

MIDDLETOWN TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA

January 28, 2013

Minutes of Regular Meeting of Township Council Held on Monday, January 28, 2013 at 7:00 PM in the Township Building, 27 N. Pennell Road

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

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

Ms. Bradshaw announced that Council met in Executive Session prior to tonight's meeting to discuss legal matters relating to Zoning Ordinances.

2. Special Presentation

Mr. Kirchgasser explained that the Township is responsible for providing emergency medical and public safety services for Township residents. The Fire and Public Safety crew that are part of the Lima and Lenni Heights volunteer fire companies, and the EMS and paramedic services through Riddle Hospital are the two primary organizations providing these services.

Mr. Kirchgasser stated that on Friday night, November 16<sup>th</sup>, he was listening to his scanner when a cardiac arrest call went out, and he continued to follow the incident. Firefighters from the Lima and Lenni Heights fire companies were the first to arrive on the scene and found the victim on the floor in his home. He was unconscious, was not breathing and had no pulse. They immediately administered CPR and used an Automatic External Defibrillator to restore his heart rhythm until the paramedics arrived.

Mr. Kirchgasser stated that the resident survived and is present this evening. He asked Henry Neeb to come forward, and introduced the Lenni Heights and Lima volunteer fire fighters who assisted in saving Mr. Neeb's life: Lenni Heights Fire Company Chief Ken Collins, Captain Ian Tully, and fire fighters Jake Bonney, Vince Soster and Eric Warner; Lima Fire Company Chief Bill Cairns, Assistant Chief George Pettit, Captain Mike Groover, and firefighters Brian Perakis and Sean Miller. Mr. Neeb shook hands with each of the men and

thanked them for their rapid response. He explained that he did not remember anything until he woke up on a stretcher.

On behalf of a grateful Township and an extremely grateful Mr. Neeb, Mr. Kirchgasser presented Certificates of Commendation to the firefighters. He noted that only 5% of victims of a full cardiac arrest recover and it is fantastic that Mr. Neeb was in that 5%.

Mr. Kirchgasser led a round of applause for the fire fighters. He pointed out that these volunteers spend hours training in emergency services and in Mr. Neeb's case their training saved his life.

3. Approval of Minutes – December 10, 2012 Regular Meeting  
January 7, 2013 Reorganization Meeting

Mr. Shropshire moved for approval of the Minutes of the December 10, 2012 Regular Meeting. Mr. Carlson seconded the motion, and the Minutes were approved as submitted by vote of 6-0; Mr. Quinn abstained from voting because he was not present at the meeting.

Mr. Galloway moved for approval of the Minutes of the January 7, 2013 Annual Reorganization Meeting. Mr. Carlson seconded the motion, and the Minutes were approved as submitted by vote of 5-0; Messrs. Quinn and Shropshire abstained from voting because they were not present at the meeting.

4. Comments from the Public

There were no comments from the public.

5. Reports

A. Chairman: Ms. Bradshaw stated that Granite Run Mall is hosting a Sweetheart Gala on March 2<sup>nd</sup> for the benefit of the American Heart Association. The black tie affair will be held in the Center Court of the mall from 8 PM to 11 PM. Tickets are \$75 per person. She explained that she plans to attend and urged residents to support the event.

B. Manager: Mr. Clark noted the passing of Township resident Paul Walkovic, who served on the Park and Recreation Committee for 8 years. Mr. Walkovic was also active in the Senior Olympics, Pan Am Games, youth organizations and served as a football, track and field official for the CIAA. He could be seen at Township Golf Outings at the Par 3 contests measuring how close balls were to the cup. Ms. Bradshaw commented that she and Mr. Walkovic attended the same golf class at Penncrest and he was always very helpful. She stated he will be missed.

6. Public Hearing

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

Ms. Bradshaw stated that a letter was received from Timothy Sullivan, Esquire on behalf of his client John DiPasquale, requesting 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 R-1 Residence District to R-2 Residence District be continued to the Council meeting of February 25, 2013.

Mr. Shropshire moved to continue the Public Hearing on the proposed Zoning Ordinance amendment to rezone 2.546 acres of the DiPasquale at 386-390 Dutton Mill Road from the R-1 Residence District to the R-2 Residence District to the February 25<sup>th</sup> Council meeting. Mr. Kirchgasser seconded the motion and the motion was approved by unanimous vote 7-0.

7. New Business

- A. 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

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 February 25<sup>th</sup> Council meeting to follow the Public Hearing.

- B. Review of Final 5-Lot Subdivision –  
Brasalind Properties – 476 Old Forge Road

Gus Houtmann, project engineer, distributed copies of the Final 5-lot Subdivision Plan for the property located at 476 Old Forge Road. He noted that the applicant, James Moretti, President of Brasalind Properties, Inc., was also present. He explained that the Preliminary Plan was approved by Council in September 2012 subject to several conditions. The plans were revised to incorporate the conditions of approval and the Final Plan was submitted in November 2012. The Planning Commission reviewed the plan in December and recommended approval subject to several conditions, including providing additional plantings in the riparian bluffer and 50 trees of a caliper acceptable to the Township Engineer to replace approximately 100 trees removed from the site prior to submission of the plan.

Mr. Houtmann explained that the property originally contained an existing dwelling with a driveway and garage as well as a pool and pool house. The dwelling was

destroyed by fire some time ago. The 6.77 acre property is proposed to be subdivided to create five residential building lots. Lot 1 will be a stand-alone lot with frontage on Old Forge Road and will use the existing driveway for access. Lot 2 will be configured as a flag lot and will be located behind Lot 1. Lots 3, 4 and 5 will be located within a 50 ft. wide strip of land accessing Old Forge Road. A common driveway will provide access for Lots 2, 3, 4 and 5.

Mr. Houtmann noted that the applicant originally planned to construct dwellings only on Lots 1 and 3 but later reconsidered and now proposes to develop all five lots. The lots will be served by public water, and when the sewer connection moratorium is resolved, will be connected to the public sanitary sewer system by means of a force main installed within the 20 ft. wide sewer easement. Stormwater seepage beds will be located on Lots 1 and 5, and Lots 2, 3 and 4 will have small basins and inlets to comply with water quality requirements.

Mr. Clark noted that a waiver will be required to permit disturbance of portions of the steep slope area for driveway and utility improvements, but there will be no encroachment into the very steep slope area. Mr. Damico pointed out that a Declaration for recording purposes must be executed for driveway and utility access in a common easement area. A Developers Agreement, Improvement Security Agreement, Stormwater Maintenance Agreement and Riparian Buffer Declaration will also be required.

Mr. Shropshire moved that the Final Subdivision Plan be approved, subject to the final plans being updated to fully conform with the Township Engineer and Zoning Officer review comments transmitted under cover letter of November 30, 2012, approval by DEP of any required Sewage Facilities Planning Module, approval by the Township Solicitor of a Declaration for recording purposes providing for driveway and utility access in a common easement area, approval by the Middletown Township Sewer Authority of those portions of the Subdivision Plan addressing public sewer connections and access for the property, execution of a Developers' Agreement, Improvement Security Agreement, Stormwater Maintenance Agreement and Riparian Buffer Declaration and note on the plans, all in form approved by the Township Solicitor, the planting of 50 trees replacing trees removed from the area of the buffer setback, approving the Waiver Request pursuant to Section 210-43 of the Subdivision/Land Development Ordinance allowing the disturbance of portions of steep slope areas for improvements as noted on the plan set, and acceptance of the applicant's offer of a recreation fee in lieu payment prior to plan recording at the unit rate in effect at the time of payment (currently \$10,460 at the 2013 unit rate).

Mr. Kirchgasser seconded the motion and Resolution 2013-25 was approved by unanimous vote 7-0.

C. Review of Final 5-Lot Subdivision –  
Mancill Builders – 294 Oak Avenue

Alan Mancill, President of Alan Mancill Builders, and Gus Houtmann, project engineer reviewed the proposed 5-lot subdivision of the property at 294 Oak Avenue. Mr. Houtmann explained that the 4.858 acre property is in the R4 District and is located on the southeast side of Oak Avenue approximately 240 ft. from the intersection of Oak Avenue and

Elm Avenue, and is bounded to the east and west by residential properties in the R4 Zoning District, to the south by the SEPTA railroad right-of-way, and to the north by Oak Avenue.

Mr. Houtmann explained that Lot 3 contains an existing dwelling and will be developed as a flag lot. Lot 5 will be a stand-alone lot with its own access. Lot 3 could be subdivided to create a minimal 50 ft. width at the street and within that strip would an access and utility easement to provide access for Lots 1, 2, and 4.

Mr. Houtmann noted that the lots will be served by public water and will be connected to the public sanitary sewer system by extension of the sewer line located within the 50 ft. wide access and utility easement on Lot 3. The existing Township Sewer Authority trunk line runs in a west to east direction across the rear of the property. He stated it is anticipated that the sewer connection moratorium will be resolved shortly and the lots can be connected to the public sewer system.

Mr. Houtmann pointed out that an existing storm sewer system located in Oak Avenue collects runoff from the north side of Oak Avenue and discharges the water on to the applicant's property. Gutter water along the south and east sides of Oak Avenue flows on to the applicant's property at the low point. Stormwater discharge from a cross pipe on the south side of Oak Avenue travels overland by way of an eroded channel, crosses the driveway and flows into an existing drainage swale on the adjoining Moretti property.

Mr. Houtmann stated that stormwater management for the development will be provided by an underground stormwater management facility in front of Lots 1 and 4 within the 50 ft. access easement with direct connection to the storm sewer. The applicant executed an agreement with Jim Moretti, owner of the adjoining property, to permit discharge on to the Moretti property. The applicant proposes to extend the existing cross pipe in Oak Avenue from the south side of Oak Avenue across the frontage of Lot 5, across the frontage of Lot 3, across the frontage of Lot 1 and Lot 5 and down the north side of Lot 1 to a connective manhole that is also receiving water discharged from the site's stormwater management facility.

Mr. Houtmann pointed out that the new Township Code requires a 50% reduction in the current amount of stormwater runoff. At the present time stormwater is being discharged directly at the midpoint of the frontage of Lot 5, and if not piped in another direction would create a channel through the middle of the house on Lot 5.

Mr. Houtmann explained that he, Mr. Rothe and Mr. Mancill met at the site today to resolve the outstanding issues, including ownership and maintenance of the storm pipe. He pointed out that the storm sewer accepts runoff from Oak Avenue, which is a public road, and from properties north of the Mancill property. It was agreed that the Township should own and maintain the portion of the storm pipe from Oak Avenue to inlet #3, a distance of approximately 300 ft. Maintenance of the remaining portion of the storm pipe would be the responsibility of a Homeowners Association to be established for the development.

Mr. Kirchgasser asked how the Township would assume ownership. Mr. Damico explained that a deed of dedication for the stormwater facility would be executed. Mr.

Houtmann stated he will provide the meets and bounds information and a legal description of the stormwater facility. Mr. Damico pointed out that a deed of dedication is usually associated with dedication of a street, and normally dedication of a stormwater system is covered in the Developers Agreement. However, this is an unusual situation.

Mr. Galloway inquired whether the Township is in agreement with owning and maintaining the 300 ft. of storm pipe. Mr. Clark pointed out that the inlet on Oak Avenue has been in place for 70-80 years and never created any problems because the property contained only a single house, and defining stormwater maintenance responsibilities for the future is a benefit to everyone. Development of four new lots could create drainage problems on the lots.

Mr. Clark pointed out that another parcel will be created. Parcel A is not a building lot and is proposed to be conveyed to the adjoining Garrett property. The draft Resolution specifies that the Township Solicitor must approve any plan notes and deed language deemed necessary to complete conveyance of Parcel A to the adjacent property owner and merging of title at the time of plan recording.

Mr. Houtmann pointed out that in his review comments Mr. Rothe suggested that Parcel A should be surveyed. Mr. Damico stated that technically a full description and a full boundary survey should be provided to make certain the boundaries are contiguous. He asked what Mr. Rothe's position was on this issue. Mr. Houtmann replied they thought the matter was settled but later resurfaced and remains an open issue.

Mr. Damico stated that he is satisfied that the property line is contiguous based on the survey of Parcel A and the legal description. Mrs. Amoroso pointed out that the boundary of Mr. Mancill's property was previously established. Mr. Houtmann stated he will talk with his surveyor but he is confident that the common property line between the Garrett property and Parcel A is correct.

Mr. Galloway asked what use is proposed for Parcel A. Mr. Houtmann replied that Parcel A will be transferred to the Garretts as an open area. He added that Mr. Garrett spoke about using it for an apple orchard. Mr. Mancill noted that he had considered approaching the neighboring property owners but assumed they probably would not be interested in purchasing the ground behind their houses.

Mr. Houtmann stated that when they met at the site Mr. Rothe questioned whether an easement would be necessary along the existing swale from endwall 4 on the Moretti property. The swale drops into a small stream that feeds into a culvert. He pointed out that once you start granting easements along existing drainage channels it is difficult to know where to stop. He did not believe there would be any further erosion of the channel because there will be 50% less runoff flowing into the channel and an easement may not be necessary. He will provide additional calculations to confirm the reduction in runoff. He noted that the channel is not newly formed and has been in existence for a number of years, probably as long as the cross culvert in Oak Avenue.

Mr. Damico stated that he wants to make certain that the Homeowners Association will be responsible for maintenance of the storm sewer from the point where the Township's responsibility ends. He suggested that two conditions should be included in a Resolution for approval: (1) dedication of a portion of the storm sewer to the Township and (2) the Homeowners Association document should place responsibility with the Homeowners Association for upkeep of the remaining portion of the storm sewer pipe.

Mr. Quinn inquired whether stormwater management on the Mancill and Moretti properties could create problems downstream. Mr. Houtmann replied that there is an existing swale that travels southeasterly from the Moretti property to the Thompson property and continues along the property line. The water in the swale flows into a stream running through the Thompson property to the Moretti property, and from there through the property to a culvert just outside the Thompson property and inside the railroad right-of-way. Mr. Clark noted that the back end of the Moretti property drops off steeply and is basically unusable ground.

Mr. Mancill explained that until he began clearing the property he was not aware that the storm pipe went across the road and discharged water on to his property. He will assume the cost to collect the water and pipe it to a controlled release point, and will not ask the Township to contribute toward the cost.

Mr. Galloway moved that the Final Subdivision Plan be approved, subject to the Final Plans being updated to fully conform with the Township Engineer and Zoning Officer review comments transmitted under cover letter of December 4, 2012, approval by DEP of any required Sewage Facilities Planning Module, approval by the Middletown Township Sewer Authority of those portions of the Subdivision Plan addressing public sewer connections and access for the property, execution of a Developers Agreement, Improvement Security Agreement, Stormwater Maintenance Agreement and Declaration for recording purposes providing for driveway and utility access in a common easement area, all in form approved by the Township Solicitor, approval by the Township Solicitor of any plan notes and deed language deemed necessary to complete the conveyance of Parcel A to the adjacent property owner and merging of title at the time of plan recording, applicant granting a deed of dedication to the Township for the stormwater easement area to include that portion of the extended stormwater pipe beginning at the existing pipe under Oak Avenue and continuing approximately 300 ft. to its intersection with the stormwater system for the remainder of the development, approval by the Solicitor of Homeowner Association documents confirming that the Homeowner Association for the development will be responsible for maintenance and operation of the balance of the stormwater system including the drainage easement area extending onto the adjacent Moretti property, approval by the Township Engineer of plans and flow calculations from the applicant demonstrating that the proposed stormwater controls will reduce the overall flow of stormwater from the development site on to the adjacent Moretti property, confirmation by the developer at the time of construction of adequate soil compaction in areas of construction of the site improvements, approving the waiver requests pursuant to Section 210-43 of the Subdivision/Land Development Ordinance allowing the disturbance of portions of regulated slope areas for improvements as noted on the plan set, and acceptance of the applicant's offer of a Recreation

fee in lieu payment prior to plan recording at the unit rate in effect at the time of payment (currently \$10,460 at the 2013 unit rate).

Mrs. Amoroso seconded the motion, and Resolution 2013-26 was approved by vote of 5-0; Ms. Bradshaw and Mr. Quinn abstained from voting because of a conflict of interest.

D. Request for Re-approval of 4-lot Residential Subdivision Plan  
Street Configuration) – Sweetwater Valley LLC – 72 W. Forge Rd.

Timothy Sullivan, Esquire, representing the applicant Edward Scheivert, explained that the 4-lot subdivision known as Sweetwater Valley located at 72 West Forge Road was approved by Resolution 2007-83. Mr. Sullivan went on to say that following approval residents of Autumn Woods approached the applicant and suggested that the existing 16 ft. wide driveway be widened to a 26 ft. wide cartway with upright curbing and a cul-de-sac. The plan was modified to combine the common private driveway for Sweetwater Valley with the common private driveway for the adjacent 4-lot Autumn Woods subdivision located at 82-94 West Old Forge Road to create a public road serving both subdivisions, and the revised plan was approved by Resolution 2012-41.

Mr. Sullivan stated that after investigating the cost for the road improvements Mr. Scheivert determined that the road project would not be financially feasible. A written request was submitted to Council to reinstate Resolution 2007-83 for the common private driveway serving the Sweetwater Valley subdivision and to rescind Resolution 2012-41 for the combined public road. Council agreed to the reinstatement and approved Resolution 2012-89.

Mr. Sullivan explained that the applicant has reevaluated the development cost in light of today's more favorable market conditions, and requests that the public road configuration approved by Resolution 2012-41 be reinstated and that Resolution 2012-89 be rescinded.

Mr. Kirchgasser moved that the Township Council rescinds the approval granted by Resolution 2012-89 and reinstates the Final Subdivision Plan approval granted by Resolution 2012-41, to include compliance with all conditions contained within Resolution 2012-41. Mr. Carlson seconded the motion, and Resolution 2013-27 was approved by unanimous vote 7-0.

E. Approval of Miscellaneous Fee Schedule

Ms. Bradshaw stated that every year Council adopts a Master Fee Schedule establishing fees and charges for miscellaneous services, plan reviews and inspection work. Fees and charges may be revised from year to year.

Mr. Kirchgasser moved that the Master Fee Schedule be amended by adoption of the attached Miscellaneous Fee Schedule dated January 2013 and the Consultant Plan Review and Inspection Fee Schedule for 2013, to remain in effect unless and until amended or repealed by subsequent resolution or other appropriate action of the Township Council. Mr. Shropshire seconded the motion, and Resolution 2013-28 was approved by unanimous vote 7-0.

G. Amendment of Sign Regulations – Electronic Signs

Mr. Shropshire moved to amend the agenda to consider amendment of the sign regulations with regard to electronic and changeable copy signs. Mr. Carlson seconded the motion, and the motion was approved by unanimous vote 7-0.

Mr. Damico stated that because of changes in modern signage using LED technology, it is recommended that the sign ordinance be updated to provide for electronic and changeable copy signs to regulate where such signs may be located, how large and what type of message may be displayed, intensity of lighting, hours of operation, etc. He noted that he prepared a draft ordinance amendment that he reviewed with Council in Executive Session prior to tonight's meeting. The ordinance amendment will be reviewed by the Land Planning Committee at their February meeting, and following introduction of the ordinance amendment will be forwarded to the Township Planning Commission and the County Planning Department for review. A Public Hearing on the ordinance amendment will be scheduled after recommendations are received from the planning groups.

Mr. Shropshire moved for introduction of an ordinance amending the Code of Ordinances, Chapter 275, Zoning, Article II, entitled Terminology, Section 275-8 by providing a new definition for "sign, ground" and by adding definitions for "sign, changeable", "sign, electrical changeable copy" and "sign, manual changeable copy" and amending Article XXXII entitled signs, by repealing current Section 275-192.E(1), and providing a new Section 275-192.E(1) for regulation of the height and display of ground signs, and by amending Section 275-195 to create a new Section 275-195.G. entitled "changeable signs" to permit manual changeable copy signs and electrical changeable copy signs in Institutional, Business, Special Use, Office and Manufacturing Districts.

Mr. Galloway seconded the motion, and the motion was approved by unanimous vote 7-0.

F. 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 28, 2013 Bill List be authorized for payment by the Finance Department:

<u>General Fund</u>		
Aqua PA	December Hydrant Rental	\$11,280.75
McCusker & Ogborne	December Recycling and Yard Waste Servs	17,429.84
<u>Capital Reserve</u>		
General Code	Software	7,916.00

Mr. Kirchgasser seconded the motion, and Resolution 2013-29 was approved by unanimous vote 7-0.

8. Adjournment

The meeting was adjourned at 8:15 PM.

Respectfully submitted,

*Carolyn Doerfler*  
Carolyn Doerfler, Recorder