

The regular meeting of the Middle Smithfield Township Board of Supervisors was held on Monday, August 20, 2012 at 8:00 a.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, Esq., Alternate Township Solicitor Gerard Geiger, Esq., Township Engineer Fred Courtright, P.E., Township Secretary Michele Clewell, Stenographer Tammy Panko and several interested parties and numerous residents.

### **Approval of Minutes**

Mitchell Marcus made a motion to approve the August 7, 2012 minutes. Annette Atkinson seconded the motion. Motion passed 3-0.

### **Engineers Report**

HOTT PA, Inc. Preliminary Land Development Plan – (A stenographic record was taken by Tammy Panko).

Applicants Attorney Joe Weismeth and Engineer Jodi Litus, P.E. was present for discussion. Mr. Litus stated that he did have the Township Engineer review letter; however he does not have a written response for the Township Engineer's comments. Fred Courtright stated that he would like a written response but since that is lacking he will go though the major issues in his review letter(s) concerning the lower parking lot area with regard to meeting the one hundred (100) year flood, increase in size of the building, the elimination of ten (10) motel units

Attorney Geiger asked Attorney Weismeth if they were looking for a vote today, he said no, that they are trying to address the comments.

Fred Courtright stated that Jodi Litus requested to meet with him last week to go over his review letters but due to scheduling conflicts could not, however, he believes that meeting one on one would be more effective than doing it in a public meeting. Fred Courtright recommends the plan be tabled. Mr. Litus agreed that he and Mr. Courtright can sit down and clear all the comments out of the way.

Attorney Geiger stated that he received a letter from Attorney Weismeth (at the meeting) granting an extension of time to render a decision on the HOTT PA, Inc. Preliminary Land Development Plan until October 20, 2012.

Mitchell Marcus made a motion to grant an extension of time to render a decision on the HOTT PA, Inc. Preliminary Land Development Plan until October 20, 2012.

Following discussion as to when the HOTT PA, Inc. Preliminary Land Development Plan will be on the Supervisors agenda, Attorney Weismeth agreed to be placed on the October 2, 2012 Board of Supervisors meeting agenda.

Attorney Geiger recommended the Board of Supervisors consideration of the HOTT PA, Inc. Preliminary Land Development Plan be tabled until October 2, 2012.

Mitchell Marcus made a motion to table the consideration of the HOTT PA, Inc. Preliminary Land Development Plan until October 2, 2012. Michael Dwyer seconded the motion.

Public comment was received:

Nancy Bittner questioned if the square footage of the building would be bigger. Jodi Litus said yes. Mr. Courtright stated that the original submittal showed 3,200 sq. ft. then it went up to 5,200 when the pole building was connected to the motel thereby expanding the use into the motel building. Mr. Courtright explained that that portion of the building that extends into the 200 foot setback would be torn down. Mrs. Bittner questioned the parking and Attorney Geiger stated that with the next submission, the plans will be at the Township for review.

The motion passed 3-0.

Sellersville Junction Development, L.P. – Letter of Credit Reduction Request – Fred Courtright stated that a letter was submitted from John A. Cogan of Sellersville Junction Development, L.P. requesting a reduction of their Letter of Credit for work completed at the Wawa site.

Michael Dwyer made a motion directing Fred Courtright to complete the inspection and provide a written report of the inspection as well as a report on what percentages of work has been complete in comparison to the escrow spreadsheet provided by the requester. Mitchell Marcus seconded the motion. Motion passed 3-0.

### **Solicitors Report**

The Crossings at Marshalls Creek - Attorney Gaul stated that the Crossings' application for documents PennDOT HOP (Highway Occupancy Permit) need to be in the Township's name, and signed by a Township representative. Mitchell Marcus made a motion authorizing the filing of HOP applications in the name of the Township in regards to the Crossings at Marshalls Creek Route 209 improvements and the execution of the applications and any related documents by a member of the Board of Supervisors. Annette Atkinson seconded the motion. Motion passed 3-0.

Attorney Gaul recommended that a condition to the approval of an HOP application be that the Developer signs an Indemnity Agreement regarding any stormwater improvements that must be constructed in connection with the permit and the future maintained by the Township.

Attorney Gaul explained that this agreement will permit the Township to pass any costs associated with the HOP that come to the Township back to the Developer.

Mitchell Marcus made a motion that the filing of the HOP permit application in the Townships name be conditioned upon the Developer executing an Indemnity Agreement for inspection and maintenance of stormwater improvements in a form satisfactory to the Township Engineer, Township Solicitor and Board of Supervisors and authorizing the Townships execution and delivery of the Indemnity Agreement, with the Township Engineer determining the appropriate escrow. Michael Dwyer seconded the motion. Motion passed 3-0.

Water Gap Preserve – Attorney Gaul stated that the Developer/Bank owner of the Water Gap Preserve major subdivision desires to sell the property to a conservancy group, and as a result is requesting that the Township execute and Extinguishment Agreement in regards to prior Township land use development approvals. Attorney Gaul is requesting authorization from the Board of supervisors to work on the Extinguish Agreement. Mitchell Marcus made a motion authorizing Attorney Gaul to work on the Extinguish Agreement with the Developer/Bank Owner. Annette Atkinson seconded the motion. Motion passed 3-0.

Attorney Geiger stated that an Executive Session was held prior to the meeting regarding HOTT PA, Inc. Preliminary Land Development Plan.

### **Treasurers Report**

Michael Dwyer made a motion to approve the General Fund payables in the amount of \$144,215.17. Annette Atkinson seconded the motion. Motion passed 3-0.

Michael Dwyer made a motion to pay Kirk, Suma, & Co. for the 2011 audit in the amount of \$14,500 and \$7,500.00 from a disputed amount in 2011. Annette Atkinson seconded the motion. Motion passed 3-0.

Michael Dwyer made a motion to approve the Sewer Department payables in the amount of \$15,619.50. Annette Atkinson seconded the motion. Motion passed 3-0.

Michael Dwyer made a motion to approve the Golf Course payables in the amount of \$2,547.66. Mitchell Marcus seconded the motion. Motion passed 3-0.

### **New Business**

Schedule Fall Cleanup – Michael Dwyer stated that authorization for the fall cleanup was done at the June 5, 2012 meeting and this is a confirmation of the dates; October 5<sup>th</sup> and October 6<sup>th</sup> 2012.

Amend the Tax Collection Committee Delegate – Mitchell Marcus made a motion to remove Michele Clewell as the Alternate Tax Collection Committee Delegate and appoint Raymond Wolfe as the Alternate. Michael Dwyer seconded the motion. Motion passed 3-0.

Safety Communication Policy – Annette Atkinson stated that the Safety Communication Policy is for all employees of Middle Smithfield Township. Annette Atkinson made a motion to adopt the policy as outlined. Mitchell Marcus seconded the motion. Motion passed 3-0.

### **Executive Session**

Mitchell Marcus made a motion to go into executive session at 8:46 a.m. regarding personnel matters and to hear legal advice from the Solicitor on pending Township matters. Annette Atkinson seconded the motion. Motion passed 3-0.

Mitchell Marcus made a motion to reconvene the meeting at 9:03 a.m. Annette Atkinson seconded the motion. Motion passed 3-0.

Mitchell Marcus made a motion to terminate the employment of Michael McGrath effective August 20, 2012. Annette Atkinson seconded the motion. Motion passed 3-0.

### **Public Comment**

Oscar Woerlien asked if development on the greenhouse for Winona Lakes STP has been done. Fred Courtright stated that it is currently preliminary thoughts right now.

Richard Kowski asked about obtaining a copy of the Recycling Ordinance. He also stated that the population on the website still shows the 2007 numbers. Annette Atkinson stated that he may obtain a copy of the Ordinance through a Right-to-Know request and the webmaster will be notified of the population.

Larry Dymond stated that he wanted to get the Supervisors and Attorney Gaul together in order to talk about Joe Catalfamo. Attorney Gaul stated that the Township will not review this topic any further, the matter is closed and he will need to consult with a private attorney and if needed, bring legal action. Attorney Gaul stated that a letter will be send to Mr. Catalfamo explaining that this topic will not be review any further.

Mr. Dymond stated that Primrose Land is a Township road. Michael Dwyer stated that the Supervisors have given all the information to the Township Solicitor and used Board time and there is no more information Mr. Dymond can give the Board and the Board cannot have one issue monopolize the Solicitors time at all taxpayer's expense.

Attorney Gaul stated that Mr. Catalfamo and Mr. Dymond were given the opportunity to provide their information and it did not make sense. Mr. Catalfamo sued the Township back in

the 1990's and the court ruled. It does not make sense to argue in this forum and at this point a law suit needs to be filed, the Township cannot spend any more time on this.

Attorney Gaul stated that this issue is concluded with the Township.

Mitchell Marcus made a motion directing Attorney Gaul to prepare a letter to Mr. Catalfamo and Mr. Dymond expressing to them that this issue is concluded with the Township. Annette Atkinson seconded the motion. Motion passed 3-0.

Richard Kawski asked if the Township has the Primrose Lane bridge meets and bounds description as work was done a few years ago. Attorney Gaul stated that a Right-to-Know request for can be filed and the Supervisors do not need to answer the question.

Mitchell Marcus made a motion to adjourn the meeting at 9:20 a.m. Michael Dwyer seconded the motion. Motion passed 3-0.

Respectfully submitted,

Michele L. Clewell,  
Township Secretary  
August 20, 2012

**104-000 - General Fund - Wayne Bank**

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Credit</u>
08/14/2012	3812	Benecon Group	grp 052801	20,688.46
08/14/2012	3813	BIU of PA, Inc.	inv 0100-0120-026990 permits	7,332.01
08/14/2012	3814	Met Ed	a/c 100016915751 Municipal signal	19.55
08/14/2012	3815	Met Ed	a/c 100036091245 bldg a	444.70
08/14/2012	3816	PA State Association of Boroughs	inv 13128 webinar	75.00
08/14/2012	3817	RICOH USA, Inc	inv 87473513 copier rental	425.04
08/14/2012	3818	Smithfield Township	insurance contribution MC Fire Co	12,650.00
08/14/2012	3819	Verizon	570223892064559Y bldg A	702.39
08/14/2012	3820	Met Ed	a/c 100059550028 Echo Lake	21.12
08/14/2012	3821	Met Ed	a/c 100016951467 bldg A	1,164.56
08/14/2012	3822	Met Ed	a/c 100069220836 River Rd	14.31
08/14/2012	3823	Met Ed	a/c 100073577916 Sellersville	24.11
08/14/2012	3824	Cramer's Powerhouse	inv 299740 Toro mower less trade-in	5,500.00
08/14/2012	3825	FedEx	inv 797670514	35.56
08/15/2012	Trf	Wayne Bank	Funds Transfer	43,565.99
08/16/2012	3826	A.J. Smith Electric Motor Service	inv 34227 Bosh grinder	105.00
08/16/2012	3827	AFLAC	insurance	545.82
08/16/2012	3828	Apex Fire Protection	inv 8623 tamper switch	125.00
08/16/2012	3829	Bergey's, Inc	inv PH393214R GA air press	117.63

08/16/2012	3830	Bibi Mahmuda Papiah	code 09/97781 assessment reduction	384.04
08/16/2012	3831	BIU of PA, Inc.	inv 0100-0120-027413 July	11,097.13
08/16/2012	3832	BWP-Carquest Auto Parts	parts	73.42
08/16/2012	3833	Claude S. Cyphers, Inc	inv 603093 parts	144.11
08/16/2012	3834	Dawn M. Arnst	tax collector supplies	68.73
08/16/2012	3835	For Your Health Midical Supply, Inc	inv 1103 first aid kits	250.00
08/16/2012	3836	General Code, LLC	inv C0009009 laserfiche assurance plan	961.00
08/16/2012	3837	Gilmore & Associates, Inc.	engineering	10,514.90
08/16/2012	3838	Kimball Midwest	inv 2559173 cleaner/wheel/dielectric	77.12
08/16/2012	3839	King, Spry, Herman, Freund & Paul LLC	8383 legal fees	13,841.00
08/16/2012	3840	Martin & Bridget Hickey	code 09/97584 reduced assessment	384.04
08/16/2012	3841	PA State Association of Boroughs	inv 13129 webinar	75.00
08/16/2012	3842	Pohlman Family Trust	code 09/96920 assessment reduction	21.97
08/16/2012	3843	Tulpehocken Spring Water	inv 1192457 / 1198673	117.00
08/16/2012	3844	William and Sharon St. Pierre	code 09/94078 reduced assessment	23.46
08/16/2012	3845	PNC Bank	602519534	12,626.00
Total 104-000 - General Fund - Wayne Bank				<u>144,215.17</u>

**100.000 - Wayne Bank - Golf Course**

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Credit</u>
08/15/2012	1995	BWP-Carquest Auto Parts	inv 8348-17138 oil filter, brake fluid	6.85
08/15/2012	1996	Finch Services, Inc	aerator tines & belt	343.54
08/15/2012	1997	Lewis True Value	inv A302878 clubhouse toilet connector	13.47
08/15/2012	1998	Met-Ed	a/c 100081748863 golf maint bldg	127.58
08/15/2012	1999	R&R Products	TeeJet Spray Tip / tires	265.67
08/15/2012	2000	Turf Equipment & Supply Co.	inv 808721-00 bearings, cup-scalp	150.48
08/15/2012	2001	Verizon	570223737828754Y	138.44
08/15/2012	2002	Met-Ed	a/c 100081748855 golf course pump house tom x rd	925.97
08/15/2012	2003	Verizon	570223814063192Y	95.53
08/15/2012	2004	Verizon	570223809936550Y	304.88
08/16/2012	2005	Met-Ed	100085171773 gaurd shack	148.92
08/16/2012	2006	Met-Ed	100081784231 big ridge drive	26.33
Total 100.000 - Wayne Bank - Golf Course				<u>2,547.66</u>

**BOS Bill List for Approval August 20, 2012 Sewer Account**

<u>Vendor</u>	<u>Amount</u>	<u>Check No.</u>	<u>Description of Charges</u>
Eric Bell	\$ 4,865.00	5743	Sludge Hauling/Cleaning Lines Tree Top
Met Ed		5744	Void
Met Ed		5745	Void
Met Ed	\$ 8,393.30	5746	Electric PS and STP
Middle Smithfield Township	\$ 164.24	5747	Tops module upgrade on MST Credit Card

Newhard & Sons, Inc.	\$	522.50	5748	Clean manholes and sludge
PA American Water	\$	29.05	5749	Sellersville Yard Hydrant
Prosser Labs	\$	75.00	5750	Sample water testing - Pond Creek CCP
Prosser Labs	\$	322.40	5751	WL Oxidation effluent test
Strand Pool Supplies	\$	994.05	5752	Chemicals STP
Tops Software	\$	84.95	5753	Monthly Maint. Support
Verizon	\$	76.18	5754	PS 5 & 6 Communication
AT&T	\$	92.83	5755	Communications STP

**Grand Total Sewer Fund**      \$  
15,619.50

Checks marked "VOID" are due to their lengthy invoice total running onto the next sequential check number when printing.