

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

October 5, 2009

The meeting of the Board of Commissioners was held on Monday, October 5, 2009, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioner Dolan, Miller, Noll, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne and Township Secretary Cynthia Saylor. Commissioner Taylor called the meeting to order at 7:00 P.M. There were 15 people and a Mercury reporter present in the audience.

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:

HENRY BEALER - 1382 Farmington Avenue - Expressed concern regarding the construction sign that has been in his yard for the last two years and noted he will be taking it down. Mr. Layne stated he would look into the matter.

NEW BUSINESS:

DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED R-2 AMENDMENT - Commissioner Taylor reported a public hearing was held on September 21, 2009, concerning the proposed R-2 amendment and noted that the public had the opportunity to speak long and eloquently while the members of the Board had their chance to speak or act only once. Commissioner Miller stated that he heard eloquently and understands perfectly Commissioner Taylor's comments but after mulling it over in his mind and listening to the residents' comments it is his recommendation that the Board reject the proposal. Commissioner Noll stated that he considered both sides of the proposal; however, based on the public's comments that he heard he agrees with the majority of them. Commissioner Noll stated that he would like to keep the "rural environment" within the township and noted that, in addition, he would like to pursue more commercial properties. Commissioner Noll further stated that he does not feel that twins are appropriate for Upper Pottsgrove Township and he does not want to burden the school district. Commissioner Taylor noted that the Board will continue to consider, in public fashion, the economic concerns of the community. After further discussion, a motion by Miller, seconded by Spaide, to reject the proposed Amendment to the R-2 Zoning District. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO THE CIVIL SERVICE REGULATIONS - Attorney Chuck Garner provided a brief summary of the proposed changes and amendments to the Civil Service Rules and Regulations. Mr. Garner reported that the changes have been reviewed and recommended by the Civil Service Committee. Mr. Garner explained that under state law the Township may appoint up to three (3) alternate members to the Civil Service Commission. In addition, the Committee has recommended that the Board consider revising the regulations as they relate to the furloughing of police officers. In the event the Township decides to increase the Police Department, the furloughed officers shall be reinstated in order of their seniority, provided that any such furloughed officer accepts in writing reinstatement within thirty (30) days of receiving notice of the opening.

DISCUSSION AND POSSIBLE ACTION REGARDING AN AMENDMENT TO THE CIVIL SERVICE REGULATIONS CONT'D - Mr. Garner explained that failure of the furloughed officer/s to respond to said written notice of an opening shall constitute voluntary resignation. In addition to the current Rules and Regulations the Committee recommended adding language regarding the length of time furlough lists remain in effect. Furlough lists shall remain in effect for twenty (20) months from the furloughed officer's date of release. If at the expiration of that time the officer has not been reinstated their furlough rights will terminate. After discussion, a motion by Noll, seconded by Spaide, to recommend the changes to the Civil Service Rules and Regulations as approved and recommended by the Civil Service Commission. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING THE 2010 MINIMUM MUNICIPAL OBLIGATION FOR THE NON-UNIFORM RETIREMENT PLAN - Mr. Layne provided the members of the Board with information regarding the 2010 Minimum Municipal Obligation for the Non-Uniform Retirement Plan in the amount of \$36,190. A motion by Noll, seconded by Spaide, acknowledging receipt of the 2010 Minimum Municipal Obligation estimate for the Non-Uniform Pension Plan as provided by the Township's pension consultant. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING THE 2010 MINIMUM MUNICIPAL OBLIGATION FOR THE POLICE RETIREMENT PLAN - Mr. Layne provided the members of the Board with information regarding the 2010 Minimum Municipal Obligation for the Police Retirement Plan in the amount of \$107,812. A motion by Noll, seconded by Spaide, acknowledging receipt of the 2010 Minimum Municipal Obligation estimate for the Police Pension Plan as provided by the Township's pension consultant. All aye votes.

ROBERT SLOSS - 2097 Needhammer Road - Requested clarification regarding the Township's obligation to the Police and Non-Uniform pension plans.

DISCUSSION AND POSSIBLE APPROVAL OF A REVISED RESOLUTION REGARDING THE MUNICIPAL WINTER TRAFFIC SERVICES SUPPLEMENTAL AGREEMENT WITH PENNDOT - Mr. Layne explained that PennDot provides funds to the Township for snow removal on state roads. Mr. Layne reported the Township received \$3,086.76 and noted the allocation decreased this year due to the State Street turn back. A motion by Spaide, seconded by Dolan, to approve the revised Resolution regarding the Municipal Winter Traffic Services Supplemental Agreement with PennDot. All aye votes.

ROBERT SLOSS - 2097 Needhammer Road - Requested clarification with regards to the \$3,086.76 allocation from PennDot. Mr. Layne explained it's the State's contribution to cover the costs of maintaining the roads.

When **GILBERT DUNCAN, 72 Hanover Drive**, questioned whether PennDot would take control of Farmington Avenue; Commissioner Taylor stated "no - PennDot won't take control of any additional roads."

KEITH KEHL - 1941 Gilbertsville Road - Noted that additional salt will be needed at the Moyer Road and Gilbertsville Road intersection since the new stop signs have been installed

EXECUTIVE SESSION - At 7:10 P.M. Commissioner Taylor advised the Board will hold a brief Executive Session to discuss a matter of collective bargaining. The meeting reconvened at 7:24 P.M.

DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED GAP PAYMENT

TO OFFICER JAMES HUMMER - Commissioner Taylor read the following statement: “Before each meeting, we stand and ask everyone to respect a moment of silence for our men and women serving in the Armed Forces. Tonight, this Board is recommending that as a community, we go beyond sincere thoughts, and show our respect in a more concrete way. One of our own police officers, Officer Hummer, is currently a member of the Army Reserve. He was recently called back into active duty for overseas service for the next fourteen (14) months. While he is serving in harm’s way defending our country’s interests, he does not need to worry about losing his stateside job because it will be waiting for him when he returns – but he will lose a significant amount of income, since his Army pay and benefits are less than what he earns here at the township. So with the agreement of his fellow officers; the Board is proposing that the Township help fill the gap between his military pay and his township salary by paying him \$800 per month while he is on active military duty. Since Officer Hummer’s full pay has already been budgeted, there would be no additional costs associated with the proposal. It is understood that the other officers will see their schedule adjusted to account for Officer Hummer’s absence and some additional overtime pay will be expended as well, but we believe that these are small sacrifices compared to those that Officer Hummer is making on our behalf. A motion by Noll, seconded by Miller, to institute the GAP pay as specified for \$800 per month while on active duty subject to a written agreement between Officer Hummer, the Township and the Bargaining unit. All aye votes. Commissioner Miller stated “it’s the least we can do.” Commissioner Taylor explained that the Board has decided to take this action for this Officer at this time; however it is not a change in procedure – it is just for this period.

GILBERT DUNCAN - 72 Hanover Drive - Expressed his concern that the Township is setting a precedent. Attorney Garner explained that is why an agreement will be signed between Officer Hummer and the Bargaining Unit to indicate that it is not precedent setting, not required to be done in the future, but a one time event that is not subject to an unfair labor practice.

OTHER PUBLIC COMMENT:

KEITH KEHL - 1941 Gilbertsville Road - Stated that there is a large hole along Gilbertsville Road at the entrance to the Cherrytree Farms Development and noted a safety issue. Mr. Layne stated he would look into the matter.

In response to a question from **JOHN WEST, 1611 Applegate Lane**, regarding the old fire truck Mr. Layne reported that there has been discussion between the Fire Company and Thompson Automotive. He further reported that Mr. Thompson is very interested in the old fire truck and is planning to restore to use it in parades.

DENNIS ELLIOTT - 576 Evans Road - Addressed the members of the Board and provided pictures of the property located at 586 Evans Road. Mr. Elliott stated the property is abandoned and there is trash strewn all over the yard with furnishings on the side of the yard and the weeds are over four (4) feet high. He further stated he filed a formal complaint regarding the matter back in July. Mr. Elliott reported that Commissioner Miller and the Township's new Code Enforcement Officer "walked" the property, took pictures and sent a letter to the property owner; however, the letter came back as undeliverable. Since then, it was determined that the property is owned by the Bank of America. Mr. Elliott noted that there are several thousand dollars worth of fines that have never been paid. Mr. Layne stated the property is up for sheriff sale at the end of November.

COMMISSIONER MILLER - Stated that we as a Board should be upset over this; actually it is a disgrace. He further stated that animals have been clawing at the trash and if we permit this to go into the winter we are promoting a health problem. Commissioner Miller expressed his concern that the trash will attract mice and rats as well as squirrels building nests inside the house due to an open window. Mr. Miller reported there is a couch in the driveway and high grass on the property located at 2224 West Horseshoe Drive. At 2263 West Horseshoe Drive the grass is high there is junk on the driveway and there are picnic benches in the front lawn. Mr. Miller stated there is a property located on Farview Lane that is up for sheriff sale and reported that when that residence was vacated it wasn't even locked. Commissioner Miller stated the Board has to take action with regards to these properties. He further stated that in his opinion the Highway crew should not be responsible for cleaning up the property or mowing the weeds. Mr. Miller noted that the Farview Lane property and one of the properties on Evans Road are both owned by the Bank of America. Commissioner Miller reiterated the fact that the Board needs to take action regarding this matter.

DENNIS ELLIOTT - 486 Evans Road - Questioned why the responsible taxpaying residents in Upper Pottsgrove forced to adhere to our ordinances and rules and regulations in the Township when the owners (Bank of America) are getting a "free pass." Mr. Elliott stated he would like the Board to authorize the Solicitor to pursue the matter. In another matter, Mr. Elliott noted the residence (586 Evans Road) is the last home to be connected to the Farmington Avenue West sewer extension and when the sewer line is installed the sand mound will have to be eliminated. Mr. Elliott expressed his concern that the soil is contaminated and he is fearful that the responsibility of disposing the soil will fall on the Township.

COMMISSIONER NOLL - Stated that he is in agreement with Commissioner Miller's comments and that the Board needs to be proactive with regards to our ordinances and making sure that they are enforced appropriately. Commissioner Noll stated this is the first he is learning of these properties; however, he is aware that there are other properties in the Township that should be addressed. Mr. Noll asked Mr. Elliott his recommendations as to how the Board should pursue the matter. Do you want the Board to be aggressive in enforcing the ordinances throughout the entire township, which would include the mentioned properties, as well as all other properties that are in violation? Mr. Noll expressed his concern as to how much legal expenses the Township will incur in order to make certain that the codes are being enforced properly or should the Code Enforcement Officer and Engineering firm "step up to the plate" and enforce the codes without the added legal expense. Mr. Elliott stated that, as far as he knows, he is the only resident who has filed a complaint regarding the Evans Road property.

COMMISSIONER TAYLOR - Stated neither the comments from Mr. Elliott or Commissioner Miller suggested that the township was not following proper procedure. He further stated that our Code Enforcement Officer can only report their findings and issue citations; they can't personally go out and mow the grass. Mr. Taylor stated ultimately it all comes down to how we are going to proceed legally.

DENNIS ELLIOTT - 486 Evans Road - Noted that the original notice of violation gave the property owner a certain grace period and after that time thousands of dollars in fines were going to be legally levied against the property. Mr. Elliott stated all he is asking the Board is to "hold fast" as to what their supposed to do according to the laws of the Township.

ATTORNEY GARNER - Stated that he is in agreement with Mr. Elliott in that the property owner should be held accountable for violating the township's ordinances. He further stated there are three ways to approach the matter: one is to have the Code Enforcement Officer continue to cite for the ongoing violations. Mr. Garner noted that based on the information discussed tonight, as far as the condition of the property, there are probably numerous violations on the property and each violation carries a fine of \$1,000 per day/per violation; so as long as citations are issued on a regular basis those fines will accrue quickly. Mr. Garner continued, as far as maintenance issues such as cutting grass and removing trash, the Township is within its authority after proper notice to engage the services of a contractor to perform that work and then lien the property for the expenses incurred. Mr. Garner explained the last option would be to petition the Court of Common Pleas in Montgomery County; however this would be the most expensive.

COMMISSIONER MILLER - Stated that there are two (2) properties that pose a human pollution and animal problem. Those properties are located on Farview Lane and Evans Road and need immediate action. Commissioner Miller stated the Board is accountable and needs to take action.

DENNIS ELLIOTT - 486 Evans Road - Requested a time table to have this matter resolved. Commissioner Taylor stated the Township Manager will have a plan of action available for the next meeting.

COMMISSIONER SPAIDE - Noted that there are other properties throughout the Township that also need to be addressed.

GILBERT DUNCAN - 72 Hanover Drive - Stated he was in agreement with Mr. Elliott's comments and requested a clarification regarding the fining process.

ROBERT SLOSS - 2097 Needhammer Road - Questioned the purpose of having a policy in place if you're not going to follow through with it. Mr. Sloss stated this problem is going to grow with all of the foreclosures that are increasing throughout the country.

HENRY BEALER - 1382 Farmington Avenue - Expressed his concern regarding the Winpenny property and noted there are abandoned cars and dead trees on her property.

JOSEPH YOUNG - 1508 Heather Place - Requested that the Board members respect the property owner's rights and not get excessive in telling people what to do on their own property.

JOHN WEST - 1611 Applegate Lane - Reported that there is a house on Heather Place that has excessive trash piled up in the back of the house. Mr. West also questioned the lien process.

GILBERT DUNCAN - 72 Hanover Drive - Referenced the abandoned car ordinance and suggested the Township enforce it and have the cars towed that are in violation.

JIM KAPINSKI - 1941 Yarnall Road - Requested clarification with regards to the lien process.

In response to a question from **JOSEPH YOUNG, 1508 Heather Place**, Commissioner Taylor stated as long as you have a registered hauler disposing of your trash in a legal manner you have the ability to "opt-out" for as long as you live in your home.

JOHN WEST - 1611 Applegate Lane - Expressed his concern regarding abandoned houses whose owners don't opt-out of the single trash hauler service.

KEITH KEHL - 1941 Gilbertsville Road - Expressed concern regarding the high weeds on the former "Prout Farm" property located on Moyer Road.

PAYMENT OF BILLS - October 5, 2009 - A motion by Dolan, seconded by Spaide, to approve the Bill List dated October 5, 2009, for General Fund in the amount of \$13,008.78; Sewer Fund in the amount of \$7,227.14; Capital Fund in the amount of \$1,033.60 and State Fund in the amount of \$562.89. Total Disbursements - \$21,832.41. All aye votes.

APPROVAL OF MINUTES - September 21, 2009 - A motion by Spaide, seconded by Miller, to approve the minutes of the September 21, 2009, meeting as presented. All aye votes.

EXECUTIVE SESSION - At 7:58 P.M. Commissioner Taylor stated the Board would be meeting in Executive Session to discussion pending litigation with no decisions being made. The meeting reconvened at 8:43 P.M.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Noll, to adjourn the meeting at 8:45 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary