

## FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting  
Monday, October 7, 2013  
7:00pm

### I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, October 7, 2013 at the Ferguson Township Municipal Building. In attendance were:

<b>Board:</b>	George Pytel, Chairman	<b>Staff:</b>	Mark Kunkle, Township Manager
	Richard Mascolo, Vice Chair		David Pribulka, Assistant Manager
	William Keough		Erika Green, Planning & Zoning Director
	Drew Clemson		David Modricker, Public Works Director
	Elliott Killian		

*Others in attendance included:* Heather Bird, Recording Secretary; Eileen Kline, Dianne Kemmer, Mark Kline, Martha Hummel, Jim Canner, Dylan Wadlington, Kai Wadlington, Trish Meek-CRPA, Kelly Woodling, Joshua Potter – Runaway Truck Ramp; Eric Vorwald – CRPA; Kurt Homan; Janet Whitaker; Steve Jackson – Slab Cabin Run; Karen Michael-PADOT; Cory Miller- UAJA; Eric Vorwald- CRPA

### II. CALL TO ORDER

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

### III. COMMUNICATIONS TO THE BOARD

Mr. Killian stated that there is an issue with cats in his neighborhood and would like to know if a mailer could go to residents about this problem. Mr. Kunkle requested that Mr. Killian provide an address where the problem cats seem to be coming from so that the Ordinance Enforcement Officer can investigate.

### IV. ACTION ITEMS

#### 1. PRESENTATION ON PINE GROVE MILLS RUNAWAY TRUCK RAMP PROJECT

Mr. Kunkle began by introducing Karen Michael of PENNDOT to give a presentation following the open house earlier in the evening. Ferguson Township will make survey forms available on the website and in the office until October 21<sup>st</sup>. Ms. Michael stated the main goal of the presentation and open house was to gain feedback from residents about the Pine Grove Mountain 2 Project.

On June 14, 2006 a fatal truck accident occurred on Pine Grove Mountain which initialized two plans. Pine Grove Mountain 1 was completed in 2010 and included a truck pull off at the top of the mountain and an escape ramp half way down the ramp. Pine Grove Mountain 2 is to construct a lower escape ramp approximately 6 feet high, similar to Pleasant Gap, in the Village of Pine Grove Mills relocating Chestnut Street and a portion of Slab Cabin Run stream. Property owned by Dr. Canner would be acquired and potentially four other properties would be affected.

Ms. Michael reminded individuals that the purpose of this presentation is to gain input and to give an update on the project. The 2009 TIP money allowed for study of area has been used and it now needs to be decided if this project is still a priority. The new 2015 TIP funding is very tight. The federal bill has changed and now there are only six funding types. Most of the funding available from federal government goes to the national highway system core routes such as Rt. 322. After these funds are distributed there is a very small amount of money left to spread throughout the state. PENNDOT would really like to see municipalities prioritize the

most important municipal projects. At this time for the Pine Grove Mountain 2 project it needs to be decided if they continue with this project and try to gain the necessary funds to complete the project or is we should prioritize another project.

Mr. Keough asked how closely Slab Cabin stream has been looked at. Ms. Michael stated they have met with DEP and PA Fish and Boat. They are interested in a shelf area being fixed to allow fish to get back up stream but at this point they are not fully in favor or against the project. Mr. Keough is concerned that making changes to upper portions of the stream may undo the work that has been done to the lower stream near the area of the Naked Egg Café.

Warning signs and painting are an option. Some of these are not as effective. An advance warning would allow you to know someone is coming but it wouldn't prevent the accident from happening.

Mr. Pytel stated that straightening the intersection could help to avoid property damage if a truck were to lose control. He would prefer these funds to go to the intersection; this would eliminate the need to relocate Slab Cabin stream as well as having the gas station removed which has pumps very close to the stream.

Ms. Michael commented that once they receive the comment cards they will compile the information and give it to Ferguson Township for use at a November meeting.

Dr. Canner asked if the truck accidents are enough justification. Ms. Michael stated that since the completion of the first project there have been two distracted driving truck accidents at the intersection and none on the mountain. Based on funding justifications, this project would not qualify for federal safety crash monies and would need to use the general fund monies. It would have to have the priority of the county to move forward and that is why we are starting with does it have the priority of the Township. Based on what she has heard tonight most individuals tonight were not in favor.

Mr. Dylan Wadlington stated that perhaps another option would be increased enforcement on trucks weights as well as different speeds limits for different weight limits and he asked if there are other areas that have two truck ramps in such a close proximity to each other. Ms. Michaels responded that in our district there are no other areas with multiple truck ramps.

Ms. Martha Hummel that in her 50 years living in Pine Grove she knows of at least at least five deaths on the mountain and all were from mechanical failure. She suggested using the upper pull off to have trucks brakes inspected and install speed bumps. Ms. Michael stated that they did make the area wide enough to do inspections.

Ms. Eileen Kline is concerned with the two homes that may be affected and questioned how far along in the project before they will know the full effect? Ms. Michael responded that they would need to complete preliminary engineering to get those answers, but at this time they would be moving forward with the project. Ms. Kline stated that she and her husband are not in favor of this even though their business was destroyed and friend killed in the 2006 accident. She stated the best area to have a traffic light at the intersection of Route 26 and Route 45 not with a realignment of the Pine Grove intersection and a new traffic light installed. She recommended that they put copies of the survey in the post office for those who were unable to attend and also do not have a computer.

Mr. Keough asked how much effect we could have on moving this money to another location such as 26/45. Ms. Michael stated that all of the money allocated to this project has been used and the Township would need to re-rate the priorities and then go through the process of gaining funds for that new project. Mr. Keough stated we need to get this project on the list or off the list in a short amount of time. The Township is not rushing to make a decision but the Township has deadlines to meet in order to get traffic safety funding for Ferguson Township.

Mr. Pytel explained that at this time this project is high on the project list and if funding becomes available this project could be completed. Once it is removed it will be many years until it could have a chance to get funding.

Mr. Josh Potter stated he is concerned about this project and feels intersection at Routes 26 and 45 is more dangerous and should be a priority.

No action needed by the Board at this time.

## **2. DISCUSSION ON SLAB CABIN RUN DESIGNATION AS HIGH QUALITY – COLD WATER FISHERY**

Mr. Kunkle stated on Wednesday Oct 2<sup>nd</sup> the COG Public Services and Environmental committee learned of an application filed and approved by the Fish and Boat Commission to redesignate Slab Cabin Run from its origin to its mouth as a high quality cold water fishery. This approved application has been forwarded to the Department of Environmental Protection for a similar designation. What is the impact of future disposition of UAJA beneficial waste water distribution?

Mr. Cory Miller, Executive Director UAJA as well as Eric Vorwald, Centre Region Planning Agency is here to discuss this issue.

Mr. Cory Miller stated that Slab Cabin has sections that are already high quality to where it goes under ground. The proposed change in designation is for the remaining stream segments to become high quality including areas which are known to dry up.

Mr. Clemson stated that once this reaches the DEP we lose control over changing the decision.

Mr. Miller responded by stating the way the process works. Fish and Boat Commission advertise their request and allow time for comment. In this case the notice was not seen and it went through without any comment becoming a Class A trout stream. Once the stream becomes a Class A it automatically becomes a high quality stream. The only way at this time to counter the action is to produce scientific evidence that it should not be designated high quality or provide proof that the Fish and Boat Commission did not do enough research with a multi-year scientific study demonstrating whether the fish and boat commission was wrong. The Fish and Boat Commission counted fish and measured the mass in 2012, which was a particularly wet season.

University Area Joint Authority's intent is to put the beneficial waste water into the stream to steady the flow. With the stream being classified as high quality the current regulations do not allow waste water effluent. This prohibition will affect the cost of discharging the waste water, increasing the cost to residents by 36.5%.

Mr. Killian asked if finding another customer would be a solution. Mr. Miller stated that this would be a way to help, but at this time they do not have a customer to take the water.

The current use is in the area of 110 million gallons a year going out the reuse water line. At this time UAJA is nowhere in the critical stage but they will get there someday and there is a possibility of regulations changing before the actual need is there. UAJA will discuss at its next meeting if they would like to get the region to back scientific research to change the designation.

The Kissinger project received a permit from DEP allowing up to 3 million gallons a day to go there. Currently 4.5 million gallons a day is going to Spring Creek with a maximum discharge of 6 million gallons. The treatment capacity of the plant is 9 million gallons. At this time UAJA is many years away from reaching the full capacity of the plant.

Mr. Jackson, Ferguson Township representative to the State College Borough Water Authority, will present this information at the next meeting.

Mr. Killian should present to the Public Services and Environmental Committee the following points: (a) should approach this as a region (b) should approach regulatory changes and a scientific study of a multi-year period

Mr. Eric Vorwald, CRPA, added to the conversation that he has had conversations with both Fish and Boat and DEP. This application is currently at the DEP office with an undetermined time frame. They informed him that they will perform a review which could change the designation to include only portions of Slab Cabin. Another suggestion is to contact Fish and Boat Commission to withdrawal their request to designate this stream as high quality to work with the region to find a solution.

### **3. DISCUSSION OF AMENDMENTS TO RGB/SSA IMPLEMENTATION AGREEMENT**

Mr. Kunkle stated the COG General Forum has referred the amendments of the implementation agreement to the municipalities for comments to be returned to the COG Executive Director by October 17<sup>th</sup> for distribution to the Executive Committee.

The discussion began with project specific development agreements. The Board agrees there should be a mandatory project specific development agreement with a time frame of two years from recording.

Mr. Mascolo requested that Mr. Kunkle's memorandum from September 30<sup>th</sup> should be included with any comments.

Mr. Pytel would like a clause included with the agreement that an amendment to the Implementation Agreement would always require super majority.

\*Does the Board agree that the metric to be used by the UAJA is capacity to serve existing development and the proposed expansion or is the metric for UAJA to determine capacity the ability to serve planned or potential development with the RGB/SSA? Mr. Keough and Mr. Mascolo agreed using the metric to serve the plan and potential development within the boundary.

\*Is the suggestion that the expansion of the RGB/SSA not necessarily be contiguous to the existing RGB/SSA of concern to the Board? How does a proposal not being adjacent to the

existing RGB/SSA control or address sprawl? Would there be circumstances where the expansion might not be required to be adjacent to the existing RGB/SSA?

Mr. Kunkle stated that one of the goals of the early part of this agreement is to reduce sprawls. Mr. Keough commented this has to do with the issue of DEP declaring a failure of the sewer system. We may have to go to something not contiguous and it is the intent to voluntarily stay contiguous.

Mr. Pytel pointed out putting someone on sewer does not put them in the regional growth boundary.

Mr. Mascolo stated we are contiguous only in sewer service area not regional growth boundary

Mr. Kunkle stated in the past the expansion should be contiguous.

\*How are these regional impacts measured and how are the impacts quantified as impacts on adjacent municipalities? In other words, what are the thresholds to determine acceptable and unacceptable impacts? How does this list of "effects of development of regional impact" address the question raised on the Calvary Baptist Church suit that the criteria is arbitrary and capricious?

Mr. Kunkle questioned how are these regional impacts measured or quantified on adjacent municipalities?

The Board stated that this would be hard to quantify with nothing to study.

Mr. Keough would like to see some of the smaller details in a separate agreement so as to not limit the full agreement.

Mr. Kunkle referred to the sunset provision in the agreement that deals with the areas that the host municipality will be able to expand the sewer service area to a limit of 50 EDU over a 5 years period. That provision will not be an option after 5 years and then expansions of the sewer service area would default to the super majority.

Mr. Pytel cleared up that this amount is per municipality and may not be given to other municipalities.

Mr. Kunkle reviewed the issue of the advanced waste water treatment. Advanced waste water treatments are an option and may offer an opportunity for additional sprawl outside of the regional growth boundary. This would have to be approved by the host municipality as the method of sewer treatment. In municipalities that permit the advanced waste water treatment facility having one adjacent rural property may impact our road system, police services, etc. This kind of adjacent impact may have an unintended consequence.

Mr. Killian and Mr. Clemson agreed with Halfmoon Township in that they would like to eliminate the option of advanced waste water systems. Mr. Mascolo has no objection to this as long as it has a separate cost center. The alternatives to these are on lot septic systems. Currently the revised agreement does allow for these advanced waste water systems. The Board does not agree with this. The whole last sentence should be eliminated. The Board agreed that a copy of a draft development agreement should be sent with their comments as an example.

#### **4. REVIEW OF SPECIAL EVENTS RELATED ORDINANCES, RESOLUTIONS AND POLICY**

Mr. Pribulka stated the Board may recall on March 20<sup>th</sup> that staff presented them with revised draft of a special events policy that would be used to regulate and approve any event that would take place on Township roads, sidewalks or bikeways that would encroach on normal flow of traffic. Board provided comment on that draft and a second draft was provided to the Board on April 15<sup>th</sup>. After both drafts were reviewed the final draft was compiled and includes an Ordinance amendment to the Motor Vehicle and Traffic ordinance and a Resolution amendment to the Township fee schedule. The fee schedule would permit escrow money for staffing and potential damage as well as a permit fee to cover staff review time.

The purpose for the amendment is to more closely align the Township with the Centre Region's large group event policy as well as to incorporate the PENNDOT form TE300, which regulates the hosting of special events on state roads. Based on the Board request a new application was drafted to include all changes. Purposes of the revision are to make this an official policy, include the Township's certificate of insurance requirements and to move the decision from the Township Manager to the Board of Supervisors. Staff requests any additional comments.

Mr. Keough met with Mr. Pribulka on his questions and concerns about the document. He does not feel that the document is clear. The beginning of the document should begin with the purpose.

Mr. Pribulka would like to clarify what size group would require a special event permit, to use a road, sidewalk or bikeway? The Board agreed that a closure would be when a special event permit would be needed.

Mr. Kunkle stated that the revised policy requires a health permit if the special event intends to serve food for sale.

Mr. Pribulka noted changes to be made to include: the police notification time will be changed to 3 weeks to go along with Large Group Event, the purpose of the policy will be moved to the top and that only events that require closures will fall under this policy.

Mr. Pytel stated that with the changes mentioned this is ready for advertisement.

#### **5. VARIANCE APPLICATIONS**

##### **a. CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, 992 NORTH NIXON ROAD**

Mr. Kunkle stated the variance application is for Cellco Partnership d/b/a Verizon Wireless for their proposed monopole site at 992 North Nixon Road. The Board has already approved the land development for this site and one of the conditions is to obtain a variance on the landscape buffering. This tower will be located in the middle of a wooded area.

Mr. Mascolo made a motion to REMAIN NEUTRAL on the variance application for Cellco Partnership for property located at 992 North Nixon Road. Mr. Keough seconded the motion. The motion passed unanimously.

##### **b. HARRY AND BARBARA KNUPP, 2486 CIRCLEVILLE ROAD**

Mr. Kunkle stated the variance application for Harry and Barbara Knupp property located at 2486 Circleville Road is requesting a side yard setback. The lot is a long narrow lot, 60' width

and 200' length, and they are proposing to put a manufactured home on the lot. Normal setback of the lot would not allow for the placement of the dwelling unit. This home would result in approximately 21% coverage on the lot.

Mr. Mascolo made a motion to REMAIN NEUTRAL on variance application for Harry and Barbara Knupp for property located at 2486 Circleville Road. Mr. Keough seconded the motion. The motion passed unanimously.

#### **6. APPOINTMENT OF PLANNING COMMISSION MEMBER**

Mr. Kunkle stated that the Board of Supervisors has the responsibility to fill the unexpired term of John Mason. After receiving applications and conducting interviews the decision was made to appoint Mr. Kurt Homan to the Planning Commission with a term expiring December 2016.

Mr. Mascolo made a motion to APPOINT Kurt Homan to the Planning Commission with a term expiring December 2016. Mr. Killian seconded the motion. The motion passed unanimously.

#### **7. APPROVAL OF LIQUID FUELS GRANT APPLICATION TO CENTRE COUNTY**

Mr. Modricker stated that staff recommends that the Board authorize submission of a county liquid fuels grant in 2014. This grant is typically \$25,000 to \$30,000. The projects suggested for candidates are Westerly Parkway or Vairo Boulevard.

Mr. Clemson made a motion to AUTHORIZE submission of a grant application for funding for Westerly Parkway. Mr. Killian seconded the motion. The motion passed unanimously.

#### **8. CONSENT AGENDA**

Mr. Mascolo made a motion to approve the Consent Agenda including Payment Authorizations for Alpha Space Control, Glenn O. Hawbaker (2), Lowell Hartzell, New Enterprise Stone & Lime Co. (2); Surety Reductions for Torron Center, Turnberry TTD, Dreibelbis Subdivision and Time Extensions for CVS Pharmacy and 2188 Sandy Drive. Mr. Killian seconded the motion. The motion passed unanimously.

#### **9. RATIFICATION – COLLECTIVE BARGAINING**

Before the Board this evening is the ratification of the collective bargaining agreement with the Ferguson Township Police Association. The administration department and the Police Association have arrived at an agreement to begin January 1, 2014. This is a three year agreement providing a 2.375% increase in wages in each of the three years, revisions to our health insurance plan, clarification of probationary police officers and included random alcohol testing in combination with drug testing. Also included with the agreement are two memorandums of understanding that are outside of the bargaining agreement that allow for members of the association to participate in the Township's 457 plan and an opt out provision of our health insurance plan.

Mr. Keough made a motion to RATIFY the January 1, 2014 – December 31, 2016 Collective Bargaining Agreement between the Ferguson Township Police Association and the Township along with the associated memorandums of understanding and authorize the Chairman and Secretary to execute the agreements on behalf of the Township. Mr. Mascolo seconded the motion. The motion passed unanimously.

## **V. REPORTS**

### **1. Manager**

Mr. Kunkle included in his report an update on the Oak Wilt situation suggesting the Board have a work session with Dr. Dave Jackson. Dr. Jackson advised him that the tree canopy is changing so identifying infected trees would not be possible this fall.

Included with the report are two pieces of correspondence one has to do with a code appeal for property on Old Mill Road and one is from Comcast. Comcast provides the meeting room and the municipal building with internet services as part of the franchise agreement and this letter details the value of those services. We received a constructive services letter from Parente Beard on our 2012 audit with a suggestion to spot check earned income tax returns and this process has been implemented. Under separate cover the Board members received the Annual Water Resource Monitoring Project for the Spring Creek Watershed.

### **2. Public Works Director**

Mr. Modricker stated Whitehall Road paving schedule is scheduled to begin Monday, October 14<sup>th</sup>, daylight hours, and last about two weeks followed by about a week of shoulder backup. The road is expected to reopen to two lane traffic the first week November. He also stated that he has put together a request for additional snow plowing especially in the TTD.

### **3. Planning & Zoning Director**

Ms. Green began by stating the Planning Commission meeting last week was cancelled. She has included the permit activity report. The Places of Assembly ordinance amendment will be presented for adoption at the next meeting. She also went over the results from the Zoning Hearing Board and the Board was happy to have this information.

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

#### **a. Human Resources**

Mr. Keough stated they were dealing with job description for the nature center coordinator and supervisors. They had a few suggested changes and they were forwarded to the appropriate committees. They took a look at the anti-harassment policy and made updates to this based on current court findings and is moving forward in their discussion.

#### **b. Public Services Environmental**

Mr. Keough stated the only item they discussed was Slab Cabin Run and the Board has already discussed this earlier in the meeting.

## **VI. MINUTES**

Mr. Mascolo made a motion to approve the September 3, 2013 Board of Supervisors minutes. Mr. Killian seconded the motion. The motion passed unanimously.

Mr. Mascolo made a motion to approve the September 16, 2013 Board of Supervisors minutes. Mr. Killian seconded the motion. The motion passed unanimously.

## VII. ADJOURNMENT

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

With no further business to come before the Board of Supervisors, Mr. Pytel adjourned the regular meeting at 10:26 pm.

RESPECTFULLY SUBMITTED,

---

Mark Kunkle, Township Manager  
For the Board of Supervisors

Date approved by the Board: 10/21/2013