

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
October 28, 2013

Minutes of Regular Meeting of Township Council Held on Monday, October 28, 2013 at 7:00 PM in the Township Building, 27 N. Pennell Road

Present: M. Amoroso, L. Bradshaw, R. Carlson, S. Galloway, M. Kirchgasser,
N. Shropshire
B. Clark, J. Damico, Esquire, A. Rothe

1. Chairperson Ms. Bradshaw opened the meeting with the Pledge of Allegiance to the Flag.

Ms. Bradshaw announced that Council met in Executive Session prior to tonight's meeting to discuss some legal matters.

2. Approval of Minutes – September 9, 2013 Regular Meeting
September 23, 2013 Regular Meeting

Mrs. Amoroso moved for approval of the Minutes of the September 9, 2013 Regular Meeting. Mr. Carlson seconded the motion, and the Minutes were approved as written by unanimous vote 4-0; Messrs. Galloway and Shropshire abstained from voting because they were not present at the meeting.

Mrs. Amoroso moved for approval of the Minutes of the September 23, 2013 Regular Meeting. Mr. Carlson seconded the motion, and the Minutes were approved as written by unanimous vote 6-0.

3. Comments from the Public

There were no comments from the public.

4. Reports

A. Finance & Administration: Mr. Carlson stated that Mr. Kirchgasser narrated a power point presentation on a proposal to levy a Local Services Tax to become effective January 1, 2014 (Agenda Item 7F). The Committee considered banking service proposals for 2014-2016 (Agenda Item 7H), and continued review of the 2014 Draft budget.

B. Roads & Highways – Mr. Shropshire reported that the Committee reviewed a proposal for future improvements of the Sun Pipeline in the vicinity of the Sleighton

Park property. They also discussed recurring parking problems on Blackhorse Lane and Bonsall Drive. Several residents brought to the Committee's attention traffic safety concerns along Glen Riddle Road at several intersections. He pointed out that Glen Riddle Road is a state-owned road and the Township has no jurisdiction. It was suggested that the residents' concerns should be passed along to PADOT. He noted that a Lenni Road resident suggested that a speed bump should be installed in Lenni Road near the intersection with Pennell Road to slow down the speed of motorists who do not observe the posted 35 mph speed limit. He informed the resident that speed bumps are not permitted in public roads.

C. Land Planning – Ms. Bradshaw explained that Joseph Riper, Esquire, representing Sleighton School, and Michael Klein, representing Toll Brothers, reviewed some revisions in the conceptual plan for an age-restricted development on the former Sleighton School property, which is located partly in Middletown Township and partly in Edgmont Township.

D. Manager - Mr. Clark stated that the Township will host a Wellness on Wheels program on Friday, November 8th from 9 AM to 12 Noon in the Township building parking lot. The event is co-sponsored by Delaware County Council and Independence Blue Cross, and will feature "Ask the Doctor" with Dr. George Avetian, Delaware County Senior Medical Advisor. Free screenings, educational materials and up-to-date information on prevention of heart attacks, strokes and diabetes will be available inside a large SUV that will be parked on site.

5. Public Hearings

Ms. Bradshaw explained that the agenda items that do not pertain to the Pond's Edge development project will be considered before re-opening the Public Hearings on the Pond's Edge Conditional Use applications continued from the September 23rd meeting.

Mr. Kirchgasser moved to amend the agenda to consider Items 7D to 7J before proceeding with the continued Public Hearings relating to the Pond's Edge development proposal (Agenda Items 5A, 5B, 6A, 7A, 7B, 7C). Mrs. Amoroso seconded the motion, and the motion was approved by unanimous vote 6-0.

7. New Business

D. Approval of Sewage Facilities Planning Module --
DiPasquale – 386 Dutton Mill Road

Mr. Clark stated that a subdivision plan was approved last year for a 2-lot subdivision of the DiPasquale property located at 386 Dutton Mill Road, and a Sewage Facilities Planning Module was approved for the two lots. Subsequently the applicant determined that it would be possible to create a third lot, and the Planning Module was revised to include the additional lot. All components of the Planning Module have been satisfied, and Council can authorize forwarding the revised Planning Module to DEP for review and approval.

Mrs. Amoroso moved that the Council of Middletown Township hereby adopts and submits to the Department of Environmental Protection for its approval as a revision to the "Official Sewage Facilities Plan" of the municipality the above-referenced Sewage Facilities Planning Module which is attached hereto. Mr. Kirchgasser seconded the motion, and Resolution 2013-84 was approved by unanimous vote 6-0.

E. Acceptance of Certificates of Total Completion

i.) Media Congregation of Jehovah's Witnesses –
331 N. Middletown Road

Mr. Clark explained that a plan was approved last year for expansion of the parking lot at the Media Congregation of Jehovah's Witnesses located at 331 North Middletown Road. The improvements have been completed in accordance with the approved plan, and a Certificate of Total Completion has been executed on behalf of the developer. Mr. Rothe inspected the parking lot improvements and signed off on the Certificate. Upon Council's acceptance of the Certificate of Total Completion, any remaining escrow balance posted under the Development Agreement and Improvement Security Agreement can be returned to the developer.

Mr. Carlson moved that upon consideration of the attached, that the Certificate of Total Completion of the improvements for the above project is hereby accepted by Middletown Township, and the Township Manager is authorized and directed to provide documentation as necessary authorizing and releasing any financial security and escrow balance posted under the Development Agreement and Improvement Security Agreement both dated February 22, 2013. Mrs. Amoroso seconded the motion, and Resolution 2013-85 was approved by unanimous vote 6-0.

ii.) St. George Greek Orthodox Church – 30 E. Forge Road

Mr. Clark stated that a plan for expansion of the parking facilities at St. George Greek Orthodox Church located at 30 East Forge Road was approved several years ago. The project has been completed and the developer signed off on a Certificate of Total Completion. Mr. Rothe inspected the parking facilities, confirmed that the improvements have been completed in compliance with the approved plan, and signed off on the Certificate of Total Completion. Upon Council's acceptance of the Certificate, any remaining escrow funds can be returned to the developer.

Mr. Kirchgasser moved that upon consideration of the attached, that the Certificate of Total Completion of the improvements for the above project is hereby accepted by Middletown Township and the Township Manager is authorized and directed to provide documentation as necessary authorizing and releasing any financial security and escrow balance posted under the Development Agreement and Improvement Security Agreement both dated April 14, 2010. Mrs. Amoroso seconded the motion, and Resolution 2013-86 was approved by unanimous vote 6-0.

F. Consideration of Local Services Tax for 2014

Mr. Kirchgasser stated that each year Council reviews the operating budget to assess and prioritize the Township's operating needs for the coming year and to take advantage of opportunities to improve the quality of life for Township residents. Council has always been and will continue to be fiscally responsible. He noted that consolidation of three volunteer fire companies to two companies has been completed, with the merger of the former Lenni Heights and Lima Fire Companies to form the new Rocky Run Fire Company.

Mr. Kirchgasser went on to say that congestion at the Rt. 1/Rt. 452 intersection is a major problem in the Township, impacting the health, safety and welfare of residents. The problem has been created by increasing populations in surrounding communities. "All trails lead to Middletown" is an appropriate motto for Middletown since a large part of the traffic passing through the Township is headed for I-95, I-476, or the Pennsylvania Turnpike. He displayed a map highlighted to illustrate the far-reaching impact of the congestion at the Rt. 1/Rt. 452 intersection within and beyond Middletown Township. Motorists trying to avoid the intersection find other routes through residential neighborhoods.

Mr. Kirchgasser stated that the question is what to do about the problem and how to pay for it. Looking at the Township 2013 operating budget it is evident that extra funds are not available in any one line item to support a major project of this type, and other options for raising additional revenue need to be explored. One alternative would be enactment of a Local Services Tax based on an annual flat tax of \$42 per year to be paid by employed persons working in Middletown Township whose annual income is more than \$12,000. It is estimated that the tax would generate \$350,000-\$400,000 per year. By law, 25% of the money collected must be designated for funding emergency services provided by the first responders and volunteer fire fighters. The balance would be earmarked for highway improvements to relieve congestion at the Rt. 1/Rt. 452 intersection. He noted that the Local Services Tax has been enacted by 40 of the 49 municipalities in Delaware County.

Mr. Clark explained that according to Berkheimer's records, approximately 10,067 employees work in Middletown. It is estimated that approximately 85% of those employees earn more than \$12,000 per year and will pay the Local Services Tax.

Mr. Kirchgasser stated that money available in the capital budget and contributions from developers specifically earmarked for highway improvements can also provide sources of funding. Ultimately a bond issue could be considered to fund a project for improvements at the intersection.

Mr. Kirchgasser summarized the proposed timeline for adoption of the Local Services Tax to become effective January 1, 2014. A draft ordinance has been prepared authorizing enactment of the Local Services Tax and can be considered for introduction at tonight's meeting. A special public meeting is scheduled for Wednesday, November 6th, at 6:00 PM to inform residents about the tax and to answer questions regarding the tax. Legal notices must be published in accordance with the advertisement requirements of Act 511 and the Township's Home Rule Charter.

Mr. Kirchgasser went on to say that the ordinance amendment could be considered for adoption at the November 25th meeting, and if adopted, notice of enactment of the LST must be given to the State on or before December 1st in order to become effective January 1st.

John Glanfield, Martins Lane, stated that everyone is aware that the Rt. 1/Rt. 452 intersection is a nightmare. He pointed out that congestion at the Rt. 352/Rt. 452 intersection is almost as bad, and asked if any improvements are planned for Rt. 352. Mr. Kirchgasser responded that given PADOT's funding problems, reconstruction of the Cloverleaf remains "on the back burner". Mr. Clark noted that the initial estimate for the cloverleaf project 20 years ago was \$20 million and today would be approximately \$52 million, and is no closer to being funded than it was 20 years ago.

Kathleen Smith, 58 South Pennell Road, stated that she pays an Occupational Privilege Tax in another municipality where she is employed, and is concerned that she will be double-taxed. Mrs. Amoroso noted that her office is in Media and she pays the OBT to Media, Mr. Carlson's office is in Springfield and he pays he pays the LST to Springfield Township. Mr. Kirchgasser explained that the LST is paid to only one municipality.

Tom Comitta, Township Land Planner, stated that more and more communities are utilizing the Act 209 Transportation Impact Fee to generate revenue for highway improvements. He explained that Act 209 provides that a fee can be assessed on a new development in proportion to the impact on traffic expected to be generated during peak commuter periods. He suggested Act 209 is another option Council might consider. Looking ahead he and Mr. Rothe discussed the fact that in 8-10 years a number of the important intersections in the Township may require major improvements.

Mr. Damico suggested that a motion to introduce the proposed ordinance amendment to enact the Local Services Tax should also authorize advertisement of the ordinance in accordance with the MPC and Act 511 requirements.

Mr. Kirchgasser moved for introduction of an ordinance amending the Code of Ordinances, Chapter 15, Taxation, enacting a new Article V entitled Local Services Tax providing for the assessment, liability, collection and payment of a Local Services Tax. Mrs. Amoroso seconded the motion, and the motion was approved by unanimous vote 6-0.

G. Acceptance of Tax Assessment Appeal Settlements

- i.) Miniman – 1020 E. Baltimore Pike, Unit B
- ii.) Koch – 1020 E. Baltimore Pike, Unit A

Mr. Clark stated that tax assessment appeals were filed for the property located at 1020 East Baltimore Pike, which consists of two portions under separate ownership. Unit B is the orthodontist office of Dr. Kenneth Miniman, and Unit A is the real estate office of Gretchen Koch.

Mr. Clark explained that the Fair Market Value of Unit B for 2013 and 2014 is \$300,000, with a current assessment of \$300,330 for both years. A settlement agreement has been reached for a new assessment of \$216,000 for 2013 and \$222,000 for 2014, representing a tax loss to the Township of \$134.93 and \$125.33 respectively. The attorneys for the Township and for the Rose Tree Media School District recommend that the revised assessments be approved.

Mrs. Amoroso moved that a Settlement Agreement establishing Revised Assessments as listed below, for Folio No. 27-00-00069-01 be executed by Middletown Township, contingent upon approval of the other taxing bodies having interest in this property:

| <u>Year</u> | <u>Fair Market Value</u> | <u>STEB</u> | <u>Assessment</u> |
|-------------|--------------------------|-------------|-------------------|
| 2013 | \$300,000 | 72.0% | \$216,000 |
| 2014 | \$300,000 | 74.0% | \$222,000 |

Further, Be It Resolved that the Tax Collector be authorized to prepare any necessary tax adjustments consistent with the Settlement Agreement. Mr. Kirchgasser seconded the motion, and Resolution 2013-87 was approved by unanimous vote 6-0.

Mr. Clark went on to say that the Fair Market Value of Unit A for 2013 and 2014 was \$300,000, and the unit was assessed at \$323,000 for both years. The proposed settlement agreement would revise the 2013 assessment to \$216,000, and the assessment for 2014 to \$222,000, reflecting a tax loss for the Township of \$171.20 and \$161.60 respectively. The attorneys for the Township and for the Rose Tree Media School District recommend that the revised assessment be approved.

Mrs. Amoroso moved that a Settlement Agreement establishing Revised Assessments as listed below, for Folio No. 27-00-00069-00 be executed by Middletown Township, contingent upon approval of the other taxing bodies having interest in this property:

| <u>Year</u> | <u>Fair Market Value</u> | <u>STEB</u> | <u>Assessment</u> |
|-------------|--------------------------|-------------|-------------------|
| 2013 | \$300,000 | 72.0% | \$216,000 |
| 2014 | \$300,000 | 74.0% | \$222,000 |

Further, Be It Resolved that the Tax Collector be authorized to prepare any necessary tax adjustments consistent with the Settlement Agreement. Mr. Kirchgasser seconded the motion, and Resolution 2013-88 was approved by unanimous vote 6-0.

H. Acceptance of Banking Services Proposal

Mr. Clark noted that the contract with TD Bank for banking services will expire December 31, 2013. Proposals for banking services for 2014-2016 were requested from seven banking institutions. Responses were received from five banks, and three others could not provide tax collection services for residents who wanted to pay their real estate property tax at a local branch. The best proposals were received from TD Bank and Republic Bank.

Mr. Clark explained that the current contract with TD Bank includes credit card services at no charge to the Township or the holder of the credit card used in a transaction. The bank previously offset the processing fee for credit card payment of the property tax, building permits and Park and Recreation trips by reducing interest on Township interest-bearing accounts. TD's new proposal offers credit card service at no charge to the Township; however, no interest would be paid on account balances.

Mr. Clark noted that Republic Bank would pay interest on the Township's accounts, and the amount of interest would depend on the monthly balance maintained in the accounts. The bank would also provide credit card service at little or no charge to the Township, but would charge credit card customers a 3% transaction fee for credit card payments.

Mr. Clark stated that Mr. Carlson mentioned that several independent companies provide credit card processing services for a reasonable monthly charge. The Finance Committee recommended that the Township investigate independent credit card services and that credit card service be deleted from the bank contract. It is recommended that the proposal from Republic Bank be accepted for banking services for 2014-2016, excluding credit card services.

Mr. Kirchgasser moved that the Township accepts the proposal of Republic Bank for the provision of full banking services for the period January 01, 2014 through December 31, 2016, consistent with the proposal submitted to the Township on September 20, 2013, not to include the bank's proposal for credit card services. Mrs. Amoroso seconded the motion, and Resolution 2013-89 was approved by unanimous vote 6-0.

I. Approval of Temporary Space License –
Tax Assistance Program – Granite Run Mall

Mr. Clark explained that for a number of years the AARP Tax Assistance Program was held in the Township building meeting room; however, 3-4 years ago the program outgrew the space, and the management of Granite Run Mall offered to provide a vacant store front for the program during the months of January through April. The mall property was recently sold to BET Investments and the new management has agreed to continue to provide space for the tax assistance program in 2014. There will be no charge for use of the space, but the Township has again been asked to pay \$250 per month toward the cost of electricity and other utilities.

Mr. Clark pointed out that the volunteer tax preparers are not authorized to sign the lease agreement with the mall for use of the temporary space. It is recommended that Council authorize the Township Manager to sign the lease agreement for the designated space on behalf of the Township to be used by the AARP volunteers.

Mr. Carlson moved that the Township Manager be authorized to execute a License Agreement for use of the designated tenant space in 2014 in accordance with the terms of the attached proposal for the free tax preparation program provided by the volunteers in accordance with IRS and AARP tax assistance guidelines. Mr. Galloway seconded the motion, and Resolution 2013-90 was approved by unanimous vote 6-0.

J. Approval of Bill List

Ms. Bradshaw read aloud the bills presented for Council's consideration for approval for payment.

Mr. Carlson moved that payments under the October 28, 2013 Bill List be authorized for payment by the Finance Department:

| <u>General Fund</u> | | |
|-------------------------------------|--|-------------|
| Aqua Pennsylvania, Inc. | August & September Hydrant Rental | \$22,561.50 |
| Independent Blue Cross | October Health Insurance | 22,631.15 |
| | Highway Share | |
| | Sewer & Library Share | |
| | Recreation Share | |
| Ingram Engineering Services, Inc. | Partial Payment Sewer Trench Restoration | 4,192.74 |
| Servpro of Media | 742 Road Tree Road Property | 9,556.49 |
| McCusker & Osborne | July & August Recycling | 34,859.68 |
| Longley Insurance Agency Inc. | Insurance Installment | 17,160.00 |
| <u>Recreational Enterprise Fund</u> | | |
| The Travel Authority Inc. | Frank Lloyd Wright & Charleston Trips | 13,151.60 |
| | Biltmore Christmas | |
| TD Bank | Supplies, Transportation, Trips | 8,401.14 |
| Penn Oaks Golf Club | 2013 Golf Outing | 8,946.00 |
| Curran Travel | Myrtle Beach | 7,077.00 |

Mrs. Amoroso seconded the motion, and Resolution 2013-91 was approved by unanimous vote 6-0.

5. Public Hearings

- A. Proposed Amendment of Zoning Ordinance to Permit a Campus Mixed Use Development as a Conditional Use Within the R-4 Residential District and Provide Area and Bulk Regulations and Design Standards for Such Development
- B. Conditional Use Application of Pond's Edge, L.P. for Approval to Construct a Campus Mixed Use Development on Property Located at 1278-1328 W. Baltimore Pike Consisting of 221 Single Family Attached Dwellings Units and Two Retail Buildings Containing a Total Floor Area

of 32,500 sq. ft. Within the R-4 Residence District Pursuant to a Proposed Amendment of Chapter 275, Section 275-35.C(8) of the Zoning Ordinance

Mr. Galloway moved to open the Public Hearings continued from the September 23rd meeting on the proposed amendment of the Zoning Ordinance to permit a Campus Mixed Use Development as a Conditional Use within the R-4 Residential District, and the Conditional Use Application of Pond's Edge LP for approval to construct a Campus Mixed Use Development on the property located at 1278-1328 West Baltimore Pike. Mrs. Amoroso seconded the motion, and the motion was approved by unanimous vote 6-0.

Lorraine Evans, court reporter, recorded the testimony.

Joseph Riper, Esquire, representing Pond's Edge L.P., stated that as a result of various plan revisions over the past several months density of the Pond's Edge residential/commercial project has been reduced from 4.25 units per acre to slightly less than 4 units per acre.

Mr. Riper stated that several requirements in the current version of the ordinance amendment were discovered to be inconsistent with the design guidelines and/or the Zoning Ordinance for the R-4 Residence District. He pointed out that the ordinance amendment requires unpaved pedestrian walking trails, whereas the design guidelines call for paved trails. Following discussion with Mr. Damico they agreed it would be better to delete reference in the ordinance to "unpaved" trails and allow the design guidelines to operate.

Mr. Riper noted that the ordinance amendment requires that 1% of the open space must be devoted to active recreation, and the Zoning Ordinance for the R4 District provides that 25% of the open space must be designated for active recreation.

Mr. Riper explained that Exhibit A-28 is a copy of the revised text amendment incorporating the changes he described as well as a few other less significant changes that he discussed with Mr. Damico earlier today. The applicant is requesting that Council introduce the revised text amendment as set forth in Exhibit A-28, and that copies of the revised text be forwarded to the Township Planning Commission and County Planning Department for review. Mr. Galloway suggested that review of the revised text of the ordinance amendment should be scheduled on the November agendas of the Township Planning Commission and the County Planning Department so Council can receive their review comments prior to the November 25th Council meeting.

Mr. Rothe stated that when he compared the proposed text of the ordinance amendment and the design standards he found two inconsistencies: (1) The dimensional requirement for separation of buildings with rear parking alleys is shown as 62 ft. Mr. Riper explained that was a typographical error and has been corrected to 64 ft.

(2) Some of the enhancements relate project improvements and some to recreational facilities. He noted that the applicant is requesting credit toward the fee-in-lieu payment for the cost of paving the pedestrian trails. Will the applicant also request credit for a

swing set and other active recreational facilities? It is important that they come to agreement on what items will be credited toward payment of the recreational fee-in-lieu. Mr. Riper replied that only enhancements in the nature of active recreational facilities will be credited. There should also be a clear understanding of how the Township defines active recreational facilities.

Mr. Clark explained that the design guidelines address issues like streetscaping, landscaping, etc. Mr. Rothe pointed out that credit was given for certain recreational amenities in the Skycrest development.

Mr. Galloway moved for introduction of the proposed revised ordinance amendment to permit a Campus Mixed Use Development as a Conditional Use within the R-4 Residential District and to provide area and bulk regulations and design standards for such development. Mrs. Amoroso seconded the motion, and the motion was approved by unanimous vote 6-0.

Mr. Kirchgasser noted that there is a significant difference between the Zoning Ordinance requirement that 25% of the open space must be devoted to active recreation and the proposed ordinance amendment provision that 1% of the land area must be devoted to active recreation. Mr. Riper stated that originally the ordinance required 1% of the open space area was to be dedicated to project enhancements, such as gathering areas, and 1% to active recreation. Mrs. Amoroso asked if the difference between 1% and 25% would be considered a fee-in-lieu credit or payment due. Mr. Riper replied that from the beginning 1% was designated for active recreation, not 25%.

James Dellavecchia, 19 Overlook Circle, asked whether the Overlook Circle residents having party status will receive notice of hearings on the revised ordinance. Ms. Bradshaw pointed out that Mr. Riper just described the revisions. Mr. Clark explained that there is no requirement to send a letter to abutting property owners or parties in interest specifically notifying them that the ordinance amendment will be considered for introduction at a particular meeting. He noted that the Conditional Use hearings have not been concluded and will continue until all of the testimony has been presented.

Mr. Riper stated that he received a letter from Kevin McLaughlin, Esquire, dated October 28th indicating that he represents The McKee Group and is Vice President of McKee PP Towne Center, LP (the Partnership), owners of the Franklin Mint property. The Partnership is owner of real property located at 1318 West Baltimore Pike known as the "Granite Parcel", which is adjacent to and contiguous to the Pond's Edge property.

Mr. McLaughlin was present at the meeting and explained that the Partnership is requesting status as a party to the proceedings and hearings on the Conditional Use, including the right to present testimony on behalf of the partnership, if it so elects. As an adjacent land owner they plan to follow up on some conversations that have been held with the applicant, and it is their hope that issues can be addressed outside of these hearings to the satisfaction of all parties.

Mr. Damico stated that Mr. McLaughlin's letter of October 28, 2013 has been entered into the record and made a part of the proceedings.

Mr. Galloway asked Mr. McLaughlin if The McKee Group would be willing to waive the right to question or cross examine witnesses who have testified during these hearings up to the present time. Council would like to avoid any question that might arise in the future that Mr. McLaughlin did not have an opportunity to question certain witnesses. Mr. McLaughlin stated he had no plans to cross examine witnesses who have already testified and was willing to waive the right to question or cross examine earlier witnesses.

Ms. Bradshaw stated that Council had no objection to granting party status to Mr. McLaughlin on behalf of The McKee Group. The Overlook Circle residents having party status indicated they had no objection to granting Mr. McLaughlin party status.

Mr. Damico explained that Council at its discretion has the right in a Conditional Use Public Hearing to grant party status at any time it deems relevant to do so. He noted that the only party who could object would be the applicant.

Mr. Riper pointed out that at the last hearing he made a commitment to produce landscape plans detailing the project enhancements. Following the hearing James Faber, landscape architect with McCloskey & Faber, was engaged to prepare the landscape plans. Given the significant amount of work to be done it was not possible for Mr. Faber to complete the landscape and lighting plans in time for tonight's meeting. The plans will be submitted prior to the November 25th meeting. He stated that he will call Mr. Faber as a witness tonight to testify regarding the landscaping and project improvement enhancements.

Mr. Riper called Matt Houtmann as his next witness, and explained that Mr. Houtmann testified at the August 26th hearing. In his testimony Mr. Houtmann discussed cross sections he prepared to illustrate the view of the Pond's Edge development from the Overlook Circle properties closest to the common property line (Exhibit A-12). At the September 23rd meeting Kevin Gale, 9 Overlook Circle, questioned why a cross section was not prepared for his property. Subsequently Mr. Houtmann updated the cross sections to include the Gallagher, Gale, Wells and Dellavecchia properties (Exhibit A-29).

Mr. Houtmann described the locations from which the cross sections were taken and the distance of each residence from the property line. He noted that the Gale residence is somewhat farther away from the common property line than the other three properties. He pointed out that there will be a 100 ft. buffer between the common property line and the townhouse units that will add to the distance between the Overlook Circle and Pond's Edge properties. The existing woodland will be preserved to the extent possible and additional trees will be planted. At maturity the new trees will provide a substantial buffer between the Overlook Circle homes and the townhouse units.

Mr. Riper stated that Exhibit A-30 is a copy of the revised Conditional Use plan. Mr. Houtmann explained that Mr. Rothe raised some questions about aisle width and turnaround/backup areas. He agreed that aisle widths could be increased from 16 ft. to 18 ft. in some locations, and where appropriate and space is available the aisle width could be increased from 18 ft. to 24 ft.

Kevin Gale, 9 Overlook Circle, stated he had two questions for Mr. Houtmann. (1) Why does the width of the undisturbed woodland vary from 40 ft. to 60 ft.? Mr. Houtmann replied that the width of the woodland varies depending on the location. Entering the Pond's Edge property from the Granite parcel at the point where the road turns into the development, the width of undisturbed woodland is 40 ft., but for the most part the width will be 50-60 ft. He noted that they are trying to limit grading and will construct retaining walls at some locations in place of additional grading. The 100 ft. setback has always been on the plan. Adjustments were made to minimize the amount of disturbance and maximize the amount of woodlands along the common property line. Mr. Gale commented that he is opposed to any disturbance within the 100 ft. setback.

Mr. Gale stated that his second question relates to the parking area which was not shown on the preliminary revised plan and in Exhibit A-30 appears to encroach into the 100 ft. setback. Mr. Houtmann responded that he noticed that part of a townhouse building structure is within the 100 ft. setback and will be pulled back out of the setback.

Mr. Gale went on to say that at the last meeting Mr. Quinn suggested that an earthen berm might be constructed to create a barrier between the two developments. Mr. Houtmann stated that a certain amount of grading will be necessary in order to install the units in that area within the existing contours, and constructing a berm would require removing some of the existing trees. Mr. Gale pointed out that reducing density in that area would accomplish the same thing and should be considered.

Mr. Houtmann stated a double row of trees will be planted and the trees will be staggered to fill in any gaps in the tree line. Mr. Rothe noted that there will also be a considerable amount of landscaping throughout the development.

There were no additional questions for Mr. Houtmann and he was excused.

Mr. Riper called James Faber, landscape architect and land planner. Mr. Faber was sworn and explained that he has been with the McCloskey & Faber firm since 1980. He identified Exhibit A-31 as his curriculum vitae. Ms. Bradshaw stated that Mr. Faber was accepted as an expert witness. The parties in interest indicated they had no objection.

Mr. Faber explained that Exhibit A-32, Cut Sheets of Project Improvement Enhancements, is a collection of 16 enhancement items that were originally developed by Bob Heuser of Heuser Design to create a pleasant residential environment. The enhancements have been refined to provide additional detail and clarity. A series of guidelines prepared by Comitta Associates set the standard for enhancements that should be included. In his opinion the design guidelines will significantly enhance the amenities for the overall development.

Mr. Faber described the enhancements and materials proposed to be used for cross-walks, mountable curbing and walkways, such as Belgian block, uni-paver, brick, etc. The materials used for crosswalks and pathways will be something that will not be damaged by snowplows. Extensive landscaping, metal benches, fencing and decorative arbors will be located throughout the residential component. Directional signs will be installed at appropriate

locations. Two roundabouts will help to slow traffic. Knee walls 24-30 in. high with shrubbery and plantings will be used to disguise parking areas. He pointed out that the commercial component will not be constructed until agreement is reached on a service road. The exterior of the two commercial buildings will follow the pattern of brick and stone. A neighborhood or pedestrian park with a gazebo will be developed in several locations in the residential areas, as illustrated in the Pedestrian Gathering Plan, Exhibit A-33. Active recreational facilities, such as swing sets, sliding boards, etc. are proposed in designated active recreation areas.

There were no questions for Mr. Faber and he was excused.

Mr. Riper requested that Exhibits A-28 through A-33 be entered into the record. He stated that concluded his presentation on behalf of the applicant; however, he would like an opportunity to respond to testimony by the Township consultants and the Overlook Circle residents with party status.

Mr. Galloway asked who will testify on behalf of the Township. Mr. Damico responded that Mr. Comitta will testify with regard to his review of the Preliminary Land Development Plan, as outlined in his review letter received by the Township today, and the landscape plan that Mr. Faber will be submitting. In addition, the Township's traffic expert, Albert Federico, will testify on traffic issues, and Mr. Rothe will testify regarding his engineering review. Mr. Federico explained that the scoping meeting with PADOT has not yet been scheduled and PADOT has not sent a review letter. Mr. Riper indicated he will follow up with PADOT tomorrow.

Mr. Damico asked when the landscape plan will be filed. Mr. Riper pointed out that it was not intended that the landscape plan would be submitted as part of the Conditional Use application and will be included as part of the Preliminary Land Development Plan. He stated that the landscape plans will be submitted prior to the November 25th Council meeting. Mr. Rothe noted he likes to receive plans at least 7 days prior to the Council meeting to allow time for his review. Mr. Riper stated that Mr. Faber anticipates completing the landscape plan for submission by November 18th.

Mr. Riper explained that the applicant committed to make a contribution of at least \$350,000 for off-site highway improvements with the understanding that PADOT could require more extensive traffic improvements and the applicant would be responsible for paying any additional cost.

Mr. Damico stated that after testimony by the Township consultants, the parties in interest will have an opportunity make presentations. Generally parties in interest prefer to hear all of the evidence before making their presentations. They could waive that right or a special meeting could be scheduled prior to November 25th if all parties agreed. Mr. Gale stated he will be making presentation but would prefer to hear all of the testimony first.

Mr. Galloway suggested that unless Mr. Riper had something more to present, there did not appear to be any need to schedule a special meeting prior to November 25th.

Mr. Galloway moved to continue the Public Hearings on the Zoning Ordinance Amendment (Agenda Item 5A) and the Conditional Use Application (Agenda Item 5B), and to table all of the agenda items relating to the Pond's Edge project (Agenda Items 6A, 7A, 7B, 7C) to the Council meeting of November 25, 2013. Mr. Kirchgasser seconded the motion, and the motion was approved by unanimous vote 6-0.

8. Adjournment

Upon motion by Mr. Kirchgasser, seconded by Mrs. Amoroso, the meeting was adjourned at 8:45 PM.

Respectfully submitted,

Carolyn Doerfler

Carolyn Doerfler, Recorder