

BAILIWICK NEWS

Reporting and critical analysis of State College public affairs

September 30, 2016

Municipal leaders quietly wrestling with Whitehall Road Regional Park planning

By Katherine Watt

As reported in the Sept. 9 and Sept. 16 issues of *Bailiwick News*, there is currently a kerfuffle about whether or how the Centre Region Council of Governments (COG) should move forward with Whitehall Road Regional Park, a multi-million dollar artificial turf soccer complex currently proposed to be built at the end of a gravel road, and served by portable toilets, if permitting, easements and land development approvals fall smoothly into place before the loan drawdown date of June 1, 2017.

Background

In 2010, the COG General Forum unanimously approved a master plan for the Whitehall Road park assuming that the access road and utilities would be paid for by the housing developer for the adjacent parcel. The resolution included the stipulation that revisions to the plan would require additional unanimous votes, and some minor revisions were approved unanimously by the General Forum in 2013.

In 2011, a large Fulton Bank loan was taken out, the bulk of which (about \$5.2 million) was earmarked for the Whitehall Road park project.

However, the adjacent housing development has been delayed over the last five years, most recently due to litigation that successfully challenged the Ferguson Township Board of Supervisors' Nov. 16, 2015 approval of the housing project. On July 18, 2016, the Centre County Court of Common Pleas ruled against the township – finding the 2015 supervisors' actions to be unlawful. The developer has appealed to Commonwealth Court.

Summary of Summer and Early Fall Activity

In July 2016, as the quasi-independent Parks Authority and the COG Parks Capital Committee reviewed a feasibility study about possible workarounds for the lack of private funding for the access road and utilities, their initial plan was to try to get a unanimous General Forum vote to shift funds from park amenities to road access, and abandon utilities as prohibitively expensive.

Accordingly, the Parks Capital Committee recommended that the Executive Committee ask the General Forum to refer a half-dozen questions to the individual municipalities for discussion during August. On July 25, the General Forum approved that

recommendation, and the question list was sent to the municipal boards. However, none of the questions on the list covered the basic issue of who has decision-making authority about whether to move forward at all.

Unfortunately for diehard park advocates unwilling to accept that time has passed and the situation has changed since 2010, on Aug. 1 at the Ferguson Township supervisors meeting, it became clear that unanimous support for moving forward was not forthcoming. The Ferguson board now includes two supervisors specifically elected by voters to protect public water supplies and farmland against development threats, and those supervisors (Dininni and Buckland) are well-versed in the studies demonstrating the high risks posed by development on the fragile karst geography of the Slab Cabin watershed.

In response to the Ferguson discussion, behind the scenes, someone cancelled the Aug. 11 Parks Capital Committee meeting. Someone also asked Terry Williams, highly conflicted as the solicitor for three different legal entities with different legal and financial interests (COG, State College and the Parks Authority), to draft a memo providing legal cover for the position that the Parks Authority would not need to seek COG approval to move forward with spending the remainder of the \$5.2 million loan. Williams provided his memo on Aug. 15. Then someone cancelled the Aug. 22 General Forum meeting.

Relying on the Aug. 15 Williams memo, the Parks Authority voted on Aug. 18 to “reaffirm” their own commitment to completing Phase 1 of the Whitehall project, “recommend” that the COG Parks Capital committee reaffirm its commitment, and instruct staff to solicit contractor proposals for the next planning steps.

Parks Capital Committee Chair, and State College Borough Council President, Tom Daubert duly set the agenda for the Sept. 8 joint Parks Authority and COG Parks Capital Committee, phrasing the item as a “discussion,” not as an action item requiring a vote. Nonetheless, at the meeting, Daubert entertained a motion that the Parks Capital Committee vote to reaffirm its commitment to the regional parks program and endorse the Parks Authority's right to forge ahead without General Forum discussion or vote. With non-negligible hesitation expressed by some members, the Parks Capital Committee approved the motion 4-1.

This was reported to the Parks Authority in its Sept. 15 meeting agenda, prompting the Parks Authority to consider and approve a draft contract between the authority and Stahl Sheaffer Engineers to conduct the WRRP Traffic Impact Study (TIS) for \$90,000, plus up to \$1,000 for standard reimbursable items.

At this point, there had not been a General Forum meeting since July 25, when the issues were referred to the municipalities, and yet the Parks Authority had already approved a contract to spend an additional \$90,000 of the loan balance the municipalities are on the hook to repay.

On Sept. 20 at the COG Executive Committee meeting, the six members agreed to move the topic of the Whitehall Road park's future off of the Sept. 26 General Forum agenda as its own item. Instead of moving it to the consent agenda, where it could be easily pulled out for fuller discussion, they moved it into the Executive Director's report. To the extent a reason was given, it was by Daubert. Relying on Williams' opinion that the Parks Authority had all the power it needed without formal General Forum endorsement, Daubert said there was no need to discuss the issue further.

One major problem with this backroom approach is that, under the COG Articles of Agreement, most of the subcommittees are advisory. They review projects and proposals, and then they refer those projects to the full General Forum with recommendations as to how they suggest the General Forum members vote. The General Forum is where binding decisions that obligate the constituent municipalities occur.

Thus, there are only two logical possibilities. If the Parks Authority needed COG approval to move forward, then the Sept. 8 COG Parks Capital vote wasn't enough, because COG Parks Capital's role is to review, refer and recommend items for General Forum consideration and votes, not to independently make binding decisions. If the Parks Authority didn't need COG approval to move forward, then the Sept. 8 COG Parks Capital vote was a sham, probably designed as a legal fig leaf to reassure prospective contractors that the Parks Authority is good for the money.

On Sept. 26, at the first General Forum meeting since July, a few municipal representatives aware of the strange developments of the preceding eight weeks expressed some objections. State College Councilwoman Janet Engeman moved to add the Whitehall Road park issue to the Oct. 24 General Forum agenda for discussion, and Ferguson Township Supervisor Peter Buckland seconded her motion. During limited discussion, General Forum Chair Eric Bernier stated that, if the motion failed that night,

municipal leaders could still direct their representatives to the Executive Committee to add the item to the next General Forum agenda. Daubert continued to express confusion as to what there could possibly be to discuss, since the Parks Capital Committee had squared everything away so tidily.

The motion failed, with eight votes in favor, 16 votes against, and two abstentions.

COG Executive Director Jim Steff later reported to the General Forum that he had received comments from elected and appointed officials about the scope and cost of the proposed Stahl-Sheaffer traffic study, and that, since the contract had not yet been executed, Steff would try to reduce the scope and cost while still meeting some of the Parks Authority's planning goals.

Steff also reported that Williams had been deployed to approach Penn State officials to identify the process that could be used to negotiate easements across Penn State land to the proposed park site.

CRITICAL ANALYSIS

Bailiwick News believes the project is demonstrably non-viable, and that on Oct. 18, the COG Executive Committee should place the issue on the General Forum agenda for Oct. 24 discussion and vote. One possible version of a proposed agenda item would be "Given the significant increases in financial, planning and permitting challenges that have developed since the original plan was approved in 2010 and amended in 2013, does the General Forum wish to direct the Parks Capital Committee to square the books on the work done to date, retire the Fulton Bank loan, and discontinue the Whitehall Road Regional Park project?"

Bailiwick News is an independent newspaper published Fridays in State College, Pennsylvania.

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