

Board of Supervisors Regular Meeting

Monday, September 9, 2024 | 7:00 p.m.

1) Call to Order, Pledge of Allegiance

Mr. Ksiazek called the meeting to order at 7:00 p.m.

2) National Anthem performed by Aubrey Wert

Mr. Ksiazek provided a short bio of Ms. Wert and thanked her for her performance.

3) Roll Call

After the Pledge of Allegiance, Ms. Quirple called roll. Supervisors Ksiazek, Hannah, and Kane were in attendance. Also present were Assistant Township Manager Nick Valla, Solicitor James Esposito, Township Engineer Isaac Kessler, Chief Joseph Bartorilla, Director of Building and Zoning, Jim Ennis, Director of Public Works, Eric Gartenmayer, and Director of Parks & Recreation, Paul Kopera. Township Manager Stephanie Teoli Kuhls and Supervisor Payne attended virtually.

4) Upcoming Meetings/Events

- a) **Next Board of Supervisors Meeting** – Monday, October 21, 2024, at 7:00 p.m.
- b) **Groovin' at the Gates** - Saturday, September 28th, Noon to 5:00 p.m., Forsythia Crossing Park
- c) **Middletown Township Fire Prevention Expo** - Saturday, October 12th, 9:00 a.m. to 3:00 p.m., Restaurant Depot Parking Lot (1661 Lincoln Highway)

5) Special Items

- a) Recognition of Officer Paul Runner's Retirement

Joseph Bartorilla, Chief of Police provided a brief background of Officer Paul Runner's career with the Middletown Township Police Department. Chief Bartorilla expressed that Officer Runner brought the small-town policing mentality to Middletown Township and knew his sectors, businesses and residents inside and out. He was a great mentor to younger officers and always willing to share his knowledge.

Chief Joseph Bartorilla concluded by congratulating Officer Runner on his well-deserved retirement.

On behalf of the Board Mr. Ksiazek congratulated Officer Runner and thanked him for his dedicated years of service to Middletown Township.

b) Ovarian Cancer Awareness Month Proclamation

Mr. Ksiazek read the proclamation aloud.

c) Dr. William Coleman 105th Birthday Proclamation

Mr. Ksiazek read the proclamation aloud.

6) Public Comment. *Non-Agenda Items only*

Chris Morath, 825 Fernwood Ave, expressed concern about the construction business that is being ran out of 850 Fernwood Ave. Jim Ennis, Director of Building and Zoning provide a background of Mr. Morath's concern and stated that he is currently working with the property owner of 850 Fernwood Ave to determine if the use is permitted at the property.

Mr. Ksiazek requested that Mr. Ennis keep the Board of Supervisors updated on this concern of Mr. Morath.

David Cahill, 462 Cynthia Ave, questioned why Penndel Fire Company denied his Right to Know request. Mr. Ksiazek explained that he could not respond for Penndel Fire Company and that he would need to speak with them.

Jim Jenca, 121 N. Hawthorne Ave, questioned if the trash contract was complete and if the interest being earned on the money of the sale of the Township's past water and sewer authority could be used to help offset the increase cost of trash services. Mr. Ksiazek responded that he did not believe subsidizing the cost of trash services is an appropriate use of the Investment Fund.

Lance Sagers, 98 Queen Lily Road, questioned if there was any additional follow up to his Public Comment from last month's meeting regarding approval of high-density land developments within the Township. Mr. Esposito reiterated the legal process of implementing restrictions on approval of high-density land developments within the Township

7) Hearing

a) Inter-municipal Liquor License Transfer for WST Group, Inc.

James Esposito, Township Solicitor opened the hearing of the Inter-municipal Liquor License Transfer for WST Group, Inc., d/b/a LeBlon Steakhouse (WST), who made an application to Middletown Township requesting approval of an Inter-municipal Liquor License Transfer. Mr. Esposito noted that Intermunicipal liquor license transfer hearings are required under the PA Liquor Code, 47 P.S. 1-101, prior to the approval of a transfer of the liquor license by the PA Liquor Control Board (PLCB) in which the liquor license is moving from one municipality to another.

WST has entered into an agreement to purchase a restaurant liquor license that is currently located in Bensalem Township to its proposed restaurant, located at 1201 E. Lincoln Highway.

John McCreesh IV representing the applicant WST, reviewed the documents that were entered into record by Mr. Esposito. He provided background and proposed changes of the proposed Brazilian steakhouse bar and grill which will have seating for 200 individuals in the restaurant and a cocktail bar seating for 15-20 individual. He added that the hours of operation during the week and on the weekends.

Mr. McCreesh introduced the stakeholders of WST: Tyler Hines, Wellington Desouza, and Susana Aquero.

Mr. McCreesh noted that certified and regular mailings were sent to all residential and commercial businesses within 400 feet of the subject properties. Mr. Esposito entered the certified mailing receipts into record.

Mr. McCreesh discussed the process of transferring an inter-municipal liquor license from a neighboring in the county. He then noted that the Attorney for the landlord of the property is having trouble receiving the liquor license from the previous tenant, Crab Du Jour as there is current litigation between the two parties.

Mr. Ksiazek requested that Mr. Hines provide the concept of the restaurant that is to be expected. Mr. Hines shared that this is going to be a Brazilian steakhouse sit down restaurant, adding that it is the same concept of a Fogo de Chao or NaBrasa style restaurants.

Mr. Hines provided that on weekdays the hours of operation are 5:00 p.m. to 10:00 p.m. and Fridays, Saturdays, and Sunday from 1:00 p.m. till approximately 11:00 p.m.

Mr. Esposito questioned if the Applicant plans on having any liquor take-out. Mr. Hines confirmed that the focus of the restaurant is sit-down and will be minimal take-out.

Mr. Esposito questioned Mr. Desouza if his current restaurant in Northern New Jersey has any current citations. He confirmed that the restaurant does not have any current citations.

Mr. Ksiazek questioned if there were any objections from any of the properties notified by certified mailings. Mr. McCreesh confirmed that no one had contacted him.

Mr. McCreesh closed by stating that if there was not pending litigation with the current liquor license that is posed by Crab Du Jour, the Applicant could have gone to the Liquor Board and used that license.

Action: Mr. Ksiazek made a motion to approve the Inter-Municipal Liquor License Transfer Application of WST Group, Inc. to permit transfer of Pennsylvania liquor license number R-731 (LID 104209) from Bensalem Township to WST Group, Inc. in Middletown Township located at 1201 E. Lincoln Highway, Langhorne, PA, seconded by Ms. Quirple. Motion carried by a vote of 5-0.

1) Consent Agenda Items

- a) Consideration of authorizing payment of September 9, 2024, Bills List in the amount of \$2,263,256.64.
- b) Consideration of approving the August 12, 2024, Minutes of the Public Meeting of Middletown Township Board of Supervisors.
- c) Consideration of approving the August 26, 2024, Minutes of the Special Capital Planning Meeting of the Board of Supervisors.
- d) Consideration of allowing the Middletown Parks & Recreation Department to host three (3) Beer Gardens on Middletown Township Property.
- e) Consideration of Resolution #24-16R, Intergovernmental Agreement to Participate in Grant Applications for Towns Against Graffiti (TAG).
- f) Consideration of S. Flower Mill Drainage Project – Change #1 for a negative \$21,281.50 for adjustment of final quantities and contract items for project close out.
- g) Consideration of S. Flower Mill Drainage Project – Payment Certificate #3, Final in the amount of \$3,213.27 for completed work per the contract items and project completion.
- h) Consideration of revised Barner Subdivision (364 Cedar Road) (S/LD #13-5) – Financial Security Release #2, Final in the amount of \$85,736.10 for completed work per the land development escrow and financial security agreements.
- i) Consideration of the Sewer Planning Module Resolution#24-17R for 14 Fairway Drive Subdivision and support of the proposed sewer tap-ins by the applicant.

Action: Ms. Quirple made a motion to approve consent agenda items A-I seconded by Ms. Kane. Motion carried by a vote of 5-0.

2) Consideration of Cable Franchise Agreement – Verizon and Comcast.

Nick Valla, Assistant Township Manager, explained that in Middletown Township engaged Cohen Law Group, a telecommunications law firm to assist in negotiating renewal of cable franchise agreements.

Mr. Valla noted that for the Boards of Supervisors consideration tonight are two new cable franchise agreements with the cable providers, Comcast and Verizon. Adding that the Comcast agreement for a term of 10 years and Verizon is for a term of 5 years.

Mr. Valla noted that the Board of Supervisors tonight will be approving of the agreements as well as authorizing advertisement of an ordinance which will come back to the Board in a subsequent meeting for enactment.

He explained that the only real change is to modernize those existing agreements, some almost dating 20 years.

Ms. Quirple questions why two agreements are needed. Mr. Valla noted that these Agreements essentially give each private company access to the Township's Right of Way in order to provide their utility to provide services to the residents.

Ms. Kane questioned if there were any significant changes from the previous agreements. Mr. Valla explained that there was no real significant change.

Ms. Hannah questioned the difference in term years for the agreements. Mr. Valla explained that standard time frame is 10 years, and Verizon has a firm stance on the 5 years for their cable franchise agreements.

Action: Ms. Quirple made a motion to authorize advertisement of two ordinances, approving execution of cable franchise agreements with Verizon and Comcast, seconded by Ms. Kane. Motion carried by a vote of 5-0.

3) Consideration of Community Development Block Grant (CDBG) 2024 ADA Curb Ramp Program.

Nick Valla, Assistant Township Manager, noted that the Board of Supervisors authorized advertisement of bid specifications to construct 24 ADA curb ramps at 10 intersections in Cobalt Ridge. He added that a \$175,000 grant has been awarded from the Community Development Block Grant (CDBG) program.

Mr. Valla added that a total of 6 bids were received to complete the project. The lowest bidder, T. Schiefer Contractors, failed to demonstrate full compliance with the Township's Responsible Contractors Ordinance (RCO). Therefore, lowest responsible contractor is Marino Corporation, whose bid is \$186,200.00.

The Board may consider rejecting bids and readvertising the project, though this would further delay the project and may not result in substantial savings. This may also impede the Township's ability to secure additional CDBG funds next year.

Ms. Kane questioned why the bids came in higher than expected.

Mr. Valla confirmed that grant funding can only be used for construction and cannot be utilized on engineering fees. He noted that he expects the engineering fees to be approximately \$30,000-\$35,000, coming out of Capital Funds.

Mr. Valla reviewed in detail all the bids received by the Township.

Ms. Kane noted that this is approximately \$50,000 over budget. Mr. Valla confirmed that was accurate and that the projection numbers discussed at the past capital planning budget workshop did factor this project into the budget.

Ms. Payne questioned whether the Board should hold off on this project until next year. Ms. Valla noted that delaying the project could impede the Township's chances of securing additional CBDG funding for a future project And would not likely result in lower bids.

Mr. Ksiazek noted that he would not be in favor of or delaying the project as it would not improve the financial situation.

Action: Mr. Ksiazek moved to award the bid for the 2024 CDBG ADA Curb Ramp Project to Marino Corporation in the amount not to exceed \$186,200.00, sounded by Ms. Quirple.

Ms. Kane expressed her concerns about the Township's RCO.

Ms. Hannah requested information on what disqualified the lowest bidder.

Mr. Esposito explained that the bidder did not fulfill the apprentice program requirements. He added that the lowest bidder is apart from an apprentice program but did not have those craft trades to participate in those specific craft trades.

Mr. Esposito explained that these certification education programs certify specific types of jobs. Adding that the more certifications provide a better understanding of them being a responsible contractor.

He provided in detail that this program shows that the company's employees have participated in an apprentice program from outside parties whether that be a union or other companies for specific craft trades.

Motion carried by a vote of 4-1. Ms. Kane opposed.

4) Consideration of awarding the replacement of the Wooden Deck at the Barn at Community Park.

Paul Kopera, Director of Parks and Recreation shared that on June 11, 2024, the Board authorized the advertisement of a Re-bid to remove and replace the wooden deck at the Barn building within Middletown Community Park.

Mr. Kopera explained that four bids were submitted and that the low bidder, Dane Construction, does not meet the Township's Responsible Contractor Ordinance (RCO) and was rejected. He added that the second lowest bidder, DiLemmo Construction, met the Township's RCO requirements. He added that DiLemmo Construction recently worked at the Oxford Valley Mall and spoke with staff from the Oxford Valley Mall as a reference.

Action: Mr. Ksiazek made a motion to execute a contract for the removal and installation of a new Wooden Deck and Stairs at the Barn within Community Park to Dilemno Construction Company LLC of Jenkintown, PA in the amount of \$93,730.00, seconded by Ms. Quirple.

Ms. Kane requested that Mr. Kopera explain the reasons for the rejection of Dane Construction as lowest bidder.

Motion carried by a vote of 4-1. Ms. Kane was in opposition.

5) Consideration of awarding the 2024-2025 Bucks County Consortium Salt Bid.

Eric Gartenmayer, Director Department of Public Works, shared that Middletown Township has a long history of participating in joint contracts through the Bucks County Consortium. He noted that the 2024 - 2025 Consortium Salt Bid was recently opened with Morton Salt, Inc. of Chicago, IL as the lowest bidder at the rate of \$60.95 per ton delivered.

Use of salt varies from year to year, based upon weather conditions. Because of these fluctuations, we typically budget conservatively. The 2024 proposed budget includes \$200,000 for snow and ice operating supplies in the Highway Aid Fund.

*Action: Ms. Ksiazek made a motion to award the 2024-2025 Consortium Bid for Rock Salt to Morton Salt, Inc., Chicago, IL at the rate of \$60.95 per ton, seconded by Ms. Kane.
Motion carried by a vote of 5-0.*

6) Presentation of the 2025 Minimum Municipal Obligation (MMO) for Middletown Pension Plans.

Mega Bhandary, Director of Finance, noted that in accordance with Act 205, the Township is required to annually certify the Minimum Municipal Obligation (MMO) for each pension plan for the following year. She noted that the MMO must be certified to the municipality's governing body by the chief administrative officer by September 30th of each year.

She explained that the 2025 MMO for the Police Pension Plan, and the 2025 MMO for the Non-uniformed Pension Plan, both of which are based on the January 1, 2021, Actuarial Valuation prepared by Municipal Finance Partners, the Township's previous actuary. Adding that the Actuarial Valuation is in process of being prepared by Conrad Siegel, the Township's present actuary.

Ms. Bhandary noted that for 2025, the estimated minimum contribution requirement to the Non-Uniformed Pension Plan is \$428,704, a \$57,294 decrease from 2024 and the estimated minimum contribution requirement for the Police Pension Plan is \$3,370,716, a \$182,640 increase from 2024.

Mr. Ksiazek thanked Ms. Bhandary for her presentation.

7) Consideration of approving the following 2025 Regional Development Authority (RDA) Grant Program Application Resolutions:

Mr. Valla reviewed the proposed projects for submission to the RDA's grant program.

- Resolution #24-10R - Public Works Vehicles
- Resolution #24-11R - Police Vehicles
- Resolution #24-12R - Penn-del-Middletown Emergency Squad (PMDES)
- Resolution #24-13R - Parkland Fire Company
- Resolution #24-14R - Penn-del Fire Company
- Resolution #24-15R - North Station

Mr. Ksiazek reviewed the overall RDA grant application process for the Board members.

Action: Mr. Ksiazek motion to approve Regional Development Authority (RDA) Grant Resolution #24-10R, Resolution #24-11R, Resolution #24-12R, Resolution #24-13R, and Resolution #24-14R, and Resolution #24-15R, seconded by Ms. Kane. Motion carried by a vote of 5-0.

8) Other Business.

Mr. Valla noted that there will be two Budget Workshops on Monday, October 14th and Monday, October 28th starting at 6:00 p.m.

Ms. Teoli Kuhls thanked the Board of Supervisors for recognizing National Ovarian Cancer Awareness month. She added that as a two time ovarian cancer survivor you must listen to your body and know the signs.

Ms. Payne wished Dr. Coleman a happy 105th birthday.

Ms. Hannah and Ms. Payne both congratulated Officer Runner on his retirement.

9) Adjournment.

Ms. Kane moved to adjourn the public meeting of the Middletown Township Board of Supervisors public meeting at 8:23 p.m., seconded by Ms. Quirple. Motion carried by a vote of 5-0.