

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

**June 7, 2010**

A meeting of the Board of Commissioners was held on Monday, June 7, 2010, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Noll, Miller, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Engineer Chris Hannum, Township Manager Jack P. Layne, Public Works Director Frank Quinter, Township Secretary Cynthia Saylor and Police Chief William A. Moffett. Mr. Taylor called the meeting to order at 7:02 P.M. There were 8 people present in the audience.

**MOMENT OF SILENCE** - Mr. Taylor requested a moment of silence in honor of the men and women who are currently serving and those who have served our country in the armed forces.

**PLEDGE OF ALLEGIANCE** - Those assembled pledged allegiance to the flag.

**PUBLIC COMMENT:** None.

**NEW BUSINESS:**

**DISCUSSION ON ORDINANCE #443 THAT CREATES A NEW CHAPTER 297 REGULATING SOLID WASTE AND RECYCLING** - Township Solicitor Chuck Garner explained that the proposed Trash Ordinance amendment essentially reviews and revises the existing Chapter 297, Solid Waste. He further explained that the proposed Ordinance basically consolidates what we presently have and hopefully makes it more simplistic with respect to understanding requirements. It also attempts to incorporate the new requirements of the Township's Municipal Waste hauler's contract so that all the residents are getting the same level of service that we are asking the designated hauler to provide. Commissioner Noll expressed concern that the contract with J.P. Mascaro is consistent with the proposed ordinance. Commissioner Dolan expressed a concern with regards to leaf waste. After discussion, Solicitor Garner requested the Board review the proposed Ordinance and forward any comments to the Township Manager prior to the July 19, 2010, meeting. A motion by Noll, seconded by Dolan, to authorize the advertisement of the proposed ordinance. All aye votes.

In response to a question from **JOHN WEST, 1611 Applegate Lane**, with regards to magazines; Commissioner Miller suggested Mr. West take his magazines and newspapers to the "paper recycle bins" that have been placed at the Pottsgrove Middle School. Mr. Miller explained that the proceeds from these "bins" benefit the school.

**DISCUSSION AND POSSIBLE ACTION ON \$54,300 BASE REPAIR INCLUDING 81 TONS OF LEVELING COURSE FOR FARMINGTON AVENUE AND EVANS ROAD** -

Commissioner Taylor provided a brief history with regards to the current Farmington Avenue West sewer project and noted that the plan was to repave Farmington Avenue and those costs have been included for in the funding through PennVest and through the H20 grant money. Mr. Taylor explained that there are some base repairs that need to be done prior to the overlay. Public Works Director, Frank Quinter, stated that if the base repair is not done prior to the overlay the cracking will return within 1-2 years damaging the new overlay and shortening the life expectancy of both Farmington Avenue and Evans Road.

**DISCUSSION AND POSSIBLE ACTION ON \$54,300 BASE REPAIR INCLUDING 81 TONS OF LEVELING COURSE FOR FARMINGTON AVENUE AND EVANS ROAD CONT'D –**

Commissioner Taylor explained that this type of work is not eligible for either the PennVest funding or the H20 grant money. In response to a question as to “where the money will come from” Mr. Layne stated the expense would come out of the Capital Fund. He further stated that the Pottstown Borough Authority owes the Township a considerable amount of money for the H2O grant reimbursement for the York/Beech Street project. Mr. Layne noted that when the Township receives reimbursement from the Borough of Pottstown the funding for the paving will be in place. When Commissioner Miller asked when the Township can expect the money from Pottstown; Mr. Layne stated he spoke with the Borough’s Finance Director and they are unsure when they will get their reimbursement. Commissioner Noll suggested the Manager check the Commonwealth Financial Authority web-site to see if any distribution to the Borough has been made. Mr. Noll stated that if Pottstown is listed as having received the money it is his recommendation that a letter be sent requesting payment to the Township for our share within thirty (30) days. Mr. Layne agreed to look into the matter. Commissioner Miler requested a clarification with regards to the reimbursement process from the Borough of Pottstown. A motion by Spaide, seconded by Miller, authorizing the funding to be paid from the Capital Fund. All aye votes. Attorney Garner explained that the Township has an Agreement with the Borough of Pottstown that states when they (Borough) receive their money; they owe us half.

**JOHN WEST - 1611 Applegate Lane** - Requested clarification as to the total cost of the Farmington Avenue/Evans Road paving project. When Mr. West questioned whether the Township anticipates digging the road up in the near future; Mr. Layne stated there is nothing currently “on the table.”

**DISCUSSION AND POSSIBLE ACTION ON ROAD IMPROVEMENTS FOR BOXWOOD COURT AND MIMOSA LANE**

- Commissioner Taylor reported that the Township has done a lot more work than what was originally anticipated by virtue of having to install the electrical lines in the street rather than in the residents’ yards. Chris Hannum, LTL Consultants, stated it is his recommendation to have Barry Hoffman and Abbonizio each repair their trenches in Mimosa Lane and Boxwood Court in preparation for the overlay. Mr. Hannum explained that Abbonizio has about 200 feet of sewer trench to repair at a cost of approximately \$4,600 and Hoffman has about 1400 feet of trench to repair at a cost of approximately \$21,500. Commissioner Noll stated that when the electrical contractor (Hoffman) was given the contract to install the electrical lines to the new pump station they were to restore the trench where they laid the lines back to its original condition. He further stated that the trench restoration was part of the original contract. Mr. Hannum clarified that the trench restoration, which will cost approximately \$21,500, is part of the electrical allowance. Commissioner Taylor reiterated that originally the electrical lines were going to be installed under the residents’ yard as opposed to the street; however because of the condition of the road and the timeframe involved the Township asked permission to install the lines in the street. Mr. Taylor explained that there is a difference in the cost and in addition the trenches need to be restored. This is above and beyond the contract; above and beyond what PennVest will invest in; above and beyond what the H20 grant will cover. Commissioner Noll stated that the Township now has to pave curb to curb of overlay because we tried to make the project easier and now we made the road worse.

**DISCUSSION AND POSSIBLE ACTION ON ROAD IMPROVEMENTS FOR BOXWOOD COURT AND MIMOSA LANE CONT'D**

- Commissioner Noll expressed his concern that the Township will now spend much more money to pave the entire street when everything should have been covered under the original contract. Mr. Noll stated if we did the project the way it was originally planned we wouldn't be spending additional money. Public Works Director, Frank Quinter, stated we don't know what we would have encountered had we gone through the residents properties. When Commissioner Spaide asked how much more the Township will spend; Mr. Hannum stated he is estimating approximately \$55,000 for the additional overlay. Mr. Quinter suggested contacting the company (Couzins, Inc.) that was awarded the 2010 road projects and possibly make a change order with them if they are in agreement. After further discussion, it was agreed to table any further action to a future meeting.

**DISCUSSION ON PURCHASING TREATMENT CAPACITY FROM THE BOROUGH AUTHORITY**

- Commissioner Taylor explained the money to purchase treatment capacity for the Regal Oaks pump station is already included in this year's budget through H2O grants and PennVest loans. However, the Township has the opportunity to purchase additional capacity at the same time. Commissioner Taylor advised that the Township exceeded its allotment last year. Attorney Garner stated that under the Agreement with the Borough of Pottstown the Township needs to pay a rental lease payment for the next twelve (12) months based upon the fact that our flows exceeded what we're permitted. Commissioner Taylor explained that if the Township purchases additional capacity the Borough will waive the lease payment charge of \$6,410. Attorney Garner stated it costs approximately \$1300 per EDU or about \$73,000 for 56 additional EDUs. He further stated the Township is obligated to purchase 179 EDUs to cover the residents in Regal Oaks. There was a lengthy discussion as to whether the Township could afford to purchase a total of 235 EDUs. Attorney Garner stated his recommendation to purchase the 235 EDUs was based on the fact that if the Township purchased the additional capacity we would first save the \$6,410 payment to the Borough of Pottstown and second have extra capacity on hand.

When Developer, **RICH MINGEY** asked if there is a maximum amount of additional capacity that the Borough is allowing the Township to buy; Attorney Garner stated the Township is allowed to purchase 238,000 gallons and right now we're only looking to buy 70,000 gallons of that total amount.

When **JOHN WEST, 1611 Applegate Lane**, asked the exact figure that PennVest is paying for the sewer project; Mr. Hannum replied the Township is eligible to borrow \$197,300. Mr. West stated if the Township purchases 235 EDUs it will cost \$305,500. Attorney Garner stated it will cost the Township \$232,700 just to purchase the 179 EDUs for Regal Oaks. Commissioner Taylor explained that the Township is short \$36,000 just to cover what we have to purchase; this does not include any additional capacity nor does it take care of the extra rental charge.

After further discussion, a motion by Noll, seconded by Dolan, to authorize the purchase of 179 EDUs from the Borough of Pottstown. All aye votes.

**DISCUSSION AND POSSIBLE RECOMMENDATION ON ZONING HEARING BOARD**

**APPLICATION #1-10 FOR BRUCE STOUDT** - An appeal has been filed with the Zoning Hearing Board by Bruce Stoudt, requesting a variance. The property is situated in the Residential District and is located at 831 Farmington Avenue. The applicant has requested a variance in order to install a storage shed on the property which would have a 6.5 foot setback instead of the required 10 foot setback from property lines. A public hearing will be held by the Zoning Hearing Board on Wednesday, June 30, 2010 at 7:30 P.M. The Board agreed to take no formal action.

**OLD BUSINESS:****DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSAL TO REPAVE THE**

**TOWNSHIP ADMINISTRATIVE OFFICE PARKING LOT** - Commissioner Taylor reported the Township had previously reviewed an estimate submitted by Stern Nester in the amount of \$9,500 to pave the Township Administrative Office parking lot. Mr. Layne advised there is sufficient money in the Capital Fund for the paving. Commissioner Miller requested clarification as to the exact area to be paved as outlined in the proposal submitted by Stern Nester Paving. Commissioner Miller questioned the Public Works Director as to whether the macadam includes going down towards State Street, where the yellow rubber bars are, and whether it includes tying into State Street. Mr. Quinter responded in the affirmative. Mr. Miller stated that the cement bumpers should also be replaced. Commissioner Miller suggested having the building painted by the prisoners prior to the paving of the parking lot. After discussion, a motion by Noll, seconded by Miller, to honor the agreement with Stern Nester Paving in the amount of \$9,500. All aye votes.

**REQUEST FOR EXTENSION FOR THE BACHMAN AND BOERNER SUBDIVISIONS -**

Commissioner Taylor reported that the Developer has requested an extension of the Final Plan Approvals for the Bachman and Boerner subdivisions until December 31, 2011. A motion by Spaide, seconded by Dolan, to approve the extension request for the Bachman and Boerner Subdivisions until December 31, 2011. Aye votes: Dolan, Noll, Spaide and Taylor. Opposed: Miller. Motion carried.

**LEGISLATIVE ACTION CALL - FIREFIGHTER CANCER PRESUMPTION BILL -**

Commissioner Noll explained House Bill #1231, a firefighter (paid and volunteer) cancer presumption bill, passed the House and is in the Senate Labor Relations Committee. He further explained that if enacted, this bill would result in a very expensive unfunded mandate and will possibly affect the Township's Workers' Compensation coverage. PSATC has been working with other local government associations to keep the bill from moving any further in the process. Commissioner Noll recommended the Manager send a letter noting the Township's opposition to the proposed Bill to Senator Rafferty. A motion by Miller, seconded by Spaide, to authorize the Township Manager to send a letter to Senator Rafferty. All aye votes.

**HILLSIDE AQUATIC CELL TOWER FENCING** - Commissioner Taylor reported that

TowerOne is proposing to install an eight (8) foot high shadowbox fencing in lieu of the typical chain link fence around the cell tower located at the Hillside Aquatic Club. Attorney Garner noted that originally TowerOne was proposing a white vinyl fence.

**HILLSIDE AQUATIC CELL TOWER FENCING CONT'D** - When Commissioner Noll questioned “why the change”; Commissioner Miller stated the wooden fence does not require any maintenance and will look much better with the wooded background. In response to a question from Commissioner Noll as to who requested the change; Attorney Garner explained that TowerOne talked to representatives from the swim club and said that they have found that shadowbox fencing looks better than the white vinyl. Commissioner Noll referenced the fencing that is currently around the cell tower at the police station and stated he likes the way it looks. Commissioner Taylor noted that Hillside has no problem with the change in the type of fencing to be installed. After further discussion, a motion by Spaide, seconded by Dolan, to authorize the installation of the wooden fencing as proposed by TowerOne. Aye votes: Dolan, Miller, Spaide and Taylor. Opposed: Noll. Motion carried.

**WOODBROOK COMMERCIAL** - Attorney Garner reported that Woodbrook Commercial received its final plan approval through a resolution earlier this year and noted that one of the conditions of approval was a Developer’s Agreement. He further reported that he is currently working on the Agreement and forward a copy to Mr. Minge’s Attorney for his review. It was agreed that Commissioner Taylor would execute the Woodbrook Commercial Developer’s Agreement and the Board would ratify the approval at their meeting in July.

**POSSIBLE CELL TOWER LOCATION** - There was a brief discussion regarding the possible placement of a cell tower on the Township’s open space parcel located on the Smola property. Commissioner Miller explained that the Township was originally looking close to Route 100 for the placement of a tower; however, since it would take some road construction to access the tower it makes sense to move the location back further into the woods. He further explained that the tower would be basically hidden and out of sight. Commissioner Taylor the proposed location is between Mr. Minge’s property along West Moyer and Evans Roads. Mr. Minge, who was present in the audience, stated he would be happy to work with the Township with regards to the placement of the cell tower.

**PUBLIC COMMENT:**

None

**COMMISSIONER COMMENTS:**

**COMMISSIONER SPAIDE** addressed Commissioner Miller and pointed out that the Mangers Mill Road repairs have been done.

**TOWNSHIP MANAGER** - Reported that the next Board of Commissioners meeting is scheduled for Monday, July 19, 2010 and a Strategic Planning Group Meeting is scheduled for Monday, June 28, 2010. He further reported that the time for the Planning meeting has yet to be determined.

**APPROVAL OF BILL LIST - June 7, 2010** - Commissioners Noll questioned the invoice from the Township of Lower Merion.

**APPROVAL OF BILL LIST CONT'D** - A motion by Noll, seconded by DeLena, to approve the Bill List dated June 15, 2009, for General Fund in the amount of \$28,880.85; Fire Fund in the amount of \$2,463.20; Sewer Fund in the amount of \$17,424.66; Open Space Fund in the amount of \$1,316.27; Capital Fund in the amount of \$25,056.57; State Fund in the amount of \$3,438.48; and Escrow Fund in the amount of \$812.33. Total Expenditures - \$79,392.36. All aye votes.

**APPROVAL OF MINUTES - June 1, 2009** - A motion by Spaide, seconded by DeLena, to approve the minutes of the June 1, 2009, meeting as presented. All aye votes.

**EXECUTIVE SESSION** - At 7:30 P.M. Mr. Taylor announced the Board would be meeting in Executive Session to discuss one matter of real estate, two matters of pending litigation and one matter of potential litigation.

Respectfully submitted,

Cynthia H. Saylor  
Township Secretary