

**Minutes - Board of Commissioners  
Upper Pottsgrove Township**

**September 17, 2007**

The meeting of the Board of Commissioners was held on Monday, September 17, 2007, at the Upper Pottsgrove Administrative Offices, 1409 Farmington Avenue, with Commissioners De Lena, Dolan, Iatesta, Noll and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne, Jr., Assistant Township Secretary Linda Coleman and Engineer John Theisen. There were 16 people present in the audience. Mr. Taylor called the meeting to order at 7:00 P.M.

**MOMENT OF SILENCE** - Mr. Taylor requested a moment of silence in honor of the men and women who have served and are currently serving our country in the armed forces.

**PLEDGE OF ALLEGIANCE** - Those assembled pledged allegiance to the flag.

**PUBLIC COMMENT:**

**AL GOULIS – 1003 Devil Hair Road** – Spoke for Bob Levengood, Pastor, Hopewell Community Church, 1130 Commerce Drive, and asked if there has been any new developments regarding the intersection of Commerce Drive and State Street since the last meeting. Mr. Taylor maintained that there have not.

**JAMES CAPINSKI – 1958 Yarnall Road** – Mr. Capinski said that he has had a number of discussions with Mr. Layne and Mr. Iatesta regarding the status of Highview Lane. Highview Lane fronts his property and that of his neighbor. He questioned who owns it. He has documentation that states Highview Lane is a road. It is on both the Township and the County maps. He also has a copy of a 1969 Recorded Plan which lists the streets and properties approved by Upper Pottsgrove Township. He has a letter from Mr. Quinter dated December, 2003, that states Highview Lane is a private driveway. He questions where, if in fact it is a private driveway, the driveway access easement is for himself as well as that of his neighbor and where the driveway maintenance easement is. The tax map shows individual properties with a circle and a number within. Highview Lane does not have a circle. His deed indicates that the subdivision plan approved by the Township shows that it is a road. Three former managers informed him that the lane is a township road. One of them, Michael Cotter, said that the Township had applied for money to have the lane paved. Mr. Capinski wants to be able to get up and down it without damage to his automobile. UPS and the oil companies complain about coming up and down this road. It is about 250' and does not end in a cul-de-sac. Concord Drive has an off-shoot that goes about 150' to 200' which the Township maintains. He questioned again who owns Highview Lane. Mr. Garner informed Mr. Capinski that Mr. Quinter had provided him with as much information as he could on that lane. From everything that he has seen, including the maps, it appears that Highview Lane is a private road. He cannot find any evidence to show that the township ever accepted dedication of that privately constructed road. Mr. Capinski then questioned how you find out whether a road has been dedicated or not. Mr. Garner said that typically you will find it on the approved subdivision plans showing an offer of dedication. You will see a deed that was accepted or approved by the Township. In this case, there were subdivision plans that started in the 1960s and then there were a series of plans after that. A

more recent plan whereby there is a lot of correspondence in the file that talks about the development of that into more units than exist now and, clearly at that time, there was no evidence that this lane was anything other than a private road. Mr. Garner said that he would be happy to look at any other information that Mr. Capinski may have. He has had discussion with Mr. Quinter on the issue and can't find anything to show that it's been accepted or ordained as a public road. Mr. Capinski stated when the original subdivision plan was approved, there was supposed to be money escrowed to finish the road. What he has been told is that the developer walked off the job back in the 1960s and that the escrowed money was spent on other things. The Township has set precedence and has been maintaining the road. Since about 1985, they have been putting macadam on it. They used to dump the macadam into the weeds on the side until he complained and they started filling in the ruts. The problem now is the ruts on the side of the macadam. Mr. Capinski had offered to pave Yarnall Road up to his driveway back in the 1980s and was told that he was not allowed to maintain that road, that it was a Township road. Mr. Garner said that, obviously, he cannot respond to what happened in the 1960s and 1970s. On the map, it does show up as a road, but does not know who printed the map. He just knows what his research discovered and what the results are of his conversations with Mr. Quinter. He said that we would have to do a search to find out who originally laid out the subdivision and, presumably whoever was the original property owner, probably still owns the roadbed. He does not know this for sure but that's what would have to be done. Mr. Garner will speak with Mr. Quinter before the next meeting and, obviously, if the Township wants to assume ownership of the road, there are ways to do this. Mr. Taylor said the Board will have Mr. Garner go through the documentation to find whether or not it is a dedicated road and, once decided, find out what the Township's obligation is from there. Mr. Dolan asked Mr. Theisen if there is a rule of thumb as to how much money it costs to maintain a road per foot. This road in particular is about 650' in length. Mr. Dolan questioned that whether or not the road is dedicated, should the Township just go ahead and pave it anyway. Mr. Iatesta said that we probably would not want to do that and then have someone come out of the woodwork and thank us for paving the road. Mr. Quinter has, as a courtesy to the two property owners, been working on that road and Mr. Iatesta stated that there is a difference between paving a road and just simply throwing some macadam on it. Mr. Capinski said that he would be happy with just he macadam. Commissioner Taylor said that we also have to understand how it connects to any other similar circumstances that may have come up in the past or could come in the future and any liabilities involved.

**LYNN BURKHOLDER – Pottstown Public Library** – Ms. Burkholder summarized all the renovations and improvements to accommodate needs and provide services that were in the works for the Library. She said that there were 998 library card holders in 2007. There were 3,849 items borrowed by Upper Pottsgrove Township residents. If they would have had to pay for these items, it would have cost them \$86,000. Her request for the Township's 2008 contribution is in the amount of \$31,000 which equals \$6.09 per capita. Mr. Taylor thanked her for her presentation.

**REPORTS:**

**EMERGENCY SERVICES – POLICE REPORT** - Commissioner Noll reported that the Police

Department August report will be posted on the bulletin board.

**FIRE REPORT** - Commissioner Noll reported that there will be a Fire Committee meeting this Thursday at 7:00 PM, all are invited to attend and the Fire Report will be available at that time.

**HENRY BEALER - 1382 Farmington Avenue** - Questioned why the fire siren blows 15 times. Mr. Layne said that we had a contractor out last week and thought he had cut it down to 7 times, but obviously what he did isn't working. We will be getting back with the him tomorrow to address this issue. Mr. Bealer asked why we even need the siren because everyone has radios. Mr. Noll said that this will be discussed at this week's Fire Committee meeting.

**PLANNING & ZONING** - Commissioner Taylor reported that the Planning Commission had discussed in great detail the retail office zoning we have in the works and we will be discussing under New Business the Moran yard setback.

**PUBLIC WORKS REPORT** - Commissioner Iatesta reported the Highway Department backfilled and seeded the 1300 block of Farmington Avenue, patched and compacted potholes along Moyer and Broadmoor Roads, secured pricing for removal of a dead tree in the right-of-way along N. Hanover Street, continued to mow, assisted with the hydraulic and manual cleaning of two blocked driveway pipes in the 1000 block of Farmington Avenue due to sewer and water construction, continued providing inspections for the Wolf Run Water Project, started to prepare winter maintenance equipment for operations, installed a new flow station sewage meter in Polar Street metering pit, set it up and placed it into operation, met with J.T. Seely representatives at the Pine Ford Road. pumping station in preparation of up-grades that will be required to be made for Farmington Avenue West sewer project, assisted Scepter Sign Company with the installation of the new Kulp Field sign along Gilbertsville Road, continues mowing all parks & rec properties and filled in a large depression located near the baseball fields.

**PARKS, RECREATION & OPEN SPACE REPORTS** – Commissioner Dolan reported reported that the Prince property was purchased by the Township with county funds on August 31, 2007. We are now moving forward with two different trails: the Sprogels Run Trail and the Goose Run Trail. Bursich has just provided us with a plan and an estimate of the cost for Goose Run and we will talk about that at the next meeting. Sprogels Run is currently in the hands of Montgomery County Lands Trust and this will be discussed at the September 24 Open Space Meeting. Mr. Dolan had taken his children to the Heather Place Park and they said that it was better then Manderach Park.

**ADMINISTRATION** - Commissioner DeLena said that we are currently looking for stories for our next Newsletter and that if anyone has anything, to email Ms. Linda Coleman, who is doing a fabulous job of coordinating that.

**ENGINEER'S REPORT** - Mr. Theisen reported that construction continues in Coddington View. They have opened the second phase now and are moving ahead with townhouses. Woodbrook is

approaching completion. We are reviewing the Crossroad Development Subdivision plan.

**SOLICITOR'S REPORT** - Mr. Garner reported that there are two ordinances on the agenda for discussion this evening. In addition, in the past month, we have been working with the Engineer in getting the easement agreements for the Farmington Avenue West Project. We also heard today from the attorney representing property owners on another Open Space acquisition so perhaps we will have something for the next meeting.

**MANAGER'S REPORT** - Mr. Layne reported that he had attended a program sponsored by Senator John Rafferty regarding emergency management and funding opportunities. Mr. Layne and Mr. Quinter attended a meeting with PennDOT officials to discuss the proposed turnback of State Road. The Parks & Rec Board will host a Community Day on October 6 from 11:00 AM to 4:00 PM at Heather Place Park. On October 20<sup>th</sup> from 9:00 AM to 4:00 PM, Rouse/Chamberlin is hosting a volunteer Tree Planting Day at the Summer Grove and Chestnut Grove developments. Upper Pottsgrove Township has received a \$7,000 grant from the Tree Revitalization Program to plant those trees. Mr. Layne thanked Administrative Assistant Linda Coleman again for efforts to produce the past Newsletter and support efforts for the new Newsletter coming up in the fall. Mr. Layne also reported that everything is also on the Township's official website.

**FINANCIAL REPORT** - Mr. Layne reported that we are currently in the process of producing the budget for 2007. The staff has met once so far and will continue to do so. It is hopeful to have something to the Board at some point toward the end of this month. In October we will hopefully start to have budget meetings. Our expenses are in line, but there are some shortfalls in the revenues which we are working on to improve. With respect to the various committees, we will be getting those budgetary breakdowns. So we are working toward getting everything detailed, clear and concise. Mr. Taylor mentioned that this report is the half-year report with all the restructured accounts.

**ZHB #1-07 RICHARD & PATRICIA MORAN** – Mr. Taylor reported that the Planning Commission had reviewed this application and recommends approval. What it entails is taking a porch pad that exists and enclosing it. The Planning Commission recommends that the Zoning & Hearing Board look upon this kindly. No further action by the Board was required.

**DISCUSSION REGARDING PROPOSED FIREARMS DISCHARGE ORDINANCE** - The members of the Board discussed the proposed ordinance regarding firearms discharge in the Township in great detail. Mr. Garner stated that this ordinance is not for hunters but, rather, for others who do target practice in a development setting. There are already state regulations in place for hunters. There were many comments from the Board and the audience about this ordinance taking away the rights of citizens. There was also discussion about the distances. The solicitor will revise the language in the proposed ordinance.

**DISCUSSION REGARDING PROPOSED PARKING TICKET ORDINANCE** – Mr. Garner reported that Chief Ross had made some recommendations to the Board that it may be wise at this point to legislatively permit parking tickets to be issued as opposed to through a citation process through the Motor Vehicle Code. It is easier for the police officers to do and is a much more expeditious process. At the present time, we do not have any such regulation on the books to allow that. This ordinance establishes general parking rules of where you can and cannot park. Mr. Iatesta questioned whether or not we should do Section 11 (Penalty for Violation) by resolution. Mr. Garner said that we could. Mr. Iatesta then asked how we came up with \$15. A motion by Noll, to authorize advertisement of the ordinance for consideration of adoption. Mr. Dolan added that we should pull out Section 11 and do that Section by resolution and raise the fine from \$15 to \$20. This was then seconded by Dolan. All aye votes.

**ACCEPTANCE OF ZONING HEARING BOARD ALTERNATE RESIGNATION** - A motion by Iatesta, seconded by De Lena, to accept the resignation of Richard W. Mitchell with regret. All aye votes.

**DELINQUENT SEWER CUSTOMERS** – A motion by Iatesta, seconded by De Lena to send the list of delinquent sewer customers to Portnoff, our collection agency. All aye votes.

**POTTSGROVE MIDDLE SCHOOL ESCROW RELEASE** - A motion by Iatesta, seconded by De Lena to approve this escrow release. All aye votes.

**#3-04 SWEETWATER SUBDIVISION – FINAL PLANS**– Mr. Garner reported that we had initially received a request from Rouse/Chamberlin for final plan approval. We then received a withdrawal from R/C indicating that they no longer had equitable interest in the plan. There is a new agreement of sale with another entity that has equitable ownership in the property owned by the Prouts and they have indicated to us that they will grant us an extension to act on the final plan. The request is until November 12, 2007. The property is subject to a preliminary plan approval that was granted in 2005 that vests someone at some point the right to develop under the preliminary plan for five years and protects it from a change in zoning. The rights are based on the preliminary plan that was approved and that layout is set in stone as far as density, number of units and everything else. The new equitable owner of the property is Crossroad Development Corporation. Mr. Iatesta questioned, if the sale does not go through, can we make a motion based on that and then give them an extension pending that the sale goes through. Mr. Garner advised granting a 30-day extension. Mr. Taylor commented that the preliminary plan has many amenities, i.e., open space issues, dedication of land along Sprogels Run, preserving tree lines, realigning Moyer Road, etc. A motion by Iatesta, seconded by De Lena to authorize the extension until October 17, 2007. All aye votes.

**ROBERT SLOSS, 2097 Needhammer Road**, questioned whether this was an extension on the final plan. Mr. Taylor answered that this was an extension to consider the final plan.

**CODDINGTON VIEW ESCROW RELEASE NUMBER 5 PHASE 1** – T. H. Properties is asking for an escrow release in the amount of \$74,885.84. LTL is recommending a release of \$68,374.03. A motion by Noll, seconded by Iatesta to release the escrow in the amount of \$68,374.03. All aye votes.

**WOODBROOK PHASE I, ESCROW RELEASE NO. 3** – Renovations by Design is requesting an escrow release in the amount of \$98,151.80 minus landscaping and street lights. LTL recommends that the release be in the amount of \$44,764.00. A motion by Noll, seconded by De Lena recommending the release of escrow in the amount of \$44,764.00. All aye votes.

**WOODBROOK PHASE III, ESCROW RELEASE NO. 1** – Renovations by Design is requesting an escrow release in the amount of \$32,088.00. LTL recommends that the release be in the amount of \$25,588.00. A motion by Noll, seconded by De Lena recommending the release of escrow in the amount of \$25,588.00. All aye votes.

**APPROVAL OF RE-AMENDED BILL LIST - August 20, 2007** – Mr. Layne explained that this bill list was tabled at the last meeting because of a discrepancy in the amount of \$145,346.39. A check in that amount had been voided but showed up on the report incorrectly. It has been corrected and that is what shows on the current re-amended bill list. A motion by Dolan, seconded by DeLena, to approve the re-amended Bill List dated August 20, 2007, with total disbursements of \$469,351.99. All aye votes.

**EXECUTIVE SESSION** - At 8:45 P.M. Mr. Taylor announced the Board would meet in Executive Session to discuss pending and potential litigation. The meeting reconvened at 9:00 P.M.

**ADJOURNMENT** - There being no further business, a motion by De Lena, seconded by Dolan, to adjourn the meeting at 9:03 P.M. All aye votes.

Respectfully submitted,

Linda L. Coleman  
Assistant Township Secretary