

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
September 22, 2014

Minutes of the Regular Meeting of Township Council Held on, September 22, 2014 at 7:00 P.M.,
in the Township Administration Building located at 27 North Pennell Road

Present: L. Bradshaw, R. Carlson, S. Galloway, and N. Shropshire
B. Clark, and J. Damico, Esquire

1. In Chairperson Mr. Kirchgasser's absence, Mr. Shropshire called the meeting of the Council to order at 7:05 P.M., and led recitation of the Pledge of Allegiance to the Flag. Mr. Shropshire noted that an executive session was held prior to the meeting to discuss a real estate issue and personnel issue.

2. COMMENTS FROM THE PUBLIC

Barry Pinkowicz, Vice President of Friends of the Chester Creek Branch (Friends), wanted to update Council on the Rails to Trails Project. He reported that he spoke with Lou Hufnagel of the Delaware County Planning department, who informed Mr. Pinkowicz that the official rail road certificate of clearance has been approved and "most of the other pieces are falling into place." He went on to state that PADOT is requiring the Friends of the Chester Creek Branch to go to bid for this project by December 1, 2014. This means that all outstanding issues with the Township must be addressed by then. He specifically commented that a main area of concern is the Easement Agreement between the Linvills, Township, County, and Friends. In the Draft Agreement, Mr. Pinkowicz noted that the Linvills objected to wording of "hold harmless."

Mr. Pinkowicz then informed Council that he is unsatisfied with the attorney representing the Friends and was planning to appoint new representation promptly. He would then have the new attorney rewrite the Draft Agreement and get it to Mr. Damico within the next two weeks. Mr. Damico commented that he was in favor of this idea, noting that both he and the County's solicitor did not believe the current agreement was acceptable. Mr. Shropshire noted for the record that the Township has not impeded the process of the project and that Mr. Damico has been working on the project for close to a year. He expressed the Township wants to move forward with the project. Mr. Pinkowicz agreed and stated he was only at the meeting to update Council on the project and to emphasize how important it would be to move quickly with this final step.

Mr. Galloway noted that the Linvills would also need to cooperate in order for this to go through in time. He went on to state that he and Mr. Shropshire discussed meeting with the Linvills to discuss this matter, among other things. He asked how quickly Mr. Pinkowicz thought it would be for him to acquire new legal representation. Mr. Pinkowicz reported that he called the prospective lawyer earlier in the day and was hoping to hear back the following day. Mr. Galloway asked him to keep Mr. Clark updated on his progress on acquiring new representation and the rewriting of the Draft Agreement. Once that was accomplished, Mr. Galloway noted that he and Mr. Shropshire would meet with the Linvills. Mr. Pinkowicz agreed to this and thanked Council for their support.

3. REPORTS

A. CHAIRPERSON

None

B. MANAGER

Mr. Clark commented that Saturday, September 27, 2014 was National Prescription Take Back Day, and that residents could take prescriptions and other medicines/vitamins to the State Police barracks from 10 AM – 2 PM for disposals with no questions asked. He went over some of the requirements for the drop off and emphasized it could be done anonymously.

Mr. Carlson motioned to move New Business Items 5C and 5F to the beginning of the Agenda. Mr. Galloway seconded this motion and Council approved unanimously with a vote of 4-0.

5. NEW BUSINESS

C. Middletown Library Update—Strategic Plan

Mr. Galloway commented that he has been the Council liaison to the Library since he began on the Council over 20 years ago and that it has been an honor. He expressed that Justin Nepo has been doing an excellent job as President of the Library's Board of Trustees. Specifically, he noted that Mr. Nepo, the Board, and staff of the library have done very well at making changes in order to draw residents into the library, even with State funding not being what it has been in the past. He noted that the Township is very supportive and will try to give the Library the funding that it needs.

Mr. Nepo thanked Mr. Galloway for his comments and the Township for its support as a whole. He then introduced other Library representatives present at the meeting, which included Mary Glendening, Library Director, Nicole Krom, Board Member, and Genny Hamilton, Board Member.

Mr. Nepo went on to update Council on the strategic planning of the Library that the Board has been considering in order to progress the Library forward. A committee was formed and identified several goals, which included purchasing a new building. He noted that fundraising would need to occur for this and moving to a new building would not occur for at least 5 to 7 years. He explained that the Library as it stands currently has not been upgraded since 1973 and that it functions differently now than it did back then. Mr. Nepo emphasized that the current building's size and structure is no longer sufficient to handle the amount of programs the Library offers. He also explained that the Library continues to offer more programs each year. Mr. Nepo stated that in 2011, 350 programs were offered, whereas more than 800 programs were offered in 2014.

He went on to report that the Board felt a bigger location was needed for the Library due to the fact that there is no dedicated children's area, no dedicated technology area, no

dedicated workspace for staff and not enough parking. He emphasized that the lack of parking was a problem because it discouraged potential patrons from using the library.

Mr. Nepo went on to report that the Library Board is currently looking at options and inferred that the Library's future move may be beneficial to both the Library and Weathers Motors. He went on to state that the Board completed a mission and vision statement and is moving forward with hiring a part time community public relations specialist in order to advance community relations and fundraising. Mr. Nepo then explained that the Board wished to do a formal strategic plan, which would take about a year to complete. At that point, Mr. Nepo expressed that he would like to come back to Council in order to provide a more finalized vision of the Library's goals. He stated that the Library was currently looking for completion of this project in either 2020 or 2021.

Mr. Nepo then noted that within the library community, Middletown Free Library is becoming an "example library" for others to follow in the County. He also commented that the Library has been recognized statewide for the programs they offer.

Mr. Shropshire thanked Mr. Nepo for the update and expressed that the Township would do whatever it could to assist with moving the project forward.

F. Approval of Utility Easement Agreement for Sunoco Pipeline L.P.—Township property at 236-F Glen Riddle Road

Mr. Shropshire noted that Mr. Sullivan was representing the Township in this matter. Mr. Riper, attorney for Sunoco, reported that the Township owned two parcels of land off of Glen Riddle Road and that while Sunoco holds easements, the proposed power line would be running outside of the easement and on Township property. Therefore, Township approval of a new easement agreement is needed for Sunoco to continue. He went on to inform Council that he spoke with Mr. Sullivan and the main issue at hand was the Township receiving fair compensation for this land use. Mr. Riper explained that a formula was used to determine the value of the land based on square footage, and that the compensation was calculated to be \$8,050.

Mr. Riper reported that he and Mr. Sullivan worked on the language of the Easement Agreement and both parties were satisfied. He then requested that Council approve introduction of an Ordinance approving the Easement Agreement. Mr. Sullivan confirmed that Mr. Riper's summary was accurate and that he was satisfied with the Agreement and the formula used to determine the compensation amount. He compared the methodology to what has previously been used by the Sewer Authority and felt that it was fair. He noted that there was a minor language revision in the Draft Agreement from what Council was provided but that it was not significant enough to impede approval.

Mr. Shropshire commented that the compensation received from this Agreement would go towards open space and recreation. He then asked Council and the Audience for any questions or comments. None were received.

Mr. Galloway motioned to introduce the Ordinance. Ms. Bradshaw seconded this motion and Council approved unanimously, with a vote of 4-0.

4. PUBLIC HEARING

- A. Proposed Intermunicipal Transfer of a Restaurant Liquor License into Middletown Township for Acme Markets to operate a restaurant inside its grocery store at 1067 W. Baltimore Pike in which it intends to sell beer in the restaurant and “to go” and may, at some future date, sell wine for consumption on the restaurant premises.
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Stan Wolowski, Associate from Flagherty & O’Hara, introduced himself as the liquor license attorney for Acme Markets. He then introduced Dan Croce, John Connolly, and Kerrigan McCay from Acme Markets.

Mr. Wolowski explained that Pennsylvania allows the transfer of liquor licenses from one municipality to another within the same county and upon the approval of the receiving municipality. He requested that Council grant permission for Acme to transfer a liquor license from Springfield Township into Middletown Township for use at a new restaurant Acme was planning to construct at the Granite Run location. Mr. Wolowski noted that at this point in time Acme only intended to sell beer, primarily as take-out. He emphasized that Acme felt this would not adversely impact the residents of the Township and requested approval.

Mr. Wolowski went on to report that Acme planned to remodel the existing store to include a “legitimate restaurant” with a dining area that would seat 30 people. Acme planned its restaurant hours to be 7 AM – 10 PM Monday through Saturday and 9 AM – 10 PM on Sundays. He noted that patrons would have the option to dine in or take out. Due to the fact that the restaurant included a dining area that would sell prepared food, Mr. Wolowski informed Council that it would qualify for a liquor license under the Pennsylvania Liquor Control Board (PALCB) regardless of that fact that it would be part of a market. He commented that Pennsylvania currently has 212 markets with liquor licenses and that this request was “not unique.”

Mr. Wolowski reported that Acme has no current plans for the sale of wine or spirits; only beer. The beer available for purchase included craft, microbrew, and “mainstream national.” He felt this wide selection of beers would be an added convenience for customers.

Mr. Galloway asked if the notice requirements were fulfilled by the applicant. Mr. Damico answered in the affirmative, stating that notification was published in the Delaware County Daily Times on September 5, 2014 and September 12, 2014. He entered this into evidence as Township Exhibit #1. Mr. Galloway asked if neighbors had to be notified and Mr. Damico answered in the negative, commenting that the applicant satisfied the notification requirements with the newspaper publications.

Mr. Wolowski then presented the floor plan of Acme with the restaurant shown. This diagram placed the restaurant at the front left portion of the store with its own, separate entrance. He pointed out where the hot bar, salad bar, sandwich station and beer coolers would be located. He noted that beer sales could only be purchased at the restaurant cash register; not the market cash registers. While this was the case, there was an internal

entry way to the restaurant from the market, which he noted on the diagram. Mr. Wolowski reported beer sales would occur during the same business hours of the restaurant and would be available for purchase in 6-packs, 12-packs, and as singles. He stated that the restaurant would not have any video machines, music boxes, etc., and again reiterated that Acme had no intentions of selling wine or spirits.

Mr. Wolowski then went on to discuss the carding policy and reported that Acme would have a 100% carding policy, with no exceptions, and that cards would be scanned. He commented that Acme would require all associates to undergo responsible alcohol server training and be certified. Mr. Galloway asked how old the employees would be and Mr. Wolowski responded that the PALCB required associates to be 18 years old. He went on to state that any customer who showed signs of intoxication would be refused and that associates would learn what signs to look for during training. Mr. Wolowski informed Council that Acme planned on only selling 192 fluid ounces (2 six-packs) in a single purchase and that a customer would physically have to leave the store before being able to purchase again. Lastly, Mr. Wolowski noted a zero-tolerance policy would be in place for any employee who failed to comply with the PALCB rules and regulations or Acme's own policies for the sale of alcohol.

Mr. Damico noted that two plans were presented to Council; the first being marked F1-1, which was the overall layout of the market with licensed area in green. Mr. Damico marked this as Acme Exhibit #1. Mr. Damico described the second plan as the licensed premises diagram and marked the plan as Acme Exhibit #2. Mr. Wolowski moved for the admission of both these exhibits into evidence.

Ms. Bradshaw asked if the restaurant was all self-service with no waiters. Mr. Wolowski confirmed it would be self-service, but noted that associates would be available to help get food. She then asked how the restaurant patrons would pay and Mr. Wolowski explained they too would use the restaurant cash register. Ms. Bradshaw asked if having the dining room feature was only being provided in order to sell alcohol. Mr. Wolowski stated all 212 other markets have done this as well to qualify for the sale of alcohol. Ms. Bradshaw noted that although Acme did not plan on selling wine and spirits at this time, the liquor license would allow for them to do so without Council approval if Council approved this request at present.

Mr. Wolowski verified this fact as true. Ms. Bradshaw asked when, if approved, Acme would plan on opening the restaurant and Mr. Croce responded as soon as it is approved by Council. Ms. Bradshaw commented that she thought this was a great idea and was looking forward to this offering by Acme. Mr. Shropshire commented that Pennsylvania laws are antiquated for this type of operation and understood why Acme was proceeding in this manner.

Ms. Bradshaw asked if the lottery area would move. Mr. Croce stated the lottery system was moving to near the self check out area in the market, but not into the restaurant.

Mr. Shropshire asked the public if there were any questions. No questions were received.

Mr. Clark noted that one of the competitors sells growlers and asked if Acme would plan to do this as well. Mr. Croce answered in the affirmative. Mr. Galloway asked if employees between the ages of 18-21 would work in this area. Mr. Croce was sworn in and responded that employees under the age of 21 would not be able to serve to guests but those over 18 would be permitted to carry the alcohol to the counter for guests. Mr. Galloway asked how old the cashier would have to be and Mr. Croce answered that the cashier would either be the licensed manager or an associate over the age of 21.

Mr. Galloway motioned to close the hearing and Ms. Bradshaw seconded it. Council approved unanimously, with a vote of 4-0.

Mr. Shropshire amended the agenda to move to item 5A prior to continuing to item 4B

5. NEW BUSINESS

A. Intermunicipal Restaurant Liquor Transfer—Acme Markets-1067 W. Baltimore Pike

Mr. Carlson motioned for approval of the Intermunicipal Restaurant Liquor Transfer. Ms. Bradshaw seconded this motion and Council approved unanimously, with a vote of 4-0.

Mr. Shropshire commended Acme for opening this restaurant with beer service and stated that he hoped it would be helpful for the redevelopment of the Granite Run property as a whole.

4. PUBLIC HEARING

B. Conditional Use Application of Crozer-Chester Medical Center for approval to operate a 20-bed geriatric psychiatric unit within an existing geriatric care building on the Fair Acres Geriatric Center campus of Delaware County located at 340 N. Middletown Road, pursuant to Sec. 275-15.C.(1) providing for cultural, religious, and charitable uses as a Conditional Use within the R-1 Resident District.

Brian Crimmins, a representative of Crozer-Chester Medical Center (CCMC), introduced himself.

Mr. Shropshire asked Mr. Damico if the proper notification was completed. Mr. Damico answered in the affirmative, commenting that there were two notice requirements. He described the first as a newspaper requirement and stated the hearing was advertised in the Delaware County Daily Times on September 6, 2014 and September 13, 2014. In addition, the Township's ordinance requires adjacent property owners to also be notified of public hearings. Mr. Damico asked if Mr. Crimmins had proof of these notifications. Mr. Crimmins answered in the negative but stated that he had previously provided the notices to the Township's Planning Commission. He did provide a return receipt that came in after the Planning Commission meeting from one of the property owners. Mr. Shropshire asked Mr. Damico if he was comfortable with this and Mr. Damico answered in the affirmative, stating this has occurred in the past and it is still part of the Township's

records. Mr. Damico declared the newspaper notices Township Exhibit #1 and the notice to adjacent property owners and return receipts as Township Exhibit #2.

Mr. Crimmins went on to state CCMC was requesting a conditional use application and that CCMC demonstrated at the Planning Commission meeting that it fulfills the requirements of section 275 of the zoning code to be eligible for the conditional use. He went on to report that Notice to the Public was sent on August 29, 2014 in conformance with the notification period and prior to the Planning Commission meeting. The Planning Commission meeting was on September 9, 2014, and which point the Planning Commission approved the conditional use, and that the next step was this public hearing.

Mr. Crimmins went on to explain the CCMC was planning to operate a 20 bed geriatric psychiatric unit at Fair Acres in Building 5. CCMC would operate the facility with its own employees; however, Fair Acres would provide the housekeeping, maintenance, and food. Mr. Crimmins then submitted the signed lease between CCMC and Fair Acres, noting it was contingent upon Township approval. Mr. Damico commented the Lease would be marked as Crozer Exhibit #1.

Mr. Crimmins then introduced the architect for the project, Charles Cross, who would speak of the internal renovations that would be completed. Mr. Crimmins stated that no external renovations would be completed.

As Mr. Cross set up his diagrams, Mr. Damico stated the Diagrams being presented would be marked as Crozer Exhibit #2.

Mr. Cross began by stating that Building 5 of Fair Acres was internal to the campus and then explained how it is accessed from Route 352. According to Mr. Cross, Building 5 is 10,000 square feet and was once a geriatric nursing unit with 32 beds.

Referencing the colored floor plan, Mr. Cross explained how the new CCMC geriatric psychiatric unit would be set up and emphasized that is in compliance with the Pennsylvania Department of Health (DOH). He reported that most of the rooms would be semi-private with 2 beds to a room and that two rooms would share a shower room. Using the diagram, he explained that the areas in green signified the 9 semi-private rooms and the 2 private rooms; the areas in yellow were activity areas where group activities would take place or the space could be used for therapy; and the blue areas represented staff support locations. While most of the patient rooms had access to showers, the few that did not would have access to a general shower room.

Mr. Cross explained that a fair amount of renovation to the floor plan is taking place in order for it to be compliant with current DOH requirements. He reported the project was bid and the contract was awarded; however, before it can begin, the official DOH approval was still needed. Mr. Cross explained that while the DOH has verbally approved the project, the plans could not be officially stamped for approval until Fair Acres submitted some final paperwork to the DOH. He commented that because the unit would be located at and leased from Fair Acres, the DOH required information from lessor as well.

Mr. Shropshire asked if the Township permits were received. Mr. Clark stated that because CCMC has an aggressive timeline, the building and demolition permits were already submitted for review. Before the Township will provide approval, however, Mr. Clark stated the final approval from the State was needed. Mr. Cross stated that was submitted over 6 weeks ago and he was now only waiting for Fair Acres to submit their portion. Mr. Cross explained Fair Acres had to apply for a waiver to share services on the campus with another licensed entity, specifically since the housekeeping and dietary services would be shared. Mr. Shropshire asked Mr. Clark to confirm that the Township is on board with the applications and Mr. Clark answered in the affirmative.

Ms. Bradshaw asked for clarification on what the "heavy dark line" was on the diagram. Mr. Cross stated it was a smoke barrier and a DOH requirement due to patients sleeping there. He identified this as a "life safety requirement."

Mr. Clark asked if this would be a "lock down unit" and Mr. Cross answered in the affirmative, commenting that this does not already exist but would be installed during the renovations.

Mr. Damico noted that according the Planning Commission minutes, CCMC showed proof it was a 501-C-3 charitable organization at the Planning Commission meeting and asked if CCMC had this proof at present. Mr. Crimmins provided Mr. Damico with this documentation. Mr. Damico submitted the second board floor plan into evidence as Crozer Exhibit #3 and the 501-C-3 IRS letter as Crozer Exhibit #4.

Mr. Crimmins then introduced Dr. Kevin Caputto, explaining he was responsible for working with Dr. Bonner at Fair Acres to develop this unit. Mr. Caputto informed Council the program would be a 20 bed acute psychiatric unit and the first of its kind in Delaware County since it would be catered to the elderly (55 years and older). He explained the program would consist of a multi-disciplinary team, which would include physical therapy, registered nurses and social work.

Dr. Caputto went on to state the patients would come from different sources, noting nursing homes, assisted living facilities, Fair Acres, and personal homes. He commented that the multi-disciplinary team aspect of the program would allow for 12 day stays for patients. Dr. Caputto reported that most patients would be admitted for treatment related to depression, psychosis, and behavioral disturbances related to Alzheimer's disease. Dr. Caputto emphasized that this would be a locked unit and would not be a danger.

Mr. Shropshire asked for more information related to admission. Dr. Caputto stated that if the patient was 55 years old or older and there would be a benefit to such treatment, then he or she would be admitted.

Mr. Clark asked how this unit would work with the current Crisis Center of the hospital in Upland. Dr. Caputto explained that patients coming from Fair Acres would be directly admitted to the program "for the ease of the patient." He stated a team of psychiatrists from Crozer would be working at the Fair Acres nursing home and they would understand who would benefit most from this unit and admit accordingly. He went on to state that patients from the community or other nursing homes would first go to the Crisis

Center for examination and stabilized medically and then, if appropriate, brought to this unit.

Mr. Shropshire asked if there were any other questions from Council or the audience. No questions were asked. Mr. Crimmins concluded his presentation.

Cathleen Smith, 58 S. Pennell Road, commented that this service is needed for the older adults of the community.

Mr. Galloway motioned to close the hearing and Mr. Carlson seconded it. The motion was approved unanimously with a vote of 4-0.

5. NEW BUSINESS

B. Review of Conditional use Application 2014-02—Crozer-Chester Medical Center—1067 W. Baltimore Pike

Ms. Bradshaw motioned to approve Conditional use Application 2014-02. Mr. Galloway seconded this motion and Council approved Resolution 2014-72 unanimously with a vote of 4-0.

D. Review of Preliminary Land Development Plan—Tyler Arboretum—525 Painter Road

Mr. Shropshire commented that nobody from Tyler Arboretum was present to present the Preliminary Land Development Plan. Mr. Clark agreed that he saw no one present.

Mr. Galloway motioned to table Agenda Item 5D until the October 27, 2014 Agenda meeting. Ms. Bradshaw seconded this motion and Council approved unanimously with a vote of 4-0.

Mr. Shropshire asked Mr. Clark to contact the representatives of Tyler Arboretum to make sure they would be at the next agenda meeting.

E. Review of Proposed Tax Assessment Appeal—Talyor—542 Old Forge Road

Mr. Damico reported that this was a case that was pending for over 1 year. On behalf of the taxing authorities the property was appraised and after the appraisal the Township was able to negotiate the price to a fair market value settlement at \$720,000 with an assessment of \$532,800 based on a common level ration of 74%. The School District is scheduled to approve this assessment on September 23, 2014.

Based on the negotiations, Mr. Damico recommends that the settlement is in the best interest of the Township.

Mr. Galloway motioned to approve the tax assessment and Ms. Bradshaw seconded the motion. Council approved Resolution 2014-73 unanimously with a vote of 4-0.

F. Approval of Bill List

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

Mr. Galloway moved that payments under the September 22, 2014 Bill List be authorized for payment by the Finance Department:

GENERAL FUND		
Aqua	August Hydrant Bills	\$11,432.25
Lehigh Hanson	Road Paving Supplies	\$9,409.17
Petrikin Wellman Damico Brown & Petrosa	Professional Services	\$7,495.00
Republic Services	August Recycling and Yard Waste	\$17,957.24
Riggins, Inc	Fuel	\$7,527.00
	Total General Fund	\$53,820.66
RECREATIONAL ENTERPRISE FUND		
The Travel Authority	October Trips	\$9,916.74
Touriffic Travel	Pittsburgh	\$11,000.00
PA Recreation and Park Society	Summer Discount Tickets	\$7,258.00
	Total Recreation	\$28,174.74

Mr. Carlson seconded the motion, and Council approved Resolution 2014-74 unanimously, 4-0.

6. ADJOURNMENT

Mr. Shropshire adjourned the meeting at 8:18 PM.

Respectfully submitted,


 Amanda Allen, Recorder