

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
June 22, 2015

Minutes of the Regular Meeting of Township Council Held on, June 22, 2015 at 7:00 P.M., in the Township Administration Building located at 27 North Pennell Road

Present: M. Amoroso, L. Bradshaw, R. Carlson, S. Galloway, M. Kirchgasser, and C. Quinn
B. Clark, E. Janetka, Engineer, and J. Damico Esquire

1. OPENING

Chairman Mr. Kirchgasser called the meeting of the Council to order at 7:08 P.M., and led recitation of the Pledge of Allegiance to the Flag.

2. COMMENTS FROM THE PUBLIC

Dr. Grove commented that Mr. Clark did an excellent job during the news interview with Channel 10. Mr. Kirchgasser agreed and also congratulated Mr. Clark on a job well done. Mr. Clark thanked them both and commented that it was an interesting experience.

Ed Lawler, Boy Scout Troop 85, stated he was present at the meeting to earn his merit badge for community and citizenship. Mr. Kirchgasser welcomed him to the meeting.

3. REPORTS

A. CHAIRMAN

Mr. Kirchgasser acknowledged that July 1st will mark the 35th anniversary of Mr. Clark acting as Township Manager. He took the opportunity to recognize Mr. Clark's tenure and his exceptional service to the Township over the decades. Mr. Kirchgasser expressed that he and Council were grateful for the amount of time Mr. Clark puts into his work. Mr. Clark thanked him and Council.

Mr. Kirchgasser stated that during the budget process, Council reexamines services offered by the Township. For instance, when Mr. Rothe retired they reviewed the advantages to a third party engineer and have found that Mr. Janetka from Kelly & Close has done a good job thus far. Similarly, the building inspector for the Township recently retired. The Township will now be using a third party to provide the building inspecting services to residents. Mr. Kirchgasser believed this would prove to be cost effective and advantageous for the Township.

B. MANAGER

Mr. Clark did not have anything to report but thanked Council again for recognizing his years of service.

4. PUBLIC HEARING

- A. Conditional Use Application of Pennsylvania State University to add two buildings consisting of a residence hall and student union/dining hall on the college campus located at 25 Yearsley Mill Road pursuant to Sections 275-276.B(2) and (C) 1 of the Zoning Ordinance providing for permitted accessory uses to post-secondary schools as a conditional use within the I-2 Institutional District. (Hearing to be tabled/continued to July 13, 2015 Regular Council Meeting)
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Mr. Clark noted that Planning Commission completed its review of the conditional use application but the applicant requested the public hearing be tabled until July 13, 2015 due to vacation schedules.

Mr. Galloway motioned to table the hearing until July 13, 2015. Mr. Carlson seconded this motion and Council approved unanimously with a vote of 6-0.

- B. Proposed amendment of the Zoning Ordinance to add a definition for "Pad Lot" and to add a new Article XXIII.A entitled Mall Conversion Overlay (MCO) District which shall govern the demalling or other conversion of a mall developed in accordance with provisions B-2 Major Shopping Center District. (Hearing to be tabled/continued to July 27, 2015 Regular Council Meeting)
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Mr. Galloway motioned to reopen the hearing for the Granite Run Mall property. Ms. Amoroso seconded this motion and Council approved unanimously with a vote of 6-0.

Joe Riper, legal representation for BET Investments, explained that there were several issues uncovered during the review process and the applicant wishes to postpone the hearing until July 27th in order to rectify these issues. Mr. Damico stated he did not see a problem with granting this request.

Mr. Galloway motioned to continue the hearing until July 27, 2015. Ms. Amoroso seconded this motion and Council approved unanimously 6-0.

Mr. Riper thanked Council and asked if he would need to request a time extension for the rezoning application. Mr. Clark stated he would get him the form necessary for the record.

5. NEW BUSINESS

- B. Consideration for Adoption—An Ordinance amending the Middletown Township Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania, Chapter 275, Zoning, Article II, Entitled Terminology, Section 275-8 by adding a definition for Pad Lot and by adding Article XXIII.A entitled Mall Conversion Overlay (MCO) District which shall govern the demalling or other conversion of a mall developed in accordance with Article XXIII, Chapters 275-135 through 275-140 (Item tabled from the April 27, 2015 Regular Council Meeting)
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Mr. Riper explained there were a few issues not covered in the initial zoning ordinance amendment that was advertised and sent to County and Township Planning Commissions that he would need to resubmit for review. First, a maximum building height of 65 feet was originally noted, but because of the required method for calculating the average grade to determine building height, the applicant is requesting increasing this to 70 feet. Second, the amended ordinance would exclude recreation fee in lieu open space provisions because various amenities will be made available and the applicant would like to avoid paying compensation since it is mixed use and some of these amenities are opened to the residents of the Township. He noted the nature of the amenities would have to satisfy Council and stated that section 210-41 of the subdivision/land development ordinance has a general “catch all applicability” phrase, which open space for the mall would not be excluded from. Mr. Riper requested to amend the proposed subdivision/land development ordinance so the mall would not apply to this and could be excluded. Third, a zoning review comment was that the property did not have a minimum parking aisle width for the multi-family use parking structure areas. He requested a minimum of 24 feet in width be added. Lastly, Mr. Riper stated the architect pointed out that certain types of signage within the mall property would not be exposed to the public streets and therefore should be excluded from some of the signage requirements. He noted that the design guidelines would be able to denote certain signage requirements, which Council would also be approving.

Mr. Kirchgasser asked if the ordinance with these changes was advertised and Mr. Riper answered that he would ask Council to reintroduce the proposed amendment, which would then appear before Township Planning Commission and also be advertised again for a new hearing.

Mr. Kirchgasser asked why the height increase was necessary and Mr. Riper stated there was no physical change to the planned building height but because of how it is measured, the increase was needed. Keith Lieberman, engineer for the applicant, stated that the height involved a complicated calculation and due to the grade change for the Rt. 1 apartment complex, the architect stated the height would be close to 65 feet with the calculation. Raising it by 5 feet would allow room for flexibility. He offered to “fine-tune the calculation” and explain it to the zoning officer if Council felt it was necessary.

Mr. Quinn asked why the applicant was requesting to remove the open space fee in lieu. Mr. Riper explained that the calculation is based on lots for subdivision and that the applicant would prefer to satisfy Council by what they will do with on-site amenities instead of what they could pay. Ms. Amoroso noted the calculation for the open space fee is applicable to other developments and felt it could also work with this property. Mr. Galloway asked Mr. Riper to be prepared to discuss this further at the July hearing. Mr. Riper agreed. Ms. Amoroso noted she did not want to remove Township leverage. Tom Comitta, landscaping consultant for the Township, expressed that if it is not changed, the applicant could request a waiver instead. He also noted that he plans to review 2 recommendations—one for enhanced landscape and the other for enhanced pedestrian connectivity. He noted that if current rules apply, there would need to be more walkways, sidewalks, connections, etc.; however, if Council felt it is more of a formality, he questioned if the exclusion could be added and then the applicant would only need to satisfy Council on what they felt would be satisfactory. He thought this may be better instead of limiting the Township's flexibility. Mr. Damico stated that he reviewed it briefly but that his initial reaction is that waiver provisions exist and Council could choose to not grant them at the time the final set plan is approved. He recommended waiving the requirements instead of excluding them from the ordinance. Mr. Kirchgasser asked if the effect would be the same and Mr. Damico felt that it most likely would. Mr. Riper commented that he would be accepting of the waiver if the effect is the same.

Ms. Amoroso motioned to introduce the amendment to the ordinance for the increased building height maximum to 70 feet, noting the parking aisle width for the multi-family use spaces is 24 feet, and changing the language of the signage in the ordinance. In addition, the amendment would be sent to Planning Commissions for comment and readvertised. Mr. Galloway seconded this motion and the amended ordinance was introduced unanimously with a vote of 6-0.

5. NEW BUSINESS

A. Review of Conditional Use Application 15-2 -Pennsylvania State University 25 Yearsley Mill Road (To be tabled to July 13, 2015 Regular Council Meeting)

Mr. Galloway motioned to table the review of Conditional Use Application 15-2 until July 13, 2015. Mr. Quinn seconded this motion and Council approved unanimously with a vote of 6-0.

C. Amendment of Pending Ordinance - Chapter 198 - Stormwater Management

Mr. Riper explained the proposed amendment was introduced but some additional issues were found during the plan review process. He stated that the original proposed amendment added waiver provisions to the stormwater management requirements but after discussions, the applicant requests to replace this with an

alternate provision, which would allow for an acceptable alternative to be considered by the Township engineer and PADEP and be considered if the applicant can demonstrate it cannot meet either the Tier 1 and Tier 2 requirements set out in the ordinance. He also stated that the amendment would allow for Appendix F to be revised in order to clarify the series of design guidelines which could be deviated from. Mr. Riper explained the concept language was stronger than what the Township found acceptable so it now states the applicant can submit reasonable alternatives acceptable to the Township.

Mr. Riper requested Council reintroduce the ordinance amendment and readvertise it. Mr. Damico commented that he read the proposed amendment and understood the changes. He noted that he did not know if the State allows for deviation from the requirements but he would look into this further. Mr. Janetka reported that PADEP allows for alternatives to infiltration if the applicant can show it cannot infiltrate the stormwater. He went on to state the PADEP has an unofficial policy on this so if the applicant can show it can't comply, the Township can approve a design compliant with the PADEP regulations, to be evidenced by DEP issuance of a permit.

Mr. Galloway motioned to reintroduce the ordinance as amended by the changes outlined above. Mr. Carlson seconded this motion and Council approved reintroduction of the ordinance unanimously with a vote of 6-0.

D. Award of Contract - 2015 Road Improvement Program

Mr. Clark explained that bids were opened on Thursday June 18th for the resurfacing project and the low bid was Cousins, Inc. at \$356,793.05. Kelly & Close has worked with them before and recommends acceptance of the bid. Mr. Clark noted the quote includes work on sewer manholes, which the Sewer Authority would be reimbursing the Township for. He noted this project is slightly above budget but the extra amount could be covered through a budget transfer rather than cutting back on the streets to be done.

Mr. Carlson motioned to approve the award of contract. Ms. Bradshaw seconded the motion and Council approved Resolution 2015-56 unanimously with a vote of 6-0.

E. Council Committee Appointments

Mr. Clark reported there are two openings on the Parks and Recreation Committee and a letter of interest was received from Kathleen O'Connell-Bell. Ms. Bell could be appointed for the balance of a term through January 2016.

Mr. Quinn motioned to appoint Ms. Bell to the Parks and Recreation Committee for a term expiring January 2016. Mr. Galloway seconded the motion and Council approved Resolution 2015-57 unanimously with a vote of 6-0.

Mr. Clark went on to report that several terms have expired for the Uniform Construction Code Board of Appeals and appointments need to be renewed for David Redash, Ray Titter, and Solicitor Michael Mattson. He informed Council all these members wish to be reinstated and he recommended renewal.

Mr. Galloway motioned to renew the abovementioned appointments for the terms as noted. Mr. Quinn seconded the motion and Council approved Resolution 2015-58 unanimously with a vote of 6-0.

F. Renewal of Insurance Package - Fire Companies

Mr. Clark reported the renewal quote for the insurance package for Rocky Run and Middletown Fire Companies is \$33,260, which is slightly less than the \$34,000 budgeted. This policy would run May 1, 2015 through April 30, 2016. He noted the new command vehicle for Middletown Fire Company will be added to the policy once it is purchased.

Mr. Carlson motioned to approve the renewal of the insurance package. Ms. Bradshaw seconded this motion and Council approved Resolution 2015-59 unanimously with a vote of 6-0.

G. 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 June 22, 2015 Bill List be authorized for payment by the Finance Department:

GENERAL FUND

<u>Vendor Name</u>	<u>Description</u>	<u>Amount</u>
Stevens & Lee	Early Retirement Project	\$ 5,849.30
Innovative Construction Services	2014 Resurfacing Contract	\$110,244.40

A. Gargiule & Sons Inc	Storm Sewer Install 294 Oak Ave	\$ <u>5,400.00</u>
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Total General Fund	<u>\$121,493.70</u>
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STATE AID

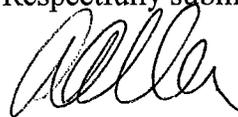
Innovative Construction Services	2014 Resurfacing Contract	<u>\$279,615.00</u>
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Ms. Amoroso seconded this motion and Council approved Resolution 2015-60
unanimously with a vote of 6-0.

6. ADJOURNMENT

Mr. Kirchgasser adjourned the meeting at 7:44 PM.

Respectfully submitted,



Amanda Allen, Recorder

