

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

January 14, 2013

Minutes of Regular Meeting of Township Council Held on Monday, January 14, 2013 at 7:00 PM in the Township Building, 27 N. Pennell Road

Present: L. Bradshaw, R. Carlson, S. Galloway, M. Kirchgasser, C. Quinn,
N. Shropshire
B. Clark, J. Damico, Esq.

1. Chairperson Ms. Bradshaw opened the meeting with the Pledge of Allegiance to the Flag.

Ms. Bradshaw announced that Robert Adams, Esquire, Township Special Solicitor for matters relating to development of the Franklin Mint property, met with Council in Executive Session prior to tonight's meeting to discuss proposed revisions in the ordinance amending the sign provisions and other sections of the SU-1-A Mixed Use District (Agenda Items 6C, 7C). Council also discussed legal issues between some neighbors.

2. Special Presentation

Ms. Bradshaw explained that Council members wanted to thank Scott Galloway for his leadership as Chairman of Council for the last seven years and for his twenty years of service to the Township.

Mr. Kirchgasser stated that it has been a distinct pleasure for Council members to have had Scott Galloway as their leader. Among other achievements Scott navigated Council and the Township through two of the largest land development proposals to come before Council.

As a token of appreciation Mr. Kirchgasser presented a gift certificate from Council to Scott for a "night on the town for two". In recognition of Scott's leadership and years of service to the Township, he presented a plaque to Scott containing the gavel he used as Chairman of Council.

Mr. Galloway expressed sincere appreciation for the gifts and thanked Mr. Kirchgasser for his kind words. He stated it has been an honor to serve as Chairman of Council, and he assured everyone that he will continue to serve as a member of Council. He explained that he has taken the "rookie chair" at the Council table and plans to listen more and say less in

the future. He stated he is confident that Ms. Bradshaw and Mr. Kirchgasser will do an excellent job as Chairperson and Vice Chairman.

Mr. Damico pointed out that he has had the pleasure of working with Scott since he was elected to Council in 1993 and as Council Chairman for the past 7 years. He stated that the residents of Middletown are extremely fortunate to have a person of Scott's caliber volunteer to serve our community. In addition to devoting time to his family, his law practice and other endeavors, Scott somehow managed his time to provide endless hours and valuable service to our community. As Chairman Scott guided the Township through difficult times, times involving controversies on issues having meritorious positions on both sides when residents were diametrically opposite in their positions. His patience, his leadership, his guidance and his sense of fair compromise resulted in decisions in the best interest of the Township. At Township Council meetings and in public hearings Scott was in command of the room. He was fair, he was firm when necessary, and he always gave everyone an opportunity to be heard. Scott was an excellent leader.

Mr. Damico asked everyone to join him in a standing ovation for all Scott has done for Middletown Township.

3. Approval of Minutes – November 26, 2012 Regular Meeting

Mr. Shropshire moved for approval of the Minutes of the November 26, 2012 Regular Meeting. Mr. Kirchgasser seconded the motion, and the Minutes were approved as written by vote of 5-0; Mr. Carlson abstained from voting because he was not present at the meeting.

4. Comments from the Public

There were no comments from the public.

5. Reports

A. Chairman: Ms. Bradshaw displayed a plaque presented to the Township by the Rose Tree Media Relay for Life in appreciation of the Township's support of the annual Relay for Life overnight fundraising event for the benefit of the American Cancer Society that is held in the spring in the Penncrest stadium.

Ms. Bradshaw announced the passing of Dr. Walter Kepler on December 27th, and expressed the Township's condolences to his family. She noted that Dr. Kepler served on the Board of Health since 1998, and she thanked his family for his many years of service to the Township.

B. Manager: Mr. Clark stated that the AARP Tax Preparation Program will be held at Granite Run Mall beginning February 5th through April 11th on Tuesdays and Thursdays from 8:30 AM to 12:30 PM. The program will be held in a different location this year and will be in the store front on the upper level of the mall next to the Habitat for Humanity store

near Boscov's. The tax preparers are all volunteers, and the program is provided to benefit senior citizens free of charge.

6. Public Hearing

- A. Petition of 410 Springfield Inc. for Approval of an Inter-Municipal Transfer of a Restaurant Liquor License from 410 S. Springfield Ave., Clifton Heights, PA to the Granite Run Mall, Store 154, 1067 W. Baltimore Pike

Ms. Bradshaw opened the Public Hearing on the petition of 410 Springfield Inc. for approval of an inter-municipal transfer of a restaurant liquor license from 410 Springfield Avenue, Clifton Heights to Store 154 in Granite Run Mall.

Lorraine Evans, court reporter recorded the testimony.

John J. McCreesh III, Esquire stated that he represents the petitioner, Daniel Malatesta, in his petition for approval of an inter-municipal transfer of the restaurant liquor license issued for the restaurant he formerly operated in Clifton Heights to the new restaurant he will be opening in Granite Run Mall. He explained that previously a liquor license issued by the Pennsylvania Liquor Control Board could be transferred only within the municipality in which it was issued. The law was changed a few years ago, and a liquor license issued in Delaware County may be transferred to any other location within the County upon approval of the transfer by the municipality's governing body and the PA LCB.

Mr. McCreesh went on to say that several years ago Mr. Malatesta decided to retire and closed the Clifton Heights restaurant. After a year of retirement he began making plans to open a small "beef and beer" type restaurant and bar, and found an appropriate location in Granite Run Mall. The store front contains 1,000 sq. ft. and is located on the lower level of the mall opposite the Hallmark store next to Sears. Although there is no direct access to the street, the site is only a short distance from Mall Entrance No. 1.

Mr. Damico offered proof of publication of notice of tonight's Public Hearing to be entered into the record as Township Exhibit T-1.

Mr. McCreesh called Daniel Malatesta as a witness, and he was sworn. Mr. Malatesta stated that he has been in the restaurant business for many years, and operated an upscale restaurant at 12th and Locust Streets in Philadelphia from 1989 to 1993. That restaurant was closed and in 2004 he opened "Lots of Pasta" in Clifton Heights.

Mr. Malatesta explained that the menu in the new restaurant will be limited to 7-8 items, basically hand-carved roast beef and roast pork sandwiches, French Fries and onion rings. The bar will serve only draught beer and wine. The restaurant will be named "Dominic's" in honor of his father. Hours of operation will be the same as the mall, 10 AM to 10 PM on weekdays and 11 AM to 6 PM on Sunday.

Ms. Bradshaw stated she was pleased that a new business will be opening in the mall and wished Mr. Malatesta success. She asked when the restaurant will open. Mr. McCreesh replied that the proposed opening date is February 15th.

Mr. McCreesh noted that the mall representatives with whom he negotiated the lease agreement were very helpful, as were the Township Health Department people and the Building Inspector.

There were no further comments from Council or the audience and Mr. Shropshire moved to close the public hearing, seconded by Mr. Kirchgasser and unanimously approved 6-0.

7. New Business

- A. Consideration of Petition for Inter-Municipal Transfer of Restaurant Liquor License – 410 Springfield Inc. to Store 154, Granite Run Mall - 1067 W. Baltimore Pike

Mr. Quinn moved that the Township Council for the Township of Middletown, County of Delaware, Commonwealth of Pennsylvania after proper Notice and Public Hearing and after review of the testimony and relevant criteria, it is hereby RESOLVED and ORDAINED that the petition of 410 Springfield, Inc. for an Inter-Municipal transfer of Restaurant Liquor License R 2313 from 410 S. Springfield Avenue, Clifton Heights, PA to the premises located at the Granite Run Mall, Store 154, 1067 W. Baltimore Pike, Media, Middletown Township, Delaware County, PA 19063 is APPROVED.

The Township of Middletown finds that the transfer will not adversely affect the welfare, health, peace and morals of the municipality or its residents.

Mr. Shropshire seconded the motion, and Resolution 2013-21 was approved by unanimous vote 6-0.

Mr. Shropshire commented that one thing Mr. Malatesta knows is the restaurant business. If his business survived in Clifton Heights he can operate a restaurant in any location. He welcomed Mr. Malatesta to Middletown Township and wished him success in his business venture.

Mr. Damico stated that he will mail the Resolution first thing tomorrow morning.

6. Public Hearing

- B. Proposed Amendment of Zoning Ordinance to Rezone 2.546 Acres of Ground Located at 386-390 Dutton Mill Rd. from R-1 Residence District to R-2 Residence District

Ms. Bradshaw explained that a request was received from Timothy Sullivan, Esquire on behalf of his client John DiPasquale that the Public Hearing on the proposed

amendment of the Zoning Ordinance to Rezone 2.546 acres of ground located at 386-390 Dutton Mill Road from the R-1 Residence District to the R-2 Residence District be continued to the January 28th meeting.

Mr. Galloway moved to continue the Public Hearing on the Zoning Ordinance Amendment to rezone 2.546 acres of ground located at 386-390 Dutton Mill Road from the R-1 Residence District to the R-2 Residence District to the January 28, 2013 Council meeting. Mr. Carlson seconded the motion, and the motion was approved by unanimous vote 6-0.

7. New Business

- B. Consideration for Adoption – An Ordinance Amending Chapter 275, Zoning, Article III, Districts, Section 275-11, Zoning Maps, the Purpose of this Amendment being to Rezone 2.546 Acres of Land Located on the North Side of Dutton Mill Road from R-1 Residence District to R-2 Residence District
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Ms. Bradshaw stated that consideration for adoption of the ordinance amending the Zoning Ordinance to rezone 2.546 acres of land located on the north side of Dutton Mill Road from the R-1 Residence District to the R-2 Residence District will be continued to the January 28th meeting to follow the Public Hearing.

6. Public Hearing

- C. Proposed Amendment of Zoning Ordinance, Article XIXA, Mixed Use District to Amend Regulations Governing Signage in the SU-1-A Mixed Use District and Use of Existing Buildings
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Ms. Bradshaw explained that the Public Hearing on the proposed ordinance to amend the Zoning Ordinance with regard to regulations governing signage in the SU-1-A Mixed Use District will not be held this evening because a number of revisions need to be made with reference to the size of signs in relation to the size of multi-tenant buildings. She pointed out that the advertised ordinance provides for signage for large multi-tenant buildings but does not take into consideration that the regulations would also apply to smaller multi-tenant buildings, and the permitted signage could almost cover the façade of a smaller building.

7. New Business

- C. Consideration for Adoption – An Ordinance Pursuant to Article VI of the Pennsylvania Municipalities Planning Code Amending the Code of Ordinances of Middletown Township, Delaware County, Pennsylvania, Chapter 275, Zoning, Article XIX-A, SU-1-A Mixed Use District to Amend Regulations Governing Signage in the SU-1-A Mixed Use District and Use of Existing Buildings
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Mr. Shropshire moved for adoption of an ordinance amending the regulations governing signage in the SU-1-A Mixed Use District with respect to the number and size of wall

signs permitted depending on the total square footage of gross leasable area of multi-tenant office buildings. Mr. Galloway seconded the motion.

Mr. Damico pointed out that the ordinance introduced at the November 26th meeting has been withdrawn, and Council is asked to consider introduction of a revised ordinance amendment

Mr. Clark stated that Robert Adams, Esquire, Township Special Solicitor for matters relating to development of the Franklin Mint property, met with Council in Executive Session prior to tonight's meeting to explain the reason for the proposed changes in the regulations. If Council is willing to move forward with the revised ordinance, the previously introduced and advertised ordinance amendment will be replaced with the new revised ordinance amendment, and a Public Hearing will be scheduled on the proposed revised ordinance amendment.

Mr. Kirchgasser noted that the revised ordinance amendment clarifies the signage permitted in relation to the size of multi-tenant buildings. Ms. Bradshaw stated that the revised ordinance is more definitive. Mr. Shropshire pointed out that only one section of the originally advertised ordinance amendment is proposed to be revised to clarify the signage permitted based on the size of the multi-tenant building.

Mr. Shropshire moved for introduction of the revised ordinance amendment. Mr. Kirchgasser seconded the motion, and the motion was approved by unanimous vote 6-0.

Mr. Clark explained that a Public Hearing on the revised ordinance amendment will be scheduled for February 11th, and following the hearing the ordinance amendment can be considered for adoption. Ms. Bradshaw noted that copies of the revised ordinance will be available for review.

D. Request for Waiver of Preliminary Land Development Plan Filing Requirement – PA State Police Radio Tower – Media By-Pass near East Baltimore Pike

Mr. Clark stated that the existing State Police radio tower at the Media Bypass near East Baltimore Pike is proposed to be demolished and will be replaced by a new tower nearby. He noted that a Land Development application requires submission of both a preliminary and final plan. The applicant has requested that Council grant a waiver for submission of the preliminary plan and that only the final plan need be submitted. This would allow the applicant to submit an application for Conditional Use approval without waiting for approval of the preliminary plan and then the final plan.

Mr. Clark noted that replacement of the tower was proposed approximately ten years ago but did not proceed. The new tower and accessory building will be constructed in approximately the same location on the triangular site. He explained that the applicant invited the neighbors on the South Heilbron Drive, Blackhorse Lane and South Baltimore Pike area to an informational meeting to discuss the tower project, but none of the neighbors attended the

meeting. The neighbors will receive written notice of the plan filing and Public Hearing in accordance with MPC requirements.

Mr. Shropshire moved to waive the requirement for submittal of a Preliminary Land Development Plan. Mr. Galloway seconded the motion, and the motion was approved by unanimous vote 6-0.

E. Acceptance of Certificate of Total Completion –
Granite Run Office Building – 100 Granite Drive

Mr. Clark pointed out that the required site improvements in connection with extension of the parking lot for the Granite Run office building at 100 Granite Drive have been completed in accordance with the requirements of the approved plan. Mr. Rothe inspected the site improvements and signed off on the Certificate of Total Improvement executed by the developer. Upon acceptance of the Certificate any balance remaining in the Improvement Security escrow account deposited with the Township for this project can be returned to the developer.

Mr. Shropshire moved that upon consideration of the attached, that the Certificate of Total Completion of the improvements for the above project referenced in the Certificate is accepted by Middletown Township and DNB First National Association, the named escrow agent under the Improvement Security Agreement dated November 21, 2011, and the Township Manager is authorized and directed to provide documentation as necessary authorizing and releasing any amounts remaining in the Improvement Security Fund to Commonwealth Real Estate Investors, the developer. Mr. Kirchgasser seconded the motion, and Resolution 2013-22 was approved by unanimous vote 6-0.

F. Authorize Disposal of Wood Chipper and 15 kw Generator

Mr. Clark stated that Mr. Rothe recommended disposing of an old wood chipper that has a damaged engine and a 15kw generator purchased about 1990 and subsequently replaced with a larger generator in 2001. Mr. Rothe pointed out that it would not be cost effective to repair the chipper and the generator is not needed. He suggested that the two items be sold "as is" through Municibid, an online auction service similar to Ebay, which the Township has used successfully a number of times for the sale of used vehicles and miscellaneous equipment.

Mr. Clark explained that the wood chipper and generator will be advertised for sale in the local newspaper and bidders will be directed to the Municibid website. Bids will be accepted for a predetermined period of time. After the bidding is closed Council will vote on acceptance of a bid price. He noted Mr. Rothe indicated that the wood chipper and generator together are probably worth \$2,000.

Mr. Shropshire moved that the chipper and generator be advertised for sale to the highest bidder. Mr. Carlson seconded the motion, and the motion was approved by unanimous vote 6-0.

G. Board and Committee Appointments

Mr. Kirchgasser moved that Timothy Joyce be appointed as Township Representative to the Library Board for a one year term expiring January 6, 2014. Mr. Galloway seconded the motion, and Resolution 2013-23 was approved by unanimous vote 6-0.

H. Approval of Bill List

Ms. Bradshaw read aloud the bills presented for Council's consideration for approval for payment.

Mr. Carlson moved that payments under the January 14, 2013 Bill List be authorized for payment by the Finance Department.

General Fund

Keystone Health Plan East	December Health Insurance	\$21,524.60
	Highway Share	
	Sewer Authority & Library Share	
	Recreation Share	
Keystone Information Systems	Software Maintenance	13,853.00
	Software Maintenance-Tax Program	

Mr. Kirchgasser seconded the motion, and Resolution 2013-24 was approved by unanimous vote 6-0.

8. Adjournment

The meeting was adjourned at 7:30 PM.

Respectfully submitted,

Carolyn Doerfler
Carolyn Doerfler, Recorder