

**MIDDLETOWN TOWNSHIP
BOARD OF SUPERVISORS
REGULAR MEETING
JULY 11, 2016**

PRESENT

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

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 Township Manager Stephanie Teoli Kuhls, Solicitor Joseph Pizzo, Engineer Larry Young and interested citizens.

2. Announcements, Correspondence, Awards and Reports.
 - a. Next Board of Supervisors Meeting – **Monday, August 15, 2016 @7:30 p.m.**
 - b. Swearing in of Police Officers – Megan Freer and Jeff Wagner. Lt. Mellus provided a short bio for each officer prior to being sworn in by Mr. Leonhauser.
 - c. Retirement Recognition – Dennis Penko, Finance Director - Mr. Leonhauser congratulated Mr. Penko on his upcoming retirement and thanked him for his service during his 8 years as Finance Director.
 - d. Eagle Scout Recognition – Francis Anthony Walter, III, Troop 82
Mr. Leonhauser provided Kathleen Seborowski, mother of Eagle Scout Walter with a certificate honoring his achievement to Eagle Scout.

Ms. Teoli Kuhls announced National Night Out Against Crime to be held on August 2, 2016 at 6:00 p.m. This is an opportunity for residents to come out and interact with Township Police Officers and have an evening of crime awareness.

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

Helene Ratner, Tareyton Estates, Langhorne questioned the purchase of police motorcycles as approved at the May 2, 2016 Board of Supervisors Public Meeting. She inquired if this purchase was budgeted. Ms. Ratner also asked if additional police vehicles will have to be purchased for the use by the officers that will be riding motorcycles in the spring, summer and fall.

Ms. Ratner then questioned the Board on the \$200,000 budgeted for the skate park. She finally commented on the replacement of the Finance Director and expressed concern regarding the salary of the new director.

4. **Consent Agenda Items.**

- a. Consideration of authorizing payment of July 11, 2016 Bill List in the amount of \$3,522,057.75.

Mr. Tosti questioned the notation on the Morrissey check that indicated "Tareyton Estates". He asked that the notation be removed.

Ms. Teoli Kuhls explained that the \$339,191.59 payment is the first payment toward the \$1.1 million project that was authorized by the Board. The fact that Tareyton Estates is listed in the notation section is a mistake.

ACTION: MR. GALLAGHER MOVED TO APPROVE THE PAYMENT OF THE JULY 11, 2016 BILL LIST IN THE AMOUNT OF \$3,522,057.75. MR. OETTINGER SECONDED. MOTION CARRIED BY A VOTE OF 4-1 WITH MR. TOSTI OPPOSED.

- b. Consideration of approving the June 6, 2016 Meeting Minutes of the Middletown Township Board of Supervisors.
- c. Consideration of authorizing the 12th and Final Escrow Release for St. James Court in the amount of \$31,479.42.
- d. Consideration of awarding a change order to James D. Morrissey, Inc. of Philadelphia, PA in the amount of \$202,335.45 for the 2016 Middletown Road Project.

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

5. Consideration of enacting Resolution #16-11R opposing the Elcon Recycling Services, LLC commercial hazardous waste treatment facility.

Mr. Pizzo advised that at a prior meeting the Board of Supervisors directed him to prepare a resolution opposing the Elcon Recycling Services, LLC commercial hazardous waste treatment facility. It was also requested that the matter be presented to the Township's Environmental Advisory Commission for their review and action as well. The EAC met on June 28, 2016 and made a recommendation that the Supervisors enact a resolution opposing the Elcon facility.

Mr. Pizzo read the resolution into record stating that all of the information was obtained from the Pennsylvania Department of Environmental Protection website. Mr. Pizzo also advised that after a phone call with the solicitor of Falls Township today, there is nothing pending in front of the Falls Township Supervisors regarding this facility. The next phase of the application has not yet been submitted to DEP.

ACTION: MR. GALLAGHER MOVED TO ENACT RESOLUTION #16-11R OPPOSING THE ELCON RECYCLING SERVICES, LLC COMMERCIAL HAZARDOUS WASTE TREATMENT FACILITY. MR. LEONHAUSER SECONDED.

Mr. Tosti asked Mr. Pizzo about the letter he referenced from the Philadelphia Water Authority and has this letter been rescinded. Mr. Pizzo is not aware of such a letter, but would look into it if it is the wishes of the Board.

Mr. Tosti also inquired if Elcon has had an opportunity to respond to the resolutions that Middletown and other municipalities are enacting.

Ms. Strouse thanked the citizens that have shown such passion and commitment around this issue. She has reservations about the strength of the resolution that is being considered because it tells a separate township what they should be doing with their own ordinances and plans.

Ms. Strouse stated she is going to cast a yes vote this evening, but just wanted to put on record that the concerns around meddling in another township's affairs shouldn't be seen as precedent setting.

Mr. Leonhauser said this will impact the residents of Middletown Township.

Mr. Tosti agreed with Ms. Strouse, but has opposition to this and will be voting against it because it is something that should be addressed by Falls Township.

Mr. Gallagher said he also had reservations about telling Falls Township what to do, however we are suggesting to Falls Township that they should not allow this to happen. We as the Board are looking out for the residents within our borders that drink the water, breathe our air.

Lise Baxter, Lower Makefield resident stated that she belongs to a group of residents called POWA (Protect our Water & Air). Ms. Baxter said the Philadelphia Water Authority letter that was cited by Mr. Tosti did not rescind the entire letter only one word in the letter "catastrophic".

Marguerite Chandler, 1382 Newtown-Langhorne Road, Pennswood Village made a presentation against the proposed Elcon facility.

MOTION CARRIED BY A VOTE OF 4-1 WITH MR. TOSTI OPPOSED.

6. Consideration of approving the application for a Waiver of Land Development for the proposed ATM Drive Thru at the Shoppes at Flowers Mill, S/LD #15-15, TMP #22-021-073 in the CS Shopping Center Zoning District.

Edward Murphy, Esq., represented the owners of The Shoppes at Flowers Mill Shopping center and explained the proposed Wells Fargo ATM drive thru to be located at the entrance to the shopping center. Mr. Murphy explained that Mr. Duffy and Mr. Young suggested that a letter be obtained from Wells Fargo acknowledging in the event there is a break in the sewer line that runs nearby this location that the ATM may be out of service while the sewer line is repaired. The applicant has the signed letter and will provide to the Township.

ACTION: MR. GALLAGHER MOVED TO GRANT A WAIVER OF LAND DEVELOPMENT FOR THE WELLS FARGO ATM/DRIVE-THRU AT THE SHOPPES AT FLOWERS MILL, NORTH FLOWERS MILL ROAD, S/LD #15-15, WITH THE FOLLOWING CONDITIONS:

1. THE APPLICANT SHALL COMPLY IN ALL RESPECTS WITH THE RECOMMENDATIONS SET FORTH IN THE FOLLOWING REPORTS, UNLESS SUCH RECOMMENDATIONS WERE MODIFIED BY THE BOARD OF SUPERVISORS DURING THE APPROVAL PROCESS. REPORTS: TOWNSHIP ENGINEER, BUCKS COUNTY PLANNING COMMISSION, TOWNSHIP PLANNING COMMISSION MEETING MINUTES, FIRE MARSHAL, TRAFFIC ENGINEER, LIGHTING ENGINEER.
 2. APPLICANT SHALL COMPLY IN FULL WITH ALL REQUIREMENTS OF MIDDLETOWN TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE AND MIDDLETOWN TOWNSHIP ZONING ORDINANCE, UNLESS RELIEF WAS GRANTED BY THE BODY HAVING JURISDICTION.
 3. APPLICANT SHALL COMPLY WITH ALL FEDERAL, STATE, AND LOCAL REGULATIONS AND RECEIVE ALL APPROPRIATE PERMITS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF THE IMPROVEMENTS. SUCH APPROVAL SHALL INCLUDE THE BUCKS COUNTY CONSERVATION DISTRICT.
 4. APPLICANT SHALL BE REQUIRED TO PAY TRAFFIC IMPACT FEES AS SET BY MIDDLETOWN TOWNSHIP AND ANY OUTSTANDING ADMINISTRATION AND PROFESSIONAL FEES.
 5. APPLICANT WILL NOT BE REQUIRED TO ENTER INTO A DEVELOPMENT AGREEMENT, RECORD THE PLAN OR POST CONSTRUCTION ESCROW FOR THE PROPOSED IMPROVEMENTS. HOWEVER, THE APPLICANT WILL BE REQUIRED TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT FOR LEGAL, ENGINEERING, AND ADMINISTRATIVE SERVICES IN THE AMOUNT THAT IS SUFFICIENT TO COVER INSPECTION COSTS THROUGHOUT THE CONSTRUCTION PHASE OF THE PROJECT.
- MR. TOSTI SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

7. Discussion of Refunding 2011 and 2010 Bonds – Chris Bamber, PFM

Chris Bamber of Public Financial Management (PFM) made a presentation explaining the refunding of the 2011 and 2010 Bonds. Mr. Bamber stated that he is looking for authorization to proceed allowing the financing professionals including PFM to begin the preparation of the necessary documents for the Township Solicitor's review including the preliminary official statement to establish a credit rating application. This process will allow PFM to come back before the Board on August 15th for consideration of the Bond ordinance which would be the actual action required by the Board to incur the debt, then price the bonds about a week later and that is when the interest rates are locked in and then settle about one month later.

Mr. Gallagher requested Mr. Bamber to provide the following information at the next Board meeting:

1. Refinance only existing debt.
2. Projection if the Bond were increased to \$10 million.

Ms. Strouse asked if the Financing Advisory Committee can weigh in on this issue as well. It was noted that the FAC would be meeting on Tuesday, July 12th and this would be put on their agenda for review.

Mr. Bamber thanked Mr. Penko for his excellent work as it has been very helpful for PFM in attaining the AA+ rating and he will be sorely missed.

ACTION: MR. GALLAGHER MOVED TO AUTHORIZE PFM TO PROCEED WITH THE NECESSARY DOCUMENTS FOR THE REFUNDING OF THE 2011 AND 2010 BONDS. MR. TOSTI SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

8. Presentation of 2015 Comprehensive Annual Financial Report – Bee Bergvall & Company

Jennifer McHugh, CPA of Bee Bergvall & Company presented the 2015 Comprehensive Annual Financial Report.

9. Consideration of awarding the 2016-2017 Consortium Fuel Contract for Gasoline to Superior Plus Energy Service, Aston, PA for low sulfur diesel and heating fuel to Riggins, Inc., Vineland, NJ.

ACTION: MR. OETTINGER MOVED TO AWARD THE 2016-2017 FUEL CONSORTIUM CONTRACT FOR GASOLINE TO SUPERIOR PLUS ENERGY SERVICE, ASTON, PA, WITH AN ESTIMATED AMOUNT OF \$119,767.50, AND RIGGINS, INC. FOR LOW SULFUR DIESEL ESTIMATED AMOUNT OF \$32,314.00 AND HEATING FUEL ESTIMATED AMOUNT OF \$13,068.00 ON AN AS NEED BASIS. MR. TOSTI SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

10. Durham Ridge Development improvements bid.

Mr. Young stated that a meeting was held with the residents of Durham Ridge where they expressed their concerns about the unfinished public improvements in their development. As directed by the Board of Supervisors, plans were prepared and advertised on May 30th and June 3rd with a mandatory pre-bid meeting held on June 14, 2016 and the bid opening on June 28, 2016.

The bid was set up with the base bid consisting of concrete repairs, such as sidewalk, curbing and driveway aprons, installation of missing street trees and replacing dead trees, installation of a split rail fence and gate around the stormwater basin and repairs to areas containing erosion problems. Alternate 1 would include de-winterizing of inlets and manhole covers, street and driveway base repair, water box adjustments, install leveling course prior to street paving, street sweeping/tack coating, replacement of inlet tops as needed, remove inlet inserts/clean inlets, install wearing course asphalt on streets and driveways, paint stop bars. Alternate 2 would include soil amendment in bottom of basin.

One bid was received from Richard T. Barrett Paving Co., as follows:

Base Bid	\$ 93,249.36
Alternate #1	\$143,688.50
Alternate #2	<u>\$ 13,500.00</u>
Total Bid	\$ 250,437.80

The documentation that the sole bidder submitted is being reviewed checking references and verifying that Barrett Paving meets the Township's Responsible Contractor Ordinance. If the bid is non-responsive, the bid will be rejected. Mr. Young also stated that the Township Solicitor has been in touch with the developer's bonding company as to the completion of the improvements.

John Tvarok, resident of Durham Ridge, asked why the developer is being given any consideration as they had 60 days to reply and they have not.

ACTION: MR. GALLAGHER MOVED TO AUTHORIZE THE TOWNSHIP ENGINEER TO PREPARE BID SPECIFICATIONS FOR THE DURHAM RIDGE DEVELOPMENT IMPROVEMENT PROJECT INTO THREE SEPARATE CONTRACTS AS FOLLOWS; CONCRETE, PAVING AND LANDSCAPING IF IT IS DETERMINED THAT THE BID RECEIVED IS NON RESPONSIVE TO THE TOWNSHIP'S RESPONSIBLE CONTRACTOR ORDINANCE. MR. TOSTI SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

11. Consideration of authorizing the sale and disposition of obsolete vehicles.

Ms. Teoli Kuhls advised that four (4) vehicles that are no longer in service in the Township were put out for auction on Municibid. Notice of the public auction was duly advertised in the *Bucks County Courier Times* and proof of publication has been received. The vehicles are a 97 Ford Crown Victoria, 2000 Ford Expedition, 1994 Chevy pickup and a 2000 GMC pickup. We have \$4,995 in revenue from the auction.

ACTION: MR. TOSTI MOVED TO AUTHORIZE THE SALE OF FOUR (4) USED VEHICLES POSTED FOR PUBLIC AUCTION ON JUNE 15, 2016. MR. LEONHAUSER SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

12. Consideration of authorizing the advertisement of an ordinance creating a three-way stop at the intersection of Basil Road and Barnsbury Road.

Ms. Teoli Kuhls advised that a resident's complaint was received about this stop intersection at Basil Road and Barnsbury Road as there is only one stop sign. Scott Sadowsky, Assistant to the Township Manager worked with Chief Bartorilla on this issue and it is the Chief's recommendation to create a 3-way stop intersection at Basil Road and Barnsbury Road.

ACTION: MR. GALLAGHER MOVED TO AUTHORIZE ADVERTISEMENT OF AN ORDINANCE CREATING A 3-WAY STOP INTERSECTION AT BASIL ROAD AND BARNSBURY ROAD. MR. TOSTI SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

13. Consideration of awarding a bid in the amount of \$24,122.00 to Top-A-Court, LLC for the Tennis Court at Firefighters' Park.

Paul Kopera, Parks & Recreation Program Coordinator advised that the Board authorized the advertisement of a bid for the repairs to the tennis courts at Firefighters' Park at their May 2, 2016 public meeting. The ad was published in the *Bucks County Courier Times* on May 12 and May 18, 2016; proof of publication has been received.

The only bidder was Top-A-Court, LLC with a bid of \$24,122.00 for the repair and resurfacing of the courts. The Township has used Top-A-Court successfully on many projects in the

Township parks including the tennis courts at Simmons Park, the basketball court at the Community Park and the hockey rink at Forsythia Crossing Park.

ACTION: MR. TOSTI MOVED TO AWARD A CONTRACT FOR THE REPAIR AND RESURFACING OF THE THREE COURTS AT FIREFIGHTERS' PARK TO TOP-A-COURT, LLC FOR AN AMOUNT NOT TO EXCEED \$24,122. MR. LEONHAUSER SECONDED. MOTION CARRIED BY A VOTE OF 5-0.

14. Ash Tree Management Plan – Debby Lamanna

Debby Lamanna, Director of Parks, Recreation and Community Services presented a power point presentation on the devastating effects of the Emerald Ash Borer on ash trees. The management plan is to remove dead or dying trees near roads, sidewalks, active recreation sites and where property could be at risk. Ms. Lamanna advised that from Fall of 2015 to date 30 ash trees have been removed and 9 have been replaced.

There are currently 544 ash trees that are in locations where they could be hazardous to people or property; 406 are showing signs of infestation; 216 are completely dead; 103 are more than 50% bare and 87 have some die back.

The proposed action is:

- Evaluate the 216 dead trees to determine those that are the most imminent threat to people and how many could be removed with in-house staff.
- Develop a plan to remove 216 dead trees by the end of the year most likely with a combination of in-house staff and contractors.
- Plan to remove the remaining 190 trees during 2017 as the condition of the trees worsens.
- Monitor the 138 health ash trees in the parks and open space.
- Monitor the ash trees in the woodlands for possible hazards or damage to the environment.

The projected 2016-2017 costs to remove and replace using a contractor:

- Removal \$500 per tree \$203,000
- Replacement - \$135 per tree for purchase
\$100 per tree for planting \$ 95,410

Total cost for existing conditions \$298,410

Ms. Lamanna will have a better idea of the cost for the next Board of Supervisors meeting to put a package together to say exactly how many trees will have to be removed by a contractor.

Discussion ensued concerning the future planting of ash trees in the Township and Ms. Lamanna advised that most nurseries are not selling ash trees due to the EAB disease. Ms. Lamanna also advised that twice a year for many years the Township has been participating in a DCNR Program called Tree Vitalize which allows the Township to buy bare root trees with the cost being subsidized by the state.

15. Other Business.

Mr. Pizzo advised that the Board met in Executive Session prior to this evening's Public Meeting for approximately 30 minutes. Present for the meeting were the five Board members, Ms. Teoli Kuhls, Scott Sadowsky and Mr. Pizzo. Two matters of personnel and one pending litigation matter and one potential litigation matter were discussed with no official action taken during the Executive Session and none was required this evening as a result thereof.

Ms. Teoli Kuhls advised that the Township received the Woodbourne Road Quiet Zone Grant in the amount of \$177,000.

Ms. Teoli Kuhls also recognized the entire Township team for the work done on the July 4th Parade stating it was a wonderful community event .

She also advised that the cost of the Skate Park Demolition is zero due to the employees from DPW and P&R checking into the recycling center on Big Oak Road that accepted all of the material from the skate park.

Mr. Tosti asked about the plans for the future of the Oxford Valley Mall and asked Ms. Teoli Kuhls to schedule a meeting with the owners of Oxford Valley Mall.

Mr. Gallagher provided more information about National Night Out Against Crime – Tuesday, August 2, 2016. He also stated that the 4th of July Parade was a success.

Mr. Gallagher stated that Police Officers are doing everything they can to protect everyone and it would not hurt to say thank you.

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

17. Adjournment.

**ACTION: MR. GALLAGHER MOVED TO ADJOURN THE MEETING AT 10:01 P.M.
MR. TOSTI SECONDED. MOTION CARRIED BY A VOTE OF 5-0.**