

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

December 15, 2008

A meeting of the Board of Commissioners was held on Monday, December 15, 2008, at the Upper Pottsgrove Township Administrative Offices, 1409 Farmington Avenue, with Commissioners DeLena, Dolan, Noll, and Taylor present. Also present were Solicitor Charles D. Garner, Township Manager Jack P. Layne and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:02 P.M. There were 30 people and a Mercury Reporter present in the audience. Mr. Taylor stated Commissioner Spaide would be late due to the fact she had jury duty.

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: None

REPORTS

EMERGENCY SERVICES - Commissioner Noll reported a copy of the monthly Police Report would be posted on the bulletin board. Mr. Noll stated the Fire Committee will meet on Thursday, December 18, 2008 at 7:00 P.M. Mr. Noll commended the Fire Company for decorating the firehouse and the recent activities they sponsored i.e. Breakfast with Santa and Santa Paws.

REGGIE LEISTER, 1693 Farmington Avenue, questioned when the annual "Santa Run" would take place; Mr. Noll stated on Saturday, December 20, 2008.

GILBERT DUNCAN - 72 Hanover Drive - Stated the Fire Company did a "nice job" with regards to the recent "Breakfast with Santa" and the "Santa Paws."

PUBLIC WORKS REPORT - Commissioner Taylor noted a copy of the monthly Highway Report would be posted on the bulletin board.

PARKS & RECREATION - Commissioner Dolan reported the Smola open space acquisition will take place in late December. He further reported the Township was approved for a \$25,000 grant for the Prince/Austerberry property.

ADMINISTRATION REPORT - Commissioner DeLena reported the December Newsletter was recently mailed to all the residents.

ENGINEER'S REPORT - Commissioner Taylor stated a copy of the monthly Engineer's Report would be posted on the bulletin board.

SOLICITOR'S REPORT - Attorney Garner stated he had hoped to present to the Board tonight a consent order agreement from DEP regarding the terms and conditions of the upgrades to Regal Oaks; however since he did not receive the final version this matter will be deferred to January.

SOLICITOR'S REPORT CONT'D. - Mr. Garner further stated he has been working on two agreements with the Pottstown Borough Authority with regards to the purchase of additional treatment capacity as well as upgrades on infrastructure.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported he is working consistently to coordinate efforts that will increase the number of commercial properties and jobs in the Township; continued working with staff members on the 2009 budget; met with PAL representatives regarding limiting traffic flow on Chestnut Grove Road; attended Montgomery County Emergency Management Coordinator quarterly training session; assisted in coordinating efforts to contact residents regarding needed easements for the Regal Oaks Sewer Project and monitored sewer flows and communication regarding the Regal Oaks Wastewater Treatment Facility in coordination with PADEP, LTL Consultants, Garner & Bauer and staff.

MONTHLY FINANCIAL REPORT - Mr. Layne reported that financially things are "very tight" and we are currently looking at ending the year with a zero balance.

REGGIE LEISTER - 1693 Farmington Avenue - Reported that the purchase orders for the RACES equipment have been submitted to the Manager with regards to the Act 147 grant funding that the Township recently received. Mr. Leister reported that there have been over 250 "hits" regarding the historical link which was placed in the December Newsletter.

NEW BUSINESS: REQUEST FOR THE ADOPTION OF THE 2009 TOWNSHIP ANNUAL BUDGET - Commissioner Taylor reported the 2009 Annual Budget has been properly advertised and noted there were a few minor line items there were reallocated (dues and unemployment compensation) with no changes to the actual budget. Mr. Taylor reported the 2009 budget requires a .6 mill or 18.9% increase in order to balance.

REGGIE LEISTER - 1693 Farmington Avenue - Addressed the members of the Board and read the following letter: "Even though it is the eleventh hour for this budget I still feel compelled to speak out against it as a forty year tax paying citizen of this community. I'm also deeply troubled that there is a recurring sense that the reason certain areas of the budget, namely; salary administration, which represents a significant portion of this budget is based upon parity with the collective bargaining unit, rather than with cost of living or more importantly with total disregard to what tax payers can afford. You cannot ignore that for over a year we have been in the worst economic downturn since 1920 according to the National Bureau of Economic Health. This is a serious recession which shows no sign of turning around. And we cannot for a minute think that it only is affecting places like Pottstown, Norristown, Philadelphia, Wall Street or Detroit. This is impacting our community as well. Following newspaper reports of my Public Comments at your last Board Meeting I fielded over thirty (30) calls, some tearful, from alarmed citizens, all of whom are unable to attend public meetings, who were outraged at the prospect of facing yet another avoidable tax increase. I think it is nothing less than shameless that in these very scary and uncertain economic times that you have refused to seriously consider and act upon every possible alternative to raising taxes.

REGGIE LEISTER CONT'D. - Not just the nickel and dime stuff but the real substantial issues that would result in significant savings. Budgets are not intended to be annual status quo generators. In the private sector, you have to do more with less. Somehow that message is lost in the public sector. Your constituents are losing or have lost their jobs, health insurance, pensions; are not receiving any raises and many are losing their homes. In my own small neighborhood there are five (5) vacant properties. We pride ourselves in being a quasi-pastoral/rural community with a legacy of historical proportions. Yet we have countless people that are living day-to-day with great uncertainty and are worried just how they are going to make it. It would appear that the single parent family; senior citizen living on Social Security, or other already struggling family has no future in Upper Pottsgrove Township. Or are we only going to cater to the affluent of today until the economy catches up with them and drives them out of those new upscale homes? And yet, when you are doling out the 9.6% base-salary increases to our uniformed employees (and that does not include all the other salary and non-wage perks); and you match this to the non-uniformed employees with fully paid health care benefits that 99% of the rest of the private sector does not enjoy, let alone your tax payers, I again reinstate my former charge that this is unconscionable for you not to make the hard decisions that you were elected to make. To state that you are “thinking” about changing the way everyone does things isn’t good enough. This is time for action not words; courage not rhetoric; solutions not excuses. Using a formula that former Chief of Police, Bryan Ross, supplied when he first came and one that is generally supported in Commonwealth of Pennsylvania for calculating police department budgets that is \$84,000 to \$88,000 per officer our Police Department is \$220,597 over budget. Now I realize that this was all created by our former Township Manager Cotter, when he insisted on inflating staffing levels to perform regionalization with Douglass/Berks, which never materialized. Based upon our current proposed per officer compensation of \$73,000; this equates to three (3) police officers. Ironically, this would return the department to former staffing levels that the Township supported for several years with no loss in protection or safety. In fact, a review of our monthly police reports generally reflects that our calls overall have steadily diminished which shows that we have a lesser demand for more officers with no adverse effects. I know that this is not popular but neither is expecting the tax payers to dig into their pockets every year carte blanche as if we were a visa card with an unlimited credit limit. I have also shared with Mr. Layne a half dozen of other line item savings and alternatives including a civil service reduction of 80% that would amount to significant reductions. I thank you very much.”

Commissioner Spaide arrived at 7:20 P.M.

COMMISSIONER TAYLOR responded to Mr. Leister’s concerns especially regarding the Police Department and advised that the police wages are comparable to other communities - it’s not high, it’s not low.” Mr. Taylor stated the police contract was negotiated three years ago and we are obligated to fulfill the agreement. He further stated as far as the non-uniform staff; the Board has always maintained “parity” as well. Their salaries and health benefits are comparable with the surrounding townships. Mr. Taylor advised that the staffing we have in the Township is what is needed to the work we have to do - we can’t do it with less people.

COMMISSIONER NOLL stated he agrees the Board needs to be financially responsible. He further stated he will be pursuing options whereby at some point employees across the board would contribute towards their health benefits. Mr. Noll added that he will be looking at the budget more aggressively in 2009.

HENRY BEALER - 1386 Farmington Avenue - Expressed his concern regarding the eight inch sewer line that was installed along Farmington Avenue earlier this year. He further expressed concern regarding the proposed raises to the Township employees and noted that all the other townships are “cutting down” and we’re giving raises. Mr. Bealer referenced the John Deere vehicle recently purchased for the Highway Department and stated in his opinion “it was a big mistake.” Commissioner Taylor explained that the sewer line was installed and paid for by developer contributions. With regards to the employees’ raises, Mr. Taylor stated they are comparable with surrounding communities.

GILBERT DUNCAN - 72 Hanover Drive - Questioned how the Township can justify an increase in taxes, in a 5 square mile area, where in Philadelphia they are closing seven (7) libraries and a number of fire companies. Commissioner Taylor stated we only have one library; we can’t shut it down and as far as the Fire Company - it is self-supporting.

ROBERT SLOSS - 2097 Needhammer Road - Noted that Douglass/Berks Township hasn’t had a tax increase in eight (8) years. Mr. Sloss stated “the bottom line is these are tough times and people don’t have the money, you gotta do what you gotta do and if you have to eliminate some positions you do it rather than raise taxes.” Mr. Sloss expressed concern that there is \$6,000,000 in sewer projects and only \$500,000 is budgeted. Mr. Sloss stated the Township is increasing the sewer rates tonight; next year the rates will double due to all the sewer projects. Commissioner Taylor explained that the increase in the sewer rates are just to maintain the status quo; anything needed to satisfy DEP’s requirement that we renovate the Regal Oaks sewer system is additional money. Mr. Taylor reiterated the increase in the sewer rates is just to maintain what we have and not to expand the sewer system.

JIM COMISKY - 1369 Chestnut Grove Road - Reported that last year the Township raised taxes by sixty (60%) percent and stated if the residents want to sell their houses they can’t because the taxes are too high. He further stated the residents are locked into their own houses. Commissioner Taylor noted the biggest portion of the tax bill is not the Township tax. Commissioner Spaide encouraged residents to attend the school board meetings. Commissioner Taylor stated the Upland Square Shopping Center will be generating money for the Township as they contribute approximately \$50,000 a year towards services.

SUE MCCALLISTER - 1414 Chestnut Grove Road - Questioned how the Board can justify raises when most people aren’t even getting cost of living raises. Mr. Taylor stated the police contract is established by negotiations and noted there are two years remaining on the agreement. He further stated that the non-uniform employees are comparable to other communities with regards to salaries and benefits.

SUE MCCALLISTER CONT'D. - Ms. McCallister stated that the members of the Board need to keep within a budget of what's affordable to the taxpayers and in her opinion it's not being done.

RON BOERNER - Chestnut Grove Road - Stated the Board needs to do a better job before the next elections.

LINDA DUNCAN - 72 Hanover Drive - Stated she was in agreement with the comments expressed by others in attendance; however her concern is that the residents on public sewer are getting a double increase. Mrs. Duncan questioned how it can cost \$180 per quarter for something that never came into her house.

HENRY BEALER - 1386 Farmington Avenue - Expressed his concern regarding the sewer rates paid by the Township residents as compared to the residents in the Borough of Pottstown.

RICHARD BALL - 1371 Chestnut Grove Road - Stated he is being taxed out of his home and his biggest fear is foreclosure.

SUE MCCALLISTER - 1414 Chestnut Grove Road - Addressed the Commissioners and questioned it doesn't matter what the residents want your just going to do what you want? Commissioner Taylor explained the budget has been in process for almost four months.

A motion by DeLena, seconded by Dolan, to approve the 2009 Annual Budget. Aye votes: DeLena, Dolan and Taylor. Opposed: Noll and Spaide. Motion carried. Commissioner Spaide stated they are a lot of things in the budget that she doesn't agree with and she is going to look into things in 2009. Commissioner Taylor stated he wanted it on record that there was no particular objection made other than the allocation to the Pottstown Public Library. Commissioner Noll stated he can't approve an 18% increase.

PUBLIC HEARING

PROPOSAL TO LEASE A NEW FIRE TRUCK - Commissioner Noll stated the Public Hearing is a requirement for the lease purchase agreement of the fire truck. He further stated the public should be aware of how the Fire Company is financing equipment to better protect and service the residents in the Township. Mr. Noll gave "kudos" to the Fire Company for the volunteers' efforts. Mr. Noll reported that Fire Chief, Tom Mattingly, previously gave a full presentation to the members of the Board with all the facts and figures associated with the new truck purchase. Commissioner Spaide added that currently there is a truck that had to be "retired" because it will not pass inspection. Commissioner Taylor noted the lease purchase is being made with current fire tax money. He further noted that the Fire Company has worked very hard on various grant opportunities with regards to the purchase.

ROBERT SLOSS - 2097 Needhammer Road - Reiterated the need for new equipment.

COMMISSIONER NOLL - Reported the fire truck is being custom made for Upper Pottsgrove Township's needs and noted one of things he was most impressed with is the fact the truck will have foam.

CERTIFICATE OF APPRECIATION - Commissioner Taylor presented a Certificate of Appreciation to Scott Wagner and Tom Mattingly for the excellent job done by the Fire Police on Election Day.

ADOPTION OF ORDINANCE #431 - ESTABLISHING THE 2009 MILLAGE RATE - An Ordinance of the Upper Pottsgrove Township Board of Commissioners, Fixing the Real Property Tax Millage for the Year 2009 for Real Property at 3.4 mills and Special Purpose (Fire Protection) at 0.375 mills for a total millage rate of 3.775. - A motion by DeLena, seconded by Dolan, to adopt Ordinance #431 which establishes the 2009 millage rate. Aye votes: DeLena, Dolan and Taylor. Opposed: Noll and Spaide. Motion carried.

ADOPTION OF ORDINANCE #432 - ESTABLISHING NEW SEWER RATES TO TAKE EFFECT JANUARY 1, 2009 - An Ordinance to Upper Pottsgrove Township amending Chapter 275, Sewers and Sewage Disposal, of the Code of the Township of Upper Pottsgrove, as amended, for the purpose of amending Sanitary Sewer Rental Charges. A motion by DeLena, seconded by Dolan, to adopt Ordinance #432 effective January 1, 2009. All aye votes.

REQUEST FOR ADOPTION OF RESOLUTION # 543 UTHORIZING THE PREPARATION OF DOCUMENTS THAT ALLOW THE TOWNSHIP TO UTILIZE TEMPORARY FUNDING PROVIDED BY A TAX ANTICIPATION NOTE - A motion by Dolan, seconded by DeLena, to authorize the preparation of the documents that the Township to utilize temporary funding provided by a Tax Anticipation Note. Roll call vote: Dolan – aye; DeLena – aye; Noll – aye; Spaide – aye; Taylor – aye. All aye votes.

REQUEST FOR APPROVAL OF THE #9-08 THOMAS SMOLA SUBDIVISION - Commissioner Dolan reported the Township plans to purchase 36.47 acres of farmland from the existing owner, Thomas Smola, who resides at 256 Mickletz Road. He further reported Mr. Smola intends to keep Lot #1 which has his residence, a barn and several outbuildings, and plans to sell Lot #2 to the Township for open space purposes. Commissioner Dolan explained Mr. Smola shall be permitted to lease back the entire Lot #2 from the Township and will allow him to lease the property for farming purposes so long as he continues to reside at the residential dwelling located on Lot #1. Commissioner Taylor reported the Planning Commission reviewed and recommends preliminary/final plan approval. A motion by Spaide, seconded by Dolan, to approve the #9-08 Thomas Smola Subdivision, subject to compliance of the letter from LTL Consultants dated December 3, 2008. All aye votes.

ROBERT SLOSS - 2097 Needhammer Road - Expressed his concern that the Township will be leasing a portion of the property back to Mr. Smola when in fact the property was purchased with open space referendum monies. Commissioners Taylor and Dolan both stated it is part of the Lease Agreement with Mr. Smola.

After further discussion, a motion by Dolan, seconded by DeLena, to grant the waiver requests as outlined in the letter from Aston Surveyors/Engineers dated December 8, 2008 and as recommended by the Planning Commission. All aye votes.

ROBERT SLOSS - 2097 Needhammer Road - Requested clarification with regards to the number of waivers requested in the Engineers letter dated December 8, 2008. Commissioner Taylor noted there are twelve (12) waivers outlined in the letter.

COMMISSIONER DOLAN expressed his thanks and appreciation to Jack Layne for all his efforts with regards to this open space acquisition. A motion by Dolan, seconded by Spaide, to authorize the Township Manager and the President of the Board to sign any necessary documents required in order to purchase the property. All aye votes.

JIM COMISKY - 1369 Chestnut Grove Road – Requested a clarification with regards to the exact location of the Smola property and stated it would be good location for a strip mall. Commissioner Taylor stated the property is zoned residential and the Township has been very clear in making sure that we maintain the rural character of the community.

ADOPTION OF 2009 COMMITTEE/BOARD MEETING SCHEDULE - A motion by Noll, seconded by Spaide, to adopt the 2009 meeting schedule with the exception of the sewer meetings. All aye votes.

OLD BUSINESS:

ADOPTION OF RESOLUTION # 544 AUTHORIZING THE ESTABLISHMENT OF THE 2009 FEE SCHEDULE - A motion by Noll, seconded by DeLena, to adopt Resolution #544 effective January 1, 2009. All aye votes.

ADOPTION OF RESOLUTION #545 ESTABLISHING AN OPEN RECORDS ACCESS POLICY - A Resolution of the Upper Pottsgrove Township Board of Commissioners adopting an Open Records Policy pursuant to Act 3 of 2008, known as the Pennsylvania Right to Know Law. A motion by Noll, seconded by Spaide, to adopt Resolution #545. All aye votes.

ROBERT SLOSS - 2097 Needhammer Road - Referenced the Open Records Access Policy and asked if a document or request is denied would an explanation be submitted in writing as explaining the reason for the denial. Attorney Garner addressed Mr. Sloss and explained there are two ways to handle a denial – if there is no response at all the request is deemed denied or a specific reason would be cited as to why the request was denied.

REGGIE LEISTER -1693 Farmington Avenue - Requested clarification with regards to Executive Session documents as it pertains to the Open Records Access Policy.

COMMISSIONER NOLL - Stated the Township Manager’s name should be listed on the Township’s web-site designating him as the Records Officer.

OTHER PUBLIC COMMENT:

KEITH KEHL - 1941 Gilbertsville Road - Stated he is not in favor of giving Mr. Mingey any favors because he has been contaminating Sprugel’s Run and said he should be fined by the DEP.

COMMISSIONERS COMMENTS:

COMMISSIONER DOLAN - Advised he is not happy about the budget and he isn't happy about raising taxes. Mr. Dolan stated he would like to be more aggressive with regards to regionalization of the police force in the upcoming year. He further stated if the Township could save 10% on police services, that's \$100,000 and if we had had that, we wouldn't have had to raise taxes.

COMMISSIONER DELENA - Stated no one is happy with the tax increase; however the members of the Board as well as the Administrative staff worked for many, many hours on this budget and we only had the best interest of this community.

COMMISSIONER NOLL - Stated his heart goes out to anybody who has to pay more money to live in the Township. Mr. Noll expressed his thanks and appreciation to Township Manager Jack Layne, Matt Dallas, Cindy and the Administrative staff for their hard work and efforts with regards to the finances this year. Mr. Noll stated he will be committed next year to work even harder to make sure that there is a very minimal increase and to build up a reserve and not over burden the residents. He expressed his thanks to all the volunteers who work for the Township and don't ask to be paid.

COMMISSIONER SPAIDE - Apologized for arriving late; however she had jury duty. Ms. Spaide stated she is looking into getting more revenue from the Developers. She further stated that everyone has work very hard on the budget.

COMMISSIONER TAYLOR - Recognized Mr. Chris Hollenbach, who recently passed away and noted that he once served on the Board of Commissioners. Mr. Taylor stated Mrs. Hollenbach was very dedicated and involved with the election board for many years. He further stated that Dr. Aaron Katz, who served on the Upper Pottsgrove Planning Commission, for many years has also passed away recently.

PAYMENT OF BILLS - It was agreed to delay payment on the invoice from PLCM for annual dues in the amount of \$65.00. A motion by Noll, seconded by Dolan, to approve the amended Bill List of December 15, 2008, for General Fund in the amount of \$228,764.62; Fire Fund in the amount of \$1,562.13; Sewer Fund in the amount of \$28,206.76; Capital Fund in the amount of \$27,870.72; Open Space Fund in the amount of \$12,565.66; State Fund in the amount of \$831.19 and Escrow Fund in the amount of \$1,474.33. Total Expenditures - \$301,275.41. All aye votes.

EXECUTIVE SESSION - At 8:45 P.M. Commissioner Taylor announced there would be an Executive Session to discuss two matters of litigation and one matter of real estate.

ADJOURNMENT - There being no further business, a motion by Dolan, seconded by DeLena, to adjourn the meeting at 10:25 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor, Township Secretary