

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, May 20, 2013

I. ATTENDANCE

The Board of Supervisors held its second regular meeting of the month on Monday, date, year 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
	Drew Clemson		Erika Green, Planning & Zoning Director
	Elliott Killian		Dave Modricker, Director of Public Works
	William Keough		Diane Conrad, Chief of Police

Others in attendance included: Kelsey Taylor, Recording Secretary; Dave Palmer, S&A Homes; Eric Vorwald, CRPA; Spencer Boone, HRI

II. CALL TO ORDER

Mr. Pytel called the Monday, May 20, 2013 regular meeting to order at 7:00pm.

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 27, ZONING, PART 8, SUPPLEMENTAL REGULATIONS, SECTION 809, OFF-STREET PARKING AND LOADING REGULATIONS, AS FOLLOWS: (1) SUBSECTION A, GENERAL REGULATIONS, SECTION (2) LOCATION, BY ADDING SUBSECTIONS (2)(B)-(E); (2) SUBSECTIONS A., GENERAL REGULATIONS, BY ADDING SECTIONS (3)-(5); (3) BY DELETING EXISTING SUBSECTION B, REQUIRED OFF-STREET PARKING SPACES, AND ADDING A NEW SUBSECTION B, REQUIRED OFF-STREET SPACES; (4) SUBSECTION B, REQUIRED OFF-STREET PARKING SPACES, BY ADDING TO TABLE OF REQUIRED PARKING SPACES PER USE PARKING SPACES REQUIRED FOR ALL RESIDENTIAL USES, PARKING SPACES REQUIRED FOR CATERERS AS A COMMERCIAL USE, PARKING SPACES REQUIRED FOR HEALTH AND ATHLETIC CLUBS AND STUDIOS FOR INSTRUCTION IN MUSIC, PERFORMING ARTS AND VISUAL MEDIA ART, PHOTOGRAPHIC AND HANDICRAFT STUDIOS, MARTIAL ARTS, DANCE AND GYMNASTICS AS PUBLIC, QUASI-PUBLIC AND TRANSPORTATION USES; PARKING SPACES REQUIRED FOR EXHIBIT HALLS IN AGRICULTURAL RESEARCH DISTRICT, AND PARKING SPACES REQUIRED FOR ALL USES IN THE FOREST/GAMELANDS DISTRICT.

Mr. Clemson made a motion to ADOPT Ordinance #977 amending the Code of Ordinances, Chapter 27, Zoning, Part 8, Section 809, Off-Street Parking and Loading Regulations. Mr. Killian seconded the motion.

There was no discussion on this ordinance.

ROLL CALL VOTE: Keough – YES; Pytel – YES; Clemson – YES; Killian – YES. The motion passed unanimously.

2. A PUBLIC HEARING ON AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES AS FOLLOWS: (1)

APPENDIX H, STREETS AND SIDEWALKS, BY ACCEPTING AS PUBLIC STREETS THE FOLLOWING: (A) TWO SECTIONS OF LONGFELLOW LANE; (B) LONGFELLOW COURT; (C) A SECTION OF FOXPOINTE DRIVE; AND (D) A SECTION OF BARNSTABLE LANE; AND (2) CHAPTER 15, MOTOR VEHICLES, PART 2, TRAFFIC REGULATIONS, AS FOLLOWS: (A) SECTION 201, MAXIMUM SPEED LIMITS ESTABLISHED ON CERTAIN STREETS, BY: (I) DELETING THE 25 M.P.H. SPEED LIMIT ON LONGFELLOW LANE BETWEEN NORTH FOXPOINTE DRIVE AND TEMPORARY CUL-DE-SAC; (II) DELETING THE 25 M.P.H. SPEED LIMIT ON BARNSTABLE LANE BETWEEN SAGAMORE DRIVE AND TEMPORARY CUL-DESAC; (III) ESTABLISHING A 25 M.P.H. SPEED LIMIT ON LONGFELLOW LANE BETWEEN NORTH FOXPOINTE DRIVE AND NORTH FOXPOINTE DRIVE; (IV) ESTABLISHING A 25 M.P.H. SPEED LIMIT ON BARNSTABLE LANE BETWEEN SAGAMORE DRIVE AND LONGFELLOW COURT; AND (V) ESTABLISHING A 25 M.P.H. SPEED LIMIT ON LONGFELLOW COURT BETWEEN NORTH FOXPOINTE DRIVE AND END OF CUL-DE-SAC; (B) SECTION 214, STOP INTERSECTIONS ESTABLISHED AS FOLLOWS: (I) BY DELETING THE STOP SIGN ON BARNSTABLE STREET FOR TRAFFIC TRAVELING IN A NORTHERLY DIRECTION AT THE INTERSECTION OF SAGAMORE DRIVE; (II) BY ADDING A STOP SIGN ON BARNSTABLE LANE FOR TRAFFIC TRAVELING IN A SOUTHERLY DIRECTION AT THE INTERSECTION OF LONGFELLOW COURT; (III) BY ADDING A STOP SIGN ON BARNSTABLE LANE FOR TRAFFIC TRAVELING IN A NORTHERLY DIRECTION AT THE INTERSECTION WITH SAGAMORE DRIVE; AND (IV) BY ADDING A STOP SIGN ON LONGFELLOW COURT FOR TRAFFIC TRAVELING IN A WESTERLY DIRECTION AT THE INTERSECTION OF NORTH FOXPOINTE DRIVE.

Mr. Kunkle introduced the ordinance and presented the Board with a map showing where these changes would occur.

Mr. Killian made a motion to ADOPT Ordinance #978 t accepting portions of Longfellow Lane, Longfellow Court, Foxpointe Drive and Barnstable Lane and further establishing speed limits and stop intersections. Mr. Clemson seconded the motion

ROLL CALL: Keough – YES; Pytel – YES; Clemson – YES; Killian – YES. The motion passed unanimously.

IV. COMMUNICATIONS TO THE BOARD

Mr. Keough said he wanted to congratulate the staff and organizers involved in the recent open house. He announced that he will be out of town for the next COG meeting.

V. ACTION ITEMS

1. 2012 Township Audit Report – Parente Beard – Mr. Rick Bair

Mr. Bair of Parente Beard reported on the Ferguson Township financial statement audit for the year ending December 31, 2012. He explained that this audit was completed with the intention of gaining reasonable, but not absolute, assurance. He made this distinction because the audit involved accounting estimates but not an exhaustive inspection of transactions. Mr. Bair said there were no major issues encountered.

The audit was done in accordance with the Generally Accepted Reporting Standards (GARS). Mr. Bair explained that this involved examining budgetary integrity and the General Fund budget as a

benchmark. Actual expenditures were 6.4% less than the budget. At the end of 2012 the General Fund balance was approximately \$4 million, representing 58% of a typical General Fund budget.

Mr. Bair reported that the earned income tax was the major source of income for the township. He said the other townships had a similar level of reliance on the income tax for their expenditures. The biggest portion of expenses for the year was in Public Safety, which was substantially higher than the Public Safety expenses of other townships. He said that Ferguson spent a lower percentage of its General Fund on Public Works than other townships. He said that overall the General Fund balance was sound and there were no material weaknesses to be reported to the Board of Supervisors.

2. Regional Growth Boundary/Sewer Service Area Implementation Agreement

Mr. Kunkle introduced the topic by reviewing the memorandum prepared by Centre Region Planning Director Jim May which outlined the areas that the Ad Hoc Committee had reached consensus on and the areas that did not have consensus.

- a. Should language in the revised agreement require that expansions to the Regional Growth Boundary/Sewer Service Area be generally consistent with the Centre Region Comprehensive Plan?**
- b. Should the Regional Growth Boundary Line and the Sewer Service Area be separate delineations of development?**

Mr. Kunkle reported that the Ad Hoc Committee discussed what type of vote should be necessary for approving the Regional Growth Boundary/Sewer Service Area (RGB/SSA) expansion. The Committee recommended amending the requirement from a unanimous unit vote to a majority unit vote. This change would require a minimum of four municipalities vote in the affirmative in order to approve the request to expand the RGB/SSA. The municipalities are being requested to provide feedback in time for the June COG General Forum meeting. Ferguson needs to review the six areas of consensus and the five areas of non-consensus included in the April 25th memorandum from the Director CRPA.

Mr. Killian said that he thought a super-majority would be preferable to a simple majority vote. Mr. Clemson agreed with Mr. Killian that a super-majority would be beneficial because it involves a deeper level of responsibility. He commented that municipalities will need to put aside some of their differences to come together behind this agreement. Mr. Keough said he preferred a majority over a unanimous vote but that he would also accept a super-majority vote rule if necessary. Mr. Pytel summarized that the Board seems to support a super-majority vote overall.

Mr. Keough noted the significant time investment that DRI requests require and supported wording which would allow some flexibility but impose limits on how much time the regional planning staff could devote to this issue. Mr. Clemson said that some situation flexibility is in order but there should be some constraints on the planning staff time devoted to DRI applications due to limited staffing. He said he would like to see wording that lists conditions necessary for DRI applications to be processed.

- c. Should the new agreement require that expansions to the Regional Growth Boundary/Sewer Service Area be accompanied by a development agreement between the host municipality and the property owner? The agreement would commit the property owner to securing a building permit for which the expansion was proposed within a designated time period (e.g. two years) and if not complete the approval of the expansion would be rescinded.**

Mr. Kunkle said that one of the areas of non-consensus was whether the expansion of the SSA should be accompanied by a land development agreement between the developer and the property owner. He said that it has been suggested that if the developer/applicant making the request does not obtain a building permit within two years of approval to expand the SSA, the SSA line would revert back to its original boundaries. There is not yet a consensus on this item yet but the intent of this agreement is to prevent developers/applicants from obtaining approval for SSA expansion and then changing their plans or permitted uses for that land. Mr. Kunkle clarified that this process would not require a DRI application and approval but would be subject to the zoning requirements of the host municipality.

Mr. Keough said he believed that a certain amount of flexibility is necessary due to the distinct differences amongst each municipality's needs. He was supportive of the limits listed because it would allow this flexibility within reason. Mr. Pytel commented that developers would still need to be somehow encouraged to build within the RGB rather than on land outside the boundary which may be less expensive. Mr. Kunkle said that, although the initial purchase price of land outside the RGB may be lower, the sale price per acre once sewer service is provided would be comparable to property within the RGB.

Mr. Kunkle said this provision would acknowledge that expansion of the SSA would be beneficial to the municipality. If agreed upon, Mr. Kunkle said the process would involve less of a formal review process and a shorter timeline. Mr. Keough said he would like to see more formal wording explaining the specific categories of exceptions which would qualify a developer for an expedited process. Mr. Pytel warned the Board to be careful on what wording is approved to avoid developers buying land only to build potentially faulty sewer service and then flip the property or get it approved for another purpose than its original zoning.

Mr. Kunkle said the current regulations require that any changes in RGB over 50 EDUs get DRI approval. He said a discussion was needed to determine whether this is necessary or whether a different threshold would be better. Mr. Killian said he thought the municipalities should be given more freedom than this regulation allows and increase the 50 EDU threshold. Mr. Keough said that many commercial areas have been approved to increase access for local residents but that market demand has not supported these areas. He said this has resulted in many vacant lots zoned for commercial use so changing this limit could encourage development of such areas. Mr. Clemson agreed that increasing the threshold would encourage more development within the RGB.

Mr. Kunkle asked the Board whether there had been a change in its position that the RGB and SSA should remain separate from one another. Board members confirmed that their positions had not changed since this item was last discussed.

- d. Should the new agreement require that the Centre Regional Planning Commission (and CRPA) provide nonbinding comments to the General Forum and/or host municipality on all proposed expansions to the Regional Growth Boundary/Sewer Service Area?**

The Board supported a requirement that the Centre Regional Planning Commission and Centre Region Planning Agency provide non-binding comments to the General Forum and host municipality on all expansions to the SSA and RGB.

- e. Should property owners be required to provide a (fiscal) impact analysis and mitigation plan with their application to expand the Regional Growth Boundary/Sewer Service Area?**

Mr. Kunkle introduced the next question which was whether property owners should be required to provide a fiscal impact analysis and mitigation plan with their application to expand the Regional Growth Boundary/Sewer Service Area. The Board discussed the impact of this requirement. Mr. Kunkle said that the previously stated position of the Board on this topic was that property owners should be prepared to provide an impact analysis and mitigation plan but not necessarily require it. Mr. Clemson commented that calling it a "requirement" might be too strong of wording for some who are opposed. The Board requested more information on what would be required to submit a fiscal impact analysis, metrics to evaluate the impacts and what could be included in a mitigation plan.

3. Approval of Electric Purchase Contract

Mr. Pribulka said that he was provided with an updated price for the electric contract, which has risen along with market costs. In response to the new price and the volatility of the market, Mr. Pribulka said he is withdrawing his recommendation to approve the proposed contract with Duquesne Light. He would prefer that the BOS authorize staff to watch the market over the weeks leading up to the present contract's expiration date and then enter into a more favorable contract at a time when electric prices are lower.

Mr. Killian made a motion to REJECT an electricity generation rate contract with Duquesne Light for the next 24 month time period beginning July 1, 2013 and instead authorize staff to monitor electric rates and enter into a contract when favorable rates can be achieved. . Mr. Clemson seconded the motion. *The motion passed unanimously.*

4. Foxpointe PRD Section 1D, Re-plots of Lots 177 & 178

Ms. Green introduced the Foxpointe PRD Section 1D Replot of Lots 177 & 178 which would approve the re-plot of two lots in the Foxpointe PRD plan. Mr. Kunkle asked Mr. Palmer if there had been any additional changes since the last plan submission and review. Mr. Palmer said that only slight changes have been made in response to staff comments, which he believes have all been addressed at this point. The staff has not yet had a chance to validate the most recent submission.

Mr. Killian made a motion to APPROVE the re-plot of lots 177 and 178 subject to the completion of outstanding conditions as set forth in the Director of Planning and Zoning memorandum dated May 14, 2013. Mr. Keough seconded the motion. *The motion passed unanimously.*

5. Proposal to Modify Agricultural Security Area

Mr. Kunkle reported that the Township received an application on March 10th from Amanda Rockower regarding the inclusion of tax parcel 24-006-006B in the Agricultural Security Area. This land consists of 54.9 acres located on Pine Hollow Lane off Tadpole Road.

Mr. Kunkle added that there is currently a vacancy on the Ag Security Advisory Committee due to the passing of Mr. James Harpster. He said the Board needs to nominate and recommend someone to fill this position.

Mr. Keough made a motion to ACKNOWLEDGE RECEIPT of an application by Amanda G. Rockower to modify the Township's agricultural security area to include tax parcel 24-006-006B consisting of 54.9 acres and to NOMINATE Mr. Dean Dreibelbis to replace Mr. James Harpster on the Ag Security Advisory Committee.

6. Comprehensive Plan Goals Prioritization

Ms. Green said the CRPA has requested that the Board and Planning Commission review the Comprehensive Plan's goals according to the Ferguson Township's individual needs. She explained that the Planning Commission choose one goal out of each element that it considered the most important and then prioritized the elements overall. The top four priority elements identified by the Planning Commission were: Land Use; Transportation; Housing; Community; University Relations. Mr. Killian said he was in support of all four listed priorities, especially those related to university relations and transportation.

Mr. Vorwald explained to the Board that the CRPA is not requesting a specific number of priorities from each municipality. He said the CRPA is simply looking to the municipalities for direction on how to prioritize the Comprehensive Plan goals. Mr. Pytel asked board members whether they agree with the four goals listed by the Planning Commission as the most important to Ferguson Township.

In response to discussion over items 6 (A viable agricultural industry) and 7 (Long-term preservation and conservation of land used for productive agriculture, potentially-productive agricultural land, and agricultural-support facilities), Mr. Vorwald said he was aware of some overlap among the goals covered in the plan. The Board determined it was in agreement with the priorities already identified for Land Use, but added goals 6 & 7 to that element.

Regarding the Open Spaces element, Mr. Keough and Mr. Clemson recommended adding Goal 4 (Well-designed and maintained parks facilities and infrastructure are provided to support the recreational functions of the Region's park systems) as a top priority.

Mr. Keough suggested that Goal 2 (A variety of housing types and prices is available to give current and future residents greater choice in both ownership and rental opportunities) be added as a top housing priority. There was some discussion comparing Goals 1, 2, and 4 under the Housing element with no specific outcome.

7. Whitehall Road SR3018 Detour Proposed

Mr. Modricker introduced the proposed 10-day detour on a portion of Whitehall Road by Penn DOT and under construction through a contract with HRI. The detour would redirect motorists using Whitehall Road around the relevant section of roadway by traveling on Blue Course Drive and West College Avenue. Mr. Keough asked if Bristol Avenue could be used as a detour. Mr. Modricker said there were reasons that Bristol Avenue was not officially included in the detour, but that the road would be available for motorists if they choose to use it instead.

Mr. Pytel asked what kind of hours HRI would be completing work on the roadways and whether 10 days would be an appropriate length of time to keep the detour open. Mr. Boone, representing HRI, said most work shifts with the detour would last from 7am to 5pm or 7pm. He said it is possible that the work would be completed before the end of 10 days but that this time could be necessary depending on any unforeseen issues that may arise. Mr. Pytel recommended that the HRI crew work longer hours, such as split shifts, if possible in order to close the detour earlier than the planned 10 days. Ms. Conrad suggested that police be present at least for the first day of the detour to ensure everything runs smoothly and to minimize resident complaints.

Mr. Killian made a motion to APPROVE the proposed Whitehall Road SR3018 detour onto Blue Course Drive and West College Avenue on the condition that a police officer be present the first day that the detour opens. Mr. Clemson seconded the motion. *The motion passed unanimously.*

8. PA DEP Recycling Grant Application

Mr. Modricker introduced the application for a grant to purchase a truck with a grappler and 4 leaf boxes that would mount in existing trucks. The total cost would be \$228,000, of which the municipal cost is \$20,800. He said that Patton Township has indicated an interest in sharing the cost of purchase and maintenance of the truck mounted grappler, decreasing Ferguson's portion of the cost to just \$10,400.

Mr. Killian made a motion to AUTHORIZE submission of a PA DEP Recycling Grant in the amount of \$228,000. Mr. Clemson seconded the motion. *The motion passed unanimously.*

9. Approval of April 2013 Voucher Report

Mr. Killian made a motion to APPROVE the April 2013 voucher list. Mr. Keough seconded the motion. *The motion passed unanimously.*

10. Consent Agenda

Mr. Killian made a motion to approve the consent agenda, which included the April 2013 Treasurer's Report; payment authorization for New Enterprise Stone & Lime Co. Inc in the amount of \$174,950.17; Surety Reduction for Saybrook, Phase 9A in the amount of \$83,295; Surety Reduction for Saybrook, Phase 9B in the amount of \$23,825. Mr. Clemson seconded the motion. *The motion passed unanimously.*

VI. REPORTS

1. Manager Report

Mr. Kunkle reported on a letter from the PADOT District Executive which provides a listing of the PADOT highway improvements planned for the fiscal year July 1, 2013 to June 30, 2014.

2. Public Works Director

Mr. Modricker reported that Public Works has completed its leaf and brush collection, which was late this month, and is currently working on mowing. He said that work on the road paving project in several locations including Bristol Avenue, Cherry Lane, and North Allen Street, is starting early this year. Work on the bike path and parking lot seal coat contract is set to begin on June 4th.

3. Planning & Zoning

Ms. Green reported that the Planning Commission was provided with a preliminary plan for the CVS Land Development Plan -no action has been required yet.

4. Chief of Police

Ms. Conrad reported that Part 1 Crimes were higher than this time last year. She said Part 2 Crimes were up slightly, mostly due to an increase in underage drinking citations. Traffic citations were also up for the month, other than traffic tickets which were down by 13%.

5. COG Committees

a. Executive

Mr. Pytel asked board members to review the proposed agenda for the next COG meeting and make suggestions for any items to be added.

b. Finance

Mr. Keough spoke about the regional fire protection report which highlighted the challenge of recruiting and retaining volunteer firefighters. He said there were two main contributing factors to this problem that were discussed. First, Mr. Keough noted that part-time employment seems to be occupying the hours outside of full-time employment which would historically be time available for community members to volunteer. The second obstacle has been finding individuals willing to commit the necessary time for training and certification. It was recommended that a full-time employee be brought on for the purpose of training management.

c. Public Safety

Mr. Clemson reported that all emergency medical providers are being encouraged to attend the next Public Safety meeting. He said that the Public Safety Committee also discussed several items already brought up at the current Board meeting, such as the CNG gas line. There was discussion concerning the State College Borough's withdrawal from the CRCA but no action was taken.

6. Other Non-COG Regional Committees

Mr. Pytel reported that there was a lot of discussion regarding the money being contributed towards the CCMPO. There are currently 29 municipalities not paying, but there was a general consensus that municipalities should be making contributions of some amount. Mr. Pytel said that some municipalities were paying as little as \$0.25 per person while the Centre Region municipalities were paying as much as \$1.04 – \$2.49 per person.

VII. CALENDAR ITEMS – MONTH

Mr. Killian informed the BOS that he would not be available to attend his June 5th Committee meeting. Mr. Keough volunteered to attend the meeting in Mr. Killian's absence.

VIII. ADJOURNMENT

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

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the May 20th regular BOS meeting at 10:09 pm.

RESPECTFULLY SUBMITTED,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 06/17/2013