

The regular meeting of the Middle Smithfield Township Board of Supervisors was held on Thursday, January 14, 2010 at 9:00 a.m. at the Schoonover Municipal Center.

Members present: Scott R. Schaller, Robert (Bob) F. Spano, Sr., Mitchell K. Marcus. Also present were Township Solicitor Jennifer Ann Wise, Township Engineer R. Douglas Olmstead, Jr., P.E., Michele Clewell and several township residents.

Mitchell Marcus stated that a correction to the January 4, 2010 minutes should read that he voted no to the appointment of Ralph Wunder as Public Affairs Coordinator and abstained from voting on the appointment of Robyn Pugh as Sewer Director. Scott Schaller made a motion to approve the January 4, 2010 minutes as corrected. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller made a motion to approve the listed payables. Bob Spano seconded the motion. Motion carried 3-0.

Community Service Awards

Scott Schaller presented Jay Huffman with a Community Service Award for his more than 30 years of dedicated service to the township servicing on the Middle Smithfield Township Planning Commission.

Scott Schaller stated that the second Community Service Award is dedicated to Ron Clewell for his 24 years of service to the Township as a Township Supervisor and Public Works employee.

Correspondence

A letter was received from the Monroe County Assessment Office notifying the township that a refund of \$7.33 is due Mr. Robert Keefe. Scott Schaller made a motion to refund Mr. Keefe \$7.33. Bob Spano seconded the motion. Motion carried 3-0.

A Downstream Water User Notification per Act 32 for the Shawnee Combustion Turbine was received from RRI Energy. No action required.

The Eastern Monroe Regional Park Commission Recommendations dated November 16, 2009 requesting the Board of Supervisors to consider the formation of an official map committee were discussed. Mitchell Marcus stated that additional research is needed before a decision can be given. Scott Schaller made a motion to table this agenda item until additional research is done. Bob Spano seconded the motion. Motion carried 3-0.

Solicitor Report

Attorney Wise presented Resolution 01-2010-05 for the Philip and Karen DiBello Joinder Deed. Scott Schaller made a motion to approve Resolution 01-2010-05. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise presented Resolution 01-2010-06 Wooddale Road, Elmwood Estates. Scott Schaller made a motion to approve Resolution 01-2010-06. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise present Resolution 01-2010-07 Yellowleaf Court, Elmwood Estates. Scott Schaller made a motion to approve Resolution 01-2010-07. Bob Spano seconded the motion. Mitchell Marcus voted no. Motion carried 2-1.

Engineers Report

Doug Olmstead reported that a letter was received from Taydan, L.L.C. dba Friendly's Restaurant requesting the remaining funds in the Friendly's Restaurant Letter of Credit be released.

Mr. Olmstead stated that there are a number of issues to be resolved but would recommend holding \$21,295.00 and releasing \$98,417.37.

Mr. Olmstead stated that there were some initial concerns about the stormwater system not being constructed as designed. Since the project has been in place for over two years and no standing water or other storm water management problems have ever materialized he would recommend the owner provide a hold harmless agreement to the Township in a format acceptable to Attorney Wise.

Attorney Wise recommended holding at least half of the storm water letter of credit in the amount of \$30,758.81 as this would be a better assurance to the Township.

After further discussion Scott Schaller made a motion to table the request from Taydan, Inc. dba Friendly's Restaurant as there are deficiencies on the plan and authorized Attorney Wise to send a letter to Taydan, Inc. requesting that they prepare and provide a hold harmless letter to the Township. Mitchell Marcus seconded the motion. Motion carried 3-0.

Doug Olmstead stated that the Turkey Hill Minit Market Land Development plan was conditionally approved by the Board of Supervisors on March 12, 2009 and provided his comment letter dated January 13, 2010 for the Supervisors review.

Mr. Olmstead stated the recreational fees need to be addressed.

After further discussion and review of the Zoning Ordinance, Scott Schaller made a motion to reaffirm the Turkey Hill Minit Market Land Development Plans for recording purposes, however the plans are not to be released until the review fees of \$630.00 and recreation fee of \$600.00 is collected. Bob Spano seconded the motion. Motion carried 3-0.

Mr. Olmstead stated that he received a letter from R.K.R. Hess Associates for additional survey work but would like to defer this agenda item until after the executive session.

New Business

Appointment of Mitchell K. Marcus as Assistant Administrative Director upon a motion of Scott Schaller second by Bob Spano. Motion carried 3-0.

Appointment of the Sewage Enforcement Officer was tabled until the next regular meeting upon a motion of Scott Schaller second by Bob Spano. Motion carried 3-0.

Appointment of Patrick (Pat) LaPeter as the Park and Recreation Director upon a motion of Scott Schaller second by Bob Spano. Motion carried 3-0. Scott stated that this is a volunteer position within the Township.

There was general discussion regarding the need for the Public Works Department to purchase a used screener. Scott Schaller made a motion authorizing the advertising for the purchase of a screener. Motion was seconded by Bob Spano. Motion carried 3-0.

Scott Schaller made a motion to table the Sewer Related Issues. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller made a motion to go into executive session at 10:25 a.m. to discuss real estate matters. Bob Spano seconded the motion. Motion carried 3-0.

Scott Schaller made a motion to reconvene the meeting at 11:50 a.m. Bob Spano seconded the motion. Motion carried 3-0.

Attorney Wise stated that the Middle Smithfield Township Board of Supervisors has received and reviewed several documents from Big Ridge Developers, L.P., including an Agreement to Donate Real Estate, Agreement for the Assignment of Sewage Capacity, as well as a proposed Note and Mortgage as exhibits.

Attorney Wise reviewed the entire documents with the public. The Agreements are made a part of these minutes but due to size and expense, the Agreements are not attached to the minutes disseminated to the public, rather one set is available at the meeting for the review of all members of the public and are also available for inspection by the public at the municipal building during regular business hours and are available through the Open Records Office.

Attorney Wise asked for public comment.

There was lengthy discussion regarding the tax exempt status of the township, purpose of owning the golf course, the bridge over Tom X Road, sewage capacity, easements,

intention of the private gate located at the entrance of Big Ridge Development and prior and current expenses of operating the golf course.

Attorney Wise stated that she has corresponded with Attorney Young who represents the POA South and offers the attorney for the POA North an open invitation to contact her and she will gladly meet with him/her regarding the negotiations.

Attorney Wise stated that the Board of Supervisors must either make a motion to accept or reject for the Big Ridge Developers Agreement to Donate Real Estate together with acceptance or rejection of the Agreement for the Assignment of Sewage Capacity with exhibits of the Note and Mortgage, it must be a joint motion, it cannot be separate as the offers are not mutually exclusive, in otherwords, if you approve one Agreement you must approve them both.

Scott Schaller made a motion to accept the Big Ridge Developers Agreement to Donate Real Estate, as well as the Agreement for the Assignment of Sewage Capacity with exhibits of the Note and Mortgage. Bob Spano seconded the motion. Mitchell Marcus voted no. Motion carried 2-1.

Doug Olmstead stated that R.K.R. R. Hess Associates submitted a change of scope for additional mapping and description to be prepared for Country Club of the Poconos Golf Course totaling \$4,850.00. Scott Schaller made a motion to approve the change of scope in the amount of \$4,850.00. Bob Spano seconded the motion. Motion carried 3-0.

The Echo Lake Park grant and schedule was briefly discussed.

There being no further business Scott Schaller made a motion to adjourn the meeting at 1:13 p.m. Bob Spano seconded the motion. Motion carried 3-0.

Respectfully submitted,

Michele L. Clewell
January 14, 2010

