

The regular meeting of the Middle Smithfield Township Board of Supervisors was held on Thursday, November 12, 2009 at 9:00 a.m., Scott R. Schaller presiding.

The following members were present: Scott R. Schaller, Robert (Bob) Spano, Sr., and Ron Clewell. Also present were Township Attorney Jennifer Ann Wise, Attorney Josele Cleary, Township Engineer R. Douglas (Doug) Olmstead, Jr., Michele Clewell, Donna Kenderdine and numerous township residents.

Scott Schaller stated that some of the comments he made at the previous meeting revolving around the secretary's tapes, minutes and drafting of those minutes may have lead some members of the public to believe he was referring to Michele Clewell and/or Sherry Predmore. Supervisor Schaller stated clearly that he was not referring to Mrs. Clewell or Mrs. Predmore but another committee of the township and its secretary. He went on to say that he has never that a problem with the way minutes are transcribed by Michele Clewell or Sherry Predmore and thanked them for their service.

Minutes from the October 8, 2009 meeting were approved upon a motion of Scott Schaller seconded by Ron Clewell. Motion carried 3-0.

Payment of the listed payables was authorized by a motion of Scott Schaller seconded by Bob Spano. Motion carried 3-0.

		Met-ed	\$2,232.33
Payroll 10/16/09	\$53,836.94	Miggy's Corp 5	\$105.86
Payroll 10/30/09	\$43,551.67	Morgan Hallgren	\$102.00
Payroll 11/13/09	\$40,771.74	My NJ Office	\$89.85
209 Enterprises	\$964.76	Neopost Leasing	\$190.00
A-Mart	\$26.55	P & S Garage	\$136.85
AAA Recycle Mgmt	\$700.00	PA One Call	\$29.90
ABC Trophies	\$54.45	Pennsylvania American Water	\$33.25
Abeloff	\$736.92	PenTeleData	\$7.85
Access Office Technologies	\$189.00	PNC Bank	\$12,626.00
Aflac	\$1,954.44	Pocono Mts. COG	\$80.00
Arthur Trovei & Sons	\$66.00	Pocono Produce	\$134.81
Building Inspection			
Underwriters	\$4,608.00	Postage Pros Plus	\$50.81
BWP Carquest	\$1,211.44	Sherry Predmore	\$74.80
Canfield's	\$240.00	Recycle Logistics	\$640.50
Claude Cyphers, Inc.	\$571.04	Reliable Sign & Striping	\$282.00
DCED	\$224.00	Safety-Kleen	\$611.49
DM Palmisano LLC(cleanup)	\$9,414.80	Smith Motor	\$242.25
Donna Kenderdine	\$219.55	Staples Credit	\$372.04
Double M Productions	\$431.25	Telco	\$260.00
East Penn Re-Builders	\$198.00	Tox "X" Pub	\$664.81

EMC Insurance	\$256.00	Tulpehocken Spring Water	\$172.55
Eureka Stone Quarry	\$254.75	Verizon	\$527.04
FedEx	\$85.74	Verizon Wireless	\$511.19
Five Star Equipment	\$564.55	Ben Weese & Assoc	\$350.00
Fry's Plastic	\$700.11	Kate Galinus	\$60.50
Grainger	\$209.94	Cicioni Radiator Inc.	\$1,250.00
GTS-Welco	\$208.69	CNH Capital	\$460.76
Hanson Aggregates	\$13,779.60	Eastern Alarm	\$141.00
Highway Equipment	\$78.61	Gotta Go Potties	\$190.00
Hilltop Sales	\$21.74	MacMillan Oil	\$1,445.00
Ikon Office Solutions	\$265.35	Michele Clewell	\$23.10
Kimball Midwest	\$955.34	Mineral Reclamation LLC	\$3,559.17
Lehigh Valley Petroleum	\$108.91	Monroe County Treasurer	\$596.10
Lewis True Value	\$164.53	Montague Tool	\$559.09
Marshalls Creek Plumbing	\$40.61	Montour Home	\$5,579.10
MetLife	\$1,189.80	piph	\$38.35
S&W Starter	\$29.00	<b>PMRS</b>	\$11,654.84
Serendipity Accting	\$2,115.00	Pocono Record	\$77.28
		RJ Groner	\$156.00
		Waste Management	\$267.50
<b>Liquid Fuels</b>			
<b>Cargill Salt</b>	<b>\$14,275.10</b>	<b><u>Total - General Fund</u></b>	<b><u>\$215,658.32</u></b>

### **Public Hearing(s)**

Ordinance No. 168:

Scott Schaller made a motion to open the public hearing for Ordinance 168; Dimensional Requirements in Each District. Ron Clewell seconded the motion. Motion carried 3-0.

A public hearing was held.

Donna Kenderdine took a stenographic record of the hearing.

Scott Schaller made a motion to adopt Ordinance 168; Dimensional Requirement in Each District – Height. Bob Spano seconded the motion. Ron Clewell voted no. Motion carried 2-1.

Scott Schaller made a motion to close the public hearing for Ordinance 168. Bob Spano seconded the motion. Motion carried 3-0.

Ordinance No. 170:

Scott Schaller stated that the next item on the agenda is the public hearing for Ordinance 170 repealing Ordinance 158 which Created a Township Park and Recreation Board pursuant to §67204 on February 14, 2008. After discussions this week with Supervisor Elect Mitchell Marcus, he agreed to look at ways to salvage the Park and Recreation Board. Mr. Marcus also agreed to present ideas to the Board of Supervisors at a future date and if it cannot be salvaged it will be repealed.

Scott Schaller made a motion to table Ordinance 170 until the December 9, 2009. Ron Clewell seconded the motion. Motion carried 3-0.

### **Solicitor Report**

Scott Schaller introduced Attorney Josele Cleary of Morgan, Hallgren, Crosswell & Kane, P.C., special counsel to Middle Smithfield Township for Big Ridge Developers/Toll Settlement negotiations who made a formal presentation to the Board of Supervisors detailing the Settlement Agreement.

Donna Kenderdine took a stenographic record of the Settlement Agreement discussion.

Scott Schaller made a motion to authorize execution of the Settlement Agreement among Middle Smithfield Township, Big Ridge Developers, LP, Toll PA IV L.P. and Toll Bros. in the form presented with a draft date November 11, 2009 upon receipt of Exhibit A and Exhibit B; measuring 11x17 to substitute the 8.5 x 11 copies of Exhibit A & B which are the plans referenced in the agreement to make more legible. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise stated that Michele Clewell will post the Settlement Agreement to the township website by the close of business November 13, 2009.

Scott Schaller made a motion to close the stenographic record at 12:11 p.m. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise presented Resolution 11-2009-1; addressing the retention and disclosure of notes, drafts, and revisions thereto of meeting and work session minutes by adding audio tapes.

Attorney Wise explained that the audio tapes are used by the secretary in preparation of minutes and notes and the proposed resolution will address retention of tapes.

Scott Schaller made a motion to adopt Resolution 11-2009-1. Ron Clewell seconded the motion. Motion carried 3-0.

Attorney Wise presented Resolution 11-2009-2; which authorizes Middle Smithfield Township to use the DOTGRANTS On-Line Reporting System to File Required Liquid Fuels Forms Annually with the Pennsylvania Department of Transportation and to approve participating in the program. Resolution 11-2009-2 is a reaffirmation of Resolution 08-2009-2. Michele Clewell reported that a representative in Harrisburg stated

that they cannot accept the original Resolution as it is is sixty (60) days old and requires a newly adopted Resolution.

Scott Schaller made a motion to adopt Resolution 11-2009-2 and send it certified mail to the address provided. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise recommended that the Turkey Hill Improvements Agreement be tabled as technical issues are being addressed. Scott Schaller made a motion to table action on the Turkey Hill Improvements Agreement. Ron Clewell seconded the motion. Motion carried 3-0.

### **Correspondence(s)**

A letter was received from AARP requesting use of the municipal building for the VITA/TCE program sponsored by AARP and the IRS for the 2010 tax season on Tuesdays from 9 am until 12 pm beginning February 2, 2010 and ending April 13, 2010. Scott Schaller made a motion authorizing AARP use of the municipal building for tax preparation beginning February 2, 2010 and ending April 13, 2010 from 9 am until 12 pm. Ron Clewell seconded the motion. Motion carried 3-0.

A letter was received from Thomas Walck requesting partial refund of his on lot septic permit. Damian DeGeorge, Sewage Enforcement Officer was asked to join the meeting to explain the refund request. Mr. DeGeorge stated that he was on site for ten minutes to conduct testing and although a full refund is not warranted he would recommend returning a portion of the permit fee. Attorney Wise asked Mr. DeGeorge if the property had passed how many additional tests would be required. Mr. DeGeorge responded that three more tests would be required. Scott Schaller made a motion to refund Thomas Walck \$300.00 of the \$400.00 permit fee. Ron Clewell seconded the motion. Motion carried 3-0.

### **Engineers Report**

Doug Olmstead stated that the Big Ridge inspections will be scheduled with regard to escrow release.

There was discussion regarding the Crystal Creek Estates letter of credit. Doug Olmstead reported that if the improvements are not completed by November 21, 2009 the Board of supervisors has already authorized calling the letter of credit to complete the improvements.

Mr. Olmstead stated that the Crystal Creek NPDES permit is set to expire and will contact the Monroe Conservation District for guidance.

Attorney Wise stated that prior to calling the letter of credit to complete the improvements within Crystal Creek Estates, Mr. Olmstead must investigate the status of the NPDES permit with the Monroe County Conservation District as the Township does not want to be in the position of calling the letter and assuming an unexpected liability. No action was taken.

Doug Olmstead reported that LTS Development has submitted a letter dated October 13, 2009 requesting a bond reduction for the Water Gap Preserve Development. Doug Olmstead stated that additional inspection work needs to be completed before he can recommend reducing the Water Gap Preserve bond. Scott Schaller made a motion to table the LTS Development request dated October 13, 2009 until the December 9, 2009 Supervisors meeting. Ron Clewell seconded the motion. Motion carried 3-0.

Doug Olmstead reported that a quote has been obtained from Marshalls Creek Plumbing for a well filtration system with dual tanks for the municipal complex at a cost of \$3,961.40 plus freight. It was explained that the purpose of a well filtration system for the municipal complex is to get off the Foxmoore Village well. Prior to usage, the water will be tested and PA DEP will be contacted informing them of the change. Mr. Olmstead stated that township staff will install the system.

Scott Schaller made a motion to accept the quote from Marshalls Creek Plumbing for a well filtration system for the municipal complex at a cost of \$3,961.00 plus freight. Ron Clewell seconded the motion. Motion carried 3-0.

Doug Olmstead reported that a quote was received from R.K.R. Hess Associates for Professional Consulting Services to Perform a Phase 1 Environmental Assessment of the Country Club of the Poconos Golf Course at a cost of \$3,000.00.

Attorney Wise recommended that if the Township is intending to move forward on the purchase of the CCP golf course, the Township should consider a Phase 1 environmental assessment be done on the CCP golf course. After further discussion Scott Schaller made a motion not to accept the quote received from R.K.R. Hess Associates. Bob Spano seconded the motion. Motion carried 3-0.

Doug Olmstead reported that a quote was received from R.K.R. Hess Associates to Prepare a Boundary Map and Legal Descriptions for a Portion of the Country Club of the Poconos Golf Course at a cost of \$5,700.00.

Mr. Olmstead stated that R.K.R. Hess will prepare a boundary map and metes and bounds descriptions indicating the boundaries of the remaining golf hole parcels that are situated in areas surrounded presently by open space.

After further discussion Scott Schaller made a motion to accept the R.K.R. Associates quote to Prepare a Boundary Map and Legal Descriptions for a Portion of the Country Club of the Poconos Golf Course at a cost of \$5,700.00. Bob Spano seconded the motion. Motion carried 3-0.

### **New Business**

A letter was received from AWSOM (Animal Welfare Society of Monroe) requesting to be placed on the agenda to discuss the future of the animal shelter on Godfrey Road in Stroudsburg. Although no one was present to represent AWSOM Michele Clewell stated

that the organization is requesting monetary donations from each municipality in Monroe County. Attorney Wise stated that there was a death in the family of the representative that was to be present at the meeting and recommended the Board table their decision until the next regular meeting.

Scott Schaller made a motion to table the AWSOM agenda item until the next regular meeting. Ron Clewell seconded the motion. Motion carried 3-0.

The Eastern Monroe Regional Park Commission October 19, 2009 recommendations and 2009 budget were discussed at length. Scott Schaller stated that Recommendation No. 1: benches at Rivers Edge Park be removed and stored; Recommendation No. 2: purchase a display board for the Doyle Nelson Campsite (approximately 36") and Recommendation No. 3: measure the sign at the Doyle Nelson Campsite for an aluminum glass display case, purchase and install said case, are acceptable.

Recommendation No. 4; review the proposed EMRPC 2010 budget; requires additional information as some of the proposed budget information is inaccurate. Mitchell Marcus; a member of the EMRPC had previously stated at a work session that he would obtain additional information as to what the costs will be for both townships.

After further discussion Scott Schaller made a motion to approve the EMRPC recommendations 1, 2 and 3 and table action on recommendation No. 4 until the next regular meeting. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller stated that due to a scheduling conflict with the December 10, 2009 meeting, he would like to reschedule the meeting to December 9, 2009. After further discussion, Scott Schaller made a motion to change the December 10, 2009 meeting to December 9, 2009 at 9:00 a.m. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller stated that during the budget process we are looking for ways to save the taxpayers' money. Although the members are making great strides and very dedicated individuals, dissolving the Middle Smithfield Township Municipal Authority will stop the duplication of services and save taxpayer money.

Scott Schaller made a motion directing Attorney Wise; Township Solicitor, and Attorney Aman; special bond counsel, to prepare necessary documents to dissolve the Middle Smithfield Township Municipal Authority, notify bond underwriters, bond holders and coordinate the transfer of MSTMA properties to Middle Smithfield Township and to hold a public hearing on December 9, 2009. Bob Spano seconded the motion. Ron Clewell voted against. Motion carried 2-1.

Garry Summers, Secretary MSTMA, stated that Mr. Schaller previously stated the Township will save \$500,000 if the MSTMA is dissolved. He questioned the Supervisors if his sewer fees will be reduced.

Oscar Woerlein; Treasurer, MSTMA, stated that the second class township code allows the Supervisors to dissolve the municipal authority and assume all their debt, and take over their assets.

Mr. Woerlein read from the Second Class Township Code, Section 2511 (c); Sanitary Sewers; Rental Fees states “all sewer rental received shall be deposited in a special fund to be used only for the payment of the cost of construction, reconstruction, repair, operation and maintenance of the sanitary sewer system”.

Scott Schaller agrees with Mr. Woerlein’s statement regarding the use of reserve funds however; the MSTMA uses the building, lights, receptionist, phones, and heat, all the equipment is on standby, whereby the taxpayers had to pay for it. He stated that the operational costs can be shared.

Garry Summers stated that the MSTMA would be happy to pay the additional costs mentioned by Mr. Schaller. Scott LaBar member of the MSTMA stated that they do receive bills from the township and those bills are paid.

Mr. Summers questioned if new personnel would be hired to run the sewer business. Scott Schaller stated that he can answer that better at the next meeting as the Supervisors are currently working on that budget.

Mr. Summers invited everyone to the next MSTMA meeting on Wednesday, November 18, 2009 at 6:00 p.m.

Ron Clewell stated that he is embarrassed by sitting at the table as a Township Supervisor and applauds the MSTMA.

General comments were to allow the taxpayers to have the final say and consider alternative options to save the MSTMA.

Doug Olmstead stated that under the Act 537 the township is responsible for sewer service and the Supervisors have the final decision.

**Public Comment**

The Big Ridge Golf Course was discussed.

A complaint that odor is emitting from the jug handle pump station was given.

Judy Summers questioned who took the tree down along Route 209 in Smithfield Township. Scott Schaller stated that he authorized the MST Public Works Department to remove the tree. Mrs. Summers thanked him as it was a safety issue.

The E-911 signs were discussed.

There being no further business, Scott Schaller made a motion to adjourn the meeting at 2:35 p.m. Ron Clewell seconded the motion. Motion carried 3-0.

Respectfully submitted,

Michele L. Clewell, Secretary  
November 12, 2009

