

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Tuesday, December 6, 2022
7:00 PM

ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Tuesday, December 6, 2022 as a hybrid meeting. In attendance were:

Board:	Laura Dininni, Chair	Staff:	Centrice Martin, Township Manager
	Lisa Strickland, Vice Chair		Dave Modricker, Director, Public Works
	Corey Gracie-Griffin		Jaymes Progar, Assistant Township Manager
	Patti Stephens		Eric Endresen, Director, Finance
	Jeremie Thompson		

Others in attendance included: John Spychalski, CATA Representative; Louwana Oliva, Executive Director, CATA; Mark Garlicki, Spring Creek Watershed Commission Representative; Kevin Abbey, Spring Creek Watershed Commission Representative; Dave Stone, Nittany Valley Environmental Coalition; Bill Keough, Ferguson Township Resident and Representative of the Park Authority; Omari Patterson, Ferguson Township Resident

I. CALL TO ORDER

Ms. Dininni called the Tuesday, December 6, 2022, regular meeting to order at 7:00 p.m.

II. PLEDGE OF ALLEGIANCE

Ms. Dininni reported that there was an Executive Session on December 6th regarding personnel.

Ms. Martin thanked and welcomed everyone to the meeting and noted that the Board of Supervisors meeting had been advertised in accordance with the PA Sunshine Act as a hybrid meeting with an option to attend online utilizing zoom and the main meeting room for any public members to participant. Persons attending the meeting as members of the public and wanted to participate were asked to state their name, municipality, and topic. Members of the public are to be muted during the meeting and must be acknowledged by the Chair. Board members are asked to indicate their name when motioning or seconding a motion so that the minutes are accurate. Ms. Martin took Roll Call and there was a quorum.

III. CITIZENS INPUT

There were no comments.

IV. APPROVAL OF MINUTES

Ms. Stephens moved that the Board of Supervisors **approve** the Special Budget meeting minutes for November 9th and 10th and the regular meeting minutes of November 15, 2022. Ms. Strickland seconded the motion. The motion passed unanimously.

V. AUTHORITIES, BOARDS, AND COMMISIONS REPORT

1. Centre Area Transportation Authority

Mr. John Spsychalski presented the report that was included in the agenda packet.

Ms. Strickland encouraged CATA for continued exploration on how to fix CATA riders from crossing the road mid-block on Blue Course Drive right before Martin Street. Mr. Spsychalski stated he is on board to fix the problem.

Ms. Strickland reported that at their last CCMPO meeting they saw a presentation on the CATA Reimagine Study and asked when it will be adopted. Louwana Oliva, Executive Director, CATA, stated that the study will go to their board for acceptance in December and then the board figuring out what to enact from the consultants' best practices.

VI. SPECIAL REPORTS

1. Diversity, Equity, and Inclusionary Initiatives – *Christmas Day (Federal holiday), New Year's Eve, Kwanzaa, Hanukkah*
2. Township and Fiscal Responsibility – no report
3. Environment – no report.

VII. COG AND REGIONAL COMMITTEE REPORTS

1. COG COMMITTEE REPORTS

- a. Finance Committee

Ms. Dininni attended the meeting and noted that the agenda is included in the Board of Supervisors packet.

- b. Centre Region Parks and Recreation Authority

Ms. Dininni attended the meeting and noted that the agenda is included in the Board of Supervisors packet.

- c. Executive Committee

Ms. Dininni attended the meeting and noted that the agenda is included in the Board of Supervisors packet.

- d. Centre County Metropolitan Planning Organization (CCMPO)

Ms. Strickland reported they met on Tuesday, November 22, 2022, and noted the agenda is in the Board of Supervisors packet. Ms. Strickland reported they had a four-hour Strategic Planning meeting on Monday that was very involved and well done.

- e. Facilities Committee

Ms. Dininni noted that there was no report.

- f. Spring Creek Watershed Commission

Mr. Mark Garlicki stated that representation on the Commission must be an elected supervisor with an alternate because of financial transactions. Mr. Garlicki reviewed the by-laws that was included in the agenda packet.

Mr. Kevin Abbey, Spring Creek Watershed Commission Representative reported that the Commission meets every two months. The Commission will meet in January to review the feedback from the municipalities regarding the by-laws.

- g. Land Use and Community Infrastructure Committee - cancellation notice
- h. Parks & Recreation Governance - cancellation notice

2. OTHER COMMITTEE REPORTS

VIII. STAFF REPORTS

- a. Township's Manger's Report
- b. Public Works Director Report
- c. Planning and Zoning Report

There was nothing more to state regarding the Staff Reports.

IX. UNFINISHED BUSINESS

1. A Public Hearing on the Proposed 2023 Ferguson Township Annual Operating Budget

Ms. Martin reported that the Board of Supervisors received a DRAFT 2022 Annual Operating Budget on November 3rd and conducted two public Special Meetings to review the document on November 9th and 10th. Amendments to the budget that were approved by consensus vote at each meeting have been incorporated into the document that has been advertised for public hearing this evening. A copy of the proposed 2023 Operating Budget was made available at the Township building for inspection and accessible from the Township's website. Public input on the document should be received this evening so that any resulting changes may be incorporated prior to its presentation for final adoption at the Regular Meeting on December 13th. Below is a link to the proposed 2023 Annual Operating Budget. Centrice Martin, Township Manager, will introduce the item and Eric Endresen, Director of Finance, will provide a short presentation on the budget and review the changes that were incorporated at the conclusion of the Special Meetings held in November.

[2023 Proposed Ferguson Township Annual Operating Budget](#)

Public Hearing – There we no comments and the hearing closed.

Ms. Stephens moved that the Board of Supervisors **approve** the proposed 2023 Ferguson Township Annual Operating Budget and authorize a public hearing on the final adoption of the budget for December 13, 2022. Ms. Strickland seconded the motion.

Ms. Strickland reported that she received an email asking if the stormwater fee for Tudek Park exemption form could be submitted by Ferguson Township. Ms. Martin stated that there will need to be further discussions to decide.

Ms. Martin clarified that the Board is being asked to approve the budget and not adopting the budget. The Board will be asked to adopt the budget on December 13, 2022.

**ROLL CALL: MR. GRACIE-GRIFFIN – YES; MR. THOMPSON – YES; MS. STEPHENS – YES;
MS. STRICKLAND – YES; MS. DININNI - YES**

The motion passed unanimously.

2. Review of CRCOG Solar Power Purchasing Agreement Presentation

Ms. Martin noted that at the November 28, 2022 meeting, General Forum members received an update on the Solar Power Purchasing Agreement project. The SPPA Project Management Team will meet December 7 to list questions received and forward to the SPPA Working Group. The Board of Supervisors is asked to discuss the presentation and share any questions regarding the SPPA for delivery to the Project Management Team.

Ms. Dininni would like to send a comment about the risk, who is absorbing the risk for the construction project.

Ms. Strickland had questions regarding the terms of the contract, termination clauses and who and how many other investors.

3. Review of Progress to Strategic Plan Update

Ms. Martin noted that in 2021, the Board of Supervisors began updating the Strategic Plan document, last updated in 2017. This document provides guidance for the Township and an outline to achieve goals set forth by the Board of Supervisors. The Board is asked to receive the document with updates current as of December 1, 2022.

Ms. Martin reported that the document included in the agenda packet is only the chapter regarding Goals.

Ms. Dininni suggested adding the Action Steps to the plan as an appendix or a separate document.

4. Review of Whitehall Road Regional Park Update

Ms. Dininni reported that the COG Chair is making an effort to schedule a Special General Forum Meeting for a date to be determined in December to consider a release from the Whitehall Road Regional Park loan "reserve". In lieu of a Special Meeting date being established, action will be considered at the regular meeting of the COG General Forum, December 20.

The budget for the WRRP project was set at \$6,534,577 in December 2021. The 12/2021 budget included 4,511,907 allotted to construction contracts with a \$258,633 (5%) contingency. When bids came in above budget in late 2021, an additional "de-scoping" process was to have been applied to bring the project back into budget before contracts were issued. On 1-20-22 and 3-17-22 the Park Authority chose to move forward, via resolution to award contracts resulting in an over-budget situation.

In November of 2022 it was stated by COG that the project only had \$75,000 in contingency, later they stated that due to double counting of a grant/donation it was actually \$55,000, which conflicted with the CRCOG budget stating that there was \$258,633 in contingency.

On December 16, 2021, a citizen group expressed concern about this. On January 20, 2022, CRCOG Executive Director stated there was a 7-8% project contingency.

Over the last month, multiple motions have been making their way through the committee structure at COG in order to prepare to ask the Municipalities to consider an additional fund release. While the action on March 17, 2020, resulted in a guarantee of project overage, the project has been determined by the project manager to currently have sufficient funds until March or April. Therefore, COG

municipalities have the time needed to spend to work out exactly how this situation occurred before considering additional fund release.

Ms. Dininni reviewed the process and noted that if the Board is virtual for the COG meeting, the Board would need to call into a conference number to hold discussions. Majority of the Board will be physically in attendance.

Ms. Dininni reviewed the past motions leading up to tomorrow's recommended motion. The recommended motion is as follows:

"That the General Forum, as recommended by the Finance and Executive Committees, authorize access to \$578,974 from the restricted loan funds in order to ensure payments for contractors, fees, materials, and supplies for the completion of the initial Phase 1 of Whitehall Road Regional Park explicitly excluding irrigation and the all-season pavilion."

Ms. Strickland briefly reviewed the [agenda](#) for tomorrow's meeting.

Ms. Dininni stated that the agenda documents for the Centre Region Park Authority in May 2021 that is attached to the agenda packet talk about the three options for de-scoping.

Ms. Dininni explained how the project was coordinated and stated that the Township provides the funding, and the Park Authority implemented the project. Ms. Dininni read minutes from the December 16, Joint Meeting of the Finance Committee, Parks Capital Committee, Facilities Committee, and CRPR, that stated Ferguson Township remained in support of Option #3 at their Board meeting on December 13, 2021.

Ms. Strickland stated that she would feel more comfortable if there was a different management team in place.

Ms. Dininni expressed concerns with the change orders in excess of \$117,000.

Mr. Gracie-Griffin commented that he is more comfortable now after reading the information that was provided. Mr. Gracie-Griffin stated that he is in favor of approving the release of the additional funds. With regards to the Millbrook Marsh, Mr. Gracie-Griffin expressed concerns due to it being another geological area that could have potential issues.

Ms. Stephens stated that from the get-go the park had been underfunded and expressed concerns with releasing more funds.

Ms. Dininni read a quote from Director Eric Norenberg on page 138 of the agenda packet regarding 7-8% contingency.

Ms. Dininni suggested that the Board request to review the master plan of the regional parks.

Ms. Dininni asked the Board if they had any questions that should be answered at the meeting tomorrow. Ms. Stephens asked if there are priority agreements that the Board doesn't know about. Ms. Strickland wants to know what the agreements are and their statuses.

Public Comment

Mr. Dave Stone, Nittany Valley Environmental Coalition (NVEC), stated that they made detailed comments raising issues back in December 2021 about the 7-8% contingency. Mr. Stone stated that

they feel as if they were lied to because they took away the contingency they were promised. Mr. Stone expressed concerns with just a one-hour meeting tomorrow.

Mr. Bill Keough, Ferguson Township Resident, Representative of the Park Authority stated that the last eight months have been difficult on him due to the project. Mr. Keough stated there were Test Borings performed on the land, but unfortunately there were rock issues. Mr. Keough reported that as a result of the project the Authority and the COG Staff have reworked the entire management process. Mr. Keough stated the project is in a much better position than it was a year ago. Mr. Keough stated that data shows that there is a need for rectangular fields for our programs. Mr. Keough reported that having tournaments is part of the process and could be beneficial on many levels. Mr. Keough stated that there was a financial forensic audit performed on the project and based on the audit there were no abscondment of funds. Mr. Keough reported that if the project is shut down now, it will cost \$60,000 in the spring to set back-up. There are also security concerns with the property.

Ms. Dininni stated that the discussion is not about shutting down the park. Ms. Dininni asked why the Authority wouldn't pay the change orders to make sure that the project continues.

Mr. Keough noted that when the Authority found out about the \$75,000 expenditures, the Chair of the Authority said they would sign no more contingency forms. Mr. Keough reported that the Authority was actively seeking and securing funding from the beginning until the director left the position recently.

Mr. Keough thanked the Board for allowing his statements.

Mr. Omari Patterson, Ferguson Township Resident stated that his 11-year-old child plays on a soccer team in Centre County. Mr. Patterson stated that the Board is making responsible decisions fiscally and structurally. Mr. Patterson suggested that the Township pay for a representative to monitor the project. Mr. Patterson expressed excitement for the project to finish on-time, on budget, and within scope.

Ms. Dininni reviewed the following questions that will be asked at the special meeting tomorrow:

1. Understand the status of the priority use agreements with milestones established.
2. Has the Musco Light Company been paid?
3. Can staff guarantee that the project reach completion with the release of the funds?
4. When the grants and donations are reimbursed what occurs with the money.
5. Can we quantify the cost of the delay from the light installation?
6. The choice about the tournament facilities vs the rectangular fields for local residents. This will be a future question.
7. Clarify what is in the FFE Budget, regarding goals.

Mr. Gracie-Griffin suggested prioritizing the questions by importance. Ms. Dininni will capture her questions in an email to be forwarded to the COG Chair and copied with the Board.

X. NEW BUSINESS

1. Consent Agenda

- a. September Treasurer's Report - for acceptance
- b. Contract 2022-C1, Pay App 2, \$524,348.43
- c. Contract 2022-C1, Pay App 3, Final, \$73,418.11
- d. Contract 2022-C2, Pay App 2, \$466,594.77
- e. Contract 2022-C2, Pay App 3, \$111,456.67
- f. Contract 2016-C11, Pay App 6, \$98,981.00
- g. Contract 2016-C11, Pay App 7, \$45,451.02

- h. Contract 2016-C11, Pay App 8, \$6,624.00
- i. Acceptance of Proposed Bylaw Revisions
- j. Orchard View Subdivision Surety Reduction No. 6, \$11,492.94
- k. Harner 4 Lot Subdivision Surety Reduction No.7, \$68,111.78

Ms. Stephens moved that the Board of Supervisors **approve** the Consent Agenda and **accept** the Treasurer's Report. Ms. Strickland seconded the motion. The motion passed unanimously.

2. Review of Draft Ferguson Township Schedule of Fees

Ms. Martin reported that the Schedule of Fees for the Township is adopted annually by resolution of the Board of Supervisors and describes all fees for services, violations, and other items for which the Township collects revenue. Provided with the agenda is a copy of the DRAFT 2023 Ferguson Township Schedule of Fees for review by the Board and authorization for the public hearing on December 13. The document has changes redlined for illustration.

Ms. Strickland moved that the Board of Supervisors **authorize** advertisement of a resolution adopting the 2023 Ferguson Township Schedule of Fees for Monday, December 13, 2022. Ms. Stephens seconded the motion.

Mr. Thompson noticed that there is a bad check charge and suggested looking into junk fees. Mr. Thompson suggested changing the word "peddling" to another word because the definition can be inappropriate. Ms. Dininni suggested changing the word bad check to returned check. Mr. Endresen suggested using non-sufficient fund check charge.

Ms. Stephens moved that the Board of Supervisors **amend** the Ferguson Township Schedule of Fees to replace the word, bad in check charge to non-sufficient fund check charge.

Mr. Thompson asked if the Township would be allowed to charge due to the Biden Administration because now the bank can't charge fees.

Ms. Martin is confident that the Township is not in violation of state or federal legislation. Ms. Martin recommends proceeding.

Mr. Thompson seconded the amended motion. The motion passed unanimously.

The original motion passed unanimously.

3. Authorization and Approval for Payment to NTM Engineering, Inc. For the Submission of Supplemental Agreement 5 For the Park Hills Drainageway Imp

Ms. Martin reported that Ferguson Township entered into a professional services contract on November 21, 2018, with NTM Engineering to perform engineering design services including concept designs, surveying, preliminary engineering design drawings, technical specifications and special provisions, permitting, hydraulic modeling, right of way drawings, and final design drawings for the Park Hills Drainageway Improvement Project. Since that time, the contract was supplemented 4 times over the past 4 years to include additional work and associated additional fees. The supplements are as follows:

Contract	Amount	Description
Original contract	\$242,830	
Supplement 1	3,074	Additional survey and mapping associated with an incorrect utility mark out
Supplement 2	57,000	Additional scope for final design and permitting by adding the preparation and submission of a CLOMR and LOMR to FEMA
Supplement 3	12,000	Additional hydraulics and hydrology and design revisions to minimize impacts to trees and minimize potential construction costs
Supplement 4	47,360	Additional final design work and permitting associated with utility investigation and coordination, design of drop energy dissipation structure and improvements to drainage on Devonshire Drive, rate cost escalation
Current contract	\$362,264	

On May 10, 2022, the Township received a request for scope and fee adjustment, in the amount of \$150,000, for unauthorized and out-of-scope performed without approval for an agreeable change or supplemental agreement from the Township. The Manager did agree to meet and discuss for a resolution with the Senior Professional Engineer and President of NTM Engineers, Inc. This matter has been under review with much deliberation involving NTM and the Manager, Director of Public Works, and Township Engineer to determine agreeable terms for Supplement 5 with payment to NTM Engineers, Inc. in the amount of \$55,056.76. Generally, and historically, the Board is not involved in supplemental agreements or changes in accordance with the Home Rule Charter. In this matter, the Manager desires for a transparent approach that prioritizes accountability with the support of the Board of Supervisors. The Board is asked to support staff's recommendation to pay the agreeable fee adjustment in the amount of \$55,056.76. NTM Engineer, Inc. has been informed that any future scope of work and fee adjustments submitted for unauthorized work will be without compensation. NTM Engineering, Inc. and Ferguson Township has had a longstanding relationship, and the staff appreciated the opportunity to resolve this matter with amicable and agreeable terms.

Mr. Modricker stated that the work on this project started in 2018.

Ms. Dininni expressed gratitude for the staff bringing this to the Board and public's attention.

Mr. Gracie-Griffin moved that the Board of Supervisors **approve** the supplement and authorize the Township Manager to approve and submit payment to NTM Engineering in the amount of \$55,056.76. Ms. Stephens seconded the motion. The motion passed unanimously.

4. Award of Contract 2022-C15 Street Tree Pruning

Mr. Modricker reported that On November 29, 2022 bids were opened publicly and read aloud for contract 2022-C15. The bid was advertised in the Centre Daily Times and was sent to potential bidders. The contract involves trimming 519 street trees located on various streets in Teaberry Ridge and Foxpointe neighborhoods, Pine Hall Road, and Sunday Drive.

Provided with the agenda is a memorandum from the Public Works Director dated November 29, 2022 recommending award of the contract.

Mr. Modricker reviewed his memo that started on page 242 of the agenda packet.

Ms. Stephens moved that the Board of Supervisors **award** Contract 2022-C15 Street Tree Pruning to Cutting Edge Tree Professionals in the amount of \$79,950.00. Mr. Gracie-Griffin seconded the motion. The motion passed unanimously.

XI. COMMUNICATIONS TO THE BOARD

Ms. Strickland stated she had several communications regarding the Whitehall Regional Park and one regarding the budget.

Mr. Thompson received several letters of support regarding the Whitehall Regional Park.

Mr. Gracie-Griffin also received several emails regarding Whitehall Regional Park.

Ms. Stephens also had residents stop her while walking asking questions about the park.

Ms. Dininni reported that she would like to include two more questions about the park that was brought forward by a resident. Recommendation to include a representative to monitor the project and what is being done to generate additional funds.

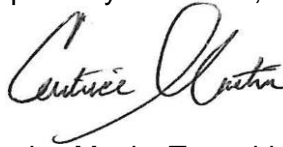
XII. CALENDAR ITEMS – DECEMBER

- a. Parks & Recreation Committee, December 8
- b. Planning Commission, December 12
- c. Pine Grove Mills Small Area Plan Advisory Committee - December 15
- d. Administrative office closed Monday, December 26 in observance of the holiday

XIII. ADJOURNMENT

With no further business to come before the Board of Supervisors, Ms. Stephens motioned to **adjourn** the meeting. Mr. Gracie-Griffin seconded the motion. The motion passed unanimously. The meeting adjourned at 10:26 p.m.

Respectfully submitted,



Centrice Martin, Township Manager
For the Board of Supervisors

Date approved by the Board: 01/03/2023