

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

June 24, 2013

Minutes of Regular Meeting of Township Council Held on Monday, June 24, 2013 at 7:00 PM in the Township Building, 27 N. Pennell Road

Present: M. Amoroso, L. Bradshaw, R. Carlson, S. Galloway, C. Quinn
B. Clark, J. Damico, Esquire, A. Rothe

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 issues and real estate matters. She apologized for the delay in beginning the meeting and noted that a Special Meeting of the Finance Committee earlier tonight lasted longer than anticipated.

2. Approval of Minutes – June 10, 2013 Regular Meeting

Mr. Galloway moved for approval of the Minutes of the June 10, 2013 Regular Meeting. Mrs. Amoroso seconded the motion, and the Minutes were approved as written by unanimous vote 5-0.

3. Comments from the Public

There were no comments from the audience.

4. Reports

A. Finance and Administration: Mr. Carlson stated that Pam Baker, Senior Auditor with Barbacane Thornton & Company, reviewed the Audit Report for fiscal year 2012 at a Special Meeting of the Finance Committee prior to the Council meeting. He was pleased to report that the audit resulted in a clean opinion.

B. Manager: Mr. Clark announced that the Parks and Recreation Department is sponsoring an American Red Cross blood drive on Tuesday, July 16th, from 2:30 to 7:30 PM in the Township Building meeting room. Donors are asked to make an appointment through the Red Cross by calling 1-800-RED CROSS. He pointed out that blood supplies run low over the summer months and residents are urged to sign up to donate blood.

5. Public Hearing

- A. Proposed Amendment of Zoning Ordinance to Permit a Campus Mixed Use Development as a Conditional Use Within the R-4 Residential District and Provide Area and Bulk Regulations and Design Standards for Such Development

Ms. Bradshaw opened the Public Hearing on the proposed Amendment of the Zoning Ordinance to permit a Campus Mixed Use Development as a Conditional Use within the R-4 Residential District and to provide area and bulk regulations and design standards for such development.

Joseph Riper, Esquire, representing the Pond's Edge Development Group, explained that additional revisions have been made in the conceptual plan for the residential/commercial development proposed to be constructed on the Pond's Edge property located at 1318-1328 West Baltimore Pike. He suggested that due to the status of the application it would be appropriate to continue the Public Hearing to the August 26th Council meeting.

Mr. Galloway moved to continue the Public Hearing on the proposed amendment of the Zoning Ordinance to permit a Campus Mixed Use Development as a Conditional Use within the R-4 Residential District to the August 26th Council meeting. Mr. Quinn seconded the motion, and the motion was approved by unanimous vote 5-0.

6. Old Business

- A. Consideration for Adoption – An Ordinance Amending and Restating Section 2 of Ordinance 443 by Accepting and Approving an Amended and Restated Land Conservation Easement Restricting the Use of a Portion of Property in the Township of Middletown Located at 1318-1328 West Baltimore Pike

Mr. Riper stated that consideration of adoption of the ordinance amending the Land Conservation Easement should also be tabled to the August 26th Council meeting.

Mrs. Amoroso moved to table consideration of adoption of an ordinance amending and restating Section 2 of ordinance 443 by accepting and approving an amended and restated Land Conservation Easement restricting use of a portion of the Pond's Edge property to the August 26th Council meeting. Mr. Quinn seconded the motion, and the motion was approved by unanimous vote 5-0.

7. New Business

- A. Consideration for Adoption – An Ordinance Amending the Code of Ordinances of the Township of Middletown, Delaware County, PA, Chapter 275, Zoning, Article II, Entitled Terminology, Section 275-8 by

Adding Definitions for Campus Mixed Use Development, Campus Mixed Use Development Tract, Campus-Type Setting, Commercial Section, Community Related Business Uses, Private Alley Line, Private Street Line, Public Improvement Enhancements, Residential Section and Restaurant and Article VIII, Entitled R-4 Residential District, by Adding Section 275-35.C.(8) to Permit a Campus Mixed Use Development with Single Family, Attached Dwelling Units as a Conditional Use and Section 275-38.1 to Provide Area and Bulk Regulations and Design Standards

Joseph Riper, Esquire, representing the Pond's Edge Development Group, explained that an ordinance amendment to permit a Campus Mixed Use Development by Conditional Use in the R-4 Residential District was previously introduced and advertised. Several significant changes are proposed in the ordinance amendment and will be discussed tonight. If Council finds the proposed changes acceptable, the applicant requests that the ordinance amendment as revised be formally introduced and advertised, replacing the ordinance introduced at the December 10, 2012 meeting. Following introduction the revised ordinance will be forwarded to the County Planning Department and the Township Planning Commission for review.

Mr. Riper stated that in a letter to Mr. Damico dated June 20th he outlined three additional changes in the ordinance amendment and enclosed a marked-up copy of the revised ordinance. The applicant believes that the proposed changes significantly improve the plan.

Mr. Riper explained that he has met several times with Ms. Bradshaw, Mr. Clark and Mr. Rothe for informal review of the revised concept plan. Among the changes discussed at their meetings was a proposal to reduce the width of the on-lot driveways in front of front-loading garages from 19 ft. to 18 ft. to create more separation between the driveways in each unit and to provide more green space and planting area. He noted that the zoning ordinance requires parking spaces to be 9-1/2 ft. wide; however, in order to provide two parking spaces in each driveway, it is proposed that the parking spaces be reduced to 9 ft.

Mr. Riper pointed out that the revised plan reduced the area originally designated for commercial development and increased the residential area. 220 residential units are now proposed, which will reduce density to approximately 4.08 units per acre. The road configuration has been shifted slightly in a number of places to minimize the impact on stream buffers. The main road configuration from the signalized intersection opposite Thomas Chevrolet and layout of the units has been revised to improve the traffic pattern. The community open space in the interior square of the project has been increased and the units have been reduced to create a more open view through the center of that area.

Mr. Riper stated that he and Matt Houtmann reviewed the ordinance amendment line by line in comparison to the site plan to make certain no additional changes or corrections were needed.

Mr. Houtmann distributed copies of the plan on display and described the three additional changes mentioned by Mr. Riper. These changes were not discussed in the meetings with Ms. Bradshaw, Mr. Clark and Mr. Rothe.

(1) Section 4(C)(1)(h) - Maximum length of a residential building – The length of some townhouse units vary slightly. To maintain the minimum 20 ft. wide interior of the garage, the interior of front-load units will be increased to a width of 25 ft. instead of 24 ft. The ordinance currently provides for overall building length of 156 ft.; however, the four interior 25 ft. wide units and two 30 ft. wide end units total 160 ft.

(2) Section 4(C)(2)(j) - Minimum distance of building from edge of private street cartway – The four commercial buildings shown on the concept plan have been reduced to two buildings, allowing the residential units behind the commercial units to be moved closer to Baltimore Pike. This change will reduce the commercial/retail component from 58,000 sq. ft. to 35,000 sq. ft. The area and bulk regulations require a minimum distance of 20 ft. from the edge of a private street cartway to the building. It is requested that the minimum distance be reduced to 15 ft. which will move the residential units closer to Rt. 1 and away from areas of steep slopes, wetlands and the valley behind the units.

Mr. Houtmann noted that if Road F were centered, the road and residential units would have to be moved back 5 ft. in order not to encroach into the environmentally sensitive areas.

Mr. Rothe stated that this issue never came up during their discussions of the plan with Mr. Riper. Parallel on road parking spaces 9-1/2 ft. wide and 4-1/2 ft. wide sidewalks would take up 14 ft., leaving only 1 ft. for the landscaping and species trees that are required to be planted around the perimeter of the building. The plan shows the sidewalks up against the buildings around the entire perimeter of the buildings.

Mr. Riper stated he understood that the parallel parking spaces would be 6 ft. wide. Mr. Rothe pointed out that the ordinance requires parking spaces to be 9-1/2 ft. wide.

Mr. Rothe explained that their most recent discussion was only two weeks ago, and at that time their discussion related to the tightness of the townhouses in the commercial section. There was no mention of reducing the distance of buildings from the edge of a private street cartway.

Mrs. Amoroso stated there appears to be considerable open space behind the commercial component and asked why the residential units could not be moved back 5 ft. Mr. Houtmann agreed that the units could be moved back 5 ft.; however, the terrain behind the buildings is of little or no use. He pointed out it is not worth jeopardizing the plan for the difference between 15 ft. and 20 ft.

Mr. Rothe went on to say that they also did not discuss a loading zone along the main access road. He cannot envision loading and unloading goods on the road leading back to the townhouses. Mr. Riper explained that it is not anticipated that there will be intensive use of a

loading zone regardless where it is located. The ordinance provides that an area 12 ft. wide and 20 ft. long must be set aside for a loading zone for commercial buildings and this appeared to be the best location for it. Mr. Rothe stated he recalled that in an earlier version of the conceptual plan that location was designated as an outdoor eating area.

Mr. Riper suggested that a note could be added to the plan indicating that a loading zone is required and an area will be provided when the buildings are designed.

(3) Section 4(F)(5) - Open Space – the proposed ordinance for a Campus Mixed Use Development requires a minimum of 40% open space. Mr. Houtmann explained that the ordinance referenced Article XXXV and indicated that Sections 275-220(A), (B), (C), and (D) did not apply to open space in a Campus Mixed Use Development. The reference to Section 275-222 was incorrect. The Land Development Plan complies with the excluded design standards and no waivers would be required. Because of steep slopes, wetlands and other land constraints it would not be possible to comply with the Open Space requirement if the Section 275-220 calculations were applied.

Mr. Houtmann noted that Section 275-220 refers to the net out of open space for steep slopes, wetlands and utility easements. The ordinance requires 40% countable open space and the plan shows 60% total. Mr. Clark asked how much countable open space would be provided if the net out provision was not applied. Mr. Riper stated it would be approximately 35%, and pointed out that they are in the midst of engineering the plan and the percentage is an estimate that has not been scaled. It could be 34.5% or 35.5%. He added that the calculation of open space preceded his involvement in the project.

Mr. Quinn stated he is struggling to understand the road behind the commercial buildings. If the distance from the building to the cartway is reduced to a width of 15 ft., as Mr. Rothe mentioned, 14 ft. will be taken up by parking spaces and sidewalks. Even 20 ft. would not allow much room for landscaping. Mr. Clark noted that the cartway will be 24 ft. at the narrowest point of travel, not counting parking or sidewalks. Mr. Riper stated that from the center of the roadway to the building is 27 ft. Ms. Bradshaw noted that the road could be moved back 5 ft. as was suggested earlier.

Mr. Rothe pointed out that the issue of the loading area must be resolved. Mrs. Amoroso stated she cannot envision unloading supplies in the middle of traffic. Mr. Riper pointed out that loading/unloading will not take place in the traffic lane. Mr. Clark noted that the provision for off-street parking and loading is found in the general zoning provisions for developments. Mr. Riper stated that the buildings have not yet been designed but the plan will designate a logical loading area. Mrs. Amoroso suggested that depending on how the buildings are designed it might be possible to have a loading zone on the side of the building.

Mr. Rothe explained that he would like time to consider how to resolve the outstanding issues. He pointed out that the original ordinance referred to Section 275-222 and he does not understand why that section was eliminated since the plan complies with those requirements. Most open space standards require 30% open space. Mr. Riper stated that the

applicant is comfortable with 60% on a gross basis or 35% using a net out calculation. Mr. Galloway suggested that net open space should be no less than 35%.

Mr. Riper stated he believes all of the major points have been addressed. It is possible that a particular issue was not raised because it was not on the plan at that time. The applicant has made a sincere effort to respond to Township concerns and to address the issues.

Mr. Riper summarized the four outstanding issues: 35% open space netted out, 20 ft. setback from the edge of the cartway to the building, 18 ft. wide garage parking stalls and 160 ft. building length. He asked if Council would be willing to introduce the ordinance amendment for a Campus Mixed Use Development as revised so this project can move forward.

Mrs. Amoroso moved for introduction of the revised ordinance amendment to permit a Campus Mixed Use Development Tract in the R4 Residential District as a Conditional Use. Mr. Galloway seconded the motion and the motion was approved by unanimous vote 5-0

Mr. Riper thanked Council for considering the proposed revisions of the ordinance amendment. He will forward the ordinance amendment incorporating the revisions discussed this evening to Mr. Damico for his review.

Mr. Clark stated that Mr. Riper is scheduled to meet with the Township Planning Commission at the August 13th meeting. A copy of the revised ordinance will also be forwarded to the County Planning Department for review.

B. Amendment of Act 537 Sewage Facilities Plan –
Sewer Interceptor Line – Phase II

Robert Scholz, Vice Chairman of the Middletown Township Sewer Authority, introduced John Ibach and explained that John recently joined the Sewer Authority staff as Infiltration and Inflow Coordinator, bringing with him 20 years of planning experience. He noted that DELCORA will be billing MTSA for every gallon of Middletown sewage that flows into their plant for treatment, and it will be essential to minimize the presence of infiltration and inflow (I&I) in Middletown's flow.

Mr. Scholz pointed out that every municipality in Pennsylvania is required under Act 537 to adopt a Sewage Facilities Plan. He explained that he and Mr. Ibach were present tonight to talk about Middletown's Sewage Facilities Plan and the changes that are planned. He explained that the Township's sewage travels through mains to interceptors and into the Dutton Mill, Chrome Run or Crum Run interceptor and eventually into the Chester Creek interceptor. About a year and a half ago the Authority began planning for the Phase 1 extension of the Chester Creek interceptor from Glen Riddle Road to Knowlton Road. DEP approved the 537 Plan for Phase 1 in November 2012, and the Sewer Authority proceeded with plans for Phase 2 that will extend the interceptor from Knowlton Road to the new DELCORA pump station and force main to be constructed on the property of the Southwest treatment plant. It is anticipated that Phase 1 will be completed by the end of 2014 and Phase 2 in 2016-2017.

Mr. Scholz went on to say that Phase 2 is driven by the need to separate Middletown's sewage from Southwest's sewage so the Township will not be billed for treatment of any sewage other than Middletown's. The interceptor will parallel the Southwest Chester Creek interceptor to Bridgewater Road where the sewage will be pumped to Aston Township to the new DELCORA pump station and from there to the DELCORA treatment plant.

Mr. Quinn questioned why a meter could not be located at the end of Phase 1. Mr. Scholz pointed out that if there was leakage it would be difficult to identify the source and whether MTSA or Southwest would be responsible for the cost of repair. Keeping Middletown's flow entirely separate as it goes into the DELCORA pump station appeared to be the best solution. According to state standards the Chester Creek interceptor is not large enough to handle all of the flow. In addition, Southwest's pipe is 24" and drops to 18", causing backups in the flow. MTSA will be using a 30" pipe that will be large enough to handle its flow.

Mr. Scholz noted that MTSA anticipates that the approval process will go much more quickly for Phase 2 because much of the information for the Phase 2 extension of the Chester Creek interceptor was included in the Phase 1 study. However, it is anticipated that there will be a period of time before the DELCORA pump station is activated during which MTSA will continue to share the Chester Creek interceptor with Southwest, making it very important to prevent I&I in the flow.

Mr. Galloway inquired how the project will be funded. Mr. Scholz replied that a bond issue is proposed. \$4 million is estimated for Phase 1 and \$7.2 million for Phase 2. He noted that this is a good time to go out for a bond issue since bond prices are extremely low.

Mr. Quinn asked when the contract with Southwest technically ends. Mr. Scholz responded the contract will terminate in 2018. Realistically, it would be difficult to have everything ready to go immediately when DELCORA throws the switch to begin pumping.

Ms. Bradshaw expressed appreciation to the Sewer Authority for the time and effort that has been expended on the Phase 1 and 2 projects. Although it has not been easy it has been time well spent.

Mr. Scholz pointed out that tonight's presentation is an introduction and is purely informational. As part of the process for approval of the 537 Plan Phase 2, members of the Sewer Authority Board will be making similar presentations to the Brookhaven Borough and Aston Township governing bodies and hope to receive letters of approval from them that will be forwarded to DEP with the Act 537 Plan for Phase 2. He noted that when they presented the Phase 2 Plan to Southwest they received a very positive reaction, and Southwest indicated they would be happy to recommend that DEP approve Phase 2. He noted that he and Mr. Sullivan will return to Council to review the comments from Southwest, Brookhaven and Aston.

C. Review of Sewage Facilities Planning Module –
Brasalind – 476 Old Forge Road

Mr. Clark stated that the 5-lot subdivision of the Brasalind property at 476 Old Forge Road was approved several months ago. Five new residential dwellings will be constructed and will be connected to the public sanitary sewer system. The Sewage Facilities Planning Module could not be submitted to DEP until the Middletown Township Sewer Authority and the Southwest Delaware County Municipal Authority came to agreement on a Global Agreement and the Agreement was approved by DEP. It is now appropriate for Council to authorize submittal of the Planning Module for this development to DEP.

Mrs. Amoroso moved that the Township Council of Middletown Township adopts and submits to the Department of Environmental Protection for its approval as a revision to the “Official Sewage Facilities Plan” of the municipality the above referenced Sewage Facilities Planning Module which is attached hereto. Mr. Galloway seconded the motion, and Resolution 2013-59 was approved by unanimous vote 5-0.

D. Stop Signs at Old Forge Road and Yearsley Mill Road

Mr. Clark stated that at last week’s meeting the Roads and Highways Committee considered a suggestion by Mr. Kirchgasser that a multi-way stop be established at the intersection of Old Forge Road and Yearsley Mill Road. The Committee authorized Mr. Rothe to conduct a traffic study at the intersection to determine whether the intersection would meet the Motor Vehicle Code requirements for a multi-way stop. Mr. Rothe confirmed that a three-way stop would meet the Code requirements, and an ordinance has been prepared for introduction to provide for a three-way stop at the intersection.

Mr. Clark explained that re-opening the newly constructed Old Forge Road bridge appears to encourage motorists to drive faster on Old Forge Road, and sight distance at Yearsley Mill Road is less than required. He pointed out that the old bridge was only one lane wide and had a 5 ton weight limit. The new bridge is wide enough for two vehicles to pass each other and has no weight limit.

Cheryl Brown, 314 Joseph’s Way, stated she is not certain that stop signs at the intersection of Yearsley Mill Road and Old Forge Road will resolve the speeding problem. When the Old Forge Road bridge re-opened she anticipated that motorists would be “zooming” along Old Forge Road and that is exactly what is happening. The drivers are not necessarily residents of the neighborhood and include motorists who use Valley Road to cut through from Rt. 1 to Rt. 352 or to avoid the congestion at the Rt. 1/Rt. 452 intersection. She noted that when classes at Penn State Brandywine resume in September students will use Yearsley Mill Road to reach Old Forge Road, adding to the traffic on Old Forge Road.

Mrs. Brown explained that traffic on Old Forge Road is heavier at certain times of the day, and the stop signs could create a backup that would block Joseph’s Way. She stated that sight distance is poor looking to the right exiting from Joseph’s Way on to Old Forge Road. She suggested that stop signs might be more effective at Old Forge Road and Darlington Road.

Mr. Clark pointed out that there is an existing stop sign on Yearsley Mill Road at the intersection with Old Forge Road. If the ordinance is adopted new stop signs will be installed in the northbound and southbound directions on Old Forge Road. He stated that stop signs are a useful safety measure and improve the flow of traffic, but cannot be used to control speeding.

Gail Fogel, 305 Joseph's Way, noted that last winter several motorists who were driving too fast on Old Forge Road lost control of their vehicles at the curve in the road and flipped over. She stated that stop signs at Joseph's Way and Old Forge Road might help to slow traffic. She suggested that speed bumps are effective in slowing traffic. Mr. Galloway pointed out that speed bumps are not permitted on public roads.

Mrs. Brown stated she rarely sees the State Police patrolling along Old Forge Road. Ms. Bradshaw noted that the State Police do not conduct speed checks in 35 mph speed zones. Mr. Clark explained that the State Police periodically patrol and check on speeding, but the Township cannot direct them to do so on a daily basis. He suggested that the Township can request the State Police to conduct a speed check, but suggested that should wait until after the new stop signs are installed.

Mary Jo Grove, 275 New Darlington Road, agreed that stop signs would be more effective at the intersection of Darlington and Old Forge Roads.

Mr. Quinn pointed out that motorists automatically drove slower across the old one-lane bridge.

Mr. Galloway stated that Mrs. Brown and Mrs. Fogel seem to have different opinions about where the stop signs should be located. There have been situations in the past when a resident requested installation of a stop sign and indicated that the neighbors were in agreement. After the signs were in place Council learned that some neighbors were never asked if they were in favor of the stop signs and were strongly opposed to idea. He asked whether a neighborhood meeting was held to discuss the stop signs. If not, he would suggest that introduction of the ordinance should be tabled until Mr. Kirchgasser can arrange a meeting with the neighbors.

Gary Grove, 275 New Darlington Road, commented that he liked the idea of a community meeting to discuss the stop signs.

Mrs. Amoroso moved to table introduction of an ordinance to provide for a three-way stop intersection at Old Forge Road and Yearsley Mill Road until a community meeting can be held with residents. Mr. Carlson seconded the motion, and the motion was approved by unanimous vote 5-0.

E. Award of Contract PW 13-2 – Sanitary Sewer Trench Restoration

Mr. Clark explained that in the early 1990s public sanitary sewers were installed on Hunting Hills Road, portions of Deer Run, Spring Run, Cold Spring Lane and a section of

Painter Road. A few years ago substantial settlement was discovered in a number of sections of the sewer construction project. Approximately 1900 feet of the sewer trench will be excavated, of which approximately 1200 feet will be on Hunting Hills Road.

Mr. Clark stated that the Township Sewer Authority retained the services of an independent soil engineer to analyze samples of the trench restoration, and to work with Art Rothe and Walter Fazler, Sewer Authority Engineer, to develop specifications for the trench repair work. The estimated cost for the remediation work including outside engineering services was \$134,000, and the Township and Sewer Authority agreed to split the cost. \$67,000 was budgeted in the approved Public Works budget for 2013 representing the Township's share of the repair project.

Mr. Clark stated that Art Rothe recommended that the low bid of Eagle Contracting and Landscaping, Inc. in the amount of \$77,486 be accepted, and will result in substantial savings for the Township and the Sewer Authority.

Mr. Carlson moved that Middletown Township accepts the sanitary sewer trench restoration bid of Eagle Contracting and Landscaping, Inc. of Downingtown, PA in the overall Contract amount of \$77,486 in accordance with the bid documents subject to compliance with all Prevailing Wage Act requirements by Eagle Contracting and Landscaping, Inc. Mr. Galloway seconded the motion, and Resolution 2013-60 was approved by unanimous vote 5-0.

F. Committee Reappointment – UCC Board of Appeals

Mr. Clark stated that in May 2012 Council adopted an ordinance establishing the Middletown Township Uniform Construction Code Board of Appeals, and appointed five persons to serve on the Board of Appeals for staggered terms of one to five years. The one-year term of Michael Murphy, Jr. will expire June 25, 2013.

Ms. Amoroso moved that Michael Murphy Jr. be reappointed as a member of the Middletown Township Uniform Construction Code Board of Appeals for a five-year term expiring June 25, 2018. Mr. Quinn seconded the motion, and Resolution 2013-61 was approved by unanimous vote 5-0.

G. 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 June 24, 2013 Bill List be authorized for payment by the Finance Department:

<u>General Fund</u>		
General Code	Supplement	\$ 7,317.65
Aqua Pennsylvania Inc.	May Hydrant Rental	11,381.75
McCusker & Ogborne	March-May Recycling Services	52,289.52

Recreational Enterprise Fund

On & Off Broadway, Inc.	Motown Tickets	7,218.00
The Travel Authority, Inc.	Deposits, Final Payments & Insurance	10,647.90
Chester County Travel	Paris to Normandy	7,419.00
	Switzerland & England	6,476.00
	National Parks of America	7,892.00

Mrs. Amoroso seconded the motion, and Resolution 2013-62 was approved by unanimous vote 5-0.

8. Adjournment

The meeting was adjourned at 8:20 PM.

Respectfully submitted,

Carolyn Doerfler
Carolyn Doerfler, Recorder

