

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

December 21, 2009

A meeting of the Board of Commissioners was held on Monday, December 21, 2009, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Miller, Noll, Spaide and Taylor present. Also present were Solicitor Charles D. Garner, Township Engineer Chris Hannum, Township Manager Jack P. Layne and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were six 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:

JAMES PAYNE - 150 Mapleleaf Lane - Noted that his address was incorrectly reported in the December 7, 2009, minutes. In response to several questions from Mr. Payne regarding LTL Consultants; Commissioner Taylor explained that they (LTL Consultants) report directly to the Board and submit many reports to the Commissioners which are available to the public upon request. Attorney Garner explained that there is an Engineer's report that is submitted on a monthly basis. Commissioner Taylor clarified that the Board receives an Engineer's report that discusses the on going activities that the Engineer oversees for the Township. Mr. Taylor added the report includes the Farmington Avenue West Sewer Project Phase II and the Regal Oaks Pump Station. In response to concerns expressed by Mr. Payne; Attorney Garner stated that the Board is aware that you have some concerns with respect to your contractor and the project and the Board wants to ensure that you're satisfied with what's going on. When Mr. Payne questioned whether any members of the Board came out to look at the site; Commissioner Noll stated he drove around the area; however, he did not go onto the property. After discussion, Commissioner Taylor encouraged Mr. Payne to meet with the Township Engineer and the Township Manager in an effort to resolve these issues.

REPORTS:

EMERGENCY SERVICES - Commissioner Noll reported that the monthly Police Report will be posted on the bulletin board. He further reported that the Fire Committee did not meet this month. Mr. Noll advised that "Santa" made his annual visit throughout the Township in the new fire truck

PUBLIC WORKS REPORT - Commissioner Spaide reported that a copy of the monthly Highway Report will be posted on the bulletin board. Commissioner Spaide expressed her appreciation to the public works employees regarding the weekend's snow storm and noted they did a great job in plowing the roads. Ms. Spaide reported that the prisoners were recently in the Township picking up trash and noted they will be working periodically in the Township.

PLANNING AND ZONING REPORT - Commissioner Taylor reported that the Planning Commission had its first official look at the proposed plans for Commerce Corner.

PARKS, RECREATION AND OPEN SPACE REPORT - Commissioner Dolan reported the Open Space Committee is moving forward with a proposed parcel of land and hopefully will have something to present to the Board at next month's meeting.

ENGINEER'S REPORT - Commissioner Taylor reported a copy of the monthly report would be posted on the bulletin board.

SOLICITOR'S REPORT - Attorney Garner reported he has filed the necessary paperwork to declare the recently purchased open space property exempt from tax purposes. He further reported that he has been working on some changes to the sewer ordinance and will have a draft of the proposed ordinance within the next week.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported the Township received \$481,328.75 in reimbursement from the PennVest program; he coordinated a meeting with the State, Lower Pottstown, West Pottsgrove and Upper Pottsgrove representatives to discuss and move forward on the proposed Police Regionalization endeavor; assisted in efforts to monitor the Regal Oaks Pumping Station and Farmington Avenue West Phase II Projects and coordinated efforts with J.P. Mascaro to move forward on the Single-Hauler Trash Collection and Recycling Contract. Mr. Layne expressed his thanks to Reggie Leister and noted that due to his efforts the meeting room is now "wireless." Mr. Layne also expressed his thanks and appreciation to Commissioner Dolan for his efforts with regards to the Police Regionalization. When **COMMISSIONER NOLL** questioned when J.P. Mascaro would deliver the totters to the residents; Mr. Layne stated December 28, 2009.

MONTHLY FINANCIAL REPORT - Mr. Layne reported that as of November 30, 2009, the Township has received 103.8% in revenue and has expended 92.1% in expenses as projected in the 2009 budget.

NEW BUSINESS:

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #570 PROVIDING THE OPPORTUNITY FOR THE TOWNSHIP TO UTILIZE A TAX ANTICIPATION NOTE IN 2010 - A motion by Spaide, seconded by Miller, to authorize the temporary borrowing from Fulton Bank in an amount not to exceed \$300,000.00. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING A VARIANCE REQUEST SUBMITTED BY RENOVATIONS BY DESIGN, INC. TO THE ZONING HEARING BOARD - Commissioner Taylor reported an appeal has been filed with the Zoning Hearing Board by Renovations by Design, Inc., requesting a variance. The property is situated in the CO Commercial Office District and is located at the intersection of Laura Lane and Farmington Avenue. Commissioner Taylor noted that there has been a preliminary approval on this property for the last four or five years. He further noted that the Developer is requesting a reduction from the required 20 foot parking setback requirement of the Zoning Ordinance to permit the construction of the parking spaces at a distance of 10 feet from the Laura Lane right-of-way. Mr. Taylor reported the Planning Commission has reviewed the variance request. Commissioner Miller advised that the Planning Commission suggested the required 20 foot setback along Farmington Avenue. After a brief discussion, the members of the Board agreed to take no formal action regarding the request.

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED CELL TOWER LEASE AGREEMENT

Commissioner Taylor reported the Township has been working together with the Hillside Aquatic Club as well as Tower One regarding the possible lease of a cell tower. Attorney Garner stated the Board previously entered into an Agreement with Tower One, which is a company that explores the municipality looking for the best possible location for potential cell towers. He further stated that he along with Mr. Layne and representatives from TowerOne met on several occasions and looked for potential areas that would best serve the community. Mr. Garner announced that they have located a site that would be conducive for a cell tower and provided the Board members a synopsis of a proposed Lease Agreement between the Township and TowerOne. Mr. Garner explained the Township is trying to work an easement agreement with the Hillside Aquatic Club and would like to pass the Lease Agreement subject to finalizing the easement agreement with Hillside Aquatic. He further explained that TowerOne would lease from the Township a site 50'x 50' to construct a monopole cell tower. With respect to the financial arrangement there would be a revenue sharing arrangement whereby the Township would receive 40% of the revenue generated by the tower for the first six (6) carriers that are on the pole; thereafter the Township would receive 25% of the revenue share from any additional carriers above six. The Lease Agreement would be a twenty nine (29) year term and TowerOne would be obligated to pay all costs associated with the site including insurance, taxes, utilities, etc. Mr. Garner advised that in the Lease Agreement there is a requirement that TowerOne post \$5,000 in escrow to the Township to guarantee that the facility is removed at the conclusion of the lease. TowerOne has agreed to reimburse the Township \$1500 in legal fees and to improve the site that is presently owned by Hillside Aquatic to address some storm water drainage issues. Mr. Garner provided a site plan showing the proposed location of the compound and also a diagram of the compound and the type of landscaping and fencing that is proposed around the 50'x 50' area. When **COMMISSIONER MILLER** asked what type of pole would be constructed; Attorney Garner stated a monopole with no flag. Commissioner Miller expressed concern with regards to the placement of the antennas and noted if they are placed inside it makes for a cleaner looking pole. Both **COMMISSIONER MILLER** and **COMMISSIONER NOLL** expressed their concern regarding the location of the proposed cell tower. Commissioner Noll asked if it could be shifted away from the driveway. Commissioner Taylor stated it is easily accessible, the proposed location is at a level spot and the Hillside Aquatic Club has agreed to this location. Commissioner Miller expressed concern regarding "securing the site." In response to a question from **COMMISSIONER MILLER** with respect to maintaining the trees that are planted around the cell tower; Attorney Garner advised that TowerOne is required to fully maintain that area for the term of the Lease Agreement with the Township and failure to do so is a breach of the lease. When **COMMISSIONER MILLER** expressed concern regarding the type of landscaping proposed; Attorney Garner stated he would request that TowerOne intensify the buffer around the site. Mr. Garner noted that Hillside Aquatic Club will also have to approve the layout and design of the compound. When **COMMISSIONER MILLER** questioned the type of fencing proposed; Attorney Garner stated galvanized chain link with slats. **COMMISSIONER NOLL** suggested the same type of fencing be used that currently surrounds the cell tower at the Municipal Building. **COMMISSIONER SPAIDE** questioned the time frame involved for the completion of the cell tower. Attorney Garner stated that the representatives from TowerOne would like to have the tower constructed by early spring, weather permitting.

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED CELL TOWER LEASE AGREEMENT CONT'D - There was a brief discussion regarding the installation of bollards in order to protect the equipment inside the compound. After further discussion, a motion by Dolan, seconded by Spaide, to approve and authorize the execution of the Lease Agreement with TowerOne with the final form subject to the agreement of the Township Manager and Solicitor and subject to the execution of an easement agreement with Hillside Aquatic Club and the Township reviewing and approving TowerOne's Agreement with the individual carriers. The Lease Agreement will also contain the following additional requirements and conditions: increase the landscape buffer intensity with the additional landscaping to be acceptable to the Township and a change in the fencing requirement. Aye votes: Dolan, Noll, Spaide and Taylor. Nay: Miller. Motion carried.

DISCUSSION AND POSSIBLE ACTION REGARDING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE UPPER POTTS GROVE TOWNSHIP FIRE COMPANY NO.1 AND UPPER POTTS GROVE TOWNSHIP - Commissioner Noll provided a brief history with regards to the Memorandum of Understanding between the Fire Company and Upper Pottsgrove Township. Mr. Noll explained that due to improved financial security and the growing membership of the Fire Company it is the recommendation of the Fire Committee that the Board of Commissioners dissolve the Memorandum of Understanding and allow them to return to the status of Fire Company with an elected Board of Directors. When **COMMISSIONER SPAIDE** questioned whether the Fire Company Board of Directors would be submitting reports to the Fire Committee; Commissioner Noll stated the Board of Directors would be giving reports to the President, the Chief and the Fire Committee. Attorney Garner explained that when the Memorandum of Understanding was created; the intent was to make the Fire Service Committee essentially take the place of the Board of Directors as the governing body. He further explained that the Fire Company would like to reinstitute a Board of Directors. Mr. Garner added that the Fire Service Committee could continue to exist but they would become powerless and would have no legal authority to run the Fire Company. Attorney Garner noted that one of the items in the Memorandum of Understanding initially was to require the Fire Company to amend its by-laws to specifically provide for a governing body being the Fire Service Committee. That being done; the Fire Company would have to amend their by-laws, eliminate the Fire Service Committee as the governing body and redraft the by-laws to allow a Board of Directors to again govern the Fire Company. **COMMISSIONER DOLAN** stated that he is very proud of the accomplishments of the Fire Company; however, he stated that in his opinion there should be at least one (1) member of the Commissioners on the Fire Company Board of Directors. **COMMISSIONER TAYLOR** stated he is very pleased with the accomplishments of the Fire Company over the past four (4) years. He further stated that over that time we have seen a true resurrection of the Fire Company and the involvement of the Board of Commissioners which is above and beyond what is seen in any other community. Mr. Taylor stated the members of the Board are no longer worried about what is going on with the Fire Company because we **KNOW** what is going on. Mr. Taylor stated he doesn't want to change the current relationship that has been established between the Fire Company and the Board of Commissioners. **COMMISSIONER MILLER** extended his thanks and appreciation to Commissioner Noll, Commissioner Spaide and to the Township Manager and stated we are all working together on the "same team" in safeguarding the residents of the Township.

COMMISSIONER NOLL stated it is the intent of the Fire Company to have the Fire Committee remains as the liaison with the same appointment structure. He further stated that the Memorandum of Understanding was never intended to be a permanent document; it was a “kick start.” After further discussion, it was agreed that some minor changes be made to the by-laws to incorporate an effective Board of Directors and to establish the mutual goals of the Fire Company and the Township.

DISCUSSION AND POSSIBLE ACTION REGARDING THE FILLING OF VACANT TOWNSHIP COMMITTEE APPOINTMENTS - There was a brief discussion regarding whether the Township has a Historical Committee as opposed to an ADHOC Committee. Commissioner Dolan stated the Township has an ADHOC Committee to place signs on historical buildings and barns throughout the Township. After discussion, it was agreed to take action regarding the filling of vacant Township Committee Appointments at the Re-organizational Meeting in January.

DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED BOARD AND COMMITTEE 2010 MEETING SCHEDULE - The members of the Board briefly reviewed the proposed 2010 meeting schedule. Commissioner Dolan suggested the possibility of merging the Park and Recreation Committee with the Open Space Committee. After a brief discussion, a motion by Spaide, seconded by Miller, to authorize the Township Manager to advertise the January 4, 2010, Board of Commissioners meeting. All aye votes.

PUBLIC COMMENT:

In response to a question from **DIANA UPDEGROVE, 1404 Farmington Avenue**, regarding the placement of additional carriers on the cell tower; Attorney Garner reported that TowerOne is required to notify and provide the Township with a report showing the revenue taken in on a monthly basis. He further reported that communications with the representatives from TowerOne has been very good.

In response to a question from **KEITH KEHL, 1941 Gilbertsville Road**, Mr. Layne stated that out of 1,900 residents 1,100 chose to “opt-out” of the trash hauler contract with J.P. Mascaro.

COMMISSIONERS COMMENTS:

COMMISSIONER MILLER - Addressed Engineer Chris Hannum and requested that he extend his compliments to Zoning Officer John Wescavage and noted that he (Wescavage) is “right on top of things going on in the Township.”

COMMISSIONER NOLL - Expressed his concern regarding the water pressure through out the Township. Commissioner Taylor stated the Township is anticipating an improvement with the additional water line is installed along Gilbertsville Road.

COMMISSIONER MILLER - Requested the Chief breakdown the types of vandalism as depicted on the monthly Police Report.

COMMISSIONER DOLAN - Reported the Township held a meeting with Lower and West Pottsgrove Townships to discuss the Regionalization of the Police Force.

PAYMENT OF BILLS - A motion by Dolan, seconded by Noll, to approve the Bill List dated December 21, 2009, for General Fund in the amount of \$50,141.60; Fire Fund in the amount of \$1,825.54; Sewer Fund in the amount of \$5,191.10; Capital Fund in the amount of \$2,111.36; Open Space Fund in the amount of \$11,107.10; State Fund in the amount of \$3,159.41 and Escrow Fund in the amount of \$9,174.00. Total Disbursements - \$82,710.11. All aye votes.

APPROVAL OF MINUTES - December 7, 2009 - A motion by Spaide, seconded by Noll, to approve the minutes of the December 7, 2009, as amended. All aye votes.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Noll, to adjourn the meeting at 8:30 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary