

## **North Middleton Township Board of Supervisors June 4, 2009**

The meeting of the North Middleton Township Board of Supervisors was held at the Township Municipal Building, 2051 Spring Road, Carlisle PA on June 4, 2009. Chairman Robert Reisinger called the meeting to order at 6:00 p.m. Board members present were Vice Chairman Harry Kelso, Supervisor Robert H. Shearer, Supervisor Richard A. Bucher, Supervisor James E. Hare, Solicitor Mark Allshouse, Manager Deborah A. Ealer, Police Chief Jeffrey Rudolph and Recording Secretary Lori A. Coleman.

Visitors: see attachment #1.

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

### **Public Comment / Hearing of Visitors**

#### **Jennifer Garcia of Dawood Associates, Inc. – Costopoulos subdivision**

Ms. Garcia said the subdivision was approved about two months ago. Ms. Garcia reviewed the back property line on page two of the plans, and noted she was seeking approval from the board to move the property line back 50ft. When the prospective purchaser of the ten acre lot consulted the tax assessor, it was brought to their attention that the dedicated right-of-way could potentially disqualify the property for the clean and green discounts. The tax assessor indicated to them that if the township would ever expand Easy Road or take the right of way, then the property owner would owe back taxes. Supervisor Shearer stated clean and green was an item for agriculture. He added the township has 148 properties in clean and green which amounts to over \$14.5 million dollars in market value real estate. He pointed out that everyone on the board would be required to make up the difference. He noted it was not the board's concern for the extra footage, so the prospective owners could save on their tax bill. Supervisor Reisinger verified the prospective property owners do have sufficient ground to be in clean and green right now, but if the future right-of-way is ever dedicated then they would not have enough to stay in clean and green. Ms. Garcia agreed. She added they were seeking to change the property from 10 acres gross to 10 acres net. Supervisor Shearer asked if the property owner understands that the property would be open to the public to walk across at anytime under the clean and green program. Ms. Garcia stated they were consulting the tax assessor for the clean and green requirements. Solicitor Allshouse agreed a recreational use act existed under the clean and green program. Ms. Garcia states she would notify the prospective owner of the comment. Solicitor Allshouse noted the board could approve the minor change to the plan as shown by Ms. Garcia which would then allow Mr. Fegley to record the abandoned plan. Thus, Supervisor Bucher moved to approve the minor change to the plan, and Supervisor Hare seconded the motion. The motion carried with a 4-1 vote. Supervisor Shearer voted nay.

#### **Donald Hopley of 920 Cranes Gap Road**

Mr. Hopley mentioned having problems with his neighbors over the past 10 years. He noted the issue came down to something that the Township did years ago of which was not enforced. On November 8, 1968, the owners at the time applied for an application to put in a street that was later denied. They asked for a 60ft proposed street and the Township said the maximum right-of-way was 30ft. A few years later, the property was subdivided and given a 60ft ingress/egress/regress across his property. He purchased his property in 1997. He added a

maintenance agreement does not exist on the right-of-way. He tried to ask for a maintenance agreement with the neighbors but they refused. To date, people trespass on his property on a regular basis with their four wheelers, golf carts or horses. He has called the police department on numerous occasions of which they have stated it was public use property. People have also trespassed into his barn, looked directly in his kitchen window, and took apart a portion of his gate. The police did investigate his report of the gate theft, and the police said there was no criminal intent. The portion of the gate was returned a few days later. Mr. Hopler stressed the issue was harassment, damage to private property and theft of which he could not get any support from the police department. Supervisor Reisinger verified the ingress/egress/regress with Mr. Hopler. Police Chief Jeffrey Rudolph noted the first report occurred in 2004 when Mr. Hopler filed a civil suit with the former owner. Chief Rudolph verified that Mr. Hopler reported harassing actions at that time. Mr. Hopler agreed. Chief Rudolph noted the department has spent many hours over the years tending to his civil issues. A copy of the issues was given to Mr. Hopler. Supervisor Reisinger noted the decision was completed many years ago and the board cannot go in and just make a change. He added many of the concerns were civil issues. Solicitor Allshouse stated the ordinances Mr. Hopler was sighting were not Township ordinances. The township can only enforce township ordinances. Solicitor Allshouse added the ordinances that Mr. Hopler was citing were state municipal laws which the police department can enforce along with the district attorney's office. If the DA's office has decided to not go forward with a charge, then there is nothing anyone can do since the district attorney has complete discretion on whether to charge under state criminal laws. The police department is charged with upholding Pennsylvania state laws, and has discretion on bringing charges based upon what they believe they can prove. Solicitor Allshouse added the Township has a policy to not get involved in maintenance agreements. He noted the extent, use and width of a right of way is a civil court issue of which the court reads the document and complaint to determine if the right of way is being abused. As for trespass, he noted it could be criminal or civil. Solicitor Allshouse discussed various issues involved with the trespass concern. Overall, Solicitor Allshouse suggested Mr. Hopler go to a civil court and hire an attorney to do the research to have the issues of how, who, when, etc. settled once and for all. Once all the information is established, then the police department would have legal documentation. Mr. Hopler added the district justice determined in 2005 that the gate was legal. Solicitor Allshouse stated the district justice order would have to be shown to the police department, so they could legally enforce the decision. Mr. Hopler thanked the board for their time.

**Rick Hoover of 1190 Newville Road**

Mr. Hoover questioned the bonding held to redo the grass along the Newville Road. Ms. Ealer was unaware the reseeding was not completed since ProLogis was notified. Mr. Hoover thought it was to be reseeded and some trees planted. Supervisor Reisinger suggested a follow up with Mr. Fegley. Supervisor Bucher asked for an update at the next workshop meeting.

**Terry Morelock of 208 E. Hillcrest Drive**

Mr. Morelock was seeking permission to close the block of E. Hillcrest Drive from Ridgeview to Rasp Drive on June 19<sup>th</sup> for a block party. Mr. Morelock had a petition from all the neighbors. Supervisor Hare moved to permit the closing of the block of E. Hillcrest Drive from Ridgeview

Drive to Rasp Drive on June 19, 2009 from 5pm to 11pm for a neighborhood party. Supervisor Kelso seconded the motion, and the motion carried.

### **Consent Agenda**

- a. Meeting Minutes: 04/30 Workshop, 05/07 Action Meeting**
- b. Tax Collector Reports: 9-10, 2008 reports**
- c. Payment of the bills: 05/15/09; 06/04/09**

Supervisor Shearer moved to approve the consent agenda, and Supervisor Kelso seconded the motion. The motion carried.

### **Business of Township Officials**

#### **Township Manager: Deborah Ealer**

- a. May Manager's Report**

Ms. Ealer presented her May report to the board. She asked the board to email any topics of discussion for the joint intermunicipal meeting to her. Supervisor Hare questioned the Pictometry software. Ms. Ealer said it was installed and located on Mr. Lao's machine.

- b. Proposed Dog Park**

Ms. Ealer provided the board with a copy of the color mapping from the Borough of Carlisle Manager Steve Hietsch. She noted a formal sketch plan was not available. He did tell Mr. Hietsch that a permit would be required for the fencing. She added that she would keep the board updated on any changes. Supervisor Bucher noted his concern with parking and the amount of anticipated traffic. She noted Andrea Crouse of the Borough of Carlisle was working currently working with Mr. Fegley on the parking. Supervisor Shearer mentioned Shaffer Park Business Park and the retention pond. He questioned if the drainage went down into the proposed park. Supervisor Reisinger stated the board wanted to make sure the proper procedures are followed.

#### **Chief of Police: Jeffrey Rudolph**

Chief Rudolph presented his report to the board, and noted the new police vehicle had been on the road for the past two weeks.

#### **Solicitor's Report: Mark Allshouse**

Solicitor Allshouse presented his May report to the board. Supervisor Bucher inquired about an update on the plum pox. Solicitor Allshouse stated the same regulations were being enforced. He suggested notification on the website and in the township newsletter.

Supervisor Kelso inquired if funds were received from the residents in reference to the gypsy moth spraying. Ms. Ealer referenced a memo she sent out last month.

### **New Business**

- a. Tapping Fee Resolution 2009-04**

Solicitor Allshouse noted the resolution was drafted by Solicitor Gilroy and reviewed at the last meeting. Supervisor Shearer moved to approve Resolution 2009-04 which was a joint resolution of North Middleton Township and North Middleton Authority

establishing sewerage and water system tapping fees in accordance with Act 57 of 2003. Supervisor Kelso seconded the motion, and the motion carried.

**b. Resolution 2009-05 – Garner Small Flow on Hoy Road**

Supervisor Kelso moved to approve Resolution 2009-05 for the Garner small treatment facility located on Hoy Road. Supervisor Hare seconded the motion, and the motion carried.

**c. Statewide Tax Recovery Exoneration Request**

Supervisor Hare moved to approve the Statewide Tax Recovery, Inc. exoneration request for an individual as listed in Ms. McKillip's memo to the board. Supervisor Shearer seconded the motion, and the motion carried.

**d. Act 32**

Supervisor Reisinger stated the issue was discussed at the last meeting in which Supervisor Bucher recommended the appointment of a representative. Supervisor Bucher noted Act 32 was moving very quickly and he felt it behooves the Township to appoint a representative to attend the meetings. After some discussion, Supervisor Bucher volunteered to be the primary representative if Ms. Ealer was the back-up. Thus, Supervisor Hare moved to appoint Supervisor Bucher as the primary representative and Ms. Ealer as the secondary representative. Supervisor Shearer seconded the motion, and the motion carried. Ms. Ealer stated the county has to host the first meeting, and then the entities would have to elect the leadership and write the by-laws, etc. She added the state has no planning in place at this time. Supervisor Reisinger mentioned two of his concerns: (1) prompt payments and low fees, and (2) the collection agencies. Supervisor Bucher felt it was important to stay abreast on the issue.

**e. Letter of Resignation**

Ms. Ealer presented the resignation of Jack E. Landis, temporary part-time employee of the Parks Crew effective June 3<sup>rd</sup>, 2009. Supervisor Shearer moved to accept the resignation of Jack E. Landis, and Supervisor Kelso seconded the motion. The motion carried. Ms. Ealer noted she would send a letter of thanks to Mr. Landis for his years of service.

**Additional Public Comment**

**Jim Stine of 221 Cornman Road**

Mr. Stine discussed an issue with four-wheelers creating excessive dust near his home. He presented photos to the board, and mentioned how the dust affects his wife's breathing. Mr. Stine did discuss his concern with Chief Rudolph, other officers and his neighbor. The police department has approached his neighbor with the concern, but he continually creates excessive amounts of dust by riding his four-wheeler. Mr. Stine had no issue with four wheelers, but wanted to know if the board could do something about the dust. Supervisor Bucher inquired how far was the riding taking place from his home. Mr. Stine replied 100ft. Mr. Stine explained he did try to discuss the issue with the neighbor first before taking it to the police department. Supervisor Reisinger suggested adding the topic to the workshop agenda. Mr. Stine said he did talk with Mr. Fegley, but he could not find any code violations. Solicitor Allshouse noted the nuisance ordinance was recently revised, and suggested Mr. Fegley review it. He added the board could revise the ordinance. Solicitor Allshouse noted the general premise under the state

law was that you could not conduct an activity on your property that has an impact on your neighbor to enjoy the livelihood and enjoyment of their property.

**Old Business**

**a. Spring Road bridge**

Supervisor Bucher asked if there was an update on the bridge. Ms. Ealer stated it was to close next week.

**b. Executive Session**

An executive session would be held following the meeting to discuss a personnel issue.

**Adjournment**

The meeting was adjourned at 7:03 p.m.

Respectfully submitted,

Deborah A. Ealer  
Township Secretary

Lori A. Coleman  
Recording Secretary