

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, January 7, 2013  
7:20 pm

### I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, January 7<sup>th</sup>, 2012 at the Ferguson Township Municipal Building. In attendance were:

**Board:** George Pytel, Chairman  
Richard Mascolo, Vice Chairman  
Elliott Killian  
Bill 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: Dick Anderson; John Simbeck; Matt Harlow; John Sepp, Johnson Farm Associates and Mike Glass.

### II. CALL TO ORDER

Mr. Pytel called the January 7, 2013 regular meeting to order at 7:20pm.

### III. PUBLIC HEARINGS – ORDINANCES

#### 1. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES, CHAPTER 15, MOTOR VEHICLES, PART 2, TRAFFIC REGULATIONS AS FOLLOWS: (1) SECTION 201 MAXIMUM SPEED LIMITS ESTABLISHED ON CERTAIN STREETS BY CHANGING THE SPEED LIMIT ON A PORTION OF PLAINFIELD DRIVE

Mr. Kunkle said that the Board of Supervisors received a report from the Public Works Director on a sight distance study completed by the Township Engineer. He said that several options were evaluated to address the lack of sight distance at the intersection of Wyandotte Road with Plainfield Drive. The sight distance study has recommended reducing the speed limit on Plainfield Drive for a distance of 1600 feet north of State Route 45 from its current maximum speed limits of 35 and 45 miles per hour to 25 miles per hour.

Mr. Mascolo made a motion to approve the ordinance amending the code of ordinances, Chapter 15, Motor Vehicles, Part 2, and Traffic Regulations as specified. Mr. Killian seconded the motion.

Mr. Simbeck said that he is pleased that the Township is taking action regarding Plainfield Drive. Mr. Simbeck claimed that he asked the Township to install a parabolic mirror and/or a "Blind Intersection" sign in 1989. He said that he felt the speed change may be dramatic, and that it may anger those who travel this road frequently. However, he said he is happy that the Township has decided to take at least some action.

Mr. Keough asked Mr. Modricker if he had thoughts on the "Blind Intersection" sign. Mr. Modricker said that he has no evidence that these signs actually slow traffic. He said they are not enforceable, and that they may or may not be appropriate for this situation. He said he did not consider this as an option when evaluating the intersection, but that he knows parabolic mirrors are not approved devices, and cannot be placed on Township roads.

Mr. Clemson said that this type of sign is considered a passive abatement, and that once the Township becomes aware of a hazard, they are obligated to take active and not passive action. He said that the 25 miles per hour restriction is stricter, but it assures an outcome. Mr. Clemson said that passive and positive/active actions could be combined if necessary, and possibly has an even greater outcome. Mr. Keough requested that the "Blind Intersection" sign be researched further.

ROLL CALL VOTE: Mr. Clemson – YES; Mr. Pytel – YES; Mr. Keough – YES; Mr. Killian – YES; Mr. Mascolo – YES.

#### **IV. PUBLIC HEARINGS – RESOLUTIONS**

##### **1. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AMENDING RESOLUTION 2012-26, BY AMENDING CERTAIN REFUSE COLLECTION FEES**

Mr. Pribulka said that this amendment would make the Township's fee schedule consistent with the rates approved by the COG Public Services and Environmental Committee. He said that rates will increase from \$11.79 to \$11.80 for low volume usage refuse services and from \$14.84 to \$14.87 for back door unlimited services per month. Mr. Killian made a motion to adopt resolution. Mr. Mascolo seconded the motion.

ROLL CALL VOTE: Mr. Clemson – YES; Mr. Pytel – YES; Mr. Keough – YES; Mr. Killian – YES; Mr. Mascolo – YES.

#### **V. PUBLIC HEARINGS – OTHER**

##### **1. A PUBLIC HEARING ON A REQUEST TO REVISE THE PHASING SCHEDULE FOR TURNBERRY TRADITIONAL TOWN DEVELOPMENT PHASES 2 AND 3**

Ms. Lang explained that it is typical for developers to split a phase of development in order to delay the process. However, this developer is requesting to speed up the process by combining two phases into one. She said that the developer wishes to take the current phases 2 and 3 and designate them as phases 2A and 2B.

Mr. Keough asked for the timeline related to these phases. Ms. Lang said that both portions of phase 2, A and B, will be submitted for approval in 2013, and phases 3A and 3B will happen in 2014 and 2015 respectively. She said that there is a six month difference rather than a full year's difference between submissions of final plans. Ms. Lang said that this does not change the ratio of single family units to multifamily units. She said that the development is at an almost 2 to 1 ratio for single family units to multifamily units.

Mr. Keough asked how the proposed workforce housing factors in to the phasing. Ms. Lang said that there weren't workforce housing designated units until the old phase 2. She said that the new phase 2 will still include these units, but some will be part of phase 3A. She said that the timeline for all of this is moving ahead and that phase 2B includes 20 workforce dwelling units. Ms. Lang said that there will be 39 more units constructed in the 3A and 3B phases, for a total of 59 affordable units. She said that this number is a little over half of the total number of units in the development.

Mr. Mascolo made a motion to approve the new plan combining phases 2 and 3 into phases 2A and 2B. Mr. Killian seconded the motion.

Mr. Anderson said he is concerned about this new development being so close to his property, and wanted to discuss the possibility of a fence. Mr. Mascolo said that fences are not a requirement for this project, and that if Mr. Anderson wants a fence, he must consult with the developer privately.

Mr. Anderson said that he felt it is the responsibility of the Township to ensure the fence is built, as the developer marketed the property as student housing Mr. Clemson said that Mr. Anderson should talk to Mr. Glass, the developer, and that the Board cannot do anything, even if it is determined that a fence is the best solution.

Mr. Anderson asked if the Township could later oppose a fence. Ms. Lang said that as long as the fence does not break any other ordinances or compromise the landscaping plan approved as part of the master plan for the site, then the Township would not be able to oppose the fence Mr. Hill said that the difference in number of residents between his development, Green Leaf Manor, and the new development is intimidating. He said that there are 300 people in Green Leaf Manor and 1000 people are suggested for this new Turnberry development.

The motion passed unanimously.

## **VI. COMMUNICATIONS TO THE BOARD**

Mr. Keough said that he spoke with several residents in Green Leaf Manor. He said he also received calls about the status of the Home Rule Charter amendment. Mr. Keough said that he responded to them but didn't tell them anything because it's been passed and will be at the moment incorporated.

Mr. Kunkle said he was asked when the new amendment will be incorporated into Home Rule Charter. He explained that this and other amendments which were adopted over the last 6 months have been sent to publisher and he anticipates they will be in the code by the end of the month. Mr. Keough asked if the new Home Rule Charter amendment is being enforced right now, and Mr. Kunkle said yes. Mr. Kunkle said that even though it's still in the process of being printed, it's been enforced since the day after it was certified.

## **VII. ACTION ITEMS**

### **1. Variances – Enterprise Rent-A-Car, 215 Blue Course Drive**

Mr. Kunkle said that Enterprise Rent-A-Car would like to install an additional ground sign, to be located along the frontage of the tax parcel on Blue Course Drive. He said that there are three existing ground signs on the property, and that the applicant would like a fourth sign located on Blue Course Drive. Mr. Kunkle said that the applicant has described the hardship as them being a Blue Course Drive address, but having no signage on Blue Course Drive. Mr. Kunkle recommended that Enterprise move one of the existing signs instead of adding another.

Mr. Killian made a motion to oppose installation of a fourth sign and instead provide a variance to move an existing sign from North Atherton Street to Blue Course Drive. Mr. Mascolo seconded the motion. Mr. Killian asked if the proposed sign needs to meet current ordinances, and Mr. Kunkle said yes. The motion passed 4-1 with Mr. Keough opposed.

### **2. Variances – Johnson Farm Associates, The Landings PRD**

Mr. Kunkle said that this PRD was approved in 1995, and that in 1994-1995, a flood plain study was completed by consultants for Johnson Farm Associates to amend a flood plain which traversed a

portion of the property in what is now Phase one and is immediately adjacent to Good Hope Farms 1. He said that FEMA issued a letter of map revision based on the flood plain study and removed the flood plain designation. Mr. Kunkle said that removal of the flood plain did not, however, remove the drainage ways which conveyed storm water from upstream areas in Good Hope Farms 2 through Good Hope Farms 1 and eventually across a portion of the Landings Master Plan to a designed storm water management basin.

Mr. Modricker said that the Township Engineer claims that given the sensitive nature of the drainage way, he cannot support a variance from these sections of the ordinance. Mr. Modricker explained that the benefit of a natural drainage way is usually better, in the Township's experience, than a man-made drainage.

Mr. Kunkle said that this plan was approved in 1995 and it was approved knowing the situation. He believes the Township would have stepped forth in 1995 and forced the applicant to preserve the Nolin soils if this was necessary. However, Mr. Kunkle said there was never mention of this. Mr. Kunkle said that if this were a new plan, then perhaps the natural drainage ways would need to be respected. However, since the developer at time did design the drainage area with consideration for additional development, the real question is not about the flood plain but whether a variance should be granted to allow development in Nolin soils.

Mr. John Sepp said that because Nolin Soils are in swale, then a variance is required. He clarified that the soils tested by their independent firm showed that the soils in the relocated drainage swale had the same capacity to absorb water as the Nolin soils in the natural drainageway.

Mr. Keough made a motion to remain neutral. Mr. Killian seconded the motion. It passed unanimously.

### **3. Consent Agenda**

Mr. Killian made a motion to approve the consent agenda which includes two surety reductions and a surety release. Mr. Keough seconded the motion. It passed unanimously.

## **VIII. REPORTS**

### **1. Manager**

Mr. Kunkle reminded the Board that it and members of the Planning Commission will begin review of the DRAFT Centre Region Comprehensive Plan on Wednesday, January 9 at 6 p.m.

He also said that select staff will be visiting two municipalities on January 9 and 11 to view and discuss with users of two ERP software's that are being considered to replace the 25 year old ACS financial software currently being used by the Township. He said they will be traveling to Ephrata, PA and Hanover, PA. Mr. Kunkle said that both packages would most likely be able to handle the Township's needs, but staff wants to speak with people who have used the software packages over time. He also said that he has requested that Attorney Rod Beard assist with the contract review and negotiations for the software.

Mr. Kunkle said that he sent out a memo with a recommendation to amend the sidewalk snow removal requirements. He said there are deficiencies in the current regulations that deal with timing of notification and the inability of the Township to have snow removed from sidewalks where the property owner decides not to take action. Mr. Kunkle said that the purpose of the sidewalk is to

provide safe pedestrian access for residents. Currently, he said that regulations don't allow the Township to enter the property as is possible with grass and weeds after a period of time. Mr. Kunkle suggested that an amendment could strengthen the ordinance and make it consistent with neighboring municipalities'.

Mr. Keough asked about the extent of the problem. Mr. Kunkle said he does not have an exact number, but he has heard people saying it costs more to remove the snow than to pay the fines. Mr. Kunkle explained that the fine is the same for someone with a 100 ft. frontage as it is for someone with a 1000 ft. frontage, and that an amendment to the ordinance might address this as well.

Mr. Clemson clarified that the current ordinance states that sidewalks must be cleared within 24 hours if snow falls 2 inches or more. Mr. Keough said it may be worth considering that a large part of the community travels during the holidays, and some may not think of this ordinance before leaving, especially since it will be changed. He suggested advertising in some way the changes to the ordinance, and homeowners' new requirements. Mr. Mascolo and Mr. Clemson clarified that it is still the homeowner's responsibility to clear the sidewalks, even if they are gone, and that hiring a neighbor or service is necessary to avoid fines. However, the Board agreed that effective communication of the new ordinance is critical.

Mr. Kunkle clarified that a violation can be given every 24 hours, not just with every snowfall.

Mr. Keough asked how the violation is delivered. Mr. Kunkle said it can be posted, mailed, or hand delivered. Ms. Lang said that all of these methods are used for grass/weed violations.

Mr. Clemson thought that it would be beneficial for the Township to speak with a District Judge about violation delivery requirements, because previously judges insisted that notifications be sent by certified mail or hand delivered with a signature.

Mr. Mascolo made a motion to rewrite the ordinance as proposed by Mr. Kunkle in his memorandum dated January 4, 2013, following his recommendation on points 2 and 3, and using State College Borough's system as a guide. Mr. Clemson seconded the motion. Mr. Mascolo added to the motion to advertise this amendment for the next Board meeting if the revised ordinance is completed in time.. Mr. Clemson seconded the addition to the motion. The motion passed 4-1 with Mr. Keough opposed.

## **2. Public Works Director**

Mr. Modricker said that the Public Works Department has been performing winter maintenance. He said that during large storms, the crew is broken into two shifts, with arterial roads being cleared first and residential second.

Mr. Modricker said that tree pruning is completed. He said that the Whitehall Road overhead utility work is still in progress, and that capital projects are listed in the agenda packet provided to the Board and available on the Ferguson Township website.

## **3. Planning and Zoning Director**

Ms. Lang said that the Planning Commission has a lot on their plate for this new year, including an update to zoning and subdivision ordinances, and review of the comprehensive plan. She said that there are many phased projects in the Township right now, and most of them are finished building the single family portion, and will be moving on to the multifamily portion soon. She cautioned the Board

that in the near future, there may be more comments than usual about barriers between these projects and single family homes because of the new phases.

#### **4. COG Committee Reports**

##### **a. Finance**

Mr. Mascolo said that the Finance Committee met December 11, 2012, and that they reviewed the refinancing of the Oak Hall Regional Park loan. He said this item was approved by the General Forum in December. Mr. Mascolo said that over \$140,000 was saved in debt service. He also said that the fire fighters' workman's compensation is no longer insured in the manner it was previously. He said they are now under the state worker's insurance fund and it costs double the amount paid previously.

Mr. Mascolo said that State College Borough indicated at the Finance meeting that they may pull out of the regional planning and codes supplied by COG. He said that since this meeting, they have voted on the issue and officially sent a letter stating they will pull out after a year. Mr. Pytel clarified this is for both planning and codes. Mr. Mascolo said that during the November Finance Committee meeting, the regional tech coalition came, and stated that their costs are not being met by the current formula. They anticipate the cost will approximately double.

#### **X. MINUTES**

##### **1. December 3, 2012 Regular Meeting Minutes**

Mr. Killian made a motion to accept the draft minutes. Mr. Mascolo seconded the motion. It passed unanimously.

##### **2. December 10, 2012 Regular Meeting Minute**

Mr. Killian made a motion to accept the draft minutes. Mr. Mascolo seconded the motion. It passed unanimously.

#### **XI. ADJOURNMENT**

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

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the regular meeting at 9:10 pm.

RESPECTFULLY SUBMITTED,

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Mark Kunkle, Township Manager  
For the Board of Supervisors

Date approved by the Board: 01/21/2013