain areas, and that the presence of the bike path is consistent with the terms and conditions. She said it is a continuation of a path that starts in Foxpointe, and that the developer has discussed changing it from concrete, to asphalt, or just having a sidewalk. Ms. Lang said that if the developer wants to change the bike path it must be submit as a new request. Mr. Kunkle clarified that the new request has already been submit and will be part of the July 2nd public hearing. Mr. Keough asked why the wording changed from the first document regarding the words "pesticides and herbicides." Mr. Kunkle said that these were taken out at the request of the developer. Mr. Keough said that Mr. Stewart, owner of the winery, suggested that these specific terms be included in the covenant.

Mr. Keough made a motion to continue the public hearing to the July 2, 2012 Regular Meeting. Mr. Killian seconded the motion.

Mr. Lewis stated that he is in the Hunter's Chase part of the development. He read from a speech he wrote. In this, he explained his history of home purchases, how he views the issue, how some of his neighbors view the issue, and a brief history of how zoning has changed Mr. Lewis said he is opposed to the reduction of the buffer from 200 ft. to 50 ft. mostly because he was promised at the time he purchased his house that there would never be homes built in this location.

Mr. Jervis said that it troubles him that there is this discussion about the bike path. He said it has already been removed, and that he commutes daily via bike. Mr. Jervis said a selling point for this community and development was how wonderfully green it was and the great opportunities. Mr. Jervis said that he supports Mr. Lewis's position, and that he was also told no houses would be in the location in question.

Mr. Jervis said that he likes the idea of a tree barrier, and that scientific evidence shows that vegetative barriers can reduce spray drift. Mr. Jervis said that his research stated that the trees used for the buffer are at least 50% taller than the target plant, and are semi-permeable.

Mr. Pytel restated that he thinks the buffer should be a "no man's land." That is, right now children can play in the buffer as if it is their back yard. He said a real buffer would be a place where no one can go so that there is no risk of pesticide or chemical drift.

Mr. Poole of S&A homes said that he has developed other land with farmers as neighbors, and has done this since 1980, with over 2500 lots. He said he has not received any calls about agricultural issues, and that he has a phenomenal relationship with the farmers for all these years.

Ms. Daubenspeck asked what resources and information is available online regarding this issue, and Mr. Killian explained that the Board's packet is online, and amendment 5 is online. He said the July 2 meeting information will also be online.

All were in favor of the motion to continue the public hearing on a resolution to the Foxpointe planned residential development master plan and associated terms and conditions.

VII. COMMUNICATIONS TO THE BOARD

Mr. Killian said that he had a conversation with a resident of Pine Grove Mills about bicycling in the region. Specifically, he said they talked about being grateful for the Whitehall expansion, and that bicycles can now safely be in the road.

Mr. Keough said he had communications with citizens regarding items on agenda, and conversations with COG staff as well.

Mr. Pytel said everything communicated to him is on agenda.

VIII. ACTION ITEMS

1. Turnberry Traditional Town Development Specific Implementation Plan

Mr. Kunkle said that there are a high number of outstanding comments. He said that the developer requires additional time to address the outstanding conditions for approval, and that the Township received a letter from Mike Glass, who represents Dana Glass Properties, that the Board consider authorizing earth moving activities subject to attaining any needed permits. Mr. Kunkle said this seems to be an appropriate action the Board could take in order to allow the developer to begin the grading process. He explained that this approval does not give the developer rights to sell lots, install utilities or build roads, it merely allows them to begin earth moving activity. Mr. Kunkle said that staff supports the Board's authorization to approve the grading permit, subject to the E & S permit requirements.

Mr. Keough made a motion that the Board grant a grading permit approval to the Turnberry Traditional Town Development Specific Implementation Plan. Mr. Killian seconded the motion.

Mr. Keough clarified that no other permits will be issued until the remaining conditions are addressed. The motion passed unanimously.

2. 1274 North Atherton Street Final Land Development Plan

Ms. Lang said that this proposal was discussed at the most recent Planning Commission meeting, but due to a lack of quorum, they could not take action with a recommendation. She said those in attendance, agreed on moving it forward. Ms. Lang said there exist mostly administrative comments and a few minor planning issues. She said there is an Enterprise Rent-a-Car and a carwash in that location and that the entire plan is intended to remove the car wash use and replace it with an Asian grocery store. Ms. Lang said that they are adding parking and buffering and that it's a minor expansion to the hotel facility and doesn't require additional parking. She said that all earth-moving activity is less than 5000 sq. ft., so the developers are not required to complete a storm water study. Ms. Lang said that the only reason this required a Land Development Plan is because it generated additional parking and this is the way the ordinance is worded.

Mr. Keough asked if building will come down and Mr. John Sepp said it will be retrofitted.

Mr. Keough made motion to approve the 1274 North Atherton Street Final Land Development Plan subject to completion of the conditions of the Planning and Zoning director. Mr. Killian seconded the motion. It passed unanimously.

3. St. Paul Lutheran Church/Pine Grove Mills Cemetery Landscaping Changes

Mr. Tier, representing St. Paul Lutheran Church and the Pine Grove Mills Cemetery Association said that there are lots of dead trees along the north side of the cemetery property. He said that some are on Township property and that the Township previously removed the dead wood. Mr. Tier said that St. Paul's is now proposing re-landscaping this space to be open and have a fence installed on the

property line. Mr. Pytel said that he thinks what they are proposing would make this area look beautiful.

Mr. Kunkle said staff's recommendation is to grant approval to remove the tree row along the common boundary line of property owned by the township and the cemetery subject to a temporary construction easement. Mr. Killian made a motion to approve the St. Paul's Lutheran Church/Pine Grove Mills Cemetery Landscaping changes subject to a construction easement granted by the township. Mr. Keough seconded the motion. It passed unanimously.

4. Draft Residential Permit Parking Ordinance Amendment

Chief Conrad presented a draft of the revisions to the residential permit parking ordinance and said that the officers requested these changes. She said the first change is to raise the permit fee from \$10 to \$12 a year so that it is \$1 per month. Other changes include the type of permit, where it is supposed to be placed in the vehicle and information on the sticker.

Mr. Killian asked about family gatherings, and how this would affect parking. Chief Conrad said the person would need to call the police station and get a temporary permit.

Mr. Killian asked about limiting the number of permits per residence. Chief Conrad said this hasn't been an issue so far, but as more homes turn into rentals this needs to be addressed.

Mr. Keough said owner occupied houses should have some guarantee to a parking space and Chief Conrad agreed. Mr. Kunkle explained that permits are usually enforced in neighborhoods where park and ride situations are of concern.

5. Variances – Fuller Realty Group, 1524 North Atherton Street, State College, PA

Mr. Kunkle said that the Zoning Hearing Board will hear an appeal and variance for Fuller Realty Group, which is the former Whitehill Lighting property at 1524 North Atherton Street. He said that the appeal surrounds the issue of the change in use for the building. Mr. Kunkle said that the land development plan approved in 1988 allows for up to 7,500 sq. ft. of retail space. Since then, Whitehill Lighting has moved, and portions of the building have been rented to Plato's Closet and Dragonfly Massage. He said that the only space left based on available parking is the warehouse. Mr. Kunkle explained that now Fuller Group would like to utilize the warehouse space as retail without supplying any additional parking, except perhaps 4 spaces. He explained that this would be adding around 17,000 sq. ft. of retail space with no additional parking.

Mr. Keough asked how many additional spaces would be necessary to meet ordinance. Mr. Kunkle said 85, because the ordinance states 1 spot per 200 sq. ft. of space.

Mr. Killian asked the benefit of having legal counsel at the Zoning Hearing Board. Mr. Kunkle said that it demonstrates the Township's concern for the building being rented without appropriate parking for the intended use. He said if the Township is not represented, and the Zoning Hearing Board allows it, the Board of Supervisors will have 30 days to appeal and then they must go to Common Pleas Court. Mr. Kunkle said a stenographer is coming to the Zoning Hearing Board meeting, and that is an indication there will be appeal of a decision not in favor of the request.

Mr. Keough made a motion to have representation for the Township at the Zoning Hearing Board meeting. Mr. Killian seconded the motion. It passed unanimously.

6. Approval of May 2012 Voucher Report

Mr. Keough made a motion to approve the May 2012 Voucher Report. Mr. Killian seconded the motion. It passed unanimously.

7. Consent Agenda

Mr. Killian made motion to receive the Treasurer's report on the Consent Agenda. Mr. Keough seconded the motion. It passed unanimously.

IX. REPORTS

1. Manager

Mr. Kunkle said that at the next Board meeting there will be a public hearing on a zoning amendment regarding impervious coverage in the general commercial and IRD zoning districts. The public hearing on Foxpointe amendments 5 and 6 will be continued. Mr. Kunkle said there was a letter from the Centre Region Planning Commission supporting the sale of the park in Overlook Heights by the State College Area School District. He said that CATA is conducting a public hearing on their CATA RIDE Program on Thursday June 28 at 11am in the CATA Board room at 2081 West Whitehall Road.

Mr. Kunkle said that he received notice from UAJA that their Chapter 94 Annual Report has been reviewed and approved by DEP, indicating that there are no hydraulic or organic overloads, nor are they projected to be overloaded in the near future.

In addition, Mr. Kunkle said that he received notice from Bond Reinhardt, liaison to the Water Authority for Ferguson Township, that he had to resign. He said that Mr. Reinhardt took a position with the consulting engineering firm to the water authority, so there was a potential conflict of interest.

Mr. Kunkle reminded the Board of the regional development capacity workshop occurring Wednesday, June 20th at Millbrook Marsh Nature Center. This begins at 6pm, and the presentation will be at 7pm.

Mr. Kunkle said that although the Township has not received a formal land development plan, there is a proposal for a cellular tower on the site near Old Gatesburg Road and Nixon Road. He said the tower would be 190 ft. high, self supporting, and include a 9 ft. high lightening rod for a total height of 199 ft. Mr. Kunkle said there would also be a 70 ft. by 70 ft. fenced compound which includes other technology needed to utilize tower. Mr. Killian asked if tower will have light on it. Mr. Kunkle said if the FAA requires it, there will be one.

2. Public Works Director

Mr. Modricker said that utility work is continuing on Whitehall Road, and that Aaron Drive and Park Center Boulevard are both under construction. He said that Tudek Park Phase 3 is out to bid. Mr. Modricker said that line striping and micro-surfacing is in progress. Mr. Modricker said there are a couple other smaller projects listed in the Board packet, including a new roof on the shed in Tudek. He said there is a meeting set up in the near future to continue dialogue regarding road standards for traditional town developments. Mr. Modricker said that besides typical roadwork done at this time of year, the Township does have paving planned for a section of Corl Street and the cul-de-sac on Park Crest Lane.

3. Director of Planning and Zoning

Ms. Lang said that there was no quorum at the Planning Commission meeting, but they did discuss the two plans on the Board's agenda and had a presentation by Centre Region staff regarding two of the elements of the comprehensive plan. She said the Planning Commission also received information about a fire ordinance and comments on two important elements of the comprehensive plan. Ms. Lang said that some issues raised in discussion with the Planning Commission are in the notes. She said especially important was regarding the use of alternative technologies for waste water outside of the regional growth boundary (RGB).

Ms. Lang said that the people handling the comprehensive plan promised all comment would be compiled and revised drafts would be provided. She said that Ferguson has no more presentations

scheduled at this point, although several chapters haven't been discussed. Ms. Lang said that on July 9 at 6:30pm there will be discussions about regional fire suppression issues outside of the RGB.

4. Chief of Police

Chief Conrad said that in May, there were 23 part 1 crimes, which is the same number as last year. She said that these are down overall for the year, with 103 in 2011 and only 70 this year. Chief Conrad said that there are 58 part 2 crimes, which is a decrease from 72 that occurred last May, however part 2 crimes are about the same year to date. She said that there were about 294 other calls for service, which is about the same as last year. Chief Conrad said that tickets, traffic stops, and citations are down about 1/3 from May of last year, but are still up overall year to date. She said that May was a busy month with training and preparation for the June court hearings in progress. Chief Conrad said that Officer Moran assisted Spring Township Police in locating a possible suspect for the issues with the boy scout hikers on May 5. She said they did a fantastic job just hearing a description on an 800 megahertz radio. Chief Conrad said that the officers searched a state database to find anyone with a tattoo matching what the boys described. She said that they found a match on a local man, he was put in a lineup, and within hours the victims identified him and he was in custody.

Chief Conrad said that a major incident was a missing 5 year-old who had been playing in a parking lot outside his home. Initial searches didn't turn him up. She said that he had autism issues, and as search efforts expanded and the mother of one of the boys' playmates hear, she remembered leaving her apartment door open. Chief Conrad said it turns out that the boy had gone inside and locked the doors, but he was located an hour and a half into the incident. Chief Conrad was particularly proud because this happened only a few weeks after the sponsored training Ferguson Township police received from the National Center for Missing and Exploited Children. Chief Conrad appreciated the notification of area residents through the Code Red System.

5. COG Committee Reports

a. Executive

Mr. Pytel said he felt the system regarding an expansion to the regional growth boundary is backwards. He is upset that those opposing the expansion must write a letter explaining why, whereas he felt it should be that those in favor of the expansion should need to write an explanation letter. He said the Executive Committee discussed the Calvary Baptist Church request.

Mr. Pytel explained that a DRI will not pass if one municipality votes against it.

Mr. Pytel said there was also a recommendation for code and zoning permit software service. Mr. Kunkle said that Mr. Walt Schneider will be asking to table this software decision for a 30 day period.

b. Finance

Mr. Pytel said that he attended the Finance Committee meeting for Mr. Mascolo. He said the potential refinancing of the pools loan was discussed, and how much money would be saved if it were refinanced versus putting it on a bond. Mr. Pytel said that there are little funds available for a parks maintenance building, and no decision was made. He said there was no direct answer as to whether money could be saved by refinancing.

Mr. Pytel said that regarding the financial trend report, the trend was particularly flat as far as funds go. Regarding costs, he said, costs for each municipality do keep changing as the COG formula changes.

Mr. Kunkle said that growth is factored into the formula, so although it has increased, the increase is proportional to Ferguson's growth.

Mr. Pytel said that the Centre Region MPO funding formula was discussed for a short time, and that

while everyone agrees it should be fair, no one can agree on a formula. Mr. Pytel said that inspection of rental facilities was discussed and that this is done every 3 years. He said that hiring another rental inspection employee was considered, but he wanted more data regarding how many inspections are done a day, how many need to be done, and average time per inspection before approving another position.

Mr. Pytel said that also discussed was possibly hiring another code plan reviewer for the commercial areas

Mr. Pytel said that Millbrook Marsh is also considering increasing the hours for an 11-month position that is currently at 20 hours per week. He said that the proposed budget is claiming this will be offset by increased program attendance. Mr. Pytel said that Schlow Library is considering in-house and contracted custodial service.

Mr. Pytel said that also discussed was future costs of the COG pension fund, and whether COG should use monies that are from a medical insurance reserve fund to offset anticipated increases in medical insurance.

Mr. Pytel said that vehicle purchases were discussed, specifically whether buying hybrid or buying American were the best options.

Mr. Pytel said that the finance committee also discussed replacing a 1991 fire engine tanker that is 22 years old and reaching the end of its useful life. He said that the estimated cost is \$450,000. Finally, Mr. Pytel said a \$65,000 emergency generator replacement in the main fire station was discussed.

c. Parks Capital

Mr. Kunkle attended and said there was a presentation for the Babe Ruth Baseball Project. He said that there is a proposal to extend the S & A Field fence and provide new lighting as part of a community partnership project.

Mr. Kunkle said that the phase 1 development for Oak Hall Regional Park was approved by COG's Township Council and Parks and Recreation is working on construction plans. He said the next thing to do is put this project out to bid. Mr. Kunkle said that the College Township Water Authority has completed an exploratory well on the Oak Hall site, and has hit at least one well that has a significant amount of water capability. He said that the permitting process is going through the Susquehanna River Basin Commission. Mr. Kunkle said that both Parks Capital and the Recreation Authority granted an additional 90 day time extension to complete the permitting process on the well, and develop a long term agreement for utilization of the well.

Mr. Kunkle said CRPR staff and consultants for the Whitehall Road Regional Park development met with him and Ms. Lang to talk about zoning and land development issues. He said that they are working to put a land development plan together, and there is discussion with regard to recreational building lots being set aside in the master plan. Mr. Kunkle said that turf fields were also requested for one of the soccer fields.

d. Public Services and Environmental

Mr. Killian said that there was a presentation by Dr. Todd Gittings who spoke about groundwater, specifically that last year was the second wettest year on record, which is 150 years. He said that the pattern of rain has not changed, and that Dr. Gitting's current project is preparing a critical recharge area map of entire region and Spring Creek Watershed. Mr. Killian explained that Dr. Gitting's hope is for developers to use this map to find places where water will be absorbed into the ground the quickest and set those areas aside from development.

X. APPROVAL OF THE MAY 21, 2012 MINUTES

Mr. Killian made a motion to approve the May 21, 2012 minutes. Mr. Pytel seconded the motion. Mr. Killian was in favor, Mr. Keough did not vote.

XI. ADJOURNMENT

Mr. Killian made a motion to adjourn the meeting. Mr. Keough seconded the motion. It passed unanimously.

With no further business before the Board of Supervisors, Mr. Pytel adjourned the meeting at 9:57pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager For the Board of Supervisors

Date approved by the Board: 07/16/2012