

**FERGUSON TOWNSHIP
BOARD OF SUPERVISORS
Tuesday, September 7, 2004
7:00 PM**

I. CALL TO ORDER

The Board of Supervisors held its first meeting for the month on Tuesday, September 7, 2004. In attendance were: Richard Mascolo, Chairman; Cecil Irvin, Vice-Chairman; Richard Killian, Steve Miller and George Pytel. Also in attendance were: Mark Kunkle, Township Manager; David Modricker, Director of Public Works; Richard Wade and William Zeigler Jr., Planning Commission; Dan Simenski from Pennsylvania State University; Sebastian DeGregorio from Centre Regional Planning Agency; James Wagner from Tri-Tech/Wagner Engineering; Daniel Abruzzo, Vice President of Government Affairs; Galen Dreibelbis; Armond Aquilino; Tim Geibel from Centre Regional Planning Agency; and several other interested citizens.

1. CITIZENS' INPUT

Ms. Sue Hutcheson of 1347 Penrose Circle (in Park Hills) stated that the drainage in her neighborhood is an issue. The water is coming down through the right of way starting at Park Forest Village, comes down through Park Hills and ends up in the park and on University property. She feels that this past summer the drainage has gotten progressively worse. She knows that the township has put in a lot of work into addressing this problem by placing retention ponds and improving the drainage channel. The water travels approximately 400 feet before coming to the corner of her property (365 feet across the right of way). The water is acting like a delta, carrying rocks and silt along until reaching her property where it drops debris. It is causing the middle of the property to rise in the right of way, and spilling water over into the property. With each big storm the water problems get worse. When the water subsides silt and numerous rocks are left on the property.

Ms. Hutcheson talked with Dave Modricker who wasn't able to give a solution to the problem at that point in time. She feels that the area behind her property could be swaled again, or a trench could be dug deep enough to prevent debris from depositing onto her property. She would like to know what the Board would do to address this issue and whom they have consulted with outside of the township on this problem, more specifically Patton Township since the problem starts under their jurisdiction.

Mr. Kunkle stated that this is a major natural drainage way coming down through Park Forest Village and eventually goes into Big Hollow. About 8-10 years ago there was a design completed by Uni-Tech Engineers with a price tag of \$500,000 to control the sandy soils that are prevalent in that part of the township. It was decided at that point in time that the project was too expensive to control the drainage in what was a natural drainage area. The Board of Supervisors decided not to proceed with the project. Mr. Kunkle stated that a few years after the design was proposed, a concrete swale was installed to control some of the erosion immediately south of Park Hills Avenue. Once the water passed the concrete drainage it picked up additional velocity carrying sediment downstream until it fell out along the rear of the residential properties.

Mr. Kunkle stated that Public Works employees have been out throughout the summer cleaning up various parts of the neighborhood. Ms. Hutcheson stated that nothing has been done near her property. Mr. Kunkle stated that trying to establish or grow grass on the property would be difficult, and that a solution should be started further up the drainage area to try and control storm water runoff. Ms. Hutcheson asks for a temporary solution to help fix her property to prevent further damage.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 2

Mr. Kunkle responded that someone would be able to come out to her property, but that a long-term solution is further up stream beyond the Township's boundary. Ms. Hutcheson asks that maintenance be done before the fall, before it gets worse. She stated years ago the problem was fixed, and that various neighbors used their own water to establish grass but now the issue is out of hand.

Ms. Hutcheson asked if the Board has talked with Patton Township on this issue. Mr. Pytel stated that years ago on several occasions there was talk to try to put some control on the run-off.

Ms. Hutcheson stated that Jute netting was put down over grass seed but after heavy rain all of the seed washed away. She would appreciate if someone could come to her property and clean up some of the deposited debris.

Mr. Kunkle stated that he would talk with Mr. Modricker and schedule someone to address the debris on her property.

II. PUBLIC HEARINGS - ORDINANCES

Mr. Dan Sieminski representing Pennsylvania State University in the request to rezone tax parcel #24-04-76A addressed the Board of Supervisors. He stated that this is a request to rezone 26.3 acres located on Whitehall Road just south of Blue Course Drive. He has argued through the rezoning process in the past that this property and subsequent development will have minimal if any negative impact. The University owns 566 acres between Whitehall Road and Rte 45. The regional growth boundary runs along Whitehall Road and captures a part of the University's property that is already zoned R4. In discussions with the Regional Ad Hoc Recreation and Parks Committee established by Centre Region COG, there were two 75-acre parcels that were identified that the University was offering the community at the University's cost, for community play fields. The parcel adjacent to the property proposed for rezoning is already zoned R4. The proposal is to put in a signalized intersection at Whitehall Road and continuing Blue Course Drive through the property. Of the 26.3 acres only 9.3 acres is developable because of set backs and stormwater. There has been a 90ft right of way established for Blue Course Drive, creating an intersection at Whitehall Road.

Mr. Sebastian DeGregorio representing Centre Regional Planning Agency (CRPA) stated that in a review dated March 29, 2004 from CRPA staff a recommendation to deny this proposal for rezoning was provided to the township. He stated that in 2001 the official township map added the extension of Blue Course Drive between Whitehall Road and Rte 45. The CRPA recommended against the road being shown in that location for the same reasons indicated in the review dated March 29, 2004. The reasons being it was outside of the growth boundary, and that there was a road going through land consistently zoned Rural Agricultural (RA) and the CRPA did not feel it was consistent at that time (nor at the present time) with the 2000 Centre Region Comprehensive Plan and all of the other planning documentation. The township at that time did not indicate that there was a master plan, or that there were potential discussions with the University about the planning for further improvements in that area. The CRPA is clearly on the record stating that they were not in favor of that road being listed on the official map.

Mr. DeGregorio stated that as far as the Ad Hoc Regional Park Planning Committee point is concerned, the agency was involved in the development of looking for regional parks. One of which is presently funded and located in College Township in Oak Hall. The second site is a portion of what was shown in Mr. Sieminski's presentation. Though the CRPA was involved in those discussions, at no time was zoning or the discussion of water or sewer facilities to either of those regional parks part of the discussion.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 3

Mr. DeGregorio stated that to go back and look at the original review; the proposal to rezone from RA to R4 is inconsistent with present 2000 Centre Region Comprehensive Plan. The property is outside the established regional growth boundary and the sewer service boundary that are defined and have been for the last five years. He stated that CRPA would begin updating the Comprehensive Plan and Act 537 Plan documents at the end of 2004 well into 2005 and possibly 2006. The University Area Joint Authority has an established sewer service area rezoning policy that they have adopted in March 2004. He asked that the Board review this and consider it in their decision. He feels that there is ample vacant land in the township and within Centre Region that is zoned for multi-family development. There is a strong inventory of R4 zoned property at present, and feels there will be a strong inventory going into the future. He feels there is no need to zone more land for multi-family development at this time.

The third point Mr. DeGregorio stated was the potential negative effects that could come about by development in the Slab Cabin Run Valley to the recharge area of the State College Borough Area Harter/Thomas well field. The well is located down gradient from that swale, not too far away is the Harder/Thomas well which supplies water on a daily basis to 35,000 to 40,000 people. There are potential impacts from development leading to contaminated ground water, surface water run off, and potentials for spills or anything else that could occur to damage the water supply south of the proposed property line. If this property is rezoned there will be a need for a sewage pump station to pump sewage back up to the main line that is on Whitehall Road. He feels there are serious things to be considered with regard to the surface water and the ground water.

The next point Mr. DeGregorio made was the strength of the township's RA zoning. He stated that when he has talked with other municipalities in Centre Region the standard is always (and always has been) Ferguson Township's strong RA zoning. Decisions were made well over 25-30 years ago to zone area similar to where this application is being discussed, from a much higher density potentially of maybe one unit to the acre to one unit to fifty acres. He feels the township has a strong inventory and has made strong commitments to uphold those decisions for a number of years up until this point. He reiterated that the Centre Regional Planning Agency, the Centre Region Planning Commission, previous Planning and Zoning Director Cassandra Schmidt, Mr. Kunkle Township Manger, and the County Planning Agency have all recommended against this application, or in the very least that the application wait.

Mr. DeGregorio stated that the last few weeks and months there have been various trips discussing the negative and positive affects of Circleville Road's potential rezoning and the rezoning of John Imbt's property. Those parcels are within the township's growth boundary, and serious decisions have to be weighed as far as impact. But those are property's that are served with water and sewer, some can debate if the roads are adequate, but there is a road network to build around. That is not the case with this proposal. In the very least he asks that if the Board does not consider rezoning, to consider waiting for the Imbt and Circleville property, and look at the comprehensive plan being updated and Act 537 being updated in 2005.

Mr. Pytel stated that he disagreed with Mr. DeGregorio. There is transit service available, along with both water and sewer available. He stated that if the Board were to stop people from putting in sewers because a pump station is needed then half of the sewers on the University Area Joint Authority would disappear. The R3 land in State College is similar to R4 land in Ferguson Township and that is probably the last growth area that the township can put high-density people without going into farmland. He stated that the township is looking into revising the map in 2005, and if the township does not get the growth in that area someone else will get the growth within farmland.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 4

Mr. Miller stated that when the issue came before the Board previously he voted to move it forward to this point in time. He feels the proposed property is still the best place the township has for this type of building, especially since it is on a major intersection. He spoke with Max Gill, and there are no problems concerning water. The proposed rezoning is far enough from the wells that Mr. Gill did not feel there was a problem. The one thing both the staff and the Planning Commission have recommended is to deny rezoning at this point in time. Mr. Miller stated that after Cory Miller's presentation at the COG meeting and through various discussions, he thinks there are some potential complications. He recommends holding off on the rezoning until after the Act 537 proceedings, and work to get the rezoning incorporated in the Act 537, and at that point in time rezone the property. If the township cannot get the rezoning included in Act 537, then Mr. Miller is inclined to rezone the property and see what complications arise. Mr. Pytel suggested that it might be too late at that time.

Mr. Irvin stated that the University would not be able to build until the Act 537 update is completed. Therefore, if it is done now or later will not make that much difference as far as he is concerned. Mr. Miller is concerned with finding out from the UAJA what conflicts will arise if property is rezoned before changing the Act 537 Plan.

Mr. Mascolo stated that it is up to the University, if the property is rezoned, to get approval. He feels it should be developed, especially since it is next to R4, which is already in a regional growth boundary. The additional 9 acres of development would be minuscule compared to other developments.

Mr. Killian stated that he supports staff recommendation at this time.

This would be Ordinance # 836

Mr. Pytel made a motion to rezone the 26.3-acre tax parcel #24-04-76A from RA to R4. Mr. Irvin seconded the motion. The motion passed by a vote of 3:2 with Mr. Irvin, Mr. Mascolo, and Mr. Pytel voting yes and Mr. Killian and Mr. Miller voting no.

III. ACTION ITEMS – RESOLUTIONS

Mr. Kunkle stated that the City of Harrisburg has a Procurement Unit similar to the Commonwealth's piggyback program whereby they have bought many municipalities together under one contract for the purchase of equipment and automotive automobiles. Municipalities have been purchasing under this piggyback Procurement Unit Program for a number of years; most recently Patton Township purchased a dump truck off of the program. Ferguson Township has received from the DEP a recycling grant to purchase a truck mounted leaf collection unit. The Procurement Unit that the City of Harrisburg operates has a contract with a firm to supply the unit. In order to purchase the unit, similar to the State, the township needs to have a resolution authorizing its participation in that program.

Mr. Mascolo asked if the township was receiving the best price for the leaf collector. Mr. Kunkle stated that if the township went out to bid, that there would be a competitive process but it does not guarantee a better price.

This would be Resolution #2004-26.

Mr. Miller made a motion to adopt Resolution 2004-26 authorizing Ferguson Township to participate in the PA Capital City Automotive and Equipment Contract administered by the City of Harrisburg.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 5

Mr. Pytel seconded the motion. The motion passed by a vote of 5:0 with Mr. Mascolo, Mr. Killian, Mr. Irvin, Mr. Miller and Mr. Pytel all voting yes.

IV. COMMUNICATIONS TO THE BOARD

Mr. Mascolo received five calls with regard to the Police Chief appointment prior to the appointment recommending someone else.

Mr. Pytel received three calls with regard to the Police Chief appointment, one was recommending someone else and the other two were in support of the township's decision. There was a call from a resident in Piney Ridge regarding issues with grass. There was another call from a woman on Butz Street, which the township will have to investigate. Someone informed Mr. Pytel that the speed limit sign coming down off of Pine Grove Mountain was missing. The only speed limit sign posted is a 45 mph limit, 35 mph and 25 mph are both gone. Mr. Pytel asked if the township could look into this issue.

V. ACTION ITEMS

1. Clay and Andrea Johnson 2-Lot Subdivision Plan

Mr. Jim Wagner from Tri-Tech/Wagner Engineering and Surveying was present to represent Clay and Andrea Johnson. A current subdivision plan was prepared and submitted showing the three quarter acre lot off of Pine Hall Road just west of Science Park Road intersection. What the Johnson Subdivision Plan is proposing to do is split the lot in half into two lots. There is an existing drainage easement about 25 x 75 ft that initially Mr. Wagner thought could be terminated. Upon further research, it was determined to be part of the street drainage system for Pine Hall Road. It was recommended that the drainage easement remain in place, and after further investigation was cleaned up. The purpose of the easement was to catch any sort of runoff coming from any of the lots up along Pine Cliff Road. One of the township's staff recommendations was that the drainage easement should have a recorded agreement between the property owners and the township. Mr. Johnson contacted his attorney Ms. Betsy Dupuis with Miller, Kistler & Campbell, and she is in the process of drafting the agreement.

Mr. Irvin asked why the acreage on the map wasn't scaled in square feet. Mr. Mascolo stated that the lot #1 was 15,000 square feet and lot #2 was 17,400 square feet.

Mr. Miller made a motion to approve the Clay and Andrea Johnson 2-Lot Subdivision Plan subject to the recorded agreement regarding the easement and meeting the conditions of this memo dated August 27, 2004. Mr. Pytel seconded the motion. The motion passed by unanimous vote.

2. Revised Draft Parkland Dedication and Fee in Lieu Ordinance

Mr. Kunkle stated that he appreciated received input from Heritage One, CBICC, Mr. Galen Dreibelbis and Mr. Richard Wade from the Planning Commission who assisted early on in the process. He has attempted to address concerns that have been communicated to him both written and verbally. In going through the draft of the ordinance, the definition of Park and Parkland has been modified since the last time the Board has seen the ordinance to include: floodplain may only be included when authorized by the Board of Supervisors. This comment goes along with some of the parks that the township has in the region that are located in a floodplain. Fairbrook Park has a significant portion of the park that remains in a floodplain, and Spring Creek Park in College Township has a great deal of parkland in a floodplain. Further on in the ordinance, the amount of

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 6

floodplain that could be dedicated is limited and is only up to the Board's approval if the area is acceptable for a park. That is a discretionary issue with the Board.

When reviewing Item C – Unity, that particular provision has been moved into more of a policy statement rather than criteria for the parkland. The Unity section is a policy statement opposed to being a criterion for determining whether or not the parkland is suitable or not.

When reviewing Parks and Recreations Facilities Section C, the Fee in Lieu of Dedication formula has changed from a basis of a number of lots in a development to the number of people that the park is intended to serve. The new formula is an average number of people per dwelling unit of 2.54 (2000 Census numbers report a figure of 2.54 people per unit) at a ratio of .024 acres per person, then using a multiplier of 65% (indicating the developable portion of the land considered for development). Typically stormwater management facilities, roadways, easement areas and things of that nature take up the remaining 30-35%.

Another provision that has changed deals with the note that is placed on the subdivision plan indicating that the parkland if it is acceptable, there will be a deed of general warranty nature being free and clear of all liens and encumbrances. It is a note that is placed on the plan when it is approved, clarifying how the property will be conveyed to the township as public land.

When getting into specific criteria indicating whether or not the parkland is acceptable or not, the access portion has been modified so that the township can account for the possibility that additional parkland may be added to an existing park. Where there is already access available, the township would not require an additional 50ft. access without additional land being added onto an existing park. The provision has been added for access points into the park through the neighborhood provided by 20ft access easements with 10ft wide paved walkways. There are a number of these within the township where the park is rather long in nature and in order to provide better access to the residents without having to create one single access point there are walkways that are provided between lots that allow residents to get to the park.

Other significant changes deal with the shape, soils, and slope. Those three particular matters Mr. Kunkle sought the input of the engineering staff. The definition of shape is more defined in this ordinance where it has a length to width ratio of no more than 2.5: 1. This prevents getting a piece of land that does not have irregular jagged edges creating unusable property borders. Soils have been touched upon earlier, and soils may contain up to 25% of the total parkland to be located within a floodplain with the approval of the Board. On the issue of slope, the Board had talked about a 2% average slope. When talking with Mr. Modricker with regard to this the new slope criteria is that a majority of the park shall have a slope of no more than 4% and the average slope of the park as measured perpendicular to the contour line shall not exceed 8%. It takes into consideration that there are purposes for hilly areas such as sleigh riding and things of that nature that people would enjoy in the winter time, and that the park does not have to be necessarily flat. Comments with regard to the utilities indicated that there would not be any utilities crossing the property. This creates questions of how to run electricity to the pavilion, sewer service to rest rooms, and water service to fountains and so on. There was clarification that there would not be above ground utilities running across the park and that any of the equipment in support of the utilities would not protrude above the ground within the active playground area.

Section G – Pedestrian and Bicycle Paths is a new section, in the initial draft this area was forgotten. In this case there would be some credit given if a pedestrian or bicycle path were constructed within the development that would provide that type of amenity to the residents.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 7

Section I – Fee in Lieu of Dedication area is one that was complicated in the first draft of the ordinance, using appraised values provided for by the township and by the developer using an average process of appraised values. This proposed ordinance provides a fee in lieu formula which is straightforward; dealing with the (density of the development) x (2.54 persons per dwelling unit) x (a parkland fee per person). In the examples provided to the Board in previous meetings have indicated the per person fee be assessed at \$1,000. On the average this ordinance is looking at about \$2,500 per dwelling unit as a fee in lieu parkland contribution.

Mr. Kunkle stated that those were the major changes made to the draft since the previous admission to the Board.

Mr. Daniel Abruzzo representing the Chamber of Business and Industry of Centre County addressed the Board and stated numerous correspondence has been written between members of the Chamber of Business & Industry and Mr. Kunkle regarding this ordinance. He stated that Mr. Kunkle has been very open to suggestions and has incorporated quite a few which pleases the Chamber of Business & Industry. He feels there are a few remaining items that deserve more consideration. The first he hopes the Board would consider a credit for on-site facilities deemed by the township (such as tennis courts, pools, player equipment) suitable for a large development. Similar to the park located in Park Crest Terrace, under this ordinance there would not be any credit for that.

He is happy to see incorporated into the ordinance a provision for 25% of total parkland may be located within a floodplain, but was hoping that wetlands would be included in that. He hopes that at times the Board would consider exceeding that provision of 25%. He would rather see the 25% not as a maximum but as a standard that can be exceeded.

The last paragraph of the ordinance was written in italics, and he is not sure if it would be part of the ordinance or not. The additional fee for improvements on a development that does give land (after the land was brought to the necessary slopes and raised utilities) would make it tough for a developer to not know what additional monies would needed to be spent on doing a master plan of improvements. He would like the Board to consider this further.

Mr. Mascolo asked if this was a negotiable item. Mr. Kunkle stated that it would be negotiable and was added as an afterthought from discussions with the Board and staff with regard to receiving the dedication of parkland then the township is left with the additional cost of the master plan process. The question arose if it should be part of the dedication process. If it is part of the dedication process, then there should be some sort of contribution toward the master planning of the parks. When residents are purchasing lots within the subdivision this will give them an idea of what the proposed park will look like opposed to viewing an open space waiting for development.

Mr. Abruzzo stated that from a development standpoint it is difficult to budget that number and makes this unknown scary to developers. He asked that the amount be set instead of asking for a blank check. He stated that he was aware the \$1,000 was not set in concrete, but asks that the Board review the \$2,500 per unit by looking at examples comparing against the old ordinance. This is an increase 2-3x's to what was originally drafted. When there is a substantial price increase like this to anything, it causes concern. It was brought up in one of the conversations that these costs will be passed on to the homeowners and renters, and in all honesty the Chamber is concerned with the cost of doing business in Centre County. The Chamber's mission is to keep jobs local instead of losing them to other counties because housing is not affordable or that wages do not support affordable housing. He feels this is an example where the ordinance would be working against that goal. He stated that those are the subjects he is concerned with and have discussed with staff and the Board and hopes they consider them.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 8

Mr. Galen Dreibelbis stated that he applauds Mr. Kunkle and staff for listening to the various concerns and making some changes, but not as many as he would like to see. He has some concerns on the requirements that the Board of Supervisors can impose on a developer when municipal planning code does not give them that latitude. The latitude is that the developer can come in and say they wish to dedicate the land and the township must accept the land if it fits and suits the criteria. The Board of Supervisors does not have the latitude to reject the land and instead ask for the fee in lieu of the land. He realizes the impotence of this ordinance is to generate monies for regional parks, and he is not opposed to it but in doing that it needs to be done in a legal way where municipal planning code will allow. He stated that Mr. Kunkle has reviewed and taken the ordinance apart but it is still in there that the Board of Supervisors can require the developer to take part in the fee in lieu and park in the land. He does not feel that either is legal, and has cautioned Mr. Kunkle to check with the township's legal council. He feels that the large changes that have been made are monetary. He stated that there is about \$500 per house to be put into the parkland fund. Now with this ordinance the amount increases to \$2,500. He stated that if the Board of Supervisors votes for this ordinance, then they must tell everyone in the township that for every new house being built the cost of that house will raise \$2,500. But he stated that the Board must make sure they can agree to raise the cost of housing by \$2,500 just to get more parkland.

He stated that the average apartment cost is roughly \$600 a month. If the apartment increase is \$2,040 then that is 5% increase. If the Board is willing to say they put a vote up that will guarantee that rent is raised \$30 a month on everyone within the township owning an apartment, then he is comfortable with this ordinance passing. He asks that the Board can substantiate their vote by being willing to increase the cost of apartment rent to generate more parkland.

He also wants to take issue with the 2.54 people per unit. He stated that he has talked with Mr. Kunkle through correspondence and feels it is a fair number in general, but not for someone who builds one person units like he does. The 2.54 is an average overall but some units might have 3.54 people per unit when he is only paying 2.54. He feels that if there is a four-bedroom apartment then there are more than 2.54 people per unit, and if there is a one-person studio apartment then you have less than that. Placing an average number on all of the apartments is somewhat economically unfair. He feels that it comes down to a monetary situation, and if the Board is comfortable with their vote to increase costs and support their decision to the public then he supports the decision.

He stated that as far as Mr. Pytel's comment to Mr. Abruzzo regarding the floodplain, he feels that the most used (from his observation) and best utilized parks is Spring Creek Park which is not within Ferguson Township.

Mr. Mascolo stated that according to the proposed ordinance the Board does not automatically give 25% as a default when it comes to parkland in a floodplain; it is left up to the approval of the Board. Mr. Dreibelbis asked what the purpose of creating an ordinance saying 25% is allowed only at the discretion of the Board. Mr. Pytel stated that he could receive 25% of floodplain land that is worthless. Mr. Dreibelbis stated that he could potentially get 100% in a floodplain that is wonderful. Mr. Pytel stated that this is why someone else needs to make a decision other than the person selling the property.

Mr. Kunkle stated that since it is a provision of the subdivision ordinance that the Board would have the ability to issue a modification. He referenced the latest draft where the township has the ability to have either land or payment in lieu; there was a provision added stating the Board may, at its option, and with the developer's agreement require the dedication of some land and the payment of a fee-in-lieu of dedication for the balance. It has to be mutual between the developer and the

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 9

township. Mr. Dreibelbis asked why it was included. Mr. Kunkle stated that it gives flexibility, to clarify the obvious.

Mr. Killian asked if there are other laws that allow impact fees to be collected beside parkland. Mr. Kunkle stated that sewer and water both have impact fees. Transportation also has impact fees and they have various ways of collecting them. Generally in Pennsylvania impact fees are very limited; there cannot be an impact fee for a fire station or adding police vehicles. Mr. Killian stated that parks seem to be a common permitted occurrence. Mr. Kunkle agreed, stating there is specific legislation for each impact fee. Mr. Dreibelbis stated that things such as street light fees or fire hydrant fees all fall under impact fees as well.

Mr. Mascolo read the statement from page 11 of the ordinance "Prior to the preparation of plans, subdividers of large tracts should review minimum standards for suitability and desirability of various community facilities applicable to the tract being subdivided with the staff of the Centre Region Planning Agency and with the staff of the Centre Region Parks and Recreation Department" and if it should be Ferguson Township Planning and Zoning. If it is, why would Centre Region be involved with this information. Mr. Kunkle stated that there are many reasons. The first is that there are national standards for how much parkland is needed for a certain population base (recommendations and guidelines basically). This is one area Parks and Recreation professionals and planning staff can give guidance on whether or not there is a need for additional parkland and how the location of the parkland relates to population centers.

Mr. Irvin stated he does not have an issue with approaching Centre Region Parks, but feels there is not a need to approach Centre Region Planning Agency when the township has staff to adequately cover the needs. He feels Centre Region Planning Agency should be left out of the ordinance, and Ferguson Township Planning should be rewritten in.

Mr. Killian asked why there was a change from a current rate to a proposed rate, and if the development of the land was the expensive part. Mr. Mascolo stated that this was a way to assess the developer for each park rather than taking a portion from the taxpayer.

Mr. Miller stated in reference to the soil section of the ordinance it states specially up to 25% of the total parkland may be located within a floodplain with the approval of the Board of Supervisors. He asked if it needs to be stated; in other words does the Board have the option for instance in the section identifying shape or slope to make an acceptance to what is there. Is the ordinance giving guidelines or is it specifying limits. Mr. Kunkle stated that if there is a deviation then the developer would have to apply for a modification instead of just an approval.

Mr. Pytel stated that he agreed with Mr. Dreibelbis on the 2.54 people per dwelling unit, and he has tried to set up this ordinance to be fair and honest. Mr. Mascolo stated that before the ordinance was based on dollars and land value. Mr. Pytel stated that if you expect to have only two to three people per apartment unit when there are actually five, verifying apartment occupancy is extremely difficult. Mr. Mascolo stated that this would be an average for the whole township and it would not be correct for anyone. He stated that the ratio is either taken as is or different method needs to be created. Mr. Dreibelbis stated that in the last ordinance parking spaces were defined per apartment unit, and it was changed without difficulty.

Mr. Pytel made a motion to receive the ordinance with the changes that were addressed and forward the ordinance to the township solicitor for final drafting into ordinance form and to advertise the ordinance for public hearing. Mr. Miller seconds the motion. The motion passed by unanimous vote.

3. Application to Amend Zoning Ordinance to Include Provision for No Impact Home Based Business

Mr. Kunkle stated that Mr. Armond Aquilino requested an amendment to the zoning ordinance to include provisions for no impact home based business. Currently there is a definition for no impact home based business but there is no criteria established distinguishing between no impact home based business and a home occupation.

Mr. Armond Aquilino of 1335 Curtin Street in Overlook Heights requested a zoning ordinance amendment to include no impact home based business use in the residential zoning district. A few months ago Mr. Aquilino started to receive zoning violation notices from the township's zoning officer relating to home occupation within his residence. He owned his home for thirteen years and has always maintained a home office. He has done personal work within the home office and also part-time work outside of the office. To date there has not been any violation calls or notices that is not aware of for using his home as an office. In response to the zoning violation notices he has talked with township staff and zoning officer trying to obtain a better determination of the use of his office and the applicability of the requirements. Within the current ordinance he has found several definitions and two areas that apply to a home occupation use within the actual ordinance. Chapter 27-2004-L calls for a home occupation use with a definition of an accessory use of a dwelling for gainful employment. The other definition that is included relating to this situation is called a no impact based business. It has the same criteria as a home occupation only without any requirements. Right now he thinks the use of his office is only a part-time use since he is employees full time by another company. He would only use his home office part-time. He thinks the use of his home office could relate to a number of uses within the community such as realtors, day care centers, barbers, tax preparation, or lawn care. Based on this he feels that since there are areas of existing zoning that relate to home base businesses, the definition of a no impact home based business could be included in that section. As part of that if you meet the requirements of a home based business then perhaps parking would not be required. In his case he has on street parking available for this use. He feels that it comes down to the definition and how his office would be perceived in the ordinance compared to other uses since they are very similar. The current ramifications Mr. Aquilino is addressing are responding to the violation notice to try and talk with the zoning officer. The zoning officer kept referring Mr. Aquilino back to the existing ordinance. In an effort to comply Mr. Aquilino submitted an application to meet all of the criteria of a no impact home based business. Mr. Aquilino feels that realtors use their home as an office, people in private partnerships use their home office for potential gain, barbers, day cares and home parties such as Tupperware all use the home for the purpose of business. In Mr. Aquilino's case there is very little traffic coming in and out of his home and very little UPS traffic. In the case of Tupperware sales multiple parties might be required to generate sales and could require additional parking. Mr. Aquilino's only other alternatives would be to apply to appeal the officer's findings, to request a variance or in an effort to comply he suggests a possible ordinance amendment to benefit the community. The variance option to the Zoning Hearing Board would allow him to get a refund of money. In this case there is no refund of money but he potentially would be helping out the community and other people in the same situation.

Mr. Pytel asked what Mr. Aquilino was specifically trying to get. Mr. Aquilino stated that the basis of his request to include within the current ordinance a no impact home based business category. With that if someone meets the criteria of that, which is little foot traffic and minimal use of the home other than a small amount of business traffic in/out that you would not be required to have off-street parking. Mr. Pytel stated that the reason the ordinance was created was due to an occupation in Park Hills. The home had an occupation where the family was running a business where the garage

was filled with boxes and generating enough truck traffic to make it obvious that the small business was more than a home occupation. It took the Board years to correct the situation. Mr. Aquilino stated that the current process stated by the zoning officer was to complete the application providing a record to the township. Mr. Pytel stated that he is worried passing this will require the township to check every resident. Mr. Aquilino stated that within the allowable uses within that section describe engineering, architecture, etc.

Mr. Pytel asked how Mr. Aquilino became involved with this process. Mr. Aquilino stated that he sent a letter to the township with his home address listed on the letterhead.

Mr. Kunkle stated that no impact home based businesses are a required permitted use in every residential district under the new municipalities planning code. You must provide for that within every residential district. The question is how to distinguish between a home occupation and a no impact business use. He feels that Mr. Aquilino has touched on it in many respects; a home occupation allows people to be employed outside of the family to allow for sales at the location, and also signage to advertise the business at the home. There are distinguishing features where no impact home based business does not permit the production of materials for retail sales at the home, or allowing for outside family employment at that site, or requiring the off-street parking, or permit signage. It is supposed to be invisible to neighbors living next to the residence that business is being carried on internal to the home. Where this ordinance is lacking is the fact that there is a definition for it but there is not criteria or a process to provide for that use. That is what needs to be done and Mr. Aquilino has brought it to Mr. Kunkle's attention and his suggestion was to forward it along to the Planning Commission to let them propose an amendment to the Board.

Mr. Miller made a motion to forward the application for the proposed ordinance amendment to include a no impact home based business use in a residential zoning district to township staff and Planning Commission for review and recommendation, and he recommended that the township does not issue any more violations with regard to this ordinance to Mr. Aquilino until this has been dealt with. Mr. Irvin and Mr. Mascolo seconded the motion. The motion passed by unanimous vote.

4. Discussion of Traffic Signal Priority Project

Mr. Kunkle stated that several months ago Patton Township, State College Borough and Ferguson Township were asked to participate in a traffic priority study and implementation for Centre Area Transportation Authority busses allowing the busses to send a signal to traffic controllers extending the green light on Atherton Street. In addition there would be traffic signal preemption equipment installed in the controller along with emergency response vehicles (such as fire, ambulance and police vehicles). The Board agreed to support the study under the understanding that should the implementation of this project create additional problems on Atherton Street such as congestion, then the Board at its option would be able to say the study would be discontinued and equipment would be removed from CATA busses, but retain the preemption equipment in the emergency response vehicles. Mr. Tim Geibel from Centre Regional Planning Agency has been working on this project and has found the funding from PennDOT. Mr. Kunkle reported he spoke with Tom Fountaine, Borough Manager and the Borough has similar conditions although he indicated it was not written in their communication to CATA. It was part of their minutes and part of their understanding that they if they also have a problem with Park Avenue and Atherton Street then the Council would be able to remove equipment due to the non-functionality agreed upon. This condition has put up a red flag with PennDOT and the funding they are planning to contribute to this project.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 12

Mr. Geibel requested a funding stream was found within PennDOT and an application was submitted last week. Once the funding stream was found, a discussion with PennDOT took place regarding the conditions of the municipalities wanted to see within the project. The two main conditions were: 1.) Ferguson Township wanting to find implementation funds for police vehicles. PennDOT allowed funds for two to three police vehicles per municipality within the grant application. 2.) Ending the study for any reason.

Mr. Pytel stated that the township never said that, and the e-mail communication from Mr. Geibel to Mr. Kunkle stated the township could pull the plug for any reason. The question was the township wanted to pull the plug on the project if the township has a problem with the study; not over any reason. This statement wasn't what the township intended. Mr. Pytel asked if the project would only be restricted to North Atherton Street. Mr. Geibel stated that a part of Vairo Boulevard would be included and they are not looking to do this study on an entire service area.

Mr. Geibel stated that the preemption equipment is currently in place with Alpha Fire Department. They have 40-45 intersections equipped with the technology throughout the community. What Centre Regional Planning Agency is looking to do is complete the corridor from down on Penn State campus heading out towards Wal-Mart. Mr. Pytel stated that Centre Region is looking to get the busses equipped with the signal priority equipment only on the North Atherton Street corridor.

Mr. Geibel stated that there is a significant difference between what the Alpha Fire Department can do with preemption and what CATA can do with priority. They are not changing signal times, they are negotiating signal times. Right now every intersection from College Avenue up to Valley Vista is equipped with this preemption equipment. There are four to five intersections that are lacking, those are within the corridor and by completing the project with PennDOT money signal priority equipment will be in place from Curtin Road up North Atherton Street. Then a completed corridor from College Avenue up to Valley Vista would be complete with signal preemption equipment. PennDOT is not looking to do this on an entire system; strictly to be set up as a grant demonstration program with no intention to be requested for anywhere else. The stipulation Mr. Geibel presented to PennDOT was if the project was completed, then there will be a post-implementation study done. If the study, through measures of effectiveness, shows negative impacts (whether side street or main line delays or buss passenger delay) then Centre Region Planning will remove the system themselves. PennDOT wanted to make sure that if the study is done with a post-study and it doesn't show negative effects that the township would not be able to request an end to the project. That is the reason he is before the Board tonight.

Mr. Miller asked if this was an open-ended study. His impression was that the study was for a set period. Mr. Geibel stated that there would be a post-study done most likely six months after implementation. If there are negative results shown after the post-study then they will remove the equipment on the busses and the police equipment can remain.

Mr. Killian asked how the study would measure effectiveness and is there an exact formula. Mr. Geibel stated that in the original study in phase one there were seven measures of effectiveness. 1.) Intersection delay 2.) Mainline delay 3.) Side street delay 4.) Average corridor travel time for busses and automobiles 5.) Bus corridor travel time standard deviation 6.) Bus passenger delay 7.) Average person delay (bus or other vehicle). These seven measures of effectiveness (MOE's) were decided upon by the project management team back when the study started, would be used as a foundation for post-implementation study. If the township wanted to include anything else that should be part of the post-implementation study then he would add it to the list of things to check.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 13

Mr. Ernest Bergman stated that when he was a township supervisor, this study was turned down. On Atherton Street the time delay was found to be a minute difference (Mr. Pytel interjected that it was thirty seconds), and he asked who would pay for the equipment. The Alpha Ambulance Company paid for theirs, and he does not think that the municipality should have to pay for the equipment. Mr. Geibel stated that the federal funding would pay for the CATA equipment vehicle costs. The police vehicle costs would be paid for 100% by the PennDOT grant. The intersection hardware would be paid for through the PennDOT grant as well. Mr. Mascolo stated that this would complete four more intersections. Mr. Killian asked if using the established measures of effectiveness as criteria, has a variance for the study been discussed. Mr. Geibel stated there have not been any discussions over variance and it will be finalized before implementation what will be used as the evaluation criteria.

Mr. Pytel asked about the signal lights being reset, and when the CATA buses come through interfering with the setup. Mr. Geibel stated that when the system is set up, his study shows that during peak hours seven times out of ten a bus will not request signal priority because it was approaching toward a green phase. Mr. Pytel asked what if seven out of ten times the bus does request signal priority. This is the condition that if it does create a problem, the township would want to request ending the study. Mr. Geibel agreed to the condition, and stated that if a bus does trigger an intersection and affects the signal timing it will shorten the next signal timing. If going up Park Avenue the signal is delayed ten seconds, then the next main line green light will be shortened by ten seconds to get the signal back on a pattern. It is not a system that will affect the signal so it will not get back onto a pattern. Mr. Geibel stated that if the township would like to add that requirement into the evaluation criteria, then a review of how many times it is happening and how long it takes the signal to get back into sync. It is his understanding that the equipment is as simple as plugging a computer into the intersection and downloading the data.

Mr. Mascolo stated that he would like to remove the indication that Ferguson Township could pull the plug from this project at any time. Mr. Pytel stated that the township never said this comment and Mr. Geibel stated that it was implied and he sent an email to Mr. Kunkle about trying to get a conversation going regarding the project.

Mr. Miller asked if PennDOT would object to the township setting a time limit for the study; beyond which the township could address problems. He asked if within two or five years or whatever the recommended time frame is, if down the road ten years into the study the township decides the study is not working would they be billed the difference. Mr. Geibel stated that there have no been any discussions regarding this, but the study is basically set up to receive money to accomplish a study to see if it is feasible. It hasn't been discussed or stated if the study will run one or two years. The implied thought was that if the study was implemented and the post-study shows a positive result then it will be in place to stay. If the study shows negative results, then the equipment will be removed and the township would not be charged anything. Mr. Pytel referenced Mr. Millers question that if ten years later there are problems would the township owe money for the project. Mr. Geibel stated that there has not been discussion about that, but it is something that can be clarified. Mr. Pytel stated that there should be a time limit on the study. Mr. Miller stated that either a time limit is associated with the study or at some point in time the township can request another post-study if it is needed.

Mr. Modricker stated that the signals on Atherton Street are not coordinated with the municipal boundaries. The township does not know if in the future when the signals do get coordinated and the priority is installed how it would effect coordination. It is not something he feels the study can answer in a six month post-study. Mr. Miller stated that he would not want to do a six-month post-

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 14

study and have the results binding on the township forever. Other things could enter into the study later. Mr. Geibel stated that he would clarify the time frame for the study.

Ms. Dorothy Schmidt asked how the Board plans to address other groups potentially approaching the township requesting preemption (school busses, taxies, delivery people). Mr. Mascolo stated that his perception of the study is that only fire companies, police and the bus service. Mr. Pytel interjected that this system would only be installed and used on North Atherton Street. Ms. Schmidt stated that the past Board agreed that the study would only be emergency vehicles. She is suggesting that once the door is opened to CATA that the public and private schools will approach the Board as well as FedEx. Mr. Mascolo stated that the Board would deny the request. Mr. Miller stated that the Board is addressing a specific PennDOT study at this point in time and that if someone else wanted to do another study then it would have to be brought before the Board with good reason.

Mr. Geibel stated that he would look into the time frames pertaining to the study. Mr. Mascolo stated that he would like to see how the criteria would be measured. He stated that Mr. Geibel has criteria, but no absolute measurement for it. Mr. Killian asked when PennDOT would be approached. Mr. Mascolo stated that the township should tell PennDOT they do not intend to pull the plug as stated, but based upon positive results the township would be satisfied; upon negative results the township would ask the system be removed. Mr. Pytel interjected that at any time negative results are found the township can request to end the study. Mr. Miller interjected that a request for another post-study be fulfilled. Mr. Killian also stated that based on an understanding of the criteria the study would be allowable. Mr. Geibel stated he does not see a problem with the requests and will be in communication with Mr. Kunkle.

5. Discussion of State College Babe Ruth muRata Baseball Field

Mr. Kunkle stated that Mr. Tom Mincemoyer was present from the State College Babe Ruth League. The State College Babe Ruth League has operated for decades at two fields; Airport Field (now S&A Field) and a field located on muRata Erie property called muRata Field. Up until about three to four years ago Johnson Farms Associates, owned Airport Field and through the process of negotiation the township took ownership and has a license agreement with State College Babe Ruth League to operate on that field. In exchange for the agreement, they have maintenance and improvement responsibilities. There is not a similar understanding with muRata, as far as Mr. Kunkle knows there is not a formal document that permits State College Babe Ruth to continue operating there. MuRata has closed operations in State College and still owns the property. In talking with the Chamber of Commerce, there has been no indication that muRata will sell the property in the near term. Mr. Kunkle was approached by the State College Babe Ruth League and the State College Little League about fields that they have on muRata's property. Mr. Tom Mincemoyer, President of the State College Babe Ruth League has asked that the township open up discussions with muRata to see if the township would be willing to acquire the field (not purchase) and enter into an arrangement with the State College Babe Ruth League. Mr. Kunkle stated that this field is critical to the State College Babe Ruth League's operation.

Mr. Irvin made a motion authorizing the Manager to contact muRata of North America in an effort to acquire the muRata Baseball Field for continued use by the State College Babe Ruth League at no cost to the township. Mr. Pytel seconded the motion. The motion passed by unanimous vote.

6. Consider Application for Centre County Liquid Fuel Grant

Mr. Modricker stated that every year Centre County Commissioners request municipalities submit applications for the liquid fuel aid and this year he is recommending that Whitehall Road project be submitted as a request for a grant in the amount of \$30,000. The total cost is \$210,000.

Mr. Mascolo asked what the typical grant request amounts are and if this is the maximum the township can get. Mr. Kunkle stated that the township can ask for more, but the likelihood the grant would award more than \$30-35,000 given the small amount of money they have to distribute to the thirty-six municipalities would be slim.

Mr. Pytel made a motion to authorize submission of a 2005 Centre County Liquid Fuel Aid Grant for the Whitehall Road Project scheduled for 2005 with a grant amount request of \$30,000. Mr. Killian seconded the motion. The motion passed by unanimous vote.

7. Designate October 30th from 6-8 PM as Trick-or-Treat Night

Mr. Killian made a motion to designate October 30th from 6-8pm as Trick-or-Treat Night. Mr. Irvin seconded the motion. The motion passed by a vote of 4 to 1.

8. Variance/Appeals to the Zoning Hearing Board

a) Good Shepherd Evangelical Lutheran Church, 851 Science Park Road, State College, PA 16801

Mr. Kunkle stated that the variance request is for an elimination of yard buffer landscaping requirements for a site plan submitted for an addition to the Church and day care center. The requirement under the zoning ordinance is that the church would have to place the landscaping buffer around the entire property, which is a rather large parcel. The distance to the Greenleaf Manor is significant, and there is an existing tree row in place. The other uses except for the residents immediately to the south of the property line are also quite a distance away. The township's policy is that variances and appeals come to the Board for consideration in support, to remain neutral or to oppose the variance. Mr. Kunkle's suggestion to the Zoning Hearing Board is the buffer should only be required along the southern residential boundary that abuts the property in the front along Science Park Road.

Mr. Rodger Finke stated that on the eastern side of the property sharing a boundary with residential home, there is an existing tree barrier surrounding the church. After speaking with owners Hugh and Nancy Givens, they would like to keep the existing opening in place. A long boarder against the pre-school on Science Park Road exists, and after speaking with owners Martin and Lisa Wiedemer, they prefer the property remains as is. The Church's preference is to keep the property as is, for several reasons. The first is that they prefer not to have shrubs against the pre-school. It leaves that area open and secondly the Church is in very good relations with surrounding neighbors. There is a property boarder by Christine D. Allison, where she is not in a clear view of the addition that is proposed. The Church has not spoken with her regarding this matter since the home recently sold. The Church has spoken with the State College Borough Water Authority, and in working with Penn Terra engineer Ray Regan, he does not feel SCBWA would require additional landscaping.

Ms. Sharon Bressler, a member of Good Shepherd Evangelical Lutheran Church, stated that the pre-school is not a day care center. There is a significant difference between the two. This is a school that only takes two and a half to five year old children. At the present time they are taking children that are referrals from the CIU. Whether or not the church is able to build in part depends on the Board's decision. The existing pre-school is a nonprofit organization. The land has multi-purposes, such as use by the Centre Area Soccer Association and by the public. Anything the Church or township does to change this will have an impact on how the land is used. Mr. Finke stated that the addition proposed is a small addition to the Church, about \$150-160,000 for the building itself. If landscaping fees are added to that cost, the price increases dramatically perhaps putting the project out of budget for the Church. The addition proposed is to expand the pre-school program so more children can be brought in. As a church, it would be used as an educational facility

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 16

as well. It would give the church the ability to enroll more children in programs. The landscaping would really push the project to a point where it might not be reachable financially.

Mr. Pytel stated that he does not have a problem with the addition proposed, but the request the Church is making is to prevent landscaping forever on the property. The Church is asking for a variance to eliminate landscaping; should the church close down the new occupants would not have to put landscaping in place. He opposes that. Mr. Finke stated that with concern to the addition, the proposal is asking that while building the addition the Church is not required to add the landscaping. Mr. Ray Regan from Penn Terra Engineering stated that the Church would like to plant seedlings along some of the buffers, and in five years when the Church plans to put on another addition to the Church area then the seedlings would meet the minimum requirements for a buffer. Mr. Pytel stated that the appeal is not asking for that, it is asking for a variance not to put any landscaping up ever. Mr. Finke asked if there should be a request for a variance with the additional wording to specify the variance can take place as long as Good Shepherd Evangelical Lutheran Church is the current owner and for as long as the addition is put on. Mr. Pytel said with the additional wording he is not opposed to the variance.

Mr. Miller asked how that specific condition could be added to the variance. Mr. Kunkle stated that the Zoning and Hearing Board could put that type of condition on the variance.

Mr. Mascolo addressed the border along property owners Martin and Lisa Wiedemer and adding a buffer. Mr. Finke stated that for two reasons the buffer should be left open. The first based on the cost alone since it is such a long border and the second dealing with the pre-school and installing shrubs creating a vision barrier.

Mr. Brian Sprang, pastor at Good Shepherd Evangelical Lutheran Church, stated that the owners of the property (Martin and Lisa Wiedemer) do not want the trees in place. Mr. Mascolo stated that it does not absolve the church from adhering to the ordinance. Mr. Sprang stated that the Church would like to work with its neighbors, and create a plan where trees (seedlings) are planted that all property owners are content with and also meets the requirements within the ordinance. Mr. Sprang stated that this is specifically just for this project, and to plan for the future to meet the requirements of the township. He is also willing to make proper changes to meet the Boards approval.

Mr. Killian addressed creating the buffer. Mr. Richard Tetzlaff, Good Shepherd Evangelical Lutheran Church's Financial Secretary, stated that the building was built with a four-stage expansion in mind. This proposal would be the first phase. In looking forward, the Church is requesting the variance specifically for this project but prior to the next expansion would like to look into meeting both neighbor and township needs.

Mr. Pytel asked if the Board will see a final version of the variance before it is presented to the Zoning Hearing Board. Mr. Kunkle stated that if the Board supports the current variance with conditions stated, then he will attend the hearing and report back to the Board.

Mr. Miller made a motion to recommend approval of the variance with the condition that the Good Shepherd Evangelical Lutheran Church is specified as the owner of the property and a specific duration of time (this phase only) is stated. Mr. Pytel seconded the motion. The motion passed by unanimous vote.

b) CJC Enterprises, 1703 West College Avenue, State College, PA 16801

Mr. Ray Regan from Penn Terra Engineering was present to represent CJC Enterprises (aka Chuck Rider) to request a variance from the sidewalk and landscape buffer for property located at 1703

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 17

West College Avenue. Occupancy is sought on a permanent basis for Rider Auto's private use of the two bay garage and existing office building behind Rider Auto (what was the Nix property and sometimes referred to as the Kholhepp Building). The reason for the variance request is due to unusual circumstances. Many people know Mr. Chuck Rider and Mr. John Imbt have been working together to lay out a road that would provide access to adjoin land with John Imbt and an intersection with the Western Inner Loop. In the meantime while those plans are being worked out, Mr. Rider is trying to get occupancy to the two buildings, which has brought about additional requirements for land development. The problem is that it is not known what the parcel will look like after the road will go through. In the mean time, a limited time variance of one year has been requested, consistent with the variance Mr. Rider has received for the storage of vehicles on the same parcel. This would give Penn Terra time to continue negotiations with Mr. Imbt get a plan together for the proposed road and at the same time not commit Mr. Rider to any expenses that would be unnecessary.

Mr. Pytel stated a clause should be stated within the variance that no further variances will be granted or extended. This variance is limited to one year. Mr. Mascolo agreed. Mr. Regan asked that with the storage of vehicles, a fourth time of requesting a variance was needed and this is the fifth; so if another variance is needed then it would have to come before the Board before this current one expires. Mr. Kunkle stated that the history of the property is that they previously have asked for four variances, and that this request makes the fifth. From staff's perception, it has been requested that a plan come forward showing the completion of the improvements on the property and to move forward. This is the fifth variance, and it is felt the project is being pieced together. Mr. Pytel stated that this is the last variance CJC Enterprises will receive. The Board was opposed to the storage of motor vehicles and they received the variance; that was the third variance. It is time for CJC Enterprise to put together plan and get approval from the Board. Mr. Regan stated that Mr. Rider would like to move the project forward, but it is difficult with other parties involved.

Mr. Miller made a motion to support a one year limited time variance to allow for CJC Enterprises to finalize plans for the future development of the site, with the clause indicating no further variances should be granted. Mr. Pytel seconded the motion. The motion passed by unanimous vote.

c) Pennsylvania State University, RTE 45 West, Gate "K", Pennsylvania Furnace, PA 16865

Mr. Kunkle stated that this was an appeal of the Zoning Officer's determination that the requested use of the Agricultural research area known as the Russell E. Larson Research Facility be used for timber or forestry related trade show. In the interim the township has met with representatives of Penn State University and have indicated that in addition to the demonstration of forestry equipment there will also be seminars on forestry practices, techniques etc., that will be held in conjunction with the trade show. It is anticipated 3-4,000 visitors would come to the event. Should the appeal not be upheld, then the University would request a variance to allow this use to occur. Penn State University has a significant lead time on this proposal, with a date set potentially of June of 2005 to get advertisements and information out to interested parties.

Mr. Mascolo asked if based on previous discussions does this variance meet zoning requirements. Mr. Kunkle stated that the zoning officer has stated that it is not within the realm of a special event, that it would be a use of the property. It is not to say that forestry is not an agricultural related use, because it is a permitted use within every zoning district particularly in agricultural uses. The question regarding this variance has to do with the interpretation of the definition of a special event; is there enough clarity. Mr. Kunkle feels that the zoning officer looked at Ag Progress Days as a special even that was specifically permitted by the Board of Supervisors as a use within the AR zoning district, and now we're looking at expansion of that to a forestry trade show that would have a

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 18

seminar or training component with it. Mr. Pytel stated that he does not have a problem with Penn State University having the trade show, but feels trade shows should be done on an event basis. There should be an application for events proposed and the Board will consider each event on a case-by-case basis.

Mr. Kunkle asked what should be done with this particular variance. Mr. Pytel asked if there was a specific date set. Mr. Robert Oberhiem from Penn State University's Horticulture Research Farm and Facility Coordinator for the Ag Progress Days site stated that June 17th & 18th 2005 was picked. Mr. Kunkle stated that the staff recommendation was the Board support the Zoning Administrators decision; that this is not a use permitted under Ag Research zoning and that the Board support a one year limited time variance for the even to occur in 2005 giving the township staff and Board time to refine the ordinance.

Mr. Miller asked if there was any way to approve the variance without changing the ordinance; allowing for this one time event. Mr. Kunkle requested no and that he suggested a variance for one time. Mr. Miller stated that it was the recommendation, not the Boards view.

Mr. Oberhiem stated that according to the way the ordinance currently reads, it states outdoor function and related special events. As it stands, he asked for permission for this timber 2005 event classified as a special event the way it is written in the ordinance currently. He is willing to come back and review with the Board and township to redefine some of the other uses in the future. Mr. Pytel stated that he does not have a problem with giving permission to do the event, but he does not want to change the ordinance that allows special events and then have Penn State University define what special events are.

Mr. Richard Wade asked if it wasn't the zoning administrator's job to interpret the ordinance as to what a special event is. Mr. Kunkle stated that it was already done. Mr. Pytel stated that he supports the Zoning Administrator in his interpretation, that this is a special event.

Mr. Mascolo made a motion that this issue be presented to the Zoning and Hearing Board and have approval for one year and then review the ordinance. Mr. Killian seconded the motion. The motion passed by unanimous vote.

9. Consent Agenda

None.

VI. REPORTS

1. Manager's Report

Mr. Kunkle stated that he has reservations for Mr. Mascolo and Mr. Killian for the Fall County Township's Dinner Meeting on Thursday September 23rd.

Mr. Kunkle stated that Lynn Herman called him last week saying there was an additional \$5,000 that had been granted to the Pine Grove Mills Streetscape project.

Mr. Kunkle stated that attached was a notice for the September 9th meeting on the Centre County Hazard Mitigation Plan, and at the next meeting or shortly thereafter a resolution for the township's participation in the County Mitigation plan will need approval. This is needed in case there is an incident and Federal funding is available, the township will be eligible to apply for funding.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 19

Mr. Kunkle stated that he has received a letter asking that the township send a letter to the Governor supporting the release of capital budget funding in the amount of \$2M for a fire-training center. The Board should decide if that letter should be sent out. Mr. Mascolo asked if it was too late to send the letter out. Mr. Kunkle stated he did not think so. Mr. Pytel made a motion to send a letter to the Governor in support of the \$2M fire-training center. Mr. Miller seconded the motion. The motion passed by unanimous vote.

Mr. Kunkle stated that Police Officer Cory Despot has been called up for active duty in Kuwait. He will probably be deployed for up to a year, possibly two more. The township has an eligible list of police candidates and he has started the process of obtaining a background check done on the next candidate in line. Mr. Killian asked what will take place when Police Officer Cory Despot returns from duty. Mr. Kunkle stated that this would be a timing issue because there is an officer retiring within the next 14-18 months so there might be a few months overlapping. Mr. Pytel asked what the township's policy was with regard to him being called to serve. Mr. Kunkle stated that he is entitled to keep his job, and that his pay would not be supplemented. The township will continue to carry health insurance for the family and other benefits such as insurance, short term disability and so on, but he is off payroll when he is called up for active duty. Mr. Pytel asked about the township carrying life insurance with regard to being called up to serve in a war. Mr. Kunkle stated that there is an exemption under the life insurance policy.

2. Director of Public Works

Mr. Modricker stated that on Hoy, Osmond and Butz Street all the course base pavement is down, some curbs are down and the topsoil is back in place. Shadow Oaks drainage work will begin this coming week. Rain is anticipated so work might be postponed due to bad weather and excessive rainfall.

Mr. Modricker stated that other areas the township is starting to see problems with stormwater drainage is Shadow Oaks and Circleville Road. Park Hills Avenue drainage where it enters Circleville Road is another issue and a box has been installed on Park Hills Avenue and it has helped, but the drainage way through the Park Hills Park is an intermittent stream. There are no improvements from Park Hills Avenue upstream. He acknowledged Ms. Hutcheson's request, and does not see that situation getting better. It is a maintenance issue, and it is basically a streambed on the USGS map and trying to maintain this is difficult.

Other areas such as Corl Street the township is not responsible for, and Teaberry Ridge has taken care of itself so the township is in better shape than anticipated. Madison Street and McBath Street are dug up and the concern is the water coming into the roadway. Haymarket Regional Detention Basin has a gauge on the property showing that the last rainfall was less than a two-year storm (.94" of water or 1.5" of rain depending on the particular rainfall gauge).

At the last Board of Supervisors meeting there were two sight distance issues that were raised. Mr. Modricker reviewed the property and in one case trimmed back overgrowth.

Mr. Modricker stated he was appointed to the Centre County Emergency Preparedness Task Force as a Public Works Liaison meeting once every three months.

Mr. Irvin asked about Ash Street prior to the reconstruction, if it was factored into the bid or known prior. Mr. Modricker stated that it would be a cost increase and the hope was not to do a significant amount of work to keep costs down. One of the things that caused a problem was a sinkhole on Ash Street two weeks ago so a good portion had to be dug up just to repair the sinkhole and replace the trench drain.

Ferguson Township Board of Supervisors

September 7, 2004 Meeting Minutes

Page 20

3. Planning Commission Report

Ms. Lang was not present at the meeting. Two of the items in the Planning Commission Report were already discussed. Mr. Mascolo asked where the G. Edwards Company parcel was located. Mr. Kunkle stated that it was the parcel on the right hand side of Science Park Road after entering the Pine Hall intersection, up on the hillside. Between Raytheon and the former Tri-Bio Labs.

4. COG Committee Reports

None.

5. Spring Creek Watershed Commission

None.

VII. Meeting Minutes

1. August 16, 2004 Board of Supervisors Regular Meeting Minutes

Mr. Pytel made a motion to make one minor correction to the August 16, 2004 minutes; a correction on page 72 to change the word "town" to "township". Mr. Pytel then made a motion to adopt with minutes with his correction from the August 16, 2004 Regular Meeting. Mr. Killian seconded the motion. The motion passed by unanimous vote.

2. August 26, 2004 Board of Supervisors Special Meeting Minutes

Mr. Pytel made a motion to adopt the August 26, 2004 Special Meeting minutes. Mr. Killian seconded the motion. The motion passed by unanimous vote.

VI. ADJOURNMENT

With no further business to come before the Board of Supervisors, Mr. Mascolo adjourned the September 7, 2004 Regular Meeting at 10:00 PM.

Respectfully submitted,

Mark Kunkle, Township Manager
For the Board of Supervisors

Date approved by the Board: 09/20/04