

**Cape May Court House, NJ
TOWNSHIP OF MIDDLE
TOWNSHIP COMMITTEE
WORKSESSION AGENDA
August 19, 2013 4:00 P.M. (prevailing time)**

CALL TO ORDER:

Mayor's Announcement: I hereby declare that notice has been given to the Herald Times, the Atlantic City Press and posted on the bulletin board of the Middle Township Municipal Building, stating the time and place of the following meeting, as required in P.L. 1975, Chapter 231 of the State of New Jersey. (Sunshine Law).

Notice of this meeting was properly given in Resolution No. 18-13 entitled "Establishing Work Session Meeting Nights" which was adopted by Township Committee of the Township of Middle on January 3, 2013.

Members present are Mayor Lockwood, Committeemember Donohue and Committeemember DeLanzo.

Business Administrator Connie Mahon, Township Clerk Kimberly Krauss, Deputy Township Clerk Suzanne Stocker, Municipal Solicitor Marcus Karavan & Municipal Engineer Marc DeBlasio.

FLAG SALUTE:**DEPARTMENTAL REPORTS AND PROJECT UPDATES:****Administration:**

Request for Street Opening Permit Waiver –
Habitat for Humanity

Mayor Lockwood – Paved Anna Street in Whitesboro in 2011, received a request from Habitat for Humanity to open the street up for new home to be connected into township sewer. Same requirements would be required for bond, etc., as it would any other street opening. Committee decided to move forward with this matter at the September 4, 2013 Committee Meeting.

Finance:**Public Works & Engineering:**

Request for Amendment to Chapter 132 –
Excavations & Soil Removal

Kimberly Krauss - The Governing body received a request from Tom Hillegass, Esquire to amend Chapter 132, we presented his cover letter and sample ordinance, this would change this Ordinance from 30 feet below ground level to 60 below ground level as far as depth goes for Excavation. The purpose of this presentation is to discuss this topic with the governing body.

Mayor Lockwood - Also the purpose of this is hear from the residents regarding this Ordinance, after they have viewed the presentation.

Tom Hillegass - Represents Don Rodgers, Inc. who is affiliated with Pierson. Introduces Kurt Mitchell from Pierson as well as Brian Murphy from MV Engineering. We are here today to ask the Township to consider changing the Ordinance for the allowing of depth from 30 feet below ground to 60 feet below ground. There are multiple reasons for this, and one being the disadvantage the gravel pit operators are in in Middle Township for example surrounding Municipalities have a minimum depth of 65 feet that they are allowed to reach. He feels that Middle Township may have adopted the 30 foot level, simply because at that time that was as deep as an operator could reach mechanically and since that time, technology has changed and they use dredges now.

Committeemember Donohue - Just for the record, you're not here representing any other gravel pits?

Tom Hillegass - That is correct; I'm just here today to represent Don Rodgers who is affiliated with Pierson. We are asking to have the Ordinance amended to go to 60 foot. Pierson does have the project on the parkway, and it is to improve the interchanges on the parkway. As the major is aware, we have had conversations, and I know that some of the concerns were the hours of operation. We wanted to clarify that Pierson will only operate on Monday through Friday from 7:00am to 4:00pm, and Saturday from 8:00 am to 4:00pm, and Sunday not at all.

Brian Murphy - Gave history of the site, stating that the site is located right off of Indian Trail Road, east of the highline. Previously owned by Paul Cramer but has since sold to Sand Pit Properties which is Andy Phiffer. It is hidden and the back entrance is an extension to Oyster Road, it has been an active labeled pit since the Ordinance was enacted. We have an aerial photograph that shows that the digging has been consistent over the years. There are four lakes on the site, and the reason there are four and not only one is because it was done by a drag line. This pit is just the same as most of the other pits in Middle Township meaning when it is needed it is considered active. And when it is not needed, it is considered inactive and may stay that way for many years. It has been maintained annually since we have been involved. We would operate similar to mostly all other pits in Middle Township, and possibly obtaining a permit from the DEP to be able to do dredging. With that said the only thing that would be taken out of the pit is the sand, done by a closed system using the same water over and over again. While it is a wetland area, it is not a regulated Wetland area.

Tom Hillegass - Please explain to the Committee how you would mine the gravel pit since it is 60 foot.

Brian Murphy - Well right now we are doing it exactly like we did in years past and we would continue to do that to 30 feet. From the 30 feet to the 60 feet we would be using the dredge.

Committeemember Donohue - Could you please verify the ownership, Pierson does own it 100%?

Tom Hillegass - The corporate name is Don Rodgers, Inc.; the two Pierson sons own half of the company, and Don Rodgers own the other half, it is a 50/50 split. Pierson acquired the property about 10 years ago. The intent was to get the most out of the pit based on 30 feet.

Committeemember Donohue - So now suppose you didn't get granted the amendment, what is Plan B?

Kurt Mitchell - It would be to mine all of the dirt possible from this pit and then to take from other sources such as Dennisville.

Committeemember DeLanzo - Right now, what is the depth of the pit at this moment?

Brian Murphy - I could tell you it hasn't been mined in a while. Some of the areas were down to -10 feet, and other areas were at -6 feet. It varied and there were other areas that were -4 feet. But that is the actual water depths, the actual digging would be -30 feet.

Committeemember DeLanzo - So about the size of the pit, what is the acreage of the pit?

Brian Murphy - The size is a 30 acre pit and of which there is a perimeter, so there is about 20 acres that are dig able. It is smaller than some of the Albrecht and Heun pits, it's larger than Sam Bradway's pit and Harry Cowan's pits. It is probably the size of Joe Fulford's pit.

Committeemember DeLanzo - Is there any kind of timeline with the mining of the pit? The parkway has a timeline for how long the project will take, do you have an idea of the length of time you will mine?

Kurt Mitchell - What would happen is we would be active in that pit for as long as we needed fill dirt, and then after such it would become dormant if dirt was still available.

Tom Hillegass - Are you asking that after all the dirt that was needed was taken out would the rest be restored? I think their intent is to mine until the job is done, and any leftover dirt not needed from the job would lay dormant.

Brian Murphy - Corrected Tom's statement, there is some of the dirt that is restored while the process is taking place, as this is required while active.

Committeemember DeLanzo - I have a couple questions regarding the location. So right now you access this through Indian Trail, is there a way for this to have another access?

Brian Murphy - This is a frontage which is on Oyster Road, so the answer is yes. However, there is no road to get there but maybe for the future yes.

Committeemember DeLanzo - The thing that really concerns me the most is how the pit is located near the former Martee Landfill, and it is not lined but is capped. I really feel that there should be a study done to evaluate the areas and to see if and how this could affect the quality of our water?

Brian Murphy - That is an excellent question Susan, I have contacted the DEP and they are no longer involved. There are a number of monitor wells, and the DEP no longer keeps the results from the well testing. They stopped monitoring this facility in December 2007, and now there is a private contractor responsible for maintaining the site. I explained what we were doing, and the contractor in charge of maintaining the landfill simply asked permission to be able to continue his testing and monitoring. The single best thing we could test is the sand that comes out, and test the soil to make sure it is safe.

Committeemember DeLanzo - I feel that it is prudent to us just to know what depth of digging we are safe with. If you break the clay it you may cause irreparable damage. I feel that knowing this and having someone such as a Geologist do some testing; it would be beneficial to our community to know what depth is safe for our water quality.

Brian Murphy - I think that maybe if I read some of the language from the Pinelands Commission, you would be able to put some of this into perspective... "Not involved excavation exceeding 65 feet below the natural surface of ground, unless there is not impact on the land and surrounding areas." Other municipalities such as Dennisville calculate those 65 feet from below water level, which is even deeper yet.

Committeemember DeLanzo - I'm sorry to say I think that it's great that we have all of these recommendations of other towns and such, but I am still very uncomfortable with the location of the pit. I think that I have done my due diligence until there is some testing done because the risk is just too great.

Tom Hillegass - That the last thing we want to do is to take contaminated dirt from the pit and take it to the parkway job. I think that a study could be done by hiring an expert and doing the testing.

Committeemember DeLanzo - I would consider that, thank you. I think that if this pit wasn't located right next to a landfill, it may not have hit me in the face so hard. I think it is very important that the township hire someone to do the testing, in order to protect what we have as far as our water quality goes, etc.

Committeemember Donohue - I want to say that I agree with Susan and this is an issue. We would have to do the testing, and set a standard and if you met that standard then we could proceed.

Kurt Mitchell - We would have to hire the professionals and show you why they are qualified. I've been in dredging projects before and have hit clay before and it's not even worth trying, you just can't get through it.

Committeemember DeLanzo - Is there any way that there is a leaching that may have gone on for years? I just don't want to keep re-hashing my feelings and I hope you understand where I'm coming from.

Committeemember Donohue - Giving the rate of how things are going now, do you have an idea of when you will hit that 30 foot mark?

Kurt Mitchell - I would have to think that we will hit that during the parkway construction project. There is a lot of dirt that is required for that project. I would think that we would exhaust all of the dirt upon reaching the 30 foot mark; there could possibly be a little left, but not much.

Tom Hillegass - I see the concerns considering the fact that we live in this community, but I want you to know that Kurt and others have lived here before as well. It is the responsibility of the owner to be sure that the quality of water and surrounding areas are kept safe. What I want to know is what we can do to move forward and keep a competitive balance.

Mayor Lockwood - Some of my concerns are hours of operation, and the points of proximity and how they may impact the water quality. I think that we should possibly make it a little easier for pit owners to obtain their license, and the whole approval process because I understand it can be a huge burden for these people to have to pay professionals. So I believe that the Ordinance should be revised, maybe not depth but overall.

Committeemember Donohue - Is there is logically rationale that all of these other towns have the 65 feet limits?

Marc DeBlasio- I will say that what this group has presented is true, and these other municipalities do have the deeper depth limits. There would have to be a high level of communication between the landfill owner and the gravel pit owner to make sure everyone is content.

Committeemember DeLanzo- I think it might benefit if the professionals give us a dialog presentation to give us some parameters.

Tom Hillegass- Upper Township Planning Board has allowed relief for applicant to go from 65 feet to 105 feet.

Committeemember DeLanzo- It was my understanding that they were allowed to go as deep as they wanted to go, and that they wanted to go deeper.

Mayor Lockwood- Just to clarify Susan, you want to get someone to consult us on drafting a resolution so that would allow to go deeper under certain criteria.

Committeemember DeLanzo- Yes, I would like to have a dialog with a professional so that they can enlighten my knowledge on the other things that they just aren't talking about, because I know that there are other things.

Rocco Tedesco- Attorney for Cape Mining LLC- Client's recently bought Albrecht & Heun. I came here today with the intent on just listening, but once I listened I had some things to bring to everyone's attention. I'd like to take the time to state that a gravel pit is used just for the things such as the parkway project. There are many other uses such as sidewalks; you cannot build a sidewalk without sand. You can't build a home without sand for the foundation. Hurricane Sandy has resulted in many beach towns needing the mining industries to complete beach replenishments. I understand you have other issues with this gravel pit, but maybe if you were to change the depth to that of the Pinelands, if there was no adverse environmental impact. The most efficient way to approach it would be to prove to the planning board that there are no adverse impacts to the environment, and it would allow for specific case by case considerations. I hope that your decision isn't going to be made simply by just a specific portion.

Tom Hillegass- I just wanted to add that I agree with the proposed language for no adverse impact with the depth of 60 feet, and that it would be up to the applicant that prove that there isn't a negative impact.

Robert Kelly- 11 Sandcastle Drive- I viewed the IMX and is concerned with the noise and the barrier behind the homes, it was all woods when bought our home.

Ronald Jones- 16 Sandcastle Drive- When the sand is needed, they will dredge regardless of the time whether it be 5 o'clock at night or 2 o'clock in the morning. Also I am concerned with the wells and the well water, they are shallow wells and the sand nearby is almost all exhausted.

John Handzackis- 31 Sandcastle Drive- Concerned with the wells and the sink holes, and to eliminate truck traffic. The same number of trucks will still be running and I think the gravel pits in residential areas should be excluded. If it took them 10 years to reach 30 feet, don't we think it will take another 10 years to reach another 30 feet?

Vilma Pombo- No one addressed the issue of salt water intrusion, this could contaminate wells. I brought a few things with me and one is the resource extraction Ordinance.

Connie Mahon- Can you bring us up to date on the buffer zone, can they still remove the vegetation in the 100 foot buffer zone?

Marc DeBlasio- I would need the Resolution in order to answer. No mining taking place within buffer and there is no disruption of buffer zone.

Connie Mahon- Chris Eaton did review and confirmed that no disruption to the buffer zone.

Sam Kelly- Lower Township does not have depth restriction, but they do have an environment commission to review each application. In the short time available I have studied as much as possible and I have concerns with salt water intrusion, contamination issues and natural barriers at 30 feet for shells and fossils.

Renee Brath, American Littoral Society – Asked where the access to the Pierson gravel pit is?

Connie Mahon – Off of Fishing Creek Road and Indian Trail, Block 168, Lot 2

Renee Brath – Mentioned that she has a friend who used to do environmental studies and has expressed concerns with the aquifers. Spoke of aquifers made of clay, agreed that pinelands is like comparing "apples to oranges".

Carol McFeet, Timothy Lane – Moved onto Timothy Lane over 20 years ago and has never had a problem with neighboring pit until about 5 years ago, now having issues with noise and vibrations along Goshen Road. Expressed concerns with wells, property values, and street maintenance will is only continuing to get worse.

John Errico – Still has not received response to concern about buffer zone, wants definition of "undisturbed buffer zone".

Tom Hillegass – Offered to arrange a time to meet with Mr. Errico to discuss any issues or concerns.

Mike McNulty, Shunpike Road – Mentioned that statement given by Mr. Hillegass regarding technology is incorrect. Ralph Johnson's father had equipment over 50 years ago when Ordinance was established and was able to dredge beyond 30 feet. Expressed concerns with potential salt water intrusion.

Dennis Anderson, Stagecoach Road – Appreciates public's opportunity to speak and listen regarding this topic. Does not believe there is any gain for the township to increase depth of mining. Concerned with possible damage to water supply. Hopes township will consider residents, neighborhoods, etc. when discussing this topic.

Robert Kelly - Does not believe that number of dump trucks and traffic will decrease if use of gravel pit is continued during the parkway project.

John Errico – Mentioned that buffer zones on Pierson property were damaged/cleared after the township approved the 2013 license.

Sam Kelly –The township should be careful in whichever way they proceed.

Legal:

Tax Collection/Tax Assessment:

Construction/Planning/Zoning:

Recreation:

Police:

Buildings and Grounds:

Sewer:

Grants:

Personnel:

Zoning:

Township Clerk:

SPECIAL PRESENTATIONS OR DISCUSSIONS:

Kimberly D. Krauss, Township Clerk

Motion to adjourn meeting – 5:55pm

1st: Committeemember Donohue 2nd: Committeemember DeLanzo

Roll Call Vote: Committeemember DeLanzo, Committeemember Donohue, Mayor Lockwood