

FERGUSON TOWNSHIP BOARD OF SUPERVISORS

Regular Meeting
Monday, May 7, 2018
7:00 PM

I. ATTENDANCE

The Board of Supervisors held its first regular meeting of the month on Monday, May 7, 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 Stolinias, Director of Planning & Zoning
	Sara Carlson		Chris Albright, Chief of Police
	Tony Ricciardi		Eric Endresen, Finance Director

Others in attendance included: Crystal Judy, Recording Secretary; Pam Strickler; Tony Fruchtl; Bill Hechinger; Denise Meyer; Steve Watson; Neil Sullivan; Mr. & Mrs. Harner, Rick Bair, Baker Tilly; Wes Glebe; Al Drobka; Jeremie Thompson; David Gibbons; Tom Songer; Joe Szeti; Michelle Spiering; Pam Steckler.

II. CALL TO ORDER

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

III. CITIZENS INPUT – none noted.

IV. SPECIAL REPORTS

- a. Center Region Parks and Recreation Authority – Ms. Denise Meyer
Report included an explanation of updates on the Center Region Parks and Recreation Authority website, grant applications and approvals for various committees and projects including the CRPR Authority Steering Committee, Active Adult Center, Millbrook Marsh, Action Sports Committee and Whitehall Regional Park. A report of meeting discussions during the Ferguson Parks and Recreation meeting was also provided.

The Center Region Parks and Recreation Authority will hold their next meeting on May 17th. The next joint meeting of the Parks Capital Committee and Center Region Parks and Recreation Authority will be held on May 10th. The next Ferguson Parks and Recreation meeting will be held on May 14th.

Ms. Dininni requested that dog aggression and attacks at Tudek be tracked. She also asked if the CRPR Authority Annual Report would be discussed as an agenda item in conjunction with the discussion of the COG budgets. A request was also made by Ms. Dininni for the funding of a park tour. Mr. Pribulka stated that it would be discussed at the May 14th meeting.

- b. Penn State University West Campus Parking Deck and Roadway Feasibility Study – Messrs. Steve Watson and Neil Sullivan.
Steve Watson, Director of Campus Planning Design for PSU, presented a brief overview of a study conducted regarding the potential for parking on the west end of campus to facilitate future implementation of the Penn State Capital Plan for expansion. The presentation consisted of various maps and plans illustrating potential locations for a parking deck. Storm water drainage and traffic impacts were listed as the major concern for the study. The idea of adding a connection to W.

College Avenue to fill in missing gap of White Course Drive was mentioned as a means to allow egress access points for the garage.

In discussion, Mr. Miller asked for a clarification of the road connection. Mr. Watson explained a history of why there isn't already a connection in place. Further clarification of ingress and egress access points were discussed by Mr. Watson, who stated that it was not their intention to create a throughway, but they would consider space for emergency vehicles.

Mr. Watson elaborated on the projected timeline, clarified the ingress/egress intentions, and stated that RV parking and football traffic would need to be later addressed in response to questions raised by the board. Some of the maps and project ideas were also reviewed after a request from Mr. Ricciardi to elaborate and explain the maps and plans.

c. Presentation of the 2017 Financial Audit – Mr. Rick Bair, Baker Tilly

The presentation began with an explanation of auditing standards. Mr. Bair reported that the audit went smoothly with no difficulties. Included in the presentation was an overview of the type of audit performed and a brief Financial Statement Analysis explaining the fund balance over a 4-5 year period and reviewing sources of revenue, expenditures and liquidity. In summary, Mr. Bair stated that the balance is sound with no material weaknesses to note or report. The township should receive another award this year which will follow after everything is submitted to the GFOA by the end of June.

d. Presentation of the 2018 First Quarter Financial Report, Mr. Eric Endresen

Presentation included a brief history and explanation of the Ferguson Township funds and their purpose as well as the importance of tracking cash balances. Mr. Endresen compared the balances of the various funds and showed comparisons of the balances to various months and years. Balance fluctuations were explained to be the result of the variation of payment timing. The presentation concluded with reports of key receipts, expenditures and staffing changes made during the quarter.

V. **MINUTES**

Ms. Dininni moved that the Board of Supervisors **approve** the April 16, 2018, regular meeting minutes. Ms. Carlson seconded the motion. The motion passed unanimously.

Ms. Dininni moved to **remove** the letter from the State College Borough Water Authority from the manager's report and transfer it to the New Business portion of the agenda for discussion. Mr. Miller seconded the motion. The motion passed unanimously.

Mr. Buckland stated that the discussion of the letter will be added to the end of the New Business portion of the agenda.

VI. **UNFINISHED BUSINESS**

a. Public hearing on a resolution of the Township of Ferguson revising the Ferguson Township Board of Supervisors Procedures Manual, which was last adopted January 2, 2018

Mr. Pribulka reviewed the history of the proposed resolution. He explained that if adopted, the procedure would be added under part 4 of the Board of Supervisors procedures manual titled "Meeting Rules of Order." A copy of the resolution was included with the agenda.

No Public comments were made on the matter and Mr. Buckland closed the public hearing.

Ms. Dininni moved that the Board of Supervisors **adopt** the resolution amending the Ferguson Township Board of Supervisors Procedures Manual by establishing a procedure with which the Board members request items to be added to the Regular Meeting agenda. Mr. Ricciardi seconded the motion.

There were no discussions.

Roll Call Vote, Resolution 2018-16: Ms. Carlson – YES; Ms. Dininni – YES; Mr. Miller – YES; Mr. Ricciardi – YES; Mr. Buckland - YES

- b. Discussion of a post construction impact agreement with State College Apartments, LLC for the Cottages planned residential development

Mr. Pribulka reviewed the history of the public hearing which took place on April 2 in response to a petition requesting that the Board of Supervisors require writing an agreement that would hold the Toll Brothers, and all other assumed names/entities, the developer of the cottages as well as Penn State University accountable in perpetuity for any damages caused to Harter and Thomas Wellfields attributable to the development. As a result of the hearing, staff drafted a proposed agreement, which was provided with the agenda. Mr. Pribulka presented the drafted agreement to the Township Solicitor, representatives of State College Apartments, LLC (aka Toll Brothers) and the developers of the cottages. Mr. Pribulka reported that it was a general consensus that an additional agreement is unnecessary because there are already regulations within existing statutes, current laws, and other agreements which would support holding those responsible for damages accountable, should they occur.

Staff concerns reflect the general consensus that another agreement is unnecessary and if adopting such an agreement, the Township would assume liability without a means to enforce the voluntary agreement.

Ms. Steckler and Mr. Heckinger spoke on the matter requesting that the Board consider adopting the impact agreement to avoid litigation and hopefully discourage the Toll Brothers from making decisions that might bring harm to the water supply.

Public discussion was closed.

Ms. Dininni moved that the Board of Supervisors **authorize** the Township Manager to execute a post construction impact agreement with the State College Apartments, LLC for The Cottages at State College Planned Residential Development. Mr. Miller seconded the motion.

In discussion, Ms. Dininni explained her reason for her position to vote for the agreement. Mr. Miller explained that he seconded the motion to begin discussion but then explained that he would be voting against the agreement because there are already provisions in place through statutes and tort law. Various other members explained why they would not vote for the agreement.

Ms. Dininni suggested amending the agreement to not include perpetuity.

Mr. Pribulka mentioned ways the township could take action regardless of a voluntary agreement. A comprehensive stormwater maintenance agreement for the Cottages as well as bonds and other assurances in place if State College Apartments LLC fails to build in compliance to requirements and plans. Ms. Dininni clarified that it would not include assurance of water quality.

There was no further discussion.

The motion did not pass 1-4 with Ms. Carlson and Messrs. Miller, Buckland and Ricciardi dissenting.

c. Naming of Owens Drive Park

Mr. Pribulka provided a history of progress of naming the park on Owens Drive. Various submitted names were listed. The Staff suggested that the park be named Owens Woods.

Mr. Buckland moved that the Board of Supervisors **designate** the park temporarily named "Owens Drive Park" as "*Songbird Sanctuary*". Ms. Carlson second the motion.

A brief discussion followed regarding the park name decision.

Roll Call Vote, Resolution 2018-16: Ms. Carlson – YES; Ms. Dininni – YES; Mr. Miller – YES; Mr. Ricciardi – YES; Mr. Buckland - YES

Mr. Buckland called a 5 minute break.

d. Rezoning Request: 2191 West Whitehall Road, Harner Farms

Mr. Stolinas presented the history of the rezoning analysis and listed recent updates, which resulted in The Planning Commission voting in favor of the zoning change and requesting that the board consider that as a recommendation for zoning request. The analysis was provided

Ms. Strickler asked if any part of the property would remain as farm land. Mr. Pribulka clarified that there are some lands which would remain as farm land.

Mr. Ricciardi moved that the Board of Supervisors **authorize** advertisement of a public hearing on the rezoning application for 2191 West Whitehall Road for Monday, June 18, 2018. Ms. Carlson seconded the motion.

Ms. Carlson stated that she appreciated the potential developer's willingness to make adjustments based on interviews with residents in the township to make the property less commercialized and more residential.

Mr. Miller asked Mr. Stolinas if it would be possible for the township to rezone neighboring properties to keep things consistent.

A discussion followed which included topics regarding fees incurred from the Harner development using a pump station funded and shared by Pine Grove Mills, the necessity to compel land developers to share potential development plans with the State College Borough Water Authority prior to development and a question of legibility of one of the plans.

Ms. Dininni mentioned a concern with roads on the plan in a residential area but then redacted the concern recognizing that it was a commercial area. She then stated that in the future, she would not like throughways to be included in residential areas.

The motion passed unanimously.

VII. **NEW BUSINESS**

a. Consent Agenda

1. C-NET Events Permit: Stonebridge July 4th Parade

Ms. Dininni moved that the Board of Supervisors **approve** the Consent Agenda. Mr. Miller seconded the motion.

Ms. Dininni clarified one of the questions on whether it will cross any municipal state roads.

Motion passed unanimously.

b. Zoning Appeals/Variations

1. Thistlewood Lot #47 – Request for Variance

Mr. Stolinas presented a history on the variance application, which was included with the agenda, as well as a brief explanation of the plans submitted with the request.

Ms. Dininni moved that the Board of Supervisors **remain neutral** on the variance request for Thistlewood Lot #47. Mr. Ricciardi seconded the motion. The motion passed unanimously.

2. 3006 Research Drive – Request for Variance

The variance request was provided with the agenda. Mr. Stolinas presented a history of the variance request as well as a brief explanation of the proposed plan.

Mr. Miller moved that the Board of Supervisors **remain neutral** on the variance request for 3006 Research Drive. Ms. Dininni seconded the motion. The motion passed unanimously.

3. 1400 North Atherton Street – Request for Variance

The variance request was provided with the agenda. Mr. Stolinas presented a history of the variance request as well as a brief explanation of the property layout and proposed plan.

Mr. Miller moved that the Board of Supervisors **remain neutral** on the variance request for 1400 N Atherton. Mr. Ricciardi seconded the motion.

Ms. Dininni asked for clarification on the purpose of the variance request. Mr. Stolinas confirmed that the purpose was to keep trees. She then asked if the Board should be supportive rather than neutral.

Mr. Buckland instructed that the person who made the motion could recall the initial motion. Mr. Pribulka suggested to vote on the current motion and then submit a new motion if the motion does not pass.

With a 0:5 vote, the motion to **remain neutral** was not passed.

Ms. Dininni moved that the Board of Supervisors **support** the variance request. Mr. Miller seconded the motion. The motion was passed unanimously.

c. Thistlewood Lot #20 – Request for Modification

Mr. Pribulka explained the difference between a modification request and a variance request requirements. He further clarified that the board would have to decide if the request is an

unreasonable hardship and if the modification requested is the minimal modification necessary to alleviate the hardship.

Mr. Stolinas added that the modification would also include language to be included on the plan as a condition of approval. He mentioned that the report suggested that there would be a person on staff which would be reviewing construction as it is happening.

Mr. Miller moved that the Board of Supervisors **grant** the modification to Thistlewood Lot #20 of Chapter 22, Section 510 allowing the grading of 2:1 slopes. Mr. Ricciardi seconded the motion.

The discussion included clarification of the slope requirements and a review of slope requirements already in place. Ms. Dininni explained that the original plan did not include the requirements that exist because it was passed prior to the new requirements existing. Ms. Dininni questioned if the passing of the modification would increase the Township's liability.

Mr. Fruchtl from Penn Terra Engineering and civil engineer for the project clarified the plan and verified that there would be a retaining wall. He explained reason behind the modification request and confirmed that he, in conjunction with the GeoTech specialist and the homeowner, were confident that the suggested modifications would be alright based on professional experience and the fact that there are other nearby properties which use the same 2:1 Slopes.

The motion passed unanimously.

d. Thistlewood Lot #20 – Land Development Plan

Mr. Stolinas explained the history of Thistlewood development plots requiring an approved land development plan and verified that Lot #20 is one of the lots which the approval is required. A map was presented and an explanation of the layout of the property and an explanation of the proposed plan, which was provided with the agenda.

Mr. Miller moved that the Board of Supervisors **approve** the Thistlewood Lot #20 Land Development Plan subject to the conditions outlined in the Director of Planning & Zoning memorandum dated May 1, 2018. Ms. Carlson seconded the motion.

In discussion, it was confirmed that the Developer would be financially responsible for the on-site representative required to review construction and plans as well as visually inspect the progress of you slope. The specific job duties included with visual inspection were also explained as well as a clarification of how the representatives presence be monitored.

Ms. Dininni moved that the Board of Supervisors **amend** the conditions of approval to include a condition that the designated representative of the geotechnical engineering company notify Ferguson Township when they will be present for the Slope construction assessment. Mr. Buckland seconded the motion. The motion passed unanimously.

The original motion was passed unanimously.

e. Approval of Tax Exonerations

A copy of a Director of Finance memorandum summarizing the tax exonerations was included in the agenda. Mr. Endresen provided a brief history and summary of the request and the necessity of the request.

Ms. Carlson moved that the Board of Supervisors **approve** the tax exonerations as outlined in the Director of Finance memorandum dated April 18, 2018. Mr. Ricciardi seconded the motion.

In discussion Ms. Dininni asked if the Board of Supervisors also receive a notice from the county if a non-taxable entity sells to a taxable entity. Mr. Endresen confirmed that the Board of Supervisors does receive a notice.

There was no further discussion.

The motion was passed unanimously.

- f. Discussion of Alignment of Chapter One, Administration and Government of the Code of Ordinances and the Ferguson Township Home Rule Charter

Mr. Pribulka provided a history and examples of inconsistencies between the Home Rule Charter and Chapter 1, Administration and Government ("Administrative Code") of the Code of Ordinances.

Ms. Dininni moved that the Board of Supervisors **direct** staff to review inconsistencies between Chapter 1, Administration and Government and the Ferguson Township Home Rule Charter, and to present the conclusions of the review to the Board for consideration to advertise for public hearing. Ms. Carlson seconded the motion. The motion passed unanimously.

- g. Appointment to the Planning Commission

Mr. Pribulka reviewed a letter of resignation submitted by Cristin Mitchell, leaving a vacancy in the Township Planning Commission. The letter of resignation was included in the agenda. Ms. Mitchell was appointed to fill the remainder of Ms. Andrea Harman's term expiring December 31, 2019.

Mr. Ricciardi made a motion to **discuss** the motion presented prior to making the motion. Ms. Dininni seconded the motion. The motion passed unanimously.

There was a brief discussion prior to deciding on a motion. Options discussed were to open interviews or appoint the existing alternate, Jeremie Thompson to the Core Board. Appointing Jeremie Thompson was supported with the fact that he recently was interviewed and he possesses skills and knowledge needed to hold the position. Opening interviews was supported by the concern of evening out female to male ratios by providing an opportunity for more females to apply. Wards and appointments were discussed.

Ms. Dininni moved that the Board of Supervisors **appoint** Jeremie Thompson to fill the vacancy on the Planning Commission for a term expiring December 31, 2019, in addition that an application period be open for thirty days for the 2 Alternate vacancies on the Planning Commission. Ms. Carlson seconded the motion.

Mr. Pribulka provided an explanation of how many alternate vacancies were available resulting in Ms. Dininni to specify in the motion that 2 alternate vacancies would be open.

The motion was passed unanimously.

- h. Appointment to the Zoning Hearing Board

Mr. Pribulka reviewed the history of Karen English's position and resignation, which was provided with the agenda. It was also mentioned Irene Miller's desire to be appointed to the board to serve

the remainder of Ms. English's term that expires December 31, 2019. An alternative option was proposed which suggests that an application period be open to fill the vacancy.

Ms. Dininni moved that the Board of Supervisors **open** an application period for thirty days to fill the vacancy on the Zoning Hearing Board and the Alternate vacancies. Mr. Miller seconded the motion.

During discussion a question was posed why the board moved to open the application period as opposed to the decision to appoint an alternate for the planning commission. It was agreed by all that the reasoning behind opening the application process for the Zoning Hearing Board is due to the fact that there has not been any recent applications as compared to Mr. Thompson who recently applied and went through the interview process.

The motion was passed unanimously.

i. Discussion of 2019 COG Budget Increase

A copy of the COG Finance Committee agenda from April 12, 2018, was provided with the agenda. Mr. Miller reviewed the history of the COG budget and the reasons for increasing the budget. It was suggested that a cap be set at either 4 or 5 percent increase guideline.

A question was posed if there should be a motion. A motion was suggested, however the decision was to proceed with a general discussion for Mr. Miller to bring concerns up with the COG.

Mr. Miller suggested that the cap be removed for budget increase.

There was a discussion regarding where and what money would be spent on as well as concerns that the budget request is not broken down by department backed by data which support the requests for the budget increase request. Ms. Dininni requested that the budget increase request be accompanied by data presented by department.

The Board discussed the possibility of a 4% increase at most in Municipal contributions, although some remained unconvinced that a budget cap was the best idea.

j. Discussion of the State College Borough Water Authority Memo

Ms. Dininni reviewed the history and the content of the memo which was provided with the agenda. It was requested that the Board would be okay with allowing the staff to prepare a memo from the Ferguson Township Board to the Centre Region Park and Recreation Authority encouraging them to provide a platform for the Water Authority and themselves to follow up on the concerns that the Water Authority voiced.

Ms. Dininni reviewed the potential opportunity proposed by the State College Borough to connect the park sewer to the Borough sewer to avoid going across the protected land of the Borough Water Authority.

Ms. Dininni moved that the Board of Supervisors **direct** staff to discuss with the State College Borough, State College Borough Water Authority and the University Area Joint Authority a potential sewer path for the park to connect to the State College Borough. Mr. Ricciardi seconded the motion.

Ms. Dininni added that exploring the possibility of separating the sewer from the park from the sewer from the Tolls and easement issue might be a good idea for the region in terms of being able to move forward with the park if there would be any litigation. Detailed discussion followed.

There was a discussion regarding the availability of using the sewer system. It was also requested that there be a clarification of what the staff is being directed to do. It was confirmed at this time staff is asked to gather information and compile data.

The motion passed with a 4-1 vote with Mr. Miller dissenting.

VIII. STAFF AND COMMITTEE REPORTS

a. COG COMMITTEE REPORTS

1. Finance Committee. It was indicated that the discussion was already covered.
2. Executive Committee. Will meet in a couple weeks from now and the report was covered at the last meeting.
3. Ad Hoc Facilities Committee. Mr. Buckland reviewed the visit from the PSU Office of Physical Plant, which provided a presentation on Facility Assent Management and Computerized Maintenance Management Systems, which included various items to be evaluated and suggestions of techniques to review and asses data. The power point presentation can be provided to others upon request if they would like to view it in more depth.

b. OTHER REGIONAL COMMITTEES

1. Centre County Municipal Planning Organization. Ms. Dininni noted that the meeting was held on April 24th. The Drive Forward Coalition was discussed. There was a vote to support the submission of a grant. Action was also taken to amend the Unified Planning Work Program. Open House for the Transportation Improvement Program is at the State College Municipal Building in Room 241 on Tuesday, May 8 from 5:00 pm – 7:00 pm. Lastly there was a discussion regarding the performance base planning and programming of federally funded projects and determined that safety is an important performance indicator which should be addressed in federally funded road programs.

Ms. Dininni also added to the comprehensive plan for the Regional Parks the announcement that the DCNR approved the RFP with the condition that language be added for greenways.

2. Spring Creek Watershed Commission. Mr. Pribulka reported that the commission met on the third Wednesday of last month in which they facilitated a public deliberation on water management and issues for the Spring Creek Watershed Commission. There were at least 9 breakout groups present from Penn State Law to participate in the discussion, many of which will provide a report regarding the discussion. The next meeting is in the Bellefonte Borough Chambers in two Wednesdays.

c. STAFF REPORTS – Reports included with the agenda.

1. Township Manager. Mr. Pribulka presented updates concerning the Ferguson Township Climate Action Committee, Centre Region Emergency Management Council, the search for a Tax Associate, loss control standards submittal, and an acceptance of a submitted withdrawal letter regarding development near Park Central Boulevard.

Mr. Pribulka provided an update from an earlier discussion clarifying that the Board is allowed to appoint up to 3 alternates - not two in the Planning Commission. He also indicated that Mr. Endresen provided a copy of the 2019 Capital Improvement Plan, which was not included in the agenda. A draft document should be expected on July 9th. Mr. Pribulka concluded his report informing everyone that he will be out of state May 9 - May 12 to attend a conference. Dave Modricker will serve as acting Township Manager in his absence.

2. Planning and Zoning Director. Mr. Stolinas provided the board with plan list for consideration dated May 1st. Planning Commission met on April 23 which discussed park names; Harner Farm Modification; Thistlewood development; Hummel Subdivision update; Sewage Facilities Planning Module up for consideration; Zoning and Subdivision update - Joint Work Session will be on Tuesday, May 8th at 6:00 pm in the Ferguson Township Meeting Room; Agricultural Ad Hoc Committee will meet for a 7th time on Thursday, May 10th at 8:30 pm; Pine Hall General Master Submission - meeting on Tuesday, May 8th with general staff - Joint Work session will possibly be June 5th; Ad Hoc committee for Source Water Overlay meeting overview - next meeting June 6th; Pine Grove Mills Small Area Plan meeting scheduled May 9th at 6:00 pm located at Saint Paul Lutheran Church.

Ms. Dininni provided 3 comments: 1) A farmer expressed their gratitude to pointing them to the committee for the Zoning and Saldo update; 2) An individual requested that some of the Ad Hoc Committee for sourcewater protection meetings be in the evening because they are not able to attend meetings during the day. All of the meetings have been during the day and they expressed their concern that they have not been able to attend the meetings and 3) Pine Grove Mills Small Area meeting - is it open to the community? Mr. Stolinas stated that certain individuals were invited, however they would not turn anyone away.

Mr. Pribulka clarified that Board members should be careful about what they discuss because it was not advertised as a board meeting.

3. Public Works Director. Mr. Modricker reported the Stormwater Fee Feasibility report is almost complete. It is desired to discuss the report sometime in June. June 6th was suggested; however, that date will not work so another date will need to be decided in a doodle poll.

IX. COMMUNICATIONS TO THE BOARD

An individual in Pine Grove Mills expressed their concern with Penn DOT spraying dead vines on signs. A request was made for them to remove the vines after spraying. It was determined that it depends on the sign because some signs are maintained by the Township while others are maintained by PennDOT.

A concern regarding a recurring runoff from Aaron Drive Apartments into the meadow. Repairs were made but the issue still exists.

Ms. Dininni expressed concern regarding the impact of wildlife where the pipe will be installed. She acknowledged that it was probably too late to discuss and retract the decision to install the pipe.

Ms. Dininni moved that the Board of Supervisors ask Dave Modricker to check the contract (2018-C1) to see if he can delay its notice to proceed until after the next Board of Supervisors Meeting.

The motion was not seconded and did not pass.

Ms. Dininni requested pictures for future similar submissions.

X. **CALENDAR ITEMS**

-) Whitehall Regional Park Tour - May 14th at 12:00 PM
-) Joint Work Session on Zoning Subdivision draft will be on Tuesday, May 8th at 6:00 PM, televised on CNET.

XI. **ADJOURNMENT**

Mr. Buckland called for adjournment. With no further business to come before the Board of Supervisors, Ms. Carlson made a motion to adjourn the meeting. The meeting adjourned at 10:30 p.m.

Respectfully submitted,



David Pribulka, Township Manager
For the Board of Supervisors

Date approved by the Board: 05/21/18