

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, February 5, 2018
7:00 PM

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, February 5, 2018, at the Ferguson Township Municipal Building. In attendance were:

Board:	Peter Buckland	Staff:	Dave Pribulka, Township Manager
	Steve Miller		Dave Modricker, Public Works Director
	Laura Dininni		Ray Stolinis, Director of Planning & Zoning
	Sara Carlson		Chris Albright, Chief of Police
	Toni Ricciardi		

Others in attendance included: Marcella Bell, Recording Secretary; Joleen Hindman-First Energy; Denise Meyer, CRPRA; Ronald Lucas, Attorney-Stevens & Lee; Fred Houry; Bill Keough; Janice Keough; Ralph Wheland; Jason Little; Lance Cooper; Rhonda Stern; Roxie Nestlerode; Andy McKinnon; Nelson Hite.

II. CALL TO ORDER

Mr. Buckland called the Monday, February 5, 2018, regular meeting to order at 7:00 p.m.

III. CITIZENS INPUT

Ms. Hindman, Manager of External Affairs at First Energy and stationed at the WPP office, introduced herself as a liaison that works with state, county, and local officials and municipalities that are certified by WPP.

IV. SPECIAL REPORTS

Centre Region Parks and Recreation Authority (CRPRA) – Denise Meyer

Ms. Meyer reviewed her role as Ferguson Township's representative to the CRPRA along with the meeting schedule. The next meeting is on February 15th. Ms. Meyer reviewed the activities of CRPRA including the creation of a new website; new logo on publications to educate the public; CRPRA Parks steering committee; Active Adult Center run by CRPR-partially funded by Centre County; approved 2018 CRPR Fee Policy; details on the action sports committee; and Whitehall Road Regional Park. Noted was the Parks and Recreation Committee meeting scheduled for February 9, 2018, at the Township Building.

V. MINUTES

Mr. Miller moved that the Board of Supervisors approve the January 16, 2018, regular meeting minutes. Mr. Ricciardi seconded the motion. The motion passed unanimously.

VI. UNFINISHED BUSINESS

A. CLOSING OF THE PUBLIC HEARING ON THE SOURCEWATER PROTECTION OVERLAY DISTRICT ORDINANCE

Mr. Pribulka presented the history and the postponement of the draft ordinance along with discussion on how to proceed. In order to proceed, the Board of Supervisors chair, Mr. Buckland, officially closed the public hearing.

B. A DISCUSSION OF POTENTIAL AMENDMENTS TO THE FERGUSON TOWNSHIP ADMINISTRATIVE CODE

Mr. Pribulka stated that Ms. Dininni had requested at the January 16th meeting an agenda item be added to discuss potential amendments to Chapter 1 of the Ferguson Township Code of Ordinances, Administration, and Government, i.e., *Administrative Code*.

Ms. Dininni stated she wanted to amend Part 6-Board of Supervisors, Section 608, item 4, to add a sentence that states conditions under which one would recuse themselves from voting. Item 4 currently states:

A Supervisor who is present at a meeting shall not abstain from voting unless he/she has disqualified himself/herself from voting by reason of a conflict of interest, which is a direct personal or pecuniary interest. A Supervisor shall not, however, be prevented from voting for himself/herself for any office or other position, unless that position would entitle that Supervisor to compensation other than for actual expenses incurred as authorized by the Board of Supervisors.

Ms. Dininni suggested the following sentence be added after the last sentence:

“Whenever the performance of official duties that would require any official to deliberate and vote on any matter involving his or her personal interest, the official or employee shall publically disclose the nature and extent of such interest and refrain from participating in the deliberation as well as the voting.”

Ms. Dininni noted to include the definitions in the appropriate part of the Code. Two definitions noted were financial and personal interest. Mr. Buckland clarified what Ms. Dininni was asking to update. Discussion followed on clarification on conflict of interest and placement in the Administrative Code sections.

Mr. Buckland called for a motion to schedule the public hearing for this item. Discussion followed on the process of scheduling a public hearing and advertising requirements. The consensus was to place this item on a future agenda for review with language drafted by staff prior to a public hearing.

C. A CONTINUED DISCUSSION OF ENGAGEMENT OF THE AGRICULTURAL COMMUNITY FOR THE ZONING AND SUBDIVISION AND LAND DEVELOPMENT ORDINANCE REWRITE

Mr. Pribulka reviewed the previous discussion in which the Board directed staff to determine whether there was interest in an ad hoc committee to review changes to the Rural Agricultural Zoning District and the Subdivision and Land Development Ordinance. Mr. Pribulka noted that there is interest from the farming community to serve on this committee. Further discussion followed on alternative options, focus groups, interest and preference.

A following motion was on the table from the January 16, 2018, regular meeting.

Ms. Dininni moved that the Board of Supervisors **establish** an ad hoc board to review and comment on proposed modifications to the Rural Agricultural Zoning District of the zoning ordinance and revisions to the subdivision and land development ordinance. Mr. Ricciardi seconded the motion.

The motion passed unanimously at this meeting.

Mr. Pribulka clarified that the Board of Supervisors will task staff with creating a list of committee recommendations for consideration and discussed options.

Mr. Buckland stated that the Board of Supervisors recessed for a short executive session regarding a matter of litigation.

VII. NEW BUSINESS

A. A PUBLIC HEARING ON A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA IN SUPPORT OF SENATE BILL 251 AUTHORIZING LOCAL POLICE FORCE USE OF RADAR.

Chief Albright introduced the resolution in support of Senate Bill 251 authorizing local police use of Radar.

Ms. Dininni moved that the Board of Supervisors **adopt** the resolution supporting Senate Bill 251 authorizing local police use of radar. Ms. Carlson seconded the motion. Discussion followed on budgetary needs and costs savings vs. vascar units.

Roll call vote on Resolution 2018-4: Mr. Buckland – YES; Ms. Carlson – YES; Ms. Dininni – YES; Mr. Miller – YES; Mr. Ricciardi – YES.

B. DISCUSSION OF THE PLAN DEADLINE OF THE COTTAGES PLANNED RESIDENTIAL DEVELOPMENT

Mr. Pribulka summarized the agenda item. It was noted the 90-day deadline for meeting conditional approval for The Cottages is February 6, 2018. Two alternatives were provided in order to give the Board an option to respond prior to the expiration of the timeline. Conditions for conditional approval by the Township were noted and most significantly permits must be secured by the developer to construct a traffic signal at the intersection of Bristol Avenue and Blue Course Drive. Another component of the conditions is that Ferguson Township acquire the additional right-of-way for the traffic signal. Mr. Pribulka noted an acquisition service is assisting with the process and the Township expects preliminary approval of appraisal waivers in the near future and are proceeding with the approved terms and conditions. The Township has an adopted policy that allows the Board to approve up to three 90-day time extensions for conditionally approved plans prior to their expiration date.

Mr. Buckland called for a motion.

Ms. Dininni moved that the Board of Supervisors **grant** a time extension for The Cottages Planned Residential Development to expire one week after notifying the developer that the Township has obtained the right-of-way for Blue Course Drive and Bristol Avenue. Ms. Carlson seconded the motion.

Ms. Dininni discussed the materials provided with the agenda that addressed the motion she made. She followed with a detailed discussion on both SALDO and PRD ordinances in reference to regulations/zoning, interpretation of the developer's approval and MPC, time extension policy for conditionally approved plans, deadlines and the Township's time and efforts.

Mr. Buckland called for a motion to suspend the rule and continue time for discussion. Mr. Miller made a motion that the Board of Supervisors **extend** discussion by 15 minutes. Mr. Ricciardi seconded the motion. The motion passed unanimously.

Mr. Pribulka stated from a staff perspective it is very difficult to predict when the additional right-of-way will be acquired for the traffic signal at Blue Course and Bristol. It will depend on cooperation of the adjoining property owners. Further options may need to be discussed with Township staff along with the parameters of the Board in regards to foreseeing a deadline connected to recording a plan imposed on a development for the right-of-way acquisition process.

Ms. Dininni made a motion to amend the motion that the Board of Supervisors **grant** a time extension for The Cottages Planned Residential Development to expire on either May 7, 2018, in 90 days or one week after the receipt of the right-of-way of Blue Course Drive and Bristol Avenue by the Township. Ms. Carlson seconded the motion.

Ms. Dininni noted an assertion made by Stevens and Lee regarding a governing board's approval to revoke or deny a plan. Further details were discussed in the MPC, PRD section, on revoking a plan.

It was clarified that a vote on the amended motion was required to move forward with discussion due to nesting the motions.

The motion to amend the original motion passed unanimously.

Messrs. Modricker and Stolinas confirmed that they understand the motion and know what they need to do moving forward, if motion is passed.

Mr. Lucas stated that, in his opinion, no action is required by the Board to grant an extension on the plan.

Mr. Buckland called for a motion to suspend the rule and continue time for discussion. Ms. Dininni moved to **extend** time for discussion for ten minutes. Mr. Ricciardi seconded the motion. The motion passed unanimously.

Mr. Miller stated his reasoning for voting against the original motion. He noted that the Township has an established ordinance in place to keep land developments moving along and went into further detail. There was an issue raised on whether the ordinance is compliant with the MPC.

Mr. Miller called the previous question to move to a vote. The motion to call the question failed with Mr. Buckland, Ms. Dininni, and Ms. Carlson dissenting.

Ms. Carlson inquired about the two previous time extensions that were granted to the developer. Mr. Lucas responded by saying the extensions were requested during the review process and not after conditional approval had been granted. Ms. Dininni noted that Mr. Lucas was not correct and the extensions were requested after approval. Mr. Pribulka confirmed Ms. Dininni's statement.

Ms. Dininni confirmed that based on her motion that staff understood how to proceed if the amended motion was approved. The amended motion was read a second time per request.

The motion failed 2 – 3 with Mr. Buckland, Mr. Miller, and Mr. Ricciardi dissenting.

Mr. Miller made a motion that the Board of Supervisors **grant** a 90-day time extension for The Cottages Planned Residential Development establishing a new plan expiration date of May 7, 2018. Mr. Ricciardi seconded the motion. The motion passed 4-1 with Ms. Dininni dissenting.

C. VARIANCES/ZONING APPEALS

1. Request for Variance – 385 Science Park Road, Accuweather

Mr. Miller made a motion that the Board of Supervisors **remain neutral** on the variance request for 385 Science Park Road as submitted by Accuweather. Ms. Dininni seconded the motion. The motion passed unanimously.

2. Request for Variance – 1500 West College Avenue, Edisto Partners, LP (Lovisky & Associates)

Mr. Miller made a motion that the Board of Supervisors **remain neutral** on the variance request for 1500 West College Avenue as submitted by Edisto Partners, LP. Ms. Dininni seconded the motion. Mr. Miller clarified with Mr. Stolinas that it encompasses the existing footprint and no additional parking is required for this type of use. The motion passed unanimously.

3. Request for Variance – 2542/2544 Circleville Road, Charles Loesch

Mr. Ricciardi made a motion that the Board of Supervisors **remain neutral** on the variance request for 2542/2544 Circleville Road submitted by Charles Loesch. Ms. Dininni seconded the motion.

Mr. Miller noted his opposition of the variance request that does not have a foundation but noted the decision is for the Zoning Hearing Board and went into detail on the ordinance regulations on inclusion of second dwellings. Discussion followed on the hardship reason for the variance request and some of the Board members agreed with Mr. Miller's assessment. The motion passed unanimously.

D. WHELAND/COOPER REPLOT AND LOT CONSOLIDATION

Mr. Stolinas reviewed several consolidations for the tax parcels that originated from the alignment of Tadpole Road. The plot is in the RA zoning district. The Township's Planning Commission members had unanimously recommended that the Board of Supervisors approve the plan conditioned on remaining items for final approval.

Mr. Miller made a motion that the Board of Supervisors **approve** the Wheland/Cooper replot and lot consolidation subject to the conditions outlined in the Director of Planning & Zoning memorandum dated January 26, 2018. Ms. Dininni seconded the motion.

Mr. Pribulka clarified that approval is subject to the conditions outlined in the Director of Planning and Zoning's memo to the Board dated January 26, 2018.

The motion passed unanimously.

E. CONDITIONAL USE HEARING APPLICATION, 120 BUCKHOUT STREET – STATE COLLEGE AREA SCHOOL DISTRICT

The property is currently owned by The Pennsylvania State University. SCASD entered into a lease agreement with the University to use the property for storage of construction materials for the Corl Street Elementary Renovation Project and had requested a conditional use application for the use of the old Houtz property. Details followed.

Ms. Dininni made a motion that the Board of Supervisors **refer** the Conditional Use Application to the Planning Commission for a recommendation, and schedule the conditional use hearing for Tuesday, February 20, 2018. Mr. Miller seconded the motion.

Ms. Stern and Mr. Hite voiced their concerns on their abutting properties and requested some conditions to protect it and neighboring properties from the conditional use site. A list of additional conditions were provided to staff to present to the Planning Commission. Ms. Dininni noted the property does not comply with the intent of the TSD. Further discussion followed on items of concern, specifically securing the locks at the location as a suggestion for additional conditions. Mr. Stolinas noted comments previously received by Mr. Wes Glebe can be included when presenting concerns at the next Planning Commission Meeting.

The motion passed unanimously.

F. DISCUSSION OF AD HOC COG BUILDING COMMITTEE

Mr. Pribulka stated that at the COG General Forum's meeting on January 22, 2018, a motion was unanimously approved requesting member municipalities advise the COG Executive Committee of their preferences regarding the composition of an ad hoc COG facilities committee. Mr. Pribulka noted that Mr. Miller is the COG representative and comments should go to him to convey to the committee. Consensus of the Board was that the Committee should be comprised of elected officials.

VIII. REPORTS

A. COG COMMITTEE REPORTS

1. Transportation & Land Use (TLU) Committee. Ms. Dininni stated the meeting was cancelled due to the REDCAP report not being finalized. Follow-up on Mountaintop water issue.
2. Human Resources Committee. Cancelled for February 7th. Next meeting on March 7th.

B. OTHER REGIONAL COMMITTEES

1. Spring Creek Watershed Commission. Mr. Buckland reported that Mr. (Dennis) Hameister was appointed chair from Harris Township and Mr. Mark Stevenson from Halfmoon Township as vice chair; report on state of watershed which has a good "fund" balance; discussed next phase of watershed plan moving forward; report of the association and atlas; Nestle plant discussion - Commission is interested in setting up public forums for input in regards to education on issues regarding water.
2. State College Borough Water Authority, November 16, 2017. Provided with agenda packet.
3. Cable Consortium. Mr. Ricciardi noted there was a recent meeting and the next meeting will be on February 23rd followed by a public hearing. Ms. Farkas gave some background on the cable consortium process and noted it may be the last 10-year agreement with Comcast due to technology changing and not sure where it's going to lead in the next 10 years, details followed on the previous negotiated agreement and what is not being used due to low demand; reviewed renewal process; Mr. Rich Francke was reelected as chair and Mr. George Downsborough as vice chair; noted Spring Township is up for discussion to be added to the consortium and currently it's COG, Bellefonte and Benner Townships.

C. STAFF REPORTS - Reports provided with the agenda packet.

1. Township Manager. Mr. Pribulka did a verbal report on the CBICC meeting held on February 1st regarding the launch of a Certified Chamber Worker Program initiative for employment soft skills for students; stated for new Board members that the Township Manager serves on both the Municipal Managers Committee and Business and Industry Partnerships Committee of the CBICC, details followed; reported on communications from Mr. Ferrell tendering his resignation from the Zoning Hearing Board as an alternate due to leaving the area; Township audit has commenced and April 1st is the deadline for submission - plan to have a representative from the auditing firm present the annual comprehensive plan report to the Board at a June regular meeting; Parks & Recreation Committee update - organizational meeting is scheduled for February 9th at 4:00 p.m.; update on petition from Ms. Steckler relative to The Cottages - has obtained over 50 signatures and will schedule a public hearing at a future regular meeting per Home Rule Charter policy; Township's Communications Coordinator, Diana Griffith, has transitioned from part-time to full-time effective February 5th; and Climate Action Committee met today - compiling gas emissions inventory and will have a representative from the committee present a progress report at the February 20th regular meeting.

Ms. Dininni asked for clarification of who is on the Municipal Managers Committee. Mr. Pribulka noted the managers from local municipalities, details followed. Ms. Dininni confirmed that the county administrator was on the committee. Ms. Dininni inquired about the next scheduled economic development discussion. Mr. Pribulka detailed an orientation that is in the works on and will circulate possible dates once they become available followed by a worksession scheduled by the Township with CBICC and other stakeholders.

Mr. Ricciardi inquired about an opportunity for further communications with the Communications Coordinator. Mr. Pribulka added an item to the report - Assistant to the Manager position was posted.

2. Planning and Zoning Director. Mr. Stolinas reported the Planning Commission met on January 22nd; a special meeting was held on January 29th that reviewed the Working Draft Zoning/SALDO update with the EPD consultant; provided was the Active Plan list, report followed along with permit and year-to-date monthly report.

Ms. Dininni commented on SALDO revisions in regards to developer comments and how to better address the grouping of comments as a whole for better use of staff's time. Discussion followed with Mr. Stolinas.

3. Public Works Director. Mr. Modricker reported on the LEED Gold Public Works Building; Stormwater advisory committee is set to have its 5th meeting on February 7th and a worksession scheduled with the Board for February 8th at 5:00 p.m., details followed; Tree Commission will meet on February 12th at 5:30 p.m; Ron Seybert, Township Engineer, has been working on updates to design standards for roads.

IX. COMMUNICATIONS TO THE BOARD – None noted.

X. CALENDAR ITEMS

1. Stormwater Fee Feasibility Study Worksession with Board of Supervisors, February 8, 5:00 p.m., Main Meeting Room

XI. ADJOURNMENT

Mr. Buckland called for adjournment. With no further business to come before the Board of Supervisors, Mr. Miller made a motion to adjourn the meeting. Mr. Ricciardi seconded the motion. The meeting adjourned at 9:45 p.m.

Respectfully submitted,



David Pribulka, Township Manager
For the Board of Supervisors

Date approved by the Board: 02/20/18