

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, December 3, 2012
7:00 pm

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, December 3rd, 2012 at the Ferguson Township Municipal Building. In attendance were:

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

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

Others in attendance included: Barbara Donnini, Recording Secretary; Dick Anderson; Jim May; Eric Endresen; Karen Patzer.

II. CALL TO ORDER

Mr. Pytel called the December 3, 2012 regular meeting to order at 7:00 pm.

III. EXECUTIVE MEETING

Mr. Pytel announced that this meeting was regarding potential legal problems.

IV. CITIZEN'S INPUT

Mr. Anderson said that his property backs onto the Turnberry Development. He said that he had an extended conversation with Ms. Lang about the development being open to students. Mr. Anderson said that the area behind his home was zoned agriculture, but soon after was sold by the University on a contingency basis.

Mr. Anderson claimed that the plan to put single family housing at this location was discarded, and asked if it had something to do with income for the Township. Mr. Pytel said the decision had nothing to do with that.

Mr. Anderson said that there is currently a sign on Blue Course Drive that advertises for student housing. He said that he understands that the market in State College is geared towards students, but that it was irresponsible of the Township to send the plan forward knowing that when approved, the plan would be out of the Township's control. He claimed that there will be 8 units against his property, and other units all along Farmstead Lane, and that this damages his property value.

Mr. Pytel said that there is a master plan, and that the developer cannot change anything that was approved in the master plan. He also said that Ferguson does not have a definition for student housing for any property. Anyone can rent or buy a property, regardless of age, or any other demographic factor.

Mr. Anderson said that the ordinances do not prevent students, and that if one builds anything except single family housing, students will come. He claimed that the Township should have thought of this. Mr. Pytel said that the Township cannot tell people what to develop on the land.

Ms. Lang said that the TTD zone has the same rules as the zone in which Green Leaf Manor sits. She said that at the time, it was called a PRD (Planned Residential Development). She said that these

zones permit every type of housing and nonresidential uses as well. Ms. Lang said that there is no difference between Green Leaf Manor and Turnberry, but that the market today happens to be students. She said that there are no rules that state students cannot live in the townhouses or single family homes of Green Leaf Manor, and that students are in fact permitted in all zoning districts.

Mr. Anderson said that chances of students are slimmer if the Township decides to develop single family homes instead of townhouses or apartments.

Ms. Lang said that there are townhouses in Mr. Anderson's development. Mr. Anderson said the Townhouses being developed in Turnberry are three stories tall, and that the ones in his development are two stories tall. He said that he believes the Township made a poor decision.

Mr. Keough said that the Board has several responsibilities when making decisions on development. He said that one of these is the commitment to limit growth to within the sewer and water service boundary. Mr. Keough said this has been a longstanding issue with many previous Boards, and that it is important to consider the principle of development zoning called "highest and best use of land." Mr. Keough said that single family homes were a consideration for this land as the highest and best use, but that this decision passed before he was appointed to the Board.

Mr. Keough also said that there are challenges to a single family home development, and that this is one of the reasons this lot was vacant for so long. He said that the largest issue was drainage on the land. Mr. Keough said that another issue was infrastructure. He said that a large issue throughout the Township is big tracts of land that are undeveloped. Mr. Keough said that making land usable within the growth boundary takes pressure off of the agricultural land. Mr. Keough said that single family houses aren't typically good for the agricultural community. Finally, Mr. Keough said that while Mr. Anderson may not agree with the decision, no one did it just because they "wanted to do it," and that there was much thought and study that was put into the decision.

Mr. Anderson said his point is that the Township increased the chance of students, and that he hopes the Township will seriously investigate the drainage on the site, as people from the sewer authority told him that dense housing creates more drainage issues. He is concerned about his home.

V. PUBLIC HEARINGS - OTHER

1. A Public Hearing on the 2013 Township Budget

Mr. Kunkle said that the presentation is for the Board's review of the budget, and that the Board has conducted two work sessions to review and modify the budget. He expressed his appreciation to the Board for guidance, advice, and diligence. He also thanks Chief Conrad, Mr. Modricker, Ms. Lang, and Mr. Endresen for their contributions in developing the 2013 Township Budget.

Mr. Kunkle reviewed the PowerPoint, and key points included:

- Key Budget Notables: This is the fifth year no tax increases. The budget is balanced.
- Five Year Fund Balance Trend: Most funds have decreased, but are healthy. However, this trend should be monitored.
- Five Year Revenue Trends: Flattening of revenues, which is representative of regional and state-wide trends.

- 5 year Expenditure Trend: Generally this increased, due to additional personnel and police, and public works planning and zoning.
- Ferguson Township Revenue Breakdown: Income tax provides the most for this.
- Expenditure Highlights: Addition of an Assistant Planner . Replacement of the finance software with ERP software. Replacing a roof on the salt shed. The addition of one new police officer, and replacing three police vehicles . Under public works, completion of the West Whitehall Road project. A consultant to assist with a rewrite of planning and zoning ordinances, and also funding for pedestrian facilities. Regarding Parks and Recreation, updating of the play equipment, and updates to the parks. The insurance cost for workers compensation has increased, and health insurance and social security costs have also increased.
- Budget Changes: A proposed wage increase of 2% for non-uniform employees, and 3% for police. The cost of COG services increased by \$72,879, and capital projects such as West Whitehall Road and Regional Park improvements had increases.
- Economic Development- Provide up to \$25,000 in cost share to assist Chamber of Business and Industry of Centre County.
- Capital Projects: These included the completion of West Whitehall Road, as well as improvements on a few other roads in the Township. Starting Phase 1 for Westfield/Hillside Farm Estates Park, replacing the picnic pavilion at Homestead Park, and play Equipment at Autumnwood Park.
- Capital Equipment: In this category was the replacement of 20+ year old financial software, an update to the radio system replacing 800 mHz radios replacing 3 police cars, and converting a police vehicle to compressed natural gas.

For public works, a new loader and two trucks are budgeted.

Mr. Clemson made a motion to adopt the tentative 2013 Budget in anticipation of adopting the final budget on December 10. Mr. Killian seconded the motion. It passed unanimously.

VI. COMMUNICATIONS TO THE BOARD

Mr. Keough said that he received calls from Elk County regarding the recently passed community bill of rights legislation added to Home Rule Charter. He said that he received another call in relation to a zoning matter.

VII. ACTION ITEMS

1. Review of the Draft 2013 Fee Schedule

Mr. Kunkle said that annually, the Township updates its fee schedule. Mr. Pribulka reviewed the proposed changes. Some points the Board noted were:

- Receipts are still required when employees are being reimbursed for trip expenses, although now the money is distributed as a lump sum instead of mandated to be broken up per day.

- Private haulers are exempt from the refuse and recycling contract the Township has with Veolia, so only Veolia information is listed on the fee schedule.
- There are increases in fees related to sewage and inspection fees. Mr. Pribulka said that the sewage officer claimed that there are increased costs for his company.
- COG is still doing sewage management and tank inspections, and these fees are paid directly to COG.
- There are penalties for not mowing one's lawn in Ferguson Township, and after so many warnings, the Township hires a service to cut the grass for the resident. The resident is billed for these charges.

2. Discussion of the 2014 Centre County Metropolitan Planning Organization Membership

Mr. Killian said that he had requested that this be included, because he felt that the Board didn't fully discuss it previously, and that the Township must make a decision. He said that Ferguson must let the other municipalities know its intent for the future. Mr. Killian said that the current proposed formula uses 0% roads and 50% population as formula criteria. He suggested substituting vehicle registrations for population. Mr. Killian said that from research, he found that PennDOT may complete a study for a municipality to determine the number of registrations in a county. Mr. Killian said that there are two issues at hand, the proposed funding formula, and the issue of those that pay and those that do not pay but still have votes. Mr. Killian suggested that the full amount must be paid for a vote, but that if a municipality wants to vote under the region, they do not have to pay anything..

Mr. Keough said that he believes the MPO committed to resolving the issue by 2013. Mr. Pytel said they make a commitment every year yet nothing is ever done.

Mr. Clemson clarified that the MPO is facilitated by the county, and Mr. Mascolo said yes, and that in some locations, the county pays the entire thing. Mr. Kunkle said that some form of an MPO is required whether it be an MPO or RPO.

Mr. May said that the MPO Coordinating Committee did commit to changing the formula by June 2013. He said that the Ferguson letter agreed to fund the MPO based on existing formula, with an expected change to the non-COG formula in 2014. Mr. May said that there is a commitment from staff to fix this, and he urged the Board to not take action tonight, as it may send the message that Ferguson is unwilling to work with the rest of the region. Mr. May said that state representatives talked about state funding issues, and he is optimistic in spring that the state funding projects will help the region as well. Mr. May said that most recent federal legislation deals with MPOs expiring in June 2014. However, he is optimistic that the region can come to an equitable solution.

Mr. Pytel said that he believes the current MPO group should remain as a transportation committee if the MPO actual is to die.

Mr. Killian suggested sending a letter of support to the MPO, saying that Ferguson is in favor of a solution and that the Township is interested and invested in such a solution.

Mr. Pytel said that the group worked out 12 different solutions. Mr. Killian said that he is trying to squash the view that Ferguson is going to walk away if it doesn't like something.

Mr. Mascolo felt that this is expressed by Ferguson's previous approval of the budget.

Mr. May said that the proposed formula for 50% population and 50% roads wasn't supported overall, and Mr. Clemson asked why. Mr. May said that some municipalities felt it wasn't equitable, as they had to pay more, or were paying nothing at all before.

Mr. Clemson asked if the county can come up with a formula. Mr. May said the coordinating committee is open to a solution that maintains the transportation planning agency that serves residents and businesses in the county. He explained that there are things the MPO is required to do even if it is not funded, however some municipal services would be discontinued.

Mr. Keough said that he's heard that some Townships with limited resources who have a vote but don't pay may question whether their involvement is worth a price. They may not see the value, he said, since they've never had a project in their municipality.

Mr. May said that everyone receives benefits from the whole system, like when someone who lives in Patton Township commutes to work in Ferguson Township. They use the roads supported by the MPO.

General consensus was to wait to see what happens before sending a letter.

3. Discussion of Special Events/Football Rentals

Mr. Kunkle said this is for discussion purposes, and there is no recommendation from staff for action. He said that the Township received a letter from the Pennsylvania Mid-State Bed and Breakfast Association dated November 14, 2012 raising the issue of regulation of special events/football rentals. This letter was sent to each of the Centre Region municipalities and the Centre County Visitors and Convention Bureau has inquired how the Township intends to respond to this letter. Mr. Kunkle said that in the Centre Region only College Township regulates special event/football rentals and began doing so about three months ago. He said that currently, weekend rentals of residences does not fall under the Township's Property Maintenance Code and therefore do not need to comply with rental housing and property maintenance regulations. Mr. Kunkle said that based on a limited internet search approximately 11 property owners are engaged in renting their property for one and two night stays in Ferguson Township.

He said that besides asking for similar tax requirements, the letter requests that these buildings be required to comply with safety regulations, such as fire/smoke detectors, fire extinguishers, and handicap accessibility.

Mr. Killian clarified that the fee listed on the fee schedule is for full time bed and breakfasts.

Mr. Clemson asked about property maintenance ordinances. Mr. Kunkle said that for single family homes, from a zoning perspective, the Township requires a rental permit if renting for at least 7 consecutive days. He said that it is not that the Township is suggesting that this use shouldn't be regulated, but that at this point, the Township has no means of identifying and potentially licensing these rentals.

Mr. Keough asked what would happen if a resident came to the Township building and asked if they could rent their house on 5 football weekends plus graduation twice a year. Ms. Lang said nothing, as there is no permit for this currently.

Mr. Kunkle said that a permit is an endorsement from the municipality. Mr. Kunkle said that College Township created a rule like this, and identified approximately 60 properties that are suspected intermittent rentals. The Township sent a notification to all 60, and only four responded and got a

license. Mr. Kunkle said it is difficult to enforce, and that State College Borough considered this in 2011 but chose not to pursue it.

Mr. Keough said he prefers the Township not pursue this, as he doesn't believe it's enforceable. Mr. Mascolo said that the annual permit fees wouldn't cover the cost of research.

General consensus was to not act because there is no way to enforce the rule.

4. Variance Application – Fozard Enterprises, LLC 1363 North Atherton Street

Mr. Kunkle said that the applicant is seeking a variance from the Landscaping-Buffer Yard requirements. He said that the variance is to allow the planting of landscaping species that are not on the approved planting list, and that the species chosen was in response to a narrow planting area created by the construction of a retaining wall between adjacent properties and considering the survivability of the required plant species and sizes on the approved plan.

Mr. Mascolo made a motion that the Board remain neutral. Mr. Killian seconded the motion. Mr. Keough said that in reading the documentation, he would support the variance request. The motion passed 4-1, with Mr. Keough opposed.

5. Plainfield/Wyandotte Sight Distance Study

Mr. Modricker said that in November 2011, Township received letter from a resident concerned about the sight distance from Wyandotte Road onto Plainfield Road. He said that data was collected about traffic volume, a field survey was completed, and crash reports were reviewed. Mr. Modricker said that average weekday volume in both directions was less than 600 vehicles per day that the 85th percentile speed is 41 mph, and the posted speed is 35 mph. He said that typically crash data from the previous 3 years is considered, but since no crashes were found, the study looked back 10 years. There have been no crashes at this intersection in the past 10 years.

Mr. Modricker said that the survey determined the vertical geometry of the road, such as sags, dips, and hills, to see whether or not it met requirements. Based on the spacing of houses, and the fact that one side of the road is vacant, it doesn't meet the definition of a residential road. Mr. Modricker said that based on all of this, the existing scenario does not have enough sight-distance when looking to the left. He said that the vertical curves don't meet the sight distance requirements for a 30 mph posting, or even in some cases a 25 mph posting. He said that changing the vertical nature of the land to meet the 30 mph requirements would involve \$400,000, and \$200,000 for the 25 mph requirements. He said that Plainfield Road was repaved sometime in the last 10 years. Mr. Modricker said that turn restrictions could be considered at Wyandotte Road to address the issue, but that if pursued, would prohibit all turns except a right turn from the north. Mr. Modricker said that Wyandotte is one of two accesses to the development, but that shrubs usually are in the view of the other exit, so people choose Wyandotte Road. Mr. Modricker suggested reducing the speed to 25 mph, and he said the Township Engineer recommends doing this from Route 45 to the end of Pine Ridge Road.

Mr. Killian asked if the 25 mph change would be temporary until other traffic calming measures were put in place. Mr. Modricker said that this is a possibility, but not his recommendation.

Mr. Clemson made motion to accept the study and direct staff to further prepare and advertise for a public hearing to reduce the speed limit. Mr. Killian seconded the motion. It passed unanimously.

6. Approval of October 2012 Voucher Report

Mr. Mascolo made a motion to approve the Oct 2012 Voucher Report. Mr. Killian seconded the motion.

7. Consent Agenda

Mr. Killian made a motion to approve consent agenda. Mr. Mascolo seconded the motion. It passed unanimously.

VIII. REPORTS

1. Manager

Mr. Kunkle highlighted some items that will be on the upcoming December 10th agenda.

He said that the Park Hills Park play equipment area was re-opened to the public on November 28th, and that notice was placed on the Township and CRPR web sites. He also said a note was sent to the citizen's advisory committee members.

Mr. Kunkle said that attached to the Board's packet is the ABC Vacancy Report for 2013. He said the Township is looking to appoint eleven vacancies in the coming year, and that applications have been received.

Mr. Killian and Mr. Mascolo will be interviewing the ABC candidates.

2. Public Works Director

Mr. Modricker said there is no written report. He noted that brush collection will begin this week, that the Township will resume leaf collection, that the Township is ready for winter preparations, and that Public Works is working on designs for next year's projects.

3. Planning and Zoning Director

Ms. Lang said there is no written report. She said that she believes COG is getting ready to provide copies of the comp plan to the municipalities for comments. She said that the comp plan is an important document for planning and budgeting purposes, and is a vision of the future of the region. Ms. Lang urged the Board to take an appropriate amount of time to consider what is being proposed and how it might work to create a vision for the region as a whole and not just Ferguson Township. She said that the document is something planners rely on when creating ordinances for zoning and subdivision. She also said that the comp plan is the legal footing on which the Township must base legislations, and that a key purpose of the comp plan is the ability to not handle decisions on a case-by-case basis.

Mr. Keough said that moving away from issue-driven activity will be a major change in the region if it occurs.

4. Chief of Police

Chief Conrad said that there were twelve Part 1 Crimes in Oct. 2012, which was 2 more than that time last year. She said that most of these were a variety of thefts. Chief Conrad said that overall, Part 1 Crimes are down by 34 year to date. Chief Conrad said that Part 2 Crimes were up a little compared

to this time last year, mostly because of alcohol-related crimes. She said that Part 2 Crimes are up a little year to date. Overall, she said that October crimes are higher than last year's crimes for October, but that year to date crimes are virtually the same. She said that other calls for service are practically the same as last year as well.

Chief Conrad said that traffic citations are up substantially, at 66% higher than October of last year, and 37% higher for the whole year. She said that traffic stops are up as well.

Chief Conrad said that the Centre Region Code Enforcement Direct is now also citing lessees for large parties for which police must respond. Citing is for too many occupants and disorderly conduct.

Chief Conrad said that there were 15 Central Court hearings and 22 Magisterial District Court hearings. She said that the newest officer has completed training and is now on patrol. She also said that the regional readiness exercises completed.

Mr. Killian asked about the thefts. Chief Conrad said that a wide variety of things were stolen, and that there is no pattern.

5. COG Committee Reports

1. Transportation & Land Use

Mr. Pytel said that this committee approved the draft comp plan, and that it is being sent to municipalities. He stressed that a comp plan is a plan regarding how the region wants to grow. Mr. Pytel said that Ferguson Township does look at the comp plan, and does make decisions based on it. He said that he encouraged others at the meeting to do the same, and he said he received some support for this notion.

2. Executive

Mr. Pytel said this was reviewed at COG meeting.

3. Finance

Mr. Mascolo said that the Finance Committee reviewed the 2013 COG budget, and sent it to municipalities for approval. He also said that the committee approved the review and renegotiation of the regional park loans.

4. MPO

Mr. Kunkle said that he attended the meeting on Tuesday, November 27, and that there were minor modifications to the 2013/2016 Transportation Improvement Plan. Otherwise, he said that projects on the plan will be moving forward and will be completed.

Mr. Kunkle said that Senator Corman gave a presentation on funding and that Representative Benninghoff and a representative from Scott Conklin's office were present. He said that it was reported that in January there will be bill introduced in legislature to address state funding for transportation.

Mr. Kunkle said there was also a report on the universal access study, which calls for fare-free zones for the busses. He said that the study should be completed by June 2013, and that a number of options are being considered. Mr. Kunkle said that if no fare box is collected, it will mean a reduction

of about 1 million dollars in CATA revenue that would have to be made up in some other manner. Mr. Kunkle said that the transportation bill called MAP 21, and talked about TAP funds. He said that TAP is another stream of funding that is replacing transportation enhancement project funding under MAP 21.

Mr. Kunkle said that TE projects were discussed, such as an historic railroad car restoration in Bellefonte, the bikeway system in Patton Township, and the bikeway trail system in Howard. He said that these are the three approved projects. Mr. Kunkle said that the fourth project on the list is the Pine Grove Mills streetscape project, however there is no funding for that at this point. It is positioned such, he explained that if any of the other projects are not able to be brought forward, it is next in line.

IX. MINUTES

- 1. November 5, 2012 BOS Regular Meeting Minutes**
- 2. November 8, 2012 BOS Worksession Minutes**
- 3. November 13, 2012 BOS Budget Worksession Minutes**
- 4. November 14, 2012 BOS Budget Worksession Minutes**

Mr. Mascolo made a motion to approve all of the minutes. Mr. Killian seconded the motion. It passed unanimously.

X. ADJOURNMENT

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

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the meeting at 9:30 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 01/07/2013