

BOARD OF SUPERVISORS REGULAR MEETING - VIRTUAL

JUNE 15, 2020 | 7:00 P.M.

PRESENT Municipal Center

MICHAEL KSIAZEK, CHAIRPERSON

TOM TOSTI, SECRETARY

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} BOARD OF SUPERVISORS

PRESENT (via iCloud - GoToMeeting

AMY STROUSE, VICE CHAIRPERSON

ANNA PAYNE

DAWN QUIRPLE

STEPHANIE TEOLI KUHL, TOWNSHIP MANAGER

JAMES ESPOSITO, ESQ., TOWNSHIP SOLICITOR

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

Mr. Ksiazek called the meeting to order at 7:05 p.m. After the Pledge of Allegiance, Mr. Tosti called the roll. Mr. Ksiazek and Mr. Tosti were in attendance along with the Township Manager, Stephanie Teoli Kuhls, and Township Solicitor, James Esposito. Ms. Strouse, Ms. Payne and Ms. Quirple were in attendance via Zoom.

2. Announcements and Special Items.

- a. Next Board of Supervisors Meeting - Monday, July 20, 2020 @7:00 p.m.

Mr. Esposito advised that the Board met in Executive Session this evening prior to the public meeting to discuss litigation, personnel and real estate matters.

- b. Police Officer Swearing-In Ceremony:

Officer Alexa Moors and Officer Matthew Balint

Chief Bartorilla provided a brief background for each of the newly sworn in police officers. The officers were welcomed by the Board of Supervisors.

- c. Presentation of Scholarship Awards by the Middletown Community Foundation

Paula Kearns of the Middletown Community Foundation was present for the presentation of the Scholarships. Mr. Tosti presented the Richard L. Tosti Scholarship (in honor of his father) to Trevor Schoenemann, Neshaminy High School senior, who will be attending Penn State to study Mechanical Engineering.

County Commissioner Diane Marseglia presented the Becky Marseglia Scholarship to Alex Dampman, Neshaminy High School senior, who will also be attending Penn State to study nursing.

d. Recognition of EAC Student Member Jack Brookshaw

Mr. Ksiazek advised that Jack Brookshaw was unable to attend the meeting this evening and read a letter from Steven J. Donohue of the Environmental Advisory Council recognizing Jack Brookshaw for his outstanding contribution to the Middletown community and the environment.

3. **Consent Agenda Items.**

- a. Consideration of authorizing payment of June 15, 2020 Bill List in the amount of \$1,256,711.74.
- b. Consideration of approving the May 18, 2020 Minutes of the Public Meeting of the Middletown Township Board of Supervisors.
- c. Consideration of approving Change Order #1, 2019 Handicap Ramp Program reflecting a balancing in contract work and the completion of the project under budget by Ramos & Associates, Inc., in the amount of \$19,713.
- d. Consideration of authorizing Payment Certificate No. 4 to Ramos & Associates, Inc. in the amount of \$3,509.93 for the 2019 Handicap Ramp Program.

Action: Mr. Tosti moved to approve Consent Agenda Items A thru D as listed above. Ms. Payne seconded. Motion carried by a vote of 5-0.

4. Consideration of authorizing award of the 2020 Road Program Bid to General Asphalt Paving Company of Philadelphia, PA in the amount of \$926,364.75. (Duly advertised in the *Bucks County Courier Times* on April 20 and April 24, 2020; proof of publication has been received.)

Patrick Ennis, Director of Building and Zoning advised there were four (4) bids received and the low bidder for the base bid and the two bid alternates was General Asphalt Paving Co. of Philadelphia. The base bid is milling and paving approximately 3.8 miles of Township roads (Alberts Way, Bernick Drive, Branford Way, Cambridge Drive, Choate Court, Colby Lane, David Drive, Exeter Court, Hanover Court, Heaton's Mill Circle, Heaton's Mill Drive, Huntingdon Place, James Court, Silverlake Road, Swift Road, Township Line Road (RR tracks to bridge), Waldon Road, Windham Drive.) Bid Alternate #1 is parking lot improves and paved walkway construction in the Township parks (Harris Park, Firefighters Park, 700 Hulmeville Avenue). Bid alternate #2 is the improvements of the drainage system at Sycamore Ridge. Bid tabulations for the base bid and alternates #1 and #2 are as follows:

General Asphalt Paving Co.	\$ 926,364.75
James D. Morrissey, Inc.	\$ 953,925.50
Earle Asphalt Co.	\$1,026,168.00
Bencardino Excavating, Inc.	\$1,172,813.13

Mr. Ennis advised that General Asphalt Paving Co. of Philadelphia meets all the requirements under the Responsible Contractors Ordinance. The base bid and alternates will be funded with approximately \$400,000 from the Liquid Fuels Fund with the balance available from the Public Works Capital Road Fund.

Action: Ms. Strouse moved to award a contract to General Asphalt Paving Co. of Philadelphia in the amount of \$926,364.75 for the 2020 Road Paving Program. Mr. Tosti seconded. Motion carried by a vote of 5-0.

5. Consideration of authorizing approval of Ordinance #20-03, authorizing an Early Retirement Incentive Program for the Non-uniformed Pension Plan. (Duly advertised in the *Bucks County Courier Times* on June 8, 2020; proof of publication has been received.)

Ms. Teoli Kuhls explained the Early Retirement Incentive Program (ERIP) for participants in the Non-uniformed Pension Plan has been developed as part of an overall effort to reduce expenditures in the General Fund. Ms. Teoli Kuhls further explained the impact to the General Fund will be the reduction in expenditures in 2020 and 2021 for salary and benefits, based upon the number of participants in the ERIP. There are 16 employees eligible for participation. Vacancies created from the ERIP will not be filled until the COVID-19 pandemic crisis is over, with one exception. If a department's operation is jeopardized by multiple vacancies, replacements will be considered as necessary.

Action: Mr. Tosti moved to approve Ordinance #20-03 establishing an Early Retirement Incentive Program for the Non-uniformed Pension Plan. Ms. Quirple seconded. Motion carried by a vote of 5-0.

6. Consideration of approving a Lease Agreement between Premier Media, LLC and Middletown Township.

Mr. Esposito explained the Township owns a small parcel of land located at the northeast corner of South Flowers Mill Road and Business Route 1, in front of the Fred Beans Hyundai car dealership and across from Brian's Harley Davidson. Premier Media is proposing to rent this land from the Township to install a 300 square foot one-side monument display digital billboard.

Mr. Esposito said under the Township's Zoning Ordinance this location is one of the three locations permitted for such a billboard. Mr. Esposito further explained the terms and conditions of the agreement.

Action: Mr. Ksiazek moved to authorize Middletown Township to enter into the proposed Lease Agreement with Premier Media, LLC for the property owned by Middletown Township located at the northeast corner of South Flowers Mill Road and Business Route 1, for the purpose of a Monument Display digital billboard. Mr. Tosti seconded. Motion carried by a vote of 3-2 with Ms. Strouse and Ms. Payne opposed.

7. Consideration of authorizing approval of Resolution #20-16R, Inter-municipal Transfer of Eating Place Liquor License and Conditional Licensing Agreement – Giant, North Flowers Mill Road.

Mr. Esposito read the following email into the public record:

"Hello my name is Chaman Popli. I am the owner of Golden Beer Distributor Inc. located in the Flowers Mill Shopping Center. I object to the Giant being able to sell beer as it will hurt my business very much. I am going to file a motion to intervene in the Court action filed by Giant when they appealed your decision. Please do not approve the resolution tonight. Thank you. Popli"

Mr. Esposito explained that Giant Food Stores, LLC (Flowers Mill) applied for an Inter-municipal Liquor License Transfer to permit the transfer of a liquor license currently located in Warrington Township to Giant's grocery store located in the Shoppes at Flowers Mill. As clarification, whenever a liquor license is proposed to be transferred in from a different municipality, the Township must approve such transfer. Approval is not required if a liquor license is purchased that is already located within the Township. Such liquor license would permit Giant to sell beer and wine for on-premises consumption and "to go" from the grocery store.

At its February 17, 2020 regular meeting, the Board of Supervisors denied Giant's application. Giant subsequently appealed the Board's denial to the Court of common Pleas. No other parties joined in the appeal.

Giant has proposed to settle the Appeal with the Township by agreeing to enter into a Conditional Licensing Agreement with the Township. The Conditional Licensing Agreement would allow the transfer of the liquor license by having the Township execute an approval Resolution for the transfer, but it places certain restrictions and conditions upon Giant for the license operation.

Mr. Esposito advised that the Conditional Licensing Agreement provides the Township a formal written agreement that the Township can legally enforce if Giant does not adhere to such conditions. As a clarification, Giant must still get the approval of the Pennsylvania Liquor Control Board for the purchase of the liquor license.

Mr. Tosti questioned the sale of hard liquor.

Action: Mr. Ksiazek moved to settle the Inter-Municipal Liquor License Transfer appeal of Giant Food Stores, LLC, enter into the proposed Conditional Licensing Agreement, and permit the transfer of Pennsylvania liquor license number E-4991 from Warrington Township to Giant Food Stores, LLC in Middletown Township located at 168 North Flowers Mill Road, Langhorne. Ms. Strouse seconded. Motion carried by a vote of 3-2 with Mr. Tosti and Ms. Payne opposed.

8. Building and Zoning Department Software:
 - a. Consideration of authorizing execution of a Termination Agreement and Mutual Release with Tyler Technologies.

Ms. Teoli Kuhls advised that the Building and Zoning Department moved to a new permitting and mapping software program, Energov, in 2019. This program is affiliated with the Finance software, Incode – both provided by Tyler Technologies. It was hoped that this software would significantly improve customer service, streamline processes and create efficiencies. Unfortunately, the product did not meet our expectations. Most significantly, the transfer of data from the old system into the Energov system resulted in a situation where historical permit data was not integrated into the live program causing the staff to use the paper files and property cards.

Ms. Teoli Kuhls stated that Mr. Esposito has been working with Mr. Ennis and her over the past few months to terminate the five-year agreement with Tyler Technologies. Mr. Esposito has been successful in his negotiations and a Termination Agreement is being proposed for the Board's consideration that will relieve the Township of the obligation to stay with Energov. The Township has not paid the budgeted \$19,000 annual fee to Tyler in 2020.

Action: Mr. Ksiazek moved to authorize execution of a Termination Agreement and Mutual Release with Tyler Technologies. Mr. Tosti seconded. Motion carried by a vote of 5-0.

- b. Consideration of authorizing execution of a service agreement with TRAIRS by McMahan to add permit and inspection modules.

Ms. Teoli Kuhls and Mr. Ennis are recommending that the Township move to TRAIRS, the product that is currently used for MTgo and the DPW work order system. We have been extremely pleased with the TRAIRS product and believe that adding permitting and mapping will only improve the ability to provide streamlined electronic services to Township residents.

The initial cost to transfer data to TRAIRS system will not exceed \$20,000. Once the system goes live, there is a \$1,250/month cost. There is \$19,000 included in the 2020 budget for permitting software.

Action: Mr. Ksiazek moved to authorize execution of a service agreement with TRAIRS to add permit and inspection modules. Ms. Payne seconded. Motion carried by a vote of 5-0.

9. Middletown Township Economic Reopening Task Force Update
Vice Chairperson Amy Strouse

Ms. Strouse provided an update on the Middletown Township Economic Reopening Task Force. Bucks County has recently moved to the yellow phase and will be moving to the green phase in the next several weeks. Many questions have arisen from residents and small business owners. Middletown wanted to be a resource to help small businesses reopen.

The Middletown Township Economic Reopening Task Force is made up of:

James Bayer, Organizer/Field Representative, International Brotherhood of Electrical Workers (IBEW) Local 269

Paul Bencivengo, President & Chief Operating Officer, Visit Bucks County

Rachel Bullene, Owner, Mam'Zelle Hair Salon

Jason Green, Owner, Jay's Steak and Hoagie Joint
Gwen Karpf, Mall Manager, Oxford Valley Mall
Robin Kemmerer, Owner/Broker, Robin Kemmerer Associates, Inc.
Missy Kitzmiller, Agent, Robing Kemmerer Associates, Inc.
Mike Ksiazek, Chairperson, Middletown Township Board of Supervisors
Jim Merrill, President & Chief Executive Officer Inspire Federal Credit Union
Amy Strouse, Vice Chairperson, Middletown Township Board of Supervisors
Stephanie Teoli Kuhls, Township Manager, Middletown Township
Cathy Valeriano, Park President, Sesame Place
Nick Valla, Management Analyst, Middletown Township

Ms. Strouse thanked the members of the Task Force for all of their help during this trying time. The Township has free sign packages for small businesses in the Township that can either be picked up at the Municipal Building or dropped off at the business.

Mr. Tosti thanked Ms. Strouse and all the members of the Task Force. The Township is out ahead of the surrounding communities with our sign program and work with local businesses. Now that the Township is in the yellow phase, are we going to continue to work with the property owners and is there a plan for when we roll out to the green phase.

Ms. Strouse explained the next phase and also stated that the pace of the Task Force will be reduced.

Mr. Ksiazek thanked Ms. Strouse and the members of the community for the work done during the pandemic.

10. Consideration of authorizing approval of Resolution #20-17R, establishing guidelines for outdoor dining and outdoor sales of merchandise.

Mr. Esposito explained the reasoning and need for the resolution for Outdoor Sales of Merchandise and Dining for Existing Businesses during the ongoing Novel Coronavirus ("COVID-19") Pandemic.

On April 22, 2020, the Governor issued a three-phase (red, yellow and green) county-by-county reopening plan, entitled the Process to Reopen Pennsylvania, whereby restrictions on businesses and social distancing guidelines are eased at each phase based upon public health indicators, including the number of new, confirmed cases in each Pennsylvania county. The Governor shifted Bucks County, Pennsylvania from the red phase to the yellow phase on Friday, June 5, 2020.

On May 27, 2020, the Governor stated that as of Friday, June 5, 2020, businesses located in counties in the yellow and green phases may allow outdoor dining and retail services. However, in doing so, the Governor also reiterated that businesses and patrons must continue to comply with the social distancing and workplace safety guidelines issued by the United States Centers for Disease Control, the Pennsylvania Department of Health, and the regulations of all other federal and state regulatory agencies. The Governor also issued strict, mandatory guidelines for restaurants.

As a result of these developments regarding outdoor dining and retail businesses located in the yellow and green phases, the Bucks County Planning Commission researched the issue and provided its own guidance to municipalities. Middletown Township desires to encourage the use of outdoor dining.

Action: Ms. Strouse moved to adopt Resolution #20-17R, establishing guidelines and policies for outdoor sales of merchandise and/or outdoor dining for existing businesses in Middletown Township during the Coronavirus Pandemic. Ms. Payne seconded. Motion carried by a vote of 5-0.

11. Other Business.

Mr. Tosti thanked the Board for having this conversation about policing. He is glad that the Board is upfront about this situation. Residents know that the Township supports the Black Lives Matter and the police department. He has seen on social media that people are upset about wearing masks and asked that everyone have the common courtesy to wear masks as the COVID-19 virus is not gone.

Ms. Strouse also thanked the Board for having this conversation about policing.

Ms. Teoli Kuhls thanked the Police Department, Fire & Emergency Management and the Department of Public Works for the great job they have been doing during the pandemic.

12. Public Comment.

Mr. Ksiazek read the following Public Comment letter into the record:

Jacob Gilbert, 1640 Brownsville Road, Langhorne, PA 19047

"I would like to have the board of supervisors commit to an immediate freeze in the Police Services budget. The Police Services budget has increased over \$1.8 million from 2017 and is approximately 50% of the total operating expenditures. The \$432,000 increase to the budget in this fiscal year could have been better spent on so many other services and doesn't seem to be related to crime or other demographics. That says nothing about the increase in capital spending.

Related, the "History" section incredibly leaves out any of the storied racist past of Levittown and, despite the continued use of a racist name for the high school's mascot, says nothing of the Native Americans who lived here before we forced them out.

We living in the suburbs, a place where generational wealth was created for white people, have a responsibility to do better. Do not continue to pour money down the drain.

The 2020 budget opens with the first service provided being 24 hour police protection. You should be rethinking the allocation of those resources and the way you serve the township."

Mr. Ksiazek said it is timely and relevant to be having a conversation about policing. Every community needs to make a decision on what makes the most sense for their community.

Mr. Ksiazek said he is personally not in favor of defunding the Police Department in Middletown Township. That's not to say that it wouldn't be helpful and reasonable to look into the police budget.

The Middletown Township Police Department is an accredited department and is one of only 110 of the 1,000 police departments in the Commonwealth that have this accreditation. Our officers are highly trained and the Police Department is reviewed every 3 years by a peer review panel and continually receives training as follows: 24 hours use of force; 8 hours de-escalation of conflict training, 8 hours racial and ethnic bias training; gender bias training and domestic violence training, lesbian, gay, bisexual and transgender training and Community Policing and problem solving training.

13. Adjournment.

Action: Mr. Tosti moved to adjourn the public meeting of the Middletown Township Board of Supervisors at 8:19 pm. Ms. Payne seconded. Motion carried by a vote of 5-0.