

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

April 15, 2013

A meeting of the Board of Commissioners was held on Monday, April 15, 2013, 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., Engineer Pete Eisenbrown, Township Manager Jack P. Layne, Jr. and Township Secretary Cynthia H. Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 15 people and a Mercury Reporter 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:

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

ROBERT FIDLER - Limerick Township - Introduced himself as Representative Mark Painter's liaison and the Board of Commissioners. Mr. Fidler invited the members of the Board to attend Representative Mark Painter's Open House which is scheduled for Saturday, April 20 between the hours of 10:00 AM and 2:00 PM.

REPORTS

EMERGENCY SERVICES - Chief Moffett was not present to give the monthly Police Report.
Fire Committee Report - Commissioner Dolan reported that the last Fire Committee meeting was cancelled. He further reported that the Fire Company is looking into purchasing a 1999 tanker from North Coventry Township with Volunteer Relief Fund monies. Mr. Dolan noted that the 1999 truck is smaller than the existing unit and would be more cost efficient to run. When Commissioner Spaide questioned why North Coventry is selling the truck; Commissioner Dolan stated they (North Coventry) are looking to consolidate their fleet. In response to a question from Commissioner Noll as to which truck is our second unit out; Commissioner Dolan advised it all depends on the call. Commissioner Dolan advised that no progress has been made in the redistricting of emergency services.

PLANNING & ZONING REPORT - Commissioner Taylor reported that the Planning Commission did not meet this month.

PUBLIC WORKS REPORT - Commissioner Spaide reported that the annual street sweeping is scheduled for the week of April 22, 23, 24, & 25. The Highway Department installed trash rack in the storm inlet box located at 1456 Sweetwater Way; replaced missing 25 mph sign on Irwin Place; also replaced faded stop sign at Irwin Place and Farmington Avenue, patched and compacted potholes on various roads throughout the township and met with Montgomery County Board of Health regarding illicit discharge located at the 1800 block of Farmington Avenue.

PUBLIC WORKS REPORT CONT'D – The televising of the Farmington Avenue, Mangers Mill Road and Windsor Heights main line has been completed with televising of laterals near completion.

To date three (3) sources of inflow have been located, two (2) in manholes on Farmington Avenue and one (1) break between manholes on Hanover Drive. The Highway employees chipped up a large brush pile located at Sussell Park, made repairs to wash outs along trail at Sunset Park, ordered new trash receptacle and a park bench for placement along Sunset Park trail; continued with preventative maintenance on Police vehicles and Highway equipment as needed and took delivery of a new John Deere mowing tractor and Bandit 990 XP Wood chipper.

PARK, RECREATION AND OPEN SPACE REPORT - Commissioner Miller reported that the Eagle Scout has finished his project and the new picnic table, horse shoe pits and chin-up bars have been installed at Sunset Park. Mr. Miller noted that wash outs have been repaired. In other matters, Commissioner Miller explained that another member is needed from our township to sit on the Pottsgrove Recreation Board and recommended that Michelle Thompson be appointed to serve on that Board. A motion by Miller, seconded by Noll, to appoint Michelle Thompson to the Pottsgrove Recreation Board. All aye votes. **FOX HILL TRAIL** - Commissioner Miller stated that it is the recommendation of the Park, Recreation and Open Space Board that the trail, located between North Hanover Street and Mangers Mill Road, be named the Fox Hill Trail. A motion by Spaide, seconded by Noll, to name the newly constructed trail, between North Hanover Street and Mangers Mill Road, the Fox Run Trail. All aye votes.

SPECIAL TOWNSHIP PROJECTS - Commissioner Noll encouraged the members of the Board to attend the Open House hosted by Representative Mark Painter on Saturday, April 20, 2013. Commissioner Miller requested an update regarding the status of the Bill in Harrisburg which would allow for open space revenue monies to be used for maintenance purposes. Commissioner Noll stated he sat down with Representative Painter and discussed the matter with him and noted there would be further updates at the Open House. Commissioner Taylor stated that he briefly discussed the matter with Representative Painter when he was elected.

In response to a question from **DENNIS ELLIOTT, 576 Evans Road**, Commissioner Taylor stated we are hopeful that the Bill in Harrisburg takes some of the money designated for open space purchase and allots it for maintenance without having to raise a separate general fund tax. Mr. Elliott stated that the Township has enough open space revenue coming in to adequately purchase and to maintain what has been purchased. Mr. Elliott questioned how the Department of Conservation and Natural Resources is allowed to make trails with taxpayer's dollars and the people in Upper Pottsgrove are not.

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 reported that the Township received a review letter from PennDOT with regards to the Citadel Federal Credit Union Land Development. Attorney Garner explained that one of PennDOT'S concerns is the State Street issue and the fact that the Township had already decided to close State Street at Upland Square Drive.

TOWNSHIP SOLICITOR'S REPORT CONT'D - Mr. Garner stated it was a suggestion from PennDOT that a meeting take place between Upper Pottsgrove, West Pottsgrove, the Developers, and the neighboring property owners. He further stated that the Board made the decision years ago that as part of the Upland Square Shopping Center that State Street would be closed to thru traffic. Attorney Garner requested the consent of the members of the Board to submit a letter to PenDOT stating that a meeting is not necessary with regards to State Street and that the decision to close the road has been made years ago. Mr. Garner noted that Citadel supports the township's position with regards to this issue. In other matters; Attorney Garner reported that the monthly sewer flows, based upon the new sewer metering, are less than our previous flows and the township is well within the purchased capacity from the Borough Authority. With regards to the Regional Recreation liaison; Attorney Garner noted that there is a Resolution that needs to be executed by the Board if the Township is willing to participate. Mr. Garner advised that the Board voted to participate at the March meeting; however, the Pottstown Health and Wellness Foundation is looking for feedback and input from all municipalities. Commissioner Dolan stated he did receive a resolution; however, it didn't feel right to sign it because the Board's motion was conditional and based on how many municipalities actually signed on. Attorney Garner advised Mr. Layne that it is important that the Health and Wellness Foundation are made aware of the Board's motion and noted that it is subject to the support of the other municipalities. With regards to the Arcadia/Coddington View project; Attorney Garner stated that there are representatives from Arcadia present this evening. Mr. Garner provided a brief history with regards to the Arcadia/Coddington project. Attorney Garner explained that Arcadia purchased the property from First Niagara Bank. He further explained that one of the conditions of the Agreement was that the Township or Arcadia provide back to the bank the original letter of credit which the Township is holding to guarantee Phase 3. The amount of that letter of credit is approximately \$279,000. Arcadia has indicated their willingness to produce a substitute letter of credit for that same amount and is asking that the Township accept the new letter of credit as part of Phase 2. Mr. Garner stated that there is an Acknowledgement and an Assumption Agreement and explained that a substitute letter of credit will be produced, the Township will be in the same exact condition as it is today, the Developer will be required to get final approval of the Phase 3 Plan before any new construction can take place or any new work occurs, and the Developer understands that potentially there may be an increase in that letter of credit as part of the plan approval process. Attorney Garner stated that upon execution of this Agreement that there is approximately \$10,000 owed to the township for engineering, inspection and legal fees associated with the project during the ownership by First Niagara Bank. He further stated that as part of this Agreement the Township will receive approximately \$9,800 in back review fees.

JASON DUCKWORTH, President of Arcadia Land Company, stated he had nothing to add to Attorney Garner's summarization of the project. Mr. Duckworth stated Arcadia is looking forward to working with the Township and is hopeful to begin the project as soon as possible. Attorney Garner advised that a meeting was held last week with representatives from Arcadia with regards to the revised Phase 3 plan of the Coddington View project. Mr. Garner reported that there is a new final Phase 3 Plan Resolution and outlined the following conditions of approval: Compliance with all conditions and comments set forth in the LTL Consultants letter dated March 7, 2013, compliance with all conditions and comments set forth in the Montgomery County Planning Commission review letter dated March 11, 2013, the Applicants receipt of any required outside agency permits and/or

TOWNSHIP SOLICITOR'S REPORT CONT'D - approval of said outside agencies, including but not limited to, the Department of Environmental Protection, Montgomery County Conservation District, PennDOT, Pottstown Borough Authority and/or any other authority or entities providing utility services to the subject property; the preparation and execution of Development Agreements for Phase 3 in a form acceptable to the Solicitor's office as noted in the Assumption Agreement, a written Plan proposed by the Applicant and acceptable to the Township Engineer for the removal of excess dirt and fill on the subject property, including the establishment of certain construction entrances; the submission, review and approval of the Township to any required amended HOA documents attempting to address easements necessary for utility laterals; payment in full of all Township legal, engineering, review, and inspection fees associated with the Application, prior to the release of Revised Plans for recording; the Applicant converting or causing the conversion of the existing detention ponds to satisfy all applicable regulatory requirements; the Township and Applicant entering into a Construction Services Agreement, requiring the Applicant to complete Phase 1 and Phase 2 site improvements, when and if such funds are made available, with the form of such Agreement being acceptable to the Township; the execution of an Agreement between the Applicant, the Pottstown Borough Authority and the Township, to permit a tapping fee reimbursement component payable to the Applicant, not to exceed Two Thousand Dollars (\$2,000.00) per connection; the execution of an Agreement between the Township and the Pottstown Borough Authority in a final form acceptable to the Township, providing for a contribution and/or funding mechanism to upgrade certain designated sanitary sewer infrastructure within the Borough of Pottstown; the Applicant, at Applicant's sole cost and expense, constructing and installing a proposed all-purpose field at Hollenbach Park, as depicted on a Plan prepared by LTL Consultants, Ltd., dated February 7, 2013. The final form of the Agreement shall be acceptable to the Township Solicitor and Township Engineer and shall utilize the fill from the subject property in conjunction with paragraph 5 above. The Applicant reimbursing the Township Thirty Thousand Eight Hundred Fifty Two Dollars and Seventy Five Cents (\$30,852.75) reflecting outstanding engineering, legal and inspection fees which were incurred during the time THP owned the property. A suggestion is that they be reimbursed to the Township over a period of time based upon the issuance of building permits. Execution by the Applicant of this Resolution noting acceptance of the conditions as stated herein within ten (10) days from the date of approval of this Resolution. The Applicant has not requested any additional waivers from the provisions of the Township Subdivision and Land Development Ordinance, except those that have already been approved and granted through the original approval of Phase 2 and Phase 3 Plans of Coddington View.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported that he attended a meeting with Arcadia and the Borough of Pottstown Authority staff; assisted in coordinating efforts and provided requested information to the Township Pension Auditors; assisted in coordinating efforts with Natural Lands Trust to develop and submit a grant application to the DCNR Community Recreation and Conservation Program for funding to acquire the Hilsee property, assisted in the procurement of the chipper and a new John Deere tractor and assisted in coordinating efforts to obtain additional open space.

MONTHLY FINANCIAL REPORTS – Mr. Layne reported that the Township has collected 29.7% of its budgeted revenues and disbursed 21.6% of its budgeted expenditures.

NEW BUSINESS:

DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST BY THE TOWNSHIP TO PLACE SPECIFIED ITEMS ON MUNICIBID - A motion by Spaide, seconded by Miller, to place the 1988 Chevy Dump Truck, lateral camera, tar buggy, compressor, and jackhammer, on MuniBid. All aye votes.

DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE BIDDING THE LEVENGOOD AND SELL ROAD COMBINED PROJECT - A motion by Spaide, seconded by Noll, to authorize a joint bid between Upper Pottsgrove Township and West Pottsgrove Township for the Levengood and Sell Road Combined Project. All aye votes.

OLD BUSINESS:

DISCUSSION REGARDING THE PROPOSED 2013 BORROWING ENDEAVOR - Michael Wolf, Boenning & Scattergood, Inc., was present and outlined the proposed 2013 borrowing endeavor. Mr. Wolf reported the new capital sewer project in the amount of \$2,115,000 has been removed from the original proposal; as such, the bond issue has been reduced from \$6.7 million to \$4,490,000. He further reported that the Township plans to borrow \$1million of new money for open space purposes, are refunding the 2008 Delval to save \$250,000 net after costs; are refunding \$421,000 variable rate DelVal into fixed rate to reduce risk going forward and will refund the last five (5) years of Series 2005A bonds. After a brief discussion, a motion by Miller, seconded by Dolan, to authorize Township officials and staff to coordinate their efforts along with Mr. Wolf, Boenning & Scattergood, Inc. to submit the necessary documents regarding the proposed 2013 borrowing endeavor. All aye votes.

In response to a question from **JOHN WEST, 1611Applegate Lane**, Mr. Wolf explained that the township would save approximately \$26,000 - \$30,000 annually. When Mr. West asked if there would be a public hearing at the next meeting; Attorney Garner stated there will be an advertised ordinance that the Board will need to act on at their May 20, 2013, meeting.

DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED JOB DESCRIPTION FOR THE FIRE MARSHAL - The Board reviewed the proposed changes in the job description language for the Fire Marshal.

KEITH KACHEL - 1412 Farmington Avenue - Expressed his concern and stated that there is a difference in being President of the Fire Company vs. being the Chief of the Fire Company; the President has more “administrative” experience. There was a brief discussion regarding the required experience in the Fire Marshal job description.

JEFF LEVENGOOD - Fire Chief - Stated that the fire prevention should be handled by the Fire Company and not be the responsibility of the Fire Marshal. Commissioner Noll stated he would prefer to keep the Fire Marshal involved with fire prevention and that he (Fire Marshal) should work

JEFF LEVENGOOD CONT'D - together with the Fire Company with regards to providing training to schools within the community. Commissioner Taylor noted that the requirements for the Fire Marshal job description are standard throughout the state of Pennsylvania and one of the responsibilities was fire prevention training.

In response to a question from **ARMANDO JOHNSON, 236 Micklitz Drive**, Commissioner Taylor stated that the Fire Company requested a job description for the Fire Marshal position and noted that the members of the Fire Company should have input and be able to make recommendations in the requirements for the position. Commissioner Spaide noted that the Fire Marshal is not a paid position.

JOHN WEST - 1611 Applegate Lane - Requested clarification with regards to obtaining a first aide certificate. Commissioner Taylor stated the changes would be made in the job description for the Fire Marshal and the Board would take action at a future meeting.

OTHER PUBLIC COMMENT:

KEITH KEHL - 1941 Gilbertsville Road - Addressed Mr. Fiddler and emphasized the need for property tax reform. Mr. Fiddler advised that Representative Painter has in fact co-sponsored House Bill #76 which pertains to Property Tax Reform.

DENNIS ELLIOTT - 576 Evans Road - Addressed Attorney Garner and referenced the Health and Wellness Resolution discussed at last month's meeting. In response to several of Mr. Elliott's questions; Attorney Garner reported that the presentation given at last month's meeting provided an outline of costs over a five year period and at year five the maximum cost per municipality was \$5,000. Mr. Garner stated he was unsure of the number of municipalities that have signed on; however two or three municipalities have approved the Resolution. Mr. Layne stated he would contact the Health and Wellness Foundation; provide a report to the members of the Board and copy Mr. Elliott.

When **GREG CHURACH, 144 Snyder Road**, questioned the amount of trash collected during the recent cleanup brigade; Commissioner Miller reported 37 bags of trash, 6 tires, and 2 dead animals. Mr. Miller noted the total amount would equate to approximately ½ ton of trash.

JEREMY WOZNAK, Upper Pottsgrove Fire Company President, reported that to date approximately \$10,000 has been collected in donations from this year's fund drive. Mr. Wozniak expressed his thanks and appreciation to the residents for their generous donations.

COMMISSIONERS COMMENTS:

COMMISSIONER TAYLOR - Expressed his appreciation to Mr. Wozniak for the detailed information he presented to the Commissioners regarding the purchase of the fire truck from North Coventry Township.

COMMISSIONER NOLL - Expressed his concern with regards to the new sign on the firehouse building. Commissioner Noll stated that the members of the Board should be involved in any changes, whether interior or exterior, to the building. He further stated that he was “very discouraged” to find out on face book that “*Upper Pottsgrove Township*” had been removed from this building and a new sign recognizing the Fire Company as Station 79 had been put up in its place. Commissioner Noll explained that he wasn’t opposed to the new sign; however, he thought it should have been discussed and approved by the Board of Commissioners.

TOWNSHIP MANAGER - Mr. Layne expressed his thanks and appreciation to Commissioner Herb Miller and all of the volunteers for their hard work with regards to the cleanup brigade.

PAYMENT OF BILLS - April 15, 2013 - A motion by Dolan, seconded by Miller, to approve the Bill List dated April 15, 2013, for General Fund in the amount of \$162,799.68; Fire Fund in the amount of \$11,807.52; Sewer Fund in the amount of \$49,290.29; Open Space Fund in the amount of \$38,633.01; State Fund in the amount of \$7,366.67 and Escrow Fund in the amount of \$6,289.47. Total Disbursements ~ \$276,186.64. All aye votes.

APPROVAL OF MINUTES - March 18, 2013 - A motion by Spaide, seconded by Noll, to approve the minutes of the March 18, 2013, meeting as presented. All aye votes.

EXECUTIVE SESSION - At 8:56 P.M. Commissioner Taylor advised that the Board would be meeting in Executive Session to discuss matters of real estate, collective bargaining and two (2) items of litigation. Commissioner Taylor noted there may be action by the Board following the Executive Session. The meeting reconvened at 9:55 P.M.

CODDINGTON VIEW - ARCADIA - A motion by Dolan, seconded by Noll, to approve and execute an Acknowledgment and Assumption Agreement for Phase 3 of Coddington View with Arcadia in a final form acceptable to the Township Manager, Engineer and Solicitor. All aye votes.

CODDINGTON VIEW - A motion by Dolan, seconded by Spaide, to adopt a Resolution approving and authorizing the execution of a Settlement Agreement and Release with IFIC for Phase 1 of Coddington View in a final form acceptable to the Township Solicitor and Township Special Bankruptcy Counsel, Elliott Greenleaf. All aye votes.

EASEMENT AGREEMENTS - A motion by Spaide, seconded by Miller, to approve the Easement Agreements for 151 and 161 Snyder Road. All aye votes.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Dolan, to adjourn the meeting at 9:58 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary