

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
MAY 23, 2016

Minutes of the Regular Meeting of Township Council Held on, May 23, 2016 at 7:00 P.M., in the Township Administration Building located at 27 North Pennell Road

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

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

1. OPENING

Mr. Kirchgasser called the meeting of the Council to order at 7:06 P.M., and led recitation of the Pledge of Allegiance to the Flag.

2. COMMENTS FROM THE PUBLIC

None

Mr. Kirchgasser noticed there was a Boy Scout in the audience and asked why he was at the meeting. The Boy Scout identified himself as Gabe Guess and informed Council he was present in order to earn his Community Merit Badge. Mr. Kirchgasser welcomed him on behalf of Council and told him to feel free to ask any questions.

3. REPORTS

A. CHAIRMAN

Mr. Kirchgasser acknowledged the passing of Jim Robison at the age of 88. Mr. Robison was a long time resident of the Township and lifetime member of the Middleton Fire Company. Mr. Clark noted Mr. Robison also acted in the capacity of an elected auditor for the Township through the mid-1990s.

B. MANAGER

Mr. Clark reported that the Pennsylvania State Police would once again be holding a Cadet Camp in Montgomery County for children over age 11. The Cadet Camp runs for a week in the summer and is \$45. Interested parties can sign up through Trooper Tim Green at the Media Barracks. Trooper Green should be contacted with any questions.

4. OLD BUSINESS

A. Review of Preliminary 3-Lot Subdivision Plan – Mita - 272 Oak Avenue

Mike Gavin, legal representative for the applicant, summarized that neighbors provided input at the last meeting and since then, the engineers have gotten together to address the issues. Due to timing, the revised plans have not been circulated yet. He then introduced

the Applicant's engineer, Al Gryga, who was present to discuss the points agreed upon with the Township Engineer.

Mr. Gryga reported that the plan meets all the zoning requirements and is in compliance with subdivision and land development. He noted Mr. Janetka took issue with the cart-way width being identified. In response, the applicant is offering this area to be dedicated to the Township. The sewer planning modules have yet to be submitted but Mr. Ibach informed him it was satisfactory to wait until final plan submittal to do so. Mr. Ibach reviewed the preliminary plan regarding public sewer and verbally confirmed with Mr. Gryga that it was acceptable.

Mr. Gryga moved on to remind Council that the applicant is seeking an exception to the rule of not exceeding the 3 to 1 horizontal slope requirement. He explained this was necessary in order to maximize the available storage of the rain gardens and to preserve the natural features with the steeper slopes. He noted that while subdivision and land development requirements do not allow for this normally, the zoning requirements do. Mr. Janetka commented that slope restrictions are documented in three different locations: Chapters 186, 198 and subdivision/land development. In these documents the restrictions vary between 3 to 1 and 4 to 1, but the applicant's slopes are between 2 to 1 and 3 to 1. Mr. Gryga agreed with this and explained that the applicant is trying to preserve the low land area and to maximize the basin holding capacity since the rain gardens are only 2 feet deep.

Mr. Gryga went on to report that the applicant would comply with the corner monument placing request discussed at last meeting and that the Fire Marshall informed him he would review the plans if Council approved the preliminary plan. He went on to explain that a 30-foot wide riparian buffer is required but the applicant would be asking relief on this requirement and approval of it only being 25 feet. In return, the applicant would agree to deed restrict the area and add plantings to enhance the wetlands. The applicant was also asking for relief on infiltration since there is no infiltration capacity on the property due to the soil type. Instead, the applicant would meet DEP requirements by using 4 rain gardens throughout the property. To minimize clogging of the rain gardens, the applicant has been asked to use 12 inch pipes. While the applicant would prefer a waiver on this, he will comply if necessary.

Mr. Janetka commented that the issue is that if people build on the lots in the future, they will add impervious surface. Since this is the case, he advised Council it is important to devise a plan now on what will be done with additional impervious surface. His recommendation was to either include language in the approval that will address future matters or restrict future impervious and stormwater management facilities altogether. Mr. Kirchgasser asked Mr. Janetka if there was a difference between the site infiltration and runoff. Mr. Janetka responded that both go hand in hand, but primarily for stormwater management. Mr. Gryga noted that their plans include consideration of a patio at a specified size but that home owners may want to make it bigger in the future. Mr. Helm suggested building the rain gardens with additional capacity to allow for future growth. Mr. Janetka noted that the plans allow for very little additional to be built, which is why he added the comment. He felt adding the allotment into the design now would

allow home owners to build in the future with minimum distress. On the contrary though, if it is decided additional building cannot take place, then the plan should identify this restriction. Mr. Gryga stated the site limits the ability to expand impervious in the future. Mr. Janetka stated that work in the future could be subject to stormwater management but that the issue to consider is whether the home owner can do what home owners typically want to do (i.e. build garage, expand driveway, etc.). Mr. Janetka thought it would be beneficial to build the stormwater management facility to accommodate additional square footage now. He recommended 500 square feet. Mr. Gryga stated he was not opposed to that idea and that it could be accommodated.

Mr. Gryga moved on to report that the grading of the driveway was altered to allow water entry to the rain garden but would be adjusted to meet Mr. Janetka's requirements. He also noted that the grading was shown on the plans but that the applicant would make the plans more detailed to also show where the rain gardens are going.

Mr. Gryga reported that the PVC liners would be adjusted to 30 mm size and make sure it is retained by the earth around it. In addition, the retaining wall was removed from the berm area on Lot 3. Instead the rain garden on the property line was shifted to rectify the issue. Mr. Gryga also commented that it would be clarified that part of the wetland buffer preservation would include removing leaf litter so the applicant will be able to see what needs to be addressed and preserved. Mr. Gryga informed Council that Mr. Janetka was concerned about the disturbance heavy equipment could have on the wetland area so the applicant has decided that a "by-hand" approach would be used so disturbance would be minimal.

Mr. Gryga then stated that the applicant agreed to submit the plan to the Conservation District for their comments. In addition, he noted the applicant will comply with Mr. Janetka's comment regarding amending the construction sequence and making sure the contractor is aware. Mr. Janetka explained that the project needed to be completed carefully and that the sequence of events needed to be specified in detail. He also noted that he did not know how long it would take for the Conservation District to respond. Mr. Gryga noted that the applicant would request Council approval conditionally if the response is not received prior to Council taking action.

Mr. Gryga moved on to discuss Mr. Janetka's general comments. He stated that the applicant would comply with the plan showing the right of way and will also comply with sending the plan back to Mr. Comitta for further review of the slope grading. Mr. Janetka commented that his thought on having Mr. Comitta review once more is to assure that the applicant is on the right track with how to reseed.

Mr. Galloway asked Mr. Clark if Council has ever approved conditionally and looked at Conservation comments after the fact. Mr. Clark did not know. Mr. Janetka noted that typically comments from the Conservation District do not come in before action is taken.

Mr. Gryga also noted that the details in comment #15 would also be removed since it is not required.

Maryanne Bennett, 10 Laurel Lane, commented that some drawings show tree growth but there isn't a bank of trees between her property and Mr. Mita's. She specifically asked what the buffer would look like between her property and his. Mr. Galloway asked where her property was located and she showed Council on a map, noting a creek bed that overflows a lot. She stated the map makes it look like there are a lot of trees but that is no longer the case. Mr. Gryga stated trees would not be touched in that area since it is marked as a preservation area. Mr. Kirchgasser noted that the applicant has provided testimony that the area by her property would not be touched but would be improved with additional plantings if this application is passed. She asked if she could improve the area and Mr. Kirchgasser stated that would be between her and the property owner, but that the engineer is saying the best way to remediate water is to do nothing to that part of the property. Mr. Gryga agreed and stated the next specialist presenting for the applicant would be speaking on that topic in detail.

Ms. Bennett noted that she had her property surveyed 5 years ago. A stake was placed at the property line and it was no longer there. She requested the property be resurveyed and the stake put back in the proper location. Mr. Gryga stated the land had not been recently surveyed but there would be concrete monuments placed for Lots 2 and 3. Mr. Kirchgasser asked Ms. Bennett to confirm she was requesting a marker be put back at her property line and she did.

Randall Sampson, 14 Laurel Lane, showed Council where his property was located on the diagram and reported the canopy of trees on the map no longer existed. He asked if the applicant would remove the dead tree that fell from Mr. Mita's property onto his. He also stated that he did not think the property was advantageous for development. He stated that the Township's land development plan included having a playground and thought this property was more suited for that type of function. Mr. Kirchgasser informed Mr. Sampson that his questions and comments at this time needed to be specific to the engineer. Mr. Sampson did not have any questions or comments for the engineer.

Susan Masters, 6 Laurel Lane, asked who would maintain the rain gardens. Mr. Gavin stated that if the property is deed restricted, then they could also add language about that as well. Mr. Kirchgasser agreed with Ms. Masters that that was a pertinent question. Mr. Gryga stated there would be restrictions and requirements stated. Ms. Masters asked where the water would go if the future home owners decided they wanted a pool. Mr. Gryga stated there was limited space on the property and that it would have to be addressed. He felt the next expert witness could answer the question better.

Mr. Gavin then reported the applicant agreed to place a monument for Ms. Bennett and get rid of the tree that fell from his property onto Mr. Sampson's. Rich Kagarise, 12 Laurel Lane, noted he had two trees down also. Mr. Gavin stated they would be taken care of too.

Joel Defreytas, CMC Engineering, was introduced next by Mr. Gavin. Mr. Defreytas noted that two separate water issues are at play with this area: ground water and runoff. He then showed an aerial photo of the property (without Laurel Lane) taken in 1959 and another aerial photo with the soil types for the area listed. In addition to the types of soil,

this map also indicated the depth of the soil and other related information. Mr. Defreytas reported that the Laurel Lane properties were built on washum soil and silt. It is moderately eroded and poorly drained. There is a very high runoff chance and high frequency of flooding. The depth of the water table is 2-6 inches. He went on to state that the homes on Laurel Lane were built right on top of this type of soil and that it is not possible to change ground water locations; even if new soil is brought in.

Mr. Defreytas went on to report that about 10 acres drain to Laurel Lane and it is not all from Oak Avenue properties. Mr. Kirchgasser asked what the blue space was on the diagram and Mr. Defreytas answered the watershed/drainage area. Mr. Helm noted that the applicant's property did not make up much; perhaps only $\frac{1}{4}$ to $\frac{1}{3}$ of the basin. Mr. Defreytas agreed and stated that was the point of this demonstration; to show that the drainage onto Laurel Lane was due to much more than the applicant's property as it currently stands.

Mr. Galloway asked if the ground water and springs were related to this as well. Mr. Defreytas answered in the negative and referred once again to the diagram. He explained that is due to the soil type and that the properties come to a point where 2 hill sides meet. Because of this, water can't be controlled with anything but French drains.

Mr. Defreytas reported the applicant's proposed 4 rain gardens will cumulatively pick up water from the homes and driveways. The rain gardens will drain to a swale along the property line; not across them. Therefore, the water will be emptied into the wetlands and not into neighbor's property. He stated the rain gardens are 2 feet deep and 1600 square feet. Mr. Galloway asked if it would help to make the gardens 3 feet deep. Mr. Defreytas stated a calculation was used to determine the necessary depth and size of the rain gardens.

Mr. Defreytas then showed pictures of the proposed rain gardens for the properties. He stated that maintenance was no more than other gardens around the homes. He then showed a diagram that indicated the depths of the gardens and stated that there would be 10 inches of top soil, 8 inches of $\frac{3}{4}$ inch stone and a 4 inch perforated pipe that drains out of the rain gardens. This will allow for it to underflow instead of overflow. They will also have impervious 30 mm liner that will make sure the water doesn't go through the ground. Mr. Defreytas then showed calculations for storm year events. He stated Laurel Lane was built in the 1960s, prior to regulations and that water management rules today try to correct problems that developed from prior construction. In order to compensate for past mistakes, impervious surface now must be brought back to how the ground managed water prior to there being any impervious area. The results allow for a 48% decrease in a 1 year storm and 49% decrease in a two year storm.

Mr. Gavin noted that in addition to stormwater being reduced, the water is also being funneled to other parts of the applicant's property. Mr. Defreytas agreed and went on to add that when the homes on Laurel Lane were built, their soil was pushed onto the applicant's property. In addition, when 10 Laurel Lane built the swale, she inadvertently diverted water onto the applicant's property. He stated the water management measures taken at 6 Laurel Lane do something similar as well. He reiterated that his point was that

the applicant is constructing a swale that goes into his own wetlands and that the applicant is not doing what the Laurel Lane residents did since the water would not be distributed to their property.

Mr. Galloway asked if Mr. Defreytas has spoken prior to tonight about rain gardens in other places. Mr. Defreytas stated he did not as he usually just designs them. Mr. Galloway stated he would like to see an example of a rain garden he designed. Mr. Defreytas stated that there was one up in Berwyn, PA that would be viewable and that he could also provide Mr. Galloway with a list of others.

Mr. Gavin noted that the numbers on the year storms shown on the diagram was based off of calculations provided by Mr. Janetka. Mr. Defreytas agreed and added that Mr. Janetka essentially accepted these results and that the applicant would also send them to the conservation district office. Mr. Janetka agreed and commented that the diagram also demonstrates conformance with Township requirements.

Mr. Gavin asked Mr. Defreytas if he felt what was being presented demonstrated that the applicant was reducing runoff for neighbors and would all be sent to wetlands on the applicant's property. In addition, this would also help with the applicant's water issues and that the applicant has nothing to do with water issues caused by springs. Mr. Defreytas agreed.

Mr. Kirchgasser asked if building would do anything to increase the spring water problem, based on the diagram. Mr. Defreytas answered in the negative, stating that the applicant was not disrupting any soil that was on top of a spring. Ms. Powell asked if the springs located on Oak Avenue were within the building envelope of the proposed homes. Mr. Gavin reported that the only springs on the property are within the wetlands and not in the building envelopes.

Ms. Masters noted her back yard is part of the wetlands being discussed, at the bottom point. She asked where the rain gardens drained to in the wetlands and Mr. Defreytas showed her on a map. He stated there was a 6-foot-deep gully on their property that it would empty out to. Ms. Masters asked why her property was so swampy. Mr. Defreytas explained it was due to the soil type off the flood plain. He emphasized it had nothing to do with Oak Avenue. He added that from what he saw on her property, she was on the right track from a water management perspective, but that it wasn't enough. Mr. Defreytas stated that the 272 Oak Avenue project would not fix her issues. Ms. Masters commented that the gully way not maintained and asked who would be doing that. Mr. Defreytas stated that it was imperative that people stop using the gully as a dumping site because trash and debris only makes the problem worse. While it is on the applicant's property, it cannot be maintained because of the trash put in it by others, but also because the PADEP does not allow maintenance of the site.

Mr. Gavin summarized Mr. Defreytas report, stating that what the applicant is proposing will not have a negative impact on the neighbors and will actually help reduce their issues during storm events. Mr. Defreytas agreed.

Ms. Masters expressed that water has a mind of its own and that there is no guarantee rain gardens will work. These controls were not in place when Laurel Lane was constructed. She felt because of this, Council now had an opportunity to change and not allow further detriment to the Laurel Lane residents. She stated that she could not understand why this is being considered since there were too many questions and too many waivers needed to make it work. Mr. Kirchgasser noted that this meeting would carry over to the first meeting in June since there were outstanding issues and that Council would not be voting on it at present.

Ms. Masters asked what Mr. Janetka was waiting to receive. Mr. Janetka stated the Delaware County Conservation District Report. Mr. Gavin noted that was not expected to come in prior to Council taking action on the application.

Ms. Masters went on to express that the residents on Laurel Lane would prefer to see only one home be built by the applicant in the existing footprint since it was not a lot of land. Mr. Mita responded that he would lose money doing so and that what he was proposing would help the neighbors in terms of stormwater management.

Ms. Bennett asked if the foundations for the homes would be above or below ground. Mr. Defreytas stated they would be half in and half out of the ground. She asked if Mr. Defreytas could be certain no springs would be hit and where water extracted from sump pumps for the homes would go. Mr. Defreytas responded that the homes were being built on chrome soil and that he does not expect to hit water while digging because the ground water is at 80 inches there. Even if there was, it would go to the rain garden.

Mr. Sampson asked what would happen if there was a spring disturbed by their development. Mr. Defreytas stated that if ground water was pierced by the applicant, it would actually help Mr. Sampson's property by lowering the water table. The applicant's property would have to accept the water and filter it through the rain gardens. Mr. Kirchgasser asked Mr. Defreytas to verify that he did not think this would be the case based off of his soil study. Mr. Defreytas stated that was correct.

Ms. Masters asked if Council could get the Conservation Report prior to approval. Mr. Kirchgasser stated he was hoping it would be in prior to the June 13th meeting. Mr. Galloway asked if Mr. Janetka needed anything else. Mr. Janetka stated plan revisions needed to still take place but that was part of the nature of a plan review and not out of the ordinary. Mr. Mita expressed concern about spending more money on a Conservation Report if the application was not heading towards approval. He felt that him agreeing to fix the plan to the standards of the Township and Township Engineer should be enough. Mr. Janetka recommended a review of the conservation district report but thinks the technical aspect of the project could be addressed. He felt he would receive what was needed to proceed. Mr. Defreytas stated the Conservation District Report was thousands of dollars and the applicant would prefer to get conditional approval if they were to do this. Mr. Kirchgasser stated that it would be beneficial to set up a meeting to discuss this further with him, Mr. Defreytas and Mr. Mita. Mr. Janetka noted that he did not think the Conservation District would turn a report around by June 13th anyway.

Ms. Bennett commented that she did not understand why any consideration should be given to the amount of money Mr. Mita was spending and noted that the Laurel Lane residents have also spent a lot of money to live there. She asked if how much money is spent commercially plays a role in Council's decision. Mr. Kirchgasser stated no.

Robert Fadgen, 267 Oak Avenue, commented that a lot of data was provided at this meeting and asked Mr. Janetka's opinion about it. Mr. Janetka stated that it was not his place to give an opinion but noted that he did not disagree with anything presented.

Mr. Galloway motioned to continue this matter to the June 13, 2016 meeting. Ms. Powell seconded the motion and Council approved unanimously with a vote of 4-0.

Mr. Gavin asked if Council would need anything else besides the list of addresses for rain gardens to view that Mr. Galloway requested. Mr. Kirchgasser noted that Mr. Mita agreed to also remove dead trees on two of the Laurel Lane properties and add the monument requested by Ms. Bennett.

5. NEW BUSINESS

A. Approval of Amendment to Conservation Easement—Natural Lands Trust: Wawa Preserve; Valley Road

Mr. Clark reported that Council approved an Easement Agreement for Sun Pipeline on this property about a month ago but since it has been determined that a slightly larger easement area is needed. Natural Land Trust has asked that Council agree to the increase in the easement area. Mr. Helm asked if it was a minimal adjustment and Mr. Clark answered in the affirmative. Mr. Helm motioned to approve amending the Easement Agreement. Ms. Powell seconded the motion and Council approved Resolution 2016-55 unanimously with a vote of 4-0.

B. Amendment of Animal Protective Services Agreement: Brandywine Valley SPCA

Mr. Clark explained that the Township was notified the Animal Protection Board dissolved their shelter services agreement with the SPCA. The Township currently has a contract with the SPCA for animal control services. A temporary solution to this would be to contract with the SPCA for shelter services too until another county-wide option becomes available. He recommended approval. Mr. Galloway motioned to amend the Animal Protections Services Agreement with Brandywine Valley SPCA. Mr. Helm seconded the motion and Council approved Resolution 2016-56 unanimously with a vote of 4-0.

C. Approval of Bill List

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

Mr. Helm moved that payments under the May 23, 2016 Bill List be authorized for payment by the Finance Department:

GENERAL FUND		
A.J. Blosenski, Inc.	April Recycling and Waste	\$17,656.00
Aqua Pennsylvania, Inc.	April Hydrant Bills	\$11,432.25
John G. Pinto, CRE	Sunoco Pipeline Valuation	\$5,000.00
Kelly & Close Engineers	Professional Services 3/19/16- 4/22/16	\$9,060.92
Middle Atlantic Inspections, Inc.	February & March Inspections	\$6,124.00
	Total General Fund	<u>\$49,273.17</u>

RECREATIONAL ENTERPRISE FUND

Touriffic Travel	Niagara Falls 6/6-6/9	\$11,000.00
------------------	-----------------------	-------------

Ms. Powell seconded this motion and Council approved Resolution 2016-57 unanimously with a vote of 4-0.

8. ADJOURNMENT

Mr. Galloway adjourned the meeting at 8:51 PM.

Respectfully submitted,



Amanda Allen, Recorder