

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

March 18, 2013

A meeting of the Board of Commissioners was held on Monday, March 18, 2013, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Noll, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Police Chief William A. Moffett, Engineer Pete Eisenbrown, Township Manager Jack P. Layne, Jr., and Public Works Director Frank Quinter and Township Secretary Cynthia Saylor. Commissioner Taylor called the meeting to order at 7:00 P.M. There were 22 people present in the audience. Commissioner Miller was unable to attend the meeting.

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:

JOHN WEST - 1611 Applegate Lane - Advised the members of the Board that he was recording the meeting.

KEITH KEHL - 1941 Gilbertsville Road - Reported that there is a piece of plastic, too large for one individual to pick up, on the right side of Moyer Road and asked if the Highway Department could dispose of it. Mr. Quinter stated he would look into the matter.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Requested an update with regards to the proposed resolution relating to firearms that he presented to the Commissioners at the last meeting. Commissioner Taylor read the following statement: This Board of Commissioners has been asked to consider a resolution that asks us to enact “legislative measures as may be necessary to prevent the enforcement of any federal acts (that violate) the individual Right to keep and bear arms within the borders of the Township.” The resolution goes on to justify nullification of Federal law on the basis of a Constitutional argument first espoused by Thomas Jefferson in his Kentucky Resolutions of 1798 and 1799. This Board’s response will be limited to the same response given by the Pennsylvania House of Representatives to Jefferson’s nullification proposition.

“The Constitution of the United States (does not empower) the Legislatures of the several states (with) any right or power of declaring that any act of the general government “is not law, but is altogether void, and of no effect,” and this House considers such declaration as a revolutionary measure, destructive of the purest principles of our State and national compacts. Loud and concerted appeals to the passions of the community are calculated to produce discussions more boisterous than wise, and effects more violent than useful.

It is the opinion of this House, that it ought not to concur in the design of the resolutions of the Legislature of Kentucky.” February 9, 1799.

In response to a question from **JOHN WEST, 1611 Applegate Lane**, regarding the township ordinance prohibiting parking in the cul-de-sacs during a snowstorm; the Public Works Director stated the township did not declare a state of emergency.

REPORTS:

EMERGENCY SERVICES:

CHIEF MOFFETT summarized the monthly Police Report and noted a copy would be posted on the bulletin board. **COMMISSIONER DOLAN** clarified that the Fire Company received a grant for debt reduction totally \$13,116.29 and noted there was a miscommunication with regards to a newspaper article regarding this matter. Mr. Dolan reported that the Fire Company is interested in the house numbering project whereby house numbers for each residence is properly displayed on the street. Mr. Dolan advised that the Fire Committee meeting scheduled for this Thursday will be rescheduled for Wednesday, March 27th.

DENNIS ELLIOTT - 576 Evans Road - Questioned the possibility of giving the township residents a choice regarding emergency services provided within the township. Mr. Layne noted that the information Mr. Elliott provided him was included in the Board members meeting packets. Commissioner Dolan noted that if a resident places a call from Montgomery County and they request someone from Berks County to respond; there will be a delay in the transfer from the Montgomery County 911 dispatch to the Berks County 911 dispatch.

COMMISSIONER NOLL suggested that we contact Tom Sullivan, Montgomery County, as to the current dispatch for Upper Pottsgrove Township.

JOHN WEST - 1611 Applegate Lane - Questioned whether the Fire Company looked into using the junkyard for fire training purposes. Commissioner Dolan reported that it could create a safety hazard.

PLANNING & ZONING REPORT - Commissioner Taylor stated the Planning and Zoning discussions will take place later during the meeting.

PUBLIC WORKS REPORT - Commissioner Spaide reported the Highway employees installed **NO PARKING IN CUL DA SAC** signs on Peachtree Circle and Irene Court, made temporary repairs to the cul da sac on Old Orchard Lane, patched and compacted pot holes, picked up trash bags collected by Montgomery Prison Early Release Program for trash collection, made repairs to the driveway at Hollenbach Open Space, finished the trail coming from North Hanover Street to Mangers Mill Road and posted additional **NO HUNTING** and **NO MOTORIZED VEHICLE** signs in open space. As required by Pennsylvania Department of Environmental Protection; water samples have been taken and have come back with a fecal coliform count from a pipe discharging directly into a stream along Farmington Avenue beginning at 1859 and ending at 1887 Farmington Avenue. With regards to Waste Water Collection the Public Works Department has been working with LTL Consultants and Exeter Supply Company in an attempt to retrieve data from temporary

PUBLIC WORKS REPORT CONT'D - flow loggers; to date the velocity in the pipe has restricted any useable information. Due to monitoring of sanitary sewer meters by the Public Works Department; a clog was discovered in the Willow Street line. The Pottstown Borough Authority was able to hydraulically clean the line and flows returned to normal.

PARKS, RECREATION AND OPEN SPACE REPORT - None.

SPECIAL TOWNSHIP PROJECTS - Commissioner Noll reported there were no new updates with regards to Special Projects. Commissioner Noll advised that State Representative Mark Painter will be holding an Open House on Saturday, April 20th from 10:00AM to 2:00 PM and invited the Board members to attend.

TOWNSHIP 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 there are matters of litigation that will be discussed in Executive Session.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported that he assisted in coordinating a productive meeting with Arcadia and Township staff; assisted in coordinating efforts to provided requested information to Township Auditors; was notified by the Federal Emergency Management Agency (FEMA) representative that the Township should receive approximately \$10,747.07 in funding as reimbursement for losses sustained as a result of Hurricane Sandy. Mr. Layne noted that the insurance carrier provided a check to cover the cost of the repairs to the fire truck damaged during the hurricane and the \$10,747.07 from FEMA includes the \$250 deductible fee for the insurance claim. He also attended the pre-construction meeting for the upcoming sewer televising project along Farmington Avenue, provided letters to designated residents living on Farmington Avenue regarding the improper distribution of laundry water; coordinated efforts with the Township Emergency Operations Center members and Montgomery County Department of Public Safety staff to provide a successful Hazardous Weather Emergency Exercise, attended a Montgomery County Department of Public Safety Emergency Management Coordinator training session and assisted in coordinating efforts to obtain additional open space. Mr. Layne extended his thanks and appreciation to those volunteers who participated in the Hazardous Weather Exercise. Mr. Layne stated that the Public Works Director has obtained a quotation for the purchase of a new John Deere tractor under State Contract in the amount of \$22,346.47. He further stated that the proposal includes a generous trade in allowance in the amount of \$8500. It was noted that the tractor the Highway Department now has is used to mow the Hollenbach Open Space tract, the Hoffman Field tract, Sussell Park, the area around and leading up to Sunset Park and the pond and the newly created trails off of North

Hanover Street to Maugers Mill Road. Matt Dallas, the Township's Financial Consultant, advised that there is \$23,000 budgeted for maintenance in the Open Space Fund. After a brief discussion, a motion by Dolan, seconded by Spaide, to authorize the purchase of a new John Deere tractor. All aye votes. Mr. Layne reported that the Open Space Committee has recommended that the Township

TOWNSHIP MANAGER'S REPORT CONT'D - purchase two (2) Cuddeback IR cameras to be used for surveillance of vandalism at both Sunset and Sussell Parks at an approximate cost of \$400. **COMMISSIONER DOLAN** stated he thought it would be a great investment for \$400 if the cameras discourage vandalism to the parks. **COMMISSIONER NOLL** questioned whether the surveillance areas would be posted and expressed his concern with regards to the legal issues involved in identifying someone from the camera tape. After a brief discussion, a motion by Dolan, seconded by Noll, to authorize the purchase of two (2) Cuddeback IR cameras for a cost not to exceed \$450. All aye votes.

GEORGE FINNEGAN - Coolidge Avenue - Expressed his concern regarding the condition of Coolidge Avenue and noted that he sent a letter regarding the manner to the Township Manager. Mr. Finnegan asked the members of the Board whether the Township could repair or replace the roadway. Public Works Director, Frank Quinter, stated Coolidge Avenue is not an ordained road.

ADRIAN BARENDS - 17 Coolidge Avenue - Asked why the Township blacktopped the road if it is not an ordained road and stated that their tax dollars are paying for the maintenance of Coolidge Avenue and the residents are not getting anything in return. Commissioner Taylor stated that if it is not an ordained road the Township is not responsible for maintaining it; we (the Township) cannot do public work on private property.

In response to a question regarding the criteria for an ordained road; Public Works Director, Frank Quinter explained that it has to be two hundred and fifty (250) feet in length with a cul de sac forty (40) feet in diameter or it has to be a thru road.

When **GEORGE FINNEGAN** asked how the residents are supposed to maintain the road; Commissioner Taylor stated in other instances the local people share the responsibility in maintaining the road.

DEBRA BARENDS - 17 Coolidge Avenue - Questioned why the Township plows the road if it is not an ordained road. Mr. Quinter stated as a courtesy to the residents.

After further discussion, it was agreed that the Solicitor, Public Works Direction and Township Manager would meet to discuss this matter.

GENERAL OBLIGATION BONDS, SERIES OF 2013 - Michael Wolf, Boenning & Scattergood, Inc., provided a brief presentation with regards to the possible borrowing of funds in 2013.

MONTHLY FINANCIAL REPORT - Mr. Layne reported that as of February 28, 2013, the Township has collected 12.9 % of its budgeted revenues and expended 15.4% of the budgeted disbursements to date.

COMMISSIONER NOLL questioned the transfer of Capital Funds to the General Fund as noted in

the monthly Financial Report. Financial Consultant, Matt Dallas, explained that the Capital Fund was closed and funding for sewer related issues will be expended from the Corrective Action Plan where funding is available.

NEW BUSINESS:

DISCUSSION AND POSSIBLE APPROVAL OF A WAIVER REQUEST FOR THE PROPOSED FUJIYAMA RESTAURANT ADDITION -

Commissioner Taylor reported that the property owner of the Jujiyama Restaurant wishes to expand the second floor of his establishment and construct a 2,000 square-foot deck addition. Mr. Taylor further reported that the owner is requesting a waiver for the Land Development Plan due to the fact that the proposed addition will be built over the portion of the existing kitchen and pre-existing paved parking area, which will have no impact on the current impervious ratio. Township Engineer, Pete Eisenbrown, noted that the proposed addition will have no effect on any storm water issues. He further noted that the proposed addition does not include any parking issues; since there is sufficient number of existing parking spaces available. Commissioner Taylor reported that the Planning Commission reviewed the request at their recent meeting and is recommending approval of the waiver from Land Development with the condition that the Township Engineer review the plan in more detail. After a brief discussion, a motion by Spaide, seconded by Noll, to waive the Land Development Process subject to the compliance with any of the Township Engineer's requirements during construction. All aye votes.

In response to a question from **COMMISSIONER DOLAN** with regards to the Engineer's involvement with the building of the deck; Mr. Eisenbrown stated the actual construction would be the responsibility of the Zoning and Code Enforcement Officer. He further stated that he would be involved with the Land Development issues such as sewer and parking.

COMMISSIONER NOLL referenced the Architect's letter with regards to the number of parking spots and questioned if there are seventy (70) parking spots currently available at the restaurant. Mr. Eisenbrown stated there is additional parking around the existing building.

DISCUSSION AND POSSIBLE APPROVAL OF A RESOLUTION AUTHORIZING THE TOWNSHIP TO SUBMIT A GRANT APPLICATION FOR FUNDING TO THE PENNSYLVANIA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DISCUSSION AND POSSIBLE APPROVAL OF AN AGREEMENT AUTHORIZING NATURAL LAND TRUST TO ASSIST THE TOWNSHIP IN THE PREPARATION OF THE PROPOSED PENNSYLVANIA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES GRANT APPLICATION -

Commissioner Taylor noted that both of these agenda items could be discussed together and only one motion would be necessary. A motion by Noll, seconded by Dolan, to approve a Resolution authorizing the submission of the grant application and to approve an Agreement authorizing Natural Land Trust to assist in the preparation of the proposed Pennsylvania Department of Conservation and Natural Resources Grant Application. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF A RECOMMENDATION BY THE OPEN

SPACE AND RECREATION BOARD FOR THE TOWNSHIP TO SUPPORT THE PROPOSAL TO CREATE A REGIONAL RECREATION AND PARKS COORDINATOR POSITION AT THE FUNDING LEVEL SPECIFIED IN THIS PROPOSAL - Commissioner

Dolan reported that the Pottstown Metropolitan Regional Planning Commission is looking at creating a Regional Recreation and Parks Coordinator position for the membership municipalities, with the exception of New Hanover Township, who have opted out. Commissioner Dolan stated the project goal is for the seven (7) municipalities, with the help and support of Pottstown Metropolitan Regional Planning Committee and Pottstown Area Health and Wellness Foundation, to join together to hire a Regional Recreation and Parks Coordinator whose work will focus on improving the parks, recreation and open space services provided to the residents of each municipality. He further stated that if all seven (7) municipalities sign the proposal it will cost nothing; it will be financed totally by the Pottstown Health and Wellness Foundation. In year two the cost for each participating municipality would be \$625; in year three the cost would be \$1,250; in year four the cost would be \$2,500; and in year five the cost would be \$5,000. Both Commissioners Noll and Spaide expressed concern as to the financial ramification if all seven municipalities are not on board. Commissioner Spaide reported that this was discussed at a recent COG meeting and noted the consensus was that there were too many “grey areas.” Mr. Dolan summarized the many services that could be provided such as: cheaper and more successful grant writing; help in coordinating the use of existing facilities; developing trails and greenway connection; expanding promotion of existing parks and programs and coordination of the scheduling of major events among them; identifying and facilitating sharing resources among youth sports groups; and coordinating public/private partnerships, contributions and volunteer efforts. Commissioner Dolan stated the Pottstown Metropolitan Area Regional Planning Committee is “testing the waters” and want to see how many municipalities are on board with the concept. He further stated if our residents are going to benefit and the township gets some money from the state we have a responsibility to move forward. Commissioner Taylor stated that the Pottstown Health and Wellness Foundation have been very supportive in our community. He further stated that we will be providing a service to our residents.

DENNIS ELLIOTT - 576 Evans Road - Stated he sits on the Park and Recreation Board and voted against the idea. Mr. Elliott suggested the Commissioners table any action regarding the proposal until we know how many communities are on board.

After discussion, a motion by Dolan, seconded by Noll, to approve the recommendation by the Open Space and Recreation Board for the Township to support the proposal to create a Regional Recreation and Parks Coordination with the understanding that there are seven municipalities willing to participate. All aye votes.

OLD BUSINESS:

DISCUSSION AND POSSIBLE ACTION ON A PROPOSED RESOLUTION TO THE APPROVED AMENDED CODDINGTON VIEW SUBDIVISION PLANS FOR PHASES 2 AND 3 - This item will be discussed at a future meeting.

Minutes - Board of Commissioners

7

March 18, 2013

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION # 620 INCREASING THE TOWNSHIP’S TAPPING FEES - A Resolution of the Upper Pottsgrove Township Board of

Commissioners Amending its Tapping Fees and Connection Fees relating to Sanitary Sewer and Sewer Disposal, as permitted by Article V, Rates and Charges, of Chapter 275, Sewers and Sewage Disposal, of the Code of the Township of Upper Pottsgrove, as amended. A motion by Dolan, seconded by Spaide, to adopt Resolution #620. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED JOB DESCRIPTION FOR THE FIRE MARSHAL - This matter was tabled to a future meeting.

OTHER PUBLIC COMMENT:

JOHN WEST - 1611 Applegate Lane - Referenced the Open Space Fund and noted that two years ago the township had approximately \$2,000,000 and questioned the balance in that account today. Financial Consultant, Matt Dallas, noted that as of the end of February there is approximately \$264,000 in the account.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Requested a copy of the statement Commissioner Taylor read pertaining to the proposed resolution relating to firearms.

DENNIS ELLIOT & MICHELLE REDDICK - Provided a list along with pictures of vacant properties and noted that there are numerous property maintenance issues within the Township.

KEITH KACHEL - 1412 Farmington Avenue - Questioned what authorization Michelle and Dennis have to be on personal property. Michelle Reddick stated that most of the houses are vacant and the pictures were taken from the curb or an adjacent property which we had permission to be on. Commissioner Taylor stated that when it comes to issues of code enforcement the township has the authority to enter onto private property.

DENNIS ELLIOTT - 576 Evans Road - Reported that during the tour of the Township they found abandoned cars and trailers and junk on numerous properties as well as homes in disrepair. Mr. Elliott questioned what steps the township could do in an effort to correct these code enforcement issues. Attorney Chuck Garner stated that the fact that Mr. Elliott and Mrs. Reddick provided a list and pictures and submitted them to the Board it should be very helpful to the Code Enforcement Officer. He further stated that the Code Enforcement Officer would make an inspection of the properties and send a violation notice to the property owners in question and follow up with the enforcement process.

After further discussion, Engineer Pete Eisenbrown stated he would work together with Robin from LTL Consultants as well as Dennis Elliott and Michelle Reddick on this matter.

JOHN WEST - 1611 Applegate Lane - Questioned whether the Township looked into installing a fence around the yard that stores the highway equipment.

Minutes - Board of Commissioners

8

March 18, 2013

COMMISSIONER COMMENTS:

COMMISSIONER DOLAN - Reported that the Delaware Valley Regional Planning Commission is planning to inventory all the roads within the various municipalities and categorize them

according to their actual condition at no expense to the township. Mr. Dolan stated this information will be beneficial during the budget process and how best to apply for grants. In another matter; Commissioner Dolan referenced the political letters that have been included in the Commissioners' mail packets and stated they are not appropriate.

COMMISSIONER SPAIDE - Advised the members of the Board that she had been contacted by a man who was very interested in building a hotel in the township. Commissioner Spaide reported that she spoke with Mr. Mooney who is currently building the Wawa in Douglass, Montgomery Township and noted that he would like to speak with the Township Manager and Commissioner Taylor regarding Commerce Corner.

PAYMENT OF BILLS - March 18, 2013 - Commissioner Noll questioned the line item for the invoice from Richard Brown for the removal of trees. Mr. Layne stated the expense should have come out of the property maintenance line item in the Open Space fund and it will be corrected. A motion by Noll, seconded by Dolan, to approve the Bill List dated March 18, 2013, for General Fund in the amount of \$42,616.15; Fire Fund in the amount of \$2,903.04; Sewer Fund in the amount of \$14,104.89; Capital Fund in the amount of \$3,649.43; Open Space Fund in the amount of \$8,445.84; State Fund in the amount of \$8,963.61 and Escrow Fund in the amount of \$11,883.66. Total Disbursements ~ \$92,566.62. All aye votes

APPROVAL OF MINUTES - February 19, 2013 - A motion by Noll, seconded by Spaide, to approve the minutes of the February 21, 2012, meeting as presented. All aye votes.

EXECUTIVE SESSION - At 9:07 P.M. Commissioner Taylor stated the Board would be meeting in Executive Session to discuss matters of real estate, personnel and pending litigation. He further stated no decisions would be made. The meeting reconvened at 10:06 P.M.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Dolan, to adjourn the meeting at 10:08 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor