

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
JUNE 22, 2020

Minutes of the Regular Meeting of Township Council held on June 22, 2020 at 7:00 P.M., online as a virtual meeting during the COVID-19 Restrictions and/or Stay-At-Home Order.

Present: Stephen Byrne, Bibianna Dussling, Mark Kirchgasser, Kathleen O'Connell-Bell, Susan Powell, Walter "Bok" Read, Norman Shropshire, Vince Visoskas, Meredith Merino, Joseph A. Damico, Jr., Esq., Eric Janetka

1. OPENING/CONVENE ONLINE MEETING: Review Virtual Meeting Rules.

Chairman, Mr. Kirchgasser, called the meeting of the Council to order at 7:00 P.M. Mr. Visoskas stated when everyone joins the meeting they will be muted. Under public comments they will be unmuted and when making public comments please state your name and address for the record.

Mr. Kirchgasser announced Council met in Executive Session on June 12, 2020 to interview candidates for the open Township Manager Position, June 22, 2020 to discuss legal issues regarding Township negotiations on property of interest regarding easements to the Township, legal issues regarding agenda item 5D, legal issues regarding agenda item 5E and legal issues regarding the Sleighton Farms property still in negotiations for acquisition.

2. PUBLIC COMMENTS

NONE

3. APPROVAL OF MINUTES

A. Mr. Shropshire made a motion to approve the minutes of the May 11, 2020 Council Meeting. Ms. O'Connell-Bell seconded the motion. The motion carried with a vote of 7-0. Mr. Kirchgasser polled all members of Council for their votes.

4. REPORTS

A. CHAIRMAN

Mr. Kirchgasser stated Township Council met as a body to interview candidates for the open Township Manager position and have extended an offer to a gentleman who has expressed an interest in accepting the role pending background checks and other required investigations.

He stated that Council hopes to announce the hiring of a new Township Manager shortly. Mr. Kirchgasser stated as provided by the State during emergency declaration, it is the responsibility of the Township to hold public meetings to conduct business while at the same time provide for the health, safety, and welfare of the general public. He stated it is Council's current belief that live meetings can resume starting in August, but that may vary based upon conditions in the future.

B. COMMITTEE

NONE

C. MANAGER

1) New Radar Speed Signs in Place.

Mr. Visoskas stated last week the Township received three new radar speed signs that are placed on Wooded Lane at Knowlton Road, Old Forge Road and Matrissa Ridge and Harvard Drive near Dartmouth Circle. He stated there are three old signs that are on rotation.

D. ENGINEER

NONE

5. NEW BUSINESS

A. Consideration to Authorize: Acceptance of low bidders for the Roosevelt Community Center rehabilitation project.

Mr. Visoskas stated there was a good turn-out for the pre-bid meeting for the Roosevelt Center Project and that the received bids were in line with expectations. He stated there were at least 4 bidders for each subcontract. He stated the lowest responsible bidder for General Contractor for the base bid which is the whole first floor of the Library and the atrium in the second floor is Uhrig Construction, Inc. for \$3,670,000; HVAC West Chester Mechanical Contractors, Inc.; for \$720,349, Plumbing; DWD Mechanical Contractor, Inc. for \$215,000, and Electrical AJM Electric, Inc. for \$561,169. He stated the total base bid is \$5,166,518. He stated there are some alternate bids that do not need to be voted on tonight as they are valid for 90 days. Mr. Visoskas stated staff and the construction advisor are recommending awarding the bids tonight to the lowest responsible bidders for the base bids. Mr. Kirchgasser asked for the turnaround time for the work to begin. Mr. Visoskas stated the notice to proceed should go quickly and construction should start before the end of summer.

Mr. Shropshire made a motion to approve the low bids. Mrs. Powell seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

B. Consideration to Authorize: Rejection of all bidders for the Smedley Park Phase 2 & 3 project.

Mr. Visoskas asked Eric Janetka to explain the bids. Mr. Janetka stated the project was originally set up to be a 3-stage and 2-phase project. He stated the first stage was the construction of all the perimeter erosion control and stormwater control and sediment traps for the future phases of the project. Stage 2 was to be bulk earth moving to be done independent of Stage 3. He stated it was decided to bid both Stage 2 and Stage 3 but only portions of Stage 3. Mr. Janetka stated technically there would be a Stage 4 which would include converting all the sediment traps to permanent stormwater basins. Mr. Janetka stated the bid for Stage 2 and 3 included 3 alternates and would have largely constructed all the fields, parking areas and asphalt trails in the park. He stated as part of the bid process it was decided to have a mandatory pre-bid meeting because of the nature of the existing erosion controls where the bidder would have to maintain controls another firm installed as part of Stage 1. He stated there were 5 attendees at the pre-bid meeting, but the Township received only two (2) bids. He stated the low bid was Mecco Constructors,

Inc. in the amount of \$1,158,894. with the alternates at approximately \$1,384,000. He stated the second bidder was Gessler Construction in the amount of approximately \$1.805 million. He stated based on the two bids and budget parameters for the project and low interest in the project it was decided to reject the bids. Mr. Janetka stated the new bids will include a better description of the erosion control maintenance item and eliminate the pre-bid meeting in hopes of getting more bidders and a lower cost. Mr. Kirchgasser asked if the bid numbers exceed the estimate. Mr. Janetka stated he could not speak for the budget numbers. Mr. Visoskas stated staff did not believe they received enough bidders which is why they are recommending Council reject the bids.

Mr. Shropshire made a motion to reject all bids for the Smedley Park project Phase 2 and 3. Mr. Read seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

C. Consideration to Authorize: Rebidding of the Smedley Park Phase 2 & 3 project.

Mr. Visoskas stated the advertising should be going out this week and hopefully have all the bids and a recommendation at the next meeting.

Mr. Shropshire made a motion to rebid the Smedley Park Phase 2 and 3 project. Ms. O'Connell-Bell seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

D. Consideration for Approval: Resolution 2020-17, Preliminary/Final Lot Line Change Plan for property of Gary Westlake, Sr., located at 450 Lenni Road.

Mr. Kirchgasser stated Council has come to an agreement with Mr. Westlake regarding an easement on his property that would facilitate an extension of the Chester Creek Trail to the Middletown Trail. He stated the agreement is in place but legal language is not in place so Mr. Westlake has asked for a continuance to a date certain of July 13, 2020 to make sure all requirements are legal in respect to his lot line change and the easement agreement.

Mr. Shropshire made a motion to continue the item to a date certain of July 13, 2020. Mr. Byrne seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 7-0.

E. Consideration for Approval: Extension of Construction Easement for Energy Transfer Partners on the Sleighton Park Property.

Mr. Kirchgasser stated in cases across the Township, easements were required on private property as well as municipal property. He stated when the pipeline was proposed, Middletown Township accepted Energy Transfer Partners' (ETP) offer to establish an easement on Sleighton Park property in exchange for a fee that would allow them to drill from Sleighton Park to the former Habbersett property located on Valley Road. He stated various incumbrances, legal issues and construction mistakes on the part of ETP has brought this easement to an expiration date of August 1, 2020. He stated ETP has asked for the Township to consider a 2-year extension on the easement which would allow ETP to continue drilling operations on the Sleighton Park project in lieu of having to apply for a

major modification if the Township did not offer the easement. Mr. Kirchgasser stated the modification could involve the open cut of Valley Road for the installation of the pipe rather than the HDD drilling. Mr. Damico announced he is withdrawing from the meeting due to a conflict of interest.

Mr. Kirchgasser stated there are any number of issues that are associated with this drilling site, the fact that they are drilling at all, the fact that there has been a subsidence in the area, the regulating bodies that control the ability of Sunoco to continue their drilling activities such as the DEP because of environment issues or the PUC based on other considerations. He stated what is before Council tonight is not the question about whether the drilling should or should not continue. He stated if the Township does not allow this easement, it is highly probable Sunoco will consider an alternate method other than drilling. Mr. Janetka stated there were subsidence events near W. Forge Road and Valley Road late last year, some of which were on the property, one was in the intersection of the two roads. He stated ETP has done numerous tests to determine the cause of these issues and determine how to prevent them going forward with additional drilling. He stated the Township hired Applied Geosciences and Engineering (AGES) as their expert to separately review the studies. Mr. Janetka stated that AGES has been reviewing the studies over the last several months and have had a dialog with ETP concerning some questions and issues with the various documents. He stated the Township's geotechnical expert is in agreement with ETP's expert as to the cause of the sinkholes as well as measures necessary to prevent them from happening in the future. He stated the most important thing from the review process is the recommendation for a continuing monitoring plan that would begin prior to any additional drilling activity occurring at Sleighton Park and would continue throughout the drilling process of any additional pipelines at this location. He stated it would also continue for approximately two months after completion of the pipeline pull-back as well as the connection of the pipe to the open cut sections. Mr. Janetka stated it is a long term monitoring program that includes surveying, setting survey data points on the ground, a grid of numerous points that would be surveyed every other week to determine any changes in elevation and geophysical studies every other week. He stated two ground water monitoring piezometers will be placed on the Sleighton Park property so the movement of ground water near the drill locations can be monitored on a continuing basis.

Mr. Kirchgasser asked if the information would be available to DEP. Mr. Janetka stated the restart of the drilling process will have to be approved by DEP and the reports will be part of the process to restart drilling. Mr. Kirchgasser asked if the PUC will have access to the information as well. Mr. Janetka stated as he understands it, they will have the information. Ms. O'Connell-Bell asked if the Township would have this information ahead of the game and not have to rely on ETP to report any activities because of the monitoring devices. Mr. Janetka stated this is correct and the Township will be able to see very quickly if there is a beginning of a potential issue. He stated this is an early warning system to allow physical investigations, if necessary. Mr. Kirchgasser asked if this information presents itself would the Township be able to shut down the operation. Mr. Janetka stated this is correct. He stated the goal was to determine if the roadways are safe and the experts believe there are no voids at this point and time but the monitoring

system will allow the Township to see if there is anything occurring as the drilling moves forward.

Mr. Kirchgasser asked Mr. Janetka to describe what an open cut would involve. Mr. Janetka stated that the pipes are welded together, coated, and bent in the profile of the ground surface and then lowered into the trench that is then backfilled. He stated in order to do the work, the trench on both sides of the open cut has to be cleared of all vegetation and obstructions and leveled so equipment can operate on a level plane on both sides of the trench up to 20 feet on either side of the trench. He stated open cut pipes are installed in longer sections that are assembled on the surface. Mr. Shropshire asked what the difference in depth is of an open cut compared to an HDD cut. Mr. Janetka stated there is approximately 6 feet of soil cover over an open cut pipe installation. The HDD varies from 6 feet down to 150 feet deep but achieves greater depth as it moves along the profile.

Ms. Dussling asked why we are voting on this tonight as opposed to the July 13, 2020 meeting in order to give more time to study the documents. Ms. O'Connell-Bell stated if there were any negative feedback from our consultants, she would have agreed to wait until the July meeting, but this is basically an easement document to be reviewed. Ms. Dussling stated she just received the documents today and feels the vote is being rushed. Ms. O'Connell-Bell stated the experts have received this information and reviewed it. Mr. Kirchgasser stated he does not see the correlation between the information that the Township's expert has reviewed and reported on and the easement issue. He stated what is done with this information would not stop ETP from doing what the PUC would allow. Mr. Read asked why the Township is being told the open cut is a threat if Council does not approve the easement. Ms. O'Connell-Bell stated she does not take this as a threat but rather as the evidence before Council. Ms. Dussling stated she needs a chance to fully review the reports.

Mr. Timothy Sullivan, 300 Valley Road, stated he thinks a pipe that is 6 feet below ground as it goes past his house versus 75 feet below ground is quite significant. He stated there is no question the easement should be approved. Ms. O'Connell-Bell stated she has concerns as to the impact to the residences and the area if an open cut were to be used. Mr. Kirchgasser asked when ETP initially approached Mr. Sullivan what information was he given. Mr. Sullivan stated he was told it would be an HDD drill and would be 75 feet deep. Mr. Kirchgasser asked if Mr. Sullivan's neighbors would have been given the same information. Mr. Sullivan stated everyone understood the pipeline coming down Valley Road would be directionally drilled and would be very deep as it went past their homes. Ms. Dussling stated the terms of the easement agreement do not limit ETP's ability to change the method of installation. Ms. Dussling stated she does not understand why Council is voting tonight rather than waiting for the July 13, 2020 meeting.

Lori Bartholomew, 608 Lilac Way, asked if an open trench installation is so dangerous is Council not aware that an open trench installation method is being used near the Tunbridge Apartments. She stated she thinks this is rushed when the report was only recently received. Ms. Dussling asked why the change in the term of the agreement in

front of Council to a two-year term. Mr. Kirchgasser stated that in exchange for a two-year easement ETP has agreed to construct a pavilion at Sleighton Park. He stated this is the compensation for the second easement. He stated there will be electric, plumbing and sewer installed for the pavilion. Mr. Byrne asked where the pavilion is to be located. Mr. Kirchgasser stated in proximity to the existing playground. Ms. Dussling asked if that will be taken off the table if the vote is taken in July. Mr. Kirchgasser stated he does not know. Mr. Read stated he considers this a bullying tactic with a veiled threat.

Ms. Dussling made a motion to continue to the July 13, 2020 meeting. Mr. Read seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion was denied with a vote of 5-2 with Mr. Reed and Ms. Dussling voting for the motion.

Mr. Shropshire made a motion to approve the extension. Mrs. Powell seconded the motion. Mr. Kirchgasser polled all members of Council for their votes. The motion carried with a vote of 5-2 with Mr. Reed and Ms. Dussling voting against the motion .

Ms. Dussling asked what information for the public will be put on the website from the Applied Geosciences recommendations. Mr. Kirchgasser stated there must be some redaction based on the Judge who is overseeing the litigation limitations on fact points. Ms. Merino stated that the memos from AGES received today can be placed on the website. Mr. Shropshire asked if there are additional safeguards. Mr. Janetka stated this is a monitoring plan for the entire drilling process. Ms. Dussling thanked Eric for his work on the monitoring plan. Ms. O’Connell-Bell also thanked Mr. Janetka and staff.

F. Approval of June 22, 2020 Bill List.

Mr. Kirchgasser read the bill list aloud.

GENERAL FUND

Aqua Pennsylvania, Inc.	May Hydrant Bills	\$	9,375.86
A.J. Blosenski, Inc.	April Recycling & Yard Waste	\$	25,690.56
Barbacane Thornton & Co.	Audit - Year Ended 12/31/19	\$	4,000.00
	Audit - Middletown F.C.	\$	3,500.00
		\$	<u>7,500.00</u>
Kelly & Close Engineers	Professional Services 4/25/20-5/22/20	\$	43,427.40
Keystone Municipal Services, Inc.	Contracted Services 4/20/20-5/15/20	\$	19,593.75
Longley Insurance Agency	Fire Companies Renewal Pkg.	\$	20,449.00

Petrikin Wellman Damico	Twp. Solicitor - June Retainer	\$	1,000.00
Brown & Petrosa	Billed Through 5/31/20	\$	8,100.00
		\$	<u>9,100.00</u>
	General Fund Total	\$	<u>135,136.57</u>

	CAPITAL RESERVE		
Donnelly Concrete, LLC	Road Work	\$	8,900.00
PECO Energy	Relocation of Poles 760 W. Rose Tree	\$	39,824.52
	Capital Reserve Total	\$	<u>48,724.52</u>

	CAPITAL RESERVE 2019 G.O. BOND - ROOSEVELT		
Donnelly Concrete, LLC	Roosevelt Curb	\$	<u>7,800.00</u>

Mr. Kirchgasser adjourned the meeting at 8:04 p. m.

Respectfully Submitted,



Sharon Browne