

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

November 16, 2009

A meeting of the Board of Commissioners was held on Monday, November 16, 2009, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Miller, Noll, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne, Township Secretary Cynthia Saylor and Financial Consultant Matt Dallas. Mr. Taylor called the meeting to order at 7:02 P.M. There were 6 people 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:

ROBERT SLOSS - 2097 Needhammer Road - Extended his congratulations to the three newly elected Commissioners and expressed his thanks and appreciation to all the residents who came out to vote in the recent election.

REPORTS:

EMERGENCY SERVICES - Commissioner Noll read the monthly Police Report and noted a copy will be posted on the bulletin board. Commissioner Miller expressed his concern with regards to the number of recent burglaries within the Township and questioned Chief Moffett whether they are taking place in a specific area of the Township and if the homes had been ransacked. Chief Moffett explained that some of the burglaries have taken place in residential homes and some have been ransacked and others have not. Commissioner Miller requested a clarification with regards to larceny theft in the Township. With regards to the Fire Report Commissioner Noll reported that representatives from the Fire Company are going to Wisconsin this weekend for final inspection of the new pumper tank truck. Mr. Noll reported the Fire Company will host an open house next spring in order to take dedication of the new fire truck. He further reported that due to low attendance by the Fire Committee; this month's meeting has been cancelled. The Fire Committee will hold their next meeting on Thursday, December 17, 2009.

PLANNING & ZONING REPORT - Commissioner Taylor reported the Planning Commission reviewed and discussed the Zoning Hearing Applications submitted by the Hopewell Community Church and James Turner. In response to a question from **JOHN WEST, 1611 Applegate Lane**, Commissioner Taylor stated that the members of both the Planning Commission and the Board of Commissioners were concerned regarding the lit nature of the sign and the fact that currently the Township does not have an ordinance in place to control it.

PUBLIC WORKS REPORT - Commissioner Spaide read the monthly Public Works Report and suggested getting rid of some of the "junk" inside the highway yard. When Commissioner Noll questioned if the old public works vehicle can be repaired; Commissioner Spaide stated the engine is still good; however, the car can no longer be driven. Mr. Noll questioned whether the advertisement on the old car could be transferred to another vehicle so as not to lose the monthly revenue.

PUBLIC WORKS REPORT CONT'D - Commissioner Miller suggested contacting Montgomery County to have the prisoners pick up trash along the roads throughout the Township.

PARKS, RECREATION AND OPEN SPACE REPORT - None.

ENGINEER'S REPORT - It was noted that a copy of the monthly Engineer's Report would be posted on the bulletin board.

SOLICITOR'S REPORT - Attorney Garner reported he met with Chris Hannum, LTL Consultants, regarding updating the Township's current sewer ordinance which will try and address some of the issues that have arisen during the recent on-going sewer projects. When Commissioner Miller questioned Attorney Garner regarding the status of the open space addendum and the possibility of the State changing the use of the referendum monies from purchase to maintenance Mr. Garner stated he would look into the matter.

ROBERT SLOSS, 2097 Needhammer Road, stated this should have been taken care of when the referendum was originally placed on the ballot. Attorney Garner addressed Mr. Sloss and reported that State law didn't allow it. He further reported that State law only allows the Township to allow the voters to make a decision with respect to the use of this special tax for the acquisition of open space.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported he planned and coordinated efforts to insure that there will be a successful Limerick Generating Station Emergency Management Exercise on Tuesday, November 17, 2009. He further reported the Township has received reimbursement in the amount of \$506,842.39 from the PennVest Program; he attended meetings with developers regarding proposed commercial/retail development in the Township; responded to resident concerns regarding the Single-Hauler Trash Collection and Recycling Contract and attended various Township meetings. Mr. Layne extended his thanks and appreciation to Attorney Chuck Garner for his generous donation with respect to the new drapes in the meeting. He also extended his thanks and appreciation to LTL Consultants for their generous donation with respect to the banner in the meeting room. Mr. Layne noted that no tax payer monies were expended with respect to the new drapes and the banner. Mr. Layne reported that the County has cut back significantly in their open space funding.

MONTHLY FINANCIAL REPORT - Mr. Layne reported as of October 31, 2009, the Township has collected 96.9% in total revenue and has expended 85.9% in expenditures.

NEW BUSINESS:

PRESENTATION, DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED 2010 ANNUAL TOWNSHIP BUDGET - Financial Consultant, Matthew Dallas, provided a brief overview of the minor changes to the proposed 2010 budget. Commissioner Taylor reported that there is \$5,000 budgeted for Civil Service to cover any possible police hiring. He further reported the allocation to the Pottstown Public Library was increased from \$25,000 to \$27,500. Commissioner Noll questioned the line item entitled "computer system maintenance" and noted an increase of \$1,000 over last year's budget.

PRESENTATION, DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED 2010 ANNUAL TOWNSHIP BUDGET CONT'D

- Mr. Noll expressed his concern that to date we have only spent \$120 on this line item. Mr. Dallas explained that these expenses may have been posted to the wrong account and would look into the matter. Commissioner Taylor noted that this year there was a \$17,000 shortfall in funding our public employees' pension funds. Mr. Taylor explained that typically the State allocates the money to fund both the uniform and non-uniform pension funds with no expense to the Township. There was a brief discussion with respect to the employees' pension funds and the possibility of having them contribute from their pay to their pension fund to make up for the shortfall in State aid. Attorney Garner noted that this is not specific to just Upper Pottsgrove; this is specific to all municipalities especially due to today's economic conditions.

When **COMMISSIONER MILLER** questioned paying down the debt to the Borough of Pottstown; Mr. Dallas explained that all debt payments are expensed from the Sewer Fund.

ROBERT SLOSS - 2097 Needhammer Road - Expressed his concern that having the Police Officers contribute to their pension fund would be a violation of their contract. Attorney Garner stated that the Township is permitted to request them to contribute under the law and our ordinance and there is no provision in their contract stating that we can't.

With regards to the Sewer Fund; Commissioner Taylor noted that there would not be any increase in sewer rates in the upcoming year. There was a brief discussion with regards to paying off prior year debt to the Pottstown Borough Authority.

The Commissioners expressed their thanks and appreciation to Mr. Dallas for his efforts involved with the preparation of the 2010 Budget.

A motion by Noll, seconded by Spaide, to authorize the Township Manager to make available for public inspection and to authorize the advertisement of the 2010 budget with proposed total revenues of \$2,625,784 and proposed total expenditures of \$2,601,403. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED CELL TOWER

SITE - Attorney Garner provided a brief history of the Agreement the Township signed with Tower One Company to act as the Township's agent to look for potential cell tower sites. Attorney Garner reported that since that time; he along with the Township Manager have worked together to try and come up with potential areas for cell towers. Mr. Garner suggested the open space Slade property that the Township acquired through referendum money as a possibility. Mr. Garner stated the property consists of 186,000 square feet and the cell tower would need approximately 3,000 square feet. Mr. Garner went on to explain that since this is open space property; the revenues the Township would receive from the cell tower carriers would be used for open space maintenance. In response to a question from Commissioner Noll pertaining to the Hillside property; Mr. Garner reported the Township is talking to representatives from Hillside and stated this matter should be discussed in Executive Session since it pertains to real estate acquisition.

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED CELL TOWER

SITE CONT'D - Commissioner Noll stated the Township was told that a cell tower could not be placed behind the baseball fields because it was County supported open space. When Commissioner Noll questioned the location of the Slade property Commissioner Taylor explained it's the grassy area between the ball field and Moyer Road. Commissioner Dolan stated conceptually he is not in favor of the proposed site for the cell tower. Commissioner Miller stated he was in agreement with Commissioner Dolan and noted that when the Township first purchased the Slade property and the schematic was drawn there was discussion regarding using this location for a possible soccer field or use by the school for field hockey practice. Commissioner Noll stated he was in agreement with Commissioner Dolan and expressed his opinion that the location is not suitable for a cell tower. Commissioner Spaide stated her only concern pertained to the "dead areas" within the Township and questioned whether this is the best location for the cell tower. Commissioner Taylor stated he encouraged the discussion and considered the \$ 25,000 in revenue the Township could use toward maintaining the open space. Commissioner Taylor stated all we are doing is considering our options.

KEITH KEHL - 1941 Gilbertsville Road - Questioned if the Township was exempt from the required five (5) acre limit for cell towers. Attorney Garner addressed Mr. Kehl and stated the ordinance, as drafted, states that the Township property would be exempt.

JOHN WEST - 1611 Applegate Lane - Stated he previously questioned whether or not open space would be used for cell towers at a previous meeting and was told "no there is other land available that can be utilized." Mr. West advised this discussion took place during the same meeting whereby the Township voted to enter into an agreement with Tower One.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #569 ESTABLISHING CERTAIN RULES AND REGULATIONS RELATING TO TOWNSHIP WIDE RESIDENTIAL MUNICIPAL WASTE AND RECYCLING COLLECTION SERVICES -

Attorney Garner provided a brief overview of the resolution regarding municipal waster and recycling collection services. A motion by Miller, seconded by Spaide, to adopt Resolution #569. All aye votes.

COMMISSIONER DOLAN - Noted that one of the environmental benefits to the Township would be a reduction in the number of trash trucks driving through the Township which in turn would also be less of an impact on the roads. Commissioner Dolan stated he hopes the residents choose to go with the Township's municipal trash collector.

COMMISSIONER NOLL - Referenced the collection of fees and charges as outlined in paragraph four (4) of the resolution and questioned whether J. P. Mascaro could collect the unpaid bills rather than getting the Township involved; Attorney Garner stated that they (Mascaro) can collect; however if a resident doesn't pay they don't have the option of cutting off their service. He further stated the Township is mandating the service so the Township needs to cooperate in assisting Mascaro in the collection process.

JOHN WEST - 1611 Applegate Lane - Questioned whether a confirmation letter would be sent to those residents who chose to “opt out” of the municipal trash service. Commissioner Taylor stated that Mascaro will be contacting all of their new customers and by the Township sending them the “opt-out” cards they know who not to contact. When Mr. West questioned whether the Township Staff has a spread sheet listing the names of the residents who chose to “opt-out” of the municipal trash service Mr. Layne assured him that we do.

ROBERT SLOSS - 2097 Needhammer Road - Stated he was under the impression that whoever got the bid for municipal trash would handle the collection and now the Township is going to use tax payers’ money to assist Mascaro in collecting their money. Commissioner Taylor explained this section only refers to those residents who don’t pay their bills. Commissioner Spaide added anyone who doesn’t pay their bills gets a lien placed on their property. Mr. Sloss stated this should have been explained in the Newsletter and said it is “unfair.”

DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED POTTSTOWN BOROUGH AUTHORITY RECONCILIATION SETTLEMENT AGREEMENT - Attorney Garner discussed the proposed Settlement Agreement with the Pottstown Borough Authority and noted he added additional language based upon his concerns to make sure that this final payment for the cost of the subject matter of the Agreement brings some finality to the issue that we are being relieved from any further claims brought by the Borough Authority with respect to O & M charges from calendar year 2001 to 2007. Mr. Garner explained that under the terms of the Agreement, as proposed, the negotiated amount for the O & M costs from 2001 to 2007 is \$24,276.50. Mr. Garner explained the other portion of the Settlement Agreement covers the portion of the final constructions costs associated with the Sewer Dryer Project at a cost of \$10,863.88. Mr. Garner stated that upon execution of the Settlement Agreement and upon payment by the Township to the Authority for those amounts the matter will be ultimately and finally concluded and there will be no further claims with respect to these issues between the two bodies. Attorney Garner suggested the payments be made by December 1, 2009. A motion by Spaide, seconded by Noll, to approve the proposed Pottstown Borough Authority Reconciliation Settlement Agreement. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING A RECOMMENDATION BY THE PARKS AND RECREATION BOARD THAT THE RECENTLY ACQUIRED HARTMAN PROPERTY BE NAMED SUSSELL PARK AND THE PRINCE/AUSTERBERRY PROPERTY BE NAMED SUNSET PARK - Commissioner Miller summarized the memo dated November 12, 2009, from the Chairman of the Parks and Recreation Board with regards to naming the Hartman property Sussell Park and the Prince/Austerberry property Sunset Park. Commissioner Miller reported that the Parks and Recreation Board has unanimously approved that these two areas be identified as Sussell Park and Sunset Park. Commissioner Dolan stated in his opinion Sunset Park is not an appropriate name for this property and suggested that something be placed in the next Newsletter to allow the residents to vote. Commissioner Spaide stated that she has lived here all her life and it has always been referred to as Sunset Park. Commissioner Spaide noted the history of the property and explained that years ago there were “shows” at this location and they always played at sunset which is how it got its name.

DISCUSSION AND POSSIBLE ACTION REGARDING A RECOMMENDATION BY THE PARKS AND RECREATION BOARD THAT THE RECENTLY ACQUIRED HARTMAN PROPERTY BE NAMED SUSSELL PARK AND THE PRINCE/AUSTERBERRY PROPERTY BE NAMED SUNSET PARK CONT'D - Commissioner Noll stated he respects the recommendation coming from the Chairman of the Parks and Recreation Committee and he appreciates the historical value and approves of naming the property "Sunset Park." Commissioner Taylor stated he respects the work of the Township Committees and the historical background associated with the property and noted his agreement in naming it "Sunset Park." After further discussion, a motion by Miller, seconded by Spaide, to name the recently acquired Hartman property "Sussell Park" and the Prince/Austerberry property "Sunset Park." Aye votes: Miller, Noll, Spaide and Taylor. Opposed: Dolan. Motion carried.

DISCUSSION AND POSSIBLE ACTION REGARDING AN AGREEMENT AUTHORIZING HOUGH ASSOCIATES TO COLLECT RECYCLING DATA AND TO PREPARE THE 904 RECYCLING GRANT APPLICATION - A motion by Noll, seconded by Dolan, to approve the Agreement with Hough Associates. All aye votes.

OLD BUSINESS:

DISCUSSION AND POSSIBLE APPROVAL OF SUMMER GROVE ESCROW RELEASE #10 FOR \$30,625.50 - A motion by Dolan, seconded by Miller, to approve escrow release #10 for the Summer Grove Subdivision in the amount of \$30,625.50 as recommended by the Township Engineer. All aye votes.

PUBLIC COMMENTS: None

COMMISSIONER COMMENTS:

COMMISSIONER DOLAN - Suggested that the members of the Board hold a "Strategic Planning" meeting in order to establish goals and set priorities for the upcoming years. Commissioner Noll stated he is in favor of holding a meeting; however he is not in favor of bringing in a consultant or paying tax payers dollars. It was agreed that the Township Manager would research any upcoming seminars or training sessions for the Commissioners.

PAYMENT OF BILLS - A motion by Spaide, seconded by Miller, to approve the Bill List dated November 16, 2009, for General Fund in the amount of \$31,964.78; Fire Fund in the amount of \$1,679.95; Sewer Fund in the amount of \$8,818.45; State Fund in the amount of \$3,069.31; Capital Fund in the amount of \$33,016.57 and Open Space Fund in the amount of \$1,790.55. Total Expenditures - \$80,339.61. All aye votes. When Commissioner Noll questioned whether there is a mechanism in place for the reimbursement of the "clean up" expenses associated with 586 Evans Road; Mr. Layne stated he is currently working with the Solicitor in contacting the Bank of America in order for the Township to get reimbursed for those expenses.

APPROVAL OF MINUTES - November 2, 2009 - A motion by Spaide, seconded by Noll, to approve the minutes of the November 2, 2009 **Special Meeting** and the minutes of the November 2, 2009, **Board of Commissioners** meeting as presented. All aye votes.

EXECUTIVE SESSION - At 8:50 P.M. Commissioner Taylor stated the Board would meet in Executive Session to discuss real estate acquisition; however no action would be taken. The meeting reconvened at 9:13 P.M.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Dolan, to adjourn the meeting at 9:15 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary