

MIDDLETOWN TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA  
May 13, 2013

Minutes of Regular Meeting of Township Council Held on Monday, May 13, 2013 at 7:00 PM in the Township Building, 27 N. Pennell Road

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Present: M. Amoroso, S. Galloway, M. Kirchgasser, C. Quinn, N. Shropshire  
B. Clark, J. Damico, Esquire, A. Rothe

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1. Vice Chairman Mr. Kirchgasser opened the meeting with the Pledge of Allegiance to the Flag.

Mr. Kirchgasser announced that Council met in Executive Session prior to tonight's meeting to discuss some legal issues and the Final Land Development Plan for the proposed Elwyn/Skycrest townhouse development, which is on tonight's agenda (Item 5A).

2. Approval of Minutes – April 22, 2013 Regular Meeting

Mrs. Amoroso moved for approval of the Minutes of the April 22, 2013 Regular Meeting. Mr. Quinn seconded the motion, and the Minutes were approved as submitted by unanimous vote 5-0.

3. Comments from the Public

There were no comments from the audience.

4. Reports

A. Vice Chairman– Mr. Kirchgasser noted the passing of John Pickett, a long time leader in the County Planning Department. Over the years Mr. Pickett supported many of the projects in which the Township was involved, and he will be missed.

Mr. Kirchgasser went on to say that the 19<sup>th</sup> Annual Middletown Community Day was held last Saturday at Penn State Brandywine, and was a very successful event despite the overcast skies. On behalf of the Township he thanked Mr. Clark, the Township staff and the Recreation Department for their outstanding support, energetic work and commitment to make it a great day.

Mr. Clark explained that success of the event was a group effort. Township business organizations worked with Township and Recreation Department staff members to make it a success.

Mr. Kirchgasser noted that the Williamson Trade School students “smoked” the Fire Department and Penncrest High School football team in the Wing Bowl, and placed #1 through #4. He added “we’ll see what happens next year”.

B. Land Planning: Mr. Quinn reported that the Committee met on May 6<sup>th</sup> to discuss a request for a Zoning Map amendment for the property at 451-457 Lenni Road and to review the draft Master Plan for the Mineral Hill open space.

C. Manager: Mr. Clark stated that on Saturday, April 27, the Pennsylvania Resource Council sponsored a collection of used electronic items that could be deposited in a truck in the Township parking lot. The report of the tonnage collected indicated that 16,525 lbs. of electronic waste was dropped off by Township residents. This was a very successful and much-needed event, and they are considering the possibility of holding another collection of used electronic items in the fall.

5. Old Business

A. Review of Final Land Development Plan –  
Elwyn/Skycrest - East Baltimore Pike at School Land

Joseph Riper, Esquire explained that he represents Elwyn, Inc. with regard to the proposed Skycrest townhouse development to be constructed on the Elwyn property on East Baltimore Pike opposite School Lane. He stated that the Final Land Development Plan was submitted to the Township in March 2013 and has been reviewed by the Township Engineer and Zoning Officer. The applicant responded to the staff review comments, and subsequently met with the Planning Commission on April 9<sup>th</sup>, and received a unanimous recommendation for approval of the Final Plan.

Mr. Riper noted that he met with a PADOT representative from the district office regarding the PADOT Operation and Maintenance Policy with respect to Stormwater Management Facilities constructed in the PADOT right-of-way. The policy was adopted approximately two years ago and this is the first project in which he was involved where the policy affected the proposed development. He pointed out that the policy would require the Township to assume responsibility for the operation and maintenance of any new or modified stormwater facilities for the development within the PADOT right-of-way constructed pursuant an approved Highway Occupancy Permit. He and Mr. Damico have reviewed the policy and are satisfied that responsibility for maintenance applies only to new or modified infrastructure for the development and does not extend to existing PADOT drainage infrastructure.

Mr. Riper went on to say that an Operation and Maintenance Agreement for Stormwater Facilities will be executed to transfer future Township responsibility to the Skycrest developer and ultimately to the Homeowners Association. Each homeowner will have an obligation through the Homeowners Association to maintain on-site stormwater facilities in the PADOT right-of-way.

Mr. Riper noted that the Homeowners Association will be required to engage an engineer to conduct an inspection of the infrastructure on an annual basis and to make recommendations for repairs if needed. If the Homeowners Association fails to do the repair work, the Township must step in to complete the repairs. Any expenses incurred by the Township must be reimbursed by the Homeowners Association. In the alternative the Township would have the right to enter a lien against each of the properties in the development. He pointed out that there is no way to predict whether or to what extent repairs might be necessary, and it could be many years before any work would be required.

Mr. Galloway asked how prospective buyers will be made aware of the PADOT policy and would receive relevant documentation. Mr. Riper pointed out that the Operation and Maintenance Agreement for Stormwater Facilities will be recorded and will be referenced in the title report and in the Declaration of Covenants that will be recorded for this project. The prospective buyer can terminate the Agreement of Sale within a specified period of time if he/she disagrees with any of the provisions.

Mr. Quinn stated that prospective buyers should be given pertinent documents up front and not at the settlement table. Mr. Riper explained that he did not mean to imply that the buyer would not receive the documents until settlement.

Mr. Kirchgasser asked Mr. Damico if he was satisfied that the Township is protected from a legal standpoint. Mr. Damico replied that in his opinion the Township is legally protected. He pointed out that the likelihood of something going wrong with a new installation within the 18-month period covered by the Improvement Security Agreement is relatively small. He noted that PADOT requires the developer to post a Letter of Credit to assure that funds will be available to cover the cost of repairs within that period of time. The developer will continue to be responsible for maintenance until 75% of the units are sold and control of the development is passed to the Homeowners Association.

Mr. Damico recommended that everyone should contact their representatives in Harrisburg to object to PADOT's new maintenance policy for stormwater facilities that is creating problems and financial burdens for developers and municipalities. Municipalities should not be responsible for maintenance of a portion of a state-owned highway.

Mr. Riper suggested that in the alternative PADOT could assess a fee, for example \$25,000, to be paid by proposed new developments abutting a state highway that would to be used to help defray PADOT's expense for maintenance of stormwater facilities in the state right-of-way.

Bruce Downing, P.O. Box 137, Lima, stated he understood that an application was submitted for a traffic signal on Baltimore Pike at the intersection of the entrance road for the new development and School Lane. Mr. Clark explained that one of the conditions for approval of the plan requires PADOT approval of the traffic signal. Mr. Riper noted that PADOT raised several questions in connection with the application for the traffic signal and the applicant forwarded his response. It is a matter now of waiting for PADOT's approval.

Mr. Galloway stated that a draft of proposed conditions of approval was included in Council members' packets, and asked whether the conditions were reviewed by the applicant. Mr. Riper stated that the applicant agreed to all of the conditions of approval.

Mr. Galloway moved for approval of the Final Land Development Plan for the Elwyn/Skycrest project, subject to the following conditions:

1. Final plans to be updated in accordance with Engineer and Zoning Officer review comments transmitted under cover letter of March 25, 2013, unless modified by any specific condition included in this resolution.
2. Final plans to be updated in conformance with review letter of Thomas Comitta Associates, landscaping and lighting consultant, dated February 26, 2013, unless modified by any specific condition included in this resolution.
3. Approval by PADOT of a traffic signal at the intersection of East Baltimore Pike with School Lane and the new development access road, and installation by the applicant of all improvements required by the PADOT Traffic Signal permit.
4. Execution of an Operation and Maintenance Agreement with Respect to Stormwater Management Facilities Located in PennDOT Right-of-Way in form as approved by the Township Solicitor providing for the financial responsibility for and ongoing maintenance, operation, repair and replacement as necessary by the Homeowner's Association of all new or modified stormwater infrastructure for the development located within the PADOT right-of-way not being maintained by PADOT.
5. Approval by the Middletown Township Sewer Authority of construction drawings and specifications for the sanitary sewer system to service the development.
6. Approval by DEP of Sewage Facilities Planning Module for the sanitary sewer system.
7. Approval of all required permits from outside agencies, including DEP, PADOT, SCS, etc.
8. Final record plan shall include required active recreation facilities as approved by the Township Council, with funds to be included in the Improvement Security Agreement to cover the installation of the approved facilities during the Declarant Control Period as defined in the "Declaration of Covenants, Conditions, Easements, Liens and Restrictions for the Reserve at Rose Tree, a Planned Community".
9. Homeowner Association documents to include language, in form as approved by the Township Solicitor, ensuring the ongoing operation, maintenance and repair as necessary of the Stormwater Management system, including all pumps and irrigation systems.
10. Each unit within the development to be served by a two (2) car garage, and the interior width of each garage, measured from interior side wall to interior side wall, shall be a

minimum of twenty (20) feet for a minimum length of fourteen (14) feet, as schematically depicted on the attached drawing.

11. Proposed improvement of the existing driveway as shown on the plan from the boulevard entrance and extending around the multi-purpose field to its intersection with the internal roadway between units 6 and 7 for use as an emergency access point will not be required.
12. All units to be constructed with residential sprinkler systems.
13. Execution of Developer's Agreement, Improvement Security Agreement, Stormwater Maintenance Agreement, PennDOT Operation and Maintenance Agreement (as described in item 4 above), Declaration of Covenants, Easements and Restrictions for the Reserve at Rose Tree, and any other documents or easements as deemed necessary and in form approved by the Township Solicitor.
14. Except as set forth in item 10 above, Land Development approval is subject to the conditions of Resolution 2011-104 granting Conditional Use approval.
15. Final revised plans will not be executed by the Township for recording until all of the above conditions are satisfied.

Mrs. Amoroso seconded the motion, and Resolution 2013-52 was approved by unanimous vote 5-0.

6. New Business

A. Relay for Life – Lighting Exception –  
Penncrest High School – 134 Barren Road

Marsha Adams explained that her daughter, Marsha Peterson, is Chairman of the 2013 Annual Rose Tree Media Community Relay for Life fundraising event for the benefit of the American Cancer Society and could not be present this evening because of a scheduling conflict. She stated this will be the 6<sup>th</sup> Annual Relay for Life event and will be held in the Penncrest stadium beginning at 6:00 PM on Friday, May 17, and ending at 11 AM on Saturday, May 18.

Mrs. Adams went on to say that for the previous Relay events Council has granted a temporary waiver to allow the field lights in Penncrest stadium to remain on until 11:00 PM. She noted that the surrounding neighbors have been informed that the lights will stay on for an additional half-hour on Friday night if approved by Council. Mr. Clark pointed out that normally the stadium lights must be turned off by 10:30 PM.

Mrs. Adams noted that last week a "bank night" event was held in West Chester, and high school participants stood on street corners and asked passersby to donate whatever change they had in their pockets. One team returned with 15 bags of change. She pointed out that over the past five years \$678,000 has been raised for the American Cancer Society, and the money stays in our community to help families in crisis.

Mr. Galloway stated that the Relay for Life is a very worthy cause. He moved that Council grant a temporary waiver to permit the Penncrest stadium lights to remain lit until 11:00 PM on May 17<sup>th</sup> for the Rose Tree Media Community Relay for Life fundraising event. Mr. Shropshire seconded the motion and the motion was approved by unanimous vote 5-0.

Mr. Kirchgasser stated the Relay for Life is a fantastic event. On Friday night the football field will be populated by campers throughout the night, and will be quiet once again on Saturday night. He wished the Rose Tree Media Community organization continued success and expressed appreciation for all they do.

B. Historical Society Project Proposal –  
Oaklawn – Smedley Tract

Susan Mescanti, President of the Middletown Township Historical Society, explained that the Historical Society would like to undertake a project to improve the exterior appearance of Oak Lawn, the historical house located at the corner of Rt. 352 and Rose Tree Road on the Township-owned portion of the Smedley tract. The house has been vacant for a number of years and has fallen into disrepair. She distributed copies of photographs of the house to illustrate the current condition of the exterior of the structure.

Mrs. Mescanti stated that the proposed improvements basically include painting and/or capping the soffit, replacing missing shutters, and repairing the masonry on the steps and front porch. It has also been suggested that the plywood covering the windows could be painted to create the illusion of window panes, and she has asked the Art Honor Society at Penncrest High School to consider taking on this phase of the project.

Mrs. Mescanti went on to say that the Historical Society is reaching out to organizations and businesses in the community to join in the project. She spoke with the leader of Middletown Boy Scout Troop 85 about a scout project to create a small garden and do some clean-up work on the grounds around the house. She is also hoping that Williamson students will be able to assist with some of the repair work. She went on to say that when she learned that the Donovan house on the Franklin Mint property was to be demolished, she contacted the Wolfson property management group to ask if the shutters from the Donovan house could be donated to the Historical Society to replace the missing shutters at Oak Lawn and they graciously agreed. The Historical Society will be contacting local businesses such as Sherwin Williams and MAB Paint to request donations of paint and other supplies after it is determined exactly what materials will be needed.

Mr. Clark explained that independent of this project, the Township has approached several local contractors to obtain estimates for replacement of the roof on the Oak Lawn house. Replacing the existing slate roof in kind would be cost prohibitive and standard roofing material will be used. Mrs. Mescanti pointed that the proposed renovations of Oak Lawn will not be historically accurate, but a little paint and a few repairs will certainly improve the appearance of the house that is so visible from Rt. 352 and from Rose Tree Road.

Mrs. Mescanti concluded by saying they are looking at a timeline to begin work in the fall when scouts, Penncrest students, and others will be back on a normal schedule.

Mr. Kirchgasser commented this sounds like a worthwhile project, and Council appreciates the efforts of the Historical Society to preserve the history of our Township. He suggested that before beginning work on the house Bob Ellis or one of the Township code inspectors should identify any areas around the house that might be unsafe for the volunteer workers.

Jackie Clancy, a member of the Park and Recreation Committee, stated that the Committee is in the process of evaluating the Township trails/trailheads and parks to offer recommendations for improvements. They can also provide input on the future development of trails on the Smedley tract.

Mr. Quinn stated he supports the Oak Lawn project and thanked the Historical Society for being willing to undertake the work. He moved to accept the proposal of the Historical Society for improvements to the exterior of the Oak Lawn house. Mrs. Amoroso seconded the motion, and the motion was approved by unanimous vote 5-0.

C. PADOT Application for Chester Creek Rail Trail  
Pedestrian Signal Approval – Lungren Road

Mike Fusco, President of the Friends of the Chester Creek Rail Trail organization, stated he would first like to echo the comments about John Pickett and the tremendous loss his passing will be for the County. He noted that Mr. Pickett was very supportive of the Rail Trail project.

Mr. Fusco introduced Louis Hufnagle, a member of the County Planning Department, who has been serving as the County Planning Department liaison with Friends on the Rail Trail project. The Friends team is currently in the process of making certain that all of the "t's" have been crossed and the "i's" have been dotted in preparation for going out to bid on the contract for construction of the trail. Although they anticipated that bids would have been received by now, things always move slower than expected. There are still several agreements to be executed by the County and the Township.

Mr. Fusco explained that SEPTA has agreed to conduct bridge inspections for the life of the trail in exchange for salvaging some of the rails removed from the rail line for the Rail Trail trail. In addition, PADOT is in the process of taking ownership of the culvert that will be built under Knowlton Road as part of the Rail Trail project. PUC approval will be required because of PADOT's involvement with an officially active rail crossing and could delay bidding the construction contract for another few months.

Mr. Fusco stated that in order to comply with the American Disabilities Act, PADOT requires installation of a flashing pedestrian signal at the trail crossing at Lungren Road because of poor sight distance in that area. As a non-governmental entity, Friends is not

authorized to sign the application for a traffic signal permit and is requesting that Council approve a resolution authorizing and directing submission of the application to PADOT.

Mr. Clark explained that PADOT's standard application for traffic signal approval provides that if and when the signal is approved by PADOT, the Township as applicant will become responsible for the operation and maintenance of the signal. County Council indicated informally that they could not accept financial responsibility for maintenance of the traffic signal.

Mr. Galloway asked who specifically will be responsible for maintenance of the signal. Mr. Clark explained that Mr. Rothe has responsibility for inspection and maintenance of all traffic signals in the Township, as well as signals at school and pedestrian crossings in the Township. Mr. Rothe noted that there are signals at 20 intersections, including those which are at school zone locations. He pointed out that the LED light in the "Signal Ahead" sign at Glen Riddle Road and Rt. 452 has to be replaced every year.

Mr. Hufnagle explained that the signal system at the Lungren Road Rail Trail crossing was recommended by PADOT. The signal will be motion sensitive and will not flash constantly. Mr. Fusco noted that the signal will use LED lighting and the lighting replacement cost will be less than for some other types of bulb. Mr. Hufnagle added that according to the manufacturer's information the replacement cost is approximately \$125. He will forward the information to Mr. Rothe.

Mr. Shropshire stated that Mr. Fusco deserves a great deal of credit for all of the time he has spent on the Rail Trail project over the past 10-15 years, and he cannot imagine how Mr. Fusco found the patience and diligence to keep moving forward despite some major obstacles along the way. If there is anything Council can do to make the Rail Trail a reality they are going to do it.

Mr. Galloway inquired whether the Glenloch Homeowners Association matter has been resolved. Mr. Fusco responded that the matter was resolved "without prejudice". Friends filed an appeal in December but Glenloch never responded and the judge threw the case out of court. Since then members of the Homeowners Association Board have reached out to Friends and he believes a good neighbor relationship will develop with the Glenloch community.

Mr. Shropshire moved that by the authority of the Township Council of Middletown Township the Township Engineer is authorized and directed to submit the attached Application for Traffic Signal Approval to the Pennsylvania Department of Transportation and to sign this application on behalf of the municipality. Mr. Quinn seconded the motion and Resolution 2013-53 was approved by unanimous vote 5-0.

On behalf of Council Mr. Shropshire expressed appreciation to Mr. Fusco for the time and effort he has expended on the Rail Trail project. Mr. Fusco stated they look forward to turning that first shovel of earth for construction of the trail.

D. Review of Zoning Hearing Board Applications  
2013-07 Dravuschak – 26 War Trophy Lane

Mr. Clark stated that Brian Dravuschak filed an application with the Zoning Hearing Board for a variance from the 20 ft. side yard setback required in the R2 District in order to construct a garage on the side of his house located at 26 War Trophy Lane. Mr. Dravuschak indicated that there is a 5-1/2 ft. high hill in the back yard that would have to be excavated in order to place the garage at the rear of the property. It would also be necessary to extend the existing driveway, which would encroach into the backyard. A gas pipe line easement at the back of the property also restricts location of the garage. The only alternative is to construct the garage on the side of the house.

Council members agreed that the Zoning Hearing Board can handle this application.

2013-08 Stull – 628 Hillcrest Court

Mr. Clark stated that Lorraine Stull proposes to remove the existing deck on her townhouse at 628 Hillcrest Court and replace it with a 350 sq. ft. deck. Her townhouse was built into the 100 ft. buffer required in the R4 District, and abuts the Hillcrest open space, which in turn adjoins the open space of the Old Mill Pointe development. She has stated that most Hillcrest homeowners have the option of extending their decks 14 ft. or more; however, adding 2 ft. to her existing 12 ft. deck would reduce the buffer to 92.5 ft. from the perimeter property line. The proposed larger deck will not impact her neighbors' properties or interfere with their view, and will increase the value of her property.

Mr. Clark noted that the end units in the townhouse development were placed at an angle, and Ms. Stull's unit is one of the closest to the property line.

Mr. Shropshire commented that alterations to decks on townhouse units in other developments have created never-ending problems and financial burdens on the homeowners and the Township. He added that hopefully the decks on the Skycrest townhouses will not follow this same pattern. Mr. Clark noted that there will be a similar overlap of decks into the buffer in the Skycrest development.

Council members agreed that the Zoning Hearing Board can handle this application.

E. Authorize Disposal of Unneeded Records

Mr. Clark indicated that some years ago the Township adopted by reference the Municipal Records Manual providing schedules and procedures for disposition of records. Pursuant to the Municipal Records Manual of July 16, 1993 proposals for disposition of records must be approved by resolution of the governing body. He noted that the Township staff periodically reviews files and records that are no longer useful for public or archival purposes. It is proposed that approximately 2 boxes, or approximately 6 cubic feet, consisting of 2003-2007

Workers Compensation Claims and 2006-2008 Tax Assessment Appeals, have been identified for disposal.

Mr. Shropshire moved that the following records as shown on the attached sheet are authorized for disposition in accordance with the above-cited Municipal Records Manual, with all records listed totaling approximately 2 boxes, or approximately 6 cubic feet. Mrs. Amoroso seconded the motion, and Resolution 2013-54 was approved by unanimous vote 5-0.

F. Approval of Bill List

Mr. Kirchgasser read aloud the list of bills presented for Council's consideration for approval for payment.

Mr. Shropshire moved that payments under the May 13, 2013 Bill List be authorized for payment by the Finance Department:

	<u>General Fund</u>	
Keystone Health Plan East	May Health Insurance	\$23,258.47
	Highway Share	
	Sewer Authority & Library Share	
	Recreation Share	
	<u>Recreational Enterprise Fund</u>	
Chester County Travel	Vancouver & Stockholm Deposits	6,224.86
TD Bank	Supplies, JFF Softball Supplies	12,474.74
	Tickets, Transportation	
Curran Travel	Rail & Sail New England	6,562.00
Touriffic Travel	Asheville	7,344.00

Mr. Quinn seconded the motion, and Resolution 2013-55 was approved by unanimous vote 5-0.

Adjournment

The meeting was adjourned at 7:45 PM.

Respectfully submitted,

*Carolyn Doerfler*  
Carolyn Doerfler, Recorder