

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
FEBRUARY 11, 2019

Minutes of the Regular Meeting of Township Council held on February 11, 2019 at 7:00 P.M. in the Township Administration Building located at 27 North Pennell Road.

Present: Stephen Byrne, Russ Carlson, Scott Galloway, Mark Kirchgasser, Susan Powell, Walter 'Bok' Read, Andrew Haines, Charles Miller, Esquire

Absent: Norman Shropshire, Eric Janetka

1. OPENING

Chairman Mark Kirchgasser called the meeting of the Council to order at 7:00 P. M. and led recitation of the Pledge of Allegiance to the Flag.

2. APPROVAL OF MINUTES

Mr. Galloway made a motion to approve the January 14, 2019 Council Meeting minutes and Mrs. Powell seconded the motion. The motion carried with a vote of 6-0.

3. COMMENTS FROM THE PUBLIC NONE

4. REPORTS

A. CHAIRMAN

Mr. Kirchgasser stated he wanted to compliment the Public Works Department for efficiently managing the wintry storm. He stated they were out early in the morning and will be out late this night. Mr. Kirchgasser stated he wanted to thank the community for their patience and tolerance of the SEPTA bridge removal at Baltimore Pike, as it created some interesting moments with a couple of minor fender benders as people did not heed the proper detours. Mr. Kirchgasser stated he has received information that the construction of Printers Way will begin within the next sixty days, which is the first leg of the loop road between Thomas Chevrolet and branching off behind what will be the new Wawa and up to Rt. 452. He stated he hopes to have updates on projected start dates for the east end of the loop that is being funded by the Township.

Mr. Kirchgasser read aloud a prepared statement regarding an agenda item:

Township Council Statement on Open Space Preservation

Middletown Township is announcing it has entered into an agreement in principle with Elwyn, Inc. to acquire 80.992 acres of contiguous open space of the Sleighton Farms property. The parcel under this agreement are the lands owned by Elwyn, Inc. from west of Valley Road, along the Middletown, Edgmont Township line to the properties of The Hanson Quarry, and from north of West Forge Road to the border of Edgmont and Thornbury Townships and the properties of the Hanson Quarry. The intended use of the land will be as an extension of Sleighton Park for passive recreation purposes and for preservation in perpetuity.

As the Township has done with prior open space acquisitions, the decision to acquire this land will be put to Middletown voters as a referendum decision

on the May 21, 2019 election ballot. The vote this evening under item 7D is to introduce an Ordinance to purchase this land and keeps the Township on schedule to make this decision available to voters. We expect to have a fully executed agreement of sale prior to our next Council meeting and will have the full details of the acquisition available then.

The acquisition of these 81 acres will continue Middletown community's leadership in Delaware County in the preservation of open space. Middletown Township currently enjoys 455 acres of open space, the acquisition of the 81-acre Sleighton parcel would make Middletown Township the largest holder of municipal open space in Delaware County, our community having previously voted to preserve other substantial grounds including the 150 acres at Linvilla Orchards, 150 acres at the Darlington tract and 76 acres at Smedley Park. Important to note, too, is Middletown Township was the first municipality to support and provide approvals for the recently opened Chester Creek Rails to Trails.

There are not many 81-acre parcels of untouched open space left in Middletown Township. Middletown Township Council is excited to have reached this agreement with Elwyn and we hope it reflects the good intent of Elwyn leadership to preserve key spaces as they move forward with their recently announced strategic plans.

Mr. Kirchgasser stated this is a very exciting opportunity; he walked the property two weeks ago. He stated bordering the parcel will be open space from an agricultural easement with Thornbury Township as well as open space owned by the Hanson Quarry group.

B. COMMITTEE - Land Planning Committee, February 25, 2019 at 5:45 p.m.

C. MANAGER

Mr. Haines stated he appreciates Public Work's effort starting at midnight last night. He stated he worked with Dan Simcox to assure the Department got enough rest as they will be coming back late this evening due to the weather two-punch event.

Mr. Haines reported the slight change to notice of Committee meetings before Council. He stated he will advertise the agenda for the Committee meeting, noted in 4.C. above.

D. ENGINEER - N/A

5. OLD BUSINESS - N/A

6. PUBLIC HEARING - N/A

7. NEW BUSINESS

Mr. Galloway made a motion to amend the agenda to consider a matter concerning the pipeline and Mrs. Powell seconded the motion. The motion carried with a vote of 6-0.

Mr. Kirchgasser stated for consideration for Council is an approval to file for a petition for intervention and become a party to the PUC proceeding know as FLYNN vs. Sunoco in the interest of advancing Council's concerns about the safety and operation of the ME2 pipeline. He stated this is a vote to approve an intervention and direction to Township legal counsel. He stated Township will draft the intervention to be sent to the PUC.

Mr. Kirchgasser stated it is his understanding there are a number of parties entering their position as a party to this intervention. He stated it is also his understanding that Sunoco is actively attempting to strike several of the parties and a lengthy list of parties will result in a list of discovery and testimony. He stated if there are redundant interests, they may well strike certain parties that have presented their interests as being something already entered. Mr. Kirchgasser stated he feels the Township has a unique position in so much as the Township's letter to the PUC is still open and under consideration for the safety issues surrounding the strike by Aqua contractors of the dormant ME2 pipeline in May 2018. Mr. Kirchgasser stated that this open safety issue affords the Township a position to present to the PUC in considering its petition to intervene. Mr. Read asked if the Township will be responding to that specific incident. Mr. Kirchgasser stated the Township will be citing the letter that was sent to the PUC by the Township as reasonable cause. He stated the Township is also advancing issues such as additional monitoring, broader communication plans in the event of an emergency and to require levels of reporting from Sunoco on any activity or monitoring results.

Mr. Galloway made a motion in reference to the Township intervening and asked Council to authorize the proper documentation to do so and Mr. Carlson seconded the motion. The motion carried with a vote of 6-0.

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

Mr. Haines stated this item was discussed at a previous meeting and Mr. Miller was a co-author of the Ordinance. He stated it may be one of the longer Ordinances Council has seen to date, but the intent is to amend sections of the Code to comply with the Charter and to allow an independent standing personnel manual. He stated the amendments allow the Township to be Charter compliant and to create a stand-alone document as a Personnel Manual. He stated the manual will be presented to Council at a future meeting as a Resolution for Council adoption. Mr. Haines stated that in the future, amendments to the Personnel Manual must be completed by Council. He stated the Manager cannot make any textural edits without the authority of Council. Mr. Haines stated the document will allow employees to have a better understanding of the benefits, rules and the structure from a human resources and labor standpoint.

Mr. Galloway made a motion to adopt Ordinance #800 and Mr. Carlson seconded the motion. Ordinance #800 was adopted with a vote of 6-0.

B. Consideration for Adoption: Ordinance #801: Amendments to Chapter 4 - Administration of Government to Update the Sale of Excess or Unneeded Personal Property.

Mr. Haines stated this Ordinance brings forward the update for the Township to sell unneeded or unnecessary personal property. He reiterated this does not include real estate.

He stated Mr. Miller's staff helped craft this Ordinance and it provides the Manager authority to sell and give reporting back to Council on items that are below \$5,000.

Mr. Galloway made a motion to adopt Ordinance #801 and Mr. Read seconded the motion. Ordinance #801 was adopted with a vote of 6-0.

C. Consideration for Adoption: Ordinance #802: Amendments to Chapter 4 - Administration of Government to Align Township Competitive Bidding with State Thresholds.

Mr. Haines stated this Ordinance will eliminate the static exact number in the Township Code to allow bidding thresholds to move with the value that is authorized each year by the State's Department of Labor and Industry. He stated this Ordinance moves the \$10,000 and \$18,500 thresholds in Code today to be updated to the values outlined. This allows the Township to move forward in the future automatically with the annual CPI increase. Mrs. Powell stated the document states \$18,500. Mr. Haines stated the Ordinance is effective within thirty days and the amount will move up to \$11,100 and \$20,600. He stated any amount below \$11,100 will require telephonic quotes, anything above \$11,100 will require three written quotes and anything over \$20,600 is the bid threshold. He stated if the Department of Labor and Industry announces a change, the Manager will report this to Council.

Mr. Galloway made a motion to adopt Ordinance #802 and Mrs. Powell seconded the motion. Ordinance #802 was adopted with a vote of 6-0.

D. Consideration to Introduce Ordinance #803 to purchase ±80.992 Acres of Land in Middletown Township being located on the Northwest Corner of Forge Road and Valley Road.

Mr. Haines stated this is an opportunity to engage in any agreements of sale and detailed by Chairman Kirchgasser's opening statement. Mr. Kirchgasser stated the sequencing will be, once a final agreement of sale is reached prior to Council's next meeting, the Ordinance will be adopted to allow the execution of the agreement of sale. Council then must pass a resolution at the March 25th meeting to place an open space referendum question on the ballot for the May 21, 2019 election. He stated once the Township gets approval from the public, the Parks and Recreation Committee and the Planning Department get to work on what the best use of the land will be. Mr. John Hanna, 6 Arrowhead Trail, asked if the Township will lease the land to the farmer. Mr. Kirchgasser stated the Township has engaged in similar types of contracts in the past, particularly at Smedley Park. Mrs. Fuller, 226 Valley Road, asked if this is the Sleighton School property, and Mr. Kirchgasser stated it is the larger of the two parcels that remain in Middletown Township. He stated the parcel in question is the west side of the property, west of Valley Road. He stated what will remain is approximately 27 acres on the east side of Valley Road, north of Township's Sleighton Park. Mr. Kirchgasser stated Council continues to talk to Elwyn about how the abandoned building will be addressed. Mr. A.G. Ciavarelli, 301 New Darlington Road, stated he missed the introduction and asked for background on how this came to be. Mr. Kirchgasser stated Mr. Chuck McLister, President of Elwyn, Inc. approached several Council members to talk about thoughts and ideas of what he wanted to do at Elwyn; some of those plans were announced at the last Council meeting and subsequently reported on in the Delaware County Daily Times. Mr. Kirchgasser stated Council immediately began thinking of ways to preserve some of the space to avoid development. Mr. Kirchgasser stated the final terms and conditions and agreement occurred in the last week. He stated there is not a final agreement of sale, but this

does not prevent the Ordinance being introduced. He stated the introduction of the Ordinance allows the Township to stay on schedule to file with the County to move the decision to referendum. Mr. Ciavarelli asked if the sale is contingent on the results of the election, and Mr. Kirchgasser confirmed it does and stated the last margin for open space in 2007 for Smedley Park had a voter margin of 86% yes -14% no. Mr. Ciavarelli asked if Elwyn was pushing for a residential development. Mr. Kirchgasser stated Elwyn's interest all along is to liquidate. Mrs. Fuller asked if the single home development was the Toll Brothers plan and is she correct that there is an arsenic situation at that location. Mr. Kirchgasser stated there were apple orchards in the past. He stated there is a full environmental contingency in the agreement. He stated DEP does not require remediation if the land is undisturbed. If there is excavation and construction, the presumed arsenic will have to be addressed. Mr. Ciavarelli asked for clarity on the location and Mr. Kirchgasser reiterated the location. Mr. Ciavarelli asked why a particular section was left out. Mr. Kirchgasser stated Elwyn's interest is to take approximately 50 acres of land in Edgmont Township to be developed. He stated there may be a request from Elwyn to ask for re-zoning the 27-acre piece to be contiguous with the Edgmont component. Ms. Alison Galloway, 212 Wildwood Avenue, asked when this will be voted on, and Mr. Kirchgasser stated this will be voted on at the primary election on May 21, 2019. Mr. Galloway made a motion to introduce Ordinance #803 and Mr. Read seconded the motion. The motion carried with a vote of 6-0.

- E. Consideration to Authorize the Appointment of Professional Services; Staff Recommendation for RFP: Inspection and Plan Review Services to Keystone Municipal Services and Linn Architects.
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Mr. Haines stated per the memo to Council, dated February 1, 2019, staff completed an RFP process to try to consolidate or streamline inspection services. He stated staff reviewed multiple submissions and recommend two firms that provide an opportunity that insure all levels of Township needs are addressed. He stated the firms are Keystone Municipal Services, Inc., which will be named the Township Building Code Official (BCO) as well as Linn Architects who currently works exclusively on the Promenade at Granite Run. He stated Linn Architect will continue to work on the Promenade and then staff will be dividing up work between the two firms. United will serve as electric inspections for both firms. Mr. Haines stated staff recommends that Yerkes Associates complete the remaining work at the Reserve at Rose Tree as there are only six units left. Mr. Haines stated these are two firms who will provide two strong assets to the community to move forward. Mr. Haines stated the effective date is March 1, 2019.

Mr. Galloway made a motion to authorize the appointment and Mr. Read seconded the motion. The motion carried with a vote of 6-0.

- F. Council Review of Zoning Hearing Board Application(s):

1) Application 19-02: Ms. Meagan Ebersole - 153 Bortondale Road.

Mr. Haines stated the homeowner currently has a photography business in Media and is looking to operate a home-based photography studio in Middletown. He stated the Zoning requires eight parking spaces and the homeowners want to go before the Zoning Hearing Board for a variance to provide five parking spaces. Mr. Haines stated the applicants

believe they can make a case for why five parking spaces would be sufficient for their needs. Mr. Galloway asked the location of the property. Mr. Kirchgasser stated the property is the old Skulski property. Mr. Kirchgasser asked if this a use and a parking issue. Mr. Haines stated the issue now is parking and Mr. Miller stated the home-based occupation is a Conditional Use and the applicant will come before Council for that approval. Mr. Galloway asked how many properties will be notified. Mr. Haines stated notification will be posted and surrounding properties will be notified. Council did not see a need to send a solicitor.

G. Consideration to Authorize - Waiver of Bid and Purchase from COSTARS, the Purchase of a cab/chassis F-550 (Garnet Ford) and Up-fitting (Lancaster Truck Bodies).

Mr. Haines stated staff contact COSTARS firms that are eligible to be able to solicit bids for the noted vehicle. He stated COSTARS is the State agency that allows local municipalities to use the buying capacity and purchasing authority. He stated all listed firms are able to bid for the F-550 cab/chassis or the up-fitting. Mr. Haines stated the Township solicited vendors and both the low bids for the chassis and uplifting had positive past experiences. Mr. Haines stated the Township budgeted \$80,000 for the replacement in 2019. He stated this will help the Township to take care of the road needs for clearing and salting. Mr. Haines stated this is about \$3,000 under budget prior to netting out the resale of the existing truck. He stated it is in the best interest both from a timely standpoint and a fiscal standpoint to authorize the purchase.

Mr. Galloway made a motion to authorize the purchase and Mr. Byrne seconded the motion. The motion carried with a vote of 6-0.

H. Approval of February 11, 2019 Bill List.

Mr. Kirchgasser read the bill list aloud.

GENERAL FUND		
Charles A. Higgins & Sons, Inc.	Repairs & Maintenance	\$ 9,047.70
Dec. Hydrant Bills		
\$		
9,047.70		
Independence Blue Cross	February Health Ins.	\$ 8,923.44
	Highway Share	\$ 9,066.55
	Recreation Share	<u>\$ 4,594.64</u>
		\$ 22,584.63
Linn Architects	Promenade At GR-Nov. Services	\$ 10,000.00
Yerkes Associates, Inc.	Contracted Services	\$ 12,631.24
	General Fund Total	\$ 54,263.57
CAPITAL RESERVE FUND		
Bank of New York Mellon	Principal/GOB Series 2011	\$ 325,000.00

Principal/GOB Series 2011	\$ 165,000.00
Interest/GOB Series 2011	\$ 7,331.25
Interest/GOB Series 2011	<u>\$ 3,751.25</u>

Capital Reserve Total	\$ 501,082.50
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STATE AID FUND

Eastern Salt Company, Inc.	Rock Salt	\$ 7,101.17
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Mr. Kirchgasser adjourned the meeting at 7:30 P. M.

Respectfully Submitted,



Sharon Browne, Recorder

