

The regular meeting of the Middle Smithfield Township Board of Supervisors was held on Thursday, May 22, 2014 at 7:00 p.m. at the Schoonover Municipal Building with Annette Atkinson presiding.

Members present: Annette Atkinson, Mike Dwyer and Mitchell Marcus. Also in attendance, Township Solicitor Michael Gaul, Esq., Alternate Township Solicitor Gerald Geiger, Esq., Township Engineer Fred Courtright, P.E. Township Secretary Michele L. Clewell and several interested members of the public.

### **Approval of Minutes**

Annette Atkinson made a motion to approve the May 13, 2014 minutes. Mike Dwyer seconded the motion. Motion passed 3-0.

### **Report of Executive Session**

Attorney Gaul; reported that an executive session was held prior to this meeting in order for the supervisors to go over pending legal matters with the solicitor and discuss the Hott PA, Inc. Land Use Appeal.

### **Solicitors Report**

Hott PA, Inc. Preliminary Land Development Plan - Attorney Geiger stated that the land development plan for Hott PA, Inc. is set to expire on June 1, 2014. Attorney Geiger contacted Attorney Joe Wiesmeth regarding the deadline and Attorney Wiesmeth, on behalf of his client, Hott PA, Inc. provided a letter withdrawing the land development plan for approvals. Attorney Wiesmeth also sent a letter to Judge Zulick, Monroe County Court of Common Pleas that he will be advising Attorneys Miles and Gaul that his clients will no longer be opposing the appeal of the township's conditional use approval.

Annette Atkinson made a motion to accept the letter from Attorney Joe Wiesmeth. Mike Dwyer seconded the motion. Pat Griffin asked what prevents them from moving forward. Attorney Geiger stated that there is no final resolution with the court matter right now.

Attorney Gaul stated that Hott PA and Russo are not going to oppose the appeal filed by the Appellants. There is a conference with the court tomorrow. Attorney Gaul stated that he has instructed the Board of Supervisors and Special Counsel not to address this matter now as it has not been determined yet.

Pat Griffin asked if the final resolution would be a court decision. Attorney Gaul stated that it could be handled by a stipulation, if no one opposes, but we just don't know yet.

Bob Pohlman asked if a decision by the Judge would be more appropriate. Attorney Gaul stated that there is other consideration that has to come into play but in most circumstances that does not happen.

Motion passed 3-0.

Authorize Solicitor to Execute a Stipulation... - Annette Atkinson made a motion authorizing the Solicitor to execute a stipulation on behalf of the township agreeing to the reversal of the deemed approval of Hott PA's application for conditional use approval substantially in the form reviewed by the Supervisors. Mike Dwyer seconded the motion. Pat Griffin asked if the application for conditional use is going to be reversed. Attorney Gaul stated that Joe Wiesmeth sent a letter to the court that his client would not appeal the conditional use; however, the motion made by the Board makes it clear for him, going into the conference tomorrow at the courthouse that the Township is willing to agree to the reversal of the deemed approval, and the application will be denied on its merits.

Bob Pohlman asked if Hott PA would be able to submit a new plan for the same site because a recent ordinance approved the industrial zone for adult entertainment. Attorney Gaul stated that the zoning for that site has been changed and anything else would be speculation as you do not know the facts.

Motion passed 3-0.

Resolution 05-2014-1 EDU Schedule – Annette Atkinson made a motion to approve the Resolution amending the township's rules and regulations regarding user charges for the township sewer system, which amendment shall constitute amendment and restatement in its entirety of Article II, User Charge, of Middle Smithfield Township Municipal Authority Resolution No. 7-95-1, previously adopted by the Board of Supervisors by Resolution No. 12-2009-02; and providing for other miscellaneous items. Mike Dwyer seconded the motion.

Rich Kawski asked if this resolution is for all businesses, new and old. Ms. Atkinson said it is. Pat Griffin asked if people are billed even if they do not use it. Fred Courtright said yes. Ms. Atkinson stated that we are not metered; it is a flat rate for everyone.

Motion passed 3-0.

## **Announcements**

- All three Supervisors attended the STS Tires Store for their ribbon cutting ceremony this past weekend. Nice business addition to the Township.
- Mady's Angels first annual golf tournament was held at CCP Golf Course and the outing was well attended with numerous tee and hole sponsors. Hope to have them back next year.

- The Pocono Rotary Club will be hosting their annual breakfast at the Mt. Pocono Airport on Sunday. All the food is supplied by Baileys for a minimal cost. There will be shows and events and everyone is invited.
- The grand opening of the Smithfield Library was attended by all three Supervisors. Seamus McGraw represented the Township as he is the new appointee to the Eastern Monroe Library Board.

## **Bid Results**

2014 Seal Coat – Mike Dwyer stated that after reviewing the bids the costs are higher than anticipated for the year. The Township has a 10 year plan for the roads.

Mike Dwyer made a motion to reject all the bids that were submitted due to the bids coming in higher than anticipated for the year. Mitchell Marcus seconded the motion. Bob Pohlman asked what the 10 year plan is. Mr. Dwyer stated that the public works department has a 7-10 mile paving plan per year. Due to the harsh winter and the spring thaw the paving plan had to be revised in order to do McCole Road and Big Ridge Drive with internal forces as well as other road repairs.

Motion passed 3-0.

## **Treasurer's Report**

Mike Dwyer reported that the income to date is higher than anticipated. Currently the township has received grant monies totaling \$200,000.

Payables – Mike Dwyer made a motion to approve the general fund payables in the amount of \$94,457.98. Annette Atkinson seconded the motion. Motion passed 3-0.

Mike Dwyer made a motion to pay the sewer fund payables in the amount of \$9,936.14. Mitchell Marcus seconded the motion. Motion passed 3-0.

Mike Dwyer made a motion to pay the golf course payables in the amount of \$33,105.00. Mitchell Marcus seconded the motion. Motion passed 3-0.

## **Engineers Report**

Friendly's Restaurant Letter of Credit – Fred Courtright stated that a request was received to release the letter of credit held by the township. Mr. Courtright reported that he conducted a site inspection and noted that the fence was installed however there are still (6) items not completed. Based on the fact that only (1) item has been completed and the past performance of the owners of not accomplishing the work, Mr. Courtright recommends denying the request to release the letter of credit until all the items are done.

Annette Atkinson made a motion to not release the Friendly's letter of credit based on the engineer's recommendation. Mitchell Marcus seconded the motion. Motion passed 3-0. The township secretary was instructed to send a certified letter to the owners of Friendly's

MnA Stroud Realty LLC – Fred Courtright reported that the Middle Smithfield Township Planning Commission recommended approval of the land development plan. A letter was received from the applicant's attorney requesting a decision on the plan be tabled as they are not available to attend the meeting. Fred Courtright recommended accepting the letter.

Annette Atkinson made a motion to table a decision on the plan until the next regular meeting and directed the township secretary to write them a letter regarding the motion. Mike Dwyer seconded the motion. Motion passed 3-0.

Evergreen Estates II Conservation Land Development Plan Extension Requested – Fred Courtright reported that a letter was received from the developers attorney requesting another (1) year extension. This plan was approved (2) years ago. The developers is required to post the bond and sign the plans, however they stated in their letter that due to the economic times they are requesting an extension to provide the bond and sign the plans.

Annette Atkinson made a motion to grant the extension for (1) year. Mitchell Marcus seconded the motion. Pat Griffin asked if there are have been any zoning changes since the plan was approved (2) years ago. Annette Atkinson stated that the table of uses was changed and in some residential districts uses may have changed. Fred Courtright stated that he believes the answer is no but he will check into it and report back to the supervisors.

Motion passed 3-0.

## **New Business**

Day Cab Semi Truck; Written/Telephonic Price Quotations – Attorney Gaul stated that he would like to discuss this agenda item in executive session.

Cleveland Brothers Equipment Co. Inc. – Mike Dwyer made a motion to execute a sales order agreement and financing proposal, contingent upon final closing documentation satisfactory to the Township for the purchase of a 2014 CAT Skid Steer in the amount of \$45,007.00. Mr. Dwyer stated that this is under the Co-Stars state contract. Annette Atkinson seconded the motion. Motion passed 3-0.

Tim O'Donnell Resignation Letter from the Economic Development Committee – Annette Atkinson stated that Mr. O'Donnell has submitted his letter of resignation due to time constraints. Mitchell Marcus seconded the motion. Motion passed 3-0.

Annette Atkinson announced that there is an opening on the EDC.

Rich Kawski asked what the status of the CCP Storage Building is. Mike Dwyer stated that the Engineer had completed the bid documents and bids will be opened at the next regular meeting, June 10, 2014.

HaRa Corporation Letter of Support for a Temporary PennDOT HOP – Annette Atkinson stated that the HaRa Corporation is seeking a temporary PennDOT Highway Occupancy Permit in order to provide a parking lot on their lawn due to the PPL power extension work that will use their current parking lot.

Annette Atkinson made a motion authorizing the Township Engineer to obtain additional information and to do a review of the application. Mr. Courtright is to follow up and provide a report. Mitchell Marcus seconded the motion. Motion passed 3-0.

Community Drive Road Closure – Mike Dwyer stated that a request from PPL was received to extend the closure of Community Drive to July 31, 2014. Mike Dwyer made a motion to close Community Drive until July 31, 2014. Mitchell Marcus seconded the motion. Motion passed 3-0.

### **Public Comment**

Pat Griffin stated that with the withdrawal of the Hott PA, Inc. Land Development plan is a positive development on Middle Smithfield Township and many residents of the township thank you and Don Miles, Esq.

Rich Kawski stated that the trailer still sits on Oak Grove Drive. Mike Dwyer stated that they were contacted and the person that owns the trailer lives around the corner. Signs will be placed and the jersey barriers have been placed already in order for vehicle access to be denied.

Bob Pohlman stated that Mr. Petrizzo's property is looking worse; the truck parking lot is bad.

Bob Pohlman stated that Toll Brothers is winding down in CCP and the homeowners are seeing a lot of infrastructure problems with the roads and sewer lines. He asked if the Township still holds bonds for Toll Brothers and hopes that nothing is released until the problems are rectified.

John Davis asked if there is any movement with the Supervisors to have the PA State Constables enforcing township ordinances. Attorney Gaul stated no. Mr. Davis stated that they are doing a wonderful job in Winona Lakes.

Oscar Woerlein asked about the Fireworks Ordinance. Attorney Gaul stated that it will be advertised for the June 10, 2014 meeting.

## Executive Session

Annette Atkinson made a motion to go into executive session at 8:00 p.m. for the discussion of pending legal matters with the Township Solicitor. Mike Dwyer seconded the motion. Motion passed 3-0.

Annette Atkinson made a motion to reconvene the meeting at 9:18 p.m. Mitchell Marcus seconded the motion. Motion passed 3-0.

Mike Dwyer made a motion to purchase the 1998 Mack Day Cab Semi Truck from L.W. Clearing Company in the amount of \$18,000.00. Mitchell Marcus seconded the motion. Motion passed 3-0. (The other bidders were Coopersburg Kenworth \$34,950.00, Hunter Keystone no quote available and Pocono Peterbuilt no quote available).

## Adjournment

Annette Atkinson made a motion to adjourn at 9:20 p.m. Mike Dwyer seconded the motion. Motion passed 3-0.

Respectfully submitted,

Michele L. Clewell  
Township Secretary

## General Fund Payables

<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
11765	Oak Grove Multi-Municipal Compost	MST Share of 2014 operating costs	10,075.00
			-
Trf	Middle Smithfield Township	Payroll Funds Transfer	43,000.00
11766	American United Life Insurance Company	policy G 0061299-0000-000 life insurance	-1,215.49
11767	AFLAC	inv 054060 insurance	-503.48
11768	Donald S. Pensyl II, P.L.S.	Leroy's Lane survey	-1,600.00
11769	Five Star Equipment	inv 1388975 filters	-250.01
11770	Golf Cars, Inc	inv 63308 parts re: golf course insurance claim	-1,103.72
11771	Howard Kindred Sr	servicing of subpoenas and notices Harima	-950.00
11772	John Robson.	reimburse for boots	-150.00
11773	Keystone Municipal Services, Inc	inv 21048 zoning officer	-3,900.00
			-
11774	King, Spry, Herman, Freund & Paul LLC	inv 91337-349 legal	18,134.00
11775	Mailfinance	inv n4688190 postage machine lease	-463.38
11776	Met Ed	a/c 100016915751 Municipal signal	-15.64
11777	Northeast Energy, Inc	inv 17286 50% deposit for clubhouse air unit repairs	-3,036.00

11778	PAPCO	inv 1504567 / 1504570 diesel and gasoline	-6,733.85
11779	Pennsylvania One Call System, Inc.	inv 588392 monthly fee	-44.00
11780	Penteledata	inv b2206796 email boxes	-156.13
11781	Pocono Profoods	inv 574805 supplies	-218.80
11782	REEB Millwork Corp	job name deb rjb	-848.69
11783	RICOH USA, Inc	inv 92375607 copier	-1,093.29
11784	Service Tire Truck	inv k62219-26 repairs	-276.50
11785	Weitzmann & Weitzmann, LLC	inv 20573 Planning commission	-690.00
			-
			94,457.98

### Sewer Department Payables

<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
10413	MET-ED	100 044 863 148	-16.60
10414	ALLSTATE SEPTIC SYSTEMS, LLP	237945	-277.50
10415	B. Newhart & Sons, Inc.	051514	-855.00
10416	MET-ED	100 076 523 768	-811.09
	PENNSYLVANIA AMERICAN		
10417	WATER	1024-210033589546	-55.45
			-
10418	STRAND	7357	1,332.45
10419	VERIZON	570-223-1025	-34.85
10420	W.G. MALDEN	7827	-775.00
10421	MET-ED	100 044 877 809	-22.17
	PENNSYLVANIA AMERICAN		
10422	WATER	1024-210031497597	-25.90
10423	VERIZON	570-223-8189	-35.92
10424	MET-ED	100 083 606 630	-85.47
10425	STRAND	7371	-723.80
10426	VERIZON	570-223-1024	-34.85
10427	MET-ED	100 089 058 661	-12.90
			-
10428	MET-ED	100 018 448 652	4,837.19
			-
			9,936.14

### Golf Course Payables

<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
2860	Allstate Septic Systems, LLP	inv 237672	(285.00)
2861	Berkley Mid-Atlantic	a/c 10043096 insurance installment	(6,746.00)
2862	Eastern Alarm Systems, Inc.	inv 07011/12/13 alarm systems	(342.00)
2863	Fisher & Son Co., Inc.	inv 135864-in top dressing	(1,543.70)

2864	Golf Car Specialties, LLC	si-61634 / 35 cart lease	(16,156.00)
2865	Golf Max USA	inv si-143874 pro shop merchandise inv 67445 pre order for 2014 greens supplies	(76.99)
2866	Grass Roots Turf Products		(5,088.00)
2867	Pocono ProFoods	inv 577166 towels	(104.60)
2868	Superior Plus Energy Services	inv 590064 / 65 / 66 gas & diesel	(2,165.88)
2869	Verizon	570223814063192y alarm	(49.49)
2870	Met-Ed	a/c 100081748855 pump house Tomx rd	(276.28)
2871	Met-Ed	a/c 100104048101 pump house Doral Ct	(30.60)
2872	PA American Water	1024210033261244 big ridge	(37.18)
2873	Verizon	570223737828754y	(173.28)
2874	PA American Water	1024210032658777 big ridge drive	(15.00)
2875	PA American Water	a/c 1024210033261169 big ridge dr	(15.00)
			<u>(33,105.00)</u>