

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
JANUARY 13, 2014

Minutes of the Regular Meeting of Township Council Held on, January 13, 2014 at 7:00 P.M., in the Township Administration Building located at 27 North Pennell Road

Present: M. Amoroso, L. Bradshaw, S. Galloway, M. Kirchgasser, and C. Quinn

B. Clark, J. Damico, Esquire, A. Rothe

1. Chairperson Mr. Kirchgasser called the meeting of the Council to order at 7:07 P.M., and led recitation of the Pledge of Allegiance to the Flag.

2. Approval of the Minutes

Mr. Galloway motioned to approve the minutes for the October 28, 2013 meeting. Ms. Amoroso seconded this motion and Council approved unanimously.

Ms. Amoroso motioned to approve the minutes for the January 6, 2014 meeting. Ms. Bradshaw seconded this motion and Council approved unanimously.

3. COMMENTS FROM THE PUBLIC

Dr. Gary Grove shared with Council and the audience that the Middletown Library received a grant from the Department of Education for the STEM Program. There will be an open house to showcase the program at the library on Sunday January 19, 2014 from 1PM-4PM. This includes a 3D printing demonstration and workshops on various topics. He encouraged all ages to attend.

4. REPORTS

- A. CHAIRPERSON

Mr. Kirchgasser reported there was an executive session prior to the meeting in order to discuss legal issues related to the public hearing taking place later in the meeting regarding Rose Tree Media School District's Conditional Use Application.

Mr. Kirchgasser also noted Dr. Richard Barr, a pediatrician and longtime resident of the township, passed away.

- B. MANAGER

No report

5. PUBLIC HEARING

- A. Conditional Use Application of Rose Tree Media School District for Approval Pursuant to Section 275-19.C(5) of the Zoning Ordinance to Upgrade Existing Bus Fueling Facility at Penncrest High School, 134 Barren Road, to dispense Compressed Natural Gas (CNG) as the Fuel Source for the School District's New and Converted Bus Transportation Fleet

Mr. Galloway motioned to open the public hearing and Ms. Bradshaw seconded the motion. Council approved unanimously.

Mr. Kirchgasser explained to the audience the procedure and the public's right to be a "party" to the hearing. He also described what it means to be a party. Mr. Damico also provided background on the rights of a hearing party and regulations related to appeals.

Mr. Kirchgasser asked the audience if anyone wanted to be recognized as a party. Mr. Joe Hooker, 157 Barren Road; Ms. Anne Ward, 153 Barren Road (who was also representing her husband David Ward); and Mr. Tony Abi-Salloum, 149 Barren Road, requested to be recognized as parties to the hearing.

Mr. Tom Kelly, Esq., representing Rose Tree Media School District (RTMSD) introduced himself and submitted into evidence Exhibit RTMSD-1, which was the Conditional Use Application, and Exhibit RTMSD-2, which was the Proof of Notification to all the applicable property owners. He stated he sent the notifications via certified mail on November 20 and only two came back without signatures. Due to this fact, he sent those two property owners personal letters regarding the matter on December 5. He also noted he sent a letter to Riddle Memorial Hospital.

Mr. Kelly then went on to provide background to the case, stating RTMSD is a political subdivision of Pennsylvania and the school facilities on Barren Road have been permitted conditional use. He then detailed past occurrences conditional use was granted and noted the latest application was filed on November 20, 2013. This conditional use application is seeking to upgrade the transportation facility by installing a padded facility for compressed natural gas (CNG) and expanding the current dispenser island that already has diesel to also include a natural gas dispenser as well. This is an energy saving project that is being funded by a grant RTMSD was awarded by the Pennsylvania Department of Environmental Protection (PADEP) of almost \$500,000. The purpose of the grant was to purchase 15 new, CNG-powered buses and convert 8 current buses to CNG. As a result, RTMSD wishes to be able to fuel these buses at the transportation facility. He then introduced the 3 witnesses he would be calling on behalf of the school district: Phil Solomon, Graham Barker, and Jim Wigo.

Mr. Galloway asked how many buses made up the school districts fleet. Mr. Kelly answered 71 and went on to point out this project would have multiple phases and that it would take a number of years to complete. He also notified Council RTMSD had another opportunity to apply for a second grant.

The first witness was Phil Solomon, project head and Senior Account Executive Mechanical Engineer for Johnson Controls. Mr. Kelly asked him a number of questions to establish his credibility as a witness for this matter. He then continued to ask Mr. Solomon a series of questions related to the

application for conditional use. Through these questions, it was learned that Johnson Controls was contracted by RTMSD to help with energy saving efficiencies and found that there would be substantial savings to the school district if it changed from diesel fuel to natural gas. This was based on the amount of buses, as well as, their routes. As a result of these findings, Johnson Control encouraged the school district to apply for the PADEP grant in February 2013, which could be used to help offset the premium for the conversion to CNG.

As part of the grant application, Mr. Solomon noted Johnson Control conducted a preliminary analysis to design a program and facilities needed to accommodate the school buses if the grant was approved. In between the grant submission and the final design, a full, detailed design was established that outlines the appearance of the fueling station and how it would operate. To illustrate this, Mr. Solomon presented several plans. These plans were submitted into evidence as Exhibit RTMSD-3a, 3b, 3c, and 3d.

Mr. Solomon presented RTMSD-3a to Council, which was a site plan of the existing transportation department where buses are fueled and parked. The plan's first component would have PECO run a natural gas line in their right of way side, along Barren Road. He noted there would be no large trench made since it would be run with a directional drill and that it would run for approximately 3700 feet from the largest main to the school district property. It would then connect to the cement equipment pad. Mr. Solomon went on to state that Exhibit RTMSD-3b and 3c were diagrams of the equipment pad. Mr. Kelly asked Mr. Solomon to elaborate on the construction of the pad. Mr. Solomon described the pad as being made of cement and enclosed on 3 sides with 8-foot cinderblock walls. The fourth side would be enclosed with a locked, chain-link fence. The pad would measure 16.8 feet X 44.8 feet and would not have a roof.

Mr. Solomon then referred to Exhibit RTMSD-3c to show the various stages of the PECO line. He reported that once on the pad, this line would go through a dryer to remove the moisture from the CNG. Then it would go through two compressor stations and continue to 3 cylinders (also known as vessels), which contain the CNG at different pressure levels. Finally, the CNG would go to the fueling station. In order to access the natural gas for fueling purposes, a keycard would be needed to unlock the station.

Mr. Kelly asked who would be responsible for installing the line running from Barren Road to the pad. Mr. Solomon stated it is installed and owned by PECO. The installation would be completed as per the utility code. He reported PECO was responsible for this line up to a gas meter at the equipment pad. From that point forward, the school district would be responsible for the pipe line. He then presented samples of the type of piping to be used for the underground and above ground piping and noted where each would run.

Mr. Galloway asked how long Barren Road would be affected. Mr. Solomon did not know and Mr. Kelly noted PECO did not provide that information to date.

Mr. Kelly continued his questioning of Mr. Solomon, which revealed a storm water management plan was established. Mr. Solomon noted some of the details for the plan were shown in Exhibit C2, which illustrated the storm water would be directed to a seepage bed and then into an existing catch basin. Mr. Solomon reported this plan was already submitted to the Township but he was

unaware if it had been approved yet. He went on to state there was no Land Development Plan needed, due to the size of the equipment pad being less than 1,000 feet.

Mr. Solomon then went on to discuss the dispenser, as per Mr. Kelly's questioning. He stated the dispenser extends along the existing fuel line. There is already an existing dispenser for the diesel buses and this one would be an additional one, with two hoses. The installation for the CNG dispenser units would not have a negative impact on the existing diesel dispenser. When dispensing fuel into a bus, Mr. Solomon reported it would be about the same time as it currently takes to fuel a diesel bus and it looks no different when a CNG-fueled bus is being filled compared to a diesel bus. Mr. Solomon noted the fuel would be dispensed as fast-fill, not time-filled.

Mr. Kelly asked Mr. Solomon if the conditional use application complies with the applicable criteria or standards and he answered in the affirmative, noting the school district would satisfy those standards, if approved.

Ms. Amoroso inquired if the equipment pad was a replacement and Mr. Solomon answered that it would be new and sit behind the existing transportation building.

Ms. Bradshaw asked if the new gas line being put in by PECO was solely for Penncrest High School. Mr. Solomon assumed it would be a general use line that any property owner could tap into if they chose to. She then went on to ask if it was a normal gas line that would be on any street and Mr. Solomon answered in the affirmative. When Ms. Bradshaw inquired why PADEP was encouraging the use of CNG over diesel, Mr. Solomon explained CNG was cleaner burning and safer for the environment compared to diesel, financially cheaper than diesel, and produced in the United States. He also stated there were no fumes and very little odor compared to diesel. In response to Ms. Bradshaw's other questions, Mr. Solomon reported the facility would have continuously compressing, above-ground tanks (tanks refill on their own) and the noise level associated with the compressor would be "well within the limits" permitted.

Mr. Galloway asked who would be responsible for the fueling of the buses. Mr. Solomon answered RTMSD, noting the bus drivers would likely fuel these buses as they already do with the diesel. A key card would be needed to fuel the buses for safety purposes. Mr. Kelly interjected, stating the fueling process would look the same as if fueling a diesel bus. He also commented that there was less odor and no risk of spill.

Mr. Rothe asked Mr. Solomon to confirm CNG was not a liquid and Mr. Solomon did so, commenting that it was still in the gaseous form. Mr. Rothe then went on to state he did not believe PECO would be able to complete the piping project in days, as Mr. Galloway asked previously. He believed it could actually take months.

Mr. Kirchgasser then opened the questioning of the witness to the parties. Ms. Ward inquired about the location of the catch basin for the storm water plan and, referring to RTMSD-3c, Mr. Solomon indicated it would be on the school district's property. Mr. Hooker then asked if the plans were discussed for two years and Mr. Solomon confirmed this to be the case. Mr. Hooker then asked if there was any outreach to residents during that time. Although answering the superintendent was better suited to answer that question, Mr. Solomon did note he presented information on the project at RTMSD board meetings, which were open to the public.

This concluded Mr. Solomon's presentation as a witness. Mr. Kelly then called Graham Barker of Air and Gas Technology as the next witness. Mr. Kelly asked him a number of questions to establish his credibility as a witness for this matter. He then continued to ask Mr. Barker a series of questions related to the properties of CNG and how it actually functions in the system. Through these questions, it was learned that Air and Gas Technology was contracted by RTMSD in early 2013 to review the vehicle operating parameters and to assist in the design of the fueling facility for the initial phase and expansion.

According to Mr. Barker, Air and Gas assisted with the plan design that was presented tonight in Exhibit RTMSD-3. His company's role in the plan was to best determine the types and sizes of the equipment needed to construct the fueling facility. With the help of Oxford Engineering, they designed the pad, the wall enclosures and retention basin, etc. He emphasized Air and Gas Technology's role in the project was limited to the physical operation of the CNG component. Using Exhibit RTMSD-3C, Mr. Barker then detailed how the operation of fueling would take place, from the PECO pipe line to the dispenser. He emphasized CNG would not pass at the dispenser unless a connection was made. In addition, a card-reader system would be in place, similar to the diesel system already in use, which will prohibit fueling unless the card activates the system first.

Mr. Kelly asked if there were certain standards that have to be adhered to with respect to the vessels and compressors. Mr. Barker answered in the affirmative, explaining that the United States standards are based on National Fire Protection Association-52 (NFPA). He described NFPA-52 as the "bible for installing the station" and noted the standards cover setbacks from buildings and property lines, minimum safety requirements, etc. He reported the vessels used would be code certified by the American Society of Mechanical Engineers (ASME) and would have a pressure rating of 5500 pounds. Although the compressors do not have any ASME requirements, the manufacturers used will comply with guidelines and standards set forth by NFPA-52.

When asked By Mr. Kelly if the vessels and compressors were subject to vandalism, Mr. Barker acknowledged anything was possible if somebody was determined enough, but noted the area would be walled and fenced, and extra cameras were to be erected. He believed this would deter vandalism from happening. He went on to report everything on the pad was designed for high pressure and that it would be very hard to do anything to the vessels or piping as a result.

Mr. Barker then reported on the differences between CNG and propane, which were very similar to what was previously reported during Mr. Solomon's testimony. When asked about the noise level to be expected, Mr. Barker stated it is about 85 decibels within 10 feet of the compressor; however, "there is no noise to speak of at all" at the property line.

Ms. Bradshaw asked where the moisture goes and Mr. Barker stated the dryer absorbs the moisture, which is collected periodically. The collection occurs as-needed; once or twice per year. Although it is disposed of as hazardous waste, he reported the moisture is basically water. Ms. Bradshaw then asked about the safety of the tanks on the buses using CNG and if it is possible to overfill the bus tanks. Mr. Barker stated a bus tank could not be overfilled due to the pressure relief valves on the dispensers and bus. He went on to report the buses have their own set of requirements they must satisfy and noted the wall technology is advanced. The cylinders are 100%

composite and must meet standards and regulations set forth by the National Institute of Safety. Before this Institute certifies cylinders for a CNG-fueled bus, they are impact tested to withstand armor piercing bullets and fire tested. Ms. Bradshaw then asked if this would be safer than a gas tank and Mr. Barker answered in the affirmative.

Mr. Kirchgasser inquired what the failure rates were for the transfer of gas at such a facility type. Mr. Barker noted that a 2010 report indicated no deaths have ever been attributed to the use of natural gas worldwide. Mr. Kirchgasser then asked what type of education would take place in relation to this new facility and Mr. Barker reported the fire department would receive background training on CNG. Then, once active, the facility's operators and emergency services representatives would receive training on CNG and how the facility functions.

Mr. Rothe asked who would be responsible for building the facility. Mr. Barker reported both Air and Gas Technologies and Oxford Engineering would be charged with this task. Mr. Rothe then suggested that an outside agency should come in to inspect the facility as it is installed. Mr. Barker noted the general construction would be subject to the municipality's building codes and standards. In addition, Pennsylvania Labor and Industry inspects these types of projects as an independent third party. Lastly, the municipality's fire marshal inspects based off of NFPA-52. Because of the project being atypical compared to other projects in this municipality, Mr. Rothe still recommended another 3rd party be contracted for an inspection. Mr. Barker stated he was not against this if Council found it necessary.

Mr. Clark asked why there was no roof enclosing the pad on the plan. Mr. Barker reported it was not necessary because all of the equipment being installed had their own enclosures. In addition, natural gas rises and having a roof would trap the gas. If a roof was added, then gas detectors would become necessary. He emphasized there is no equipment or safety concerns associated with not having a roof.

Mr. Kirchgasser then opened the questioning of the witness to the parties. Mr. Hooker began by questioning the time-fill peak hours being when homeowners are asleep (6PM-6AM) and Mr. Barker stated the facility would not be operating as time-fill, but as "quick-fill only," which means fueling will occur and operate just as the diesel currently does with an attendant filling it, usually during day hours.

Mr. Abi-Salloum asked if the facility as proposed would be able to fuel the complete fleet. Mr. Barker answered in the negative, stating it would only being built with two compressors. He did note, however, the plan was designed to leave room for a possible third compressor to be added in the future. This compressor, if added, would stay within the structure. Mr. Barker also commented that timing is a factor of consideration since all vehicles could not be fueled in a single hour. When each bus is fueled would be determined by the facility's fleet manager. Following this line of questioning, Mr. Kirchgasser noted that if the school district did decide it wanted to add a third compressor or make any other changes not specific to the current application, RTMSD would have to present to Council again.

Mr. Kelly entered into evidence Exhibit RTMSD-3a, b, c, and d. He then called the Superintendent of RTMSD, Jim Wigo, as a witness. Mr. Kelly asked him a number of questions to establish his credibility as a witness for this matter. He then continued to ask Mr. Wigo a series of questions

related to his role as Superintendent of the school district and district operations, as well as questions related to RTMSD's application for a CNG fueling facility at the high school.

Mr. Wigo reported the contracting of Johnson Controls originally came about due to the district's interest in the Guaranteed Energy Savings Act and the guarantee that if equipment across the board was upgraded, there would be significant cost savings. He noted Johnson Control asked the school district if it would be interested in a study being conducted of the Lower Merion School District's CNG bus fleet to see if there were actual savings realized by making the transition. Through Board resolution, RTMSD authorized Johnson Control to conduct the study, which showed an opportunity for significant savings with a gradual conversion of the bus fleet from diesel to natural gas. Mr. Kelly asked if there were concerns about the current operation of the fleet and Mr. Wigo answered in the affirmative, explaining about one million miles is traveled by the fleet on a whole during the school year. He emphasized RTMSD is "constantly and always" looking for ways to operate more efficiently. The district felt Johnson Control's study showed converging to a predominantly natural gas bus fleet would help achieve efficiency and be environmentally better for the community.

Mr. Kelly then had Mr. Wigo discuss the grant the school district received from PADEP. Mr. Wigo reported RTMSD was eligible for a grant of up to \$500,000 for the first round of the project. The application was made in February 2013 and preliminary approval was granted by the PADEP in May of the same year for just under \$500,000. The grant application stipulated that if approved, the money had to be used for the purchase of new CNG-powered buses or converting diesel buses to natural gas. As part of the calculations provided by Johnson Controls, RTMSD determined this money would best be spent on purchasing 15 new buses and converting 8 diesel-powered buses to CNG.

Mr. Kelly asked if there were any indication on how the facility would be used in the application. Mr. Wigo explained the application "wanted to leave every door open to the possibility of using the facility to the utmost." As a result, the application did note exploring the possibility of providing CNG for other municipalities if they were interested in entering into an agreement with RTMSD; however, it was later determined this idea was not in the best interest of the school district. Mr. Wigo reported a letter was sent to Mr. Clark the week of January 6, 2014 indicating the school district no longer had any interest in using the fuel station for any other purpose than fueling district vehicles. Mr. Kelly presented this letter to Council as Exhibit RTMSD-4.

Mr. Wigo reported the fueling system for the CNG would be used the same way as the current diesel system. The hours of operation will generally be between 6AM-6PM during the week, as it currently is for the diesel buses.

When asked by Mr. Kelly if the school district intended to convert all the buses to CNG, Mr. Kelly reported RTMSD applied for another PADEP grant in the amount of \$300,000, which would be used for an additional 12 CNG-powered buses. Mr. Wigo emphasized that the district believes moving in this direction is beneficial to the environment and helps RTMSD maintain financial efficiency. He noted some diesel-powered buses would be maintained due to the fact that there are not enough CNG filling stations along field trip routes.

Mr. Wigo informed Council and the audience that there is a multi-tiered video camera surveillance system, which will be utilized to secure the fueling station. In addition, there will be additional lighting with motion sensors and the fencing already discussed at the station.

Mr. Galloway inquired what the comparative cost was between purchasing a new bus and retrofitting, and Mr. Wigo reported \$70,000. In response to Ms. Amoroso asking if there were operating cost savings, Mr. Wigo stated it was considerably less expensive to operate CNG buses, based on his conversations with Johnson Controls and Lower Merion. She then asked how long Lower Merion has been operating with CNG and he answered 15 years. He also noted there are no other districts in the area with CNG buses.

Mr. Kirchgasser then opened the questioning of the witness to the parties. Mr. Abi-Salloum asked when the purchases would take place. Mr. Wigo informed him the first 15 new buses and 8 retrofitted buses are ready to be purchased at present and the additional 12 would take place if approved during the second round. Mr. Abi-Salloum then asked Mr. Wigo to confirm if the actual projected savings would be a net of \$1,000,000 over the next 20 years. Mr. Wigo verified this was accurate. He then asked what the annual budget of the school district was and Mr. Wigo stated \$80,000,000. Mr. Abi-Salloum then commented about the grant application's intent and buses. Ms. Amoroso and Mr. Kirchgasser informed him that anything that was not within the proposed application currently in front of Council would have to be brought back to Council for approval prior to RTMSD making a change.

Mr. Hooker asked Mr. Wigo to enter a legally binding agreement with the residents of the neighborhood to set aside expansion plans. Mr. Wigo stated the school district will abide by the rules and regulations of the Township. He reiterated the district has no intention to use the facility for anything other fueling district vehicles. Ms. Bradshaw informed Mr. Hooker private citizens do not engage in agreements of this nature but assured him that if the district's intent to use the facility in any other way than what is presented at this meeting changes, they would have to come before Council for approval.

Ms. Ward asked if it would be possible to see the second grant application. Mr. Wigo stated that could not be done until the application was approved.

Mr. Kelly reported Mr. Wigo's testimony was completed and entered Exhibit RTMSD-4 into evidence. He then concluded his client's representation during this hearing.

Mr. Kirchgasser invited the parties to submit evidence. Mr. Hooker presented Exhibit H-1, which was a proposed agreement between the district and the residents. He then entered Exhibit H-2, which was a petition signed by neighbors that requested restrictions to the conditions of the agreement. Lastly, he entered Exhibit H-3, which was the grant application to the state of Pennsylvania filed by the district. Mr. Clark noted it was only 3 pages long and not signed. Mr. Kelly commented that was not the application filed by the district since their application was around 30 pages. Mr. Abi-Salloum did not have any evidence to present. Ms. Ward then asked if Council had a copy of the grant application. Mr. Kirchgasser answered it was not submitted into evidence. Mr. Clark clarified that the Township was previously provided with a complete copy of the grant application; however it was not submitted into evidence for this particular hearing. Mr. Quinn also noted that whatever the intent indicated on the application was, it may differ from what may be

approved at the hearing in front of Council. Ms. Ward wanted to have the copy of the application she procured on her own entered into evidence. Prior to this being allowed, Mr. Kelly had his client verify it was the actual application. Mr. Kelly verified it was the correct application but noted the application was for the purchase of buses and had nothing to do with the CNG fueling station being presented to Council.

Mr. Kirchgasser summarized for the audience what the hearing currently taking place was for. He then asked for final statements. Mr. Kelly began, commenting that only the District's installation of the fueling facility was at issue; not the grant application. He noted PECO's new gas line was clarified, the environmental benefits and cost effectiveness of CNG was presented, and RTMSD vehicles would be the only vehicles using the facility with the rare exception for an emergency vehicle in an emergency situation. Mr. Hooker stated he didn't want to have to come back to Council and he would be satisfied with the restrictions Mr. Kirchgasser summarized. Ms. Ward noted the recent letter Mr. Wigo submitted to the Township seemed to address the issue of who would be using the facility but was disappointed nobody at the hearing had the grant application, and that nobody previously knew the gas line route or length of construction time. She thought these items should have been in the original proposal. Mr. Abi-Salloum ended by stating there were many variables in place and that he did not believe there was a huge financial savings. He noted the language about only RTMSD vehicles using the facility could have been included at the beginning of this and that he wants the condition added.

Mr. Damico asked Mr. Hooker to move Exhibits H-1, H-2, and H-3 into evidence and he did so. Ms. Ward also moved to have Exhibit Ward-1 (the grant application) entered into evidence. Mr. Damico reported the proof of publication of the hearing would also be entered into evidence as Exhibit T-1. The hearing was advertised on December 27, 2013 and January 3, 2014.

Ms. Amoroso motioned to close the hearing and Mr. Quinn seconded it. Council approved unanimously.

In the final comments, Mr. Kirchgasser noted Mr. Hooker sent a request to Mr. Kelly. Mr. Kelly and Mr. Damico reviewed the resident requests and the basics have been satisfied based on the testimony received this evening. Mr. Damico commented there were two resident requests that were unable to met because they were "unreasonable" and went into detail for why those two requests could not or should not be satisfied. He then explained how all requested future changes would have to be presented to Council, just as this current application was.

Mr. Kirchgasser then asked the audience if there were any additional comments. John Bartholomeo, 16 E. Glen Circle, expressed he believed the neighbors' issue is that the grant application states the facility would be used by other, non-district vehicles as well, and their concern was the state requiring the grant to be used in that manner, regardless of the Township's ruling. Mr. Kirchgasser informed Mr. Bartholomeo that Council is charged with ruling on what was presented to the Township and the grant application is a matter between RTMSD and the State. When Mr. Bartholomeo questioned what would happen if the State instructed RTMSD to either expand the usage or give the money back, both Mr. Kirchgasser and Ms. Amoroso reiterated that would be between the district and the state. Ms. Amoroso asked Mr. Kelly if the grant's approval was conditioned upon the facility being used by other entities. Mr. Kelly stated the application did not state it would guarantee this use and only noted RTMSD would "explore prospects of other

governmental entities using the facility if it was appropriate and entering into agreements to do that." Mr. Kelly went on to say RTMSD determined as the project unfolded that it would not be appropriate and decided to restrict the use to only district buses. He also stated PADEP was already made aware of the restriction of use and took no issue with this decision. Lastly, he noted the grant was predicated on the amount of road miles being used; not other conditions.

William Evans, 5 Foxwood Road, commented he felt projects by the district should come "before some kind of body" prior to this approval stage. Dr. Gary Grove, 275 New Darlington Road, asked what the intent of the new application before the PADEP was and if it is stipulated RTMSD was no longer seeking an expanded facility. Mr. Barker responded, stating the CNG fueling facility is only part of the first round application. Mr. Solomon also commented the second application mentioned no use for the public.

Ms. Khalifa, 149 Barren Road, voiced her concern being not the school district's intention but the process. She found it alarming that that it was a 2 year project and the neighbors only found out about it in November. Mr. Kelly brought to Council's attention that RTMSD held public forums in the summer and December 2013, which were both advertised, and the school district also followed proper notification as per the Township zoning requirements. Mr. Evans commented that none of the public meetings ever noted facility-use by governmental entities. Ms. Amoroso also responded, stating she was not aware prior to receiving her letter and that sometimes Council "learns things just as you learn them."

6. NEW BUSINESS

A. Review of Conditional Use Application 2013-5—Rose Tree Media School District, 134 Barren Road (Penncrest High School)

Mr. Galloway expressed to Chairman Kirchgasser that he believed Council needed to look at all the evidence since Council did not have the chance to review the new exhibits presented by Mr. Hooker and Ms. Ward at the hearing. Mr. Galloway motioned to continue this matter until at least the general meeting scheduled on January 27, 2014 at 7:00 PM. Ms. Amoroso seconded this matter, noting the hearing was already closed and no additional evidence will be heard at that time. Mr. Damico stated all exhibits would be made available at the Township, as well as the testimony notes recorded at the hearing. Lastly, he noted he would work with Mr. Clark to draft a proposed resolution with conditions for review by Council prior to the next meeting. Council approved unanimously.

Ms. Amoroso motioned to move Agenda items 6C and 6D forward. Mr. Galloway seconded this motion and Council approved unanimously.

C. Authorize PADOT Application for Traffic Signal Approval—W. Forge Road at N. Middletown Road.

Mr. Clark reported that state transportation funds were included in the recent passage of the Transportation Funding Bill in December 2013 to add a permanent traffic signal at the abovementioned intersection. Representative Killion recommended that the Township send a letter to Pennsylvania Department of Transportation (PADOT) regarding this matter, and in response PADOT informed Mr. Clark that a formal application needed to be submitted. Mr. Clark presented the formal application to Council for review.

Mr. Quinn motioned to move the proposal forward to PADOT and approve the resolution and application, Ms. Bradshaw seconded this motion and Council approved Resolution 2014-21 unanimously.

D. Review of Zoning Hearing Board Application 2014-01—D'Angeli—203 Highland Avenue

Mr. Clark presented an application from a property owner at the abovementioned address who requested to construct a free-standing garage with one side only being 5 feet from the property line. It was being presented to the Zoning Hearing Board because the zoning district requirements for that property require a 10 foot side yard setback.

B. Proposed amendment of SU-1A Mixed Use Zoning District—Residential Use Provisions

Mr. Kirchgasser introduced Mr. Patrick McKenna as solicitor for the Township for the proposed amendment of SU-1A Mixed Use Zoning District. Stephen Polaha then introduced himself as the attorney representing Mark Dambly and Frank McKee, the developers for the Franklin Mint Town Center property. In addition, he noted Kevin McLaughlin (developer's in-house counsel/Senior Vice President of McKee Group), Katherine Black (Vice President of McKee Group), and P.J. Close (developer's engineer/Kelly & Close Engineers) were also present.

Mr. Polaha reminded Council the property was already approved and zoned as SU-1A Mixed Use District. Using a diagram of the property, he noted where the property's different types of uses would be located. He reported the "Westerly end" of the property identified as residential, retail/restaurant, and general office use is where the proposed ordinance amendment made changes to the regulations for SU-1A Mixed Use District. Mr. Polaha referred Council to the Land Use Plan and noted the proposed changes:

First, Mr. Polaha proposed a change to Section 275-117-3B. Currently this section restricts the residential dwellings to be limited to ages 55 years or older. The McKee/Dambly partnership requested to change this restriction to eliminate the age-requirement restriction for the residential units. Second, he proposed a change to Section 275-117-4E and stated the McKee/Dambly partnership wished to change the approved 200 residential units to 350 units. Mr. Polaha commented that there was discussion about the density 150

extra units would create. To address this issue, the partnership would like to add wording that the 350 units were permitted on a tract with a density not to exceed 15 residential units per acre. Mr. Polaha noted Mr. Clark reported to him the current ordinance for the 200 units in the area on the diagram marked "B" had a density of 15 units per acre. Finally, the developers also proposed a third change to the land use plan, amending areas marked "C" and "D" as areas for retail/restaurant and office space to now also be a location for residential use. By doing this, the developers would be able to maintain the 15 units per acre and there would be a considerable reduction in retail space.

Mr. Dambly then went into detail about his and Mr. McKee's plan to replace a significant amount of retail with 150 age-targeted residential units. There were several reasons for this change. First, the demand for retail has decreased while the demand for residential has increased. Second, they believe increasing the residential use of the property would make the retail/restaurant areas of the property more marketable. Mr. Dambly emphasized the developers were facing a credibility issue with the marketplace. Since this is the case, they needed to move forward expeditiously to gain credibility in the market. Mr. Dambly assured Council these requested changes in no way affect the other conditions or obligations already agreed upon with the Township (i.e. traffic improvements, design standards, material types, etc.).

Although the majority of areas marked C and D were now proposed to be residential, Mr. Dambly noted he would like to maintain flexibility for commercial space on a portion of this area due to Wawa showing interest in building corporate offices there.

Mr. Dambly then showed Council a diagram showing the original plan and noted where the changes would take place in more detail than Mr. Polaha previously did; pointing out where the age-targeted units and Wawa would be located. When discussing the residential units, Mr. Dambly highlighted they wanted to change from an age-restricted community to an age-targeted community because the market is no longer favorable to residential units with age restrictions. He then stated he did not believe the demographics would be affected greatly by making this change because the types of residential units offered would be more favorable to old people; not families with school-age children.

Mr. McKee noted for the audience the only areas affected by this change would be Valley Road and South. He also pointed out two box stores were being eliminated to allow for more residential units.

Mr. Kirchgasser asked if the exchange was eliminating 300,000 square feet of retail for 150 residential units and both developers answered in the affirmative. Mr. McKee noted the only exception would be for Wawa if it chose to move forward with expanding their corporate offices.

When asked by Ms. Bradshaw if the 15 units per acre included the open space, Mr. McKee stated it did not. Ms. Bradshaw expressed her concern with allowing 15 non-age restricted units on 1 acre of land after spending a year with Ponds Edge and Skycrest to get them both to stay under 4 units per acre for non-age-restricted residences. Mr. McKee stated they already have approval for 200 age-restricted units, but the market is not favorable to such a community and they would still be targeting the older age group. Ms. Bradshaw noted she still found it hard to justify 15 residential units per acre that is not age-restricted. Mr. Clark commented residential density was not part of the discussion when the original plan was approved, most likely because there was only one tract of land at that time put aside for residential use. Ms. Amoroso asked if the density figure established was based off of the 200 residential units already approved and Mr. Clark answered in the affirmative. He went on to state this density figure in the new proposal would remain the same, but apply to more acreage.

Ms. Amoroso asked what would happen if Wawa did not build on the property. Mr. Clark stated the developers would still be limited to only 350 units, regardless if Wawa builds or not.

When Mr. McKee noted again that they were already approved for 200 units, with 15 per acre, Ms. Bradshaw emphasized it was approved as age-restricted. Mr. Dambly then commented that the open space was not part of the density calculation. Ms. Bradshaw said she would like to know what that calculation would be because the density per acre would be less than 15. Mr. Close reported he believed it would be between 4-8 units per acre if the open space was calculated as well; however he did not have exact figure at the time. Ms. Bradshaw said she would like to know what this figure would be.

Mr. Galloway asked Mr. McKenna if there were any other changes in the proposal that Council should be made aware of. Mr. McKenna reported he did not; however, his partner Bob Adams had a concern related to the definition of tract. Mr. McKenna commented that he did not see this as an issue because the land use plan will dictate specifically where on the tract residential units can be built. Mr. Clark stated he believed it came down to how the word tract is used. If it says no more than 350 units are permitted with a density of 15 units per acre in the area marked for residential use, then it would provide flexibility to change Areas C and D if necessary while holding the developers to a maximum amount of residential units. He suggested the developers define the density of 15 units of acre over the area to be developed for residential units. The developers noted they would not have a problem doing so. Mr. Rothe then commented that he saw no problem with the word tract because the zoning only allows for residential in the areas labeled as B parcels.

Mr. Rothe also noted he too wondered about the density of the parcels and thought it would be prudent for these calculations to be completed. He commented this was what Ponds Edge did. Ms. Bradshaw and Ms. Amoroso agreed with this, with Ms. Amoroso noting it would maintain consistency. Mr. McKee refuted this notion, stating they have already

been approved for 200 units and density was never brought up throughout the whole process until earlier in the day. He emphasized the proposed changes eliminated 300,000 square feet of retail for residential and could keep Wawa in the Township.

Mr. Kirchgasser stated he believed this exchange made sense and that it looked better in the broader picture since the developers for the Granite Run property would be adding retail to the Township in the upcoming years. He went on to state this exchange effectively balanced both the Franklin Mint and Granite Run property. Mr. McKee also noted additional residential units could also benefit the retail at the mall property. Mr. Kirchgasser agreed.

Mr. Quinn asked if the developers would consider 150 non-age restricted but leaving the restriction on the other 200. Mr. Dambly answered in the negative, stating the market is not favorable to any age-restricted development at present. Mr. Quinn expressed that he felt 300 units was too dense for the property.

Mr. Galloway asked Mr. Clark if the language of the amendment had been agreed upon. Mr. Clark stated the change was to section E and would read "No more than 350 residential units shall be permitted with a density not to exceed 15 units per acre on the area proposed for residential use." The phrase "on a tract" would be removed.

Mr. Galloway motioned to introduce an ordinance with the amendment which has been placed on the record and approved by the applicant. Ms. Amoroso seconded this motion.

Mr. Kirchgasser asked for public comment prior to the vote. Kathleen Smith, 58 S. Pennell Road, expressed the 75% increase in the residential units was too much and she shared Ms. Bradshaw's concern about consistency with zoning. Sandy Duckett, 220 Hunter Street, was looking for a definition for both age-restricted and age-targeted. Mr. McKee explained age-restricted meant 80% of the buyers would have to be 55 years or older in the community while age-targeted meant the community would be designed for 55+ age range, but not restricted to only that age group. He emphasized this type of community is not set up for children. Ms. Duckett continued, stating without an age-restriction, the developers could not guarantee an influx of school-age children. Mr. Dambly stated this would be doubtful and his experience had shown that most buyers for these types of communities remain in the 55 years or older range.

Dr. Gary Grove, 275 New Darlington Road, stated he also agreed with several of Council in the density being too high. He also stated an agreement was already reached and residents were comfortable with it, and before moving ahead, the same type of density comparison done for other developers needed to be done for this as well. Ms. Amoroso commented the open space was not part of the calculation and she believed Dr. Grove was commenting that the Township has done the calculation that way in the past for other parcels in that area. Therefore, they may sound like they are only 4 per acre but it could be the same. Mr. Dambly reported it is somewhere between 4 and 8 acres. He also reminded Council that

when they previously presented the original proposal, there was great opposition to "big box retail." They are now proposing to eliminate two "big box retailers and a sea of parking" in exchange for 150 units similar to what was already approved. He felt this exchange was fair. Mr. Galloway also commented that the big box retailers were the issue before so he did not understand what the reluctance was about. Mr. Kirchgasser expressed he felt the exchange was worth making.

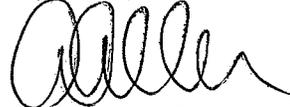
The motion approved with a vote of 3-2 (Ms. Bradshaw and Mr. Quinn opposed).

Mr. Clark noted the next step would be to send the ordinance to Township and County Planning Commissions for their next review meeting in February. A public hearing would then be scheduled in front of Council. It is possible that may make the schedule for the second meeting in February.

7. ADJOURNMENT

Mr. Quinn moved to adjourn the meeting, Ms. Bradshaw seconded the motion, and Council approved unanimously. The meeting adjourned at 10:15 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allen", written in a cursive style.

Amanda Allen, Recorder

L.H.

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