

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Tuesday, January 3, 2023
7:00 PM

ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Tuesday, January 3, 2023 as a hybrid meeting. In attendance were:

Board:	Lisa Strickland, Chair	Staff:	Centrice Martin, Township Manager
	Patti Stephens, Vice Chair		Dave Modricker, Director, Public Works
	Laura Dininni		Jaymes Progar, Assistant Township Manager
	Corey Gracie-Griffin		Eric Endresen, Director, Finance
	Jeremie Thompson		Jenna Wargo, Director, Planning and Zoning
			John Petrick, Chief of Police

Others in attendance included: Rhonda Demchak, Recording Secretary; Kirk French, Pine Grove Mills Resident; Bill Keough, Ferguson Township Resident and Planning Commission member; Kurt Costco, SHENTEL; Phil Fraga, Cohen Law Group; Kevin Abbey, State College Watershed Commission; Rhonda Stern, Ferguson Township Resident

I. CALL TO ORDER

Ms. Strickland called the Tuesday, January 3, 2022, regular meeting to order at 7:21 p.m.

Ms. Martin took Roll Call and there was a quorum.

II. PLEDGE OF ALLEGIANCE

The pledge was performed at the Ferguson Township Board of Supervisors Organizational Meeting that started at 7:00 p.m. on January 3, 2023.

III. CITIZENS INPUT

Mr. Kirk French, Pine Grove Mills Resident, reported that he and other neighbors in the area have not had trash pick-up in a month. He called several times to complain, with no results. The service provider is WM Trash Services. Mr. French asked if the Board could look into the situation.

Mr. Bill Keough, Ferguson Township Resident, noted that Pine Grove Mills is not the only place where there has been a problem with trash pickup. He stated that Tadpole Road was missed as well.

IV. APPROVAL OF MINUTES

1. November 7, 2022 – Board of Supervisors Special Meeting Minutes
2. December 6, 2022 – Board of Supervisors Regular Meeting Minutes
3. December 13, 2022 – Board of Supervisors Regular Meeting Minutes

Ms. Stephens moved that the Board of Supervisors **approve** the Special meeting minutes for November 7th and the regular meeting minutes of December 6th and 13th. Ms. Dininni seconded the motion. The motion passed unanimously.

V. AUTHORITIES, BOARDS, AND COMMISSIONS REPORT

1. No Reports were scheduled.

VI. SPECIAL REPORTS

1. Diversity, Equity, and Inclusionary Initiatives – *New Year Day, January 1; Martin Luther King, Jr. Day, January 16; Lunar Day, January 22*
2. Township and Fiscal Responsibility – no report.
3. Community and Economic Development – no report.
4. Environment – no report.

VII. COG AND REGIONAL COMMITTEE REPORTS

1. COG COMMITTEE REPORTS

Parks and Recreation Governance Special Committee – cancelled

Ms. Dininni asked Mr. Thompson to take the garbage collection issue back to the Climate Action Sustainability Committee.

2. OTHER COMMITTEE REPORTS

VIII. STAFF REPORTS

- a. Township's Manager's Report
- b. Public Works Director Report

Ms. Dininni thanked Mr. Modricker for re-opening the passing lane on Route 26.

- c. Planning and Zoning Report

There was nothing more to state regarding the Staff Reports.

IX. UNFINISHED BUSINESS

1. Notice of Claim on Payment Bond- Whitehall Road Regional Park

Ms. Martin reported that Ferguson Township is a landowner of record for Whitehall Regional Road Park. Provided with the agenda packet is a copy of the Notice of Claim on Payment Bond received by Centre Region Council of Governments (CRCOG) and Ferguson Township via Certified Mail. As CRCOG staff continues to research the matter, the Board of Supervisors may consider a formal communication in pursuant of information that informs the Township of action taken to protect the property from mechanical liens. Provided with the agenda packet is a draft for consideration by the Board.

Mr. Thompson moved that the Board of Supervisors **direct** the Township Manager to send a letter of inquiry for information pursuant to the Notice of Claim on Payment Bond received regarding the Whitehall Road Regional Park. Ms. Stephens seconded the motion.

Ms. Stephens asked for clarification with the last sentence in the first paragraph of the letter. Ms. Martin stated that it should read "if the matter isn't resolved" and will update the letter.

Ms. Dininni expressed concerns on why they were not paid when the work was done in August. Ms. Dininni stated that the lighting was to be funded 100% by grants.

The motion passed unanimously.

2. An Ordinance Modifying the 2001 Joint Articles of Agreement for the Construction of an Office Building for the Centre Region Council of Governments

Ms. Martin stated that on September 27, 2021, the General Forum directed Centre Region Council of Government (CRCOG) staff to develop required documents that would be used as instruments to transfer ownership of the COG Building to the Centre Region Council of Governments (CRCOG) at the end of the lease on May 15, 2028. At the General Forum meeting held on September 29, 2022, a motion to approve the proposed modifications within a draft version of the COG building intermunicipal agreement amendment failed by a vote a 5-1 vote with Harris Township opposing the motion. In consultation with their Solicitor, Harris Township Board of Supervisors agreed to support the amendment regarding ownership transfer with two conditions: 1) That the Articles of Agreement be amended to reflect that at the end of the lease in 2028, the enterprise funds (Code, Refuse, etc.) will pay rent to the COG that will be deposited into a dedicated fund to be used solely to fund future capital improvements to the building; 2) A long-range capital improvement plan be developed to guide how these funds are used. The conditions were accepted and incorporated into the proposed CRCOG building intermunicipal agreement amendment. Full details are included in the CRCOG Agenda for the General Forum meeting held on November 28, 2022.

On November 28, 2022, at the CRCOG General Forum meeting the municipalities approved an amendment to the 2001 agreement related to leasing the COG office building for a term of 25 years. Individual municipalities are required to formally adopt the amended agreement. Attached, Ferguson Township, Ordinance No. 788, adopted the 2001 inter-municipal agreement and authorized the Ferguson Township Chair to sign the agreement on behalf of the Township. Provided with this agenda is the proposed Ordinance, Modification To 2001 COG Office Project Inter-Municipal Agreement' which has been advertised for the Board to formally adopt.

Ms. Stephens moved that the Board of Supervisors **adopt** Ordinance as included in the agenda packet. Mr. Thompson seconded the motion.

Ms. Dininni asked if the Township Solicitor could review the agreement. Ms. Martin reported that it can be done but would need a copy prior to the General Forum adoption.

Ms. Stephens requested to have a worksession on COG and their function. Ms. Strickland noted that this could be submitted through the Consent Agenda.

ROLL CALL: MR. THOMPSON - YES; MS. STEPHENS – YES; MS. STRICKLAND – YES; MS. DININNI – NO; MR. GRACIE-GRIFFIN - YES

The motion passed.

3. Authorization of a Public Hearing on an Ordinance of Ferguson Township Authorizing Execution of a Cable Franchise Agreement Between the Township and Shenandoah Cable Television, LLC ("SHENTEL")

Ms. Martin reported that at the regular meeting held on May 3, 2022, the Board of Supervisors authorized the Township Manager to execute an agreement with Cohen Law Group to negotiate the Township's franchise agreement with Shenandoah Cable Television, LCC ("SHENTEL"). Since May, the Township and The State College Borough along with C-NET began the process to negotiate a franchise agreement with SHENTEL for the provision of cable television services within the municipality. Pursuant to the regulations set forth in the Telecommunications Act and of the Federal Communications Commission, the Township is authorized to grant franchises to entities interested in constructing, maintain, and operating cable systems in its boundaries. Currently the Township has a franchise agreement with Comcast.

Provided with the agenda are several documents including a cover letter and draft ordinance; executive summary; and franchise agreement. The agreement has been negotiated in good faith and sets forth the terms and conditions that will govern the franchise license for ten years. This evening, the Board is being asked to authorize the ordinance approving a public hearing on an ordinance approving a new cable franchise agreement with SHENTEL for January 17, 2023.

Mr. Kurt Costco, representative of SHENTEL introduced himself.

Mr. Phil Fraga, Cohen Law Group, reported that Windstream opted out of renewing any of the cable franchises and other municipalities will be utilizing SHENTEL as well.

Ms. Dininni moved that the Board of Supervisors **authorize** a public hearing on an ordinance approving a new cable franchise agreement with SHENTEL for January 17, 2023. Mr. Thompson seconded the motion.

Ms. Martin confirmed that Cindy Hahn will be in attendance at the January 17th meeting to answer any questions.

The motion passed unanimously.

X. NEW BUSINESS

1. Consent Agenda

a. Treasurer's Report – for acceptance

Mr. Thompson moved that the Board of Supervisors **approve** the Consent Agenda. Ms. Stephens seconded the motion. The motion passed unanimously.

2. Acceptance of Mr. John C. Sychalski's Letter of Resignation Board of the Centre Area Transportation Authority (CATA)

Ms. Martin stated that provided with the agenda is a copy of Mr. Sychalski letter of resignation as the Ferguson Township's appointee to the Board of the Centre Area Transportation Authority (CATA), effective December 31, 2022. The Board is asked to accept the resignation and open an application period for interested candidates to submit applications to fill the vacancy.

Ms. Dininni moved that the Board of Supervisors **accept** the resignation of Mr. John Sychalski and direct staff to open an application period for candidates interested in the appointment to serve as

Ferguson Township's representative to the Board of the Centre Area Transportation Authority. Ms. Stephens seconded the motion.

Ms. Strickland thanked Mr. Spsychalski for all his years of service. Mr. Thompson wished Mr. Spsychalski all the best and thanked him for his 43 years of service.

The motion passed unanimously.

3. Review and Discussion on the Proposed Amendments to the Spring Creek Watershed Commission Bylaws

Ms. Martin stated that provided with the agenda is a letter from the member municipalities of Spring Creek Watershed Commission (SCWC), dated November 28, 2022, and the proposed amendments to By-laws. The Board is asked to appoint a voting member and alternate member to SCWC for 2023, review and comment on updated By-Laws. The Board's comments will be forwarded to the SCWC and appointees have also been considered at their January 18, 2023, Organizational Meeting.

Mr. Thompson moved that the Board of Supervisors **appoint** Corey Gracie-Griffin as the primary representative and Kevin Abbey as the alternate representative to serve on the Spring Creek Watershed Commission. Ms. Stephens seconded the motion.

Mr. Abbey briefly reviewed what they want to change in the by-laws. Their next meeting is January 18th. The Commission meets six times per year, every other month, on the third Wednesday.

A discussion ensued regarding the structure of the Commission. Ms. Dininni expressed concerns with the structure as it is stated in the by-laws. Mr. Abbey stated that volunteers do most of the work.

Ms. Strickland suggested changing the titles of primary and alternate to representatives. Also consider at-large members.

Ms. Strickland thanked Mr. Mark Garlicki for his participation in the commission.

The motion passed unanimously.

4. Informational Update on a Grant Award Through The Pennsylvania Commission on Crime and Delinquency (PCCD) Grant Funds

Ms. Martin noted that through the submission of a grant application, Ferguson Township Police Department is eligible to receive grant funding for the purchase of equipment. The administrative process for a grant submittal generally involves a resolution to authorize a grant application. Staff is preparing a presentation to further inform and engage the Board in a discussion tentatively scheduled for January 17, 2023.

5. Ordinance Amendment Request—Chapter 22, Subdivision and Land Development, and Chapter 27, Zoning

Ms. Wargo reported that on January 10, 2022, Chris Schubert, Esq. on behalf of his client, AT&T, submitted an application for a text amendment to Section 303—Traditional Town Development and Section 710—Wireless Communications Facilities. The Board of Supervisors referred the request to the Planning Commission for further review.

Planning Commission received a presentation from the applicant at the February 14, 2022, regular meeting and worked with Staff on identifying all areas in the Township Code that would need to be

amended. Planning Commission's goal was to update the code to reflect technological advances since §27-710, Telecommunications Facilities was last amended (2015) and resolve digital disparities within the Township that COVID-19 exposed. That draft was reviewed by Planning Commission at the March 14, 2022, meeting and was recommended to the Board of Supervisors for consideration.

The Board of Supervisors elected to separate the text amendment request and focus on the amendments that were required for State compliance (Small Wireless Facilities Deployment Act— Act 50), with the understanding that the text amendment request from AT&T would be revisited after adoption. On November 1, 2022, the Board adopted the Small Wireless Facilities in the Right-of-Way amendments for compliance with Act 50.

Provided in the agenda is a draft amendment to §22-5B01—Design Standards, §27-303— Traditional Town Development, §27-710—Wireless Communication Facilities, and District Quicks for the Rural Agricultural (RA), Agricultural Research (AR), Rural Residential (RR), General Commercial (C), Forest/Game Lands (FG), Industrial (I) and Light, Industry, Research and Development (IRD) zoning districts. This draft amendment is based on research and peer review of other Pennsylvania Municipalities and staff has included the Staff Report that was completed for the initial review by the Board of Supervisors. Staff is prepared to review the proposed amendments with the Board of Supervisors and answer any questions.

Planning Commission reviewed the draft amendment at the November 14, 2022, regular meeting and recommended approval to the Board of Supervisors. The Board is asked to authorize for a public hearing to adopt the ordinance amendment to Chapter 22, Subdivision and Land Development, Section 5B01, Design Standards, Chapter 27, Zoning, Section, 205.1, Rural Agricultural (RA), Section 205.2, Rural Residential (RR), Section 205.3, Agricultural Research (AR), Section 205.4, Forest/Game Lands (FG), Section 205.13, General Commercial (C), Section 205.14, Industrial (I), Section 205.15, Light Industry, Research and Development (IRD), Section 303, Traditional Town Development and Section 710, Wireless Communications Facilities.

Ms. Wargo reviewed a PowerPoint presentation that consisted of the following:

1. What/Where are they - Monopoles
2. Examples
3. Engineering of Monopoles
4. Existing vs. Proposed Ordinance
5. Conditional Use
6. ACT 50

Ms. Wargo stated that the heaviest weight on the tower is at the top and the bottom 2/3 of the tower is engineered to withstand wind speeds and gusts of 85 mph.

Ms. Wargo reviewed what is existing and what is being proposed. Proposed are that monopoles are above ground; permit free standing telecommunication towers; added the TTD into the zoning districts, change in setbacks, buffers, and will be permitted by conditional use.

Ms. Stephens moved that the Board of Supervisors **authorize** advertisement of a public hearing for consideration of the ordinance amendment. Mr. Thompson seconded the motion.

Ms. Dininni and Ms. Strickland expressed concerns with the bulk use categories in the Rural Residential because there is no minimum lot size. Ms. Wargo stated that they could pull data in the RR to see who has the 300-foot buffer where the polls could potentially end up prior to the public hearing. Ms. Strickland requested data with other monopoles in the region regarding their height.

Ms. Martin suggested tabling until further information can be provided to the Board on January 17th.

Mr. Thompson moved that the Board of Supervisors **withdrawal** the motion. Ms. Stephens seconded the motion.

Ms. Stephens moved that the Board of Supervisors **table** the agenda item until January 17, 2023. Mr. Thompson seconded the motion. The motion passed unanimously.

7. MP Machinery Land Development Plan - 2161 Sandy Drive (TP: 24-433-007-0000)

Ms. Wargo noted that provided with the agenda is the MP Machinery and Testing Preliminary Land Development Plan, dated May 3, 2022, and last revised on December 6, 2022. The land development plan is located at 2161 Sandy Drive (TP: 24-433-007-0000). The parcel is approximately 1.436 acres and is zoned Light Industry, Research and Development (IRD).

This plan proposes the construction of an 8,088 SF addition to the existing building. On April 5, 2022, the Board of Supervisors reviewed the parking analysis submitted to the Township on February 18, 2022 and approved three (3) additional parking spaces to be required for the proposed addition, resulting in 27 spaces shown on the land development plan with one loading zone space.

Planning Commission reviewed the resubmission at the December 12, 2022, regular meeting and recommended conditional approval of the preliminary land development plan subject to the conditions described in the Director of Planning & Zoning's memorandum dated December 27, 2022.

Mr. Thompson moved that the Board of Supervisors **conditionally approve** the MP Machinery Preliminary Land Development Plan subject to the conditions described in the Planning Director's memorandum dated December 27, 2022. Ms. Stephens seconded the motion. The motion passed unanimously.

8. Parking Study on Butz Street

Mr. Modricker reported that at the request of residents on Butz Street, and as further directed by the Board of Supervisors at a regular meeting, the Township Engineer completed a parking study on Butz Street. The Township Engineer collaborated with the concerned residents. Provided with the agenda are sketches of the existing parking restrictions and the proposed parking restrictions.

Mr. Modricker reviewed the maps that were included in the agenda packet.

Ms. Stephens moved that the Board of Supervisors **advertise** a public hearing for the proposed changes to parking restrictions on Butz Street. Mr. Thompson seconded the motion.

Ms. Rhonda Stern thanked the Board for the consideration and looks forward to the public hearing.

The motion passed unanimously.

9. Review and Consideration of Diversity, Equity, and Inclusion Initiatives and Acknowledgements

Ms. Martin stated that provided with the agenda packet is the proposed 2023 diversity, equity, and inclusion calendar, with a list of federal holidays recognized by the Township, cultural events, heritage months of 2023, and monthly diversity themed acknowledgements for the Board's consideration. The proposed DEI calendar initiatives and acknowledgements are represented as approved by the Board when established in 2022. The DEI calendar items that are approved by the Board will be recognized and announced on future meeting agendas, specifically in the special report section as part of the

diversity, equity, and inclusionary initiatives and acknowledgements category and mentioned in Township digital publications.

Ms. Martin suggested adding Public Service Week that is on May 7-13, 2023.

Mr. Thompson moved that the Board of Supervisors **approve** the Diversity, Equity, and Inclusion Initiatives and Acknowledgements Calendar for 2023. Ms. Dininni seconded the motion. The motion passed unanimously.

XI. COMMUNICATIONS TO THE BOARD

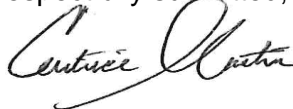
XII. CALENDAR ITEMS – JANUARY

- a. Planning Commission, January 9, 23
- b. Tree Commission, January 16
- c. Pine Grove Mills Small Area Plan Advisory Committee, January 26
- d. Administrative Offices Closed in observance of Martin Luther King, Jr., January 16
- e. Parks and Recreation Committee, January 12
- f. Coffee and Conversation, January 21

XIII. ADJOURNMENT

With no further business to come before the Board of Supervisors, Ms. Stephens motioned to **adjourn** the meeting. The motion passed unanimously. The meeting adjourned at 9:45 p.m.

Respectfully submitted,



Centrice Martin, Township Manager
For the Board of Supervisors

Date approved by the Board: 01-17-2023