

## **North Middleton Township Board of Supervisors June 26, 2008**

The workshop meeting of the North Middleton Township Board of Supervisors was held at the Township Municipal Building, 2051 Spring Road, Carlisle PA on June 26, 2008. Chairman Richard A. Bucher called the meeting to order at 6:00 p.m. Board members present were Vice Chairman Robert H. Shearer, Supervisor Dennis E. Hurley, Supervisor Harry Kelso, Supervisor Robert Reisinger, Solicitor Mark Allshouse, Manager Deborah A. Ealer, Assistant Codes Enforcement Officer Ruben Lao, and Recording Secretary Lori A. Coleman.  
Visitors: see attachment #1.

The Pledge of Allegiance to the American Flag opened the meeting.

### **Executive Session**

Supervisor Bucher reported an executive session was held on June 11<sup>th</sup> following the Third Pine Floor conditional use hearing at approximately 9:00 p.m. The purpose of the executive session was to discuss a personnel issue. No vote was taken and the board did not reconvene.

Another executive session was held on June 12<sup>th</sup> at approximately 5:30 p.m. to discuss a potential litigation issue involving township codes enforcement. No vote was taken and the board did not reconvene. The announcement was made since it was the first meeting of the Board of Supervisors since the occurrence of executive sessions and to provide public notice as pursuant to the Pennsylvania Sunshine Law. See attachment #2.

### **New Business**

#### **Keiser Zoning Hearing Board Application**

Assistant Codes Enforcement Officer Ruben Lao informed the board that Mr. Keiser had submitted an application to the Zoning Hearing Board requesting a variance a shed on his property. Mr. Lao stated the minimum setback according to the code is 10ft. After some research, Ms. Ealer provided an update of her findings from a similar case in which a variance request was made for a shed in 2003. At that time, the ZHB approved the request but the accessory structure was located no nearer than 20ft to the western boundary line and a permanent foundation was installed along with following any other rules and regulations. Supervisor Bucher confirmed with Mr. Lao that the application was complete and in order. Supervisor Bucher asked the BOS members if they supported, not supported or recommended taking no action on the application. Supervisor Reisinger recommended not taking a position on the matter. He felt the ZHB should take testimony and make a decision on the application. Supervisor Kelso felt the board should remain neutral on the matter. Supervisor Hurley noted he was not qualified to offer his opinion on the issue. Supervisor Shearer thought the BOS should always take a stand on a ZHB matter. Supervisor Bucher would like to support the application. The recommendation was to add the issue to next week's agenda to take a separate vote.

#### **Wood Burning Ordinance**

Ms. Ealer noted Section 93 (outdoor wood fire boilers) was developed by Mr. Fegley and Solicitor Allshouse. She added Supervisor Hurley submitted additional information and she had a copy of Middlesex Township's ordinance for the board's review. Supervisor Bucher noted it

was a hot topic at the last meeting in which Mr. Fry provided comment to the board on his concerns of boiler usage near his residence. Solicitor Allshouse commented changes could be made to the sample ordinance. Supervisor Kelso suggested the boilers be restricted during the summer months, not impact the health of residents, and not permitted in high residential areas. Supervisor Reisinger agreed with Supervisor Kelso's comments and felt something should be in place for high density residential areas. Supervisor Shearer recommended working with staff to make the changes and preparing the ordinance for a public hearing. Supervisor Hurley and Supervisor Kelso volunteered to participate on the committee for input on the ordinance. Solicitor Allshouse indicated to the board Section 93 was part of the ordinance update and comment could be offered at the public hearing slated for August 7<sup>th</sup>. As a response to a public inquiry, Solicitor Allshouse stated at the last meeting the BOS directed him to develop a draft ordinance. Section 93 was developed and was not a published or voted ordinance. In August, the ordinance updates will be discussed at a public hearing. Copies of Chapter 93 were now available at the Township, Cumberland County Law Library and The Sentinel.

### **Solicitor**

#### **Special Fire Police Ordinance**

Solicitor Allshouse presented the draft ordinance to the board. The ordinance would delegate authority of the BOS to the Township Manager, providing authority to request deployment of the NMT Special Fire Police for nonemergency functions. In addition, he mentioned a conversation with Mr. Yoder who indicated to him that he was not officially the fire department attorney, but the fire department did take a vote to permit him to write the letter to the BOS on their behalf. The issue was placed on the consent agenda for next week.

#### **Collections/Municipal Liens**

Solicitor Allshouse referenced his June 6, 2008 letter to the board. He stated a municipal lien may only be filed when the Township has unpaid taxes or has provided services such as mowing of a yard to abate a nuisance. All other judgments obtained by the Township must be collected through the civil process, being a Sheriff's levy on personal property and sale thereof. He noted a lien is just a filing of the notice for the lien. Collections first require a judgment from a District Justice. A civil process is required to collect on a judgment which entails filing of a Writ of Execution and have the Sheriff of Cumberland County levy and schedule a sheriff's sale of the property. He noted the process for the levy ranges from \$1500-\$2000 to complete. He added eventually the Township may end up in a lienable situation with enough fines to pursue the collection. He noted the Township could record the judgment for the \$15 fee and the judgment will remain on the judgment index in Cumberland County for five years and would be required to be paid should any of individuals seek financing for a mortgage, home, auto, etc. The board supported the judgment recorded process.

#### **Complaint**

Solicitor Allshouse mentioned a complaint from John H. Helso who is in the bankruptcy court of the Middle District of Pennsylvania. Mr. Helso is seeking to sell of his property to pay off his debts free and clear of certain debts. Solicitor Allshouse noted the Township was named as a defendant in the case only in the capacity that the Township is the taxing authority. What is proposed in the motion is that the debtor will pay the costs and expenses of any past or present real estate taxes owed on the real property prorated to the date of sale. Solicitor Allshouse added

the document was just providing notice to the Township. Solicitor Allshouse indicated no response was required since the Township would not be losing anything.

### **Police Department**

Corporal James Peterson mentioned receipt of the resignation of Officer Brandon Jones. Mr. Jones took a position with the East Pennsboro Township Police Department. His last day with the township will be June 30<sup>th</sup>. The issue would be placed on the consent agenda for next week. Corporal Peterson referenced a memo from Chief Rudolph recommending the hiring of Matthew Johnson to fill the vacancy. The issue was also placed on the consent agenda. Supervisor Hurley inquired about the expense involved to hire and train a new officer. Supervisor Bucher noted funds are budgeted for the process. Supervisor Hurley questioned the procedure to invest funds in training a person which turns around and leaves. Supervisor Shearer felt it was a valid question for Chief Rudolph. Corporal Peterson indicated Officer Jones was leaving to take a position with higher pay and better benefits.

Corporal Peterson mentioned the block party on Ridge Avenue which occurred during a car show weekend. He discussed the extra time it took to install the barriers/signs, and use of the codes department truck to transport the items. He asked the board to review the procedure. Supervisor Reisinger mentioned the request came in late, and next time the board will review the time and date to avoid conflict in the future. Ms. Ealer recommended making contact with the individual seeking the request for the block party and provide them with signs and barriers to install and remove. She added other municipalities use this procedure. Solicitor Allshouse recommended an assignment document making the individual responsible for the signs and any damage resulting from the lending process. The board supported the suggestion.

### **Recreation Board request – park equipment**

Supervisor Shearer noted a conversation between Ms. Scharadin and himself concerning playground equipment. He reviewed a document from the Recreation Advisory Board outlining the year playground equipment was installed in each park. The Recreation Board asked if funds from the rental of the pavilions could be set aside to purchase park equipment. Supervisor Shearer noted the past policy has directed all the funds from the pavilion rentals to the general fund. Ms. Scharadin noted the Recreation Board was seeking funds on an annual basis to replace the equipment. Ms. Ealer added some of the equipment was removed due to safety issues. Supervisor Kelso asked if \$5000 was enough since playground equipment is very expensive. Ms. Scharadin felt the board could seek smaller pieces or hold funds for a year to have a larger amount. Supervisor Hurley felt it was a good idea. Supervisor Reisinger agreed a line item should exist. Supervisor Shearer asked if grant funding was available. Ms. Scharadin noted funds were available if major pieces were being installed. She added North Middleton Park and Creekview lie in the 100 year flood plain. Supervisor Shearer noted the Township has grown with a lot more families. Supervisor Bucher suggested checking into grants and creating a list of items that could be replaced or added. Ms. Ealer added Village Park is ongoing. In addition, the replacement of the restrooms at North Middleton Park is still work in progress. Ms. Scharadin pointed out usually an architectural engineer is required for a grant which increases the costs involved.

### **Carlisle Borough Recreation Cooperative**

Supervisor Shearer applauded Ms. Scharadin and Andrea Crouse of the BOC for the great job of completing the comprehensive study of activities, etc. available to the residents of both municipalities. He referenced a letter from Steve Hietsch of BOC in which the letter indicated NMT would pay the BOC an annual lump sum of \$3500 to use BOC facilities at the same rate BOC residents pay. Supervisor Bucher felt it was a win-win for both sides. Ms. Ealer reiterated that any NMT resident could participate in a BOC activity and pay the BOC resident rate. If the board would like to begin this year, the amount would be prorated. The board decided to place the issue on the consent agenda.

### **Letort Greenway Study and Resolution**

Ms. Ealer noted the Letort Regional Authority has prepared a Master Trail/Urban Greenway Plan that includes the BOC, Middlesex Township, NMT, and SMT. She reviewed the resolution with the board. Supervisor Bucher verified with Ms. Ealer that no funds were involved. Ms. Ealer added the plan would be presented at the next meeting. The issue was added to the consent agenda.

### **Peddlers and Solicitation Permit Ordinance**

Solicitor Allshouse was seeking direction from the board on what changes they would like made to the ordinance. Supervisor Bucher felt the fees were not appropriate. Ms. Ealer would like to have the fees set by resolution. Solicitor Allshouse reviewed some of the areas that may need updated. He discussed the BOC's fees for food handlers. Supervisor Hurley questioned the need for the ordinance and questioned if it was a problem. Ms. Ealer noted the police department frequently receives calls and it would protect the citizens. Supervisor Bucher felt the police department should offer comments.

### **Spring Road Bridge Project Meeting – 07/29/08**

Ms. Ealer mentioned being contacted by the engineer to review the project. He would provide an overview of the project and discuss alternate routes. Public comment could be offered. Ms. Ealer noted the date of July 29, 2008 was set but she just realized a conditional use hearing was scheduled that evening. The board offered alternates of August 18<sup>th</sup> and August 19<sup>th</sup>.

### **Educational TV Channels**

Supervisor Kelso noted the issue was discussed at the Council of Governments. A proposal was offered that every municipality would get a channel in which meetings could be broadcasted or information could be displayed. A request for proposal was offered in which two firms would provide support at \$200/month. Technical assistance would be offered to set up the channel. The COG was seeking support for the proposal. Supervisor Shearer discussed the last cable agreement in which he mentioned a cable channel was set aside for the township's use. Overall, the board did not support the proposal.

### **Intermunicipal Agreement with Middlesex for Recycling Site Grant**

Ms. Ealer noted the final study came in on June 12<sup>th</sup> and the grant was due on June 20<sup>th</sup>. She mentioned spending a majority of her time working on the grant. She added an intermunicipal agreement with Middlesex for the recycling site was required. Ms. Ealer noted an initial cash contribution was not required since in house services would be utilized. She did point out that

long term costs would exist, which could be offset by costs which the township is currently expending. Supervisor Bucher questioned the costs currently used before voting on the agreement. The issue was added as a separate agenda item.

### **CPEC lawsuit**

Ms. Ealer noted the Township purchases fuel through the Central Pennsylvania Energy Consortium (CPEC) which awarded the bid to Shipley Energy. Shipley Energy withdrew their bid and now CPEC is suing Shipley Energy. CPEC is completing the lawsuit in which no funds would have to be expended from the Township. Solicitor Allshouse referenced memo in which paragraph 2 of Page 2 supported Ms. Ealer's statement. Overall, Ms. Ealer felt the Township should participate. Solicitor Allshouse recommended finding out the yearly fee paid and then determine if the board would like to participate. The issue was added as a separate line item.

### **Finances**

Ms. Ealer reported attending a finance seminar this week. She noted working with the Orrstown investment officer on a regular basis to invest the township funds and try to earn the most interest. After attending the seminar, she recommended the board adopt an investment policy, and form a finance committee. The finance committee could work on long term issues.

Supervisor Bucher asked if other municipalities have finance committees. She noted many of the large municipalities have a finance committee. Supervisor Kelso supported the recommendation. Supervisor Reisinger noted municipalities have limited ways to finance funds. Supervisor Shearer supported the idea. Supervisor Bucher and Supervisor Reisinger volunteered to be on the committee. The issue was added to the consent agenda.

### **Old Business**

#### **Task List**

Items reviewed include:

- Zoning Ordinance update-Draft will be added to the website.
- Comprehensive Plan update- Supervisor Kelso discussed the road tour.
- EIT/CAP TAX- Ms. Ealer noted her recommendation has not changed. Item added to next week's agenda.
- Longs Gap Road Horse Farm- Solicitor Allshouse noted he would provide an update after the hearing.
- Waste Contract- RFP's were advertised.
- Blighted properties- Solicitor Allshouse will provide a report at the next meeting.
- BOC / NMT line- Issue will go back to the EMC meeting.

### **LogistiCenter Study**

Supervisor Bucher mentioned a study that was to be completed, but fell through the cracks. He questioned whether or not it should be completed. Since going through the current public hearing, Supervisor Shearer noted different variables affect the decibel level. Supervisor Bucher questioned when the study should have been completed. Ms. Ealer thought the condition was added after the third hearing. Supervisor Kelso thought the sound study should be completed. Supervisor Shearer felt it should be added as a line item for next week to vote upon. In addition, Supervisor Shearer requested Solicitor Allshouse review the maintenance contract for the traffic signal. Ms. Ealer noted it expires April 30, 2009. Supervisor Shearer noted his concern of the

timing of the light for turns. Solicitor Allshouse stated he would review the contract. Also, Supervisor Bucher felt a policy should be created for capturing all conditions. Ms. Ealer noted staff was working on creating a file with conditions from conditional uses and zoning hearing board decisions. Supervisor Bucher added he would like to see a report on how much has to be tracked and what was missed.

### **Paving Contract**

Ms. Ealer noted the Pennsylvania Supreme Court made a decision to define what maintenance is and what is not maintenance with respect to paving contracts. This year's paving contract was bid under the nonprevailing wage. Under the new decision, the contract is required to be bid under the prevailing wage. The estimated cost increase to be added to the contract is \$10,000 which is still less than the next lowest bidder. In order to proceed, a change order will be required of which board approval is needed. The issue was added to the consent agenda.

### **Fire Committee Meeting**

A separate fire tax was discussed at a meeting with Supervisor Bucher, Supervisor Kelso, Ms. Ealer, Fire Chief Shawn Brickner, and SMT Manager Barb Wilson. Supervisor Bucher noted SMT has a fire tax dedicated to funding the fire department. Supervisor Kelso noted he would like to meet with the fire department at their next meeting. Supervisor Bucher added the issue should be revisited before budget time.

### **Special Fire Police Ordinance and Agreement**

Supervisor Shearer requested to revisit the issue at the next action meeting. Supervisor Shearer noted the EMS director recommended approval. He added the Township needs to be on board with the county in case of an emergency. The issue was added to the agenda for next week.

### **Executive Session**

The board recessed at 7:53 p.m. to enter into an executive session to discuss a personnel matter. The board reconvened the meeting at 8:25 p.m. As referencing the personnel policy manual, Supervisor Bucher moved to terminate the employment of David Dick effective June 30, 2008. The motion was seconded by Supervisor Shearer and the motion carried with a 4-1 vote. Supervisor Hurley voted against the motion.

### **Adjournment**

Supervisor Shearer moved to adjourn the June 26, 2008 workshop meeting of the Board of Supervisors at 8:27 p.m. Supervisor Reisinger seconded the motion, and the motion carried.

Respectfully submitted,

Deborah A. Ealer  
Township Secretary

Lori A. Coleman  
Recording Secretary



