

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

**July 20, 2009**

The meeting of the Board of Commissioners was held on Monday, July 20, 2009, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Noll, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Engineer Chris Pelka, Township Manager Jack P. Layne, Public Works Director Frank Quinter and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 18 people present in the audience. Commissioner DeLena was absent.

**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.

**RESIGNATION** - Commissioner Taylor reported he received a letter of resignation from Commissioner Megan DeLena effective immediately. Mr. Taylor explained that Commissioner DeLena is moving out of the Township and therefore needs to resign her position. A motion by Spaide, seconded by Dolan, to accept, with regret, the resignation of Megan DeLena as Commissioner of Upper Pottsgrove Township. All aye votes. Attorney Garner stated the Board has thirty days from the date of accepting the resignation to fill the vacancy. He further stated that if the Board is unable to fill the position the Vacancy Board has an additional fifteen days to do so. Commissioner Taylor noted the Board will consider candidates to fill the position during that time frame.

**PUBLIC COMMENTS:**

**KEITH KEHL - 1941 Gilbertsville Road** - Expressed concern regarding flags that have been placed on his property for the proposed waterline easement by Superior Water. Mr. Kehl also expressed his concern regarding representatives from Superior Water trespassing on his property without his permission.

In response to a question from **DIANA UPDEGROVE, 1404 Farmington Avenue**, Attorney Garner stated that public utilities do have rights of eminent domain.

**ROBERT SLOSS - 2097 Needhammer Road** - Reiterated Mr. Kehl's concern regarding trespassing.

**REPORTS:**

**EMERGENCY SERVICES** - Commissioner Noll stated a copy of the monthly Police Report will be posted on the bulletin board. **FIRE COMPANY** - Commissioner Noll stated a copy of the Fire Committee Report will be posted on the bulletin board. He further stated the next Fire Committee meeting will be held on Thursday, August 20<sup>th</sup> in the meeting room. Commissioner Noll reported the Township received a letter from Fire Chief George Hums, West End Fire Company, recognizing the Upper Pottsgrove firefighters and personnel for their efforts during the recent fire at Tooth Acres in West Pottsgrove Township. Commissioner Noll expressed his thanks and appreciation to Jack Layne for attending a recent Emergency Management training session.

Fire Chief Tom Mattingly provided a brief presentation regarding the construction of the new truck and noted they anticipate delivery in November.

**PUBLIC WORKS REPORT** - Commissioner Spaide reported that the 2009 road program paving has been completed and noted a copy of the report will be posted on the bulletin board.

**PARKS & RECREATION REPORT** - Commissioner Dolan reported the Township has acquired the property at 1401 North Charlotte Street.

**TOWNSHIP ENGINEER'S REPORT** - A copy of the monthly report will be posted on the bulletin board.

**TOWNSHIP SOLICITOR'S REPORT** - Attorney Garner reported he continues working with the Farmington Avenue West project, the Regal Oaks project and the PennVest loan process. Mr. Garner reported that THP Properties has petitioned the bankruptcy court to release some money and allow them to work on the Coddington View project.

**ROBERT SLOSS - 2097 Needhammer Road** - Questioned whether any of the Coddington View residents have incurred any problems. Attorney Garner stated the Township met with the residents early on when THP Properties first suspended operations and addressed their concerns at that time. Mr. Layne added that things seem to be running smoothly.

**TOWNSHIP MANAGER'S REPORT** - Mr. Layne reported he has coordinated efforts to obtain single-hauler trash bid proposals, prepared and submitted a Green Futures Achievement Awards application for the Goose Run Pedestrian Trail and participated along with Commissioner Dolan in the Pottstown Area Health and Wellness Foundation focus group session.

**MONTHLY FINANCIAL REPORT** - Copies of the monthly Financial Reports were included in the Commissioners meeting packets. Mr. Layne stated the Sewer Fund will be "reinvigorated" because of the PennVest loan closing and receipt of an approximate \$400,000 grant.

**NEW BUSINESS:**

**PRESENTATION BY MIKE PACKARD REGARDING THE POTTSTOWN PUBLIC LIBRARY** - Mike Packard, Executive Director, of the Pottstown Library was present and offered a brief presentation with regards to the services and programs available at the library.

**DISCUSSION AND POSSIBLE ACTION REGARDING NATIONAL PREPAREDNESS MONTH** - For the past two years, the Ready Campaign and its partners have received a Presidential proclamation designating September as National Preparedness Month. Reggie Leister explained that National Preparedness Month creates an opportunity for people to learn more about ways to prepare for all types of emergencies from natural disaster to potential terrorist attacks. After discussion, it was agreed that the Township Manager would prepare a proclamation designating September as National Preparedness Month. It was suggested that an article be placed in the upcoming Newsletter.

**DISCUSSION AND POSSIBLE ACTION REGARDING ORDINANCE # 436 REQUIRING CONTRACTORS PERFORMING HOME IMPROVEMENT CONTRACTS TO REGISTER WITH THE COMMONWEALTH OF PENNSYLVANIA** - An Ordinance amending the Code of the Township of Upper Pottsgrove, to require contractors performing home improvement contracts to demonstrate registration with the Commonwealth of Pennsylvania prior to performing said contract in Upper Pottsgrove Township; providing for definition of terms; declaring the provisions of this Ordinance to be severable and to repeal any inconsistent Ordinances. A motion by Dolan, seconded by Noll, to authorize the Solicitor to advertise the proposed Ordinance. All aye votes.

**DIANA UPDEGROVE - 1404 Farmington Avenue** - Stated it was her understanding that the proposed ordinance does not apply to electricians or plumbers and expressed her concern that it isn't stated in the ordinance.

**DISCUSSION TO ADVERTISE AND TO SCHEDULE PUBLIC HEARING ON THE PROPOSED R-2 TWIN ZONING ORDINANCE** - Commissioner Taylor reported the Planning Commission has reviewed the proposed ordinance which looks at expanding the opportunities for different housing types within the R-2 Zoning District. Attorney Garner stated he is looking at advertising the public hearing for September 8<sup>th</sup> if not it will be the second meeting in September. A motion by Dolan, seconded by Noll, to advertise the proposed R-2 Twin Zoning Ordinance. All aye votes.

**DENNIS ELLIOTT - 576 Evans Road** - Questioned why the Township is doing this. Commissioner Taylor stated the proposed ordinance will give more options for a certain type of housing that is probably more appropriate in this environment. He further stated we are looking for an opportunity for homes to be built that can serve our sewer system. Mr. Elliott expressed his concern regarding surrounding home values.

**JOHN WEST - 1611 Applegate Lane** - Stated he is totally frustrated regarding the proposed R-2 Twin Zoning Ordinance and noted that the R-2 single family zoning should stay the way it was originally intended. Mr. West stated he would like Upper Pottsgrove to mirror Earl Township where you can't build a home on less than three acres of land no matter what the zoning.

**DISCUSSION AND SUBMITTAL OF THE 2008 AUDIT REPORT** - Copies of the 2008 Audit Report were included in the Commissioners meeting packets. A motion by Noll, seconded by Spaide, acknowledging that the Commissioners received the 2008 Audit Report. All aye votes.

**DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED AGREEMENTS OF SALE FOR THE HARTMAN PROPERTIES** - Attorney Garner stated the Open Space Committee has been negotiating with Carol and Herbert Hartman regarding property located at 243 Snyder Road. He further stated the property consists of four (4) parcels with a total acreage of approximately sixteen (16) acres. The Sellers desire to sell the property excluding one (1) acre which consists of a single-family dwelling and the Township desires to purchase the remaining portion of that tract along with the other three parcels to be used as open space. The total purchase price is \$250,000.

**PROPOSED AGREEMENTS OF SALE FOR THE HARTMAN PROPERTIES CONT'D –**

Attorney Garner stated the second Agreement is with Izabela and Herbert Hartman, Jr. regarding property located at 185 Snyder Road with a total acreage of approximately 5.23 acres. The Sellers desire to sell the property excluding one (1) acre, which contains a single-family dwelling and the Township desires to purchase the remaining portions and utilize it for open space. The total purchase price is \$100,000. Commissioner Dolan noted the parcels are located along the Sprogel's Run Trail. After a brief discussion, a motion by Dolan, seconded by Noll, to approve and authorize the execution of the Agreements of Sale for the Hartman properties and to authorize the Manager and Board President to execute any necessary settlement documents. All aye votes.

**KEITH KEHL - 1941 Gilbertsville Road** - Questioned whether there is access from Snyder Road. Commissioner Dolan stated it is part of the subdivision process and explained the access will be widened.

**DISCUSSION AND POSSIBLE ACTION ON RESOLUTION #564 APPOINTING TOWNSHIP REPRESENTATIVES TO MONTGOMERY COUNTY TAX COLLECTION COMMITTEE AS ESTABLISHED BY ACT 32**

- Solicitor Garner explained that Act 32 amends the Local Tax Enabling Act. The purpose of the Act is to provide for a forum for municipalities and school districts to consider more efficient ways of tax collection. The Committee will discuss the collection of Act 511 taxes as well as local income taxes. Mr. Garner explained the law allows the Township to appoint a primary delegate and two alternate delegates who have consent to such appointment. After discussion a motion by Spaide, seconded by Noll, to adopt Resolution #564 appointing Michelle Reddick as primary voting delegate, Renee Spaide as the first alternate voting delegate and Russell Noll as the second alternate voting delegate as representatives to the Montgomery County Tax Collection Committee. All aye votes.

**ROBERT SLOSS - 2097 Needhammer Road** - Questioned whether the Tax Collection Committee would have the power to increase taxes. Attorney Garner stated "no." He further stated the Committee is comprised of representatives of municipalities and school districts within Montgomery County and their going to figure out how to best implement a County wide collection system; however they have no power to increase taxes.

**DISCUSSION AND POSSIBLE APPOINTMENT OF A REPRESENTATIVE TO SIT ON THE WATERSHED PLAN ADVISORY COMMITTEE**

- Commissioner Taylor reported the Berks County Planning Commission has recently signed a contract with the Department of Environmental Protection to produce an Act 167 Stormwater Management Plan for the Manatawny Creek Watershed. As an important part of the Act 167 plan process the Berks County Planning Commission has requested that Upper Pottsgrove Township appoint a representative to sit on the Watershed Plan Advisory Committee. A motion by Dolan, seconded by Spaide, to appoint Frank Quinter as the Township representative to sit on the Watershed Plan Advisory Committee. All aye votes.

**DISCUSSION AND POSSIBLE AUTHORIZATION TO BID ON THE STATE STREET TURNBACK IMPROVEMENTS**

- A motion by Spaide, seconded by Noll, to authorize the

bidding on the State Street Turnback improvements. All aye votes.

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When, **ROBERT SLOSS, 2097 Needhammer Road**, questioned the amount the Township received from the State for taking back State Street Mr. Layne stated \$262,000.

**DISCUSSION AND RECOMMENDED AWARD OF THE FARMINGTON AVENUE WEST PHASE II CONTRACTS TO LOW BIDDERS** - Chris Pelka, LTL Consultants, reported on Thursday, June 25, 2009, the bid results were read for the Farmington Avenue West Phase II Sanitary Sewer Project. Bids were received for two separate contracts for the project, one being termed the General Mechanical Contract and the other being termed the Electrical Contract. The low bidder for the General Mechanical Contract was submitted by Pedrick Sitework Contractors, LLC at a cost of \$1,100,000.00 and low bidder for the Electrical Contract was submitted by Barry J. Hoffman Co, Inc at a cost of \$98,900.00. Mr. Pelka noted the bids were reviewed by LTL Consultants as well as the Solicitor for review and it was determined that all of the bids were complete and all of the required information has been provided. A motion by Spaide, seconded by Dolan, to approve and authorize the execution of the contract documents and to award the Farmington Avenue West Phase II contracts to the low bidders. All aye votes.

When **ROBERT SLOSS, 2097 Needhammer Road**, questioned the total cost of the project; Engineer Chris Pelka stated \$1.2 million. Attorney Garner explained the Township was awarded \$5,028,000 as part of the PennVest loan and there was a 5% contingency built into the loan in the event we need that money however, if we don't use it; we don't have to pay it back. Mr. Sloss questioned whether the job will be completed according to code so that there won't be any problems with the sewer at \$1.2 million. Chris Pelka responded "absolutely" however, we don't know exactly what you're going to run into. Commissioner Taylor stated the Township doesn't skimp on inspections; there are a lot of people on the scene to make sure the job is being done right.

When **DENNIS ELLIOTT, 576 Evans Road**, questioned whether the contractors are required to put a bond up as security; Attorney Garner stated the Township has both a payment and a performance bond and when the work is completed there is a maintenance bond.

**DISCUSSION AND POSSIBLE ACTION ON PROPOSED MS4 REVISIONS** - Mr. Quinter explained the proposed revisions could involve monitoring of streams, stream bank erosion, silt accumulation and possible monitoring of fertilizer used on lawns, etc. Attorney Garner stated that there are numerous changes that could occur and there is no way the Township could monitor all the activities. After a brief discussion, a motion by Noll, seconded by Spaide, authorizing the Township Manager to address a letter to Senator Rafferty and Representative Quigley expressing our concerns regarding the proposed revisions by DEP and the cost to the municipality regarding these revisions due to these unfunded mandates. All aye votes. Commissioner Noll suggested a copy of the letter be addressed to the President of the Pennsylvania State Association.

**KEITH KEHL - 1941 Gilbertsville Road** - Agreed that regulations are needed regarding the monitoring of streams.

**ROBERT SLOSS - 2097 Needhammer Road** - Suggested a copy of the letter be sent to the County, State and Federal government.

**DISCUSSION AND POSSIBLE ACTION REGARDING COMMITTEE/BOARD VACANCIES** - A motion by Dolan, seconded by Noll, to appoint Michael Henzes and Jeffrey Nason to serve on the Sewer/Water Committee. All aye votes.

**OLD BUSINESS:**

**DISCUSSION AND POSSIBLE ACTION ON THE PROPOSED EASEMENT WITH THE SUPERIOR WATER COMPANY** - After a brief discussion, it was agreed this matter would be tabled for further clarification.

**ROBERT SLOSS - 2097 Needhammer Road** - Expressed his concern that over the last several years the Fire Committee has been trying to get water pressure documentation from Superior Water to no avail.

**OTHER PUBLIC COMMENT:**

In response to a question from **REG LEISTER, 1693 Farmington Avenue**, regarding the presence of arsenic in one of Superior Water's wells; Commissioner Taylor stated it is a regulated industry and the water is tested much more frequently than residential wells.

**SANDRA COALE - 1409 North Charlotte Street** - Questioned the plans for the open space the Township recently purchased at 1401 North Charlotte Street. Commissioner Dolan stated the Township has no immediate plans for the parcel; however it does provide an access to the Prince/Austerberry Park.

**AUSTIN COALE - 1409 North Charlotte Street** - Expressed his concern regarding kids accessing the main house located at 1401 North Charlotte Street. Public Works Director, Frank Quinter, state the house was padlocked on Friday. It was agreed that the Public Works Director would look into the matter.

**ROBERT SLOSS - 2097 Needhammer Road** - Questioned whether the residents would be notified of Commissioner DeLena's vacancy on the Board. Commissioner Taylor noted by reading Commissioner DeLena's letter of resignation the public has been notified of the vacancy and the Board has thirty days to fill the vacancy. He also questioned whether the audit is available to the public. Mr. Layne stated copies of the 2008 audit are available in the Administrative Office.

**KEITH KEHL - 1941 Gilbertsville Road** - Expressed his concern regarding the weeds at the entrance to the Woodbrook Development. Mr. Layne noted he would forward the concern to the Code Enforcement Officer.

**JOHN WEST - 1611 Applegate Lane** - Expressed his concern as to when Fios cable would be available in the Township. Attorney Chuck Garner stated the Commissioners approved an Agreement with them in 2006.

**DIANA UPDEGROVE - 1404 Farmington Avenue** - Expressed her concern regarding home businesses within the Township and suggested an article be placed in the upcoming Newsletter.

**COMMISSIONER COMMENTS:**

None

**PAYMENT OF BILLS** - A motion by Noll, seconded by Dolan, to approve the Bill List dated July 20, 2009 for General Fund in the amount of \$70,900.81; Fire Fund in the amount of \$3,492.36; Sewer Fund in the amount of \$15,959.57; Capital Fund in the amount of \$65,898.72; Open Space Fund in the amount of \$4,375.07; State Fund in the amount of \$4,648.24 and Escrow Fund in the amount of \$387.44. Total Expenditures - \$165,662.21. All aye votes.

**APPROVAL OF MINUTES - June 15, 2009** - A motion by Spaide, seconded by Dolan, to approve the minutes of the June 15, 2009, meeting as presented. All aye votes.

**EXECUTIVE SESSION** - At 9:00 P.M. Commissioner Taylor stated the Board would meet in Executive Session to discuss matters of real estate acquisition and possible litigation; however no decisions would be made. The meeting reconvened at 10:15 P.M.

**ADJOURNMENT** - There being no further business, a motion by Spaide, seconded by Noll, to adjourn the meeting at 10:16 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,  
Township Secretary