

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

April 18, 2011

A meeting of the Board of Commissioners was held on Monday, April 18, 2011, 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, Jr., Police Chief William Moffett and Township Secretary Cynthia H. Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 10 people present in the audience.

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: None

REPORTS

EMERGENCY SERVICES - Commissioner Noll read the monthly Police Report and noted that a copy of the report will be posted on the bulletin board. Mr. Noll expressed his thanks to Chief Moffett for the recent renovations to the Police Department. Commissioner Miller asked for clarification with regards to three burglaries that were listed on the monthly Police Report. Commissioner Noll reported that the Fire Company will hold their monthly meeting on Thursday, April 21, 2011. Mr. Noll announced that the Fire Company will be selling Easter flowers on Friday, April 22 and Saturday April 23, 2011 and that the Annual Easter Egg Hunt will take place at Heather Place Park on Saturday at 11:00 A.M.

PLANNING & ZONING REPORT - Commissioner Taylor reported that the Planning Commission met and discussed the proposed Amendment to the Township Zoning Ordinance, Article XVI, of Chapter 350 and a Public Hearing will take place at 7:30 P.M.

PUBLIC WORKS REPORT - Commissioner Spaide reported that the annual street sweeping will begin the week of April 25, 2011. She further reported the Highway Department repaired a large sink hole which was discovered under North State Street; they completed renovations to the Police Department; began trench restoration at the Municipal Building after connecting to public sewer; cleaned storm inlets, pipes and culverts during and after heavy rains; cleaned and painted winter weather equipment prior to storing for the summer; began maintenance on mowing equipment and provided preventative maintenance on all police vehicles. Ms. Spaide advised the prisoners will be picking up litter on June 12 and June 13. **COMMISSIONER MILLER** advised that it is now permissible to provide weed spraying along the curb at the cemetery on North Hanover Street.

PUBLIC WORKS REPORT CONT'D - Commissioner Miller reported he accompanied John Theisen to investigate several ongoing water issues along Farmington Avenue. Mr. Miller explained his reason for accompanying the Engineer was to look into the complaint pertaining to THP; however due to the recent heavy rains the problem cannot be remedied until the land dries out. Commissioner Miller suggested that Commissioner Spaide check with the Township Manager regarding this matter.

PARK, RECREATION AND OPEN SPACE REPORT - Commissioner Miller expressed his thanks to Dennis Elliott and Jack Layne for their attendance at the Delaware Valley Regional Planning Commission meeting recently held in Phoenixville. Commissioner Miller stated that the purpose of the meeting was to discuss effected growth management and open space preservation; in that it will improve water and air quality and enhance personal health and contributes to our regional character. He further stated that open space saves money by cutting down on infrastructure and protects farmland, historic, scenic and cultural sites.

DENNIS ELLIOTT - 576 Evans Road - Advised that living within one (1) mile of open space increases property value by \$10,000.

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

TOWNSHIP SOLICITOR'S REPORT - Attorney Garner advised that his monthly activities are reflected on the meeting agenda.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported that he assisted in coordinating efforts for the Township to participate in the Comcast Cares Program; attended Montgomery County Emergency Management Coordinator training program; coordinated efforts with the bankruptcy attorney and Township Staff with respect to THP's efforts to complete additional units at Coddington View to insure that the interests of the Township and the Coddington View residents are properly protected; assisted in coordinating efforts to amend the sign ordinance; assisted in efforts to obtain revenue from digital billboards; and assisted in coordinating exploratory efforts for the Township to take over billing for the sewer and trash services provided to the residents.

MONTHLY FINANCIAL REPORTS - Mr. Layne reported that as of March 31, 2011, the township has collected 21.8% of its budgeted revenues and disbursed 21.1% of its budgeted expenses to date.

NEW BUSINESS:

DISCUSSION AND POSSIBLE ACTION TO APPOINT A REPLACEMENT TO THE CIVIL SERVICE - Commissioner Taylor reported that the Civil Service Committee recently appointed Donald Nice to fill the vacancy created by the passing of Gilbert Duncan

DISCUSSION AND POSSIBLE ACTION TO APPOINT A REPLACEMENT TO THE CIVIL SERVICE CONT'D - A motion by Spaide, seconded by Miller, to confirm the appointment of Donald Nice to the Civil Service Committee and to fill the unexpired term of Gilbert Duncan. All aye votes. Attorney Garner noted that there may be a conflict due to the fact that Mr. Nice sits on the Upper Pottsgrove Planning Commission and stated he would check the First Class Township Code with regards to the matter.

DISCUSSION AND POSSIBLE APPROVAL OF A RESOLUTION AUTHORIZING THE TURNBACK OF LEVENGOOD ROAD BY PENNDOT TO THE TOWNSHIP - Attorney Garner explained that PennDOT is requesting that the Township enact this resolution in order to begin the turnback process. A motion by Spaide, seconded by Miller, to approve **RESOLUTION #593** authorizing the turnback of Levengood Road by PennDOT to the Township, subject to the execution of an inter-municipal agreement with West Pottsgrove Township for the funding and maintenance of the road in a form acceptable to Upper Pottsgrove Township. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF A RESOLUTION AUTHORIZING THE DEDICATION OF A PORTION OF UPLAND SQUARE DRIVE - Attorney Garner explained that the proposed Resolution will allow the Commissioners to offer a small portion of Upland Square Drive, which is currently owned by the Township, to PennDOT for ownership and maintenance purposes. Commissioner Spaide expressed her concern regarding the instability of the directional signs and noted a potential safety issue. Mr. Layne stated he has discussed the matter with the Manager at West Pottsgrove Township. **RESOLUTION #594** - A Resolution of the Township of Upper Pottsgrove requesting the Department of Transportation of the Commonwealth of Pennsylvania to take over a portion of Upland Square Drive. All aye votes.

PUBLIC HEARING TO DISCUSS THE PROPOSED AMENDMENT TO THE TOWNSHIP ZONING ORDINANCE, ARTICLE XVI, OF CHAPTER 350 - Attorney Garner stated this is an advertised public hearing for the purpose of obtaining public comment with respect to changes to the Township Zoning Ordinance. Mr. Garner explained the majority of the changes include amending Article XVI, Signs, as well as some other minor changes. He further explained that the proposed Amendment to the Township Zoning Ordinance was discussed by the Upper Pottsgrove Planning Commission at their April 11, 2011 meeting as well as the Montgomery County Planning Commission.

DONALD NICE - 184 Micklitz Drive - Recommended that page 16 Section E, Contractor Signs, be amended to add the language that is stated in Section K (2) on page 17 that "the sign must be removed within ten (10) days after the project is completed. In addition, Mr. Nice stated that it was a recommendation of the Planning Commission that an additional bullet point be added with regards to Special Event Signs.

COMMISSIONER TAYLOR read the following recommendations from the Planning Commission and Mike Narcowich with the Montgomery County Planning Commission: Page #5 **FLUSH MOUNTED SIGN** should be **PARALLEL WALL SIGN** – to be consistent with standard usage and within the document; Page #6 **INCIDENTAL SIGN** should be three (3) square feet to be consistent with Chapter 283 - not two (2) square feet; Page #8 **SNIPE SIGN** – add “any sign erected on a property without the permission of the property owner or in the public right-of-way; Page #13 **SPECIAL EVENT SIGN** - the size of a Special Event Sign should be noted as no larger than 32 square feet; Page #14 **CONTRACTOR SIGNS** – add (2) “Sign must be removed within ten (10) days after the project is completed.

RICHARD KUMMERER - 1303 Farmington Avenue - Requested clarification with regards to existing signs.

When **JOHN WEST, 1611 Applegate Lane** , noted a typographical error with regards to Location of Signs; Commissioner Taylor advised #3 should read ~ no signs shall be permitted within a **site** triangle of an access way or street right-of-way. Mr. West requested clarification with regards to the timeframe for Yard Sale Signs and Special Event Signs.

DENNIS ELLIOTT - 576 Evans Road - Suggested that any sign attached to a telephone pole should include the name and address of the person who placed the sign to the pole.

Attorney Garner closed the public hearing at 7:55 P.M.

DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED STANDARD SEWER SPECIFICATIONS AND DETAILS - The members of the Board agreed to forward any questions or comments regarding the proposed Sewer Specification and Details to the Township Manager or Engineer, Chris Hannum.

DENNIS ELLIOTT - 576 Evans Road - Reported he has some damage to his property from last year’s sewer construction project.

DISCUSSION AND POSSIBLE ACTION REGARDING THE MEMORANDUM OF UNDERSTANDING SUBMITTED BY MONTGOMERY COUNTY LANDS TRUST –

Attorney Garner provided a brief history with regards to the Conservation Easement on the Grim property which was obtained by the Township with the help of the Montgomery County Lands Trust. Mr. Garner reported that as a result the Township acquired approximately 15 -18 acres of permanent open space. He further reported that recently the Township received a letter stating that we overlooked executing a Memorandum of Understanding with the Montgomery County Lands Trust. Attorney Garner advised that the Montgomery County Lands Trust is requesting a donation of \$6,000 to be paid by the Township for the conservation easement. Mr. Garner noted that the donation can be made in installments over a period of five (5) years.

DISCUSSION AND POSSIBLE ACTION REGARDING THE MEMORANDUM OF UNDERSTANDING SUBMITTED BY MONTGOMERY COUNTY LANDS TRUST

CONT'D - There was a brief discussion regarding the request for the donation. Commissioner Miller stated in his opinion the Lands Trust is entitled to a donation, however; the Township should decide the amount of the donation. When Commissioner Taylor questioned the obligations of the Lands Trust to the Township; Commissioner Miller stated they (Montgomery County Lands Trust) come out on a yearly basis and walk the premises and look to see if anything has been cut, buried, built, excavated or disturbed. When Commissioner Taylor questioned whether the Montgomery County Lands Trust was reimbursed for their work with regards to the Conservation Easement; Attorney Garner stated they were reimbursed for consultant's fees as well as attorney's fees. Commissioner Dolan suggested getting a price from another business that could provide the same services as the Montgomery County Lands Trust in order to make a comparison. After discussion, a motion by Miller, seconded by Spaide, to make a one time donation in the amount of \$750 to the Montgomery County Lands Trust. Commissioner Dolan suggested the Township wait until additional information is obtained and noted that the Montgomery County Lands Trust has helped the Township out tremendously over the years. After further discussion, a motion by Dolan, seconded by Noll, to table further discussion to a future date. Aye votes: Dolan, Noll, Spaide and Taylor. Opposed: Miller. Motion carried.

JOHN WEST - 1611 Applegate Lane - Stated the Township needs to determine service vs. donation with regards to the donation to the Montgomery County Lands Trust.

DISCUSSION REGARDING THE STATUS OF CODDINGTON VIEW - Attorney Garner provided a brief update with regards to the status of the Coddington View Development. Mr. Garner explained that recently the developer has been granted permission to construct an additional fourteen (14) units in Coddington View. He further explained they (TH Properties) are required to place approximately \$97,500 in escrow in order to guarantee some of the site work that is necessary. Attorney Garner noted that the Township has been advised from the bankruptcy attorney that at the conclusion of the construction TH Properties will likely "fold their tents" with respect to Coddington View. After discussion, a motion by Noll, seconded by Spaide, to declare TH Properties, LP, in default of its obligations contained in the Subdivision and Land Development Improvement and Maintenance Agreements for Phases I, II, and III of the Coddington View Subdivision, and make demand upon all holders of financial security (including, but not limited to, First Niagara Bank and the International Fidelity Insurance Company) to release such funds to Upper Pottsgrove Township or complete the required site improvements, as described in the Financial Security Agreement for Phases I, II, and III of the Coddington View Subdivision. All aye votes. Commissioner Taylor noted that the Township has been very "generous" and has worked very closely with TH Properties and the Coddington residents over the past few years.

OLD BUSINESS:**DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED AMENDMENT TO TOWNSHIP ZONING ORDINANCE, ARTICLE XVI, OF CHAPTER 350** - Commissioner

Taylor reviewed the recommendations made by the Planning Commission with regards to the proposed amendment to the Township Zoning Ordinance. Mr. Taylor questioned the Solicitor whether the proposed amendments to the Township Zoning Ordinance should be re-advertised because of the minor changes made. Attorney Garner stated the members of the Planning Commission and Commissioners worked long and hard on the proposed amendments to the ordinance and suggested the Board adopt the ordinance, without the minor changes, and the next time the Zoning Ordinance is amended include the new provisions then. **ORDINANCE #446** An Ordinance of the Township of Upper Pottsgrove, Amending Article XVI, Signs, to Comprehensive Revise the Upper Pottsgrove Township Sign Ordinance; Amending Section 350-8, Definitions, and Other Miscellaneous Modifications to Chapter 350, Zoning, of the Code of the Township of Upper Pottsgrove, as amended. A motion by Dolan, seconded by Spaide, to adopt Ordinance #446 with the exception of the Special Event Signs and Contractor Signs. Aye votes: Dolan, Noll, Spaide and Taylor. Opposed: Miller. Motion carried.

RICHARD KUMMERER - 1303 Farmington Avenue - Requested clarification with regards to the time frame pertaining to contractor signs under the Township's current ordinance.

DISCUSSION AND POSSIBLE APPROVAL OF THE PROPOSED AMENDMENT TO CHAPTER 283 - ORDINANCE #447 - An Ordinance of the Township of Upper Pottsgrove,

Repealing, In Its Entirety, Chapter 283, Signs and Billboards, and Re-Establishing and Re-Enacting a New Chapter 283, Signs and Billboards, Which Is Part Of The Code of the Township of Upper Pottsgrove, As Amended. Commissioner Noll expressed his concern regarding the placement of political signs on Township owned property. Commissioner Taylor noted that political signs are allowed to be placed on Township owned property only on Election Day. In response to Commissioner Noll's question regarding political signs, **DENNIS ELLIOTT, 576 Evans Road,** suggested that he check with the Board of Elections.

DISCUSSION AND POSSIBLE ACTION REGARDING A RECOMMENDATION THAT THE TOWNSHIP CONSIDER DOING THE IN-HOUSE BILLING OF ALL SANITARY SEWER ACCOUNTS - Mr. Layne reported he met with the Finance Director for the Borough of Pottstown regarding this matter and the Solicitor has been in contact with the Legal Council for J.P. Mascaro, however; there is still a lot of work to be done. Commissioner Taylor referenced a letter from Matt Dallas, Dallas Data, regarding the in-house billing and noted that currently the Borough of Pottstown collects the township's sewer fees for a price. In Mr. Dallas' letter a cost savings of \$12,000 to the Township was depicted based on year end O&M Agreement with Pottstown.

COMMISSIONER NOLL questioned whether the Township has a copy of the Operations & Maintenance Agreement and whether it has been reviewed recently.

DISCUSSION AND POSSIBLE ACTION REGARDING A RECOMMENDATION THAT THE TOWNSHIP CONSIDER DOING THE IN-HOUSE BILLING OF ALL SANITARY SEWER ACCOUNTS CONT'D - Commissioner Noll stated he wanted to be assured that the burden of taking over the billing of the sewer customers is not overwhelming to the current staff and the computer systems we are presently using. Mr. Layne explained his recommendation would be to consider contracting with Dallas Data to process the billing as opposed to hiring an additional staff member. Commissioner Noll expressed concern with regards to customer service and questioned whether telephone inquiries would be handled by the Township Staff. Commissioner Taylor stated additional information is needed to determine whether doing the in-house billing would be a financial benefit to the Township.

OTHER PUBLIC COMMENT:

DENNIS ELLIOTT - 576 Evans Road - Expressed his thanks and appreciation to the members of the Board for not raising taxes in 2011 and complimented them on their professionalism. Mr. Elliott stated he would like to address Commissioner Noll with regards to his position on open space and questioned him as to whether he was in favor or opposed to open space. Commissioner Noll stated he was in favor of open space. Mr. Elliott stated that he along with Commissioner Miller have donated thousands of hours in order to fulfill the wishes of the taxpaying voters in Upper Pottsgrove to enhance the quality of life for them after all they have been paying through earned income taxes for this open space program. He further stated that both he and Commissioner Miller have hit a road block. The Township currently has \$1.3 million plus in open space funding, however; the Open Space Committee was told that the Township is unable to use this money for the building of trails, handicap accessibility, bridges, pavilions and portable restrooms; it can only be used to purchase land. Mr. Elliott reported that under Act 442 of the Open Space and Farm Preservation 1968 to 1969 several amendments have been made mostly on farm preservation, however; nothing has been addressed since then. Mr. Elliott noted that both he and Commissioner Miller have had several meetings and conversations with Representative Quigley and Senator Rafferty and were told to visit surrounding communities in order to “drum up” support for an amendment which will allow us to access the peoples money in order to give them what they are paying for and are currently being denied access to enjoy. Mr. Elliot advised he was told by Representative Quigley to address this matter with Commissioner Noll because he (Noll) and his Political Action Committee were working on this issue. Mr. Elliott requested copies of the minutes and a progress report as well as the names and phone numbers of the people on the Political Action Committee and invited them to attend the next Open Space Park and Recreation meeting. Mr. Elliott advised the members of the Board that the longer we delay in addressing this issue; the more costly it will become due to inflation. He further advised that had this been addressed two years ago; the Township could have saved a lot of money instead of waiting for Harrisburg to grant us permission to use our own money. Mr. Elliott requested that the members of the Board adopt a Resolution to address this matter and volunteered to hand deliver it to Speaker of the House Mr. Sam Smith. **Finally and most importantly since the 2006 open space referendum to 2009, 110 taxpaying residents have died;** never realizing the quality of life they so richly deserved and paid for through their earned income taxes but never lived to enjoy it.

COMMISSIONER TAYLOR - Responded to Mr. Elliott's comments and stated that the Board has been in the forefront lobbying with our Congressmen regarding the open space funding matter.

COMMISSIONER DOLAN - Reiterated Commissioner Taylor comments and noted that the Commissioner Noll along with the other members of the Board have been working forward toward a resolution regarding open space issue.

COMMISSIONER NOLL - Referenced House Bill 951 and reported he drove to Harrisburg on April 5th to lobby for open space.

COMMISSIONER MILLER - Stated he never heard of House Bill 951 and requested a copy of the proposed Bill from Commissioner Noll.

JOHN WEST - 1611 Applegate Lane - Requested clarification regarding the borrowed open space monies and suggested the Township pay off the loan sooner.

PAYMENT OF BILLS - April 18, 2011 - A motion by Spaide, seconded by Miller, to approve the Bill Listed dated April 18, 2011, for General Fund in the amount of \$169,122.89; Fire Fund in the amount of \$7,687.72; Sewer Fund in the amount of \$5,091.87; Capital Fund in the amount of \$1,942.47; Open Space Fund in the amount of \$1,206.22; State Fund in the amount of \$10,006.80 and Escrow Fund in the amount of \$3,125.55. Total Disbursements - \$198,183.52. All aye votes.

DENNIS ELLIOTT - 576 Evans Road - Requested clarification of the amount of mileage reimbursement for Commissioner Noll as depicted on the Bill List.

APPROVAL OF MINUTES - March 21, 2011 - A motion by Spaide, seconded by Miller, to approve the minutes of the March 21, 2011 meeting as presented. All aye votes.

COMMISSIONER NOLL - Noted that the Heather Place cell tower flag is torn and suggested the Township order a new one in time for the July 4th holiday. In another matter; Commissioner Noll recommended that the Township purchase surge protectors for all the computers. There was a brief discussion regarding resurfacing the upstairs floor in order to prevent water from leaking into the meeting room.

COMMISSIONER MILLER - Addressed Commissioner Noll and informed him that he should "head up" the Comcast Care program.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Dolan, to adjourn the meeting at 9:45 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor
Township Secretary