

North Middleton Township Board of Supervisors June 25, 2009

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 25, 2009. Vice Chairman Harry Kelso called the meeting to order at 6:00 p.m. Board members present were 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. Chairman Robert Reisinger was not in attendance.

Visitors: see attachment #1.

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

Subdivision and Land Development

121 Pearl Drive – Jackie Verney

Ms. Verney stated her client purchased the property in March 2007. Shortly thereafter they discovered that a small portion of their home encroached on the adjacent property. The adjacent property owner is willing to deed a portion of his property to her clients at no charge. Ms. Verney was seeking a waiver of the subdivision requirements. Ms. Verney noted the total amount of property to be transferred was .0667 of an acre. Supervisor Bucher verified that no roads or easements were involved. Ms. Verney agreed, and stressed it was a very small encroachment. Supervisor Hare inquired when the applicant's home was built. Mr. Rackley stated the home was built in 1873, and the addition was completed in 1986. Supervisor Hare asked if the addition was over the line. Ms. Verney replied yes. Supervisor Kelso questioned Codes Enforcement Officer Paul Fegley on the setbacks. Mr. Fegley added he did visit the site, and noted the closest point of the addition cannot be any closer than 10ft to the line. Supervisor Shearer asked if the property was surveyed at the time of purchase. Ms. Verney replied that Pennsylvania was a no survey state of which most people do not have it done. Secondly, Supervisor Shearer asked if title insurance was purchased. Ms. Verney added title insurance was purchased, but did not cover this type of situation. Ms. Verney stated her client was unaware of the issue until 6 weeks after the purchase of the home when the neighbor had his property surveyed to install a fence. Solicitor Allshouse stated the title company does not cover the boundary of the land, but covers what is owned as described in a deed. Ms. Ealer noted the application was pulled for review of which the permit was correctly issued for the addition to the home. She noted the prior owner did not know the lot lines, and told the township that it was conforming. Mr. Fegley noted the owner's would have to provide a drawing showing the change in the property along with a detailed explanation of the change. He added the information should be reviewed by Brehm-Lebo to verify the line is correct. Solicitor Allshouse stated two deeds would be required to show the consolidation and conveyance. Mr. Fegley felt the subdivision process was not required. Solicitor Allshouse noted Brehm Lebo could complete the process. He asked Ms. Verney if her client had any issue with paying the standard fees for professional engineering and legal reviews. Mr. Fegley explained the fees involved with the subdivision procedure, and the process being suggested by the Township. Mr. Rackley agreed to pay the standard fees for the review. Ms. Ealer requested the required information be brought to the township so she could get it distributed to the appropriate people. The issue was placed on the consent agenda for next week.

North Middleton Authority

a. Minutes

Ms. Ealer presented the minutes to the board.

b. Manager's Report

Ms. Ealer presented Lee Koch's report to the board.

New Business**a. Codes Updates**

Ms. Ealer indicated Mr. Fegley and Ruben Lao of the Codes Department were present to discuss the property of 1875 Spring Road owned by Michael Swartz. Ms. Ealer noted Mr. Swartz was present this evening to answer any questions. Since 2003, Mr. Lao stated Mr. Swartz had ongoing violations at his property both for trash and vehicle issues. Mr. Swartz has been verbally warned and provided with legal written documentation advising him of his violations. Civil complaints have been issued of which the township has granted leniency at times or withdrew the citations. Mr. Lao said the township has tried to work with Mr. Swartz to help him come into compliance. Since that time, the township has continued to issue citations and complaints. Mr. Lao noted Mr. Swartz was currently paying on some of the citations. Mr. Lao indicated Mr. Swartz was operating a garage and car lot which was currently being documented. Supervisor Kelso questioned some of the documentation provided. Mr. Lao explained some of the violations were recorded by the previous Assistant Codes Officer. The board discussed the fees owed and payment schedule. Supervisor Shearer inquired what the property was zoned. Mr. Lao noted it was R-1 and was being used as an auto repair shop and auto sales. Chief Rudolph noted he spoke with Mr. Swartz in which he explained to him the law and sale of vehicles. Chief Rudolph indicated he was in contact with a state agency and the issue was still an ongoing investigation. Mr. Lao added he did speak with another state agency of which he could not discuss the details. Supervisor Shearer verified it was a direct violation of the codes. Mr. Lao agreed, and recommended the board not give Mr. Swartz any additional slack and proceed forward with the maximum penalty for each violation via the district justice. Solicitor Allshouse noted it would be a good idea if one of the Board of Supervisors was present to provide some testimony on behalf of the board. He noted the board could provide a recommendation at the next meeting to appoint someone to speak on behalf of the board. Supervisor Bucher asked Mr. Swartz why he could not comply with the ordinances of the township. Mr. Swartz felt he has complied and thought the codes department was picking on him. He noted that all his cars are currently registered except for two of which he has ten days to have the cars inspected. Supervisor Bucher recommended the board pursue the issue to the fullest extent of which the law allows. He noted it was unacceptable. The board decided to take a vote at the next meeting to appoint a supervisor to be present at the hearing on behalf of the board.

Paul Gettel property on Rt. 944

Supervisor Shearer questioned the unauthorized use on the property. Mr. Lao said he did speak with Mr. Gettel of which he indicated that he would stop doing business at the property. Mr. Fegley noted a certified letter was sent to Mr. Gettel providing a notice of the violation. Mr. Fegley said he would complete a follow up on the property in September.

Zechman Project on Longs Gap Road

Mr. Fegley noted neither home had a final inspection completed. He stated one of the homes was occupied by a family. He did contact one of the owners and indicated to him that an occupancy permit was required. Within a week, the family that was occupying the home moved out. Then, Mr. Fegley told the owners that he did have concerns with some of the construction methods. He

stated until the homes are brought into compliance, an occupancy permit will not be issued. Supervisor Kelso added the homes went before the Planning Commission to address various issues. Mr. Fegley added fees are owed to North Middleton Authority.

b. 4 wheelers

Ms. Ealer noted she asked Mr. Fegley to research the codes of which the Township has nothing in reference to 4 wheelers. Ms. Ealer mentioned receipt of information from Rick Hoover on the issue. After a brief review of the ATV laws, Ms. Ealer noted the local police department may be able to enforce the law. Chief Rudolph referenced an incident on the Norfolk Southern property in which a resident was cited for trespassing. Supervisor Hare referenced passing an individual riding a motorized scooter on Rt. 34. Chief Rudolph indicated anything that runs on the highway with a motorized engine has to be licensed. Supervisor Kelso asked Solicitor Allshouse about an incident in which a 4 wheeler created a large amount of dust which then falls upon a neighbor's home. Solicitor Allshouse stated it could be a civil nuisance, but it is very difficult to prove. Mr. Hoover commented on the ATV law which states the muffler should be in good working order and must not be louder than 20 decibels. Chief Rudolph stated he did speak with Mr. Hoover and Mr. Stine after the last meeting of which he advised both men to call the police department when an issue occurs.

c. Part-time employee definition

Ms. Ealer noted the board asked her to draft a definition of a part-time employee. Presently, the Township Personnel Policy Manual defines a part-time employee as "one who is regularly scheduled to work less than 40 hours per week and is on an hourly pay scale". The proposed definition states, "one who is regularly employed on a weekly basis and scheduled to work 32 hours or less per week and is on an hourly pay scale". Supervisor Kelso felt the documentation provided during the hiring process should state the amount of hours they would work per week. Supervisor Hare questioned if the statement should be amended to allow more than 32 hours on an emergency basis. Chief Rudolph noted when a part-time officer is hired they usually work more hours the first few months to get familiar with the township. He added it was mainly for safety and liability. Supervisor Kelso had no issue of working additional hours as long as it is documented. Ms. Ealer suggested adding, "but may be called upon to work more than 32 hours per week on an emergency basis or during the initial training period". The topic was added to the consent agenda.

d. Records Retention Resolution

Ms. Ealer stated the board approved a records retention policy via resolution using the 2008 guidelines as published by the Pennsylvania Historical Museum. Since the approval, staff has been reviewing the files the township currently has stored. Ms. Ealer provided the board with a list of the files that staff was recommending to be destroyed. In order for the files to be destroyed, the board would have to direct the solicitor to write a resolution approving the list. She added the list would be attached to the resolution. The documents would be destroyed in an appropriate manner. Supervisor Hare verified the documents could be destroyed within the legal time limit. Ms. Ealer agreed. She added it was a substantial amount of documentation that should be shredded. Supervisor Shearer recommended getting a commercial estimate to shred the documents. The item was added to the consent agenda.

e. Amending Building Inspection Fees

Mr. Fegley recommended the board amend several building application and inspection fees. Ms. Ealer noted the reasoning for the update was to expand the current fee schedule to more accurately reflect the actual costs of certain building permit costs and inspections conducted by the township. Mr. Fegley added the recommendations are based upon time and overhead of the codes department. After his review of the inspection fees, Mr. Fegley felt the township was falling short on these particular items. Supervisor Bucher asked if the number of applications were increasing. Mr. Fegley said they were not. The board directed Solicitor Allshouse to draft a resolution.

Old Business**a. Task List**

Ms. Ealer indicated a majority of the tasks were completed. For the zoning ordinance update, the draft RFP was completed and forwarded to Supervisor Kelso to review. Ms. Ealer felt the ordinance would come before the board in July for review. Supervisor Shearer noted many of the projects could be removed from the list. Ms. Ealer said she would remove the completed items from the list.

b. Disability Insurance

Ms. Ealer stated the current disability program was with Trustmark through PSATS. The cost to the township is \$138.86 per employee per year for a total annual cost of \$2905.56. She added no long term disability was available through Trustmark. Ms. Ealer presented the board with a comparison report of disability insurance from Trustmark, Eastern Life and Sun Life Financial. She added the township could not utilize the same company that provides coverage to North Middleton Authority because the company indicated the township was high risk due to the police department. Ms. Ealer reviewed the options with the board. Supervisor Hare questioned the need for the analysis. Ms. Ealer referenced an NMA employee that was on disability, and the coverage provided at that time. Supervisor Bucher inquired if the township could get a quote without the police department. Ms. Ealer noted she would research the question. The board discussed some options for disability insurance.

c. Carlisle Events Taxes

While working the emergency services people, it was discovered the tax distribution for Carlisle Events (real estate and LST tax) are being incorrectly credited to the Borough of Carlisle. Ms. Ealer noted the LST tax was corrected, and the real estate tax will be corrected during the present reassessment. This means NMT will not begin collecting the real estate tax until 2011. The only way to begin collecting the tax in 2010 is to file an assessment appeal with the county. It would require research. Supervisor Kelso questioned why an appeal had to be filed. Ms. Ealer stated that is what she was told by the county tax assessor. Supervisor Bucher verified that the county recognized it was going to the wrong person, but the only way to correct the issue before 2011 was through an appeal. Ms. Ealer agreed. Ms. Ealer stated there was 3 land parcels with Carlisle Events. Two of them are in NMT and one is in BOC. The one in BOC has the incorrect line. It was verified through a joint survey which was completed in the late 1980's. Ms. Ealer noted the copy was provided to the county GIS department, and they indicated the lines were incorrect. Supervisor Bucher verified it would be corrected in 2011. Ms. Ealer agreed, and Supervisor Shearer recommended getting the statement in writing. Supervisor Hare questioned the amount of funds involved in the appeal process. Ms. Ealer noted the amount was substantial. Ms. Ealer reviewed some of the totals involved. Solicitor Allshouse noted the board could work on getting

all the information first to determine if the amount recouped would outweigh the costs involved. Ms. Ealer noted the 5 year total for the real estate tax was \$14457.00 and the LST tax was \$17097.00. She indicated the board had two options (1) appeal the real estate assessment or wait until 2011, or (2) have Solicitor Allshouse complete a review and discuss the 5 years back taxes with BOC. Supervisor Bucher recommended gathering all the information, determine expenses involved, and estimate how much the township would receive. Ms. Ealer noted she would work on gathering information for the next workshop meeting. Supervisor Shearer noted he would like to see a breakdown of the Carlisle Events totals per year.

d. Bicycle Path

Ms. Ealer and Mr. Fegley completed an onsite investigation of the bicycle path located between Rt. 641 and Distribution Drive. Ms. Ealer noted it was the codes department's belief that the path has met the intent of the board approved land development plan for Lot #6 and Lot #2. She noted the current path appears maintained and passable except for two limited areas where it appears some earthen and sediment needed to be cleaned out. She provided a copy of the minutes from the last hearing. Solicitor Allshouse said Mr. Myers thought the bike path went down Distribution Drive. Ms. Ealer noted it was changed when Distribution Drive became private. She added she would send an email to Mr. Myers with a copy of the minutes.

e. Windmills

Supervisor Kelso and Supervisor Hare reviewed the information and ordinances for windmills. Supervisor Kelso mentioned information on wind turbines and South Middleton's windmill ordinance. He also made a copy of the industry recommendations. Supervisor Kelso said the board would have to decide on the zone and what lot size to permit a windmill. He thought they could use SMT's ordinance and the industry standards to create an ordinance for the township. Supervisor Hare was seeking direction from the board on whether or not they thought a windmill could be permitted in the residential zone. He also agreed that zoning was very important in creating the ordinance. Supervisor Kelso mentioned permit fees, and whether the use would be granted via conditional use or special exception. Supervisor Bucher and Supervisor Shearer supported the conditional use method. Supervisor Kelso asked about the recommended zone. He added SMT only permits the use in the commercial zone. Supervisor Shearer recommended agricultural or conservation district. Supervisor Kelso and Supervisor Hare noted they would continue working on the information.

f. Truck Traffic

Supervisor Kelso asked Chief Rudolph about the truck traffic on Creek Road. He noted the department was closely watching Creek Road. Supervisor Shearer noted a complaint of increased traffic in North Ridge. He thought it was from the local residents in that development. Chief Rudolph noted he would keep an eye on that area.

g. Act 32

Supervisor Bucher asked Ms. Ealer if she had any updates. Ms. Ealer noted the county was working on the contact list for each municipality.

h. Water outage

Supervisor Bucher inquired about the water outage. Ms. Ealer noted they would post signage on the restrooms. She added staff could use the NMA facilities if needed.

Executive Session

Supervisor Kelso noted an executive session would be held following the meeting to discuss a personnel matter and potential litigation issue.

Adjournment

Supervisor Shearer moved to adjourn the North Middleton Township Board of Supervisors workshop meeting at 7:57p.m., and Supervisor Bucher seconded the motion. The motion carried.

Respectfully submitted,

Deborah A. Ealer
Township Secretary

Lori A. Coleman
Recording Secretary