

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
MARCH 14, 2016

Minutes of the Regular Meeting of Township Council Held on, March 14, 2016 at 7:00 P.M., in the Township Administration Building located at 27 North Pennell Road

Present: R. Carlson, S. Galloway, D. Helm, M. Kirchgasser, S. Powell,

B. Clark and J. Damico Esquire

1. OPENING

Mr. Kirchgasser called the meeting of the Council to order at 7:05 P.M., and led recitation of the Pledge of Allegiance to the Flag.

2. Special Presentations

Mr. Kirchgasser informed those present that the Township Distinguished Citizens Award was established four years ago and first awarded to Dave Irving, who was on the Middletown Township Sewer Authority for 32 years and with the Library for 40 years. This year, the Township was awarding this honor to two more Township citizens.

Mr. Irving thanked Council for recognizing volunteers, noting that not many municipalities did that. He then went on to announce that brothers Scott and Greg Reitze would be the 2016 recipients of the Distinguished Citizens Award. The Reitze brothers have been volunteer fire fighters for 51 years; putting their lives on the line to protect members of the Township. Mr. Kirchgasser added that they joined the Middletown Fire Company in 1965 and have been active with the Company for 51 consecutive years. During this time, they have been recognized as Top 10 Responders and in 2015 alone responded to over 400 calls. The Reitze brothers will be recognized as the 2nd and 3rd winner of the Distinguished Citizens Award. There was a reception at the Fire House on January 28th in their honor to recognize this achievement.

Mr. Carlson and Mr. Galloway then unveiled plaques that recognize their receiving this honor that will remain in the Township meeting room and Mr. Kirchgasser presented them with awards recognizing this achievement and congratulated them both.

3. Approval of Minutes

Mr. Galloway moved to approve the minutes for the January 25, 2016 meeting. Mr. Helm seconded this motion and Council approved unanimously with a vote of 5-0.

4. COMMENTS FROM THE PUBLIC

None

5. REPORTS

A. CHAIRMAN

None

B. LAND PLANNING

Mr. Galloway reported the Land Planning Committee discussed Item 6B on tonight's agenda, which is a request for conditional use of the Lenni Heights Fire Company. They also discussed Item 7F with Tom Comitta, which is a change to the Fee-in-Lieu Schedule, and amendments to the Franklin Mint Ordinance.

C. ROADS, HIGHWAYS, & PUBLIC SAFETY

Mr. Kirchgasser reported traffic safety on S. Old Middletown Road, Yearsley Mill Road, and Paul Lane were discussed.

D. MANAGER

Mr. Clark reported that a wind storm last year caused issues around Chester Creek. The Township applied for State disaster relief funding and they were awarded \$14,000. This will be split with the Sewer Authority, with the Township receiving \$4,300 for tree removal in open space lands.

He also reported that the Township received a grant for \$4,200, which will be used for stream bank protection at the Darlington Tract, in a project supported by the Chester Ridley Crum Water Shed Association. Trees and shrubs will be planted in the spring.

6. PUBLIC HEARING

- A. Proposed amendment for Phase II Record Plan of Darlington Valley PRD to allow for construction of swimming pool within the required 30-foot rear yard building setback line on the property of Sandra and Mark Laliberte at 48 Stephen Drive pursuant to Section 706(3) of the PA Municipalities Planning Code
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Mr. Galloway motioned to open the hearing. Mr. Carlson seconded this motion and Council approved unanimously with a vote of 5-0.

Robert Scott, attorney for the applicant, explained he was seeking setback relief for 48 Stephen Drive. Notice was sent to the adjacent property owners about this hearing but only 2 of the 3 returned proof of receipt. The 3rd property owner's notice was forwarded by the post office. Mr. Damico noted the proof of notices would be Applicant Exhibit 1.

Mr. Scott went on to explain that this matter would typically be handled by the Zoning Hearing Board, but this situation requires a plan amendment since the property was part of a planned residential development. The application was presented to the Darlington Valley Home Owners Association and it was approved by the County Planning Commission, who stated a full review was not necessary and stamped the plans to that affect.

Mr. Galloway asked if there were any objections raised by the neighbors and Mr. Scott said there were none.

Mr. Damico asked if Mr. Scott wanted to submit the letter of approval from the HOA as Applicant Exhibit 2 and Mr. Scott answered in the affirmative. He also noted that the applicant provided the needed responses to Township consultants.

Mr. Clark reported the legal advertisements of this hearing on February 28th and March 6th would be submitted as Township Exhibit 1.

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

- B. Request for Conditional Use approval of an application by James McCullough and/or JT Venture LLC to change one non-conforming use to another equally or more restrictive non-conforming use at 312 Lenni Road (former Lenni Heights/ Rocky Run Fire Company) for use for an HVAC subcontractor headquarters and office facility and to subdivide and create two residential lots in accordance with R-4 Residence District Zoning Standards
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Mr. Galloway motioned to open the hearing and Mr. Carlson seconded the motion. Council approved unanimously with a vote of 5-0.

Vince Mancini, legal representation for the applicant, explained that Lenni Fire Company used this property since 1922. The property is zoned R-4 and is 1.88 gross acres (1.65 net acres). Rocky Run Fire Company is the current owner. The applicant is looking to purchase this property and renovate/adapt the 2 level building for use as a commercial HVAC headquarters. He informed Council that the upper level is accessed from Elm Avenue and the lower level is accessed from Lenni Road.

Mr. Mancini reported that the upper level consists of offices, a kitchen, banquet facility and sleeping quarters. It has 10 parking spaces in the front. The lower level consists of fire truck bays, storage area, and parking for 26 cars. The upper level is 3,900 square feet and the lower level is 5,000 square feet. Mr. Mancini noted that the applicant is not proposing to extend the pavement or building.

Mr. Mancini then introduced into evidence on behalf of the applicant the following:

- Exhibit A: Conditional Use Application
- Exhibit B: Certification of Notice and all notices returned
- Exhibit C: Current Deed for Rocky Run Fire Company (RRFC)
- Exhibit D: Original Deed from 1925
- Exhibit E: Adaptive sale agreement between applicant and RRFC
- Exhibit F1-F12: Photos of the upper level
- Exhibit G1-G15: Photos of the lower level

Mr. Mancini reported that access for the lower level is strictly from Lenni Road and access for the upper level from Elm Avenue. Past activities for this property are

consistent with uses of fire companies and the banquet facility was used for fundraisers, weddings, etc. The applicant proposed to improve the current condition and use it as headquarters for a commercial/industrial HVAC service company, which has been in business since 2001. He introduced Applicant Exhibit K, which was a customer list for the business. Current operations are at 127 Brinton Lake Road, but the applicant wishes to move to the RRFC location.

Mr. Mancini explained that the applicant proposes to convert the upper level to 5 offices, 3 file rooms, a conference/meeting room, lunch room, rest room, etc. He stated the parking would be repaved and relined. The façade of the building would also be altered and improved upon. The roof line would be renovated and new windows and doors installed. The goal is to blend into the neighborhood as much as possible. The applicant plans on spending about \$70,000 on these improvements. He went on to share that the lower level would be used to store inventory, equipment and tools, and the occasional vehicle. The existing detached garage would be used to store the applicant's personal cars. He plans to clean up, resurface, and restripe the parking area, and install new garage doors. The lower level would cost \$45,000-\$50,000 for the renovation.

Mr. Mancini went on to explain that this HVAC company would not be fabricating the units on this site and the HVAC units would not be delivered to this site as they are delivered directly to where the job is located. Occasionally other equipment may be delivered here. There would only be 5 administrative staff at the location. The 18 other mechanics and technicians keep their vans at their home and would typically only visit headquarters once a week, most likely on Mondays, in order to drop off paper work and pick up tools as needed. The work day for those at the property would be 7 AM to 4:30 PM Monday through Friday.

Mr. Mancini also noted that the applicant proposes to restrict a portion of the property on the south side to R-4 zoning only and subdivide it, if permitted.

Mr. Mancini expressed that this use and proposed subdivision has a much less overall impact on the community than the fire company had. It would generate less traffic, have no night hours, no outside activity, no outside storage, and no outside parking after business hours. In addition, less sewage would be utilized.

Mr. Mancini entered into evidence Exhibit L, which was a list of neighbors the applicant met with. The applicant expressed to Mr. Mancini that the neighbors were in favor of this use for the property. Mr. Mancini stated the applicant met with the neighbor on the North side of the property, Mr. Zippi, and came up with conditions that both sides agreed to. He submitted those conditions into evidence as Exhibit M. Mr. Galloway went back to Exhibit L, and asked if any of the neighbors objected to the use. Mr. Mancini stated the applicant reported all were favorable. Mr. Kirchgasser then asked if anyone in the audience wanted to be listed as a party to the hearing in order to have legal standing. The following residents noted they wished to be parties to the hearing: John Messer, 325 Lenni Road; Michelle Feathers, 280 Oak Avenue; and Barton Lomas, 248 Elm Avenue.

Based on questioning from Council, Mr. Messer stated he was listed on Exhibit L and Ms. Feathers acknowledged that she was not on the map provided by the applicant and not adjacent to the property, but concerned about traffic. Mr. Mancini objected to Mr. Lomas and Ms. Feathers being a party to the hearing due to them not being near the property and stated that under the rules of standing, a party needs to have an impact on property. He then submitted the map he was referring to as Exhibit N. Mr. Damico suggested to Council that the residents requesting to be a party should be allowed since traffic could be a potential issue. Mr. Kirchgasser overruled the objection.

James McCullough, the applicant, was sworn in. Based on questioning by Mr. Mancini, Mr. McCullough testified that he lives in Havertown, PA and the facts presented by Mr. Mancini were true and accurate. He is the President and owner of the business, which is a commercial service company and would have several vans come to the property once a week in order to pick up/drop off paper work or equipment (ladders, hoses, etc.). There would not be a lot of inventory on site and office staff was minimal at only 5 people including himself. His clients only come to headquarters occasionally (3-4 times per week). He went on to state the deliveries were usually via UPS and FedEx and that the equipment goes directly to job sites. While larger trucks may come to the site, it would not be more than 3 times per month and not on a regular basis. The company vans go home with the mechanics and would only be on the site briefly on Mondays for the reasons noted above. There are a total of 18 vans. Deliveries would go to the lower level via Lenni Road and not to the upper level entrance. He also noted that he believed there were other commercial uses along Lenni Road.

Mr. McCullough continued his testimony based off questioning by Mr. Mancini and noted that the history provided for the uses of the upper level were accurate. The proposed improvements he planned to the upper level included raising and reshingling the roof, new window, front door and landscape. Inside, there would be 5 offices, a conference room, kitchenette, and a renovated rest room. His plan was to make the exterior look residential in order for it to blend in. In total he planned to spend \$150,000 for renovations.

Mr. McCullough went on to testify that the hours of operation, activity level, deliveries and operations would be the same at this location as it is currently at the Brinton Lake Road location. There would be no onsite fabrication and nothing stored outside.

Mr. McCullough noted that Exhibit I was the area he intended to return to residential. While he had no thoughts of subdividing it now, he would like to keep the option open for the future. Exhibit K is his current customer list and Exhibit L was the list of neighbors he contacted. He noted that there were only four neighbors he could not reach, but he did make multiple attempts. He noted that he spoke with Mr. Zippi and agreed to several conditions, which are provided in Exhibit M. Lastly, based off the questioning, Mr. McCullough testified that he did not believe his operations would

have as much of an impact on the neighborhood as the fire company did. It was even less impactful than a doctor's office.

Mr. Galloway asked if he spoke to everyone listed on Exhibit L. Mr. McCullough answered in the affirmative but noted Mr. Messer was not home the days he stopped by. Mr. Galloway asked if there was anybody else on the list he did not speak to. Mr. McCullough stated he did not speak to 3 others but he would need to check who they were. Mr. Galloway stated he wanted to determine if there was anyone else on the list not spoken to. Mr. McCullough stated he was not aware if there were.

Mr. Carlson asked if the current headquarters location was in a residential neighborhood. Mr. McCullough stated he rented the property, but it was by Maris Grove and there were other homes near it. He then asked why UPS would go to the lower level. Mr. Mancini stated that was a condition he agreed to with Mr. Zippi. Mr. McCullough agreed and stated it was not necessary for Elm Avenue to be blocked by UPS when these types of deliveries could be dropped off at the lower level. Mr. Carlson then noted that the conditions allowed for 6 vans to be parked. Mr. Mancini stated that was only in case it was necessary but that there would be room in the bays to park the vans too.

Based on questioning by Mr. Messer, Mr. McCullough stated that his current location had a 900 square foot garage and 3,000 square foot office. He wants to move because right now he has to rent and with the current trend of medical buildings in this Concord area happening, he was not sure how much longer the landlord would maintain the lease. He also has a son that may want the business and would prefer to own the land where the business is located. He also reported that he had 15 vans and 1 salesman three years ago, which in his opinion shows there is not dramatic growth occurring with the business. When Mr. Messer theorized that his son may want to grow the business, Mr. McCullough shared that this type of business is hard to grow as there are not a lot of people looking to get into this line of work. He also noted that at most, only 2 offices could be added in the upper level and perhaps 7-8 more vans; however, even if that was the case, the vans do not stay onsite. Based on further questions by Mr. Messer, Mr. McCullough testified that he was aware the property was not zoned for business and that if he did not get the variance, he would walk away even though he loves the location and building. He was also not aware that there are several school busses in this area at the time vans would be coming and going on Monday mornings, but he did not think that would have a huge effect on the business since it is only one day a week and for 30-45 minutes maximum.

Ms. Feathers asked how many people could fit in the conference center. Mr. McCullough reported there would only be 4 chairs and used by the office staff. Mr. Kirchgasser noted this area would be a conference *room* not conference *center* as Ms. Feathers described.

Mr. Lomas asked if parts would be kept at the location as inventory and Mr. McCullough answered in the negative, noting that because his business is

commercial, different products are used all the time and it doesn't make sense to keep an inventory.

Mr. Irving asked if there was a financial impact to the Township to Mr. McCullough having his business there. Mr. McCullough stated there was, noting that the property now pays no taxes and is assessed at \$21,000 per year, plus property taxes and anything else associated with the business.

Joe Dicioccio, 205 Highland Avenue, expressed traffic was his concern and that area was already tight especially during the school year. He asked if there could be a gentleman's agreement that the vans would stick to the main roads only when coming and going. Mr. McCullough agreed, stating Lenni Road made the most sense for his business anyway.

Vince Damico, 271 Chestnut Avenue, asked what Mr. McCullough's intentions were for the 2 lot subdivision. Mr. McCullough reported he would probably sell them in the future. When Mr. Damico asked who he would go to if vans were going down his street, Mr. McCullough stated him. Mr. Kirchgasser noted that land development for the proposed 2 lot subdivision would be a separate application with separate hearings. Mr. Damico asked what Mr. Zippi's concerns were and Mr. Kirchgasser stated they would be reviewed momentarily.

Mr. Lomas noted that Elm Avenue was a dead end street and people use his property as a turn around. At that point, Mr. Kirchgasser reviewed the applicant's testimony thus far, noting that tractor trailers would be at the location no more than 6 times per month, deliveries were limited to the lower level only, no expansion to the building or pavement would occur, no outside storage, signage would be decided with the Zoning Hearing Board, the applicant was interested in a 2 lot subdivision and/or development with existing zoning at that location of the property, no customers or deliveries would occur outside normal business hours, outdoor parking overnight would be limited to 6 vehicles on the lower level, and there would be no flammable or hazardous storage unless in compliance with Federal and State regulations.

Mr. Dicioccio asked if these documents were available online and Mr. Clark answered in the negative, noting they were available at the Township building for review. Mr. Messer asked if he was able to get a copy of the application packet as a party to the hearing and was told he could.

Derek Address, 213 Elm Avenue, asked who was selling the property. Mr. Kirchgasser reported RRFC and noted they are an entity separate from the Township and are the sole beneficiary to the sale. Mr. Address went on to express an opinion against this application but because it was not in question format, Mr. Kirchgasser stated he would have to wait until a different part of the proceedings to offer his opinion. Mr. Galloway asked Mr. Address if he was spoken to by the applicant. He answered in the negative but stated his wife did. When asked if he was aware his name was on Exhibit L, Mr. Address answered that his name was on the deed, which is probably why he was listed, but his wife was the one who spoke to Mr.

McCullough. Mr. Galloway asked Mr. Mancini if he originally stated the list was of those in favor of the project. Mr. Mancini reported that Mr. McCullough told him the neighbors listed did not appear to object and that he made no attempt to mislead Council. He noted he may have been over eager in putting the list together. Mr. Kirchgasser asked if Exhibit L should be described not as an endorsement of the application but as those the applicant spoke to and Mr. Mancini answered in the affirmative, commenting that at least one resident at each location listed was spoken to. Mr. Address noted he was not sure how in depth the conversation was between his wife and Mr. McCullough.

Mr. Mancini asked Mr. McCullough what the conference room would be used for and he reported the primary use would be review of large blue prints. He had no further questions for Mr. McCullough.

Tim Henry, licensed realtor with Media Real Estate, was then sworn in. Based on questioning by Mr. Mancini, Mr. Henry testified that he grew up next to the property and his father and brother were both volunteer fire fighters at the location. He is familiar with the activities that took place at the fire company and that the alarms went off more often than the one or two times in twenty years noted earlier by a resident. He also commented that he would hear the alarms when they did go off. He also noted that the property was used for carnivals and beef and beer events; all of which generated traffic. Mr. Henry went on to testify that the building could not be converted into a residential home in its current condition and that there would also be severe grading and demolition needed even to consider such an avenue. As a realtor, he felt this was the perfect re-adaptive use for the property, even with the traffic it would generate. He went on to express that Mr. McCullough's use of the property would generate dramatically less traffic than the fire house did. In addition, there would also be less noise and no evening or weekend hours or fundraisers. The sewage would also be less since there would only be 5 people there consistently. In addition, because Mr. McCullough would be spending money to improve the building, it would also help the values of homes in the neighborhood increase.

Following further questioning by Mr. Mancini, Mr. Henry reported that other commercial/industrial businesses were also on Lenni Road, noting Lenni Products, which has been in business for 60-70 years and only 2 streets down.

Council had no questions.

Based on questioning by Mr. Messer, Mr. Henry responded that he lived in the neighborhood from 1971 through 1987, but that he still frequents the area, most notably to use the local bakery. He also explained that the fire company is not conducive for residential living from a cost standpoint. Not even including demolition, Mr. Henry felt it could be close to \$500,000 just for acquiring the land, grading, land improvements, and other related expenses. While he could not be sure because he did not know the setbacks, he gave the opinion that maybe 4-5 homes could technically be built on this property. The existing structure would have to be demolished because of the sheer size. The building is 8,700 square feet. Even if it

was converted into 2 separate units, they would still be bigger than anything else in the area and would have a hard time selling. Architecturally, he felt the existing structure was better suited for the type of use the applicant is proposing. When Mr. Messer questioned if 5 new home properties at \$300,000 could cover the costs he noted earlier, Mr. Henry pointed out that he could not agree to that because it would depend on zoning as to how many homes were allowed and their size. He also doubted if the real estate taxes generated from these homes would come close to the \$21,000 in business taxes the Township would receive from Mr. McCullough, if approved.

Ms. Feathers asked when the last time a beef and beer or carnival took place at the location and Mr. Henry could not recall. Mr. Kirchgasser stated questions about prior use are important since the applicant is showing his plans would be less disruptive than with the previous use.

Mr. Galloway asked how long the property was for sale prior to the current agreement of sale. Mr. Henry did not know.

Noting the time, Mr. Kirchgasser stated Council would hear one more witness and then continuing the hearing to the March 28th hearing. Ms. Feathers asked what would happen with the March 23rd zoning meeting. Mr. Kirchgasser stated that would also be continued.

Bob Linn, architect for the applicant, was sworn in. Based on questioning by Mr. Mancini, Mr. Linn testified that he worked with an architecture and engineer firm and was familiar with the property. Mr. Damico noted that he would be providing his opinion during questioning. Mr. Kirchgasser noted that unless there were objections from Council, he would recognize Mr. Linn as an expert witness. Mr. Messer asked if he was a licensed architect, and Mr. Linn answered in the affirmative, noting he was in 24 states. Mr. Galloway asked what he was an expert in and Mr. Mancini stated architecture and land planning; not engineering. There were no objections raised.

Based on questioning by Mr. Mancini, Mr. Linn testified the property was 1.85 gross acres and 1.66 net acres. Elm Avenue and Lenni Road bound the property. There is an elevation difference of about 1 ½ stories between Elm Avenue and Lenni Road. The upper level is all office space and the lower level garage bays are under the upper level.

Based on further questioning by Mr. Mancini, Mr. Linn testified that he reviewed all exhibits and prepared Exhibit I regarding the subdivision. This exhibit was prepared to show the whole master plan so there were no surprises down the road. The subdivision would be for ¼ acre lots and reflect single homes or town homes. This was in the plans in order to allow for some land to go back to R-4 zoning as a sign of being a good neighbor. In his opinion, the existing building was too large to repurpose as a home and he didn't think splitting it into 2 homes would work. He did not believe there was a residential purpose for the existing structure. While it was

possible that the property could accommodate up to 5 lots as discussed earlier via a neighbor's response to questioning, it would require taking the existing building down and his job is to repurpose the property at this point. He felt that the applicant would be making the place look better and blend in with the neighborhood. While he was not a traffic expert, he felt the impact of only having the majority of the workforce in on Monday mornings was less impactful than previously seen by the fire company. He also thought this would generate less traffic in the neighborhood. Mr. Linn felt there would not be a traffic concern and commented that Council could require conditions to limit traffic issues if necessary.

Based on further questioning by Mr. Mancini, Mr. Linn stated his expert opinion was that the applicant's use was appropriate to the property. He felt that other uses could see more impact on the neighborhood than what was being proposed and that overall this was a good re-adaptive use.

Mr. Kirchgasser asked if he had any idea what it would cost to demolish the existing building and remove the rubble. Mr. Linn stated that the New View Gifts building on Baltimore Pike cost about \$100,000 for demolition and rubble removal, and that was 8 years ago. Further analysis would be needed for an exact cost but he felt an estimate of \$100,000 was accurate since this was a masonry building.

Mr. Messer asked if the utilities at this site were suitable for the proposed purpose. Mr. Linn stated it was serviced with public water and sewer and had adequate electric services. He was not sure about the gas capacity. Mr. Messer then asked Mr. Linn to provide information on what it meant to be zoned R-4 and the current state of the building. Mr. Linn stated zoning is unique to the township. In this Township there is R-1 through R-4 zoning. R-1 zoning requires larger acreage and R-4 zoning allows for smaller property sizes and allows for twins and duplexes. The code sets regulations for setbacks. Conditional use allows for multi-family homes like town houses. Regarding this building, the State Municipalities Planning Code applies to all municipalities. This allows for legal non-conforming use existing before the current local zoning code was adopted. The Township adopted their zoning code in the 1940s and this deed is from the 1920s. Regulations state that the property can change to another non-conforming use as long as it is less impactful than the previous use.

Ms. Feathers asked if it was possible to put apartments at the location. Mr. Linn stated that a subdivision could be done for the building but that would require additional relief from the Township and/or Zoning Hearing Board to do so. The infrastructure was good for a garage. He suspected the cost would be significant for this type of project.

Mr. Lomas asked if this application was approved but the property was later sold, could another commercial entity come in and put multiple cubicles on the upper level to allow for more employees. Mr. Linn stated this is a conditional use application, not a variance, and as such, Council could attach conditions to the approval to stop that from happening, if necessary, so that could not happen at a later date. Mr.

Kirchgasser commented that any subsequent property owner would be subject to the same conditions and any deviation would require another hearing.

Mr. Mancini then submitted for evidence Exhibit O, which was a diagram of the upper level plans. Mr. Linn stated he did not prepare the exhibit, but that it gives a sense of scale and shows the offices, file room, conference room and an open area that was not very large.

Herb Jackson, Vice President of RRFC, asked if the application went to the Zoning Hearing Board and exemption was granted, would the conditions still apply. Mr. Linn answered in the affirmative and noted the Zoning Hearing Board also has the right to attach conditions that are reasonable to the land.

Mr. Dicioccio asked what the cost of building a building like this would be. Mr. Linn answered \$175-\$190 per square foot for offices and \$75-\$125 per square foot for storage/garage space. He stated office space has gotten very expensive.

Mr. Mancini stated that his witness testimony was completed. In summary, he stated that the concept of this conditional use application is less impactful than the previous use. In rebuttal to those statements about demolishing the structure, he stated this was not necessary in a variance scenario and that the Supreme Court ruled that an existing building does not need to be demolished with a conditional use application (Marshall vs. the City of Philadelphia). He felt there was no reason to demolish this building as it is functional; just not as a residential property. He reiterated that the HVAC headquarters would have less impact to the community compared to the fire company.

Mr. Kirchgasser asked if the witnesses would be available for the March 28th meeting. Mr. Mancini stated they could be if necessary. Mr. Galloway asked if any of the parties anticipated having witnesses. Mr. Messer was the only party to answer in the affirmative. Mr. Galloway noted the hearing could be continued to March 28th to allow for Mr. Messer to present witnesses and also comments from the public.

Mr. Clark entered into evidence the public hearing notices advertised on February 26th and March 4th as Exhibit T1, and the posted notice on the property along with the map showing Lenni Road and Elm Avenue as Exhibit T2.

Mr. Galloway motioned to continue the hearing to the March 28th meeting. Mr. Carlson seconded the motion and Council approved unanimously with a vote of 5-0.

Mr. Kirchgasser explained that Mr. Mancini would table the Zoning Hearing application meant to take place on March 23rd until after this hearing concludes. He then informed the public that 2 bodies are able to make decisions on this matter: Council and the Zoning Hearing Board. If both disapprove of the application, the applicant has the option of appealing to the Court of Common Pleas. He noted these are two different requests. The one before Council is a conditional use application and the one going before the Zoning Hearing Board is for zoning. Lastly, Mr.

Kirchgasser noted the applicant is amenable to be contacted directly and Council encourages this so that issues can be addressed with as little Township interference as possible.

7. NEW BUSINESS

A. Request for Approval of Final Amended PRD Plan - Laliberte: 48 Stephen Drive –
(Item considered at conclusion of Item 6A – Public Hearing Item A)

Mr. Galloway motioned to approve the Final Amended PRD Plan and Ms. Powell seconded the motion. Council approved Resolution 2016-36 unanimously with a vote of 5-0.

B. Review of Conditional Use Application 16-1: James McCullough and/or JT Venture LLC - 12 Lenni Road (Rocky Run Fire Company)

This matter was continued to the March 28th meeting.

C. Amendment of Conservation Easement: Natural Lands Trust - Wawa Preserve, Valley Road

Mr. Clark explained that because the Township was provided rights to police the terms of the Easement entered into with Natural Lands Trust for this open space property in 1995, the Township has been asked by Natural Lands Trust to enter into an amendment of the Easement necessary due to agreement reached between Natural Lands Trust and Sunoco regarding the Mariner Pipe Line. He noted the facilities for the pipeline would be underground.

Mr. Clark reported that this request has been reviewed by James Flandreau, special solicitor for the Township for this matter, and he recommended Council approve the amendment. Mr. Galloway motioned to approve the amendment. Mr. Helm seconded the motion and Council approved Resolution 2016-37 unanimously with a vote of 5-0.

D. Approval of Sewage Facilities Planning Module: Hibberd/Dowling - 45 W. Forge Road

Mr. Clark reported that Council previously approved the land development and subdivision plan and because both lots will be tied into public sewer, the plans need to be submitted to PADEP. This application has been reviewed by MTSA, County Planning Commission and Township Planning Commission, and all three recommend approval. It was also reviewed and approved by DELCORA and Southwest.

Mr. Galloway motioned to approve the Planning Module. Mr. Carlson seconded the motion and Council approved Resolution 2016-38 unanimously with a vote of 5-0.

E. Review of Zoning Hearing Board Application 16-3: James McCullough and/or JT Venture LLC - 312 Lenni Road

Mr. Mancini asked for a continuance for this consideration. Mr. Galloway motioned to continue Agenda Item 7E to the March 28th meeting. Mr. Carlson seconded the motion and Council approved unanimously with a vote of 5-0.

F. Amendment of Recreational Fee-in-Lieu Schedule

Mr. Clark reported the Recreation Fee-in-Lieu Schedule has been in effect since 2001 and every five years, a review of the fee is conducted to determine if it needs to be changed. This year's review indicated a 10% increase was needed. Mr. Galloway noted that Mr. Comitta came before the Land Planning Committee twice for this matter and he recommended Council approve the increase, which would be necessary to continue with the park projects in the Township.

Mr. Galloway motioned to approve the increase to the Recreational Fee-in-Lieu Schedule. Mr. Helm seconded the motion and Council approved Resolution 2016-39 unanimously with a vote of 5-0.

G. Council Committee Appointments

Mr. Galloway motioned to continue Item 7G to the March 28th meeting. Mr. Carlson seconded the motion and Council approved unanimously.

H. Approval of Bill List

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

Mr. Carlson moved that payments under the March 14, 2016 Bill List be authorized for payment by the Finance Department:

GENERAL FUND

<u>Vendor Name</u>	<u>Description</u>	<u>Amount</u>
A.J. Blosenski, Inc.	January Recycling & Yard Waste	\$ 17,656.00
Independence Blue Cross	March Health Insurance	\$ 10,121.93
	Highway Share	\$ 11,134.65
	Cobra Share	\$ 904.40
	Recreation Share	\$ 3,998.76
		<u>\$ 26,159.74</u>

Charles A. Higgins & Sons, Inc.	Traffic Light Maintenance	\$ 9,524.42
Middletown Library	Contribution	\$ 179,679.00
Thomas Comitta Associates, Inc.	Professional Services 1/4-2/26/16	<u>\$ 5,707.50</u>
	General Fund Total	<u>\$ 238,726.66</u>

CAPITAL RESERVE

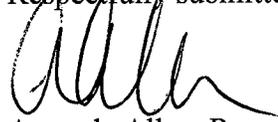
Oliver Heating & Cooling	Air Duct Cleaning	<u>\$ 9,569.00</u>
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Mr. Galloway seconded this motion and Council approved Resolution 2016-40
unanimously with a vote of 5-0.

6. ADJOURNMENT

Mr. Kirchgasser adjourned the meeting at 9:30 PM.

Respectfully submitted,



Amanda Allen, Recorder