

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

**March 15, 2010**

A meeting of the Board of Commissioners was held on Monday, March 15, 2010, 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 Engineer John Theisen, Township Manager Jack P. Layne, Township Secretary Cynthia Saylor, Public Works Director Frank Quinter and Police Chief William Moffett. There were 60 people and a Mercury reporter present in the audience. Commissioner Taylor called the meeting to order at 7:00 P.M.

**MOMENT OF SILENCE** - Commissioner 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:**

**GILBERT DUNCAN - 72 Hanover Drive** - Expressed his concern that he and his wife pay the same sewer rate as his neighbor where there are eight (8) people living there. Mr. Duncan questioned the possibility of metering the water usage in an effort to lower the sewer rates. Commissioner Taylor stated the Sewer Committee is looking into the matter.

**JOHN WEST - 1611 Applegate Lane** - Noted that the fire hydrant located at the intersection of Fallbrook Lane and Applegate Lane is leaning at a 45 degree angle.

**EMERGENCY SERVICES REPORT** - Commissioner Noll stated that the Police Department and Police Officers as well as the Fire Department, Firefighters and Fire Police have been very busy the past few weeks due to the weather. Mr. Noll noted that a copy of the monthly Police Report will be posted on the bulletin board. Mr. Noll reported that the Fire Committee will meet on Thursday, March 18, 2010 at 8:00 P.M. Mr. Layne reported that on Thursday, March 25, 2010 there will be an Emergency Management Exercise from 9:00 A.M. to 3:00 P.M.

**COMMISSIONER MILLER** questioned the Police Chief regarding the vandalism and burglary as noted on his monthly police report. Chief Moffett explained the two counts of vandalism were to cars and the burglary took place on North Charlotte Street.

**COMMISSIONER NOLL** questioned whether the Township has any barricades to use for road closures. Public Works Director, Frank Quinter, explained that the Township has barricades; however, we use cones instead because the people tend to run the barricades over.

**GILBERT DUNCAN - 72 Hanover Drive** - Stated that road closures must be properly guarded i.e. Fire Police.

**PLANNING & ZONING REPORTS** Commissioner Taylor reported that the Planning Commission discussed the new technology concerning LED signage.

**PUBLIC WORKS REPORT** - Commissioner Spaide expressed her thanks and appreciation to the Public Works Department for all their efforts with regards to the damage caused by this weekend's rain. Commissioner Spaide noted that a copy of the Public Works monthly report would be posted on the bulletin board. She further noted upgrades to the Pineford Road pumping station will begin this week weather permitting.

**PARKS, RECREATION AND OPEN SPACE REPORT** - Commissioner Miller reported that discussion and possible positive action on the sale of the development rights/Conservation Easement with the Grim property will take place later during the meeting. He further reported that signs at Hartman Park and Sunset Park should be erected, weather permitted, by mid-April. Commissioner Miller stated that on Saturday, April 24, 2010, the entire state of Pennsylvania will be working on "Beautifying Our Roadways" and noted that he has recruited eleven (11) volunteers to help with the litter problem on our parks and roadways.

When **JOHN WEST, 1611 Applegate Lane**, questioned the number of acres on the Grim property; Commissioner Miller stated seventeen (17) acres.

**SPECIAL TOWNSHIP PROJECTS** - Commissioner Dolan reported that a meeting will be held on April 1, 2010, to present the Regional Police Report.

**TOWNSHIP ENGINEER** - It was noted that a copy of the monthly Engineer's report would be posted on the bulletin board.

**TOWNSHIP SOLICITOR** - Attorney Garner reported that he along with Township Engineer John Theisen have been working on amendments to the Subdivision and Land Development Ordinance and noted that a public hearing will be held on April 19, 2010, and a draft of the proposed ordinance will be available in the next few days. Attorney Garner discussed a provision of Act 44 which was a pension ordinance adopted last year by the State Legislature. Mr. Garner explained a requirement that anyone who provides pension service to the Township or actuarial service needs to be done so through a public bidding process. He further stated that the Act also requires that the Township establishes a procedure to ensure that there is no conflict of interest with anyone that provides pension services to the Township.

**TOWNSHIP MANAGER** - Mr. Layne reported he supported efforts to prepare and submit the required documentation for the H2O and PennVest programs; received payment for third reimbursement request from the PennVest program; received compliments from residents verifying the fine snow removal efforts provided by the Public Works Department; assisted in efforts to monitor the Regal Oaks Pumping Station and Farmington Avenue West Phase II Projects; and monitored the North State Road improvement project which recently began. Mr. Layne expressed his thanks and appreciation to the Public Works Department for their efforts regarding the snow removal during the recent snow storms. Mr. Layne introduced Mary Highland, who was present in the audience, as our new part-time Police Secretary.

**JOHN WEST - 1611 Applegate Lane** - Expressed his concern regarding the condition of the firehouse parking lot and the lack of lighting. Mr. Layne noted that the lighting problem has been resolved.

**FINANCIAL REPORTS** - Copies of the monthly Financial Reports were provided to the members of the Board in their meeting packets.

**NEW BUSINESS:**

**DISCUSSION AND POSSIBLE ACTION ON SALE OF THE DEVELOPMENT RIGHTS/CONSERVATION EASEMENT WITH THE GRIM PROPERTY** - Commissioner

Taylor stated that the Grim property is located on the corner of North Hanover Street and Maugers Mill Road. Commissioner Miller noted that the Grim property is contiguous to the Mocharniuk Meadows property which is contiguous to the Hollenbach property. A motion by Miller, seconded by Spaide, to approve the contract for the sale of the development rights/conservation easement with the Grim property. All aye votes. Attorney Garner explained that this is the first time the Township has been in a position to acquire Development Rights or a Conservation Easement as part of the Open Space Program. He further explained that, in the past, the Township has purchased the parcels outright through simple acquisition. Mr. Garner stated that over the past eleven years the Township has been involved with ongoing negotiations with members of the Grim family to acquire this property. During the past few months the Township has met with the Grim's to try and work out an acceptable agreement of sale for the development rights in the form of a conservation easement. The Township has partnered with the Montgomery County Lands Trust and they (Lands Trust) were of assistance in advising the Grim's and explaining to them the benefit of a conservation easement and how they would still have the use of their property for farming and at the same time the Township will be provided permanent open space, we'll have a trail through a portion of the property and essentially it's a "win win" for everyone. Mr. Garner advised the Township is acquiring seventeen (17) acres for a total purchase price of \$144,500.00 which is a lot less than if the Township had purchased the property outright. He further advised that part of the Agreement would require a survey to be done to ensure that the existing home and barn is encompassed with the useable areas so whoever would buy the house and barn would have the ability to use it and the Township is guaranteed that the open space will stay preserved either for agricultural purposes or a natural habitat with the exception of the trail.

**DISCUSSION AND POSSIBLE APPROVAL OF AN AGREEMENT WITH THE MONTGOMERY COUNTY LANDS TRUST FOR THE GRIM CONSERVATION**

**EASEMENT** - Attorney Garner explained that the Montgomery County Lands Trust would oversee the easement and make sure that everything is proper according to the terms of the document. In response to a question from Commissioner Taylor; Attorney Garner stated the Montgomery County Lands Trust would monitor the use of the easement area to make sure that everyone is complying with the terms and conditions of the agreement.

**KEITH KEHL - 1941 Gilbertsville Road** - Questioned the length of the Agreement. Attorney Garner stated the easement will be in perpetuity. Commissioner Taylor explained it will remain in the family, they can sell it between family members, if it is ever sold outside of the family the Township has the Right of First Refusal; but the easement goes on no matter who owns it.

**DISCUSSION AND POSSIBLE APPROVAL OF AN AGREEMENT WITH THE MONTGOMERY COUNTY LANDS TRUST FOR THE GRIM CONSERVATION EASEMENT CONT'D** - After discussion, a motion by Miller, seconded by Spaide, to approve the Agreement with the Montgomery County Lands Trust for the Grim Conservation Easement subject to the review of the Township Manager, Solicitor and Commissioners. Mr. Garner explained the costs involved with regards to the work related to the conveyance of the easement to be approximately \$6,800.00 and legal expenses to be approximately \$1,800.00. All aye votes.

**DISCUSSION AND POSSIBLE APPROVAL REGARDING PROPOSED TOWNSHIP ROAD IMPROVEMENTS** - Commissioner Taylor referenced the Memorandum dated March 10, 2010, from the Public Works Director and outlined the proposed 2010 Road Program as follows: Mock Road from house #520 to Needhammer Road; 1339 Farmington Avenue; repair Snyder Road Bridge; Irwin Place, from Farmington Avenue to Hanover Drive, part of Hanover Drive and Chestnut Grove Road. Mr. Taylor noted the total costs for the above listed road improvements is \$113,445. Commissioner Spaide stated that in her opinion Irwin Place is not as bad as some of the other roads throughout the Township. Commissioner Noll stated he was speaking in support of the residents that live along Irwin Place and use that road. He further stated that if the Board agrees to repair Irwin Place as outlined in the memorandum there will still be a surplus to carry over to next year. After discussion, a motion by Noll, to approve the memorandum outlining the 2010 Road Program as presented. After further discussion, Commissioner Noll amended his motion to read – a motion by Noll, seconded by Dolan, to approve the memorandum outlining the 2010 Road Program with the exception of Irwin Place. All aye votes.

**GILBERT DUNCAN - 72 Hanover Drive** - Stated that the last time Irwin Place was paved Commissioner Spaide lived there. Mr. Duncan expressed his concern regarding the numerous pot holes throughout the Windsor Heights development.

**COMMISSIONERS COMMENTS:**

**COMMISSIONER TAYLOR** - Suggested that the Board meet only once during the month of June to accommodate those Commissioners attending the PSATC Convention. After a brief discussion, a motion by Noll, seconded by Dolan, to cancel the Board of Commissioners meeting scheduled for June 21, 2010. All aye votes.

**PAYMENT OF BILLS** - A motion by Dolan, seconded by Noll, to approve the Bill List dated March 15, 2010 for General Fund in the amount of \$36,940.87; Fire Fund in the amount of \$2,461.63; Sewer Fund in the amount of \$5,988.88; Capital Fund in the amount of \$53,040.36; Open Space Fund in the amount of \$2,110.05; State Fund in the amount of \$9,519.73 and Escrow Fund in the amount of \$4,382.38. Total Disbursements - \$114,334.70. All aye votes.

**DISPOSITION OF RECORDS** - Mr. Layne noted that the Township has 52 cubic feet of old records that need to be destroyed.

**APPROVAL OF MINUTES - March 1, 2010** - A motion by Spaide, seconded by Dolan, to approve the minutes of the March 1, 2010, meeting as presented. All aye votes.

**EXECUTIVE SESSION** - At 7:45 P.M. Commissioner Taylor stated the Board would be meeting in Executive Session to discuss potential litigation with regards to Regal Oaks; with no decisions being made. The meeting reconvened at 8:00 P.M.

**PUBLIC HEARING - CONDITIONAL USE HEARING ON THE APPLICATION OF COMMERCE CORNER** - Attorney Garner explained the Conditional Use Hearing is on the application of Commerce Corner, L.P., c/o Diamond Real Estate Investments, LLC. The Applicants are legal/equitable owners of approximately 37.59 acres of property located at the northeast corner of the intersection of Route 100 and State Road in Upper Pottsgrove Township, Montgomery County, Pennsylvania. The subject property is zoned RO - Retail Office, LI - Light Industrial, and R-4. The Applicants proposed to construct a shopping center with approximately 172,000 square feet consisting of a movie theater, retail uses, restaurants, and associated driveway and parking facilities. A shopping center is permitted by conditional use pursuant to the Township's Zoning Ordinance. Attorney Garner introduced Attorney Michael Murray with the law firm of Riley/Riper/Hollin & Colagreco. Mr. Murray stated he was present tonight on behalf of the applicant, Diamond Real Estate Investments, LLC. Attorney Robert McNelley introduced himself and stated he was representing some of the concerned business owners along Commerce Drive. Attorney Murray requested a continuance of the hearing based on the need for further discussion and suggested a meeting with Attorney McNelley and his clients to address some of their concerns. After a brief discussion, a motion by Miller, seconded by Dolan, to grant the continuance request until Monday, March 29, 2010 at 7:00 P.M. All aye votes.

**ADJOURNMENT** - There being no further business, a motion by Spaide, seconded by Miller, to adjourn the meeting at 8:15 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,  
Township Secretary