

The regular meeting of the Middle Smithfield Township Board of Supervisors was held on Tuesday, July 3, 2012 at 7:00 p.m. at the Schoonover Municipal Building with Mitchell K. Marcus presiding.

Members present: Mitchell K. Marcus, Annette Atkinson and Michael J. Dwyer. Also in attendance, Township Solicitor Michael Gaul, Township Engineer Fred Courtright, Alternate Township Engineer Christopher McDermott, Township Secretary Michele Clewell, several interested parties and numerous residents.

Plan representatives present: Bob Brown of RGB Builders, Charlie Vogt, Esq., and Tim Angle of Marshalls Square Shopping Center.

Approval of Minutes

Mitchell Marcus made a motion to approve the June 5, 2012 minutes. Annette Atkinson seconded the motion. Motion carried 3-0.

Mitchell Marcus made a motion to approve the June 15, 2012 minutes. Michael Dwyer seconded the motion. Motion carried 3-0.

Treasurers Report

Michael Dwyer reported that the township remains in good financial health. A payment of \$600,000.00 of the \$1,000,000.00 golf course loan has been repaid. Another installment of the \$150,000.00 of the \$750,000.00 TRAN taken out this year has been paid with a balance remaining of \$250,000.00.

Mr. Dwyer stated that all the departments have stayed under budget and commends every employee for staying within the budget.

The cost of golf course operations remain below the projected infusion of funds at the half way point of the golf season.

2011 Audit - Michael Dwyer reported that the 2011 Audit prepared by Kirk, Summa, & Co., LLC was just received on June 29, 2012. The audit will be posted on the township website and any questions will be answered at the next regular meeting.

Now that the 2011 Audit has been received, payment of the sewer debt obligations incurred in 2010 will begin soon.

Michael Dwyer made a motion to pay the general fund bills totaling \$298,490.37. Mitchell Marcus seconded the motion. Motion carried 3-0.

Michael Dwyer made a motion to pay the liquid fuels bills totaling \$2,881.88. Mitchell Marcus seconded the motion. Motion carried 3-0.

Michael Dwyer made a motion to pay the golf course bills totaling \$37,827.02. Mitchell Marcus seconded the motion. Motion carried 3-0.

Michael Dwyer made a motion to reaffirm the GON payment totaling \$600,000.00. Annette Atkinson seconded the motion. Motion carried.

Michael Dwyer made a motion to pay the sewer department bills totaling \$93,799.85. Annette Atkinson seconded the motion. Motion carried 3-0.

Correspondences

A letter was received from Suburban EMS, dated June 22, 2012 thanking the supervisors for the 1st quarter franchise payment for 2012 year.

Engineers Report

Attorney Vogt stated that he presented a letter dated July 3, 2012 whereby the applicant agrees to waive for an additional period ending October 3, 2012, the requirement that the Board of Supervisors render a decision on the CCP Phase 3 Section 5 final PRD plan within the time specified in SALDO and the MPC.

CCP Phase 3 Section 5 Modification Requests - Charlie Vogt, Esquire representing Bob Brown of RGB Builders previously provided Requests for Modification and requested that action be taken in order to move forward with the Land Development plan at the Planning Commission meeting.

1. Modification Request No. 1A Riviera 22': applicant requests the travel ways of Riviera Court to be 22 feet in width.
2. Modification Request No. 1B Pinehurst 22': applicant requests the travel way of Pinehurst Way (other than the boulevard portion) to be gradually narrowed to 22 feet in width with 18 parallel parking spaces 9 feet wide (in addition to the travel way) provided along the NW side of the right of way between stations 19+50 and 23+50 in which area the total curb to curb distance will be 31 feet.
3. Modification Request No. 3A Riviera Driveways: applicant requests the Township permit the configuration of the individual parking spaces for each unit to be configured in a manner that may result in vehicles backing into Riviera Court in order to exit such spaces.

4. Modification Request No. 3B Pinehurst Driveways: applicant requests the Township permit configuration of parking spaces serving the Pinehurst units which may require one vehicle to be moved in order to allow another vehicle to exit the parking spaces allocated to the unit, and to allow configuration of these parking spaces which may require cars to back into Pinehurst Way to exit them.
5. Modification Request No. 3C Overflow Parking Configuration: applicant requests the Township permit configuration of overflow parking spaces along Riviera Court and Pinehurst Way in a manner that may require cars to back into Riviera Court and Pinehurst Way in order to exit such spaces.

The modification requests were discussed at length.

Chris McDermott stated that the passive recreation area that was discussed at the Supervisors work session the previous Monday, shows (2) locations and a spot for mailboxes has been added along with (3) parking spaces. The passive recreation area shows a 6 foot access from Riviera Court.

Attorney Gaul asked how would the “no parking” on the streets be enforced. Attorney Vogt stated the homeowners or property owners association would enforce the “no parking” requirement within their community. Attorney Vogt also stated that signs would be posted for parking.

Attorney Vogt indicated that he was withdrawing at this time the applicant’s requested the paving specs modification (Modification request No. 5) in order to permit the applicant more time to work on demonstrating its compliance with the Planning Commission’s recommendation

Annette Atkinson asked who would develop the passive recreation area. Attorney Vogt stated that the HOA will develop it, but if the HOA wants something specific they will put it in such as a gazebo, swings, etc.

Chris McDermott stated they want to make sure these 2 areas are suitable for recreation. Attorney Vogt stated that they will put them on the plans with more details. Annette Atkinson stated that she does not want anyone to forget they are suppose to go on the plans.

If nothing is done prior to sellout, the owners could set up a special fund to make sure its not forgotten.

Attorney Gaul stated that active recreation is suppose to be 30 percent of the PRD community. Attorney Vogt stated that these issues can be reviewed further at the Planning Commission level as his client is only seeking approval on the modifications.

Chris McDermott stated that he believes that stormwater can be used towards the open space.

Attorney Gaul stated that Mr. Vogt has a letter from him and there are still some outstanding issues that need to be addressed but not now with the modification requests.

Attorney Gaul asked if they are expecting the requests to be legally binding, Attorney Vogt said yes and then they will proceed with the plan design based on the modifications.

Mitchell Marcus asked if there would be enough parking even with the overflow parking for guests. Attorney Vogt stated that his client is providing a total of (58) additional parking spaces.

Attorney Gaul asked Chris McDermott if the garage area could be converted into a room or storage area, as it would reduce available parking. Attorney Vogt stated that a restriction could be added to the plan.

Annette Atkinson made a motion to:

1. Grant the modification requests for No. 1A, 1B, 2, 3A, 3B, 3C, 4,
2. Add restriction verbiage to the plan that garages cannot be turned into additional living spaces,
3. Add additional parking on the street in order to keep additional depth for parking, and prohibit parking on the street except in designated areas.
4. Modification No. 2 is would be without prejudice or waiver to the township concerns and right to limit units in the proposed development based on the history of the development of the overall PRD, prior tentative PRD approvals, the current and prior ownership and transfers of the Section 5 property, and current declaration applicable to the Section 5 property.
5. Grant of requested modifications were to be based on the current proposed plans before the Supervisors, and would not be applicable in revised plans unless impact of modifications in the revised plans were, to the satisfaction of the Supervisors, consistent with the proposed plans submitted to the Supervisors, and the modification approvals were not taken out of context.

Michael Dwyer seconded the motion.

Richard Kawasaki asked how many units are in CCP and if anyone has read the Planned Residential Development Ordinance.

Attorney Gaul stated that he has read the PRD approval and in terms of the original plan the units projected was 2,900 and now it's 1,600, which is substantially less. The amount of area not owned by the developer is substantially more than what was expected, as the township owns 300 acres of the land in the PRD and if the township wants to leave it as open space they could, and they have the golf course too.

Steven Kulick asked how will these modifications be policed. He was told by the HOA or POA.

Motion carried 3-0.

Michael Dwyer made a motion to accept the July 3, 2012 letter of extension from Attorney Vogt regarding the CCP Phase 3 Section 5 plan. Annette Atkinson seconded the motion. Motion carried 3-0.

Evergreen Estates Phase III Request to Release Letter of Credit – Annette Atkinson made a motion to table the request. Michael Dwyer seconded the motion. Following further discussion, Annette Atkinson made a motion to withdraw her motion. Michael Dwyer seconded the motion. Motion carried 3-0. Annette Atkinson asked that this be moved to the end of the agenda for further discussion.

Marshalls Square Shopping Center Drive thru Revision – Tim Angle of Tarisa Realty requested final approval. Fred Courtright stated that the Middle Smithfield Township Planning Commission recommended approval May 17, 2012. Mr. Courtright stated that the plan adequately addresses his April 12, 2012 letter; however, he would recommend as conditions that all certifications being completed, the well agreement being recorded and payment of all outstanding fees be paid to Middle Smithfield Township.

Mitchell Marcus made a motion to grant conditional approval of the Marshalls Square Shopping Center Drive thru Revision Plan with the following conditions.

1. All certifications being completed,
2. Well Agreement being recorded and
3. Payment of all outstanding fees be paid to Middle Smithfield Township
4. Completion of the improvements and inspection of the engineer prior to signing the plan.

Annette Atkinson seconded the motion. Motion carried 3-0.

Doli Construction Change Order No. 3 – Fred Courtright presented his letter dated July 2, 2012 with Change Order No. 3 for the 209 Sewer Project. This is a \$49,186.11 credit change order to balance the installed items with the bid items. Michael Dwyer made a motion to approve the change order. Annette Atkinson seconded the motion. Motion carried 3-0.

Doli Construction Pay Application No. 6 – Fred Courtright presented his letter dated July 2, 2012 with Pay Application No. 6 for the 209 Sewer Project in the amount of \$41,165.42. The balance to finish is \$11,009.74, which will cover the pump station start up. Michael Dwyer made a motion to approve pay application No. 6 to Doli Construction in the amount of \$41,165.42. Annette Atkinson seconded the motion. Motion carried 3-0.

Solicitors Report

Resolution 2012-07-01; Certain Public Road Name Changes – Mitchell Marcus made a motion to approve Resolution 2012-07-01. Annette Atkinson seconded the motion. Motion carried 3-0.

Resolution 2012-07-02; Disposition of Certain Records – Mitchell Marcus made a motion to approve Resolution 2012-07-02. Annette Atkinson seconded the motion. Motion carried 3-0.

Direct Solicitor to work on revisions to the Recycling Ordinance – Attorney Gaul stated that revisions were completed by the township consultant. Mitchell Marcus made a motion authorizing and directing the Solicitor to advertise the proposed ordinance for the July 27, 2012 9:00 a.m. special meeting. Annette Atkinson seconded the motion.

Richard Kawasaki asked for a brief run down of the proposed ordinance and asked who is going to enforce the ordinance. Annette Atkinson provided a synopsis of the proposed ordinance and stated that the Zoning Officer and Recycling Coordinator will enforce the ordinance.

Motion carried 3-0.

Direct Solicitor to Make Revision and Deletions in Zoning Ordinance Chapter 200 – Attorney Gaul stated that the Traditional Neighborhood Development draft ordinance has been prepared and is in the Supervisors meeting packet, and if the satisfied Supervisors were satisfied with the draft, that a public hearing should be scheduled. Mitchell Marcus made a motion to forward the TND proposed ordinance to the Middle Smithfield Township Planning Commission and appropriate outside agencies for review. Annette Atkinson seconded the motion. Motion carried 3-0.

Direct Solicitor to Advertise Deemed Approval for HOTT PA, Inc. Conditional Use – Mitchell Marcus made a motion directing the Solicitor to advertise the deemed approval for HOTT PA, Inc. Conditional Use. Annette Atkinson seconded the motion. Motion carried 3-0.

Direct Solicitor to Review and Revise New Memorandum of Understanding for First Responders – Mitchell Marcus made a motion directing the Solicitor to review and revise a new Memorandum of Understanding for First Responders. Annette Atkinson seconded the motion. Motion carried 3-0.

Committee Reports

MST Parks – Mitchell Marcus reported that the AWSOM event held at the Judy Putek Park was a success and well attended.

Annette Atkinson reported that that although Mr. Marcus was missed again at the monthly park meeting last evening, all the park assessments were completed. Each park is represented by a lead person. One of the park assessments discussed at the monthly meeting is that there are some unsafe items at the Resica Park which will be further looked into. Mrs. Atkinson

stated that the event held at the Judy Putek Park was attended by over 200 people and \$101.00 was donated.

Eastern Monroe Regional Park – No one was present to provide a report.

Workers Compensation Safety Committee – Mitchell Marcus stated that the Supervisors are working toward getting all township employees CPR certified & defibrillator trained.

Annette Atkinson reported that Mitchell Marcus was not at the meeting and Michele Clewell was on vacation and that there were no accidents to report, mouth to mouth, mouth pieces were handed out and distributed to buildings a, b and c. Buddy Arnst suggested that a sign be ordered indicating “X” number of days without an accident. Cory Lyon held a flagging class for the public works employees and Bill Parr has completed his MSDS file.

Historical Society – (Steven Kulick was present do give the report but due to the length of the meeting he had to leave) Annette Atkinson reported that an action plan has been put together. Mal Law from the Pocono Indian Museum has stated that he will provide artifacts to the township for the display case located in the lobby and Gary Summers has researched last names within the township in order to invite them to Memory Makers.

Economic Development Committee - (Debbie Kulick was present to give the report but due to the length of the meeting, she had to leave) Annette Atkinson stated that on July 12, 2012 the EDC will be meeting with representatives from the East Stroudsburg School District to discuss how townships and school boards can work together.

Golf Committee – Ray White reported that the month of June was the best month yet with 1,774 rounds of golf. Not showing a profit but have very favorable results to report. The net revenue gain from the course being open has covered 44% of the township expenditures from January 1, 2012. The Bushkill Emergency Corps 4th annual Golf Tournament will be held at CCP Municipal Golf Course on Monday, August 13, 2012.

Old Business

NCS Agreement – Attorney Gaul stated that the Supervisors have the final version before them. Mitchell Marcus made a motion to ratify the NCS Agreement. Michael Dwyer seconded the motion.

Gary Summers asked what is the NCS Agreement. Annette Atkinson stated that it is a debt collection company.

Motion carried 3-0.

George A. Koteen Associates, Inc. Utility Agreement - Attorney Gaul stated that the final version is before the Supervisors with a cap of \$15,000.00 if there is a dispute. Mitchell Marcus made a

motion to approve the George A. Koteen Utility Agreement. Annette Atkinson seconded the motion. Motion carried 3-0.

Big Ridge Developers - Attorney Gaul reported that currently there is a Standstill Agreement between the Township with Big Ridge Developers (and the estate that was assigned the Township's note) in regard to the payment for sewer capacity and if the Board of Supervisors are in agreement, and a motion is required to extend the Standstill Agreement to September 4, 2012, as it is the hope to have the bond issue completed by this date. Michael Dwyer made a motion to extend the Big Ridge Developers standstill agreement to September 4, 2012. Annette Atkinson seconded the motion. Motion carried 3-0.

The Crossings at Marshalls Creek – Attorney Gaul reported on the current status of the various developer parties to close on the property and execute developer agreements, deposit financial security and release of the LD plans.

Executive Session - Attorney Gaul stated that the Board of Supervisors held an executive session prior to the meeting to discuss the HOTT PA, Inc., zoning appeal, 6 personnel matters and other legal matters.

New Business

Summer Office Hours – Annette Atkinson made a motion to hold summer office hours from July 2, 2012 thru August 31, 2012 with the hours being; Monday thru Thursday 8am-5pm and Friday 8am to 12 noon. Mitchell Marcus seconded the motion. Motion carried 3-0.

Authorize Advertising for F.O.B. Blacktop Bids and Authorize Advertising for Coolbaugh Road Bids – Michael Dwyer made a motion directing and authorizing the Secretary to advertise the F.O.B blacktop bids and Coolbaugh Road bids. Annette Atkinson seconded the motion. Motion carried 3-0.

Schedule Special Meeting to Open Bids – Michael Dwyer made a motion to schedule a special meeting on Friday, July 27, 2012 at 9:00 a.m. for the purpose of opening bids and any other businesses that may come before the Board of Supervisors. Annette Atkinson seconded the motion. Motion carried 3-0.

Appoint BIU (Building Inspectors Underwriters) as Alternate Zoning Officer – Annette Atkinson made a motion to appoint BIU as Alternate Zoning Officer. Mitchell Marcus seconded the motion.

A question was asked as to how does this affect the current Zoning Officer. Annette Atkinson stated that if there is a conflict, vacation, etc. then the alternate would step in.

Motion carried 3-0.

Executive Session

Mitchell Marcus made a motion to go into executive session at 9:25 p.m. Michael Dwyer seconded the motion. Motion carried 3-0.

Mitchell Marcus made a motion to reconvene the meeting at 9:35 p.m. Michael Dwyer seconded the motion. Motion carried 3-0.

The executive session was held to hear legal advice from the Township Solicitor.

Public Comment

Richard Kawasaki asked who owns the Route 209 By-pass traffic signal. Michael Dwyer stated that Smithfield Township is the owner.

Oscar Woerlein asked about the proposed Price Chopper. Attorney Gaul stated that he expects them to sign agreements with the owner of the facility in the near future. The various parties are still working out who will own the property.

John Davis asked about the new township road signs. Michael Dwyer stated that the signs should be delivered to the township in about (10) days.

John Mar stated that he sent an email to all three Supervisors explaining that a company located at the old flea market is charging sales tax and it shouldn't be. Annette Atkinson stated that she replied to this email and stated again that Mr. Mar should report this to the PA Department of Revenue and Rep. Rosemary Brown's office.

Michael Dwyer announced that a portion of Big Ridge Drive, located as you enter CCP from Route 209 will be shut down in order for the first bridge to be stripped down, paved and a membrane laid out, beginning July 9, 2012 for approximately (3) days and (2) nights. We tried to use the old entrance off of Sellersville Drive, however, PennDOT will not allow us to use it without doing extensive work. Vehicles will be required to enter and exit off of Tom X Road.

Michael Dwyer stated that he has reviewed numerous files and cannot locate anything that says the developer would maintain the roads.

John Davis asked if it would be cheaper for the township to do the trash/recycling collection. Annette Atkinson stated the township can raise taxes to cover trash collection and pay haulers directly, however the public has stated they would rather pay for what they actually use/throw away.

Mitchell Marcus made a motion to adjourn the meeting at 9:50 p.m. Michael Dwyer seconded the motion. Motion carried 3-0.

Respectfully submitted,

Michele L. Clewell
Township Secretary
July 3, 2012