

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, May 20, 2019
7:00 PM

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, May 20, 2019, at the Ferguson Township Municipal Building. In attendance were:

Board: Steve Miller
Richard Killian
Peter Buckland
Laura Dininni
Tony Ricciardi, Absent

Staff: Dave Pribulka, Township Manager
Lindsay Schoch, Community Planner
Dave Modricker, Public Works Director
Chris Albright, Chief of Police

Others in attendance included: Faith Norris, Recording Secretary; Bill Keough, CRPRA; Lewis Steinberg, Schlow Library; Thomas Giles, C-NET; Cindy Hahn, C-NET; Lara Fowler, Sustainable Communities PSU; Jeremie Thompson; Elliott Killian; Ann Yost, YSM; Norris Muth; Wes Glebe; Chad Stafford, Penn Terra; Pam Sticker; Bill Hechinger; Andy McKinna; Chad Stafford; Tony Barrile; Ilona Balleich; Lee Wzschesky, Aspen Whitehall; Mark Torretti, PennTerra Engineering.

II. CALL TO ORDER

Mr. Miller called the Monday, May 20, 2019, regular meeting to order at 7:00 p.m.

III. CITIZENS INPUT

Mr. Glebe thanked the Township Manger for running an open shop.

Mr. Miller noted a request received today on Pine Hall Development to place on the agenda for discussion. With the Board's consent, the item was placed at the end of Unfinished Business.

IV. SPECIAL REPORTS

1. Schlow Centre Region Library. Mr. Steinberg reported on the library's revenue and expenditures that are on budget for the 1st quarter; trends were reviewed; the Community Room and online is getting more usage; remote book drop-offs report for 2018 with 18% being out of Ferguson Township; free summer lunch program for children under 18; positive results reported for Centre Gives campaign along with matching funds; and report of resident library usage.
2. Centre Region Parks and Recreation Authority. Mr. Keough's report included the 2019 Annual Parks Authority report; discussion of the action sports park; Whitehall Road Regional Park; and Park & Recreational Regional Comprehensive Plan Study. More discussion followed on private fundraising and the MOU templates followed by a discussion on park/dark skies lighting. Ms. Dininni noted for public record that Mr. Ron Woodhead clearly stated that the budget was not available to match the need that was planned at that time for Whitehall Road Regional Park and would forward the letter to Mr. Keough for reference. Discussion followed on the relationship of CRPR to large private donors.

Mr. Keough announced that the Baileyville Community Hall opened a free public library for the western end of the Township.

3. C-NET Annual Presentation. Mr. Giles reported on expanded bylaws that allows governmental agencies to participate beyond school districts, i.e., Ferguson Township and Centre Parks and Recreation; 2018 highlights; 2017 Strategic Plan; and update on new members that included the State College Borough Water Authority. Ms. Hahn reported on the slow moving franchise negotiations that is crucial for C-NET's

future financial stability and is working towards a franchise renewal. Updates followed on the Township's sponsored programming, bulletin board messages; program viewership that has increased from last year; and the C-NET funding formula.

V. **APPROVAL OF MINUTES**

Ms. Dininni moved that the Board of Supervisors **approve** the Regular Meeting Minutes of May 6, 2019. Mr. Buckland seconded the motion. The motion passed 4 to 0.

VI. **UNFINISHED BUSINESS**

a. PUBLIC HEARING ON A RESOLUTION APPROVING SUBURBAN PARK MASTER PLAN

Mr. Pribulka introduced the plan and reviewed the history.

A citizen spoke on multiple uses for the park; concern for child safety and park maintenance - stormwater drains/runoff; low mow areas and surrounding wildlife. Another noted concern was the change of type of lighting.

Mr. Killian moved that the Board of Supervisors **adopt** the resolution approving a revised master plan for Suburban Park. Mr. Buckland seconded the motion.

A clarification was noted on the low mow areas adjacent to the surrounding homes. Discussion followed on the buffers.

Roll Call vote on Resolution 2019-15: Mr. Killian – YES; Mr. Miller – YES; Mr. Buckland – YES; Ms. Dininni – YES. Motion passed 4 to 0.

b. CONSIDERATION OF ADDITIONAL PARKING RESTRICTIONS ON RUSHCLIFFE STREET

Mr. Pribulka introduced the item relative to on-street parking and speeding. He clarified the current parking restrictions and added that an engineering study would need to be conducted to demonstrate that "no parking" standards are met and that the Board, by ordinance, can post the street as no parking. Mr. Modricker followed with a discussion on how comments are received by the Township and the process. He noted the street is good from a safety perspective.

Mr. Barrile discussed his concerns and reviewed the history of the street issues. Discussion followed on the Board's options vs. what Mr. Barrile noted as Turnberry's HOA designated options; first responders' access and resident driveway access.

Discussion followed on emergency vehicles' accessibility; driveways access; and the enforcement of parking prohibitions.

Mr. Buckland moved that the Board of Supervisors **direct** staff to conduct an engineering study to determine if parking prohibitions on Rushcliffe Street are warranted and, if so, prepare a resolution with an appropriate parking plan. Mr. Killian seconded the motion.

Clarification was made on the discussion leading up to the proposed motion. Mr. Modricker noted that it fits into the parameters of an engineering study. Staff will present a recommendation with options to the Board. Discussion followed on further outreach efforts with the surrounding residents, the determined process and traffic calming study. It was determined that more feedback is needed for this item prior to passing a motion. Clarification was made on the motion on the table.

Mr. Miller moved that the Board of Supervisors **postpone** discussion until the June 17, 2019, Regular Meeting. Ms. Dininni seconded the motion. The motion passed 3 to 1 with Mr. Buckland dissenting.

Mr. Barrile suggested the Township staff meet with the residents and/or the HOA board. Mr. Barrile addressed Chief Albright and confirmed that streets that have no parking in the Township have in the past been temporarily been allowed parking for a few hours with the Police Department's permission. Mr. Miller requested that interested homeowners contact the Township with comments/feedback that can be forwarded to the Board of Supervisors.

Mr. Miller called for a recess at 8:30 p.m.

c. PRESENTATION AND DISCUSSION OF PLASTIC BAG BAN ORDINANCE/IMPACT FEE

Mr. Pribulka introduced the item and reviewed the options available to the Board. Dr. Fowler reviewed the analysis, criteria and results done by Penn State students in a Negotiation and Dispute Resolution Design class. White papers were completed and can be made available. There were a range of views from stakeholders' perspective; nationwide examples of voluntary action; and proposed next steps that the Board could consider.

Discussion followed on the value of approaching the regulations from a regional perspective.

Ms. Steckler reviewed the history of the Plastic Ban petition that she had initiated last fall. She would like it to move forward a little quicker; noted concern for waste stream and shared examples of where to view educational videos; and reiterated the need for an ordinance on the single use plastic bag ban to initiate action for a more sustainable future. Mr. Hechinger discussed the concept of fees leading to bans and the potential effect on the Township. Mr. McKinnon discussed plastic bags contribution to climate change and the need to initiate a ban at the local level.

The Board discussed the options set forth in the agenda's narrative. One Board member expressed support for options #2 or #3 to have partnerships and voluntary initiatives; state-wide solutions-petition state representatives; to engage with retail stakeholders; and demonstrate sustainability. Other discussions were to ban the sale of single use plastic bottles; and move ahead with the structure of impact fee. In addition to petitions have the Board of Supervisors, write a letter to state and county representatives asking for focus on economic development that does not include plastic. A discussion followed on placing this item on an upcoming Public Services & Environmental (PS&E) Committee agenda and area municipalities' agendas to see if there is an interest in participation among those groups. Mr. Miller stated he was in favor of drafting an ordinance that would impose an impact fee on plastic bags and that fee be retained by the retailer. Discussion followed on positive examples done in other states along with exploratory questions.

Mr. Miller moved that the Board of Supervisors **direct** staff to prepare a draft ordinance imposing an impact fee on single use plastic bags. Mr. Buckland seconded the motion.

Discussion followed on exploratory questions, ideas, and the engagement of potential stakeholders. Dr. Fowler noted that her students interviewed approximately 30 people that included some retailers.

The motion passed 3 to 1 with Mr. Killian dissenting.

Mr. Buckland received clarification on how to approach the discussion on regional conversation and educational strategy. Mr. Buckland reiterated that he will approach the PS&E Committee to add this item to a future PS&E agenda.

d. FERGUSON TOWNSHIP PUBLIC WORKS MAINTENANCE FACILITY LAND DEVELOPMENT PLAN

Ms. Schoch introduced the land development plan. A noted change was to replace the proposed fruit trees to cypress/shade trees as approved by the Tree Commission this evening. Details followed on the change.

Mr. Buckland moved that the Board of Supervisors **approve** the Ferguson Township Public Works Maintenance Facility Land Development Plan subject to the conditions outlined in the Interim Director of Planning & Zoning memorandum dated May 14, 2019. Mr. Killian seconded the motion.

Mr. Buckland thanked the design team on the care, attention and direction that has gone into the plan. Discussion followed on reasons for the shade trees and pollinator selections. Ms. Schoch detailed the spread and height of the trees. Mr. Modricker clarified the location of where the trees will be planted and distinction of the trees. The process, budget and plan were discussed. Mr. Modricker clarified the funding is for the building. The site plan recommendation to the Board, which is part of the Basis of Design, will be provided after it's out to bid. Mr. Pribulka referenced the public worksession held last year and the recommendations for strategies that are being incorporated to accommodate for a more favorable bid climate. Clarification was made that approval of the land development plan is needed prior to the bidding process. Discussion followed on certification programs and related points system that can lead to a project being over budget – the need vs. intent and assessment of operational costs that justify a LEED Gold building design.

The motion passed 4 to 0.

e. PINE HALL MASTER PLAN TIME EXTENSION

Mr. Pribulka introduced the added agenda item. A letter from Charlie Suhr, representing Residential Housing, LLC, was provided to the Board for this evening's discussion. There was concern from the applicant that certain components of the General Master Plan may not be prepared in time for the scheduled public hearing before the Board on June 17th. Therefore, the applicant has requested to postpone the public hearing until the July 15th Board meeting. In conjunction with that request, the applicant will grant a time extension to the Township that will extend the expiration date from July 8th to August 6th. Mr. Miller stated that public hearings are established by a motion and this item would require a motion to change the public hearing date.

Ms. Dininni moved that the Board of Supervisors **change** the Public Hearing of the Pine Hall TTD Master Plan to July 15, 2019. Mr. Miller seconded the motion. Discussion followed on granting time extensions that are administrative changes. After the plan is approved, that is when it's a request of the Board. The motion passed 3 to 1 with Mr. Buckland dissenting.

VII. **NEW BUSINESS**

1. CONSENT AGENDA

- a. Donation Request – 2019 Fourth Fest
- b. Special Events Permit – American Legion Post 245 – August 10, 2019
- c. 2019-C6 Pay Application – Curb & Ramp Upgrades: \$39,138.71

Mr. Killian moved that the Board of Supervisors **approve** the Consent Agenda. Mr. Buckland seconded the motion. The motion passed 4 to 0.

2. ZONING APPEALS/REQUESTS FOR VARIANCE

- a. Request for Variance - Tax Parcels 24-4-67 and 24-4-67C, Whitehall Road Sheetz Land Development Plan and Subdivision Plan

Ms. Schoch presented the item and noted representatives from Penn Terra were present that represented the applicant Aspen Whitehall Partners. This is a request to not show the sidewalks on the subdivision plan at this point.

Mr. Torreti discussed the plan and subdivision requirements for sidewalks. He noted the variance was pertaining to specified lots that are not developed. A clarification was made on ordinance requirement on showing of sidewalks on a subdivision that is deferred on this plan. It was clarified if the sidewalks are shown on the subdivision plan that a Surety would need posted. Mr. Pribulka clarified that a Surety is a deposit with the Township for a variety of public improvements, usually in the form of a check or bond. If those public improvements are not made under the T&Cs of the Surety, the Township can draw on the Surety and construct public improvements.

Mr. Buckland moved that the Board of Supervisors **remain neutral** on the request for variance for tax parcels 24-4-67 and 24-4-67C. Mr. Killian seconded the motion. The motion passed 4 to 0.

Clarification was made that modification requests would need approved by the Zoning Hearing Board prior to submission for Board approval under the Subdivision and Land Development Ordinance. This was in reference to a discussion of sidewalk requirements in the SALDO.

3. HUMMEL SUBDIVISION REQUESTS FOR MODIFICATIONS & CONSIDERATION FOR SIDEWALKS IN THE RURAL RESIDENTIAL ZONING DISTRICT

Ms. Schoch stated that Chad Stafford, Penn Terra Engineering, was present and represented the applicant. Ms. Schoch reviewed the initial Planning Commission Meeting held on May 13th; staff and engineering firm reviews; and the proposed parcel to be separated into three lots with two modification requests. Those requests included not to pay fee-in-lieu of parkland; a waiver from the requirement to construct sidewalk; and a modification from the requirement to construct the street to a certain width. Discussion followed on staff's recommendation and being consistent with what has been done in the past in regards to fee-in-lieu. Mr. Pribulka clarified in detail how modifications are applied in a subdivision and land development ordinance.

Discussion followed on each motion that was voted on separately. Mr. Stafford reviewed the waiver request and history for Lot 2, identified as being an undeveloped lot. Questions followed on how to process the lots; lot consolidation; zoning; and Fee-in-lieu ordinance requirements. Ms. Schoch clarified why the lots were not consolidated. Ms. Dininni agreed with the Planning Commission's assessment that a fee-in-lieu should not be assessed on this subdivision with the undeveloped lot. Mr. Buckland discussed granting the modifications with the provision to assess the fee-in-lieu to Lot 1 that can still be developed. Mr. Pribulka recommended not having a separate fee-in-lieu standard that would apply to a specific subdivision. Discussion followed. It was clarified that the Fee-in-lieu is paid at the time of the subdivision. Mr. Killian noted concern on precedence setting for future to not pay the parkland fee for other land development plans.

Ms. Dininni moved that the Board of Supervisors **grant** the modification requests for relief from Chapter 22-513 Public Use and Service Areas for payment of fee-in-lieu. Mr. Miller seconded the motion. The motion passed 3 to 1 with Mr. Killian dissenting.

Ms. Schoch introduced the second recommended motion and modification request for relief from Chapter 22.506.3. It is a private road that under ordinance is required to be widened to 18 feet. Noted was communication with Steve Bair, Centre Region Fire Director, who believes it should be built to the standard but will go with what the Township has recommended. Details followed on specifications on sprinkler systems for newly built homes. Ms. Schoch clarified with Mr. Stafford that a note would be added to the plan for Lot 1 to have a sprinkler system.

Ms. Dininni moved that the Board of Supervisors **grant** the modification request for relief from Chapter 22.506.3 Water Supply-Fire Apparatus Access to widen the road and to require sprinklers as a note on the plan for any lots to be developed in this subdivision. Mr. Buckland seconded the motion. Discussion followed on the order of recommendations. The motion passed 4 to 0.

Ms. Schoch discussed the next recommendation for the Board to determine if sidewalks are required in the subdivision per the ordinance. Details and discussion followed on process and location of the sidewalk. It was clarified if granting this modification, a sidewalk can be added later if conditions change through a resolution approved by a sitting Board of Supervisors. Discussion followed on lot accommodations.

Mr. Killian moved that the Board of Supervisors **grant** the modification request for relief from having to construct sidewalks. Mr. Buckland seconded the motion. The motion passed 4 to 0.

4. CENTRE AREA TRANSPORTATION AUTHORITY 2019/2020 DRAFT BUDGET

Mr. Pribulka introduced the item. The CATA Board of Directors has approved the budget and final adoption will be at CATA's June 3rd meeting. The purpose of this item was to forward any comments or questions to CATA, but municipalities have no approving authority on the CATA budget. The seconded half of FY 2018/first half of FY 2019 has been committed as of January of 2019 by a Board-adopted resolution. The Township's share commitment to CATA for the second half of FY 2019/first half of FY 2020 was reviewed.

No comments or questions were noted.

5. DISCUSSION OF PROCESS TO APPOINT REPLACEMENT SUPERVISORS

Mr. Miller reviewed the process on whether to have a more organized structure or open structure for candidate interview questions.

Discussion followed on guiding general structured questions to be consistent with all the candidates for comparison with some flexibility to do follow-up questions to the existing questions.

Mr. Miller asked for Board members to send a list of specific questions to him prior to the first interview session on June 11th in order to have time to compile a list for Board members' review.

6. AWARD OF CONTRACT 2019-C9 MICROSURFACING

Mr. Modricker reviewed the bids for work in and outside of the Township and noted other municipalities' participation. The Township's share was reviewed that is within the budget, pricing is consistent with prior years, and is consistent with PennDOT's system for the same work.

Mr. Killian moved that the Board of Supervisors **award** Contract 2019-C9, Microsurfacing to Asphalt Paving Systems, Inc., in an amount of \$692,542.62. Ms. Dininni seconded the motion. The motion passed 4 to 0.

VIII. STAFF AND COMMITTEE REPORTS

a. COG COMMITTEE REPORTS

1. Ad Hoc Facilities Committee. Agenda provided. Mr. Endresen attended on Mr. Buckland's behalf. No written report. A follow-up was requested.
2. Finance Committee. Mr. Killian reviewed details of use of internal agency loans with Certificate of Deposit terms that was recommended to the General Forum; details on solid waste recycling

contract's Base Bid with assessment fee process. Discussion followed on Finance Committee's involvement which was to comment on the loan and details on how the Base Bid was chosen.

b. OTHER REGIONAL REPORTS

1. Centre Area Cable Consortium. Agenda was provided. Mr. Pribulka provided notes from Mr. Ricciardi. The Consortium met on May 13th and discussed a franchise contract in hopes of having it finalized prior to fall of this year; details on the franchise fee audit - the Board will be asked to approve a settlement agreement with Comcast on June 17th for the Township for a period of December 1, 2013 – November 30, 2017, to recuperate the underpaid amount of the franchise fee.
2. Spring Creek Watershed Commission – Mr. Buckland stated they met last Wednesday, May 15th. Update on annual rainfall amount and well levels – in the 124th year of monitoring levels; update on a positive continued discussion on One Water Plan - Phase 2 draft report points and relevance to be compiled into a document for public access and process details for a potential for a Phase 3 plan. Discussion followed on additional stakeholders-recreation providers to be considered. Mr. Buckland noted this was his last Commission Meeting and a new appointee is anticipated in July.

c. STAFF REPORTS

1. Township Manager. No written report. Mr. Pribulka did a verbal report. Cancellation of the June 3rd Board of Supervisors Regular Meeting - next meeting will be June 17th and a public notification is forthcoming; staff is attending the ITGA (International Town Gown Association) Annual conference held at the Penn State HUB; attended the APMM Annual Conference last week; the 2020-2024 Ferguson Township CIP was provided to the Board this evening- Board requests are due to the Manager and Director of Finance by the end of May - review process will start along with the worksessions and annual road tour in July; Tudek Park Trust participated in the 2019 Centre Gives campaign and raised over \$1000 from 15 donors; brief update on the Township's Discrimination ordinance – unsuccessfully has not received review comments from the Pennsylvania Human Relations Commission – direction moving forward is to work with Bellefonte Borough counsel representative and State College Borough manager on language to establish a regional human relations municipal commission. Mr. Pribulka thanked a Pennsylvania Furnace resident Barry Karchner for donating a canvas map of Ferguson Township that will be displayed publically at the Township.
2. Interim Planning and Zoning Director. Ms. Schoch reported on the submitted Orchard View Subdivision Plan that has 36 lots south of Sheetz in the direction of Pine Grove Mills. Both Orchard View and Sheetz are under review along with the Hummel Subdivision discussed at tonight's meeting. It was clarified that Orchard View is a subdivision plan and not a LDP.
3. Public Works Director. Mr. Modricker reported on the Chesapeake Bay Pollutant Reduction Plan that MS4 permit holders received written response from the PA Department of Environmental Protection (PaDEP) regarding the plan submission that directed the Township to add back in areas that were removed previously from the contributory watershed because they drained to sinkholes – details followed as noted in the report. The revised plan will be resubmitted to PaDEP this Fall. Discussion followed on what PaDEP wants handled and clarification in regards to consistency on whether the Township's Stormwater and Sourcewater ordinances are in line with PaDEP's handling of sinkholes. A detailed discussion followed.
4. Chief of Police. Chief Albright reported activity for April 2019 and year-to-date. Part 1 Crimes are up; Part 2 crimes are down; overall calls are same to last year; in April there was an increase in amount of drugs turned into the Township of about 74 lbs.; notable incident reviewed. Discussion

followed on a bear spotted in Overlook Heights. Chief Albright recommended reactivating the bear story on the website that shows tips and recommendations for bear sightings.

IX. COMMUNICATIONS TO THE BOARD

None.

X. CALENDAR ITEMS

1. Public Works Week, May 19 – 25, 2019
2. Ferguson Township Administrative offices closed Monday, May 27th for Memorial Day
3. 2019 Ferguson Township Police Bike Rodeo, Saturday, June 1st, 11:00 a.m. – 1:00 p.m., at Weis Market, 1471 Martin Street, State College

XI. ADJOURNMENT

Mr. Miller called for adjournment. With no further business to come before the before the Board of Supervisors, Ms. Dininni motioned to adjourn the meeting. The meeting adjourned at 11:00 p.m.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'D. Pribulka', with a stylized, cursive script.

David Pribulka, Township Manager

For the Board of Supervisors

Date approved by the Board: 06-17-2019