

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
FEBRUARY 22, 2016

Minutes of the Regular Meeting of Township Council Held on February 22, 2016 at 7:00 P.M.,
in the Township Administration Building located at 27 North Pennell Road

Present: S. Galloway, M. Kirchgasser, S. Powell, C. Quinn, and D. Helm

B. Clark, E. Janetka, Engineer, and M. Damico, Esquire

1. OPENING

Chairman Mr. Kirchgasser called the meeting of the Council to order at 7:04 P.M. and led recitation of the Pledge of Allegiance to the Flag.

2. INTERIM APPOINTMENT

Mr. Kirchgasser announced that there was a vacant Council position due to Ms. Amoroso being elected to a County Judge position. He explained that any resident interested in the position was invited to submit their credentials. Mr. Galloway motioned to appoint Dean Helm from those who submitted as the interim Council Member for District 2. Mr. Quinn seconded this motion and Council approved Resolution 2016-29 unanimously with a vote of 4-0.

Mr. Kirchgasser noted that Mr. Helm has served on the Sewer Authority for over 20 years and is very active within the community and with his children's sports. He has been a resident of the Township for 26 years.

Mr. Kirchgasser introduced Magisterial District Justice Strohl, who was present to administer the Oath of Office for Mr. Helm. Mr. Helm, joined by his wife Carol and neighbors Maxwell and Sofia Philips, stepped forward and was sworn into the office of Council for District 2 by Justice Strohl.

Upon conclusion of the ceremony, Mr. Helm joined the other Council members at the table for the meeting.

3. APPROVAL OF MINUTES

Mr. Galloway moved to approve the minutes for the January 11, 2016 meeting. Mr. Quinn seconded this motion and Council approved unanimously with a vote of 4-0 (Mr. Helm abstained).

4. COMMENTS FROM THE PUBLIC

Antonella DeCicci, 130 Yearsley Mill Road, noted she was a resident with a traffic safety concern and went on to report that she was in 2 car accidents in a 3 week time period; both of which were on Old Forge Road. The first was at the intersection of Darlington Road and Old Forge Road and the second was on Old Forge Road at the Fair Acres entrance.

She went on to explain that there is no stop sign on Old Forge Road where it intersects with Darlington Road and that while there is one on Darlington Road, the view, in her opinion, is obstructed by brush. She recommended the brush be removed for better sight of Old Forge traffic and asked that this intersection become a 3 way stop, with 2 stop signs being added to Old Forge Road. Ms. DeCicci then explained that traffic on Old Forge Road does not stop at Fair Acres, but Fair Acres is supposed to stop at this intersection. She highlighted that there is a Stop sign on Old Forge road at this intersection, but it is only for those turning into Fair Acres. Those making a right to continue on Old Forge do not have to stop. She felt that this was a confusing intersection and a lot of times, drivers had to play a guessing game on whether or not cars would be stopping at this intersection since many don't use their turn signal. She requested that this be made a 3 way stop as well, and that a crosswalk be added for the Fair Acres employees who cross at the intersection.

Ms. DeCicci provided her contact information to Mr. Clark for a follow up.

Mr. Kirchgasser asked if she had any problems caused by either of the accidents. Ms. DeCicci answered in the affirmative and explained that she was not able to start her freshmen year of college because of medical injuries related to both accidents. Mr. Kirchgasser agreed with Ms. DeCicci's concerns and instructed Mr. Clark to put this topic on the agenda of the next Roads, Highways and Public Safety meeting. Mr. Galloway noted the meeting would be on March 7th and asked Ms. DeCicci if she would be able to attend. Ms. DeCicci stated she would be there.

Tim Sullivan commented that he travels the same path Ms. Decicci described when going to work and that he agrees with her concerns. He went on to explain that cars traveling on Darlington Road towards Old Forge Road have a tendency of not keeping to the bend and remaining on the right side of the road as they approach the intersection in question. He recommended a painted line be placed at the stop sign so the lane is more defined. He felt this was definitely a blind corner.

5. REPORTS

A. CHAIRMAN

Mr. Kirchgasser noted that Mark Damico was sitting in this evening as Solicitor instead of Joe Damico.

B. FINANCE AND ADMINISTRATION

Mr. Clark reported that the committee discussed a modification to the pension plan related to a divorce issue. The committee also discussed the request of a pharmacy at Fair Acres for relief of a mercantile tax late penalty, and the committee recommended this not be granted.

C. LAND PLANNING

Mr. Quinn reported Mr. Comitta was at the meeting to present information he gathered to help Council determine an update to the fee schedule for recreation fee-in-lieu payments.

D. MANAGER

Mr. Clark reported that he received notice from the County that last year's Community Development grant was approved, and the Township could proceed with putting the job out to bid. They will be moving forward slowly as all of the required project components are addressed.

6. PUBLIC HEARING

- A. Proposed amendment of Zoning Ordinance to amend B-2 Major Shopping Center District by inserting a new subsection to include the existing residential uses of non-conforming lots within B-2 Zoning District as a permitted use and applying the area and bulk regulations of the R-3 Zoning District to those lots.
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Mr. Clark explained that this was in regards to an Ordinance introduced by Council pertaining to certain properties on Oriole Avenue. Residents of this road voiced concern about their properties being listed as B-2 for zoning as it is not a residential zoning designation. He reported that the Solicitor and Ms. Merino reviewed the language of the proposed ordinance amendment. The Ordinance would allow the residents of Oriole Avenue whose properties are identified as B-2 zoning to be subject to the rules of R-3 Residential use for zoning purposes. Mr. Clark noted this only applied to four houses and that setback and density requirements of R-3 would now apply to them instead of B-2 requirements where they might have to go to the Zoning Hearing Board for approval of requested variances, if Council approved the Ordinance. This ordinance has been reviewed by both the Township and County Planning Commissions. It was introduced at the previous Council meeting and this hearing was advertised and posted. The purpose of this hearing is to give residents a chance to comment on the proposed ordinance.

Mr. Galloway motioned to open the hearing for comments. Mr. Quinn seconded this motion and Council approved unanimously with a vote of 5-0.

There were no comments.

Mr. Galloway motioned to close the hearing. Mr. Quinn seconded this motion and Council approved unanimously with a vote of 5-0.

7. NEW BUSINESS

- A. Consideration for Adoption—An Ordinance amending the Middletown Township Code of Ordinances, Chapter 275 Zoning, Article XXIII B-2 Major Shopping Center District by inserting a new subsection 275-136.A(5) to include the existing residential uses on nonconforming lots located within the B-2 Zoning District as a permitted use and by applying the area and bulk regulations of the R-3 Zoning District.
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Mr. Quinn motioned to approve the Ordinance. Ms. Powell seconded this motion and Council approved Ordinance 766 unanimously with a vote of 5-0.

Mr. Bond, Oriole Avenue, thanked Council for approving the Ordinance and stated he greatly appreciated it.

B. Review of Final Land Development Plan - Tyler Arboretum: 515 Painter Road - Barn Patio Expansion and Documentation of Prior Additions of Service Building

Jim Flandreau, attorney for the applicant, introduced himself along with Cricket Brien, the Executive Director of Tyler Arboretum. He stated that he believes the proposed plan is in good order and requests it be approved by Council.

Mr. Galloway commented that he did not see a limit placed on the number of events held on an annual basis. Mr. Flandreau explained that it was not in the agreements but was discussed with both Mr. Shropshire and Mr. Clark. They all felt it was best to not have a specific number provided. Mr. Galloway stated he did not have an opportunity to discuss this matter with Mr. Shropshire and asked how many rental events take place at the Arboretum on an annual basis. Ms. Brien stated that there are usually 25-35 weddings, with additional events for the Rotary, Business Association, etc. Those types of events though are during the day whereas wedding are usually in the evenings.

Mr. Galloway voiced that his concern was for weddings in the evenings. Mr. Flandreau stated that Mr. Shropshire asked if there would be 2 weddings at the same time and the answer was no. He also went on to state that there is an exclusive catering relationship with Jeffrey Miller, who is familiar with the Arboretum and helps assure that regulations are met consistently.

Mr. Galloway asked if the applicant would accept a cap on the number of weddings permitted in a year. Mr. Flandreau stated they would prefer not to do this, as weddings are a significant source of revenue for this non-profit business. That said, he also noted that being a non-profit business meant that they also have to make sure they meet IRS codes for this specific type of business. Mr. Galloway explained that he felt the Arboretum has always been a great neighbor and he does not want to see it lose revenue; however, his concern is for the residents in that area. He felt that they purchased their homes aware that they were next to an arboretum and not a catering facility and felt that a reasonable cap on the number of weddings per year was a reasonable step to take for the residents. He recommended this cap be somewhere in the higher range of the number of weddings the Arboretum already does in order to not take away business they already count on.

Mr. Flandreau explained that the caterer's only function is to handle the weddings and that it is not a large-scale catering operation at the Arboretum. He went on to report that a representative of the catering company is always present at events and assures compliance with all relevant regulations, like the noise ordinance.

Mr. Kirchgasser noted that 35 events per year is almost every weekend during the nicer part of the year and that the number indicates a high level of frequency.

Mr. Quinn looked for clarification on Item 3 about music and asked how indoor vs. outdoor music was defined. He noted indoor music could be pushed out if the patio doors are opened. Mr. Flandreau stated that has always been the case, but that it was possible it would be less likely to happen now that the barn will have air conditioning and events were likely to be entirely indoors.

Mr. Quinn asked if a hardship would be created by reducing the time allowance for music from 11 PM to 10:30 PM. Mr. Flandreau stated there were already events scheduled with an end time of 11 PM. Mr. Quinn commented those events could be grandfathered if the applicant felt this request was reasonable. Mr. Flandreau stated that everything discussed thus far was reasonable but that the applicant wished to maintain as much flexibility as possible.

Ms. Brien commented that weddings are one of the things that really help the Arboretum with achieving its mission because they help introduce families to Tyler Arboretum and it is an opportunity to reach new people. She felt it was an important way to build an audience and that she would prefer not to limit this type of organic growth. Mr. Flandreau agreed with Ms. Brien. He noted that while he understood Council's concerns, if the Arboretum was able to schedule 40 weddings one year, they would like to do so for the reasons Ms. Brien stated.

Mr. Galloway asked about a timeline for the barn renovations. Mr. Flandreau reported that demolition was already underway and that they were hoping the work would be done by early June 2016. Mr. Galloway asked if there was an increase to weddings already. Ms. Brien answered in the negative but added that they were hoping they would see an increase since it helps with funding the renovation and educational activities.

Mr. Galloway asked if weddings were mostly Friday and Saturday and Ms. Brien answered in the affirmative. Mr. Galloway commented that if it did become more popular than there could potentially be more than 40 weddings during the good weather months. Ms. Brien reiterated that she would prefer to not have a cap.

Mr. Kirchgasser stated the onerous impact was the main concern. He explained that Mr. Quinn lives a quarter mile away and can hear when weddings take place. If he can hear it, other neighbors can as well. His recommendation was to put a cap on the number of weddings now and then revisit the issue later if it becomes an issue for the Arboretum. Mr. Galloway recommended the cap be 35 wedding events and noted the time for the event ending should be earlier than 11 PM if it is a week night.

Mr. Flandreau explained that the typical season for weddings is May through October, but during that time the Arboretum has its own events that do not allow for weddings to be booked. He calculated about 22 weekends during this time that could be used for weddings. Since this is the case, the most the Arboretum could do in a year would be 44 weddings. Mr. Kirchgasser stated that would be every weekend and every night of the weekend. He didn't think it was fair to the residents of the area to deny them a quiet night on their patio and felt a cap of 35 was reasonable. He stated that if a time ever came when the Arboretum ever felt the number had to be increased, the conversation could take place at that point.

Cathleen Smith, 58 S. Pennell Road, asked if that would include Sunday afternoon weddings, because that could take the potential amount of weddings to 66. Ms. Brien felt Sunday afternoon weddings should not be counted since they are during the day and the evening weddings were the issue. Mr. Kirchgasser felt this may need additional discussion. Mr. Flandreau stated additional discussion was needed anyway due to Mr. Damico's revisions to some of the documents; however, he was hoping to get the patio approved subject to the solicitor's changes. He stated this arrangement was discussed with Mr. Damico and Mr. Clark already, and noted that Mr. Damico wanted a memorandum and exhibits of Tyler Arboretum rules and regulations.

Mr. Galloway asked Mr. Mark Damico for guidance on how to proceed. Mr. Damico stated a motion could be made for Land Development approval with the condition of having the memorandum on barn rental use regulations satisfactory to Council and the Solicitor. Mr. Galloway was comfortable with this arrangement and stated he would like to also discuss it further with Mr. Shropshire. Mr. Flandreau stated he would work with the Solicitor and Manager to make sure concerns were addressed.

Mr. Quinn motioned to approve the Final Land Development Plan for Tyler Arboretum subject to approval of the barn rental use regulations by the Solicitor and Council. Mr. Galloway seconded this motion and Council approved Resolution 2016-30 unanimously with a vote of 5-0.

Mr. Flandreau asked if this approval was for all land planning requirements and Mr. Clark answered in the affirmative, noting it was also subject to the engineer's comments. Mr. Janetka stated he was satisfied.

C. Review of Zoning Hearing Board Application 2016-2: ACTS Retirement Life Communities, Granite Farms Estates - 1343 W. Baltimore Pike

Mr. Clark reported that Council approved a land development application for Building E previously. It was determined since then that an air condition chiller unit and generator needs to be put within the 50 foot buffer adjacent to Building E and backing up to open space that does not belong to ACTS. This would encroach in the setback.

Council did not feel representation was needed at the Zoning Hearing Board.

D. Application for County Liquid Fuels Aid - 2016 Road Resurfacing

Mr. Clark explained that the Township receives liquid fuels funding assistance each year from the County and needs to use PADOT's standard resolution form for the request. The application would request \$20,355 to be used for resurfacing work.

Mr. Galloway motioned to approve the application. Mr. Quinn seconded this motion and Council approved Resolution 2016-31 unanimously with a vote of 5-0.

E. Acceptance of Certificate of Total Completion: Rocky Run YMCA, Parking Addition - 1299 W. Baltimore Pike

Mr. Clark reported that the engineer has signed off on the improvements for the parking addition at Rocky Run YMCA. Mr. Quinn motioned to accept the Certificate of Total

Completion. Mr. Galloway seconded this motion and Council approved Resolution 2016-32 unanimously with a vote of 5-0.

F. Council Committee Appointments

Mr. Clark reported there were several vacancies remaining for Township committees: 1 for Planning Commission, 1 for Zoning Hearing Board, 1 for Parks & Recreation, and 1 for the Sewer Authority.

Mr. Quinn motioned to appoint Cathleen O'Connell Bell to the Zoning Hearing Board for the balance of a term expiring in January 2017. Mr. Galloway seconded this motion and Council approved Resolution 2016-33 unanimously with a vote of 5-0.

Mr. Helm motioned to appoint Ed Klodarska to the Sewer Authority for the balance of a term expiring January 6, 2019. Mr. Galloway seconded this motion and Council approved Resolution 2016-34 unanimously with a vote of 5-0.

Mr. Kirchgasser stated the other appointments would be postponed until a future point.

G. Approval of Bill List

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

Mr. Quinn moved that payments under the February 22, 2016 Bill List be authorized for payment by the Finance Department:

GENERAL FUND		
Aqua Pennsylvania	January - Hydrant Bills	\$11,432.25
Chili's Inspection Services	Contracted Services-January	\$6,270.00
Garnet Ford, Inc.	Maintenance and Repairs	\$5,751.51
Independence Blue Cross	February Health Insurance	\$10,121.93
	Highway Share	\$10,293.57
	Cobra Share	\$904.40
	Recreation Share	\$3,998.76
		<hr/> \$25,318.66
Kelly & Close Engineers	Professional Services 11/14-12/11/15	\$5,025.75
Marcozzi's Wayside Market	Service Recognition Dinner	\$6,250.00
Middle Atlantic Inspections, Inc	October-December Inspections	\$9,278.00
Thomas Comitta Associates, Inc.	Professional Services 10/28-12/15/15	\$8,446.70

US Bank	2016 Pension Contribution	\$82,495.00
	Total General Fund	<u>\$160,267.87</u>

CAPITAL RESERVE

That Bank of New York Mellon	GOB Series 2011-Principal & Interest	\$486,957.50
Winchester Roofing Corp.	Invoice #1 Garage Roof	\$16,020.00
	Total Capital Reserve	<u>\$502,977.50</u>

STATE AID

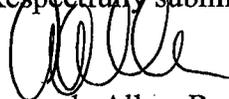
Cargill, Inc.	Salt	\$5,700.49
Morton Salt, Inc.	Salt	\$6,100.99
	Total State Aid	<u>\$11,801.48</u>

Mr. Galloway seconded this motion and Council approved Resolution 2016-35 unanimously with a vote of 5-0.

8. ADJOURNMENT

Mr. Kirchgasser adjourned the meeting at 7:59 PM.

Respectfully submitted,



Amanda Allen, Recorder