

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
JANUARY 14, 2019

Minutes of the Regular Meeting of Township Council held on January 14, 2019 at 7:00 P.M. in the Township Administration Building located at 27 North Pennell Road.

Present: Stephen Byrne, Scott Galloway, Mark Kirchgasser, Susan Powell, Walter 'Bok' Read, Andrew Haines, Joseph Damico, Jr., Esq., Eric Janetka

Absent: Russ Carlson, Norman Shropshire

1. OPENING

Chairman Mark Kirchgasser called the meeting of the Council to order at 7:08p.m. and led recitation of the Pledge of Allegiance to the Flag.

Mr. Kirchgasser stated Council met in Executive Session to discuss legal issues on agenda item 7C asbestos RFP bids at Roosevelt School.

2. APPROVAL OF MINUTES - N/A

3. COMMENTS FROM THE PUBLIC

Ms. Becky Barner, Lima Estates, stated she has a petition signed by Lima Estates residents requesting Middletown Township Council to video broadcast recorded and made easily available on the Township website. Mr. Kirchgasser stated this item can be brought before Council at a future meeting.

Ms. Joanne Williams, 108 Judith Lane, stated she understands that on New Year's weekend, the pipelines were up and running. She asked with the government closed if there was an inspection. Mr. Kirchgasser stated there is no report provided to confirm that inspections were done. Ms. Williams asked if the Township was notified. Mr. Kirchgasser stated he received a direct e-mail from a communication consultant from Energy Transfer Partners. He stated he immediately posted the information on social media, notified Township Council, Township Engineer, Township Manager, State Police and the Chiefs of the two Township Volunteer Fire Companies. Ms. Williams asked why the residents were not notified. She asked if there is a plan in place for evacuation and is it on the website. Mr. Kirchgasser stated the response plan in place is not to be published publicly because of safety concerns. Ms. Williams asked how the citizens are going to know what to do. Mr. Kirchgasser stated the Emergency Management Team will direct the public. Ms. Williams stated if there is a rupture or leak, the residents cannot be notified by cell phones. Mr. Kirchgasser stated according to the counsel from the Emergency Management Coordinator and a direct result from the lawsuit by the "Safety Seven", residents should proceed to an area upwind and uphill.

Ms. Bibbiana Dussling, 76 War Admiral Lane, regarding the "Safety Seven", the hearing is Thursday, January 17, 2019. She stated some of the members of the case have approached the Township for a letter of support. Mr. Haines stated he met with Ms. Fuller and the Township was aware a request to support a specific complaint or provide a letter of support to the PUC.

Mr. Kirchgasser asked when the deadline is. Mr. Haines stated the deadline to file a letter is January 16, 2019. Ms. Dussling stated individual residents can write letters showing how they are affected. She stated this is a good opportunity for the Township to state how the Township is directly affected and offer support for the residents.

4. REPORTS

A. CHAIRMAN

Mr. Kirchgasser stated the highway crews did an excellent job and wanted to thank the crew with the recent wintry weather event. He stated there were no accidents reported from either fire company.

B. COMMITTEE - N/A

C. MANAGER

1) Consideration to Amend Bidding Threshold Values to 2019 Levels.

Mr. Haines noted the State updated the bidding threshold for purchases based on consumer price index. This includes getting quotes, obtaining written quotes, or going out to bid. He stated the threshold values are \$11,100 or \$20,600. He stated the Township codified the threshold specifically at \$18,500. Mr. Haines asked if Council was receptive to amending Code to update and aligned with current State statutes, and Council provided consensus support for such an amendment.

2) Consent to Authorize Advertisement and Accept Online Sale of Township Excess and Unneeded Personal Property.

Mr. Haines stated for public the record, there are several old telephones and a very old shredder that staff would like to put on Municibid for sale. He stated he plans to bring forth an ordinance for Council's consideration to modernize the section of Township Code that has not been changed since 1978. Mr. Haines asked if Council has any objection to sell the items on Municibid and Code amendment and received support to both.

D. ENGINEER - N/A

5. OLD BUSINESS

Continued Conditional Use Hearing from December 10, 2018 - See Agenda Item 6A.

Mr. Galloway stated there has been a request from the attorney for the applicant, Linvilla Orchards, to continue the agenda item and have requested it be placed on the agenda for Monday, January 28, 2019.

Mr. Galloway made a motion to continue the agenda item and Mr. Byrne seconded the motion. The motion carried with a vote of 5-0.

6. PUBLIC HEARING

- A. Continued from 11/22/2018 and 12/10/2018: A public hearing on a Conditional Use for Linvilla Orchards, 137 W. Knowlton Road, consideration to amend the June 8, 1992 Agreement for non-conforming uses and accessory uses, as identified in Exhibit "B" of the agreement, to permit the commercial dispensing and/or retail sale of malted or brewed alcoholic beverages.

Continued to the January 28, 2019 Council Meeting.

- B. Public hearing on a Conditional Use for Dos Gringos, 415 Lenni Road, consideration for commercial food production facility.

Mr. Galloway made a motion to open the Public Hearing and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

SEE ATTACHED HEARING MINUTES

Mr. Galloway made a motion to close the Public Hearing and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

Mr. Galloway made a motion to amend the agenda to vote on a resolution for a conditional use and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

7. NEW BUSINESS

- A-1. Consideration to Approve Conditional Use for Dos Gringo, 415 Lenni Road, for commercial food production facility.

Mr. Read made a motion to approve the Conditional Use and Mr. Byrne seconded the motion. The motion carried with a vote of 5-0.

6. PUBLIC HEARING

- C. A Public Hearing on a Conditional Use for Granite Run Buick GMC, for property located at 1067 W. Baltimore Pike (Sears Automotive), consideration for temporary vehicle parking/storage. To be continued to March 25, 2019.

Mr. Galloway made a motion to continue the Public Hearing to the March 25, 2019 Council Meeting and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

D. NEW BUSINESS

- A. Consideration to introduce Ordinance No. 800: Amendments to Chapter 4 - Administration of Government and the creation of a Middletown Township Personnel Manual.

Mr. Galloway stated he would like more time to review the proposed the ordinance and would like more time to review some aspects.

Mr. Galloway made a motion to continue the agenda item to the January 28, 2019 Council Meeting and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

B. Council Review of Zoning Hearing Board application: Application 19-01: Anthony & Sylvan Pools on behalf of Jordan Grant - 342 Valley Road.

Mr. Haines stated the homeowner spoke to Ms. Merino prior to settlement and is looking for relief of the rear yard setback and feel there are conditions that highlight why this is the only location to place the pool. He stated because of the potential for pools to push stormwater onto adjacent properties, staff believes there should be screening along the property line and some significant onsite stormwater management to address the potential impact. Mr. Kirchgasser asked if staff will be present at the meeting and asked if legal representation will be needed and Mr. Galloway stated he feels staff will be sufficient. Mr. Haines stated Mr. Janetka will represent the Township due to the stormwater issues.

C. Consideration to Award Contract for RFP: Asbestos Removal at Roosevelt School- West Wing.

Mr. Haines stated the Township partnered with Criterion Labs for the RFP asbestos remediation at Roosevelt School. He stated there were multiple pre-bid walk-throughs and three addendums that were provided to the bidders. He stated ten bids were submitted to the Township that were opened publicly, but four of the ten bids submitted in a way that misunderstood the intent of how cost was to be presented. Mr. Haines stated he worked with Mr. Damico to provide administrative clarification; however, this created further complication on submitted values. Mr. Haines stated it is staff's opinion there is confusion that could lead to a potential appeal in the awarding of the bid. He stated it is staff's recommendation to reject all bids and immediately re-bid.

Mr. Galloway made a motion to reject all bids and re-advertise for new bids and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

D. Consideration for Authorization - Highway Occupancy Permit Condition Statement, WV-PP Towne Center Multi-Use Trail - Permit Application#167072.

Mr. Stephen Polaha stated this condition statement relates to a piece of the multi-use trail that runs from Road A, across from Valley Road to the SEPTA Train Station property. He stated very little is in the PADOT right-of-way, but still requires a Condition Statement.

Ms. Kelly Johnson, 711 Iris Lane, asked what the trail is and what it connects with. Mr. Polaha provided her with a plan of the trail. Mr. Kirchgasser stated this is the Township's extension of the Chester Creek Trail from the Wawa Train Station. He stated the terminus is at Rt. 452 where the planned Printers Way traffic-controlled intersection will be at Rt. 452 (loop road).

Mr. Galloway made a motion to authorize the Highway Occupancy Permit Condition Statement and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

E. Consideration to Authorize - Traffic Signal Agreement for Road "A" in association with WV-PP Towne Center, located at 1408 W. Baltimore Pike, Folio #27-00-00100-01

Mr. Polaha stated Road "A" is the entrance driveway to the residential project across from Valley Road. He stated this agreement would provide the Township with an easement for the traffic signal facilities that WV-PP will be installing at the intersection. He stated this is the same easement agreement that was provided to Council with respect to the easement at Granite Farms Estates. Mr. Polaha stated there is also as per the agenda, a Traffic Signal

Easement Agreement at Office Drive next to the PA. State Police Barracks. Mr. Haines stated Mr. McKenna and Mr. Matson reviewed to make sure the metes and bounds are consistent with what Mr. Polaha has provided and approve of the submitted documents.

Mr. Galloway made a motion to approve the Traffic Signal Easement Agreement and Mr. Byrne seconded the motion. The motion carried with a vote of 5-0.

- F. Consideration to Authorize - Traffic Signal Agreement at PA State Police Barracks, in association with WV-PP Towne Center, located at 1336 and 1408 W. Baltimore Pike, Folio #27-00-00100-01 and #27-00-00096-00.

Mr. Galloway made a motion to authorize the Traffic Signal Agreement at the PA State Police Barracks. Mr. Read seconded the motion. The motion carried with a vote of 5-0.

- G. Consideration to Authorize - Stormwater Operation and Maintenance Agreement, in association with WV-PP Towne Center, Road "A".

Mr. Haines stated the documents show this is specific for the stormwater operation and maintenance at Donovan Drive and has been reviewed by Mr. McKenna and Mr. Matson. Mr. Polaha stated the agreement provides for the developer WV-PP, to maintain the stormwater facilities at Donovan Drive where it intersects Baltimore Pike. Mr. Kirchgasser stated Donovan Drive intersects at Thomas Chevrolet.

Mr. Galloway made a motion to authorize the Agreement and Mrs. Powell seconded the motion. The motion carried with a vote of 5-0.

- H. Consideration for Approval - Resolution 2019-20; Final Major Subdivision, "Darlington Pointe II," 432 Old Forge Road.

Mr. James Buckley, representing the developer, stated they are looking for approval of the subdivision consisting of eight lots (7 new building lots). He stated two lots access by their own individual driveways by Old Forge Road (Lots 1 and 2), and Lots 5,6, 7 and 8 access by Old Forge Road by a common driveway, and Lots 3 and 4 access by Matrissa Ridge through a shared driveway. He stated the plan has been reviewed and they comply with all the requests and comments. He stated he is requesting two waivers: to allow for certain construction in steep and very steep slope areas and the requirement plans be signed and sealed by a landscape architect. He stated there is very minimal landscaping and what is provided is for screening purposes.

Mrs. Powell asked if Eric Janetka is satisfied with the stormwater management of the plan and he the stormwater that flows down Forge Road has been addressed. Mr. Kirchgasser asked if there is an estimate when Darlington Pointe I will be completed, and he said it is his client's intention to put the sewer laterals in and then complete the road and have it dedicated.

Mr. Galloway made a motion to approve the Resolution and Mr. Read seconded the motion. Resolution 2019-19 carried with a vote of 4-0. Mr. Kirchgasser abstained from the vote.

I. Consideration for Approval - Resolution 2019-20; Preliminary Major Subdivision Plan of Bonaventure Builders, known as "Elms at Lenni," 312 Lenni Road.

Mr. Adam Powell, Civil Engineer for the project and the application is the existing area of the Lenni Fire House. He stated the idea is to demolish everything to build a 6-lot development. He stated 5 lots will be on Elm Avenue and one lot on Lenni Road.

Mr. Powell stated he received Mr. Janetka's review letter from the Engineer in October and did a walk of the property. He stated the Planning Commission recommended approval. He stated the applicant agreed to do soil testing on the property. He stated there will be some soil remediation to be done. He stated per Township Codes, because they are removing so much asphalt, they meet the stormwater regulations without the underwater infiltration beds. He stated the applicant has agreed, if needed, to provide infiltration beds. Mr. Powell stated there are existing inlets on the site which will be repurposed. He stated zoning relief was required for a reverse frontage lot which requires a minimum rear yard setback of 60 feet. He stated they received approval to reduce the rear yard setback to 47 feet. He stated they will provide the buffer requirements required by having an evergreen row on the edge of Lot 1. Mr. Powell stated he has reviewed and agreed to the Kelly & Close comment letter and the Tom Comitta letter. He stated they will need a waiver to cover the rear yard setback. He stated they will need a waiver of the 60-foot right-of-way on Lenni Road. He stated the existing right-of-way is 33 feet. He stated this would put them 13 feet into the lots. He stated Lenni Road is a State Road. Mr. Powell stated the agreement with the Township is to provide an 8-foot wide utility easement which will allow the Township or PennDOT to come onto the property to maintain any utilities. He stated the house on Lot 6 will be moved an additional 5 feet off the right-of-way.

Mr. Kirchgasser stated the property is the former Lenni Heights Fire Company and prior applications proposed light industrial use that was not supported. Mr. Chris Garriga, 416 Meadowhurst Lane, asked how big the lots and the houses will be. Mr. Powell stated the homes will be approximately 1800 square feet and are two story homes with two car garages. Mr. Powell stated all the lot sizes are over 1/4 acre.

Mr. Galloway made a motion to approve the Resolution and Mr. Byrne seconded the motion. Resolution 2019-20 carried with a vote of 5-0.

Mr. Kirchgasser adjourned the meeting at 8:10 P. M.

Respectfully Submitted,


Sharon Browne, Recorder

MIDDLETOWN TOWNSHIP
COUNCIL MEETING
January 14, 2019

RECEIVED

JAN 14 2019

MIDDLETOWN TOWNSHIP

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In Re: Public Hearing, Conditional Use for
Dos Gringos 415 Lenni Road

Transcript of a portion of the MIDDLETOWN
TOWNSHIP COUNCIL MEETING, PUBLIC HEARING, in the
above-captioned matter, taken before Lorraine Evans,
Court Reporter-Notary Public, at the Township
Building, 27 North Pennell Road, Media, Pennsylvania
19063, on Monday, January 14, 2019, commencing
approximately at 7:25 p.m.

BOARD MEMBERS

- MARK KIRCHGASSER, CHAIRPERSON
- SUSAN POWELL
- WALTER READ
- STEPHEN BYRNE
- SCOTT D. GALLOWAY

- ANDREW HAINES, Township Manager
- JOSEPH A. DAMICO, JR. ESQUIRE, Solicitor
- ERIC J. JANETKA, Township Engineer

LORRAINE EVANS
PROFESSIONAL COURT REPORTER-NOTARY PUBLIC
530 Paxon Hollow Road
Broomall, Pennsylvania 19008
(610)203-7715 7evanslorraine@comcast.net

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GREG QUINTILIANO	4

INDEX TO EXHIBITS

NO.	DESCRIPTION	PAGE
T-1	Proof of Publication of 12/28/18 and 1/4/19	5

LORRAINE EVANS

1 MR. GALLOWAY: Mr. Chairman, I understand
2 there's been a request from the attorney for
3 the applicant, Linvilla Orchards, to once again
4 continue this agenda item, and they have
5 requested that they be placed on the Monday,
6 January 28, 2019 meeting, which is two weeks
7 from this evening. I would make a motion we
8 continue this matter.

9 CHAIRMAN KIRCHGASSER: Motion to continue
10 this item until the 28th of January, our next
11 meeting.

12 MR. BYRNE: Second.

13 CHAIRMAN KIRCHGASSER: All those in favor?
14 Opposed? That motion carries.

15 (Whereupon, all Council members
16 present vote "aye.")

17 CHAIRMAN KIRCHGASSER: On to Item 6B. Mr.
18 Haines.

19 MR. HAINES: This public hearing is going
20 to go forward. We have a conditional use
21 hearing for Dos Gringos at 415 Lenni Road,
22 consideration for commercial food production
23 facility, and as it's a public hearing if you
24 guys would like to motion and convene a public

LORRAINE EVANS

1 hearing, I'll turn it over to Mr. Damico.

2 CHAIRMAN KIRCHGASSER: Motion to start the
3 meeting.

4 MR. GALLOWAY: I will make a motion to
5 open this hearing.

6 MS. POWELL: Second.

7 CHAIRMAN KIRCHGASSER: All in favor?
8 Opposed? Motion carries.

9 (Whereupon, all Council members
10 present vote "aye.")

11 CHAIRMAN KIRCHGASSER: Mr. Quintiliano.
12 How are you? Why don't you give us a quick
13 summary of what you're trying to do.

14 GREG QUINTILIANO, having been
15 duly sworn, was examined and
16 testified as follows:

17 MR. HAINES: Mr. Damico wants to make sure
18 we confirm for the record that we have a copy
19 of Proof of Publication for the legal
20 advertisement as in evidence along with all the
21 mailings for the area that have gone around, as
22 well as the application, so we have those as
23 exhibits for the hearing should they be needed
24 for the official record.

LORRAINE EVANS

1 MR. DAMICO: We'll mark them.

2 CHAIRMAN KIRCHGASSER: Just so you know,
3 if there's anything you would like to
4 introduce, just introduce those as evidence
5 items. I don't know if you brought anything
6 with you.

7 THE WITNESS: No.

8 MR. HAINES: Mr. Damico wants to make sure
9 we put on the record that the Proof of
10 Publications for Friday, December 28, 2018 and
11 Friday, January 4, 2019 were the dates that the
12 legal advertisements were made for this.

13 MR. DAMICO: Township Exhibit Number 1.

14 (Whereupon, a few documents are
15 introduced and marked into
16 evidence as Township Exhibit
17 Number 1 for identification.)

18 CHAIRMAN KIRCHGASSER: Formalities out of
19 the way, Mr. Quintiliano, please proceed.

20 THE WITNESS: So to introduce myself for
21 those who do not know me, I'm Greg Quintiliano.
22 I'm a Township resident. Have been a township
23 resident for about 15 years, live at 246
24 Chestnut Avenue. I own a business in the

LORRAINE EVANS

1 Borough of Media, Dos Gringos Mexican Kitchen,
2 if you're not familiar with it. I've been
3 there about eight years now.

4 Over the past few years as business grew
5 we were looking for a larger facility to be
6 able to produce and prepare food in the
7 restaurant as the restaurant is pretty small.
8 Kind of exhausted options over the past few
9 years, looking to rent additional space or
10 possibly enlarge my space.

11 We came across the property at 415 Lenni
12 Road a few months ago, as I live a couple
13 blocks away from it. Thought it would be a
14 great opportunity for me to be able to expand
15 my business and be able to have that extra
16 space to do production for catering and a chip
17 and salsa business that we have as well in the
18 restaurant. So that's what I am looking to do
19 with the property.

20 CHAIRMAN KIRCHGASSER: Okay, any
21 questions?

22 MR. GALLOWAY: So 415 is a residential
23 property I assume?

24 THE WITNESS: It's zoned residential in

LORRAINE EVANS

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the neighborhood. It's been used for, I don't know how long, for many years now, as a non-conforming, as Chestnut Bakery. Before that it was a bakery as well, a deli before that as well, so we would be continuing it as a non-conforming use.

MR. GALLOWAY: You would be making food at this property and then transporting it to your restaurant?

THE WITNESS: Not necessarily to the restaurant. For off-site catering purposes. Producing food there and delivering to off-site catering.

MR. GALLOWAY: How many vehicles would that entail?

THE WITNESS: One food truck and a car or so. In terms of vehicles, delivery vehicles, one. And then parking for myself and if I have an employee there with me.

MR. GALLOWAY: Do you have this property under agreement conditioned on approval here?

THE WITNESS: We do.

MR. GALLOWAY: How many employees would you have working there?

LORRAINE EVANS

1 THE WITNESS: Probably maximum two to
2 three.

3 MR. GALLOWAY: And the hours of operation?

4 THE WITNESS: Probably, again, it would
5 vary. Catering business often varies. Maximum
6 five days a week or so, and minimum one or two
7 days a week. Hours probably earliest, get
8 there at eight o'clock in the morning, to an
9 event, came back, breakdown and clean later in
10 the afternoon and evenings as well.

11 MR. GALLOWAY: Thank you.

12 CHAIRMAN KIRCHGASSER: Mr. Read, Mr.
13 Byrne, anything?

14 BY MR. DAMICO:

15 Q I just have one question. It's my
16 understanding there won't be any retail operation at
17 all, is that correct?

18 A Correct. To be more specific, the post
19 office does still operate within the building, so
20 obviously their retail business is going to
21 continue.

22 Q You will not have customers come?

23 A I will not, no.

24 CHAIRMAN KIRCHGASSER: No other questions

LORRAINE EVANS

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from members of Council? If that's all you have to add, no other witnesses to present?

THE WITNESS: No.

CHAIRMAN KIRCHGASSER: We'll take up the matter, close the hearing. Motion. Oh, public comment? Any comments from members of the public? Questions? Seeing none and hearing none, ask again, motion.

MR. GALLOWAY: I will make a motion to close the public hearing.

MS. POWELL: Second.

CHAIRMAN KIRCHGASSER: All those in favor? Opposed? The "ayes" have. Motion carries.

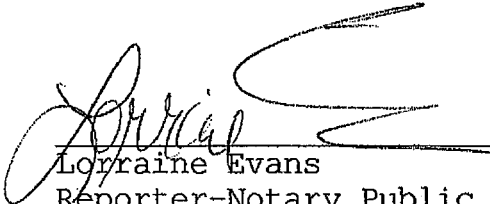
(Whereupon, all Council members present vote "aye.")

LORRAINE EVANS

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REPORTER'S CERTIFICATION

I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.


Lorraine Evans
Reporter-Notary Public
My Commission Expires
October 25, 2022

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

LORRAINE EVANS