

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
August 11, 2014

Minutes of the Regular Meeting of Township Council Held on, August 11, 2014 at 7:00 P.M., in the Township Administration Building located at 27 North Pennell Road

Present: L. Bradshaw, S. Galloway, M. Kirchgasser, C. Quinn, and N. Shropshire
B. Clark, and J. Damico, Esquire

1. Chairperson Mr. Kirchgasser called the meeting of the Council to order at 7:11 P.M., and led recitation of the Pledge of Allegiance to the Flag. Mr. Kirchgasser noted that an executive session was held prior to the meeting to discuss legal issues regarding land owned by the Township and legal issues regarding a Zoning Hearing Board application.

2. APPROVAL OF THE MINUTES

Mr. Shropshire motioned to approve the July 28, 2014 regular meeting minutes, Ms. Bradshaw seconded this motion and Council approved the minutes with a vote of 4-0 (Mr. Kirchgasser abstained due to his absence at the July 28, 2014 meeting).

3. COMMENTS FROM THE PUBLIC

None

4. REPORTS

- A. CHAIRPERSON

Mr. Kirchgasser acknowledged that the Aston Middletown Little League 9 and 10 Year Old Team competed in the Eastern Finals in Rhode Island, Massachusetts over the weekend. Although the team lost the final game, he felt it was important to recognize the hard work of the team and the achievement of making it so far to the Finals. Mr. Kirchgasser expressed that it would be appropriate for Council to publically recognize the baseball team at a future meeting.

- B. FINANCE & ADMINISTRATION

Mr. Galloway reported that the Finance & Administration Committee reviewed four items at their meeting. This included the renewal of the Cable TV Franchise Agreement (Agenda Item 5F), a proposed slate roof repair on a building on the Smedley Property, an update on the Employee Retirement Health Savings Account, and an option to increase the coverage limit on the commercial crime policy.

- C. ROADS, HIGHWAYS, & PUBLIC SAFETY

Mr. Shropshire reported that the Roads, Highways and Public Safety Committee met with representatives from Sun Pipe Line to discuss possible easements for electrical

power to a pump station located off of Glen Riddle Road. He noted the Committee also discussed the recycling contract (Agenda Item 5C).

D. MANAGER

None

5. NEW BUSINESS

- A. Consideration for Adoption – An ordinance of the Council of Middletown Township, Delaware County, Pennsylvania (the “Council”) (the “Township”) authorizing and approving a project of the Middletown Township, Delaware County, Sewer Authority (the “Authority”); determining to incur debt in the maximum aggregate principal amount not to exceed \$7,950,000; determining that such debt shall be incurred as lease rental debt to be evidenced by a series of Guaranteed Sewer Revenue Bonds, Series of 2014 (the “Bonds”), to be authorized and to be issued by the Authority to finance a project of the Authority consisting of (1) designing, furnishing, installing, constructing and equipping of improvements and additions to the sewer system and facilities of the Authority; (2) funding capitalized interest, if any, on the Bonds; and (3) paying the costs and expenses associated with the issuance of the Bonds in connection with the sewer system owned by the Authority and leased to the Township for operation and use; providing for the incurring of such lease rental debt in connection therewith; authorizing and directing the chairman or vice chairman of the Council and the Township Manager, respectively: (a) to prepare, to certify and to file the debt statement required by the act of the General Assembly of the Commonwealth of Pennsylvania known as the Local Government Unit Debt Act, 53 Pa. C.S. Chs. 80-82; (b) to prepare and to file any statements required by said Act that are necessary to qualify all or any portion of the debt of the Township for exclusion from the appropriate debt limit as self-liquidating or subsidized debt; and (c) to execute, to attest, to acknowledge and to deliver, as appropriate, the Agreement of Lease (the “Lease”) between the Township, as lessee, and the Authority, as lessor, with respect to the sewer system, and the Guaranty Agreement (the “Guaranty”) between the Township, the Authority and the Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”) under a certain trust indenture of the Authority with respect to payment of the principal of and interest on said Bonds; approving the form of said Lease and Guaranty; consenting to assignment of said Lease by the Authority to the Trustee, as security; specifying the source of payment of the lease rentals to be paid by the Township pursuant to said sewer system Lease; consenting to and authorizing the termination of the existing sewer system Lease between the Authority, as lessor, and the Township, as lessee, and authorizing any documents or instruments necessary for such termination; guaranteeing the payment of the principal of and interest on said Bonds; providing covenants related to debt service applicable to said Bonds and pledging the full faith, credit and taxing power of the Township in support of such Guaranty obligations; providing for certain action to be taken by the Authority; providing for proper officers of the Township to take all other required, necessary or desirable related action in connection with said sewer system and said Lease and

Guaranty; authorizing the execution and delivery of a Continuing Disclosure Agreement; acknowledging that the Authority intends to issue the Bonds as qualified tax-exempt obligations under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended; providing for the severability of provisions of this ordinance; and providing for repeal of all inconsistent ordinances or parts of ordinances.

Mr. Clark explained that the Ordinance before Council would authorize the Sewer Authority (MTSA) to issue bond debt in the maximum amount of \$7,950,000. The primary purpose of this funding is to construct the first phase of a new sewer interceptor, which will run parallel to the existing interceptor up the Chester Creek. He noted the second phase of the project would occur in about a year and is not part of this bond issue, as it would be financed separately at the time of construction.

Mr. Clark went on to state the current ordinance before Council has been introduced and advertised pursuant to Township and State requirements for bond issuances. He also noted that the ordinance would authorize the annual repayment of the debt, designates the bond as tax-exempt financing, designates the bond as sewer revenue debt, and directs and authorizes both Township and MTSA staff to do any additional administrative requirements necessary in order to obtain bond issuance. Lastly, Mr. Clark informed Council that the ordinance was in final form and ready for adoption.

Mr. Clark then introduced Jim Flandreau, solicitor for MTSA, who was present at the meeting to answer any questions about the ordinance. Hearing no questions or comments, Mr. Flandreau noted that Mr. Clark's summary was on point.

Ms. Bradshaw motioned to approve adoption of the Ordinance. Mr. Quinn seconded this motion and Council approved Ordinance 749 unanimously, by vote of 5-0.

B. Operating Agreement Amendment—Sewer Authority

Mr. Clark reminded Council that at a recent meeting, they authorized an extension of 50 years to the Sewer Authority life in order for the Authority to outlive the pending bond issue. He then went on to report that an Operating Agreement currently exists between the Township and MTSA, which stipulates that MTSA is responsible for the day-to-day operations and management of the sewer system. Mr. Clark explained that amending this Operating Agreement has become necessary as part of the document process for the pending bond issue due to the fact that there are some terms and agreements listed in the current Operating Agreement that have become outdated by recent documents executed between MTSA and DELCORA, as well as by a Global Agreement between the Township, Sewer Authority, Southwest, Aston Township, and the Department of Environmental Protection. Mr. Clark went on to report that all of these documents have now been referenced in the new Operating Agreement, which is in front of Council in

draft form. He explained this amendment essentially makes the references “current and correct,” and has been reviewed and approved by the Township solicitor, MTSA solicitor, and Bond Counsel.

Mr. Damico commented that he reviewed the Operating Agreement Amendment thoroughly and commended the job Mr. Flandreau did with putting together the initial draft. He reiterated that all necessary parties reviewed and approved the agreement and that it was ready for Council’s consideration for approval.

Mr. Flandreau noted that every attempt was made to stay consistent with the 1985 agreement. He explained that Bond Counsel thought it was best to update the agreement with the new treatment arrangement and that the amended operating agreement accurately states those relationships. Mr. Flandreau emphasized that other than noting the new arrangement for treatment, this agreement is very similar to the original 1985 Agreement. He did note one minor change from the previous agreement that he and Mr. Clark discussed and Mr. Damico approved, which was changing the need for Council approval for contracts that would be greater than 2 years. The original agreement made this necessary if the contract would be greater than 1 year. This change was completed in order to be consistent with existing Township policies and procedures.

Mr. Flandreau also noted that the agreement maintained the 90 day termination policy, which allows Council to maintain control of MTSA and terminate it altogether if deemed necessary. Mr. Kirchgasser interjected, stating that he could not let that type of comment be made without noting that Council is “thoroughly satisfied” with the work done by MTSA. He went on to say that the Board representing MTSA is an “exceptional group” of people and that Mr. Flandreau’s counsel for the Authority was also commendable. Mr. Flandreau thanked Mr. Kirchgasser for his comments and noted that he would share them with the MTSA Board.

Ms. Bradshaw motioned to approve the updated Operating Agreement Amendment. Mr. Quinn seconded this motion and Council approved Resolution 2014-60 unanimously, by vote of 5-0.

C. Award of Contract AD 14-1—Collection of Residential Recyclables and Yard Waste

Mr. Clark reported that bids were received on July 16, 2014 for the renewal of the curb side recycling and yard waste pickup program. He noted the bids were all for a three year contract and that the lowest bid was received by A.J. Blosenski, Inc. from Chester County. He reported that the references checked thus far for A.J. Blosenski have all been favorable. The second lowest bid was very close and was submitted by the Township’s current provider, Republic Services, Inc.

Mr. Clark went on to state there were several collection options proposed (once per week and once every other week for the recycling and once monthly or once monthly in the

winter months and twice monthly in the warmer months for yard waste). He reminded Council that a survey was conducted in the spring, asking residents for their opinion on frequency for these pickups. Mr. Clark reported that the survey results indicated that most residents were satisfied with the current every other week collection for recycling and the 19 pickups of yard waste during the calendar year. Mr. Clark noted that A.J. Blosenski's cost for the every other week recycling and 19 yard waste pickups would be \$48 total, which is about \$1 less than the current contract that is expiring with Republic. According to Mr. Clark, there would be a slight increase in price over the course of the 3 years, but the increase is so small that it could be considered a "flat cost" over this time period. Based off of the costs and the review of services offered by A.J. Blosenski, the staff recommendation is to award the contract to A.J. Blosenski.

Mr. Galloway asked when the current contract expires and Mr. Clark responded September, with the new contract starting in October. Mr. Clark also commented that A.J. Blosenski stated there would be no change in operational requirements and that pickup schedule would remain the same as they are now. Mr. Galloway then asked what Republic's bid was and Mr. Clark reported that it was slightly higher than A.J. Blosenski, at approximately \$49 for both services.

Mr. Kirchgasser asked if the contract bids were reviewed and Mr. Shropshire reported that the bids were reviewed by the Roads, Highways and Public Safety Committee and that the Committee recommended approval of the lowest bid.

Ms. Bradshaw went on record to state that she would personally prefer an every week pickup program for recycling. Mr. Shropshire responded that when the contract is up for review again, another survey asking for resident preference could be completed.

Mr. Shropshire motioned to approve accepting the lowest bid for the recycling and yard waste contract from A.J. Blosenski. Mr. Galloway seconded this motion and Council approved Resolution 2014-61 unanimously, by vote of 5-0.

Representatives from A.J. Blosenski who were in the audience thanked Council for accepting the bid and expressed that they were looking forward to serve the Township.

D. Award of Contract PW 14-1—Road Salt

Mr. Clark explained that the purchase of road salt is split between two different vendors. The first portion is bought through the State contract, which requires the Township to take a minimum specified amount each year but also limits how much can be taken above the specified amount if more salt is needed. Therefore, the State contract is used for the initial salt purchase and then the remaining estimated need is bid out to other vendors. Mr. Clark noted the bid in front of Council is for the second portion of salt to be purchased and would be used to purchase any additional salt needed. He also reported

that this purchase would not be subject to an upper limit like the first purchase through the State is.

Mr. Clark reported that the State contract is a little higher in price compared with the second contract this year. As a result, a little bit more would be paid initially. He also commented that if the weather is “light” this winter, not as much salt would be needed.

Mr. Clark went on to explain to Council that the second contracted bid was completed on a joint basis with 9 other municipalities. 4 bids were received, with the lowest bidder being received from Oceanport in the amount of \$56.47 per ton. He noted this is \$2.99 more than last year. Mr. Clark stated that if Council approved the Township’s portion of the contract, it would also be subject to the approval of the 9 other municipalities.

Mr. Shropshire motioned to approve accepting the low bid from Oceanport. Ms. Bradshaw seconded this motion and Council approved Resolution 2014-62 unanimously, by vote of 5-0.

E. Review of Zoning Hearing Board Applications: 14-5 Lee—373 Arbor Circle; 14-6 McDonald—242 Old Quarry Court; 14-7 Bates—475 Horseshoe Drive

Mr. Clark reported that 3 Zoning Hearing Board applications have been submitted for the Board’s review at their August meeting:

Mr. Clark described the first as the property at 373 Arbor Circle, which is in a cluster subdivision located off of Barren Road. The applicant is requesting to build an in-ground swimming pool in their rear yard, which requires a special exception. The requirement calls for 35 feet, but this pool would be within 11.31 feet of the rear end property. He noted the property backs up to community open space and there is no house behind it. Mr. Kirchgasser asked if any Council member was inclined to send representation to this hearing. No Council member answered in the affirmative.

Mr. Clark described the second application as the property at 242 Old Quarry Court, noting the applicant is looking to replace an existing deck at the rear of their townhouse with a larger deck. The larger deck would total 304 square feet between the deck and the attached stair case. He explained it would project within 40 feet of the perimeter rear property of the R-4 zoning district, which requires a 100 foot setback. Mr. Kirchgasser asked if any Council member was inclined to send representation to this hearing. No Council member answered in the affirmative.

Mr. Clark described the third application as the property at 475 Horseshoe Drive, noting the applicant was previously denied a “no impact home-base business” permit to operate a tree/landscape business out of his house by the Zoning Officer. The applicant is currently appealing this denial to the Zoning Hearing Board and in the alternative asking

for a use variance that would allow him to operate his tree and landscape business from his house. Mr. Kirchgasser asked if any Council member was inclined to send representation to this hearing. Mr. Galloway noted he would like the solicitor to appear on Council's behalf. Mr. Galloway motioned to approve the solicitor appearing on Council's behalf at the Zoning Hearing for Zoning Hearing Board Application 14-7 only. Mr. Shropshire seconded this motion and Council approved the motion unanimously, by vote of 5-0.

F. Renewal of Cable TV Franchise Agreement—Comcast of Southeastern PA

Mr. Clark explained that the last 10 year franchise agreement has expired and that the Township, along with 6 other municipalities in the County have jointly negotiated a renewal agreement with Comcast. The attorney previously used for the previous agreement was contracted for these negotiations, as he specializes in telecommunication law. Mr. Clark reported that the agreement before Council is a non-exclusive franchise agreement, which means other competitors (i.e. Verizon) could still service the Township.

Mr. Clark also noted that the agreement is very similar to the previous agreement and will once again be for 10 years. The biggest difference is that the franchise fee payments would now be made on a quarterly basis instead of a monthly basis. He reported that Comcast continued to agree to a standard connection with no additional charge for dwellings within 150 feet of the road, the standard requirements for service will still continue, and Comcast will once again pay the Township a communication grant of \$20,514 in one lump sum (same amount as previous agreement allotted). This grant can be used towards communication and cable oversight throughout the Township. Lastly, like the expiring agreement, Comcast will continue to provide "free cable drops" to the municipal buildings, library, firehouses, and schools, as well as one free "internet drop" to a municipal facility within the Township.

Mr. Clark reported that as part of the franchise renewal process, an audit was completed for the franchise fee and uncovered that Comcast shorted the Township for 18 homes. A settlement agreement reached requires Comcast to return \$2,904 in missed franchise fee collections plus penalties to the Township. He highlighted that this refund will offset the costs of negotiating the new agreement.

Lastly, Mr. Clark commented that most other municipalities in the County have a franchise fee of 5% for residents and that the Township's current fee is only 3%. He reported that the Finance and Administration Committee recommends increasing the franchise fee from 3% to 4%. While this agreement is with Comcast, if Council approves this increase, the change will also be extended to the current Verizon agreement so that all residents of the Township will have the same fee for cable services. Mr. Galloway

reported that Mr. Clark's summary was accurate and that the Finance and Administration Committee reviewed the agreement at their last meeting and would recommend the agreement and fee increase be approved.

Mr. Galloway motioned to approve the introduction of the cable franchise agreement.

Ms. Bradshaw seconded this motion and Council approved introduction of the ordinance unanimously, by vote of 5-0.

G. Approval of Bill List

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

Ms. Bradshaw moved that payments under the August 11, 2014 Bill List be authorized for payment by the Finance Department:

GENERAL FUND		
Standard & Poor's Financial Serv	Analytical Services for GOB 2014	\$ 13,000.00
Independence Blue Cross	August Health Insurance	\$ 8,006.22
	Highway Share	\$ 11,067.17
	Sewer, Cobra & Library Share	\$ 5,802.57
	Recreation Share	\$ 3,476.80
		\$ 28,352.76
	Total General Fund	\$ 41,352.76
RECREATIONAL ENTERPRISE FUND		
Chester County Travel	Italy	\$ 5,257.00
Touriffic Travel	Pittsburgh & Mackinac Island	\$ 17,769.50
TD Bank	Minor Office Equipment	\$ 137.79
	Supplies	\$ 49.12
	Court Costs	\$ 110.00
	Summer Rec	\$ 2,229.50
	Trips	\$ 14,101.64
	Miscellaneous	\$ 32.07
		\$ 16,660.12
	Total Recreation	\$ 39,686.62
CAPITAL RESERVE		
BNY Mellon	GOB Series 2010 Principal	\$ 230,000.00
	GOB Series 2010 Interest	\$ 140,571.25
	Total Capital Reserve	\$ 370,571.25

Mr. Galloway seconded the motion, and Council approved Resolution 2014-63
unanimously, 5-0.

6. ADJOURNMENT

Mr. Kirchgasser adjourned the meeting at 7:39 PM.

Respectfully submitted,

Amanda Allen, Recorder