

MIDDLESEX TOWNSHIP
WORKSHOP MEETING
OCTOBER 30, 1998

OFFICIALS PRESENT:	SUPERVISORS:	Robert Eppley
		Joe Capuano
		Chuck Shughart
	SOLICITOR:	Keith Brenneman
	ENGINEER:	Bud Grove
	POLICE:	Chief Barry Sherman
	ZONING OFFICER:	Mark Carpenter
	SECRETARY:	Mary Justh

The meeting was called to order at 7:30 AM by Chairman Robert Eppley.

MIDDLESEX TOWNSHIP MUNICIPAL AUTHORITY - Alison Shuler Operations Specialist, Glace Associates - The Supervisors requested a brief presentation of the Fetrow Acres & Iron Stone Ridge Study to determine the sewer needs of this area. It was reported that these two areas may need to have public sewer in the near future. The maps and charts that were presented indicate that fecal coliform was reported and the concentration was higher than desired. Mr. Shughart asked how many holding tanks were found through the study. It was reported that there are 4 holding tanks and 1 property in particular where the means of disposal is dumping in the back yard. Several options for running sewer and/or water were discussed. Mr. Shughart indicated that the financial concerns for the residents need to be considered when thinking about sewerage these areas. The township may need to apply for County or State money in order to accomplish this. Mr. Capuano asked if the Municipal Authority is looking for direction from the Supervisors. Mr. Rory Morrison indicated that was true. Mr. Grove stated that a Feasibility Study be done and that the Act 537 requires either on lot and sewer, within five years of the Act 537. Mr. Capuano asked if the study could be done and a report given at the December 2 meeting of the Supervisors. Mr. Capuano made a motion to have the Municipal Authority do a Feasibility Study. Mr. Shughart seconded the motion and it passed unanimously. The Supervisors decided unanimously to advertise for a Public Meeting to be held on Wednesday, December 9th at 7:00 PM.

PUBLIC COMMENT - Mr. Dale Shughart representing 4 property owners on **Shady Lane** stated that these property owners were opposed to the written modifications to the plans and such plans should be denied. Mr. Shughart told the Supervisors that the submission of alternate plans in Middlesex Township should not be allowed. There are no provisions for alternate plans under this Township's Zoning Ordinance. These alternate plans change the point of access and therefore become a substantial revision to the original plans, and should go back to the Planning Commission.

Mrs. Crosswhite asked the Supervisors the status of the bridge on **Hollowbrook Road**. The bridge is over 100 years old and enhances the property. Mrs. Crosswhite asked if the bridge

would be replaced with a similar structure. Engineer Grove explained that Grove Associates was doing an historical background check for information to be used in a feasibility study. Mr. Grove stated that the bridge is the Township's responsibility and depending on what the report reveals is what the township will do.

Mr. Bruce Bistline stated that with the start of the **Comprehensive Plan**, the Supervisors need to decide what they want for the future. Planning for sewer and water are imperative as well as where development in the Township is going to occur or where the residents want it to occur. If the present system of sewer and water had been developed properly, we could have had sewer and water in Carlisle Springs. Mr. Capuano stated that things change, and this is the reason why we are doing a Comprehensive Plan.

Mark DiSanto, Triple Crown Corporation, stated that he has been in conversation with almost all the interested parties in the Shady Lane Plan in the last week. It is very difficult to understand the position we find ourselves in. This piece of property should be considered the ideal piece of property with a permitted use, sewer and water. Utilities are there and the permitted use is there. Triple Crown is willing voluntarily to make almost \$100,000.00 in improvements to Shady Lane and the Existing Right of Way. This is very large voluntary offer on our part to improve municipal streets. We request that this Board approve the plan with the waivers allowing us to access the property at the northern end and accept the voluntary road improvements. If waivers would be denied we have an alternate plan with the access at the southern end of the site. Mr. Grove did make comments on the plan that had been in the Township for over 90 days and Mr. Grove had a question about a drainage pipe on the southern entrance that he could make that a modification or condition of the plan, and a second access drive for emergency vehicles. Our preference would be to allow us to do the improvements without any additional cost to the Township. The Township should not deny the plan on a vote by a vocal minority. Mr. DiSanto stated that if this plan does not move forward, there is going to be litigation with regard to this property. Then this battle will be between Triple Crown and the minority residents on Shady Lane. This battle should not be fought with the Township.

Mr. Curt Barnett asked the Supervisors to try to do some significant advertising to make residents aware of the **Comprehensive Plan Meeting**.

Mr. Foltz stated that there was a deed restriction on the deed to the Shady Lane property when Triple Crown purchased the property. We put restrictions on the deed to keep tractor-trailers from using the road in front of our homes in that way. If there were possibly another access we could consider the plans.

Mr. Shughart asked the Supervisors not to accept the new plans, even though they may have been in the Township for 90 days, neither myself or my clients have had the opportunity to examine the plans, and we feel that these plans must follow proper procedure

(#98004) Shady Lane Warehouse Preliminary Subdivision and Land Development Plan -

Mr. Chairman before we take action on the Shady Lane/ Triple Crown plan I would like to offer some remarks;

As sometimes happens, and it seems with greater regularity, individuals and institutions generally object to Government when they believe their situation, whatever that may be, is threatened. In land use Government is relied on more and more to resolve whatever perceived problem may exist.

On the other hand, if one is attempting to build a home or a business on their "on their land", Government is often looked at as an obstacle to use on ones land.

As an American we the "right" to own land and to its use.

That "right" was protected, not granted, in a magnificent document drafted, in what George Washington called "the miracle at Philadelphia. The framers of the Constitution believed Property Rights were on an equal plane with the right to Liberty and the right to a life without oppressive Government.

Property rights were so obvious to them that no direct mention of protecting that right was included in the constitution prior to of adoption of the first 10 amendments, called the *bill of rights*.

Because some did believe these rights were too important not to receive special mention, these Bill of Rights were drafted and ratified as the first 10 amendments to the constitution.

The Bill of Rights specifically acknowledged that there shall be freedom of speech, of religion. the press, the right to bear arms, and in the FIFTH Amendment the right to own property.

"No person....., nor be deprived of life, liberty, or property,; nor shall private property be taken for public use without just compensation."

These 10 amendments did not grant anything. They were adopted as insurance that these rights could not be denied. A quote from William Patterson a delegate to the miracle in Philadelphia from New Jersey and later a Supreme Court Justice declared

"The right of acquiring and possessing property and having it protected, is one of the natural, inherent, and unalienable rights of man.....The preservation of property then is the primary object of the social compact.."

In 1865 the Fourteenth Amendment was ratified. In Section 1 of that amendment it states:

"...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;"

The author of the second sentence of Section 1 of the Fourteenth Amendment was John Bingham, a Republican representative from Ohio. In a speech he delivered some years before he drafted the sentence, Bingham stated that the due process of the Fifth Amendment secures natural rights for all persons, requires equal treatment by the law, and comprehends the highest priority for ownership.

These two amendments are unequivocal in the protection of property rights and by our nature as citizens of our country, we hold these rights dearly.

But as adamant as we might be about protecting our own property, we have no problem with requesting dictates to someone else's. That trend is becoming more and more common.

The attack is lead by those who believe by "their" presence and ownership of property they have transformed that place they now occupy along with the surrounding area into a paradise that could never have existed without their presence. They would never believe that just maybe paradise might have existed prior to their arrival. Whether it is paradise now, paradise before them, or if it will ever be paradise is only what one perceives what paradise is to look like and

therefore they have no right to inflict their beliefs by restricting property rights to meet their idea of paradise.

Government has no business joining them in their effort.

In the matter of Triple Crown's project I will not take part in making motions or voting because I will be effected by this development either positively or negatively. Again that depends on how one views paradise.

I believe to do otherwise would be a conflict of interest and our solicitor has confirmed that to be the case.

I will state that the developer is not an evil blight waiting to sweep us into hell. He is someone who owns property and has gone through the process mandated by our laws, which I was elected to uphold, in an effort to use the property in a manner provided for in those laws.

It is my understanding that one individual has made an effort to determine his own destiny by offering to buy the land from the developer. Since we are in this room at this time to take action on the plan, I would assume that those efforts have failed.

Others effected by this project want the Board of Supervisors to come to their rescue. Even the individual who sold the land to the initial developer wants us to stop this perceived carnage of the land.

Denial of this plan will result in either the project going forward with little impact little input from the township or it will result in someone owning a piece of land that is worthless to the owners.

Approval of the plan will change some ones idea of paradise but for those who come later they may believe it is paradise.

THANK YOU Mr. Chairman

Solicitor Brenneman addressed Chairman Eppley and stated that Mr. Capuano would not vote, due to a conflict of interest. Brenneman also made a determination that Mr. Shughart's voting on the Shady Lane Warehouse Plan was not a conflict of interest.

Mr. Shughart made a motion on the Preliminary Subdivision and Land Development Plan for Shady Lane Warehouse, dated February 2, 1998, revised July 20, 1998, to approve the waiver requirements of Article VII, Sections 709, sidewalks. Mr. Eppley gave a second, the motion carried with Mr. Capuano abstaining. Mr. Shughart made a motion to approve the waiver of Section 710, curbing. Mr. Eppley seconded, the motion passed with Mr. Capuano abstaining. Mr. Shughart made a motion to deny the request for a waiver of Section 903 c. which requires the finished elevation of proposed street or driveways to be a least one foot above Regulatory Flood Elevation. The reason for the denial was a concern over safety for employees, drivers and others. Mr. Eppley seconded, the motion passed with Mr. Capuano abstaining. Mr. Shughart made a motion to deny the request for a waiver of Section 703.c (10) (b) which requires a clear sight triangle at the intersection of the proposed access driveway and Shady Lane due to safety reasons. Mr. Eppley seconded, the motion passed with Mr. Capuano abstaining.

Mr. Shughart made a motion to deny the Plan as follows;

1. Proposed access driveway and culvert are to be constructed in an embankment which are obstructions within the natural drainage way that passes through the rear of adjoining property which is contrary to the requirement of Ordinance Section 713.a which requires such facilities to conform with the requirements of Ordinance Article X failure to properly accommodate storm water drainage.
2. Section 717.d (2) (e) Lack of design as noted in Grove Associates

memorandum dated 8/2/98. 3. Section 708.d (1) Truck safety when exiting on to Shady Lane as noted in Grove Associates memorandum of 8/2/98. 4. Section 703.c (12) failure to provide for a service alley as noted in Grove Associates memorandum of 8/2/98. 5. Section 703.c (10) (b) Clear sight triangle as noted in Grove Associates memorandum of 8/2/98. 6. Failure to plan and provide for increased truck traffic on Shady Lane. 7. Failure to adequately address the concerns at the intersection of Rt. 11 and Shady Lane as per Cumberland County Planning Commission report. 8. Failure to adequately address the problem with the driveway design and its elevation at it relates to the flood plain established by the LeTort Spring Run. 9. All other reasons set forth in memorandums by Grove Associates dated 8/2/98 6/22/98. 10. All other remaining reasons as set forth by Middlesex Township Planning Commission recommendations and Board of Supervisors recommendations of 6/22/98. Mr. Eppley seconded, the motion passed with Mr. Capuano abstaining.

Mr. Brenneman stated that at this point the alternate plan dated 7/30/98 by R. J. Fisher received 8/4/98 needs to be referred to the Planning Commission.

(#98019) Daniel P. & Ann-Marie Cunningham Preliminary/Final Subdivision Plan - Mr. Carpenter said the Planning Commission recommended approval of the plan to the Township Board of Supervisors granting a modification of requirements of Section 703. (e) with a note on the plan requiring sufficient road frontage for any future subdivision of lot 1 and a non-building waiver request for lot no. 1, and with the condition that a note be added to the plan. The plan will be decided on Wednesday, November 4th.

Jim Allen and Torrie Page Representing PMRS - Mr. Allen explained that PMRS is an optional pension administrator run by State employees. Mr. Allen gave a brief description of benefits, and some comparisons to other plans. Our present plans - Police is a Defined Benefit Plan - Non-Uniform is known as a Defined Contribution Plan. Excess Interest is what makes PMRS different from Insurance Companies. As far as the Police Pension is concerned, the Supervisors have the opportunity to distribute the excess interest on years of service or an across the board basis, or keep it for the administration of the pension plan. Our Supervisors have always been very generous in distributing it back to the members. All police officers fall under the Act 600, guidelines for the maximum and minimum for benefits unless they are part of PMRS then they fall under the Act 15 of 1974. By law the Supervisors could not give the officers the excess interest, except under Act 15 the Supervisors are allowed to do this. By law under Act 600 the maximum benefits would be 50% of pay, up to \$100 per year service increment, and automatic cost of living raise. Under Act 15 the maximum benefits are as follows, maximum of 50% of pay, service increment which we do not have, automatic cost of living which we do not have and excess interest, which we do have. Other benefits which we could have are reducing the retirement age to 50, killed in service, cost of living raise, and years of service increment. Unit value of the policy is not known until September of that year. The Supervisors are the ones that need to line up the benefits that they want the employees to have. Mr. Allen told the Supervisors that he would be willing to come back to talk to the them and explain any benefits. Mr. Allen indicated that there are some Townships that they go in on a yearly basis to evaluate their plans.

Voting Precinct Separation - Bob & Marion Smyser - Bob Smyser, Judge of Election for Middlesex Township asked the Supervisors what progress had been made as far as separation of the precinct. Mr. Capuano told the Smyers that the Election Bureau would rather give us more

people to help than to try to divide the precinct. Mrs. Smyser told the Supervisors that when we have a Presidential Election there will be a line waiting to vote and closing out takes time. After a brief discussion about the dividing line, Mr. Shughart made a motion to separate the Township by Rt. 11 to have 2 precincts and have Mrs. Justh write a letter to the Board of Elections of this intention. Mr. Capuano seconded, the motion passed with Mr. Eppley abstaining.

Engineer Grove gave a brief report on **Bernheisel Bridge Road**, but indicated that a full report will be given at the meeting on the 20th at the Workshop Meeting.

PP&L Energy Plus Contract for 1999 - Mr. Capuano made a motion to accept the proposed rate for Central Pennsylvania Energy Consortium as supplied by PP&L Plus. Mr. Shughart seconded and the motion passed unanimously.

Mr. Capuano made a motion to authorize **advertising of the 1999 Annual Budget** by Secretary Justh. Mr. Shughart made a second and the motion passed unanimously.

In a motion by Mr. Capuano the meeting was adjourned at 10:49. Mr. Shughart seconded.