

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Tuesday, February 19, 2013
7:00pm

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Tuesday, February 19, 2013 at the Ferguson Township Municipal Building. In attendance were:

Board: George Pytel, Chairman	Staff: Mark Kunkle, Township Manager
Richard Mascolo, Vice Chair	David Pribulka, Assistant Manager
Elliott Killian	Diane Conrad, Chief of Police
William Keough	David Modricker, Director of Public Works
	Ron Seybert, Township Engineer

Others in attendance included: Tom Zilla, CRPA

II. CALL TO ORDER

Mr. Pytel called the February 19, 2013 meeting to order at 7:00pm

III. PUBLIC HEARINGS – ORDINANCES

1. **A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRECOUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES, CHAPTER 1, ADMINISTRATION AND GOVERNMENT, PART 12, SOCIAL SECURITY, PENSIONS, AND RETIREMENT, SUBSECTION B, POLICE PENSIONS (INCLUDING ORDINANCE 468), TOWNSHIP OF FERGUSON POLICE PENSION PLAN, TO ADOPT AMENDMENTS REQUIRED BY THE INTERNAL REVENUE SERVICE IN ORDER TO ISSUE A FAVORABLE DETERMINATION LETTER FOR THE PLAN**

Mr. Kunkle introduced this ordinance, explaining that it is an opportunity for Ferguson Township to amend its police pension plan to bring it up to date with the current IRS code. This is a remedial amendment period allowing municipalities to file their pension plans without fines or penalties. Mr. Kunkle said this ordinance is important to keep the police pension plans tax-exempt for pre-tax contributions and to stay in full compliance with the IRS code. The Township authorized the firm Rhoades and Wodarczyk to handle this matter in October 2010 and submitted the plan in January 2011. The determination letter issued by the IRS in January 2013 approving the plan provided certain changes are made. The purpose of this ordinance is to adopt the amendments described in the IRS determination letter.

Mr. Mascolo made a motion to adopt Ordinance 976 approving the amendments to the police pension plan as prescribed by the Internal Revenue Service in order to issue a favorable determination letter. Mr. Killian seconds.

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

Motion to adopt Ordinance #976 passed unanimously.

IV. PUBLIC HEARINGS – RESOLUTIONS

1. A PUBLIC HEARING ON A RESOLUTION FOR THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE PENNSYLVANIA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES TO DEVELOP A PORTION OF THE WESTFIELD/HILLSIDE FARM ESTATES PARK IN ACCORDANCE WITH THE APPROVED PARK MASTER PLAN

Mr. Kunkle explained that the grant is for \$200,000 which the Township will match for a total project budget of \$451,000. This grant application is being prepared by Assistant Manager Mr. Pribulka and is due April 10, 2013. He said it is his understanding that Ferguson is the only municipality applying for a development grant this year. The Township has requested letters of support from its adjacent municipalities and Mr. Kunkle said that most of them have sounded supportive at this time.

Mr. Killian made a motion to adopt Resolution 2013-5 authorizing the submission of a DCNR grant application for development of the Westfield/Hillside Farm Estates Park. Mr. Keough seconds.

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

Motion to adopt Resolution 2013-5 passed unanimously.

2. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA REPEALING RESOLUTION 2006-8 AND ADOPTING A REVISED CAPITAL ASSET AND DEPRECIATION POLICY IN ACCORDANCE WITH THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD PUBLICATION 34.

Mr. Kunkle explained that when the municipalities were first required by GASB to establish capital asset policy in 2006, Ferguson took a conservative approach and set a limit of \$1,000 for disposable items and \$25,000 for capital projects such as road improvements or parks. Staff has recommended it is time to review this resolution and the threshold is recommended to be raised to \$2,500 for disposable items since costs have inflated. Mr. Kunkle said the Finance Director has reviewed other, more up-to-date policies and recommended the increase the threshold for fixed asset items.

Mr. Killian made a motion to adopt Resolution 2013-6 to repeal Resolution 2006-8 and adopting an amended resolution establishing a Capital Asset and Depreciation Policy in accordance with GASB Publication 34. Mr. Keough seconds.

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

Motion to adopt Resolution 2013-6 passed unanimously.

3. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING RESOLUTION 2012-25 LEVYING TAXES AND ASSESSMENTS BY CHANGING THE FIRE HYDRANT AND STREET LIGHT ASSESSMENTS FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2013 AND ENDING DECEMBER 31, 2013.

Mr. Kunkle said last year's assessment of fire hydrant and street lights was based on historical data used in the past. However the County Assessment Office has since requested that the Township conduct a review of the assessment list to update the fire hydrant and street light property list. Assessments in the past have been based on hard-copy maps and measurements, however the technological advancements since then now allow the GIS tracking system to provide a more

accurate assessment. As a result of this updated assessment, the front footage included has increased. The Township recalculated these reduced rates prior to tax bills being issued for the year. Mr. Kunkle said the proposed resolution reduces the street light assessment from \$0.40 per front foot to \$0.11 per front foot and the fire hydrant assessment from \$0.06 per front foot to \$0.03 per front foot. Mr. Kunkle noted that this is a significant change in revenue, and that the difference in lost revenue would be covered by each fund's balance.

Mr. Killian made a motion to adopt Resolution 2013-7 repealing the fire hydrant and street light assessment in Resolution 2012-25 and adopting an amended resolution establishing new assessment rates for fire hydrant and street lights effective January 1, 2013. Mr. Keough seconds.

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

Motion to adopt Resolution 2013-7 passed unanimously.

V. COMMUNICATIONS TO THE BOARD

Mr. Keough said his only calls were regarding the Westfield/Hillside Farm Estates park project already addressed earlier in the meeting.

Mr. Killian said he spoke with residents of Greenleaf that were concerned about the Turnberry project. They claimed that they have a covenant prohibiting fencing in the development. This could present a complication, however it may be possible to get an exception for the Turnberry project.

VI. ACTION ITEMS

1. MUSSER GAP PROPERTIES FINAL SUBDIVISION PLAN, PLAN LAST DATED JUNE 18, 2012 PLAN DEADLINE FEBRUARY 22, 2013

Mr. Kunkle introduces the plan for a land swap between the Commonwealth of Pennsylvania Department of Conservation and Natural Resources Bureau of Forestry and lands of George and Phyllis McWilliams. He explained that the purpose of this item is to protect the Musser Gap trail and access to State Forest lands. No new structures will be developed there.

Mr. Mascolo made a motion to **approve** the final subdivision plan for Musser Gap properties subject to the completion of the outstanding conditions for approval as set forth in the Director of Planning and Zoning memorandum dated February 12, 2013. Mr. Killian seconds. *The motion passed unanimously.*

2. RICHARD L. FYE FINAL SUBDIVISION PLAN LAST DATED NOVEMBER 19, 2012 PLAN DEADLINE FEBRUARY 19, 2013

This item was removed from the agenda due to an extension of the plan deadline.

3. APPEAL AND VARIANCE REQUEST – PSU, COLLEGE OF AG SCIENCES

Mr. Kunkle introduced this item which was tabled from the February 4th Board of Supervisors meeting in order to review the 2012 adopted Places of Assembly Ordinance prior to taking a position. The request would permit the Keystone Dressage and Cross Training Drill Team and the Lion Country Pony Club to utilize the Ag Progress Day lands and facilities. Mr. Kunkle reported that the Township Solicitor did not think the Places of Assembly ordinance would be applicable in this situation and the Zoning Officer has also offered a similar opinion.

Mr. Keough made a motion to **oppose** a use variance as a method to amend the permitted uses within the agricultural research district and rather recommend that the applicant seek an ordinance amendment to allow the desired uses. Mr. Killian seconds. *The motion passed unanimously.*

4. REVIEW OF CENTRE REGION COMPREHENSIVE PLAN UPDATE COMMENTS

Mr. Pribulka said that the Board of Supervisors and Planning Commission have met jointly over the past several weeks to review the draft update of the Centre Region Comprehensive Plan. This update is required every ten years and includes land use, transportation, economic development, housing, among other areas. The plan consists of goals and policies to guide physical growth of the region. All modifications have been split into editorial and substantive changes. He asked that the Board review, modify, and approve the substantive changes and summary comments on the draft update of the comprehensive plan. Mr. Keough said that he was impressed with the work done on this update.

Mr. Mascolo moved to **approve** submission of the summary comments on the draft update of the Centre Region Comprehensive Plan. Mr. Killian seconds. *The motion passed unanimously.*

5. CONTRACT 2013-C13 STREET TREE INSTALLATION

On February 12 bids were open for this contract, with six bids received as follows: Robert W. Behrer - \$21,465; Denture & Denture Tree Surgeons - \$27,465; OnState LTD - \$24,795; Animon Construction - \$38,230; Scott's Landscaping - \$22,981; Landscape Too - \$24,260. All bids were within the Township's budget and the estimated project cost was \$24,927. Mr. Modricker recommended that the Board award the contract to Robert W. Behrer.

Mr. Killian made a motion to award Contract 2013-C13 Street Tree Installation to Robert W. Behrer LLC in the amount of \$21,465. Mr. Mascolo seconds. *The motion passed unanimously.*

6. APPOINTMENT OF TAX ADMINISTRATOR

Mr. Kunkle reported that the position of Tax Administrator in the Finance Department is currently vacant and needs to be filled. It is staff's recommendation that Mr. Kunkle be appointed to this position for an indefinite term. The Township Manager is able to make changes to this appointment as he sees appropriate.

Mr. Mascolo made a motion to appoint Mark A. Kunkle to the position of Tax Administrator for an indefinite term and that the Township Manager is further authorized to make a change in this staff appointment at any time he deems appropriate. Mr. Killian seconds.

The motion passed unanimously.

7. APPROVAL OF JANUARY 2013 VOUCHER REPORT

Mr. Killian made a motion to **approve** the January 2013 Voucher Report. Mr. Mascolo seconded.

The motion passed unanimously.

8. CONSENT AGENDA – JANUARY 2013 TREASURER'S REPORT

Mr. Killian made a motion to **approve** the January 2013 Voucher Report. Mr. Mascolo seconded.

The motion passed unanimously.

VII. REPORTS

1. Manager

Mr. Kunkle said that he received a letter from a Dr. Gert Aaron regarding Centre Region Code Administration expressing his viewpoint on the rigidity of the International Building Codes and how they are being applied. This letter has also been received by each municipality in the Centre Region. Mr. Pytel agreed that the rigid way the Codes have been applied is a problem. He thought that the tolerances should be written into the code (for example, a tolerance of ¼ inch difference in measurements) rather than relying on inspectors to interpret what that tolerance should be and risk being overly rigid with the requirements.

There was discussion over the accuracy of some of the letter's claims and how certain parts of this letter pertain to the International Building Code. Mr. Keough noted that the Code Office is audited by the State each year on-site. He is concerned that if the Code is not enforced as written, the local inspector responsible for that location could risk losing his inspection license. He is unsure whether the Code Director can take full responsibility for any inaccuracies rather than putting individual inspectors risking their jobs.

Mr. Kunkle said these are uniform code requirements across the state and therefore any changes to the local code would be very difficult to pass. Mr. Kunkle agrees to prepare a letter in response to Dr. Aaron.

Mr. Kunkle announced that the Township has received letters of appreciation from First Night State College, Discovery Space, and Spring Creek Watershed Association for its contributions to these organizations.

2. Public Works Director

Mr. Modricker reported on the West Whitehall Road project that all overhead utility work including pole removal should be completed within the next two weeks. Work should start the first week of March and the full detour work will start March 18th. Mr. Modricker described the detour which will allow traffic to move west on the one-way section. There was discussion of specific issues that have been brought up by people within the project area. He said he has had trouble communicating with the Kochers and Mr. Keough expressed interest in helping him reach out to them regarding their concerns with this project. Mr. Keough also noted that this will affect traffic leaving Penn State during Ag Progress Days, although West Whitehall Road could still function as an alternate route for traffic coming in.

Mr. Modricker reported that the Open House for this year's paving projects took place earlier that day.

He reviewed a memo regarding an ice problem on Kansa Avenue. He reported he has met with several of the residents expressing concerns and promised to raise the issue at tonight's meeting. The memo raises the question of which parts of this problem are the Township's responsibilities and which are the responsibility of property owners. Mr. Modricker said he is currently reviewing this issue and will explore alternatives. He will look at what other projects are in place and what their priority is before he makes a recommendation to the Board.

3. Planning & Zoning Director

No Report

4. Chief of Police

Chief Conrad reported that Part 1 Crimes for January are essentially the same as for last year. Part 2 Crimes and alcohol related crimes have increased slightly from 39% previous year to 57% this year. Other calls for service are up by 10% as there were 333 in January 2012 and 301 in 2013. Citations, parking tickets, traffic stop follow-ups are now being tracked with supplemental reports which have resulted in a significant time commitment. Times were also higher due to an increased number of hearings. She highlighted the importance of different law enforcement agencies working together by citing a drug case which involved persons from various areas within Centre County.

Mr. Keough asked if there had been problems with sidewalk snow removal non-compliance during the last snow. Ms. Conrad said the same property owner that has been issued several citations for not clearing the sidewalk had received another citation. Mr. Kunkle said the Township has engaged a contractor for snow-clearing services resulting from non-compliance at such times.

Mr. Pytel brought up the burglaries that have been committed recently in the area. Ms. Conrad said she was aware of these and that Ferguson Township has not been the only area experiencing this problem. She assured the Board that the Police Department has been working on this case.

5. COG COMMITTEE REPORTS

a. Personnel

Mr. Keough said the main issue discussed at the last meeting was regarding background checks. There was some concern that job descriptions have not always specifically cited that background checks would be required so a section has been added to reflect and explain this requirement.

b. Public Services and Environmental

Public Services and Environmental is currently reviewing the COG purchasing policy for environmentally sensitive products. The proposed policy would ensure that, when given the choice between two products that offer the same price and same performance, the more environmentally sensitive option would be purchased.

c. Executive Committee

Mr. Pytel said he has been approached to review the policy regarding Committee Chairs. There was discussion on whether there should be a limit to the number of years that chairpersons can serve, as some Chairs have served as much as 15 or 20 years. This was not passed on to the General Forum.

There had been several questions regarding changes to the Whitehall Road Regional Parks Master Plan. The response was to inform those concerned that they should address these questions with the COG General Forum.

The code software service implementation report will be brought to the COG meeting to keep members informed. State College Borough's potential withdrawal from the code program was discussed at length.

d. Finance Committee

The Finance Committee met on February 14th and reviewed the proposed 2013-2014 CATA budget recommendations which requested a 5% increase. Not all members of the Finance Committee felt that this was an appropriate amount and asked what the minimum contribution was that the municipality can pay to CATA. There was a discussion regarding State College Borough's withdrawal from the code program.

There was also a joint meeting with the Parks Capital Committee and the Centre Region Recreation Board on February 14th. They reviewed the Oak Hall regional park construction bids and made recommendations for a contract for the final phase to be awarded. There was a request for compost hauling assistance in 2014 by the municipalities. The Committee remarked it will support that operation when it occurs.

The Whitehall Road Regional Park master site plan updates include increasing the size of the sports building to accommodate a larger soccer field and to incorporate a site for the maintenance facility, and to There was also an update to possibly incorporate a site for the Park & Recreation headquarters building as there has been discussion regarding moving the headquarters from the current COG office building. The southeastern corner of the plans has been rearranged including relocating the community gardens and dog park. The total square footage of the proposed structures is 216,856 sq. ft. but the township zoning ordinance only allows 100,000 sq. ft therefore he is recommending that the building of the sports facility be postponed and identified as a pending potential construction site to Parks & Recreation. That would remove 112,000 sq. ft. from the total area, which no one on the board opposed.

Mr. Kunkle noted that postponing this facility will allow changes to be made in the meantime since it will be considered as a potential site only. He said he supports this since it would allow the revised master site plan to continue without delay. Mr. Keough noted the Places of Public Assembly ordinance was written after the park master plan, which was already approved, and did not conflict with the 100,000 sq. ft. limit. Mr. Pytel agreed that it is easier to include everything on the master plan, including projects that may not come to fruition, than to modify the plan at a later date.

VIII. MINUTES

1. January 21, 2013 Regular BOS Meeting Minutes

Mr. Killian made a motion to accept the draft minutes for both January 21, 2013 and for February 4, 2013. Mr. Mascolo seconded. *The motion passed unanimously.*

IX. ADJOURNMENT

Mr. Killian made a motion to adjourn. Mr. Mascolo seconded. *The motion passed unanimously.*

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the regular meeting at 8:35pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 03/20/2013