

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

September 19, 2011

A meeting of the Board of Commissioners was held on Monday, September 19, 2011, 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, Jr., Township Engineers Chris Hannum and Peter Eisenbrown, Public Works Director Frank Quinter, Police Chief William A. Moffett, Township Manager Jack P. Layne, Jr. and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:02 P.M. There were 5 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: None.

EMERGENCY SERVICES REPORT - Commissioner Noll read the monthly Police Report and noted that a copy would be posted on the bulletin board. Mr. Noll stated the Fire Committee meetings will be held on the third Thursday of every month and noted this month's meeting was cancelled because of other commitments. Commissioner Miller requested clarification from Chief Moffett on the monthly Police Report regarding vandalism and egg throwing.

PUBLIC WORKS REPORT - Commissioner Spaide reported that the Public Works employees have been busy cleaning storm inlets before and during the recent heavy rains; responded to call outs for downed trees during Hurricane Irene and power outages at the traffic signals; responded to call outs for downed trees and high water levels during Tropical Storm Lee; mowed all township owned parks and open space and finished patching and compacting potholes on Steinmetz Road. Commissioner Spaide requested the Board's approval for the purchase of a much needed lawn mower to be utilized by the Public Works Department. She further explained that the Township has an opportunity to save approximately \$4,200 by purchasing a 2011 mower from Passmore Service Center and noted the Open Space Fund could be utilized to purchase the mower which originally cost \$9,463 for \$5,263. A motion by Dolan, seconded by Miller, to approve the purchase of a new mower from Passmore Service Center at a cost of \$5,263. All aye votes. It was noted that the mower will be purchased with open space money not from referendum money.

PARKS, RECREATION AND OPEN SPACE - Commissioner Miller referenced the open space referendum funding and stated that we need to pressure our elected officials to pass the proposed House Bill regarding the open space funds for design and engineering purposes. Mr. Miller stated the Township needs to utilize that funding in order to keep our parks operational. Commissioner Miller advised that due to the recent heavy rains there have been numerous washouts and in one of the cuts a 30" diameter x 20' pipe at Sunset Park is needed in order to carry the water to the creek.

PARKS, RECREATION AND OPEN SPACE CONT'D - Commissioner Miller noted that because of the recent heavy rains a lot of cut glass has surfaced in the park. Mr. Miller reported that Jill Ludy, from the Park & Recreation Board, knows an Eagle Scout who would like to use the fallen trees for benches as well as other resources from the park to create overlooks as part of his Eagle Scout project. Mr. Miller noted the meager response from the surrounding municipalities regarding the proposed House Bill and suggested another letter be mailed to those townships that did not have the courtesy to reply. It was the consensus of the other Board members that another letter was not necessary. **Commissioner Noll** addressed Commissioner Miller and referenced an article entitled "Open Space is Still a Priority" in this month's Municipal Reporter.

ADMINISTRATION - Commissioner Dolan reported that he did hear from Representative Quigley and noted that he is still working on circulating the proposed House Bill; however one of his concerns is that involves taxes.

TOWNSHIP ENGINEER'S REPORT - A copy of the monthly Engineer's Report will be posted on the bulletin board.

TOWNSHIP SOLICITOR'S REPORT - Attorney Garner provided a brief update with regards to the Southeast Storm Water Coalition. Attorney Garner reported that he along with the Township Manager have been working with the Bargaining Unit of the Police Department to try and negotiate a contract and noted that the current contract expires at the end of this year. He further reported that the Township has received a request for arbitration and explained that it doesn't mean that negotiations will stop. Mr. Garner stated that both he and the Mr. Layne are recommending that the Township name Ryan Cassidy, as arbitrator for the Township. Mr. Garner noted that Mr. Cassidy is a well respected labor attorney from the firm of Eckert Seamans in Philadelphia and his proposed hourly rate is \$275 per hour. Commissioner Dolan stated that he has never heard of Ryan Cassidy from the firm of Eckert Seamans; however he feels that \$275 per hour is a reasonable rate. After a brief discussion, a motion by Dolan, seconded by Miller, to appoint Ryan Cassidy from the firm of Eckert Seamans as the Township's arbitrator. All aye votes. Attorney Garner noted that the Township has previously used the services provided by Ryan Cassidy, approximately six or seven years ago, during the civil service hearings. In another matter, Attorney Garner reported that he along with Engineer Chris Hannum, Commissioner Taylor, Frank Quinter and the Township Manager met with representatives from the Pottstown Borough Authority with regards to the increase in the sanitary sewer flows. Attorney Garner reported that back in 2005-2006 the Township entered into a series of agreements with certain developers to upgrade the main in the Farmington Avenue sanitary sewer line. He further advised that the project, which was designed by LTL Consultants, was divided up in various phases and noted that Renovations by Design agreed to perform Phase I of the Farmington Avenue project. However, since the developer hit a significant amount of rock the costs exceeded the amount that was originally anticipated. Attorney Garner advised that the developer was required to post financial security to the Township; however, there is approximately \$41,000 remaining.

SOLICITOR'S REPORT CONT'D - He further advised that there has been a consensual agreement with the developer whereby the Township would receive \$35,000, which would be used to reimburse the sewer fund, and the remaining \$6,000 would be released to the developer. After further discussion, a motion by Noll, seconded by Dolan, to accept the agreement between the Township and the Developer. All aye votes.

TOWNSHIP MANAGER'S REPORT - Mr. Layne recommended that the Township hold off on taking over the sewer billing at least until next year because the estimated cost savings to the Township would only be approximately \$5,000. Mr. Layne reported that he assisted in coordinating efforts regarding ongoing Police Department contract negotiations; coordinated emergency laptop exercise in conjunction with County Public Safety staff and the Township's Emergency Management Team in preparation for the November 2011 Limerick Generating Exercise. Mr. Layne expressed his thanks to Commissioner Miller, Jack Heckman, Reggie Leister, Chief Moffett and the staff for their participation in the drill.

MONTHLY FINANCIAL REPORTS - Mr. Layne reported that the monthly Financial Reports will be available at the October 3, 2011, meeting.

PUBLIC HEARING

PROPOSED ZONING ORDINANCE AMENDMENT - Attorney Garner reported that the zoning notice and map have been properly advertised and noted that the Ordinance would simply amend the Zoning Map to extend the RO Zoning District onto the Township parcel at 1420 Heather Place. He further reported there is one minor change in Township regulations with respect to LED and digital signs. It was noted that the Montgomery County Planning Commission as well as the Upper Pottsgrove Planning Commission reviewed the proposed ordinance and recommends approval of the proposed zoning change. Attorney Garner explained that because this involves a change in the zoning map it has been submitted to the Pottstown Metropolitan Regional Planning Commission. He further explained that due to the map change there is a requirement of the Montgomery County Planning Code that the property be posted and there is a verification of that posting signed by Jeff Vogels who is the Township's Code/Zoning Officer. When Attorney Garner asked for public comment **JOHN WEST, 1611 Applegate Lane**, asked if the amendment was necessary because of the installation of a digital sign on the Township property. Commissioner Taylor advised the zoning change will facilitate the installation of the digital sign. Mr. West questioned why not just subdivide rather than have a change in zoning. Attorney Garner explained that it would be possible; however, the subdivision process in and of itself would have opened up a can of worms. He further explained that he was not sure that the Township could have legally subdivided the parcel and met all the zoning requirements with respect to what all would be required. There being no further public comment; Attorney Garner closed the hearing at 7:36 P.M. **ORDINANCE #451** - An Ordinance of the Township of Upper Pottsgrove, Montgomery County, Pennsylvania, Amending the Upper Pottsgrove Township Zoning Map Rezoning certain property owned by Upper Pottsgrove Township from R-3 Residential Zoning District to the RO – Retail Office District, and exempting Upper Pottsgrove from certain Sign Ordinance Requirements. After discussion, a motion by Miller, seconded by Spaide, to approve the proposed Zoning Ordinance Amendment. All aye votes.

NEW BUSINESS:

PRESENTATION PROVIDED BY POTTSTOWN REGIONAL PUBLIC LIBRARY - Mike Packard, Executive Director of the Pottstown Regional Public Library was present to provide a brief presentation regarding the numerous benefits for library card holders. Some of the benefits provided are audio books, downloadable e-books, a wide variety of programming from story time to tai chi class for all demographics, Passport Acceptance Service, high speed WiFi, public internet computer, over 75 different periodicals; online access to the Philadelphia Inquirer and the Pottstown Mercury, Ask Here PA – live access to a degreed librarian 24/7 to help you with your research, Resume Building – Job Search – Career Development Center, interlibrary loan delivery service, traditional reference and genealogy research assistance services and access to Ancestry.com and computer and new technologies classes.

DISCUSSION AND POSSIBLE APPROVAL OF THE PROPOSED MASTER CASTING AGREEMENT FROM 2011 TO 2014 WITH THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION - RESOLUTION #599 - A motion by Dolan, seconded by Miller, to approve the proposed Master Casting Agreement from 2011 to 2014 with Pennsylvania Department of Transportation. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF THE 2012 MINIMUM MUNICIPAL OBLIGATION FOR UNIFORM EMPLOYEES - A motion by Dolan, seconded by Miller, acknowledging receipt of the 2012 Minimum Municipal Obligation estimate for the Uniform Employees as provided by the Township's pension consultant. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF THE 2012 MINIMUM MUNICIPAL OBLIGATION FOR NON-UNIFORM EMPLOYEES - A motion by Dolan, seconded by Miller, acknowledging receipt of the 2012 Minimum Municipal Obligation estimate for the Non-Uniform employees as provided by the Township's pension consultant. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED AMENDMENT TO THE POLICE PENSION ORDINANCE - KILLED IN SERVICE BENEFIT - ORDINANCE #452 - An Ordinance of the Upper Pottsgrove Township Board of Commissioners Amending various provisions of Article I, Police Pension Plan, of Chapter 43, Pensions, of the Code of the Township of Upper Pottsgrove, to reflect Pension Plan Amendment changes to reflect both Act 600 and Act 51. A motion by Miller, seconded by Dolan, to approve the proposed amendment to the Police Pension Ordinance. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL AND SUBMITTAL OF A PROPOSED CORRECTIVE ACTION PLAN TO THE POTTSTOWN BOROUGH AUTHORITY - Township Engineer Chris Hannum outlined the first phase of the Township's Corrective Action Plan and referenced his letter dated September 7, 2011. Mr. Hannum discussed the Scope of Work for the **Regal Oaks Subdivision** which includes televising, manhole repair, lateral repair and smoke testing in the manholes and sections along Boxwood Court and Mapleleaf Lane.

DISCUSSION AND POSSIBLE APPROVAL AND SUBMITTAL OF A PROPOSED CORRECTIVE ACTION PLAN TO THE POTTSTOWN BOROUGH AUTHORITY

CONT'D - Mr. Hannum reported the Public Works staff will introduce a dye into the basin inlet and observe the collection system during rainfall events within the **Cherrytree Farms Subdivision**. In addition, Micklitz Drive will be televised and as part of the Corrective Action Plan the Township will review different methods for acquiring meter data within the collection system. Mr. Hannum advised the Township will review the potential of purchasing additional temporary meters or contracting with a firm that specializes in flow metering. The Township will perform metering in several manholes within the **Greengate Subdivision** as well as in the **Maugers Mill Estates Subdivision**. Mr. Hannum reported that as part of the overall Corrective Action Plan the Township will review replacement and/or leasing of new permanent meters and will present quarterly updates to the Pottstown Borough Authority. After discussion, a motion by Noll, seconded by Spaide, to approve and submit a proposed Corrective Action Plan to the Pottstown Borough Authority. All aye votes. Attorney Garner referenced his letter dated September 9, 2011, to the Authority's Solicitor regarding projected and existing flows. Mr. Garner advised that if it is determined that the flows are real and if they exceed what is permitted under the Agreement than any monetary penalties that the Township would be required to pay be utilized by the Township to effectuate and implement the remedies and proposals contained within the Corrective Action Plan.

DISCUSSION AND POSSIBLE ACTION REGARDING RIGHT-OF-WAY OBSTRUCTION (FENCE) AT 1005 NORTH HANOVER STREET

- Attorney Garner explained that the Township received a request from a resident living at 1005 North Hanover Street to locate a fence within an existing paper street (the Mineral Street right-of-way) perpendicular to North Hanover Street and a paper alley (Mineral Street.) A motion by Miller, seconded by Spaide, to grant a request from the resident residing at 1005 North Hanover Street, to permit the construction and installation of a fence subject to the execution of an Acknowledgment, Release and Hold Harmless Agreement. All aye votes. **JOHN WEST - 1611 Applegate Lane** - Expressed his concern as to what will happen if the property sells. Attorney Garner stated the fence is not on his property; however, technically it should be disclosed to the next buyer.

DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED APPOINTMENTS TO THE PROPERTY MAINTENANCE CODE APPEAL BOARD

- It was noted that the Board of Appeals is a body of three individuals that will review appeals submitted by Township residents and business representatives regarding decisions made by the Township Code Enforcement Officer. A motion by Miller, seconded by Dolan, to appoint Dennis Elliott, Gregory Churach and Jeffrey Nason to the newly established Upper Pottsgrove Township Board of Appeals. All aye votes.

DISCUSSION AND POSSIBLE ACTION TO RATIFY THE FIRST AMENDMENT TO THE SEWAGE TREATMENT SERVICE AGREEMENT WITH THE POTTSTOWN BOROUGH AUTHORITY

- A motion by Dolan, seconded by Miller, to ratify the First Amendment to the Sewage Treatment Service Agreement with the Pottstown Borough Authority. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING HOUSE BILL #898 - After a brief discussion, a motion by Miller, seconded by Dolan, to support a letter noting the Board's opposition to House Bill #898 (surface mining). All aye votes.

OLD BUSINESS:

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED AMENDMENT TO BOERNER SUBDIVISION'S FINAL PLAN - Commissioner Taylor reported that he along with Attorney Garner, Jonathan Penders, Ed Mullin and Township Manager Jack Layne met to discuss a sewer agreement for the upgrade of the Farmington Avenue sewer lines, between Danny Jake Corp. and Rouse Chamberlin with the Township's participation. Mr. Taylor explained that the original sewer agreement included Danny Jake developing, in addition to the Boerner property, the Althouse and Bachman properties. He further explained that the dollar amount contribution from Danny Jake was based on the development of all three properties and was to be payable in full at the time development started on any one of the properties. Commissioner Taylor stated that in order to make this plan more economically viable the Developer is requesting that the Township waive or credit the \$17,500 park and recreation contribution plus the \$32,000 contribution to defray the costs for providing public water due to TCE contamination pursuant to sections 5 and 8 respectfully of the Final Plan Resolution adopted September 28, 2005 and require a maximum fee of \$20,000 in lieu of the required improvements to Chestnut Grove Road pursuant to section C of the waivers section of the Final Plan Resolution adopted September 28, 2005. Attorney Garner advised that if the Board agrees to waive some of the fees that were part of the original plan; there should be some mechanism in place that would require that the development gets started within a reasonable time frame. When Commissioner Noll questioned how Rouse Chamberlin is okay with helping Danny Jake when they are separate developments; Attorney Garner explained that under the Sewer Agreement Rouse Chamberlin fronted the entire sewer infrastructure when Summer Grove was built. He further explained that the only way Danny Jake is obligated to pay back Rouse Chamberlin is if Danny Jake starts one of their projects and the only project that Danny Jake still has under their control is the Boerner property. When Commissioner Noll asked at what point and time does Rouse Chamberlin get their money for the sewer project from Danny Jake; Attorney Garner stated as soon as they record a Land Development Improvement Agreement and record a Final Plan. When Commissioner Noll questioned whether the Final Plan must be approved by the current Board of Commissioners; Attorney Garner responded "no." Mr. Garner explained that the plan is already approved based on this Resolution; the only thing that is changing is the contributions and the fees. Danny Jake is requesting that these fees be removed from the approved plan; the plan stays the same the requirement to the fees goes away. Commissioner Taylor reiterated that if the Board agrees to the Plan Amendment they would not be responsible for the fees and the plan would become more viable. Commissioner Spaide questioned what would happen if another Developer wanted to amend their plan and expressed a concern that the Township would be setting precedence. Commissioner Taylor stated there aren't any other approved plans.

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED AMENDMENT TO BOERNER SUBDIVISION'S FINAL PLAN CONT'D - Commissioner Dolan referenced the letter from Danny Jake Corp. dated August 23, 2011, and noted a discrepancy regarding the Developer's financial responsibility and a clarification is needed. Commissioner Noll stated he would like to see a two year time frame as part of the Agreement. After a lengthy discussion, it was the consensus of the Board to request a better clarification regarding financial responsibilities between the Developer and the Township. When **JOHN WEST, 1611 Applegate Lane**, noted that approval for the Boerner Tract Subdivision was given five years ago and questioned the life on the plan; it was noted that several extensions had been granted over the years. Mr. West questioned the location of the Boerner tract; Commissioner Taylor explained across from the PAL ball fields on Chestnut Grove Road.

DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED REVISIONS TO THE FIRE COMPANY BY-LAWS - The proposed revision to the Fire Company By-Laws depicts a change in the Fire Committee meeting time from 7:00 P.M. to 7:30 P.M. A motion by Dolan, seconded by Spaide, to approve the revisions to the Fire Company By-Laws. All aye votes.

OTHER PUBLIC COMMENT - None

COMMISSIONERS COMMENTS:

COMMISSIONER DOLAN - Noted that there are four (4) members of the township that serve on the Pottstown Library Board. In another matter; Commissioner Dolan noted that there is a strong push to eliminate liquor stores and expressed his concern that if the State no longer has control there could potentially be a liquor store on every block.

COMMISSIONER MILLER - Expressed his frustration regarding an incident that took place recently at the Township building. Commissioner Miller explained that a can of oil was left on the firehouse steps, filled up with rainwater, spilled over and removed the paint and plaster from the wall. Mr. Miller stated this is our Township, where employees come to work everyday and residents come in to pay their taxes, and we should take pride in our building. Commissioner Miller stated in his opinion the firefighters should be held responsible for the damage and questioned "where the h... are their brains?"

PAYMENT OF BILLS - September 19, 2011 - A motion by Spaide, seconded by Miller, to approve the Bill List dated September 19, 2011, for General Fund in the amount of \$89,435.22; Fire Fund in the amount of \$4,220.12; Sewer Fund in the amount of \$20,793.36; Capital Fund in the amount of \$7,985.99; Open Space Fund in the amount of \$40,390.64; State Fund in the amount of \$16,707.02 and Escrow Fund in the amount of \$837.44. Total Disbursements ~ \$180,369.79. All aye votes.

APPROVAL OF MINUTES - August 15, 2011 - A motion by Spaide, seconded by Noll, to approve the minutes of the August 15, 2011, meeting as presented. All aye votes.

MEETING SCHEDULE - Mr. Layne announced that the next Township meeting will be held on Monday, October 3, 2011, and advised that the Board would resume meeting on the first and third Monday's of the month until the end of the year.

COMMUNITY DAY - Mr. Layne announced that this year's annual Community Day activities will take place on Saturday, October 1, 2011, at Heather Place Park between the hours of 11:00 AM - 4:00 PM.

ADJOURNMENT - There being no further business, a motion by Dolan, seconded by Noll, to adjourn the meeting at 8:58 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary