

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

July 22, 2013

Minutes of Regular Meeting of Township Council Held on Monday, July 22, 2013 at 7:00 PM in the Township Building, 27 N. Pennell Road

Present: M. Amoroso, L. Bradshaw, S. Galloway, M. Kirchgasser, N. Shropshire
R. Adams, Esq., 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 matters, and she apologized for the delay in beginning the meeting.

2. Approval of Minutes – June 24, 2013 Regular Meeting

Mrs. Amoroso moved for approval of the Minutes of the June 24, 2013 Regular Meeting. Mr. Galloway seconded the motion, and the Minutes were approved as written by vote of 3-0; Messrs. Kirchgasser and Shropshire abstained from voting because they were not present at the meeting.

3. Comments from the Public

There were no comments from the public.

4. Reports

A. Chairperson: Ms. Bradshaw announced that the 13th Annual Golf Outing and Dinner Social will be held on Tuesday, October 1st at Penn Oaks Golf Club.

B. Manager: Mr. Clark stated that the Township Parks and Recreation Department sponsored an American Red Cross blood drive on July 16th in the Township Building meeting room. 35 people signed up to donate blood, and 28 pints of blood were collected. He thanked everyone who participated.

6. New Business

B. Review of Preliminary Subdivision/Land Development
Application - WV-PP Towne Center LP – Various Parcels –
W. Baltimore Pike, S. Pennell Rd.

Mrs. Amoroso moved to amend the agenda to consider Item 6B, Review of Preliminary Subdivision/Land Development Application – WV-PP Towne Center LP, as the first item on the agenda. Mr. Galloway seconded the motion, which was approved by unanimous vote 5-0.

Robert Adams, Esquire, Township Special Solicitor, summarized the background of the Preliminary Subdivision/Land Development application submitted by the WV-PP Towne Center LP limited partnership on April 18, 2013. The plan proposed a 12-lot subdivision of the 173.86 acre Franklin Mint property located on West Baltimore Pike and South Pennell Road, together with modifications of the parking area and site improvements. After accepting the application the Township learned that business disagreements had developed between the general partners. The PMD General Partnership (Dambly-McKee) claimed that the Wolfson General Partnership did not have the authority to file the application.

Mr. Adams explained that PMD filed lawsuits in the Delaware County Court of Common Pleas, and Middletown Township was brought into the litigation by an injunction action to prohibit further consideration of the development plan by the Township. Four days of hearings have been held and more court time is scheduled for August. Meanwhile the MPC time clock on the application continues to run and will expire on August 12th. If no action is taken by the Township by August 12th the application will be deemed approved. One of the general partners agreed to grant a 30-day extension of time and the other general partner opposed any extension of time.

Mr. Adams suggested that Council should take action tonight to approve or deny approval of the application rather than waiting until the next meeting, which falls on August 12th. The review process has been proceeding in the normal manner, and review letters have been forwarded to the applicant by McCormick Taylor and Thomas Comitta Associates identifying multiple deficiencies in the plan that require responses or correction of the plan. He noted that basically this is a very approvable plan; however, because the partners have been unable to speak with one voice, responses have not been made to the review comments. In addition, notice of the application has not been given to abutting property owners as required by the Subdivision/Land Development Ordinance.

Mr. Adams stated there is no indication the partners will cooperate. A resolution has been prepared denying approval of the Preliminary Subdivision/Land Development Plan for non-compliance with the ordinance requirements as itemized in the review comments of McCormick Taylor and Thomas Comitta Associates, failure to respond to the review comments, and failure to notify abutting property owners prior to the Planning Commission meeting at which the Preliminary Plan was to be reviewed in accordance with the Subdivision/Land Development Ordinance.

Mrs. Amoroso stated that basically Council has no choice but to deny the plan.

Ms. Bradshaw inquired whether whatever action Council takes on approval or denial of the application will affect Wawa's application for building permits for renovation of the Franklin Mint building in connection with Wawa's proposed occupancy of the building. Mr. Adams replied that the application for building permits is separate and distinct from the Subdivision/Land Development application. Denying approval of the application will not affect the Wawa building permits and issuance of the building permits will allow the building renovations to go forward. The building permits are being processed consistent with the Township's interest in having Wawa occupy the Franklin Mint building.

Mrs. Amoroso moved that the Preliminary Subdivision and Land Development Plan be denied for non-compliance with ordinance requirements as itemized in the review comments of McCormick Taylor dated June 26, 2013 and Thomas Comitta Associates dated June 27, 2013 attached hereto and incorporated herein, failure to provide notice to abutting property owners as required pursuant to Middletown Township Code Section 210-9 A. (5) and (6), and failure to submit a response to the plan review comments prior to Township Planning Commission review in accordance with Township Subdivision/Land Development Submission Guidelines.

Mr. Galloway seconded the motion, and Resolution 2013-63 was approved by unanimous vote 5-0.

Mr. Adams stated that Mr. Clark will provide notice to the general partners regarding Council's decision.

Mr. Adams was excused and Mr. Damico served as Solicitor for the remainder of the meeting.

5. Public Hearing

- A. Conditional Use Application of Donald and Lisa Ritacco for Approval to Use the First Floor of 423 Lenni Road as a Professional Law Office Pursuant to Section 275-206.B.3 of the Zoning Ordinance Pertaining to Nonconformities

Ms. Bradshaw opened the Public Hearing on the Conditional Use Application for approval to use the first floor of 423 Lenni Road as a professional law office.

Testimony was taken by Lorraine Evans, court reporter.

Mr. Clark stated that Lisa and Donald Ritacco plan to purchase the property at 423 Lenni Road and filed an Application for Conditional Use for approval to use the first floor of the building as a professional law office for Mrs. Ritacco's law practice. He noted that in the past the first floor served as a business office until the business closed. The first floor has been vacant for several years; however, tenants continued to reside in the second floor apartments.

The Planning Commission reviewed the application at their July 9th meeting and recommended approval. Mr. Clark stated that notice of the Public Hearing was advertised in the Delaware County Daily Times on July 3 and July 10, 2013, and the proof of advertisement has been entered into the record as Township Exhibit T-1.

Lisa Ritacco was sworn, and explained that the building has not been used as residence for many years, except for the tenant apartments on the second floor. She stated her law practice specializes in disability cases, and normally only a few clients visit the office during any one month. She has one full time and three part time employees, and has no plans to add more employees or expand her law practice. Five off-street parking spaces are available in front of the building for law office clients. One sign is proposed and will comply with the Zoning Ordinance requirements.

Mr. Damico pointed out that a total of 10 parking spaces are provided, 5 in front of the building for the law office and 5 at the rear of the building for tenant parking. She noted that no additional lighting is proposed for the parking area.

Mr. Damico stated that Mrs. Ritacco handed up the return receipt cards evidencing that surrounding property owners were notified of the Public Hearing and review of the Conditional Use application. The return receipt cards will be entered into the record as Township Exhibit T-2.

There were no comments from members of Council or the audience.

Mr. Shropshire moved to close the Public Hearing, seconded by Mrs. Amoroso and unanimously approved 5-0.

6. New Business

A. Review of Conditional Use Application CUA 13-2 –
Ritacco – 423 Lenni Road

Mr. Kirchgasser moved that the above-cited Conditional Use Application be approved subject to the following:

1. The number of employees and other persons occupying the offices will be limited to five (5), including the owner.
2. There will be no additional lighting in the parking area.
3. There will be no signs other than those permitted by the Zoning Ordinance.
4. Five off-street parking spaces each will be maintained on the property for both the office use and the residential use.
5. All necessary Building Permit Applications and fees must be submitted and approved for any renovations to the structure to accommodate the

proposed use, and a Certificate of Occupancy will be obtained prior to first floor occupancy.

Mr. Shropshire seconded the motion, and Resolution 2013-64 was approved by unanimous vote 5-0.

C. Review of Zoning Hearing Board Application
2013-9 Sweeney – 98 Patricia Place

Mr. Clark stated that Richard Sweeney proposes to construct a free-standing building at the rear of his property at 98 Patricia Place to house a spa. The building will encroach 4 ft. into the 30 ft. rear yard setback required in the R-3 Zoning District, and Mr. Sweeney submitted an application to the Zoning Hearing Board for a variance from the rear yard setback.

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

D. Award of Contract PW 13-3 – Unleaded Gasoline and Diesel Fuel

Mr. Clark explained that the 2-year contract for the purchase of unleaded gasoline and diesel fuel for use in Township and Fire Company vehicles will expire shortly. The Township solicited bids on a new 2-year contract and two bids were received, one from the current supplier Superior Plus and the other from Riggins, Inc. of Vineland, NJ. Bids were opened on July 16th and Riggins was the low bidder at a fixed price differential per gallon of .1795 cents for diesel fuel and .1635 for unleaded gasoline. He pointed out that the price is based on the delivery charge over and above the OPIS formula price calculated for the Philadelphia fuel market for the day of delivery. Superior bid the same price as the current contract.

Mr. Shropshire moved that Contract No. PW-13-3 for the purchase of gasoline and diesel fuel be awarded to Riggins, Inc. of Vineland, NJ at a fixed price differential per gallon for diesel fuel of .1795 cents and a total bid price of \$3.21 per gallon; a fixed price differential per gallon for unleaded gasoline of .1635 cents and a total bid price of \$3.18 per gallon, subject to the terms and conditions of the bid specifications. Mr. Kirchgasser seconded the motion, and Resolution 2013-65 was approved by unanimous vote 5-0.

E. Multi-Way Stop Sign – Old Forge Rd. at Yearsley Mill Rd

Mr. Clark explained that Mr. Kirchgasser suggested that the Roads & Highways Committee consider recommending installation of stop signs at the intersection of Old Forge Road and Yearsley Mill Road for safety concerns because of sight distance on Yearsley Mill Road that have worsened since the reopening of the newly constructed Old Forge Road bridge. The Committee requested that the Township Engineer conduct a traffic study to determine whether the intersection would meet the MVC requirements for a multi-way stop. Mr. Rothe indicated that multi-way stop signs would be warranted because the sight line at the intersection

does not meet the MVC requirement for adequate sight distance due to the curvature of Old Forge Road, and there is no practical way to correct the configuration of Old Forge Road.

Mr. Clark stated that an ordinance approving installation of multi-way stop signs at the intersection of Old Forge Road and Yearsley Mill Road was presented for Council's consideration for introduction at the last meeting. Several residents of Joseph's Way attended the meeting and expressed opposing opinions regarding the best location for stop signs, suggesting that either Joseph's Way or Darlington Road would be a more effective location for stop signs to reduce speeding on Old Forge Road. Council tabled the matter to tonight's meeting to allow additional time for Mr. Kirchgasser to meet with the residents to discuss the problem.

Mr. Kirchgasser pointed out that the Old Forge Road bridge was originally a one-lane bridge with one-way traffic and had a 5 ton weight limit, and those limitations had a "calming effect" on traffic. The new bridge is wide enough for two-way traffic and has no weight limit. Motorists who use the bridge are traveling at faster rates of speed in both directions on Old Forge Road.

Cheryl Brown, 314 Joseph's Way, stated that she spoke at the last meeting regarding her concerns about speeding on Old Forge Road. She attended Mr. Kirchgasser's meeting with residents, and also met with Mr. Rothe who pointed out that stop signs cannot be used to control speeding. She noted that stop signs on Old Forge Road will only address traffic coming from Rt. 352 past Fair Acres, over the bridge and past Joseph's Way. Mr. Clark stated that stop signs will address traffic traveling in both directions on Old Forge Road.

Mrs. Brown went on to say that the speed limit on Old Forge Road changes from 35 mph to 25 mph for the short portion of the road from Joseph's Way to just before Darlington Road and then returns to 35 mph. She suggested that the State Police should be made aware of the change in the speed limit in that area of Old Forge Road. Mr. Rothe stated that to his knowledge the speed limit for the entire length of Old Forge Road is 35 mph, and he will check the area Mrs. Brown described where the speed limit changes to 25 mph.

Mr. Galloway pointed out that the speed limit of the road from Rt. 352 to Fair Acres is 25 mph. He suggested that the ordinance may need to be amended if there is a variation in the speed limit on Old Forge Road.

Ms. Bradshaw noted that the State Police do not enforce 35 mph speed limits. Mr. Clark pointed out that Old Forge Road and Yearsley Mill Road are Township roads, and the State Police do not routinely enforce speed limits authorized by local municipalities.

Ms. Bradshaw inquired whether there is any place on Old Forge Road in the vicinity of Yearsley Mill Road where the Township speed trailer could be parked without interfering with traffic to register the speed at which individual vehicles are traveling. Mr. Kirchgasser suggested that small speed monitors that can be attached to a telephone pole are available and would be ideal for use in that area. The monitor is movable and can be used in areas where there is no place to park the speed trailer safely. Mr. Rothe stated that \$2,000 was

included in the 2013 budget for the purchase of a small speed monitor; however, the price quoted by one vendor for a small monitor was \$8,000-\$9,000.

Ms. Bradshaw suggested that "SLOW" might be painted on the blacktop surface of Old Forge Road. Mr. Clark explained that stop signs are more effective than painting "SLOW" on the road surface, and the intersection of Old Forge Road and Yearsley Mill Road will be better served by multi-way stop signs. Mrs. Brown stated she must agree to disagree, and does not believe stop signs will reduce speeding on Old Forge Road.

Mr. Kirchgasser stated that he spoke with the State Police about the speeding problem on Old Forge Road, and indicated that speeding has become noticeably worse since the Old Forge Road bridge reopened.

Mr. Galloway suggested another option might be to reduce the speed limit on Old Forge Road to 25 mph. Realistically, most motorists ignore speed limits and drive at the speed they feel is comfortable.

Gary Grove, 275 New Darlington Road, pointed out that making a left turn onto Old Forge Road from Darlington Road is difficult during heavy traffic, and conversely making a left turn from Old Forge Road onto Darlington Road is hazardous because oncoming vehicles are not visible until they are very close. Stop signs at the Darlington Road intersection would improve safety. He went on to say he liked the idea of painting "SLOW" on the road surface. He noted that reducing the speed limit will not change drivers' minds about the speed at which they drive. He agreed that a small speed monitor attached to a telephone pole would be a better option than trying to park the speed trailer on Old Forge Road.

Mrs. Brown pointed out that when shifts change at Fair Acres, traffic will back up at the stop signs at Yearsley Mill Road and will block Joseph's Way. She does not believe stop signs will prevent accidents like the several that have occurred since the bridge reopened.

Ms. Bradshaw suggested that the Township should follow through on the options that have been discussed, including painting "SLOW" on the blacktop of Old Forge Road, following up with the State Police on the speeding problem, and investigating additional sources for purchasing a small movable speed monitor.

Mr. Kirchgasser moved for introduction of the Ordinance amending Chapter 235, "Vehicles and Traffic", of the Township Code of Ordinances to provide for a three-way stop intersection at Old Forge Road and Yearsley Mill Road. Mr. Shropshire seconded the motion, and the motion was approved by vote of 4 in favor (Amoroso, Bradshaw, Kirchgasser, Shropshire) and 1 opposed (Galloway).

Mr. Galloway explained that before voting for adoption of the ordinance amendment he would like assurance that all of the neighbors are in favor of installation of the stop signs. Otherwise Council could be facing complaints from neighbors that they were not informed about the stop signs and were strongly opposed to them.

Mr. Shropshire pointed out that the vote was only for introduction. If there are a number of neighbors who are opposed to the stop signs, Council should have that information before considering adoption of the ordinance at the next meeting.

Mrs. Brown stated that Joseph's Way has a Homeowners Association, although there are only seven properties in the development. She will contact her neighbors on Joseph's Way to ascertain their feelings about having stop signs installed at the intersection of Old Forge Road and Yearsley Mill Road.

Ms. Bradshaw asked Bette Alburger if she would write an article about the proposed stop signs for publication in the Daily Times to provide information for neighborhood residents who may not be aware of the proposal for multi-way stop signs.

Ms. Bradshaw stated that this matter will be tabled until the Council meeting of August 12, 2013.

F. Authorize Sale of Unneeded Equipment –
1991 Simon Duplex Grumman Fire Truck

Mr. Clark explained that in 1991 the Township purchased the Simon Duplex Grumman Pumper that has since been operated by the Lima Fire Company. With the pending consolidation of the Lima and Lenni Heights Volunteer Fire Companies to form the new Rocky Run Fire Company it was determined that the pumper will no longer be needed and should be disposed of. The pumper was advertised for sale in several trade magazines and on the Fireline Equipment website. An offer to purchase the fire truck for \$50,000 was received from the City of St. Ignace, Michigan. The offer is a responsible bid and the bid price is reasonable.

Mr. Clark stated that Council must approve the sale by resolution and authorize the Finance Department to transmit the 5% sale commission due to Fireline Equipment upon receipt of payment by the City of St. Ignace. He noted that after deducting the brokerage fee and advertising costs the net proceeds total \$47,500. The money will be deposited in the Fire Apparatus Replacement Fund. Mr. Kirchgasser explained that the Fire Apparatus Replacement Fund was initiated in 1990 to establish a schedule for replacement of fire vehicles based on an estimated 20-year life span for fire vehicles.

Mr. Kirchgasser moved that the sale of the 1991/92 Simon Duplex Grumman Pumper to the City of St. Ignace in the amount of \$50,000 is approved, and upon receipt of payment from the City, the Finance Department is authorized to transmit the 5% sale commission due to Fireline Equipment for the sale. Mrs. Amoroso seconded the motion, and Resolution 2013-66 was approved by unanimous vote 5-0.

Dean Keyes, President of Lima Fire Company, thanked the Township for assistance in selling the fire truck. He commented that the purchase offer was more than they thought the vehicle would bring.

G. Fire Company Consolidation – Financial Support

Mr. Kirchgasser stated that plans for consolidation of the Lima and Lenni Heights Fire Companies to form the new fire company to be known as the Rocky Run Fire Company have been ongoing for several years. A considerable amount of work was involved in the merger, and it was important to make certain the finances of both companies were in order since the merger could not be formally completed unless both fire companies had no outstanding financial debts.

Mr. Kirchgasser explained that in November 2008 the Lenni Heights Fire Company obtained a line of credit through PNC Bank. The outstanding balance on the loan is \$64,309.79, plus interest to the date of payment. He stated that the Township supports the consolidation and wishes to demonstrate that support by repaying the balance due on the Lenni Heights Fire Company's debt. He noted that Mr. Damico contacted Pam Baker, Senior Auditor with Barbacane Thornton, the Township's auditing firm, to request an opinion from the auditor's standpoint regarding the use of Township General Funds to pay off the balance of the Lenni Heights Fire Company's debt. Mrs. Baker indicated that her firm was not aware of any prohibition against using General Fund dollars for that purpose. Council must approve a resolution authorizing use of General Fund money to pay off the Fire Company's outstanding loan.

Mr. Kirchgasser moved that the Council of Middletown Township authorizes the use of the Township General Fund to repay the outstanding balance of the Lenni Heights Fire Company loan, being the sum of \$64,309.79, together with interest thereon, until the date of payment. Mrs. Amoroso seconded the motion, and Resolution 2013-67 was approved by unanimous vote 5-0.

Ms. Bradshaw expressed appreciation to Mr. Kirchgasser, Mr. Shropshire and Dean Keyes, President of Lima Fire Company, for the time and effort they expended to bring about the merger of the two fire companies. Mr. Keyes noted that a joint meeting of the Lima and Lenni Heights Fire Companies will be held on July 30th to vote on the merger.

H. Renewal of Insurance Coverage Package

Mr. Clark indicated that a renewal quotation was received from Montgomery Insurance Services, Inc. for the comprehensive insurance renewal package for liability coverage for the Township and Township fire vehicles at a premium of \$59,915. Montgomery also submitted a separate renewal quotation for Workers Compensation at a premium of \$68,031, which was considerably higher than the current annual premium of \$26,348 through Companion Insurance. The renewal quote from AJG, the current broker for Workers Compensation through Companion Insurance, has not yet been received.

Mr. Clark stated it is recommended that the Township accept Montgomery's comprehensive insurance renewal package without the Workers Compensation coverage. He pointed out that the package premium is approximately \$10,000 higher than last year due in part

to some changes in state laws. On the other hand, the premium is \$12,000 less than two years ago.

Mr. Kirchgasser moved that the proposal of Montgomery Insurance Services, Inc. be accepted for the following coverages, with estimated annual premiums as follows:

| | |
|---|--------------|
| General Liability | \$ 6,228 |
| Business Auto | 19,967 |
| Abuse and Molestation | 467 |
| Property, Inland Marine | 8,518 |
| Commercial Crime | 719 |
| Public Officials Errors and Omissions and Employment Practices | 14,522 |
| Umbrella | <u>9,494</u> |
| | \$59,915 |

Mrs. Amoroso seconded the motion, and Resolution 2013-68 was approved by unanimous vote 5-0.

I. Approval of Bill List

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

Mrs. Amoroso moved that payments under the July 22, 2013 Bill List be authorized for payment by the Finance Department:

| | | |
|-------------------------------------|---------------------------------|-------------|
| <u>General Fund</u> | | |
| Keystone Health Plan East | July Health Insurance | \$23,370.42 |
| | Highway Share | |
| | Sewer Authority & Library Share | |
| | Recreation Share | |
| Barbacane Thornton & Company LLP | Township Audit | 7,365.00 |
| Aqua Pennsylvania | May Hydrant Rental | 11,381.75 |
| <u>Recreation Dept.</u> | | |
| Chester County Travel | Poland/Cruises/Canyon Country | 21,798.34 |
| | Paris | 35,744.29 |
| In The Mood to Cruise | Avalon Waterways | 8,068.00 |
| TD Bank | Community Day Expenses | 54.75 |
| | Trips | 12,525.93 |
| Grand American Tours | Hawaii | 7,832.00 |

Mr. Kirchgasser seconded the motion, and Resolution 2013-69 was approved by unanimous vote 5-0.

I. Sleighton Park – Stop Signs at Crosswalks

Doreen Makos, 306 Darlington Road, stated that the loop walking trail at Sleighton Park crosses the internal driveway in the park at two places, and asked if there are plans to install stop signs or other warning signs on the driveway to alert motorists that joggers, hikers, bikers, etc. may be crossing the driveway.

Mr. Clark noted that hiking and biking trails he has used in other locations usually had small size stop signs on the trail at locations where the trail crossed a road or driveway. Mr. Rothe explained that after the final layer of paving is applied to the park driveway later this year, the parking spaces will be striped and crosswalks will be painted on the road surface where the trail crosses the driveway.

Ms. Bradshaw suggested that Mrs. Makos discuss this matter with the Roads and Highways Committee at their meeting on August 5th.

7. Adjournment

The meeting was adjourned at 8:15 PM.

Respectfully submitted,

Carolyn Doerfler
Carolyn Doerfler, Recorder

✓ 41
✓ EMAIL
✓ WEB