

A meeting of the Board of Commissioners was held on Monday, July 16, 2012, 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 Chris Pelka, Township Manager Jack P. Layne, Jr.; Police Chief William A. Moffett, Public Works Director Frank Quinter and Zoning Officer Jeff Vogels. There were 12 people present in the audience. Commissioner Taylor called the meeting to order at 7:00 P.M.

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 COMMENTS:

JOHN WEST - 1611 Applegate Lane - Advised that he was taping the meeting. Mr. West questioned whether there is a stipulation in the Heather Place Park Rules and Regulations which states “no parking on the grass” and noted that over the weekend he noticed 10 - 15 cars parked physically on the grass by the pavilion.

KEITH KEHL - 1941 Gilbertsville Road - Referenced a comment made at a previous meeting regarding the installation of a sewer line and going through open space property. Mr. Kehl stated that at the meeting Commissioner Dolan stated he didn’t see any harm in doing so since the pipes went underground. Mr. Kehl stated he would like the Commissioners to look at all the dead trees where the sewer line was installed across from his property.

KEITH BRIGHTBILL - 462 Mock Road - Expressed his concern pertaining to a decision from Jeff Vogels, regarding the need for a zoning permit in order to replace the boards and the railing on his deck. Mr. Brightbill stated that he was under the impression that he could replace the boards and railing on his deck without obtaining a permit as long as he was not changing the actual size of the deck. Mr. Brightbill further expressed his concern that if the Zoning Officer approves the deck and someone falls off the deck and gets injured that his insurance company would be financially responsible. Mrs. Brightbill noted that the Township’s website does not indicate the need for a permit when replacing an existing deck.

LARRY GALLAGHER - 470 Mock Road - Stated that he is Mr. Brightbill’s neighbor and reiterated the fact that all he (Brightbill) did was replace the bad boards on the deck and replace the railing; he didn’t change the size of the deck. After further discussion, Attorney Garner addressed Mr. Brightbill and stated the Commissioners will discuss the matter with the Zoning Officer and get back to him regarding this matter.

REPORTS:

EMERGENCY SERVICES - Chief Moffett provided a summary of the monthly Police Report. Commissioner Dolan questioned the recent robbery on Yarnall Road. When Commissioner Miller asked for the definition of “suspicious persons/vehicles” Chief Moffett explained it could be a car sitting in a driveway that is not recognized; the same applies to a person. Commissioner Miller also

EMERGENCY SERVICES CONT'D - questioned what type of harassment as noted on the monthly report. Chief Moffett stated it's usually harassment by phone, i.e. prank calls or harassment on Facebook. Commissioner Noll addressed the Chief and reported that on the evenings prior to garbage pickup he has noticed suspicious trucks and vans going through his neighborhood and people are actually going through the trash that the residents have put out. Chief Moffett stated that his Officers are aware of the situation.

FIRE COMMITTEE REPORT - Commissioner Dolan reported that the Fire Committee met on Thursday and advised that he is considering cancelling the August meeting.

PLANNING & ZONING REPORT - Commissioner Taylor reported the Planning Commission did meet this month and the agenda items will be discussed later during the meeting.

PUBLIC WORKS REPORT - Commissioner Spaide reported that the trail at Sunset Park has been completed to the pond and the fence and the rules and regulations sign have been installed. All Season Landscaping has begun clearing around the perimeter of the pond. The Public Works employees assisted Bartman's Plumbing with the removal of the flume at the Turnberry Farms Sewage Flow Meter Station. They also worked with Northeast Technical Sales with regards to the recalibration of the sewage flow meter at Turnberry Farms. North Hanover Street has been marked out for base repair and we are awaiting approval from PennDOT to begin the actual work. The mowing and trimming of township owned property continues along with weekly Highway mowing. The employees watered the 25 newly planted trees and repaired wash out of gutter behind the curbing along Orland Road. Public Works Director, Frank Quinter, reported that Aston Surveyors has completed the work at Sunset Park. When Commissioner Noll questioned whether the road work scheduled for North Hanover Street would begin prior to school starting; Mr. Quinter stated that he was ready to start on Tuesday, before the 4th of July; however PennDOT stopped them and then approved it once the Township cancelled the work. Mr. Layne reported that the Township received a call from Allan Myers that they will begin milling and overlay work from Swamp Pike and Gilbertsville Road during the hours of 6:00 PM to 6:00 AM.

PARKS, RECREATION & OPEN SPACE REPORTS - Commissioner Miller reported the "Rules and Regulations" sign has been installed at Sussell Park. Mr. Miller stated that it is a pleasure to work with the Public Works employees as well as Commissioner Spaide and noted the amount of work that has been accomplished within the Township. Mr. Miller reported that a bicycle stand and trash receptacles have been installed as well as a split rail fence within Sunset Park. He further reported that a gentleman is coming out to advise Frank as to how to clear the algae out of the ponds in order for the fish to breathe. Commissioner Miller noted that, in his absence, the vegetation has been cleared around the ponds. He further noted that he spoke to residents regarding obtaining easements and site clearances in order to get rid of bushes and trees that are in the right of way.

KEITH KEHL - 1941 Gilbertsville Road - Stated he and a friend were recently fishing at the pond located in Sussell Park and questioned whether any trash receptacles would be installed there. Mr. Layne responded and noted that a receptacle will be installed in the very near future.

When **COMMISSIONER MILLER** requested an update with regards to the Eagle Scout project; Mr. Layne stated that the picnic tables are ready; however, they have not been delivered as of yet. Commissioner Miller explained that the project must be completed prior to the Eagle Scout's eighteenth birthday in order for him to receive his merit badge.

GREG CHURACH - 144 Snyder Road - Reported that Allan Kratz, who resides on Mangers Mill Road, attended the Open Space meeting held last week and expressed his concern regarding people trespassing onto his property in order to enter township property. Mr. Churach noted that Mr. Kratz owns several properties that abut township open space property. Commissioner Taylor stated that Aston Surveyors have been surveying in order for the Township to know where the boundaries are.

KEITH KEHL - 1941 Gilbertsville Road - Questioned whether the Township owns the driveway that leads into Sunset Park. Commissioner Taylor stated "no" and explained that's part of the easement access that the Township is currently working on.

SPECIAL TOWNSHIP PROJECTS - Commissioner Noll provided an update with regards to the Pennsylvania Open Space Lands Act. Mr. Noll also provided legislative updates to the members of the Board from the annual PSATCS conference. Commissioner Noll explained that since the Township is using UCOMP for our unemployment compensation we are entitled to dividends as a result of their profits. Mr. Noll reported that there was a presentation on how to organize training and utilize volunteers. Commissioner Miller thanked Commissioner Noll for his in depth report. Commissioner Miller urged the members of the Board to contact our Senators regarding the proposed House Bill pertaining to open space maintenance.

JOHN WEST - 1611 Applegate Lane - Clarified that once the proposed House Bill clears the Senate it must be voted on by the people in November's General Election. **COMMISSIONER NOLL** clarified that when the Bill clears the Senate, their approving an amendment to an existing Open Space Lands Act of 1954. He further clarified that the Amendment dictates a referendum on the ballot.

Mr. West stated that he would like the option that if the majority of the people vote no then the Township should start paying off our \$2,000,000 debt. He further stated that he believes that the open space parcels should be left as open space.

ATTORNEY GARNER addressed Mr. West and noted that when the Township first looked at the proposed House Bill regarding open space; there was no requirement that another referendum be held within the community. Attorney Garner stated the Township already had the referendum and we already had the tax; the Bill would allow the Township to spend a certain percentage of the money towards something other than acquisition. Mr. West stated that he spoke with Senator Rafferty and Senator Quigley and was told that another referendum would be required. Attorney Garner stated it was his understanding that a second referendum was not required.

COMMISSIONER DOLAN reported that he approached Senator Rafferty and Senator Quigley many times regarding the proposed Bill and the idea always was that it would come back to a referendum.

TOWNSHIP ENGINEER'S REPORT - Mr. Layne introduced Hyon Duk Shin as the new Water & Wastewater Department Manager at LTL Consultants. Mr. Shin thanked the members of the Board for the opportunity to attend the meeting and introduce himself. Mr. Shin stated he had the pleasure of meeting and talking to several members of the Board already and is looking forward to working with the Township. Engineer Chris Pelka provided the members of the Board with a copy of the Corrective Action Plan Update dated July 16, 2012. After a lengthy discussion, LTL Consultants is making the following recommendations: smoke testing in order to identify illegal connections. Sump pump connections should be investigated during heavy rain events. The Township personnel will televise laterals and building sewers during wet weather to identify locations that are clearly watertight. A third party contractor to confirm suspected problems can then televise questionable locations, along with the sewer mains. Re-televise building sewers in Regal Oaks upon cooperation from the weather. Advertise the project in Regal Oaks to include three (3) manhole replacements and four (4) lateral repairs and ensure all manholes along Farmington Avenue are equipped with manhole protector lids, to minimize inflow during heavy rain events.

When **JOHN WEST, 1611 Applegate Lane**, expressed his concern regarding the smoke testing setting off fire alarms Mr. Shin stated that the emergency services would be notified. Mr. West referenced the Farmington Avenue sewer line and all the problems associated with it and questioned whether there is any warranty on the work that has been done. After further discussion, a motion by Dolan, seconded by Noll, to enforce the recommendations that LTL Consultants set forth in their correspondence dated July 16, 2012, and move forward with the Corrective Action Plan. All aye votes.

TOWNSHIP SOLICITOR'S REPORT - Attorney Garner reported that earlier in the year a resident from 1859 Farmington Avenue expressed his concern regarding his failing on-site septic system. Mr. Garner explained that the resident had indicated that he was willing to spend his own money in order to fund a public sewer connection to the Township's sewer line. He further explained that the design work is complete and has been reviewed by LTL Consultants and the property owner is trying to complete the project this week; however, a permit was never issued to the property owner. Attorney Garner referenced the Township's Grading Ordinance which was adopted five or six years ago and advised that some minor changes need to be made.

In response to a question from **KEITH KEHL, 1941 Gilbertsville Road**, regarding the Farmington Avenue sewer connection, Attorney Garner stated the connection will be made in the public right-of-way. Mr. Pelka advised that the intent is to make the connection in the township right-of-way, off the road, at Evans Road and Farmington Avenue. Mr. Kehl questioned whether the property owner would be financially responsible if the sewer fails or would the township be responsible. Attorney Garner stated the property owner will be responsible; it's his line, his maintenance obligation and there will have money in escrow to make sure the integrity of the line stays. He further stated that if the Township wants to take it over at some point they can but are under no obligation.

In response to a question from **DIANA UPDEGROVE, 1404 Farmington Avenue**, regarding the changes to the Grading Ordinance Attorney Garner explained it's not the amount of land that is being disturbed; it's more the process of how it is done.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported that he assisted in coordinating efforts with Chief Moffett to obtain and sign the Peer-to-Peer Technical Assistance Agreement from the Governor's Center for Local Government Services for the proposed Police Regionalization endeavor with West Pottsgrove Township; assisted in coordinating efforts to obtain additional open space; the Public Works Department made additional improvements at Sunset and Sussell Parks. Mr. Layne further reported that he assisted in coordinating a meeting with West Pottsgrove staff to discuss road swap issues; and attended an Emergency Management Coordinator training program provided by the Montgomery County Department of Public Safety.

MONTHLY FINANCIAL REPORT - Mr. Layne reported that the Township has received 61.1% of the revenue budgeted and expended 45.6% of expenditures.

NEW BUSINESS:

DISCUSSION AND POSSIBLE ACTION TO PREPARE AN AMENDMENT TO THE TOWNSHIP ZONING ORDINANCE REGARDING ACCESSORY STRUCTURES - Zoning Officer, Jeff Vogels, outlined the proposed amendment to the Zoning Ordinance regarding accessory structures. Commissioner Taylor noted that there is no change in the intent; it's just a matter of language in order to make it clear. After discussion, a motion by Noll, seconded by Miller, to advertise the amendment to the Township Zoning Ordinance regarding accessory structures. All aye votes. Commissioner Miller expressed his thanks and appreciation to Mr. Vogels for all of his efforts in working with the residents of the township. Commissioner Dolan asked if someone has a sea container or a tractor trailer bed that has been on their property for years and they're using, with the intent that when it is filled it would be emptied or replaced by another container would this scenario be grandfathered. Attorney Garner addressed Commissioner Dolan and stated this would be a question for the Zoning Officer; however, the scenario described sounds more like a business than an accessory structure use. Attorney Garner advised that if a resident has a sea container that is permitted and is replaced by the same or similar structure in the same location, in his opinion this scenario would be okay. Commissioner Miller expressed his concern that the sea container could be replaced with one that has graffiti on it. When Commissioner Dolan asked Mr. Vogels whether his scenario would be considered a non-conforming use; Mr. Vogels answered "yes."

JOHN WEST - 1611 Applegate Lane - Expressed his concern that a resident can have a tractor trailer bed or sea container on his property and a permit is not required; however, a permit is needed to replace old boards and a deck railing. Commissioner Taylor explained that currently there are no regulations in the ordinance regarding sea containers; so doing it now becomes a grandfather issue. He further explained that the Township doesn't have the right to say what the sea container looks like, how strong it is, how big it is and what type of foundation it has because it's not in our ordinance; however, the Township does have requirements pertaining to decks in the ordinance.

GREG CHURACH - 144 Snyder Road - Expressed his concern regarding the stipulation that

states no more than 250 square feet for chicken coupes and stables when used as an accessory to a dwelling.

In response to a question from **DIANA UPDEGROVE, 1404 Farmington Avenue**, Commissioner Taylor explained that the Township is not changing any of its ordinances concerning non-conforming uses.

DISCUSSION AND POSSIBLE ACTION TO APPROVE A REQUEST TO EXTEND THE FINAL PLAN APPROVAL FOR THE BOERNER SUBDIVISION TO DECEMBER 31, 2014

Attorney Garner reported that the Township received a request from the Danny Jake Corporation asking the Board to grant an extension to satisfy the conditions of the final plan approval until December 31, 2014. Attorney Garner reminded the Board members that in 2010 Act 46 was passed which automatically extended the lives of subdivisions at least until July 2013. Mr. Garner noted that State Legislature is looking to amend Act 46 which would potentially extend the extension from 2013 for another five (5) years. A motion by Dolan, seconded by Spaide, to grant an extension to satisfy the conditions of the final plan approval for the Boerner Subdivision until December 31, 2014. Aye votes: Dolan, Noll, Spaide and Taylor. Opposed: Miller. Motion carried. Commissioner Miller expressed his concern regarding the length of the extension request and stated that there may be new members on the Board in 2014 that are not in agreement with this Board's decision.

GREG CHURACH - 144 Snyder Road - Questioned the number of homes proposed between both Boerner and Bachman subdivisions. Commissioner Taylor responded approximately seventy (70) to eighty (80) homes. Mr. Churach expressed concern that if these homes are built the school district will ask for more money from the taxpayers. Commissioner Taylor stated the Township has been languishing for four (4) years without any kind of significant development and all of our sewer customers are paying exorbitant amounts of money to maintain the sewer system that was meant to have eighty (80) more houses in it. Mr. Taylor further stated that the Township planned a number of years ago a balance that included a certain amount of un-built areas and a certain amount of built areas. Mr. Taylor explained that the Boerner and Bachman subdivisions are part of the plan, that had they been built would have made our economic situation much more comfortable than it has been over the last few years.

COMMISSIONER MILLER questioned Attorney Garner as to whether Neil Shaw from Danny Jake Corp mentioned the sign that is on the Bachman tract and noted that they are trying to sell the property.

JOHN WEST - 1611 Applegate Lane - Stated that he is in agreement with Commissioner Miller with regards to the length of the extension request and said the Township should make Danny Jake resubmit revised plans. Commissioner Taylor stated that the development process is very expensive; they don't want to have to start all over again especially in the current economic climate that were in.

A motion by Dolan, seconded by Spaide, to grant an extension for final plan approval for the Bachman Subdivision to December 31, 2014. Aye votes: Dolan, Noll, Spaide and Taylor. Opposed: Miller. Motion carried.

DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE TOWNSHIP SOLICITOR TO ADVERTISE A CONDITIONAL USE HEARING FOR THE LIBERTY TOWERS PROJECT

- Commissioner Taylor provided a brief history with regards to the construction of a cell tower on the property located at 96 Pineford Road. Attorney Garner advised that previously there were some miscommunications Liberty Towers and the property owner. Mr. Garner explained that originally the Township did grant conditional use for the tower; however, since that time the location of the proposed access to the tower has shifted or changed. He further explained that since the location of the proposed access has changed a new application is required. Commissioner Spaide expressed her concern that the property is vacant and up for sale. Attorney Garner stated that Liberty Towers must have an equitable interest in the site. After further discussion, a motion by Noll, seconded by Dolan, to authorize the Solicitor to advertise a Conditional Use Hearing for the Liberty Towers project at the August 20, 2012, Board of Commissioners meeting. All aye votes.

JOHN WEST - 1611 Applegate Lane - Requested a clarification as to the exact location of the proposed cell tower on Pineford Road.

In response to a question from **DIANA UPDEGROVE, 1404 Farmington Avenue**, Attorney Garner stated that there was some confusion at the last hearing; however, Liberty Towers has resubmitted their application for the Conditional Use.

OLD BUSINESS:

DISCUSSION AND POSSIBLE ACTION TO ADOPT A PROPOSED AMENDMENT TO THE MASTER TRAFFIC ORDINANCE – Ordinance #457

- A motion by Dolan, seconded by Spaide, to adopt the proposed amendment to the Master Traffic Ordinance to allow the changes within the Woodbrook Townhouse community. All aye votes. Commissioner Dolan expressed his appreciation to Commissioner Taylor regarding all his efforts concerning the traffic and parking reconfiguration at Woodbrook Estates.

DISCUSSION AND POSSIBLE ACTION REGARDING THE APPOINTMENT OF A RESIDENT TO FILL THE VACANT SEWER AND WATER COMMITTEE MEMBER POSITION

- A motion by Spaide, seconded by Noll, to appoint James Payne to fill the vacant sewer and water committee member position. All aye votes.

PAYMENT OF BILLS - July 16, 2012 - A motion by Dolan, seconded by Spaide, to approve the Bill List dated July 16, 2012, for General Fund in the amount of \$68,128.39; Fire Fund in the amount of \$2,046.63; Sewer Fund in the amount of \$13,017.45; Capital Fund in the amount of \$10,346.83; Open Space Fund in the amount of \$10,926.54; State Fund in the amount of \$146.00 and Escrow Fund in the amount of \$2,290.14. Total Disbursements ~ \$106,901.98. All aye votes.

COMMISSIONER NOLL - Questioned the \$1800 invoice for tire disposal as noted on the Bill List. Mr. Quinter said he would have to check the invoice. Mr. Quinter explained that the public

works employees got rid of a lot of tires and there are certain ones that Mascaro will not take.

When **COMMISSIONER DOLAN** questioned Commissioner Noll's mileage reimbursement; Mr. Noll explained that he was reimbursed for the recent conference he attended in June as well as the Commissioners orientation. When Commissioner Dolan questioned the mileage rate Mr. Layne responded \$.55/per mile.

JOHN WEST - 1611 Applegate Lane - Questioned the reimbursement for Michelle Reddick as noted on the Bill List. Mr. Layne stated that Michelle went to Tax Collector training and was reimbursed for her mileage. Mr. West advised that he reviewed the vendors on the Bill List and stated that he hoped the Township would utilize businesses that are located within the Township. Mr. West suggested that both the Public Works Department and the Police Department use the same vendors, such as D & D Collision, whenever feasible and possibly get a reduced rate. Mr. Layne noted that both departments use Artim's for repairs to their vehicles. Mr. Quinter reported that Artim's doesn't always give the Township priority when it comes to repairing the trucks. In response to a question from Commissioner Noll regarding the \$1800 invoice; Mr. Quinter explained that he purchased six (6) truck tires for \$1600 and \$200 for tire disposal.

APPROVAL OF MINUTES - June 18, 2012 - A motion by Dolan, seconded by Spaide, to approve the minutes of the June 18, 2012, meeting as presented. All aye votes.

EXECUTIVE SESSION - At 9:11 P.M. Commissioner Taylor announced that the Board would be meeting in Executive Session to discuss
The meeting reconvened at 9:30 P.M.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Noll, to adjourn the meeting at 9:31 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary