

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, August 20, 2012
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, August 20th, 2012 at the Ferguson Township Municipal Building. In attendance were:

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

Staff: Mark Kunkle, Township Manager
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; Jeffrey Kurland; Bill Heckinger; Pam Steckler; Lewis Steinberg; Katie Ombalski; Steve Miller; Charlie Courtney; Gary Schell; Mike Mudry; Dale Pears.

II. CALL TO ORDER

Mr. Pytel called the August 20, 2012 regular Meeting to order at 7:00 pm.

III. STEINBERG LEGAL MATTER DISCUSSION

Mr. Steinberg explained that a petition has been filed with the Centre County Election Board in order for a question to appear on the ballot in November. He said that the question deals with adding an amendment to the home rule charter, specifically relating to a community bill of rights for environmental matters and natural gas extraction. Ferguson was initially planning on filing an injunction, but Mr. Steinberg said that other Townships have done this, and the court ruled against these townships. He explained that this is because the proposed question was not yet law, so it is premature to attempt to oppose it. Therefore, Mr. Steinberg suggested Ferguson Township proceed as requested by the Election Board to present an appropriate form of question but take no other legal action.

IV. CITIZEN'S INPUT

- Mr. Jeffrey Kurland explained that he was the filer of the petition, and that he has been a resident of the Township for 34 years. He said that he wants to work with the Supervisors and maintain a good relationship. Mr. Kurland also stated that he believes the community bill of rights is in the interest of everyone, not just himself and the proponents of it. He said that he wanted to respectfully point out that they collected 857 signatures, where only 624 were required, and that they followed all Commonwealth rules. Mr. Kurland said there was an overwhelmingly positive response to their efforts, and that the only thing voters are signing is their ability to vote yes or no in the future. He said that based on his experience, he is confident to say that this positive response speaks for more people than the group was able to contact.

- Ms. Ombalski stated that she is a biologist at Clearwater Conservancy, and that she is here to discuss Ferguson Township's sponsorship of the Scotia map. She said that Ferguson Township previously contributed \$500 for the completion of this map, and that it is now finished and available for purchase. She said it includes recreational trails, a discussion of the ecology of the area, and reasons why conservation is important.
- Mr. Miller said that he has a road safety issue that he'd like the Board to address with state. He said that on College Avenue going southbound near the curve between Science Park Road and Bristol Avenue, there is a 150 yard section where the four foot shoulder is missing. He said that as he was riding his bicycle in this area, a car moved into the turn lane to give him space. While this was occurring, another car zoomed in between him and the car in the turn lane, creating a dangerous situation. Mr. Miller requested the Board speak with PennDOT about extending the shoulder. Mr. Modricker said he will look into the issue.

V. PUBLIC HEARINGS – ORDINANCES

1. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 15, MOTOR VEHICLES, PART 4, GENERAL PARKING REGULATIONS, SECTION 409, RESIDENTIAL PERMIT PARKING, AND SECTION 410, PENALTIES, IN THEIR ENTIRETY AND ADOPTING A NEW SECTION 409, RESIDENTIAL PERMIT PARKING, AND SECTION 410, PENALTIES

Mr. Kunkle explained that the Township currently has regulation on each of the streets, but found that in the process of administering the ordinance there was confusion. He said clarifications were required, and that some of the significant changes to the current regulations add additional criteria for determining whether or not a street qualifies for additional parking. Mr. Kunkle said that in addition, it removes the permit fee, and changes the location of the permit on the actual vehicle.

Mr. Clemson made motion to adopt the ordinance amending the Code of Ordinances by repealing Chapter 15, Motor Vehicles, Part 4, General Parking Regulations, Section 409, Residential Permit Parking, and Section 410, Penalties, in their entirety and adopting a new Section 409, Residential Permit Parking, and Section 410, Penalties. Mr. Killian seconded the motion.

Ms. Steckler asked if there will be significant changes, and Mr. Kunkle replied that if someone is already in the program there will not be a large impact on them. Ms. Steckler asked about the number of vehicles permitted per rental, and Chief Conrad explained that four vehicles are permitted per parcel for on-street parking.

Roll Call Vote: Mr. Clemson – Yes; Mr. Keough – Yes; Mr. Killian – Yes; Mr. Mascolo – Yes; Mr. Pytel - Yes adopting Ordinance #971.

VI. PUBLIC HEARINGS – RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, ADOPTING THE CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET FOR THE YEARS 2013 THROUGH 2017

Mr. Kunkle provided a PowerPoint Presentation. Highlights of the presentation included key budget assumptions, proposed additions to staffing, a chart of revenues by funds, financial projects by year, capital expenditures by department, and what has changed in the budget from year to year.

Mr. Killian made a motion to approve the 2012-2013 Capital Improvement Program budget. Mr. Mascolo seconded the motion.

Roll Call Vote: Mr. Clemson - Yes; Mr. Keough - Yes; Mr. Killian - Yes; Mr. Mascolo - Yes; Mr. Pytel - Yes adopting Resolution #2012-20.

VII. COMMUNICATIONS TO THE BOARD

Mr. Mascolo said an individual called him and said he was not receptive to people asking him questions. He said this individual also didn't like his approach regarding reviewing resolutions and programs.

Mr. Keough said he had several phone calls regarding the proposed amendment to the home rule charter. Mr. Keough also said that Mr. Killian was honored at Ag Progress Days, and was invited to cut a memorial cake honoring 150 years of the Morrill Act. Mr. Keough said that Mr. Killian was selected because he is a student of the College of Agriculture, is purported to be youngest supervisor in the state of Pennsylvania, and is a descendant of Mr. Morrill.

Mr. Pytel said he received phone calls related to changes to the charter.

VIII. ACTION ITEMS

1. Update on Musser Gap Trail

Mr. Kunkle explained that there is a group that has funding for a project that will create a trail for bicyclists and pedestrians. He said that the project is short on funding, however, because a bridge needs to be constructed over Slab Cabin Run. Ms. Ombalski said that the group would be \$4,000 shy of what they need, assuming they receive funding from other anticipated sources. She requested the Ferguson Township Board consider including \$2,000 in their 2013 budget. Ms. Ombalski explained that they will request \$2,000 from State College Borough as well, and that the trail would benefit both municipalities significantly. She also wanted to point out that money is directly for the cost of the bridge and trail – none will be for administrative or staff support.

Mr. Pytel said at one time Blue Course Drive was going to extend all the way down to 45. He asked what impact this would have on the trail if this happened in the future. Ms. Ombalski said that as long as a connection remains, DCNR will be okay with however the connection is

established.

Mr. Mascolo made a motion to review the request for \$2,000 as part of the 2013 township budget process. Mr. Killian seconded the motion. It passed unanimously.

2. Variance – JC Bar Properties, Inc.

Mr. Courtney said that JC Bar Properties has a variance application pending before the Zoning Hearing Board. He said the first is for access to North Atherton Street, and the second is for a 12 foot buffer yard. Mr. Courtney said that this has been before the Board a few times before, and in recap, the Board was opposed to a left-in turn from North Atherton Street to the CVS. In addition, he said the Board had some general concerns about any access, particularly because of safety considerations. He said JC Bar Properties agreed to re-evaluate the access, and after meetings with Ferguson Staff and PennDOT, redesigned the access so there is no longer a left turn in. He said they are proposing a right in and right out still, and there will be a deceleration lane for the right in. Mr. Courtney said he does not believe any safety concerns are lingering, and he is asking the Board to support the variance request with the condition that the Board have the ultimate authority over the design including any improvements to North Atherton Street that would be required. Mr. Courtney said that redevelopment of the site unlikely to happen without access onto North Atherton Street. He claimed that the benefits of having CVS on this site include a new user for the building, and a long term tenant. He also said further benefits include a larger setback, more landscaping and a more conforming site.

Mr. Modricker read highlights of the Township Engineer's memo to the Board. He said the Township Engineer finds no change in the level of service if there is access on North Atherton or Cherry Lane. In addition, there was no change in the level of service for the turning lane. Mr. Modricker said that the Township Engineer thinks there would be a traffic benefit if access was only permitted on Cherry Lane and not off of North Atherton Street.

In addition, Mr. Modricker said that the Township Engineer feels the applicant did not discuss truck deliveries enough, specifically trucks attempting to access this site from I99.

Mr. Modricker said that the Township Engineer also felt the 102 ft deceleration lane was significantly too small, as ASHA guidelines recommend a minimum of 434 ft. There was much discussion among the Board.

Mr. Courtney said he was willing to postpone the Zoning Hearing Board meeting, and is strongly seeking the Board's support.

Mr. Kunkle asked, since CVS is in a land lease agreement, if they would have the ability to accept a condition that states if the use of the building changes, the right-in and right-out would be closed. Mr. Courtney said he would look into this. Mr. Kunkle asked if Mr. Courtney would consider a hold harmless agreement with the Township. Mr. Courtney said he would look into this too but the answer would most likely be yes for both questions.

Mr. Kunkle offered some summary conditions for the Board's consideration.

1) PennDOT and township must jointly approve the design and highway occupancy permit of the right-in and right-out access on North Atherton Street.

- 2) The applicant agrees to the condition on record that they won't sign off on any conditions of the HOP without approval of the Township.
- 3) Granting of a permit for the right-in and right-out access on North Atherton Street shall be further contingent upon the ability of a WP-50 tractor trailer to exist the site onto Cherry Lane then make a second turn westbound onto North Atherton Street while remaining on Atherton Street and not encroaching into the left turn lane.
- 4) The granting of access shall not require further variances
- 5) The deceleration lane shall be constructed to PennDOT standards
- 6) An indemnification and hold harmless agreement be signed, subject to the Township solicitor's recommendation
- 7) That access onto North Atherton Street be closed should there be change in use on property, and that the Township can require this closure.

Mr. Courtney said he would have to discuss these conditions, but that they may be possible. Mr. Pytel confirmed that Mr. Courtney was planning on postponing the Zoning Hearing Board appearance until September and Mr. Courtney did say yes.

Ms. Lang requested that if additional data is collected by JC Bar Properties, that they do it in a timeframe that will allow the Township Engineer to evaluate it.

3. Approval of the July 2012 Voucher Report

Mr. Mascolo made a motion to approve the July 2012 voucher report. Mr. Killian seconded the motion. It passed unanimously.

4. Consent Agenda

Mr. Killian made a motion to approve the consent agenda items, which include a July Treasurer's Report, Pay Authorization, and Surety Release. Mr. Mascolo seconded the motion. It passed unanimously.

IX. REPORTS

a. Manager

Mr. Kunkle explained that the Centre Area Cable Consortium Technical Committee met to discuss the Final Report on the Comcast Periodic Review dated July 30, 2012. He said the Technical Committee will file its final report with the consortium Board of Directors and that there were no findings of non-compliance by Comcast.

Mr. Kunkle said that staff is still awaiting the finalization of the redistricting of the state legislative districts in order to move forward with the Township voting ward redistricting. He said that it does not appear that the current appeal of the legislative redistricting will have any impact on the voting ward redistricting for the Township and the Board may wish to move this matter forward.

Mr. Kunkle continued, saying that he received 20 applications for the position of Assistant Township Manager. He announced that applications are still being received through August 17th. Evaluation of the applications is currently being completed.

Mr. Kunkle announced that long-time Township Tax Administrator Jennie Kitchener will be serving her last day on August 31st after 28 years with the Township. He said that Jennie began her career with George McWilliams and was one of the first municipal employees to work in the Tax Office after the adoption of the home rule charter. Mr. Kunkle said that her career has included advancing the modernization of the tax office from paper to fully automated. She has had the responsibility of collecting the County, School District and Township real estate taxes and the earned income taxes. In 2011 this amount totaled over \$34,000,000.

b. Public Works Director

Mr. Modricker reviewed three of the major public works projects listed in his report. Firstly, he said Martin Street will be milled out and repaved, because paving was inadequate. Mr. Modricker continued to explain that Tudek Park phase 3 is under construction. Mr. Modricker said there is an issue with street trees, particularly in the Saybrook, Foxpointe, and Hunters Chase neighborhoods. He said the ash trees are being attacked by the Emerald Ash Bore and options for solving the issue include replacement trees of a different variety, or in some cases, spraying trees that are not as badly affected.

Mr. Keough asked if the trees requiring attention are in the right-of-way, and Mr. Modricker said yes.

c. Chief of Police

Chief Conrad said that Part 1 crimes for July were up a little bit, with 23 reports compared to 14 last year. However, she said this number is still down year to date. Chief Conrad said that minor crimes and total crimes are about the same both for the month of July and year to date.

Chief Conrad continued, saying traffic citations are up 16% for the month, parking tickets are down 26%, and traffic stops are down by 42%.

Chief Conrad said she attended a PA Chief of Police conference in Camp Hill for 3 days. She also commented that Ag Progress Days went smoothly

d. COG Committee Reports

i. Executive

Mr. Pytel announced that this committee will meet August 21.

ii. Finance

Mr. Mascolo said that there was a presentation for the COG audit and nothing was unusual for this. He said regarding the refinancing of the pool loans, they are waiting to hear back from more than four banks who will offer proposals.

Mr. Mascolo said there were many comments on the COG Program plan, and the rest of the agenda was not reached.

iii. Human Resources

Mr. Keough said that the committee forwarded approval of allowing for a flexible spending account which was discussed last month. He said there was a presentation regarding the hiring of a full time person in the children's library at Schlow. He said this is because two of their full time staff have become ill. Mr. Keough said financially, it is nearly a wash for the new position, and the finances will be reviewed for the 2013 library budget.

Mr. Killian asked how Ferguson is involved with that, and Mr. Keough said Ferguson is not a member of the library, but has a voice at COG. Mr. Killian asked if it goes through the library or COG or finance, and Mr. Mascolo said it will end up in the Finance Committee.

Mr. Keough said that medical expenses for COG employees are expected to go up by 15% in 2013. He said that the Parks and Recreation program manager position previously approved has now been filled.

iv. Parks Capital

Mr. Mascolo said that Parks Capital met on August 9 and received an update on the wells College Township is drilling in Oak Hall Regional Park. He said there was also a presentation on a centralized park maintenance facility, and shed light on what the parameters were for the design. He said the total budget or estimate was approximately 2.2 million dollars, and Mr. Mascolo said he thought this figure was too high.

Mr. Mascolo said that the Borough of State College seemed upset that Parks and Recreation is not considering tying into their new facility. Mr. Killian said his impression is that Parks and Recreation had limited space, and the Borough wanted them to move. Mr. Kunkle clarified that the Borough purchased additional land to construct an additional facility, and the Borough offered Parks and Recreation an opportunity to participate in the land development planning process for additional space. He said Parks and Recreation declined the offer. Parks and Recreation will be asked to vacate the property by June 2013.

v. Public Services

Mr. Killian said that the boreholes construction is up for review, and it was reviewed two years ago. He said that the intent of the ordinance was that PA certified drillers would be completing the work. However, it was noticed that the drillers actually doing the work were indeed not PA certified. Mr. Killian said the question before the committee was whether registered PA drillers were really necessary – whether PA drilling is different from elsewhere. He said the second part of the question was whether these drillers are covered under the construction fee, and the answer to this part is yes, except for single family dwellings.

Mr. Killian said that the Harvest Field DRI application was also discussed. He said the applicant has reduced their request to 14 acres, which will use 12 EDUs. He said that the condition Ferguson requested of Harris Township was that this construction be limited to 12 EDUs by UAJA. However, Mr. Miller of UAJA pointed out that if the pipe is not physically limited, the facility could use more than 12 EDUs without anyone noticing. Mr. Killian told them that he represented Ferguson's stance, which was not currently in favor of approving the DRI application.

e. Other Non-COG Regional Committees

Mr. Pytel said that discussions regarding fair funding of the MPO were resurfaced. He said that others accused Ferguson of ruining the MPO by refusing to continue to pay according to the traditional COG formula. Mr. Pytel said that the only groups that said they will drop out if their price goes up are State College, and Benner Township. He said the committee tried to suggest revisiting this next year and he insisted on no, because this has been put off too many years.

X. ADJOURNMENT

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

With no further business to come before the Board of Supervisors, Mr. Mascolo adjourned the meeting at 9:51 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 09/04/12