

**MIDDLETOWN TOWNSHIP  
BOARD OF SUPERVISORS  
REGULAR MEETING  
APRIL 4, 2016**

**PRESENT**

<b>H. GEORGE LEONHAUSER, CHAIRPERSON</b>	<b>}</b>	
<b>THOMAS GALLAGHER, VICE CHAIR</b>	<b>}</b>	
<b>WILLIAM OETTINGER, SECRETARY</b>	<b>}</b>	<b>BOARD OF SUPERVISORS</b>
<b>AMY STROUSE</b>	<b>}</b>	
<b>THOMAS TOSTI</b>	<b>}</b>	
<b>STEPHANIE TEOLI KUHL, TOWNSHIP MANAGER</b>		
<b>JOSEPH PIZZO, ESQ., TOWNSHIP SOLICITOR</b>		
<b>LARRY YOUNG, P. E, TOWNSHIP ENGINEER</b>		

1. Call to Order, Pledge of Allegiance, and Roll Call.

Mr. Leonhauser called the meeting to order at 7:30 p.m. After the Pledge of Allegiance, Mr. Oettinger called roll. All Supervisors were in attendance along with interested citizens.

2. Announcements, Correspondence, Awards and Reports.

Mr. Leonhauser advised that Saturday, April 9, 2016 is opening day for MAA, Neshaminy Wildcats and also LAA.

- a. Next Board of Supervisors Meeting – Monday, April 18, 2016 @7:30 p.m.  
Mr. Leonhauser advised that Monday, April 18, 2016 meeting is cancelled due to the PSATS Conference being held in Hershey that week. The next regularly scheduled meeting of the Board of Supervisors is Monday, May 2, 2016 at 7:30 p.m.
- b. Local Government Month Proclamation – Mr. Leonhauser read the proclamation designating the week of April 11, 2016 as Local Government Week.
- c. Middletown at the Mall – “Touch a Truck” – April 9, 2016 from 11:00 a.m. to 2:00 p.m.

Ms. Teoli Kuhls advised as part of Local Government Month, the Administration is refashioning Middletown at the Mall and will be holding the first event for the year – Touch a Truck. Also as part of Local Government Month Ms. Teoli Kuhls and Officer Melissa Robison are visiting elementary schools and talking about community leadership and community helpers.

3. Public Comment. *Non-Agenda Items only.* (Maximum 30 minutes)

Julie Smith, 934 St. James Drive, Langhorne expressed her concern with the suggestion by Mr. Tosti at the last Board meeting to designate an area in the Municipal Park lot as a “safe zone” for engaging in on-line transactions. There are many commercial, well-lit, heavily trafficked areas in the Township where people could meet. As a resident living across from the Municipal building, Ms. Smith noted that after hours and on the weekend the parking lot of the Municipal building is deserted. An unanswered question is the liability that the Township would have in providing this space.

Mr. Tosti stated that he is not looking at this issue as a problem for the Township, but a safe area for residents. Mr. Tosti reported that he recently met with Chief Bartorilla and Ms. Teoli Kuhls to discuss this issue. One idea discussed was to have residents call ahead to the police department and set up a date and time to make their transaction. This would occur during business hours, 8:30 a.m. to 4:30 p.m. Monday through Friday.

4. **Consent Agenda Items.**

- a. Consideration of authorizing payment of April 4, 2016 Bill List in the amount of \$1,415,720.38.
- b. Consideration of approving the March 14, 2016 Meeting Minutes of the Middletown Township Board of Supervisors.
- c. Consideration of adopting the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust Adoption Agreement.

ACTION: MR. GALLAGHER MOVED TO APPROVE CONSENT AGENDA ITEMS A, B & C AS LISTED ABOVE. MR. OETTINGER SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

5. Consideration of authorizing Tri-State Engineers to prepare the bid documents and advertise the work for the Durham Ridge Subdivision – Completion of Remaining Site Improvements.

Larry Young, P.E., Township Engineer explained that AmeriCorp Homes, developer of the Durham Ridge Subdivision has not completed the proposed improvements as shown on the approved subdivision plans. Mr. Pizzo, Township Solicitor has sent several notices to the developer and has not received any response.

Mr. Young further explained that the unfinished improvements are the conversion of the basin from a sediment basin to an infiltration basin, installation of the wearing course asphalt on roadways and individual driveways, street trees, off-site replacement trees, and as built plans. In addition, asphalt base repair and replacement of some of the concrete sidewalks and curbing will be required as a large quantity of the sidewalks and curbs have cracked over the years.

Tri-State Engineers solicited quotations for some of the remaining “big ticket” items in an effort to provide an estimate of whether enough money exists in the current bond. The quotations received range from \$256,000 to \$357,000. The total amount remaining in the bond is \$406,234.

Mr. Young suggested the Township move forward with getting the improvements done while talking with the bonding company’s attorneys to work out getting reimbursed.

Ms. Teoli Kuhls said the Township has given the developer every opportunity to make the improvements and the residents deserve to have the development completed.

Mr. Gallagher inquired if the roads in this development could be paved by the Department of Public Works.

Ms. Strouse agreed that the residents of Durham Ridge deserve to have the improvements completed, but inquired about the order of events and compared it to an issue where the Township completed a landscaping project because the contractor failed to complete it and it has turned into an extended effort to recoup those funds.

Mr. Pizzo said if the Board authorizes this action this evening we will send out certified notice of the Board's action of the intent to move against the bond and the intent to finish the job. While the bid documents are being prepared and advertised, a clock will start to run for the developer and he will have roughly 60 days to complete the job. A punch list has been prepared and previously provided to the developer and will be provided to the developer again with the notice of the action of the Board to basically take the job over in 60 days.

Mr. Gallagher suggested holding off on authorizing advertisement of the bid documents until we see what the initial reaction is from the bond company.

Mr. Pizzo said the residents of this development have been particularly patient waiting for the contractor to complete the work and he doesn't know if it would be onerous to ask them to wait an additional month. In the interim the Board could direct the Township Engineer to begin the bid specifications, but hold off on releasing them for solicitation of bids until the next public meeting of the Board at which point in time we should have some response from the bonding company as to whether they will work with us or be obstructionists.

Mr. Pizzo also stated that the bonding company typically, under the performance bonds, have the option of bringing in their own people to do the work rather than have the Township do it and reimburse us. Because they are a private entity and not a public entity they are not subject to the same bidding requirements as the Township and could theoretically do the work cheaper.

**ACTION: MR. GALLAGHER AUTHORIZED TRI-STATE ENGINEERS TO PREPARE THE BID DOCUMENTS AND HOLD UNTIL THE BOARD AUTHORIZES THE RELEASE AND ALSO AUTHORIZE THE SOLICITOR/ADMINISTRATION TO HANDLE THE LEGAL PORTION DECLARING THE DEVELOPER IN DEFAULT OF THE DEVELOPMENT AGREEMENT WITH THE TOWNSHIP AND PROCEEDING WITH A CLAIM AGAINST THE BONDING COMPANY FOR THE COMPLETION OF THE PUBLIC IMPROVEMENTS ASSOCIATED WITH THE DURHAM RIDGE SUBDIVISION. MS. STROUSE SECONDED. MOTION CARRIED BY A VOTE OF 5-0.**

6. Consideration of enacting Resolution #16-07R authorizing the submission of an application to PennDOT for a School Zone Flasher at Harmony Road.

Ms. Teoli Kuhls advised that at the Board's last meeting it was requested that the administration look into adding a school zone flasher at the elementary school and middle school. In order to do that because PennDOT considers this a traffic control device we must pass a resolution and make application to PennDOT.

**ACTION: MR. LEONHAUSER MOVED TO ENACT RESOLUTION #16-07R AUTHORIZING THE SUBMISSION OF AN APPLICATION TO PENNDOT FOR A SCHOOL ZONE FLASHER AT HARMONY ROAD AT SCHWEITZER ELEMENTARY AND SANDBURG MIDDLE SCHOOL. MR. GALLAGHER SECONDED. MOTION CARRIED BY A VOTE OF 5-0.**

7. Consideration of authorizing installation of an access control system at the Public Works Building.

In 2011 the Board authorized the installation of an access control system in the Municipal Center to provide a secure environment for both the Police and Administration personnel. Currently the Public Works building does not have an access control system. The installation of an access control system for the Public Works building was considered and budgeted in previous years, but was not completed partly due to the budget crisis at the time.

Security and Data Technologies (SDT), the contractor who installed and maintains the access control system at the Municipal Center has prepared a quote in the amount of \$28,619 to install an access control system for the administrative and staff areas of the Public Works building. The system will be integrated into the existing access control monitoring software installed on the Municipal Center's servers and will provide the staff in the DPW with the same secure environment as the Municipal Center. If the Board approves this purchase it would be funded from the Capital Reserve Fund.

**ACTION: MR. GALLAGHER MOVED TO AUTHORIZE THE INSTALLATION OF AN ACCESS CONTROL SYSTEM AT THE PUBLIC WORKS BUILDING IN THE AMOUNT OF \$28,619.00. MR. TOSTI SECONDED.**

Mr. Tosti asked if this would be just for the building where you walk in or will it also be for the garages.

Ms. Berkis responded that the doors that will be secured are the doors leading from the where the public space is at the vestibule. Behind the building where the staff comes in to go to the lunch room, restrooms will be secured as well through the mechanics office. However, the garage bay doors because they are kept open at all times would be impossible to secure with a swipe access system during the day.

**MOTION CARRIED BY A VOTE OF 5-0.**

8. Consideration of enacting Resolution #16-08R requesting an Amendment to the Sterling Act to require that up to one percent of Philadelphia Wage Tax paid by non-residents of Philadelphia be remitted to the municipality in which the taxpayer resides.

Ms. Teoli Kuhls advised that this issue came up several months ago when Bensalem Township enacted their Earned Income Tax. The Mayor of Bensalem Township initiated a petition and led the charge to attempting to get an amendment on the longstanding Sterling Act which requires that all Philadelphia wage taxes stay in the City of Philadelphia. The Bucks County Association of Township Officials (BCATO) is organizing an effort to lobby the state legislature to actually amend the Sterling Act.

The estimates that are provided in the packet from BCATO and Keystone Collections Group, estimates that around \$2 million of Middletown Township residents money is staying in the city of Philadelphia. This resolution would exhibit the Township's support of this lobbying effort.

Mr. Gallagher reassured those citizens who work in Philadelphia and live in Middletown Township that no way will this increase the tax burden. The wage tax that is paid to the City of

Philadelphia will still come out of residents paychecks that work in Philadelphia, but the difference is if this were to go through a portion of the tax would come back to Middletown Township which is .5% similar to the reciprocal agreement that we have with those townships that have the EIT.

Ms. Strouse said she would be abstaining because this is yet another example of the risk inherent on relying on the EIT revenue. Ms. Strouse believes that the EIT revenue source is not stable. If Falls or Lower Makefield Townships enact the EIT, the Township stands to lose thousands of dollars. Ms. Strouse wants to make sure that this conversation about the Sterling Act is not being confused with the revenue security that we need in Middletown Township.

Mr. Tosti also expressed that he will abstain from this vote as he too was opposed to the EIT when the Board implemented it.

Mr. Gallagher said there was no one more vocal against the EIT than he was. However, it is here now and if the Township can recoup money out of Philadelphia by making a change to the Sterling Act then he considers it his duty to the residents to try and get this money back and he will be voting for it.

**ACTION: MR. GALLAGHER MOVED TO ENACT RESOLUTION #16-08R REQUESTING AN AMENDMENT TO THE STERLING ACT TO REQUIRE THAT UP TO ONE PERCENT OF PHILADELPHIA WAGE TAX PAID BY NON-RESIDENTS OF PHILADELPHIA BE REMITTED TO THE MUNICIPALITY IN WHICH THE TAXPAYER RESIDES. MR. LEONHAUSER SECONDED. MOTION CARRIED BY A VOTE OF 3-0-2 WITH MS. STROUSE AND MR. TOSTI ABSTAINING.**

A discussion ensued concerning the completion of a form when a Board member abstains on an issue. Mr. Pizzo advised that it is not a legal requirement and it was a policy of the Board at one time. It is purely a question of policy among the five (5) Board members.

9. Discussion of Amendment to the Responsible Contractors Ordinance.

Mr. Tosti requested that this issue be tabled as he contacted the Chairperson over the weekend to discuss this issue and did not receive a response.

**ACTION: MR. TOSTI MOVED TO TABLE THIS ISSUE TO ANOTHER MEETING. MS. STROUSE SECONDED. MOTION FAILED BY A VOTE OF 2-3 WITH MR. LEONHAUSER, MR. GALLAGHER AND MR. OETTINGER OPPOSED.**

Mr. Tosti asked why this has been brought to the Board's attention at this time.

Mr. Leonhauser said it was going to be advertised and voted on in November and December of 2015 but was never brought to the Board for a vote. Mr. Leonhauser instructed Mr. Pizzo to initiate this.

Mr. Gallagher explained that in 2009 the Board codified the Township ordinances and inadvertently included the wrong ordinance into the book of ordinances.

Mr. Pizzo said the Township has had a Responsible Contractor Ordinance (RCO) in place since 2006. He went into great detail explaining the issue of the codification and the fact that the

incorrect ordinance was codified. In 2011, the state put into law Act 84 of 2011 which increased the threshold for public bidding requirements applicable to a number of governmental entities. The new law increased the threshold at which contracts had to be bid from the then minimum of \$10,000 to the new minimum of \$18,500. The new law also included with it an escalator clause that would have the State Department of Labor do an analysis of the prior year's Consumer Price Index (CPI) for urban areas and if there were an increase there would be a commensurate increase in the threshold at which public bidding had to be done. Between January 2012 when Act 84 of 2011 went into effect through January 2016, the \$18,500 bidding threshold has increased and it is now at \$19,400.

There were discussions at several public meetings of the Board of Supervisors which ultimately led to the Board of Supervisors approving advertisement and potential adoption an amendment to the RCO that would have increased the threshold at which a Township project would be subject to the requirements of the RCO from \$10,000 up to the greater of \$25,000 or the then prevailing wage threshold in effect in Middletown at any point in time whichever of the two amounts is greater.

The proposed ordinance that was proposed and approved for advertisement in 2012 is in fact the ordinance that had been vetted with the local trades, local contractors, members of the Administration and the Board of Supervisors in place at that time. This ordinance was never formally adopted so the problem that the recommended amendment was hoping to cure still exists today; and that is that the RCO still has the \$10,000 threshold and state law is almost double that in terms of when it is that you have to publicly bid a contract.

The second of the two ordinances that was sent out to the Board included language that would mirror language in the Bensalem Township RCO regarding an apprenticeship program. Bensalem's RCO includes a requirement that the contractor participate either through running its own or being a participant in a registered apprentice program registered with either the United States Department of Labor or the State Department of Licenses and Inspections. That apprenticeship program has to have graduated apprentices to journeyman status in every year for an approximate 5-year period. Bensalem's RCO does not require that particular provision to kick in or to apply to contractors unless the value of the job is \$150,000 or more. Mr. Pizzo was directed to insert similar language into a draft of an ordinance for the Board to discuss and consider this evening.

There are two versions of the RCO in front of the Board this evening; one that was vetted and approved in 2012 without the \$150,000 threshold for the apprenticeship graduation program to kick in and the second one that includes those graduation requirements. Also among the information provided to all of the Board members to help provide information for what was being discussed at the time were copies of the minutes of the various meetings where it was discussed publicly as well as the memoranda that were prepared by the then Acting Township Manager Debby Lamanna as to the efforts that were being undertaken by the Township in that regard, the informal survey that was taken at that time as to what local municipalities were doing in regard to RCO.

Ms. Strouse pointed out that the research from the 2012 documents, the low end was \$10,000 to have the apprenticeship program that Bristol and Falls Townships have. Ms. Strouse said that it seems like an apprenticeship program is a great way to encourage the local trades to provide training.

Mr. Pizzo said in the proposed ordinance the Township would not be abandoning the requirement of an apprenticeship program, quite the contrary. A requirement for participation in an apprenticeship program would still be a part of the ordinance. Ms. Strouse would like to see the

\$150,000 cut off for the apprenticeship program requirement to be lowered to something more moderate more in the middle of the requirement of the apprenticeship program to kick in.

Mr. Oettinger pointed out that the proposed amendment to the RCO is a benefit to small businesses. Mr. Leonhauser stated that it allows small businesses to compete and would enlarge the pool of potential bidders and gives the smaller local contractors the opportunity to bid on work that they would otherwise be excluded from bidding on and would increase competition which would mean better prices for the Township on smaller jobs particularly and would reduce the cost of the bidding procurement process, reduce the administrative out of pocket cost and professionals.

Mr. Gallagher agreed with Mr. Leonhauser and stated that it also allows the small business owner, who lives in the Township, participates in the local economy, the opportunity to finally be able to bid on the smaller jobs, but these are the jobs that a small business owner is looking for. Ms. Strouse asked if this ordinance would benefit only Middletown Township small businesses. Mr. Gallagher replied no.

Mr. Tosti commented that he supports small business owners, but when you have a low bid come in and they are unable to do the work, it costs the Township more than what it would normally have cost because we now have to go back and do the work over. This ordinance is for the protection of the Township from the types of businesses that come in and are unable to complete the job.

Mr. Oettinger asked Mr. Pizzo if the Township has any recourse if a local contractor comes in and does a job for the Township and does not complete the job. Mr. Pizzo said the Township would not be eliminating the requirements that contractors have to have the requisite experience to do the job, not be eliminating the bonding requirements. With or without a RCO the Township is still required to get a performance bond from a contractor as well as a bid bond, and maintenance bond under state law. One of the things the RCO does; however, is in greater detail than state law requires sets forth all of the requirements that the Township as a community have said that we want on people bidding on contracts for the Township.

**ACTION: MR. GALLAGHER MOVED TO RESCIND PREVIOUS AUTHORIZATIONS TO ADVERTISE THE AMENDMENT TO THE RESPONSIBLE CONTRACTOR ORDINANCE AND TO ADVERTISE THE RESPONSIBLE CONTRACTOR ORDINANCE AMENDMENT AND TO AUTHORIZE THE ADMINISTRATION TO ADVERTISE THE CURRENTLY RECOMMENDED ORDINANCE AMENDING CHAPTER 196, CONTRACTORS ARTICLE II RESPONSIBILITY OF CONTRACTOR, AWARD OF PUBLIC CONTRACT. MR. LEONHAUSER SECONDED.**

**ACTION: MR. TOSTI MOVED TO MAKE AN AMENDMENT TO THE MOTION JUST MADE BY MR. GALLAGHER TO LOWER THE THRESHOLD FROM \$150,000 DOWN TO \$25,000.**

Mr. Gallagher pointed out that the merits of the ordinance will be pointed out and discussed in detail after the ordinance has been advertised and it is brought back to the Board for enactment.

Ron Krajewski, Cobalt Ridge, Levittown expressed his concern with the proposal of going from \$25,000 to \$150,000 with no skilled labor. He believes it is a bad idea to not have apprenticeship programs.

Dominick Roberto, Bensalem Resident, works for Johnson Controls and does a lot of work in Middletown Township expressed his concern with the proposed ordinance. He expressed the importance of an apprenticeship program and the use of skilled labor on jobs that the apprenticeship programs would provide.

MR. LEONHAUSER CALLED THE VOTE ON MR. TOSTI'S PROPOSED AMENDMENT TO MR. GALLAGHER'S MOTION. MS. STROUSE SECONDED. MOTION FAILED BY A VOTE OF 2-3 WITH MR. GALLAGHER, MR. LEONHAUSER, AND MR. OETTINGER OPPOSED.

MR. LEONHAUSER CALLED THE VOTE ON MR. GALLAGHER'S ORIGINAL MOTION TO ADVERTISE THE ORDINANCE. THE VOTE WAS 3-2 WITH MR. GALLAGHER, MR. LEONHAUSER AND MR. OETTINGER FOR AND MS. STROUSE AND MR. TOSTI OPPOSED.

10. Other Business.

Ms. Strouse brought up the issue of the second public comment during the Board of Supervisors public meetings.

MOTION: MS. STROUSE MOVED TO ALLOW FINAL PUBLIC COMMENT AT THE END OF THE MEETING FOR ANY MEMBER OF THE PUBLIC REGARDLESS OF THE LENGTH OF THE INITIAL PUBLIC COMMENT FOR AN UNLIMITED AMOUNT OF TIME. MR. TOSTI SECONDED.

Mr. Leonhauser said the Public Meetings are scheduled for 7:30 p.m. to ensure for the most part that people would be able to attend. Mr. Leonhauser does not see the need for a public comment at the end of the meeting when everything is being served at the front of the meeting, with the exception of special occasions.

Mr. Gallagher said through his experience on the Board when there was a public comment at the end and didn't have one at the beginning people were upset that they had to wait until the end of the meeting to comment. The use of a second public comment has been abused in the past with citizens coming back to the podium and talking about the same thing over and over.

Mr. Gallagher stated that he would have no problem moving the public comment from the beginning to the end of the meeting, but he does not want to see someone standing at the microphone at 7:30 and then again at the end of the meeting saying the same thing over again.

Ms. Strouse does not want to move it from the beginning to the she just wants to allow that additional time at the end of the meeting.

Mr. Oettinger said that one thing he doesn't like since he sat on the School Board for 4 years is when someone is talking and the School Board members are not listening, but watching the clock to let them know they are done speaking. Mr. Oettinger said the Board has been fair and has allowed residents to speak as long as they want and there should not be any time limits.

Mr. Leonhauser said the Township has given a lot of leeway on this issue.



Mr. Tosti agreed with not having a time limit for individuals speaking during public comment. The public comment at the end of the meeting would be for those citizens that missed the initial public comment at the beginning of the meeting.

Ms. Strouse suggested have public comment at the beginning and end of the meeting as a trial for the next three meetings.

Mr. Gallagher, Mr. Leonhauser and Mr. Oettinger did not agree with having a trial period.

**ACTION: MS. STROUSE AMENDED THE ABOVE MOTION TO INCLUDE THE PROVISION TO HAVE THE SECOND PUBLIC COMMENT PERIOD FOR THOSE THAT MISSED THE FIRST PUBLIC COMMENT PERIOD.**

Mr. Gallagher did not agree with the amended motion as stated. Ms. Strouse withdrew the motion provided it is an agenda item at the next Board of Supervisors meeting.

Mr. Tosti stated no disrespect to Ms. Smith who noted her opposition to establishing the safe zone for craigslist transfers, but he would like to move forward with the following proposal by the Chief:

- Residents will call ahead to the police department and set up a date and time to make their transaction. This will occur during business hours, 8:30 a.m. to 4:30 p.m. Monday through Friday. The police department will ensure that an officer will be available to personally monitor the transaction.
- Officers will not get involved in any money or transaction disputes unless there is a threat to someone's safety. Officers will not participate in or witness transaction nor will they guarantee the quality or authenticity of items purchased. They will simply be a physical presence for safety.
- Transactions involving weapons, drugs, drug paraphernalia, or any other illegal activity are, obviously not permitted.

Mr. Gallagher agreed with Ms. Smith and stated that he does not believe it is the job of the police department to monitor craigslist transfers. He pointed out that there are other entities that may want to use the safe zone, i.e. eBay, etc., and also custodial parents may call the police department to arrange an appointment to drop their child off to the other one and then the police may get involved in a domestic situation. Mr. Gallagher is totally against this proposal.

Mr. Tosti said that if someone had a PFA against them they would feel safer coming to the Township building and the whole idea is to keep safety in the township to prevent that one incident that could happen.

Mr. Gallagher understands what Mr. Tosti is saying, but we need to step back and look at the fact that Falls Township's municipal building sits on Route 1 and is not in a residential zone. St. James Court's HOA is opposed to this along with the Villages of Flowers Mill. Mr. Gallagher suggested partnering with the Oxford Valley Mall since we have a substation at the mall.

Mr. Tosti has only heard from one (1) person that is opposed to the safe zone for craigslist transfers and has three (3) people tell him it is a good idea.

Mr. Oettinger stated that he would be in favor of this issue being on an upcoming Board of Supervisors agenda.

11. Other public comment. (Only applicable if initial Public Comment period exceeds the 30 minutes time limit.)

12. Adjournment.

**ACTION: MR. GALLAGHER MOVED TO ADJOURN THE PUBLIC MEETING OF THE MIDDLETOWN TOWNSHIP BOARD OF SUPERVISORS AT 9:25 P.M. MR. OETTINGER SECONDED. MOTION CARRIED BY A VOTE OF 5-0.**