

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
NOVEMBER 24, 2014

Minutes of the Regular Meeting of Township Council Held on, November 24, 2014 at 7:00 P.M.,
in the Township Administration Building located at 27 North Pennell Road

Present: L. Bradshaw, R. Carlson, S. Galloway, C. Quinn, and N. Shropshire

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

1. OPENING

In Chairperson Mr. Kirchgasser's absence, Mr. Shropshire called the meeting of the Council to order at 7:15 P.M., and led recitation of the Pledge of Allegiance to the Flag. Mr. Shropshire noted that there was a Finance and Administration Committee Meeting at 5:45 PM and that an executive session was held prior to the meeting to discuss real estate issues.

2. COMMENTS FROM THE PUBLIC

Kathy Skulski, Cherry Wood Lane, commented that she wanted to discuss the current home invasions, which she learned Mr. Clark was unaware of when they spoke earlier in the day. She stated that the home invaders rerouted her electricity and water while she was home at both her Cherry Wood Lane and Bortondale Road residences. She indicated that she contacted PECO about the electricity and that they are not doing anything to help her. She also stated that the State Police are not helping her. She went on to report that she has been "hacked" and no longer has access to phones or other means of communication, which means she is no longer able to "conduct business." Ms. Skulski commented that she has discussed this matter with others in the Township and have learned that she is not the only one. She noted that Jack Oakes, Pennell Road, informed her that his home was also broken into while he was home and that Michele informed her there were 5 home invasions on West Glen Circle, which is close to her residence.

Mr. Galloway noted that the incidents on West Glen Circle were not home invasions and that it appears she has received bad information. He then asked when the home invasion took place that happened while she was home. She stated that she did not know when they started but that "at night [she] can start hearing people talk." Mr. Galloway asked if the home invasions and rerouting of utility services is occurring when she is on the premises and she answered in the affirmative. He also asked her to confirm that she contacted the State Police, which she did. He then asked her to provide Council with time to look into this matter further. Ms. Skulski agreed and thanked him.

Bibiana Dussling, of War Admiral Drive in Riddlewood, stated that she was present on behalf of several residents from Riddlewood to discuss their concern about speeding in the neighborhood throughout the day but that there appears to be an increase in non-neighborhood drivers using Riddlewood as a "cut through" to Route 1 during peak traffic hours. She inquired if speed bumps were possible and Mr. Shropshire explained that the Township's policy does not allow for the installation of speed bumps because they are problematic for road maintenance. Mr. Shropshire noted that Mr. Clark forwarded her email

regarding this concern and that he has asked Mr. Carlson and Mr. Clark to speak with Brian Lank, Township Highway Foreman, to look into the situation and assure there is adequate signage and to place the speed radar sign back there as well. Mr. Clark noted the speed radar sign is not intended to be a permanent sign but is helpful in getting drivers to pay attention to their speed. Mr. Shropshire went on to state that he has requested the State Police to be notified of the problem as well. He reiterated that it is not Township policy to use speed bumps.

Mr. Carlson noted that there is not a speed limit sign by her residence and that he is going to have Mr. Lank look into getting a sign there as well. Ms. Dussling inquired if in the absence of speed bumps, could the neighborhood get the "red and white *Do Not Enter* signs for certain hours" installed and Mr. Carlson explained that if those signs went up then all drivers, even those within the neighborhood, would have to abide by them. Mr. Galloway emphasized that he understood her concern and that Council wants to help alleviate the problem; however, he is hesitant on doing anything permanent that may later cause half of the neighborhood to complain. Ms. Dussling went on to state that she also thought the intersection of Man of War Road and War Admiral Lane should be a "three way stop." Mr. Shropshire stated he would meet with Mr. Carlson, Mr. Clark and Mr. Lank to see what can be done regarding signage and that Mr. Carlson would be in contact with her.

Andrew Fallon, 295 Glen Riddle Road, stated that speeding is also a concern on his road even though the speed limit was reduced from 35 mph to 30 mph about one year ago. He reported that traffic has increased since the traffic light was installed at the intersection of Glen Riddle Road and Pennell Road and that many cars are driving over 50 miles per hour down his road. He went on to state that there is no State Police presence on the road to monitor this situation and that a speed monitoring device would be useful on Glen Riddle Road. Mr. Shropshire instructed Mr. Clark to look into installing a speed radar sign on Glen Riddle Road and to contact the State Police about increasing patrols at this location as well.

3. REPORTS

A. CHAIRPERSON

Mr. Shropshire noted that Mr. Kirchgasser was called away but should be back before the end of the meeting.

B. FINANCE AND ADMINISTRATION

Mr. Carlson reported that the Finance and Administration Committee reviewed the 2015 budget.

C. ROADS, HIGHWAYS AND PUBLIC SAFETY

Mr. Shropshire noted the Roads, Highways and Public Safety Committee, reviewed a request to accept dedication of Martins Lane.

D. MANAGER

Mr. Clark commented that Eric Janetka of Kelly and Close was present as the Township Engineer and welcomed him to the meeting. He also reported that the Township building was a drop off location for Toys for Tots and encouraged those interested to donate new, unwrapped toys by December 10th. Lastly, Mr. Clark noted that a Blood Drive was scheduled to take place on December 2, 2014 from 2:30 PM through 7:30 PM in the meeting room. He stated that appointments for blood donations were preferred.

5. NEW BUSINESS

A. BET Investments—Granite Run Mall—1067 W. Baltimore Pike

Joe Riper, legal representative for BET Investments began by stating that he provided a detailed presentation at an October Council meeting regarding the plans for the Granite Run Mall redevelopment project and has since then met with Mr. Damico and Mr. Clark to discuss ordinance issues associated with overlay, storm water management, and fee simple lots within the shopping center. Mr. Riper reported that he made the changes discussed at this meeting and incorporated them into the ordinance amendment. He noted he was in the process of preparing an amendment to the storm water management ordinance. He stated that the Township's storm water management requirements exceed the County's and that he has proposed to bring the requirements of the Township ordinance in line with the County model.

Mr. Riper stated he was unaware of any other problems except for the project phasing. He went on to explain that it is BET Investments' intention to complete the redevelopment in two phases. First, the interior of the mall will be demolished and rebuilt. At the same time, Apartment Complex 1 (next to Route 352) will be constructed. The building where AMC Theatres is currently located will remain unchanged at this point until apartment leasing levels are reached. The first phase was expected to take approximately 2 years. The second phase would consist of demolishing the AMC Theatres area and constructing the second apartment complex and remaining retail.

Mr. Riper noted that Mr. Lieberman, site engineer, was present to answer any questions. He noted that a concern was just brought to his attention prior to this meeting by residents on Oriole Avenue regarding the B2 Ordinance provision before the last amendment that affect some of the parcels on Oriole Avenue. He just learned that this ordinance used to allow the option for land owners on Oriole Avenue to be deemed residential; however, this provision was deleted at some point. Mr. Riper noted a request has been made for this provision to be reinserted into the ordinance. Mr. Damico stated he did not know what the provision provided either. Peter Bowen, BET Investments, explained that the issue for the Oriole Avenue residents is that they are not being treated as residential owners, but that the B2 zoning reportedly used to have language that stated as long as the property was being used for residential purposes it would be treated like a residential ordinance. Mr. Clark stated the current ordinance in place was reenacted in 1986, which means the ordinance provision the residents are referring to would have been older than that and that the Township would need to look at these records to determine exactly what

they said. He was not sure how far back the Township records went and if he would be able to find what is needed. Mr. Riper stated this was acceptable and that he was only asked to make this request.

Mr. Riper stated that he believed the zoning ordinance amendment is in form to move forward and asked if Council had any questions. Mr. Galloway asked Mr. Damico if he felt the ordinance was ready for introduction. Mr. Damico stated that he, Mr. Clark and Mr. Riper met at the end of the previous week and went through all of the drafts to make sure everything was in the current draft. He felt that all issues were addressed but commented that there was a great deal of time spent on adopting the current storm water management ordinance also and that it still needs revisions if the Township was going to assist the mall in meeting the standards set by the County. He also stated that he discussed with Mr. Clark that the zoning ordinance refers to the storm water management ordinance as it currently stands and that this should be removed since the storm water management ordinance is going to be revised. He felt it would be redundant to have this language in the zoning ordinance. Mr. Riper thought this was an appropriate revision.

Mr. Shropshire commented that a review still needed to be conducted regarding the neighbors' residential versus B2 zoning issue discussed earlier. Mr. Clark explained that the new zoning ordinance would "become an overlay" and that amending the B2 would be a separate process. He stated that conceptually the zoning ordinance text was in order but it was not in final format. Mr. Riper noted that Mr. Clark informed him earlier that the formatting needed to be finalized. He stated that BET Investments would like to move forward as soon as possible because their goal is to begin the project in Summer 2015.

Mr. Galloway motioned to table the introduction of the ordinance until the December 8, 2014 meeting in order for the formatting to be finalized and to conduct a proper review of the request made by the residents of Oriole Avenue regarding the B2 Ordinance. Mr. Carlson seconded the motion.

Mr. Damico inquired what the status was on the storm water management ordinance and Mr. Riper stated he would have something to him by the beginning of the following week.

Mr. Shropshire asked if there was a point person established for the Oriole Avenue residents. Susan Mescanti was recognized but she stated that Bob and Evelyn Bond were the longest established residents and more familiar with the ordinance. Ms. Bond stated she provided Mr. Kirchgasser with the information two months ago and that the residents were not notified when the language was deleted in the first place. Mr. Clark stated that the zoning ordinance was rewritten in 1986 and that it was a lengthy process, which included many public meetings and over 4,000 letters being sent out to residents to make everyone aware of meetings regarding the changes. He stated that legal requirements stipulated property owners to be notified of the process. Ms. Bond stated that nobody on Oriole Avenue was aware. Mr. Shropshire stated that Council intended to rectify the problem.

Michael Markman, BET Investments, stated he was fully supportive of this change to the ordinance. He also noted that there is a conference in New York on December 8th that he

needed to attend in order to procure tenants for the mall so he would not be able to be present and wanted to apologize in advance.

Council approved the motion unanimously with a vote of 5-0.

B. Review of Final Corrective Plan for Subdivision—Rudolph—256 Barren Road

Steve Wasylyszyn, Houtman Engineering, explained that the property at 256 Barren Road has been in the Rudolph family for decades. The first lot was purchased in the 1930s and the second lot was purchased in 1958. He stated that the property owner was told to create a plan to submit for record because the Township has no record of the separate lot. Although the Township has no record of these lots, the County does. Due to this fact, the County will not review the application. Mr. Galloway noted that this process was a formality then and Mr. Wasylyszyn agreed. He also requested that the recreation fee be waived since these lots were technically already in existence.

Mr. Clark stated that Mr. Damico has not had the opportunity to review this question yet. Nevertheless, because the County has the lots on record, Mr. Clark expressed that he felt these lots technically existed and that it appeared that there should not be a fee. Mr. Clark reiterated that he and Mr. Damico still needed to look into this more closely.

Mr. Damico stated that in light of the fact that the lots came into existence many decades ago and that the deeds were recorded by the County, both lots already legally exist and predate the existing zoning. Based on this information, he did not think it was appropriate to charge the recreation fee. Mr. Galloway, Ms. Bradshaw and Mr. Shropshire all agreed.

Mr. Clark stated the Draft Resolution is ready to be approved by Council but it would need to be revised to state the recreation fee was not required.

Ms. Bradshaw motioned to approve the Resolution with the revision that no recreation fee was required and Mr. Galloway seconded the motion. Council approved Resolution 2014-84 unanimously with a vote of 5-0.

Mr. Fallon asked for the location of these lots and Mr. Wasylyszyn stated at the intersection of Painter Road and Barren Road.

Mr. Fallon then asked if there was an update on the improvements for the Barren Road and Route 352 intersection. Mr. Clark stated the Township was advised that the scope of PADOT's project for the clover leaf was being enlarged to include that intersection as well as Route 452 and Route 1, but that no other information is known at this time.

C. Review of Final Minor Subdivision Plan—Sabatelli—524 Darlington Road

Steve Wasylyszyn, Houtman Engineering, explained that the Sabatelli project received conditional final approval in 2010; however, the property owner did not finalize the subdivision at that time. At present, Mr. and Mrs. Sabatelli are requesting approval for Final Minor Subdivision for 3 lots instead of the 4 that received conditional final

approval in 2010. Mr. Wasylyszyn explained that the two back lots from the 2010 plan have now been combined to make one lot and that by reducing the amount of lots, the applicant is only required to have one drive way to solely service Lot 3, instead of needing a common driveway.

Mr. Wasylyszyn noted that he received a review letter from Mr. Janetka that he has already addressed. He also noted that Mr. Janetka followed up with additional comments via email earlier in the day that he wished to address at this time.

Mr. Wasylyszyn stated the first comment referred to monuments and pins and that these have already been placed and noted on the plan. The second comment was regarding the Pennsylvania Department of Transportation (PADOT). Mr. Wasylyszyn explained that Mr. Rothe previously requested plans be submitted to PADOT, which he did. He noted that there were a few comments received from PADOT, which were addressed, followed a few weeks later with comments regarding drainage. The applicant agreed to complete the drainage requirements set forth by PADOT and PADOT approved the plan. Mr. Wasylyszyn stated that PADOT did their inspection of the property and signed off on the driveway prior to the drainage comments being addressed. According to Mr. Wasylyszyn, this indicates PADOT approved of the 4 lot subdivision.

Mr. Janetka explained that the reason he brought up the question of PADOT approval is because PADOT permits last for 1 year and have to be renewed on a yearly basis. He was not sure if the "sign off" received from PADOT was because they don't want the drainage anymore or because they thought the project was terminated. He noted he does not have a long history on the project, but that he felt it is possible that PADOT would still want the drainage improvements on the property. Mr. Galloway asked how long it would take for Mr. Janetka to find out from PADOT if the drainage improvements on this property were still necessary. Mr. Janetka indicated that he tried to contact PADOT already but did not receive a response yet. He thought he would have an answer prior to the next agenda meeting though.

Mr. Galloway motioned to table approval of the Final Minor Subdivision Plan until the December 8, 2014 meeting. Mr. Carlson seconded the motion.

Prior to the vote, Mr. Wasylyszyn reviewed the remaining comments. The third comment was about planning modules. Planning module approval from the Pennsylvania Department of Environmental Protection (PADEP) was received for the 4 lot subdivision and Mr. Wasylyszyn felt that eliminating a lot was not an issue; however, he noted Mr. Janetka commented that he felt it was necessary to apply to PADEP for official approval. Mr. Wasylyszyn explained that while he has no problem sending a letter to the PADEP regarding this approval, he will not get an answer back within the next 2 weeks.

Due to the fact that the purpose of this subdivision is only to create the lots and not to build, Mr. Wasylyszyn stated that he could note on the plans that if the lots were to be

sold, the buyer would need to receive approvals prior to building. He emphasized that the applicants are trying to limit the amounts of permits needed since they are not intending to build on these lots. Mr. Clark commented that there may be a time limit on how long a PADEP permit is valid before reapplying is necessary. Mr. Janetka stated that he spoke with PADEP and learned that most likely the application would not need to go through planning again, but would need to have a postcard submitted that noted the changing of the plan from 4 lots to 3 lots. Mr. Wasylyszyn noted he understood that and could send the card out tomorrow, but there won't be a response prior to the next meeting. Mr. Janetka stated that he did not see this issue as an impediment to conditional approval, but that it should be done as per the PADEP.

Mr. Wasylyszyn went on to discuss the fourth comment, which dealt with deed restriction on the lots. Originally a note was on the plan that the lots were deed restricted. At that time, the only buildable lot was the middle lot where the house is currently located. Now, the note on the plan states the lots are deed restricted unless additional improvements are made to the road. Mr. Janetka explained that his intentions were to note that the 2010 plan that was approved had language stating Lot 2 was deed restricted for further developments and that the Planning Commission meeting minutes did not discuss any roadway issues. He expressed that he felt the current language opens both Lot 2 and Lot 3 to future subdivision. Mrs. Sabatelli instructed Mr. Wasylyszyn to deed restrict all lots in order to get the subdivision completed.

Mr. Wasylyszyn went on to discuss the fifth comment about storm water calculations and noted that he provided Mr. Janetka with the calculations earlier in the day. Mr. Janetka explained this comment was informational only and that he found documentation showing Mr. Rothe asked for storm water calculations but could not find anything showing Mr. Rothe reviewed them. The Planning Commission previously recommended storm water calculations to verify run off does not affect the pond across the street from the property. Mr. Janetka verified that Mr. Wasylyszyn provided him with the calculations earlier in the day and would complete the review prior to the next agenda meeting.

Council approved the motion to table approval of the final minor subdivision plan for 524 Darlington Road until the December 8, 2014 meeting unanimously with a vote of 5-0.

Mr. Fallon asked for the location of these lots and Mr. Clark stated it was next to Township open space toward Baltimore Pike on Darlington Road.

- D. Consideration for Adoption—An Ordinance amending the Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania, Chapter 180, Article II, Section 180-10, to increase the annual sewer rent or charges from \$350 to \$400 for the calendar year 2015 and each year thereafter until amended, for each house, apartment, condominium, trailer users or dwelling unit. The quarterly base rate for commercial and industrial users will be increased from \$100 to \$114 in the calendar year 2015 and each year thereafter until amended, plus an increase in the charge for each 1,000 gallons consumed over 24,000 gallons per quarter, from \$4.17 to \$4.76 for the calendar year 2015 and each year thereafter until amended.
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Mr. Carlson motioned to adopt the Ordinance to increase the annual sewer rent or charges for residential and commercial properties as noted above and Ms. Bradshaw seconded this motion. Council approved Ordinance 2014-753 unanimously, with a vote of 5-0.

- E. Acceptance of Certificate of Total Completion—Murphy—Rosewood (Hilldale)—229 Valley Road
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Mr. Clark explained that Mike Murphy completed the subdivision at the aforementioned address and that the Certificate of Completion has been signed off by Mr. Rothe. Upon acceptance of the total completion, Mr. Murphy's financial obligation to the Township for the project may cease.

Mr. Galloway motioned to approve acceptance of the Certificate of Total Completion for 229 Valley Road and Ms. Bradshaw seconded the motion. Council approved the motion unanimously, and Resolution 2014-85 was approved with a vote of 5-0.

- F. Authorize Sale of Used Vehicles—1997 Ford Dump Truck, 2005 Ford Dump Truck
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Mr. Clark explained that the two dump trucks were auctioned through Municibid and that there was much interest in bidding. He noted the auction was advertised in the Daily Times and reported the highest bid for the 1997 Ford Dump Truck was \$18,550 and the highest bid for the 2005 Ford Dump Truck was \$28,600. Mr. Clark expressed that he felt these prices were good and that both trucks were not underbid. He recommended Council accept the proposed bids.

Mr. Galloway motioned to authorize the sale of the 1997 dump truck to the highest bidder. Mr. Quinn seconded the motion and Council approved Resolution 2014-86 unanimously with a vote of 5-0.

Mr. Galloway motioned to authorize the sale of the 2005 dump truck to the highest bidder. Mr. Quinn seconded the motion and Council approved Resolution 2014-87 unanimously with a vote of 5-0.

G. Approval of License Agreement—AARP Tax Assistance Program—Granite Run Mall Space 203B

Mr. Clark explained that while originally Granite Run Mall did not think they would be able to accommodate the AARP Tax Assistance Program again in 2015, they have now determined they can. He noted the program would run from January through April 15th in Space 203B of the Granite Run Mall. In order to rent the space, the Township must sign a License Agreement, which stipulates a utility cost of \$250/month. Mr. Clark noted this Agreement and cost is the same as previous years.

Ms. Bradshaw motioned to approve the License Agreement and Mr. Quinn seconded it. Council approved Resolution 2014-88 unanimously, with a vote of 5-0.

H. Approval of Bill List

Mr. Shropshire read aloud the bill list presented for Council's consideration for approval for payment. Mr. Carlson moved that payments under the November 24, 2014 Bill List be authorized for payment by the Finance Department:

GENERAL FUND		
Aqua Pennsylvania Inc	October Hydrant Rental	\$11,432.25
A.J. Blosenski	October Recycling & Yard Waste	\$17,656.00
	Total General Fund	<u>\$29,088.25</u>
RECREATIONAL ENTERPRISE FUND		
Celebrity Limo Service	Various Trips	\$5,765.00
The Travel Authority	Greenbriar Final Payment	\$8,214.28
	Total Recreation	<u>\$13,979.28</u>
CAPITAL RESERVE		
Game Time	Playground Equipment/Sleighton Park	<u>\$52,549.76</u>

Mr. Carlson seconded the motion, and Council approved Resolution 2014-89 unanimously, with a vote of 5-0.

6. ADJOURNMENT

Prior to adjournment, Mr. Shropshire recognized that Liam Poole, Boy Scout Troop 404 member, was present at the meeting in order to earn his Communication and Citizenship badges and that he was moving up to the level of Eagle next month.

Mr. Shropshire adjourned the meeting at 8:12 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allen", written over the typed name.

Amanda Allen, Recorder