

The special joint meeting of the Middle Smithfield Township Board of Supervisors and Middle Smithfield Township Municipal Authority was held on Thursday, September 17, 2009 at 3:30 p.m. at the Schoonover Municipal Building.

Members present: Township Supervisors: Scott Schaller, Robert F. (Bob) Spano Sr., Ron Clewell, Municipal Authority: Mickey Roth, Jack O'Rourke and Oscar Woerlein. Also present were Township Attorney Jennifer Ann Wise, Municipal Authority Attorney Richard Deetz, and Attorney George M. Aman of High Swartz, LLC, special bond counsel for Township, Tom Beckett of George K. Baum, Co., bond underwriter for Township, Robyn Pugh of Serendipity Accounting and Tax Services, appointed bond accounting specialist for Township, R. Douglas (Doug) Olmstead, Jr., P.E., Michele Clewell, Sherry Predmore, Sandra Black, Donna Kenderdine and numerous township residents.

Minutes of the previous meeting held August 20, 2009 were approved upon a motion of Scott Schaller seconded by Ron Clewell. Motion carried 3-0.

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

Payroll 8-21-09	\$42,669.41	Refunds: Day in the Park	
Payroll 9-4-09	\$41,884.24	Sang Noe	\$10.00
Aflac	\$977.22	Ken Russell	\$10.00
PNC Bank	\$12,626.00	Darlene Dilts	\$10.00
Charles L. Smith (refund)	\$300.00	Joy Warner	\$10.00
Avaya	\$117.60	Tax refunds:	
Burger, Inc.	\$59.99	Miles Ferguson	\$107.98
Calendars	\$73.27	Fouad George Girgis	\$18.76
		2nd quarter Fire/EMS	
CNH Capital	\$1,199.09	donations	
Diesel Express	\$150.00	Marshalls Creek Fire	\$22,223.96
Ehrlich	\$255.00	Bushkill Fire	\$5,724.35
Gotta Go Potties	\$190.00	Shawnee Fire	\$5,724.35
Lehigh Hanson	\$15,591.76	Bushkill Emergency Corps	\$1,500.00
Kyocera	\$444.52	Marshalls Creek Fire (EMS)	\$1,500.00
Locust Ridge Quarry	\$768.90	Suburban EMS	\$1,500.00
Met-ed	\$34.47	Med-Mobile EMS	\$1,500.00
MetLife	\$989.37	Foreign Fire distribution	
		Marshalls Creek Fire Relief	
Monroe Cty Recorder of Deeds	\$18.50	Assn	\$77,820.59
OCE Imagistics Inc.	\$525.00	Bushkill Fire Relief Assn.	\$17,639.33
P & S Garage	\$39.50	Shawnee Fire Relief Assn	\$8,300.87
PA American Water	\$33.25		
PMRS -August pension	\$9,711.07		
PSATS	\$53.00	Liquid Fuels:	
			\$272,580.7
PSATS CDL Program	\$480.00	Locust Ridge Contractors	4
Reliable Sign	\$427.00	Asphalt Maintenance Solutions	\$86,006.11
Riley Computer Services	\$342.50		

Scott Trethaway (reimb-AC conf)	\$222.78		
Staples Credit	\$284.03		
Sun Litho Print	\$423.00	PA Municipal Health Ins. Coop	\$18,681.37
Verizon Wireless	\$699.71	PA One Call system	\$74.00
Warren County Service Center	\$47.25	Pocono Produce	\$125.09
Waste Management	\$261.84	Pocono Record	\$635.04
		R&S Auto	\$155.02
Access Office Tech	\$134.20	R J Groner	\$195.00
AFLAC	\$977.22	Reliable Sign	\$248.90
BMO	\$219.05	Serendipity Accounting	\$1,750.00
BNA	\$899.00	Sibum's Auto Parts	\$35.00
Bearings & Drives	\$232.57	Signs & Graphics	\$29.00
Bobcat Company	\$3,999.35	Smith Motor Co.	\$366.00
Bradco Supply	\$1,944.00	Star Pontiac	\$835.61
Building Inspection			
Underwriters	\$693.60	Superior Lamp	\$668.07
BWP-Carquest	\$226.32	Tulpehocken Spring Water	\$71.40
Cintas	\$343.92	Filo's Tree Service	\$900.00
Claud Cyphers Inc.	\$177.87		
Dawn Arnst	\$61.00		
Day-Timer	\$122.50		
Dunkelbergers	\$569.84		
Eureka Stone Quarry	\$1,453.05		
Green Pond Nusery	\$960.00		
Ikon Office Solutions	\$83.02	<u>Total - General Fund</u>	<u>\$318,760.10</u>
Kyocera	\$444.52	<u>Total - Liquid Fuels</u>	<u>\$358,586.85</u>
Lewis True Value	\$10.97		
Mesco Glass	\$109.00		
Met-ed	\$30.38		
Michele Clewell	\$61.00		
Miggy's Five	\$51.35		
Montague	\$84.22		
Montour Home Comfort	\$3,266.76		
My NJ Office	\$149.77		
Neopost Leasing	\$95.00		
Opdyke's Sales & Service	\$898.16		
P&S Garage	\$193.50		

The special meeting of the Municipal Authority was called to order by Chairman Mickey Roth.

Scott Schaller opened the public hearing for Ordinance 171: Providing for Increasing the Debt of Middle Smithfield Township in the Amount of \$6,080,000 as Non-Electoral Debt for the purpose of providing funds for and toward acquiring and constructing improvements to the sewer system. Donna Kenderdine took a stenographic record.

1. Attorney Wise introduced Attorney George Aman of High Swartz, LLC; Middle Smithfield Township Bond Counsel.
2. Attorney Deetz stated that the advertisement for the joint meeting was advertised in the Pocono Record on September 11, 2009.
3. Attorney Aman stated that the purpose for the bond issue is to purchase capacity in the treatment plant and to finance the extension and construction of an interceptor line.
4. The bonds have been committed by the underwriter, Thomas K. Beckett of George K. Baum, Co.
5. The bonds are self supporting and payments will be made by the Municipal Authority from the proceeds of the central sewer users to the Township through a subsidy agreement.
6. The procedure for the Township to have the Authority pay back debt was established in 1995 with an initial Subsidy Agreement where the Municipal Authority agreed to subsidize the debt service of the Township bond issue. The Township has had two amendments supplementing the 1995 agreement and one today. This issue is a part of Ordinance 171.
7. Attorney Aman stated that the Supervisors and Municipal Authority Boards have before them a proposed Resolution to extend the existence of the life of the Middle Smithfield Township Municipal Authority. The Bond issue goes beyond the life of the Municipal Authority and under the Authorities Act a Resolution is required.
8. Attorney Deetz recommended that the Authority approve a Resolution to extend the life of the Authority. Jack O'Rourke made a motion to approve "Resolution Proposing Amendment to Articles of Incorporation to Extend the Term of Existence of the Authority" to September 10, 2059. Oscar Woerlein seconded the motion. Motion carried 3-0.
9. Attorney Wise stated that before the Board of Supervisors is their Resolution to adopt the request to extend the term of the existence Municipal Authority and the extension date would be September 10, 2059. Scott Schaller made a motion to approve the Resolution to extend the term of the existence of the Middle Smithfield Township Municipal Authority to September 10, 2059. Bob Spano seconded the motion. Motion carried 3-0.
10. Attorney Wise Summarized Ordinance 171; Providing for increasing the debt of the Middle Smithfield Township in the amount of six million eighty thousand dollars (\$6,080,000), as no, electoral debt for the purpose of providing funds for and toward acquiring and construction improvements to sewer system, consisting

of series A Bonds in the principal amount of \$1,455,000 and Series AA Bond in the principal amount of \$4,625,000 designated as federally taxable – Build America Bonds..

11. Tom Beckett of George K. Baum Company stated that he is the Underwriter for the Bond Issue and summarized the bond financial reports.
12. Mr. Beckett stated that the township can issue fully taxable bonds and then apply to the federal government for reimbursement of 35% of the subsidy of the bonds thereby saving \$15,000 a year in interest costs.

After further discussion Scott Schaller thanked everyone involved and stated that the 2009 bond issue will provide for the extension of sewer lines to help commercial growth.

Scott Schaller made a motion to adopt Ordinance 171 as written. Ron Clewell seconded the motion. Motion carried 3-0.

Upon a recommendation of Attorney Deetz, Jack O'Rourke made a motion to ratify and confirm the execution of the Subsidy Amendment. Oscar Woerlein seconded the motion. Motion carried 3-0.

Mickey Roth made a motion adjourn the Middle Smithfield Township Municipal Authority meeting. Oscar Woerlein seconded the motion. Motion carried 3-0.

Scott Schaller made a motion to close the public hearing on Ordinance 171. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller opened the public hearing for Ordinance 169; Sale of Connection Rights. Donna Kenderdine took a stenographic record.

Attorney Wise explained:

1. Ordinance 169 was advertised in the Pocono Record on August 28, 2009 and September 4, 2009
2. Distributed to the required agencies as stated in the PA Municipal Planning Code (MPC).
3. A letter was received from the Monroe County Planning Commission but no comments were given.
4. Recommendations were received from the Middle Smithfield Township Planning Commission.

Attorney Wise asked if there was any public comment. There were none.

Attorney Wise stated that it would be her recommendation to table action on Ordinance

169 until the October 8, 2009 Board of Supervisors meeting to allow time to add the minor changes to the ordinance as recommended by the Middle Smithfield Township Planning Commission.

Mickey Roth; Chairman of the Middle Smithfield Township Municipal Authority stated that it would not be an issue if the Supervisors tabled their meeting until October 8, 2009.

Scott Schaller made a motion directing Attorney Wise to revise and advertise Ordinance 169 to state: Section 148-9.D (1) after official acceptance of a preliminary subdivision or final land development plan by the Township and after Act 537 Wastewater Planning Approval has been obtained from the Pennsylvania Department of Environmental Protection. Ron Clewell seconded the motion. Motion carried 3-0.

Scott Schaller opened the public hearing for Ordinance 168; Amending Section 200-34.B. (2) Dimensional Requirements in each District – Height. Donna Kenderdine took a stenographic record.

Attorney Wise explained:

1. Ordinance 168 was advertised in the Pocono Record on August 28, 2009 and September 4, 2009
2. Distributed to the required agencies as stated in the PA Municipal Planning Code (MPC).
3. Recommendations from the Middle Smithfield Township Planning Commission and Monroe County Planning Commission were summarized.

Scott Schaller asked for public comment regarding proposed Ordinance 168.

There was lengthy discussion regarding curtailing the building height.

Scott Schaller stated that it is very difficult to expand without going up and Mr. Olmstead stated that regulatory agencies are looking for local municipalities to build up instead of out.

Mr. Schaller stated that the Supervisors have met with emergency services and they don't care how high the building is, as long as they are sprinkled and he does not want to place a limit on how high the buildings are.

There was discussion to include attached dwelling units, time-share, age-restricted housing, motel-hotel, hospitals, primary and secondary schools and offices.

Ron Clewell stated that he does not want to see attached dwelling units as this will increase the number of children in the school district, which will increase everyone's taxes.

There was discussion as to the effect one mile from the centerline of U.S. Route 209 would have on U.S. Route 402. Mr. Olmstead stated that this is a different commercial zone unlike U.S. Route 209.

Ron Clewell stated of the five stories and one mile from the centerline of U.S. Route 209 is all we need.

Scott Schaller stated that although residential use is proposed for this ordinance once the zoning is re-written it will not be allowed. Mr. Ferro stated that there is a danger by allowing the residential use.

There was discussion regarding data center heights and how this proposed ordinance will affect residents along the Route 209 and Lower Lakeview Drive. Mr. Olmstead stated that it will have no effect.

Scott Schaller made a motion to table Ordinance 168 until the Board of Supervisors October 8, 2009 meeting and restated that it include: five stories, one mile from the U.S. Route 209 centerline, attached dwelling units, time-share, age-restricted housing, motel-hotel, hospitals, primary and secondary schools and offices. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller made a motion to close the public hearings. Ron Clewell seconded the motion. Motion carried 3-0.

Sherry Predmore presented the 2010 Minimum Municipal Obligation (MMO) for the Middle Smithfield Township Pension Plan. Ms. Predmore explained that the MMO is the municipality 2010 bill for the pension plan and that the calculated obligation must be paid by December 31, 2010. Scott Schaller made a motion to submit the MMO report prepared by Sherry Predmore to PMRS. Ron Clewell seconded the motion. Motion carried 3-0.

Correspondence

The Eastern Monroe Public Library submitted a letter requesting permission to hold their 2010 summer reading program at the municipal building. Scott Schaller made a motion authorizing the use of the building by the Eastern Monroe Public Library for their 2010 summer reading program. Bob Spano seconded the motion. Motion carried 3-0.

A letter was received from John Donahue; Superintendent of the National Park Service thanking Supervisor Ron Clewell for his time and interest devoted to helping the NPS complete the Alternative Transportation Feasibility Study for the Delaware Water Gap National Recreation Area and the surrounding communities.

A thank you letter was received from the Monroe County Diabetes Society for the \$50.00 contribution; Middle Smithfield Township gave in memory of former township supervisor, Thomas F. Bonser.

A notice from the Monroe County Board of Assessment Appeals was received for Charles Knight/Patricia Purdee due to an appeal in the amount of \$61.13. Scott Schaller made a motion to refund Mr. Knight and Ms. Purdee \$61.13. Bob Spano seconded the motion. Motion carried 3-0.

Solicitors Report

Attorney Wise presented Resolution 09-2009-1 which adopts the revisions to the February 2008 Emergency Operation Plan (EOP) of Middle Smithfield Township Basic Plan, dated February 2008. Scott Schaller made a motion to adopt resolution 09-2009-1. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise presented the Extension of Memorandum of Understanding (MOU) for Designated First Due Advanced Life Support and Basic Life Support Providers. Attorney Wise stated that the MOU has been signed by the Bushkill Emergency Corp., Inc. Suburban E.M.S., Marshalls Creek Fire Co. (Ambulance Division) and Med-Mobile, E.M.S. The MOU is in effect and shall terminate on September 30, 2010 unless otherwise extended in writing by all the parties.

Attorney Wise commended the EMS providers for working together. After further discussion Scott Schaller made a motion to approve the Extension of Memorandum of Understanding (MOU) for Designated First Due Advanced Life Support and Basic Life Support Providers. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise explained that on August 20, 2009 the Board of Supervisors held a public hearing at the request of Deborah A. Ogden; Zoning Officer for the Western District of the township against Mr. Krzysztof Rosolowski property located at Lot 21, Block 17, Trader Run Road, Monroe Lakes. The property was determined to be a dangerous structure and Mr. Rosolowski was granted 30 days to remove the foundation and other debris.

Attorney Wise reported that Mr. Rosolowski recently passed away and his brother has contacted the Zoning Officer and requested a two week extension. Attorney Wise advised that she contacted the Monroe County Register of Wills office and currently there have been no documents filed to open an estate for the decedent and therefore to the Township's knowledge, no one has been approved by the court as a personal representative of the estate as either an executor or administrator, to make the request as the estate is still un-opened. This is a policy decision of the Supervisors.

There was discussion to have the Township clean up the property after the 30 days but refrain from placing a lien on the property due to the circumstances. Scott Schaller made a motion not to extend the time limit and after the deadline authorize the Township to clean up the property. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller made a motion amending the previous motion to include that Attorney Wise should investigate if a lien must be placed on the property as the Township is

cleaning the property at tax payer's expense. Bob Spano Seconded the motion. Motion carried 3-0.

Engineers Report

Doug Olmstead reported that the Big Ridge Developers request for escrow release is still on hold pending the completion of the Settlement Agreement with Big Ridge Developers.

Doug Olmstead reported that with regard to Gerald Gay; Crystal Creek Development, Frank J. Smith Jr., Inc. submitted a Proposal for Professional Services, not to exceed \$4,600 for Dedication Document of Mackenzie Drive and Cassidy Court located within Crystal Creek Estates. Mr. Olmstead stated that the Township holds the bond for this development and a portion of the cost could be recovered. Scott Schaller made a motion to accept Frank J. Smith Jr., Inc. Proposal for Professional Services. Bob Spano seconded the motion. Ron Clewell voted no. Motion carried 2-1.

Mr. Olmstead explained that the township municipal complex shares water from the Foxmoor Village well and in order to use on-site water we are required by PA DEP to install a water filtration system. After further discussion, Scott Schaller made a motion authorizing the Township Solicitor and Township Engineer to prepare bid documents for the filtration system. Ron Clewell seconded the motion. Motion carried 3-0.

New Business

There was general discussion to appoint a replacement to the Vacancy Board due to the death of Thomas F. Bonser. Scott Schaller stated that this item should be tabled until the October 8, 2009 meeting.

Michele Clewell reported that Prosser Laboratories, Inc. retested the Stegik property pursuant to the Board of Supervisors motion at the August 20, 2009 meeting and the drinking water sample came back with total coliform bacteria. She reported that Damian DeGeorge, Sewage Enforcement Officer has been given the information so that an investigation of the area can be ascertained.

The Supervisors received a recommendation from the Eastern Monroe Regional Park Commission (EMRPC) to use funds that were originally allocated for Mt. Nebo Dam repairs, be used for the completion of the river's Edge dog park enclosure (fencing).

There was discussion regarding budgeted expenses for the regional parks. After further discussion, Scott Schaller made a motion to table action on the EMRPC recommendation until further research is done. Ron Clewell seconded the motion. Motion carried 3-0.

Scott Schaller stated that the Middle Smithfield Township Park Commission is listed on the agenda to discuss if whether or not they should be abolished. Mr. Schaller stated that there is no reason to have the Park Commission and the Township staff will handle the duties. Mr. Albert Decker, member of the Park Commission disagreed with the statements made by Supervisor Schaller. After further discussion, Scott Schaller made a motion authorizing and directing the Attorney Wise to prepare an ordinance to abolish

the Middle Smithfield Township Park Commission. Bob Spano seconded the motion. Ron Clewell voted no. Motion carried 2-1.

John Ferro questioned the supervisors as to why political signs are up on Route 209 now, this far out from the general election. Scott Schaller stated that he sent out a memo today that the zoning officers will not be enforcing the political signs portion of the zoning ordinance and deferred to Attorney Wise.

Attorney Wise stated that the current political sign portion of the Middle Smithfield Township Zoning Ordinance is contradicting and her recommendation was to not enforce it instead of violating people's rights. After further discussion Scott Schaller made a motion directing and authorizing the Attorney Wise to prepare an ordinance to repeal the current political sign ordinance. Bob Spano seconded the motion. Motion carried 3-0.

Public Comment

Mr. Bob Chartock of Country Club of the Poconos (CCP) expressed his appreciation to the Board of Supervisors for helping organize the work session meeting between the township and some of the CCP residents. He wanted to state some key points to the meeting that was held on August 27, 2009.

1. The supervisors do not want Big Ridge Drive and the community boards of CCP do not want to give up the road.
2. The supervisors are looking into the golf course for spray irrigation.
3. The supervisors would like to acquire a sewer easement along Big Ridge Drive.

Doug Olmstead reported that PA DEP did conduct soil testing at the golf course on Monday, September 14, 2009 and a lot of engineering work still has to be done. DEP stated that whatever the amount of irrigation is currently being used is the only amount that can be sprayed for sewage. Mr. Olmstead stated that flow meters would have to be installed and monitored for at least one year before a determination of flows could be made.

Mr. Chartock asked if the bridges within the community are built to "code". Mr. Olmstead stated that the Tom X Bridge was built to PennDOT specification but he does not know if the other bridges were built to code.

Scott Schaller stated that the township is doing its due diligence on the golf course testing and we have listened to the owners and it may not be a good deal for the township to have the golf course.

Executive Session

Scott Schaller made a motion to go into executive session at 6:00 p.m. to discuss personnel matters. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller made a motion to reconvene the meeting at 6:20 p.m. Ron Clewell seconded the motion. Motion carried 3-0.

Ron Clewell made a motion based on the discussion in executive session that the Board of Supervisors accept the request received from Attorney Deetz asking that Sandra Black be allowed to be assumed as an employee of the Middle Smithfield Township Municipal Authority and no longer as an employee of Middle Smithfield Township and based on representation from Chairperson Mickey Roth of the Municipal Authority, that Ms. Black is agreeable to this assumption by the Municipal Authority of her as their employee and the effective date is September 10, 2009 which is the date of the request received from Attorney Deetz on behalf of the Municipal Authority Board. Bob Spano seconded the motion. Motion carried 3-0.

Ron Clewell made a motion directing Sherry Predmore to coordinate with the Municipal Authority for reimbursement of any monies paid beyond September 10, 2009 on behalf of Ms. Black. Bob Spano seconded the motion. Motion carried 3-0.

There being no further business the meeting adjourned in regular order at 6:23 p.m.

Respectfully submitted,

Michele L. Clewell, Township Secretary
September 17, 2009