

Board of Supervisors Regular Meeting

Monday, February 5, 2024 | 7:00 p.m.

1) Call to Order, Pledge of Allegiance cherish

Mr. Ksiazek called the meeting to order at 7:00 p.m.

2) National Anthem performed by Dakata Yates, 2024 Teen Talent Competition Winner

Mr. Ksiazek welcomed Dakota Yates to the dais to perform the National Anthem.

He also congratulated Ms. Yates on winning the 2024 Teen Talent Competition.

3) Roll Call

After the Pledge of Allegiance Ms. Quirple called roll. Supervisors Ksiazek, Payne, and Kane attended the meeting along with the Township Manager Stephanie Teoli Kuhls, Assistant Township Manager Nick Valla, Solicitor James Esposito, and Township Engineer Isaac Kessler. Supervisor Hannah attended virtually.

Ms. Quirple announced that Chief Joseph Bartorilla, Director of Finance Mega Bhandary, Director of Building and Zoning, Jim Ennis, and Director of Public Works, Eric Gartenmayer, and Director of Parks & Recreation, Paul Kopera, were in attendance.

4) Upcoming Meetings & Events

- a) Next Board of Supervisors Meeting – scheduled for Monday, March 11, 2024, at 7:00 p.m.
- b) Parks & Recreation Seminars (Pre-registration is required)
 - Women and Finances, Tuesday, February 8th, starting at 6:30 p.m.
 - Single Use Plastic; Tuesday, February 20th starting at 6:30 p.m.

5) Special Items

- a) Swearing in of Officer Roderic Rocher

Chief Joseph Bartorilla provided a brief introduction of Police Officer Roderic Rocher. He shared that Officer Rocher moved from Chicago to Philadelphia in 2019 to become a Philadelphia Police Officer. Officer Rocher attended and graduated from the Philadelphia Police Academy, and during his short career with Philly PD, he worked in the 22nd and 15th Districts. He has an associate degree from Wilbur Wright Community College in Chicago.

Chief Joseph Bartorilla noted that he is happy to have him join us as the newest officer with the Middletown Township Police Department.

Officer Rocher was then sworn in as a Middletown Township Police Officer by Mr. Ksiazek.

b) Black History Month Proclamation

Mr. Ksiazek read the proclamation out loud.

6) Public Comment. *Non-Agenda Items only.*

None.

7) Consent Agenda Items

- a) Consideration of authorizing payment of February 5, 2024, Bills List in the amount of \$3,025,181,45.
- b) Consideration of approving the January 8, 2024, Minutes of the Public Meeting of Middletown Township Board of Supervisors.
- c) Consideration of approving Resolution #24-05R, for acquisition of 1129 Rising Sun Avenue.
- d) Consideration of approving Resolution #24-06R, for application to the Community Development Block Grant (CDBG) Program for ADA curb ramps.

Action: Ms. Payne made a motion to approve consent agenda items as A-D, seconded by Ms. Quirple. Motion carried by a vote of 5-0.

8) Consideration of Jefferson Avenue Subdivision Land Development Approval, Jefferson Avenue, Langhorne, PA, TMP #22-045-031, 22-036-085, and 22-036-085-002, S/LD #23-10, R2 – Residence District.

Benjamin Barland, Holmes Cunningham Engineering, on behalf of the Applicant, is proposing to consolidate three (3) existing lots and then subdivide the parcel into two (2) lots in the R2 – Residence District. Mr. Barland noted that both lots will contain a proposed single family detached dwelling.

Mr. Barland noted that the applicant will comply with all review letters from the Township professional staff. He added that the applicant is requesting waivers from providing curbing and sidewalk as along Jefferson Avenue, there are no curbs and sidewalks a significant distance in either direction.

Mr. Ksiazek commented that the Applicant will contribute a sum comparable to the cost of the sidewalk. Mr. Barland confirmed that was correct.

Action: Ms. Quirple motion to grant Lot Consolidation, Subdivision & Land Development Plan approval for Jefferson Avenue, S/LD #23-10, with the following conditions:

1. Applicant shall comply in full with all requirements of the Middletown Township subdivision and land development ordinance and the Middletown Township zoning ordinance, unless relief was granted by the body having jurisdiction.

2. Any remaining review comments shall be addressed in full.

3. Applicant shall provide a fee in-lieu of installing curbs and sidewalks along both sides of the proposed land development.

Seconded by Ms. Payne. Motion carried by a vote of 5-0.

- 9) Consideration of authorizing possible Settlement of Zoning Hearing Board Appeal (ZHB#23-32) 1700 Woodbourne Road.

James Esposito, Township Solicitor began by explaining that the Board received the Settlement Proposal from Woodbourne Ridge Associates, LLC that is related to an appeal of a Zoning Hearing Board (ZHB) case for the property located at 1700 Woodbourne Road, formerly Eisenhower Elementary School. He noted that the ZHB denied their application for relief which included a variance to permit town homes, which is not permitted in the P – Professional Zoning District. The Applicant appealed the ZHB’s denial.

Mr. Esposito noted that the Township and Applicant have been in discussion since October 2023 to amend the plans with conditions that were proposed by the Applicant. He added that the plans will be reviewed by Robert Gundlach, Attorney for the Applicant.

Mr. Gundlach began his presentation by noting that Mr. Esposito correctly described the property located at 1700 Woodbourne Road. He noted that the building is currently being used for institutional purposes which is non-conforming in nature and the building is in extremely poor condition.

He explained that Westrum Development worked with and spoke with many of the neighboring property owners within Cobalt Ridge. He added that those neighbors addressed specific concerns with the Applicant, and the Applicant provided information and possible solutions to those concerns during the settlement negotiations with the Township. The Applicant obtained and supplied Letters of Support from about 5 of the directly abutting neighbors.

After numerous discussions between the Applicant's consultants, Township Solicitor, Township Director of Building and Zoning, and the Township Engineer, a list of possible conditions.

Mr. Gundlach reviewed the conditions in detailed, including landscape buffer shall be installed on the Applicant's side of the proposed fence that is double the amount of landscape plantings required under applicable ordinances; installing fencing along Cobalt Ridge Drive North homes; no sheds, pools, recreational equipment shall be permitted within the rear or side yards; and a Planned Community Association will be formed to enforce restrictions, maintain the proposed perimeter fence and landscape buffers, require that all trash cans be stored in garages, and contract with one company to mow all lawns within community.

Mr. Gundlach explained that the Applicant agreed to work with the Township to establish a Home Purchaser Assistance Trust Fund, via a qualified non-profit entity, to make second mortgage loans, with no interest, to qualified residents of Bucks County, for all or a portion of their required deposit, to purchase homes in Middletown Township. He added that the Applicant will contribute to this Trust Fund in the amount of \$200,000 at the time of plan recordation.

Mr. Ksiazek thanked Mr. Gundlach, Westrum Development, and Mr. Esposito for their hard work and effort put into making significant changes to this plan that residents would welcome. He significantly noted the designated left turning lane for Cobalt Ridge neighborhood.

Ms. Kane commended the ZHB for their hard work and efforts on the revised plan. She added that the plan checks the box adding items such as: more open space, less impervious surface, additional buffering, and aesthetics, creating a turn lane on Woodbourne Road into Cobalt Ridge, the support of the surrounding residents, less traffic impact, and community improvements.

Ms. Quirple echoed Ms. Kane's comments.

Ms. Payne confirmed that the Homeowner's Association (HOA) would be responsible for snow removal. Mr. Gundlach confirmed that the HOA would be responsible for the maintenance of the roads, landscaping, and mowing of retention basins, and snow removal.

Ms. Payne also commended the Applicant on the establishment of the Home Purchaser Assistance Trust Fund.

Mr. Ksiazek commented that Ms. Payne deserves the credit for that initiative and has pushed for attaining affordable housing in many Land Development projects. He thanked Ms. Payne for her efforts.

Mr. Esposito concluded for the residents that the Applicant will still need to make an application and go through the Land Development Process, including having the fully engineered plans reviewed by the Township consultants, Township Planning Commission, Bucks County Planning Commission, and then reviewed and approved by the Board of Supervisors.

Ms. Kane questioned if the Applicant anticipates a large school impact. Mr. Gundlach responded that at this moment is hard to gauge as this housing type will attract professionals with no children and others that have children and then move to a larger home.

Action: Ms. Quirple motion to approve the Township entering into the proposed Stipulation of Settlement, including the attached exhibits, with the Applicant, for the Land Use Appeal of Woodbourne Ridge Associates, LLC, Bucks County Court of Common Pleas No. 2023-04912, and authorize the Township Solicitor, consultants and staff to take the necessary actions to carry out the terms of such Stipulation of Settlement, seconded by Ms. Payne. Motion carried by a vote of 5-0.

10) Consideration of authorizing Deed Restriction of Firefighters' Park.

Paul Kopera, Director of Parks and Recreation, noted that at the August 15, 2022, Board Meeting, the Supervisors authorized the Township Solicitor to purchase the 1.94-acre parcel from Comcast in February 2023. He added that funding used to purchase the open space property was provided by a \$10,000 PECO Green Region Grant.

He explained that as the grant paperwork was being closed out, the grant administrator asked for the Outdoor Recreation (OR) Zoning to be codified and this deed restriction will satisfy the PECO Green Region Grant Administrator.

Mr. Kopera noted that the 13-acre Firefighters' Park as well as the adjoining 2-acre addition from this parcel is currently all zoned OR. The Township will always keep this 15-acre parcel as a public park.

Ms. Kane thanked Mr. Kopera for working on this and preserving as much Open Space as we can as it is very important to the Township.

Mr. Kopera thanked the Board for allowing the acquisition of the property.

Action: Mr. Ksiazek made a motion to adopt the Declaration of Covenants, Conditions and Restrictions on the parcel number 22-020-041-002 also known as the Comcast parcel adjoining Firefighters Park that it will always be zoned OR, seconded by Ms. Quirple. Motion carried by a vote of 5-0.

11) Consideration of authorizing a contract with Armour & Sons of Langhorne, PA for the purchase and installation of a hockey rink and lighting at Forsythia Crossing Park.

Mr. Kopera noted that this is a consideration of entering into a contract with Armour & Sons to redo amenities at Forsythia Crossing Park. He explained that the Forsythia Crossing Hockey Rink is a high-use amenity and has reached the end of its useful life.

Mr. Kopera and the Parks & Rec Department recommends replacement of the old equipment with a new asphalt and acrylic surfacing and two new Musco 50' Light poles. The proposed CoStars contract with Armour & Sons in the amount of \$500,000 will be completely paid for by DCED Grant that the Township was awarded in 2023. The project will be performed by COSTARS vendors Armour & Sons and subcontractor James D. Morrissey.

He explained that this hockey rink is the only one in Middletown and it is a non-traditional amenity that the Township offers. The lights would allow the community to play longer during the winter months when hockey season is in full swing.

He commented that if the contract is awarded tonight that he has hopes for the work to be completed between mid-March and mid-May.

Mr. Ksiazek expressed that this is a great fully funded grant project and expressed his appreciation to Mr. Kopera and Mr. Valla for their work on this project.

Mr. Kane questioned the life span of the new hockey rink. Mr. Kopera fully expects the new hockey rink to last 22 years and with the LED lighting to last 25 years.

Ms. Kane noted that the LED lighting costs very little to operate. Mr. Kopera commented that it is typically an annual cost of \$2,500 to operate.

Ms. Payne questioned when the residents should expect the hockey rink to reopen. Mr. Kopera responded that he expects everything to be reopened by June.

Action: Ms. Payne made a motion to execute a contract for the purchase and installation of a new hockey rink and new Musco LED lighting from Armour & Sons Electric, Inc. at Forsythia Crossing Park in the amount of \$500,000, seconded by Ms. Kane. Motion carried by a vote of 5-0.

12) Consideration of authorizing the purchase of three (3) vehicles and one (1) truck for the Police Department.

Joseph Bartorilla, Chief of Police shared that Middletown Township was awarded 2024 Redevelopment Authority (RDA) funding which includes the purchase of vehicles for the Police Department. This purchase would include two (2) 2023 Dodge Charger Police AWDs to be fully marked and equipped patrol units. One (1) 2023 Dodge Charger Police AWD to be

unmarked. One (1) 2023 Ford F-150 Police Responder 4X4 WB XL – to be fully marked and equipped patrol unit.

Chief Bartorilla expressed appreciation for the RDA as it has been an asset to the Police Department providing close to \$2 million dollars in grant funding over the years to help purchase police vehicles.

The cost of a police vehicle, from the purchase of the vehicle itself to the upfitting and equipment that goes inside of the vehicle has increased tremendously over the past 10 years. He added that what used to cost \$25,000 for a new police charger in 2014 is now currently \$37,000. He noted that upfitting has increased by almost \$10,000 per vehicle, adding the expenses of the in-car computer, camera, and radio. He also commented that police vehicles do not last as long as they did five to ten years ago.

Chief Bartorilla shared that a police vehicle is the single most critical piece of equipment essential to a police department's function and how the police department safety gets to emergency calls for service. He explained that due to the RDA grant funding not covering the entire cost, a supplement will be needed from the funding from the Capital Fund.

These vehicles were budgeted for in the 2024 Capital Budget. The RDA awarded \$169,405.00 for Middletown Township Police Department vehicles. This request will complete the full 2024 authorized purchase of police vehicles. The Township is supplementing \$70,449.00 of the purchase through the Capital Fund.

Ms. Kane questioned if the vehicles being replaced are very old vehicles. Chief Bartorilla explained that police vehicles are kept for a very long time, in fact sometimes too long and become a safety issue.

Chief Bartorilla noted that he understood that the budget is tight this year, but he would not propose this unless it was a necessity to the police department.

Action: Ms. Kane made a motion to authorize the purchase of four (4) police vehicles, the upfitting, decaling, and in-car radios for the total cost of \$239,854.00, seconded by Ms. Payne. Motion carried by a vote of 5-0.

13) Consideration of Authorizing the Purchase of a License Plate Reader (LPR) System to be Placed at Three (3) Township Intersections.

Chief Bartorilla explained that the Middletown Township Police Department is requesting three fixed location license plate readers (LPR) at three key busy intersections in the Township. He noted that this will be an addition to the two fixed LPRs already in place at East Lincoln Highway at Interstate 95 and Route 413 at the Bypass intersections.

He shared that the LPR systems have been proven to improve crime solving through information sharing, to help locate missing and endangered persons, conducting traffic studies at busy intersections by compiling vehicle volume, and to allow for rapid identification and searching of vehicles when time is critical. He added that LPRs are an invaluable resource when utilized for their intended purpose, enhancing the safety of a community.

Chief Bartorilla noted that the purchase will be fully funded through the Redevelopment Authority (RDA) of Bucks County Municipal Grant Program, which awarded the police department a total of \$15,900 in grant funding toward the of the LPR system. This grant amount will pay for the system in full for the first year, with recurring payment of the same amount due each year thereafter. His intention is to apply for continuing RDA municipal grant funding for the ongoing annual cost.

With the Board's approval the LPR system would be installed and operational at each intersection by early April at East Lincoln Highway and Woodbourne Road (four camera intersection), New Falls Rd. & Rt. 413 (two camera intersection) and New Falls Rd. & Oxford Valley Rd (two camera intersection).

Mr. Ksiazek commented that he feels that the LPRs are invaluable tools to solve and prevent crime. He added that by doing a cost benefit analysis the benefits outweigh the costs.

Ms. Quirple thanked Chief Bartorilla for the detailed information.

Ms. Kane confirmed that this is a five-year contract. Chief Bartorilla confirmed that was correct.

Action: Ms. Payne made a motion to authorize the purchase of PlateLogiq License Plate Reader System, to be installed at E. Lincoln Hwy. & Woodbourne Rd., New Falls Rd. & Rt. 413, and New Falls Rd. & Oxford Valley Rd, seconded by Ms. Quirple. Motion carried by a vote of 5-0.

14) Consideration of authorizing the purchase of one (1) dump truck Department of Public Works (DPW) Department.

Eric Gartenmayer, Director of Public Works explained that the Department of Public Works Department will be replacing a 2009 F-550 dump truck with the approval of a purchase of a 2023 F-600 dump truck. He noted that he was able to find a brand new 2023 model which will help with cost savings.

Mr. Gartenmayer added that the funding for this purchase will be through 2024 RDA grant funding.

Ms. Kane commented that this is one of the vehicles being purchased through RDA grant funding. Mr. Gartenmayer confirmed that is correct and that there is another dump truck and pick up truck that will be purchased. He added that he is currently working on the pricing of those purchases.

Action: Ms. Kane made a motion to approve to authorize the purchase of one (1) 2023 F-600 4x4 SD Regular Cab 145" WB DRW XL, from Chapman Ford of Horsham, PA in the amount of \$68,090. one (1) Galion stainless steel dump body, (1) spreader, (1) plow, and hydraulic set up from U.S. Municipal of Huntingdon, PA in the amount of \$58,068 for a total of \$126,158, seconded by Ms. Quirple. Motion carried by a vote of 5-0.

15) 2024 Road Program Bids:

- a) Consideration of authorizing advertisement of the 2024 Road Program Bid.

Isaac Kessler, Township Engineer noted that the bid documents for the 2024 Road Program are being finalized and at this time would like to request authorization to advertise for a public bid.

Mr. Kessler explained that this year's Road Program consists of milling and overlaying several roadways throughout the Township in need of resurfacing. He reviewed the locations in this year's Road Program which are the following: Robinwood Drive, Robinwood Circle, Wood Court, Franklin Road, Country Lane, and S. Flowers Mill Road.

He noted that the bid is being prepared to complete the bid most effectively within the established budget under the Township's 2024 Capital Improvement Projects. The total mileage of milling and repaving for the roadways listed above is 1.4 miles.

Mr. Kessler concluded that it is anticipated that the recommendation for awarding the bid will be ready at the March 11th Board of Supervisors Meeting. He added that the scheduling of the roadway resurfacing work is expected to begin after June 14th.

Ms. Kane requested Mr. Kessler to remind the community how the Township assesses which roads will be covered under the program and when. Ms. Kessler provided a detailed response for Ms. Kane.

Action: Ms. Payne made a motion to authorize the advertisement to solicit bids for the Township's 2024 Road Program, seconded by Ms. Quirple. Motion carried by a vote of 5-0.

- b) Consideration of authorizing advertisement of the S. Flowers Mill Road Drainage Project.

Mr. Kessler noted that the bid documents for the S. Flowers Mill Road Drainage Project are being finalized and at this time we would like to request authorization to advertise for public bid.

Mr. Kessler explained that the drainage project was identified and prepared as an alternate bid to last year's Road Program, but several factors led to it being removed from that scope of work and parsed out to its own drainage project. He noted that this

project is now being prepared to be bid on independently from the Road Program and to be completed prior to the 2024 Road Program paving of S. Flowers Mill Road between E. Maple Avenue and Lincoln Highway.

Mr. Kessler stated that the improvements will reconstruct the pipe network and install piping to convey captured stormwater underground all the way to the culvert, removing the discharge to the roadside.

Ms. Quirple questioned the time frame to complete the proposed work. Mr. Kessler hopes for the project to be completed prior to the start of paving in June. He added that the road will not be closed, and traffic control will be there to help guide traffic.

Action: Ms. Payne made a motion to authorize the advertisement to solicit bids for the S. Flowers Mill Road Drainage Project, seconded by Ms. Kane. Motion carried by a vote of 5-0.

16) Consideration of approving Volunteer Firefighter and EMS Incentive.

Nick Valla, Assistant Township Manager reviewed that 2018, as an effort to retain volunteer firefighters and emergency responders, the Board of Supervisors instituted a Volunteer Firefighter & EMS Incentive Program. Mr. Valla noted that the program provides \$250 to active volunteers of each of the Township's four fire companies and the Penn-del-Middletown Emergency Squad (PMES). He added that there are a total of 112 volunteers across the five agencies for the year 2023.

Ms. Kane shared her excitement for this program and noted that she hopes the Township can make it even better for the future.

Action: Ms. Payne made a motion to authorize the 2023 Volunteer Firefighter and Emergency Response Incentive Program, seconded by Ms. Kane. Motion carried by a vote of 5-0.

17) Discussion of CSX litigation.

James Esposito, Township Solicitor noted that as the Board has been aware that the Township has been in litigation with CSX since 2015 related to blockages of the roadway by CSX trains at the Woodbourne Road crossing. The CSX train would periodically block the roadway for an extended period causing a backup of traffic going both ways. He noted that in 2015, Middletown Township Police Department began issuing citations to CSX for such blockages based on a Pennsylvania state anti-blocking statute which requires no trains to block vehicular traffic for more than 5 minutes.

Mr. Esposito explained that to gain the attention of CSX to start working on resolutions, the Middletown Township Police Department started issuing citations to directly to the train conductor. CSX appealed the criminal citations to the Court of Common Pleas and filed a Civil Action against the Middletown Township Police Department and Township to show that the Federal law preempted the state anti-blocking statute.

He noted that this litigation has been held up in the courts for some time and the Township has tired to come to some kind of resolution with CSX and there has been no desire to do so. He reviewed in detail two similar cases that came to light that unfortunately did not help the Township's cause. He added that for these cases, County court did find that the Federal laws did preempt the same anti-blocking statute that the police used to adhere the issue the citations.

Additionally, Mr. Esposito shared that CSX appealed a criminal citation that was issues by the Township police department to the Bucks County Court of Common Pleas and the Judge agreed with CSX that the Federal laws did preempt the same anti-blocking statute.

With these two cases, he noted that the Township does not feel that it is worth the Township's time, resources, and money to keep fighting the cases with the Court of Common Pleas. He added that CSX has proposed a mutual dismissal of the cases, that in return they would dismiss the Civil Action that they filed against the Township and Police Department if we dismiss the criminal actions.

Mr. Esposito reviewed alternatives to keep moving forward against CSX.

Mr. Ksiazek expressed his frustration with the amount of time that CSX trains have block roadways, specifically Woodbourne Road. He thanked Chief Bartorilla and Mr. Esposito for their efforts that they have made to get relief for the residents of the Township. He encourages Mr. Esposito and his office to pursue any other options that come to light.

Chief Bartorilla commented that as a police department he feels that we have done everything could over the nine plus years that he has been here to remedy the problem. He noted that he respects and agrees with the decision that the Board makes going forward.

Mr. Ksiazek added that he hopes the residents understand that the Middletown Township Police Department has done literally everything possible thing it could do to try and counter the situation. He noted that Chief Bartorilla mentioned that it is the public safety issue such as emergency vehicles not able to get through.

Action: Ms. Quirple motion to approve the Township entering into the proposed Agreement for Dismissal with CSX for both the criminal citation appeals and the civil lawsuit in the Bucks County Court of Common Pleas, and authorize the Township Solicitor to take the necessary actions to carry out the terms of such Agreement for Dismissal. Further, we authorize the Township Solicitor to take actions with the Surface Transportation Board against CSX, seconded by Ms. Payne. Motion carried by a vote of 5-0.

18) Other Business.

Mr. Kessler noted that there are plans that need signatures.

Mr. Valla shared that the Township is the recipient of an ARLE Grant which is funded by the Red-Light Enforcement Program in Philadelphia, Montgomery, and Bucks Counties, which install modern pedestrian equipment at eight intersections along Woodbourne and New Falls corridor.

Mr. Ksiazek thanked Mr. Valla for his efforts in procuring this grant.

Mr. Esposito announced that the Board of Supervisors held an executive session prior to this meeting to discuss ongoing litigation and personnel matters

Ms. Teoli Kuhls recognized the efforts of the Middletown Township Police Department over the past week with their diligent, hard work and long hours led by Chief Bartorilla and Captain Pete Feeney.

Ms. Payne echoed Ms. Teoli Kuhls comments by added thanking the first responders who responded to the horrific incident that had happened. She stated that the residents are cared for and supported and will do whatever is necessary to get the community through this.

Mr. Ksiazek recognized the incredible work of our police department by controlling the scene and dealing with around-the-clock news. He added that he is proud of the police department, who protect our residents.

19) Adjournment.

Ms. Payne moved to adjourn the public meeting of the Middletown Township Board of Supervisors public meeting at 8:24 p.m., seconded by Ms. Quirple. Motion carried by a vote of 5-0.