

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

May 20, 2013

A meeting of the Board of Commissioners was held on Monday, May 20, 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., Township Engineer Pete Eisenbrown, Township Manager Jack P. Layne, Jr., Police Chief William A. Moffett, Public Works Director Frank Quinter, and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 20 people present in the audience.

MOMENT OF SILENCE - Commissioner Taylor requested a moment of silence in honor of the men and women who have served and are currently serving our country in the armed forces.

PLEDGE OF ALLEGIANCE - Those assembled pledged allegiance to the flag.

PUBLIC COMMENT:

REGINALD LEISTER - 1693 Farmington Avenue - Asked if the County could restore funding that would provide for free water testing for the residents.

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

JAY YOUNG - Advised the members of the Board that he has completed his Eagle Scout project. Commissioner Miller as well as the other Commissioners expressed their thanks and appreciation to Mr. Young for the installation of the horseshoe pits, chin up bars and picnic table at Sunset Park.

REPORTS:

EMERGENCY SERVICES REPORT - Chief Moffett provided a summary of the monthly Police Report. A copy will be placed on the bulletin board. Commissioner Dolan reported that the Fire Committee discussed the possibility of having Opticom traffic signal preemption equipment placed at the Route 100/State Street intersection. Mr. Dolan explained that the equipment would be placed on the traffic signal as well as emergency vehicles that would interact with the traffic light giving the emergency vehicles the green light. Mr. Dolan noted that the cost would be approximately \$10,000 for the equipment plus the cost of installation for each vehicle. Commissioner Dolan suggested looking into possible grant funding for next year's budget. With regards to providing reflective street signs; Commissioner Dolan reported that the Township has an ordinance requiring that house numbers be displayed; however the ordinance has not been well enforced in the past. Commissioner Dolan reported that the Fire Company is running a campaign to have reflective signs available to residents, for a donation, that would comply with the ordinance. Mr. Dolan stated that the order forms for the signs will be available at the Administration office. Commissioner Taylor suggested that an article regarding the need for reflective signs be placed in the next Township Newsletter. The Fire Committee discussed the request to have additional ambulance firms provide service to Township residents. Commissioner Dolan reported that all ambulance calls, regardless of where you live in the Township, are handled by Goodwill Fire Company. Mr. Dolan stated that over the last few years there has been a lot of development in the western portion of the Township and those developments are geographically closer to either Gilbertsville or Boyertown Ambulance Companies.

EMERGENCY SERVICES REPORT CONT'D - Commissioner Dolan suggested that the Board establish an Ad Hoc Committee to investigate the redistricting issue and report back to the Commissioners. After a brief discussion, a motion by Miller, seconded by Spaide, to establish an Ad Hoc Committee comprising of Commissioner Dolan, Chief Moffett, Dennis Elliott, Martin Schreiber, and Keith Kachel. All aye votes.

PUBLIC WORKS REPORT - Public Works Director, Frank Quinter, reported that the Highway employees responded to a call out for failing pumps at the Hollyberry Court Pump Station; attended PA One Call Safety Days in order to earn continuing education credits towards Wastewater Operators licenses; continued patching and compacting potholes on Yarnall Road, Orlando Road and Farmington Avenue; made repairs to gutters on Yarnall Road and Moyer Road; continued mowing and trimming all township owned properties; hauled and spread stone at fishing area at pond in Sunset Park, ordered new trash receptacle and park bench; installed automatic door closers in Police Offices and made minor repair to the wall at the Administration building.

PARKS, RECREATION & OPEN SPACE REPORT - Commissioner Miller reported that there has been some work done by the "Power Rangers" who are working in conjunction with the SAVE Organization.

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

TOWNSHIP SOLICITOR'S REPORT - Attorney Garner reported that the Township has been working to resolve litigation with IFIC which is the bonding company holding the bonds for the Coddington View project. Mr. Garner noted that over the past month the Township has been successful in resolving litigation involving Phase I of Coddington View and has received proceeds of the Phase I bonds which is approximately \$356,000. In another matter, Mr. Garner reported that the Township has received a favorable decision from Judge Rodgers, in the Court of Common Pleas, involving a Whistleblower action that was filed against the Township, former Manager, and former Police Chief. Attorney Garner explained that the Plaintiff, one of our Police Officers, in that litigation filed post trial motion seeking a new trial; however, that matter was argued, a hearing was held, and the request for a new trial was denied.

In response to a question from **BRIAN FULMER, 253 Stonehill Drive**, regarding the amount of the Phase I bond; Mr. Garner stated \$356,864.00. Commissioner Taylor explained that the money was set aside by the initial developer in order to complete the Phase I public improvements such as paving, street lighting and sewer completion.

TOWNSHIP MANAGER REPORT - Mr. Layne reported he assisted in coordinating efforts to provide viable economic development projects in the Township; assisted in providing information to Moody's for the proposed 2013 borrowing endeavor; attended a meeting with Lower Pottsgrove, West Pottsgrove and Pottstown Borough representatives to discuss pertinent municipal sewer issues; attended meetings with Arcadia, the Borough of Pottstown Authority and First Niagara Bank regarding the Coddington View completion endeavor; assisted **SAVE** and **POWER** representatives in the planting of trees at the Hilsee property; attended the Montgomery County Public Safety

TOWNSHIP MANAGER REPORT CONT'D - Emergency Management Coordinator training session and met with Montgomery County Public Safety Department staff to provide update of the Township's Emergency Operation Plan. Mr. Layne expressed his appreciation to the Fire Company for watering the newly planted trees at the Hilsee property.

MONTHLY FINANCIAL REPORTS - Mr. Layne reported that as of April 30, 2013, the Township has collected 49% of its budgeted revenues and disbursed 32.1 % of its budgeted expenditures.

NEW BUSINESS:

DISCUSSION AND POSSIBLE ACTION TO APPROVE A PROPOSED #2-13 256 WEST MOYER ROAD SUBDIVISION - Resolution # 622 - Commissioner Taylor advised that the subdivision plan depicts a proposed subdivision on West Moyer Road on property owned by Upper Pottsgrove Township creating an 86,598 square foot parcel of land improved with house and barn, identified as Parcel C, with the residue parcel A continuing to be utilized as Township Open Space. The Upper Pottsgrove Township Planning Commission reviewed the Preliminary/Final Plan at their meeting and recommend Preliminary/Final approval of the Subdivision Plan, subject to the following conditions: compliance with all conditions and comments set forth in the LTL Consultant letter dated May 2, 2013; approval and/or receipt of permits, as required from any outside agency, including the Montgomery County Health Department, the Department of Environmental Protection, the Montgomery County Conservation District and any authority or entity providing public water or public sewer; and Execution by the Applicant of this resolution noting acceptance of the conditions, as stated herein, within ten (10) days of the date of approval of this Resolution. The Applicant has requested the following waivers from certain provisions of the Township Subdivision and Land Development Ordinance: a waiver to permit the Subdivision Plan to be drawn at 100 scale, as opposed to 50 scale, which is required by ordinance; a waiver from Section 310-7.B(2) permitting the key map to be drawn at one inch equals 2,000 square feet; a waiver from Section 310-21.A(1) requiring sidewalks provided along all roads; and a waiver from Section 310-21.B(1) waiving requirement to install concrete curbs along all roads. A motion by Miller, seconded by Dolan, to adopt Resolution #622. All aye votes. Developer, Richard Mingey, expressed his thanks and appreciation to the members of the Board and the Township Engineer.

DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTUION # 623 TO ESTABLISH A PENSION DEDUCTION PERCENTAGE AMOUNT FOR NON-UNIFORM EMPLOYEES - A motion by Spaide, seconded by Noll, to adopt Resolution #623. All aye votes.

DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION # 624 TO ESTABLISH A PENSION DEDUCTION PERCENTAGE AMOUNT FOR UNIFORM EMPLOYEES - A motion by Spaide, seconded by Miller, to adopt Resolution # 624. All aye votes.

DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE CIVIL SERVICE COMMISSION TO INITIATE AN ELIGIBILITY LIST FOR POLICE OFFICER APPLICANTS FOR THE TOWNSHIP - A motion by Noll, seconded by Miller, to authorize the Civil Service Commission to initiate an Eligibility List for Police Officer applicants. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #625 TO REVISE FINAL PLANS FOR A PORTION OF PHASE 2 AND ALL OF PHASE 3 FOR CODDINGTON VIEW - Attorney Garner outlined the following conditions: compliance with all conditions and comments set forth in the LTL Consultants letter dated May 1, 2013; compliance with all conditions and comments set forth in the Montgomery County Planning Commission review letter of March 11, 2013; Applicant's receipt of any required outside agency permits and/or approval of said outside agencies, including but not limited to, Department of Environmental Protection, Montgomery County Conservation District, PennDot, Pottstown Borough Authority and/or any other authority or entities providing utility service to the subject property; the preparation and execution of Development Agreements for Phase 3; 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 HOA documents addressing easements necessary for utility laterals and confirming HOA responsibility for street light repair, replacement and electrical consumption; payment in full of all outstanding Township legal, engineering, review, and inspection fees associated with this 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 site improvements, with the form of such Agreement being acceptable to the Township and requiring the Applicant to begin Phase 1 improvements not later than June 15, 2013, and completing any such improvements on or before September 30, 2013, weather permitting. This construction schedule may be modified, subject to review and approval by the Township Engineer; in the event Phase 2 site improvements are not completed by International Fidelity Insurance Company or a contractor of International Fidelity Insurance Company, which is the subject matter pending litigation, the Township and Applicant entering into a Construction Service Agreement requiring the Applicant to complete Phase 2 site improvements, when and if such funds are made available with the form of such Agreement being acceptable to the Township, and requiring the Applicant to complete the required Phase 2 site work within four months of the Township acquiring such funds, weather permitting. This construction schedule may be modified, subject to review and approval by the Township Engineer. Under no circumstances is it contemplated that the funds to be made available to complete Phase 2 site improvement will be funds of Upper Pottsgrove Township; Township and Applicant agree that a sewer tapping fee reimbursement component in an amount not to exceed \$2,000 shall be added to the Township's tapping fee for each equivalent dwelling unit ("EDU"), as permitted by the Municipal Authority's Act for a period of ten (10) years from the date the sanitary sewer improvements installed in Pottstown Bo rough have been completed and costs appropriately certified; the Applicant agrees that the Township is under no obligation to issue building permits for any dwelling unit in Phase 2 of the Subject Property until such time as adequate financial security is posted with or obtained by the Township to complete the Phase 2 public improvements.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #625 TO REVISE THE FINAL PLANS FOR A PORTION OF PHASE 2 AND ALL OF PHASE 3 FOR CODDINGTON VIEW CONT'D

- Notwithstanding, the Applicant shall be permitted to grade and extract fill from Phase 2; the Applicant, at Applicant's sole cost and expense, designing, permitting, construction and installing a proposed all-purpose field and graded area for future parking at Hollenbach Park, as depicted on the Plan prepared by LTL Consultants, Ltd., dated February 7, 2013, (attached hereto as Exhibit A), which shall utilize the fill from the Subject Property in connection with paragraph 5 above (the "Park Project"). The Applicant and Township agree that the Applicant will perform the following activities as part of the Park Project: establishing erosion and sedimentation controls, stripping topsoil, depositing and spreading fill, re-spreading topsoil, seeding and stabilizing the new playfield. Township and Applicant agree that the quantity of fill available from the Subject Property will determine the extent of the grading possible at Hollenbach Park and will cooperate to achieve a mutually satisfactory result. Applicant shall complete the improvements in Hollenbach Park before the fiftieth (50th) occupancy permit under this Application. At the time of the 30th building permit within the Subject Property, Applicant shall post \$15,000 of security in a manner acceptable to Township to secure that sufficient funds are available to Township to grade, seed, and stabilize the Park Project in the event of Applicant's non-performance; the Applicant reimbursing the Township the sum of Thirty Thousand Eight Hundred Fifty Two Dollars and Seventy Five Cents (\$30,852.75) reflecting outstanding engineering, legal and inspection fees, which amount shall be payable to the Township through the first sixteen (16) tapping fee reimbursements of \$2,000 each due to Applicant and 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.

BRIAN FULMER - 253 Stonehill Drive - Questioned the timeframe in condition #13 regarding the depositing of fill at Hollenbach Park. Attorney Garner explained that condition #13 deals with the fill and the construction of a new field at Hollenbach Park. When Mr. Fulmer asked if the dirt would be hauled from the site directly to Hollenbach Park; Commissioner Taylor stated that can't be done until they have prepared a plan and permits secured. He further stated that in his opinion the bulk of the dirt will be moved next summer. Attorney Garner noted that the improvements to Hollenbach Park must be completed before the fiftieth (50th) occupancy permit is granted and there are seventy (72) units yet to be built.

JOHN WEST - 1611 Applegate Lane - Requested a clarification of condition #14 regarding sewer tapping fee reimbursements. Attorney Garner stated there won't be any increase in sewer tapping fees until the project in the Borough of Pottstown, which expands the lines, is completed and there is no definitive time as to when that will occur. When Mr. West questioned the Applicant reimbursing the Township the sum of \$30,852.72; Attorney Garner explained that there is a ten (10) year window for reimbursement.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Asked if there is a listing of Phase I improvements for Coddington View. Attorney Garner stated it would be infrastructure in a public right of way such as base paving of the roads in certain areas, testing to see whether the sanitary sewer lines are functioning properly, top coating of the roads, the street lights that haven't been installed in Phase I, as well as draining, grading and basins and other things that must be completed

FRANCE KRAZALKOVICH CONT'D - as required by the Township Engineer. Commissioner Taylor clarified that these are strictly public improvements.

DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED 2013 BORROWING ENDEAVOR - Ordinance #464 - Michael Wolf, Boenning & Scattergood, was present to provide an update with regards to the proposed 2013 borrowing endeavor. Mr. Wolf explained that the Township plans to provide funding for and toward a project consisting of: the current refunding of all of the Township's General Obligation Notes, Series A of 2005; the current refunding of the Township's General Obligation Notes, Series of 2008; the purchase of additional real estate to be preserved as open space pursuant to the Open Space Preservation Plan adopted by the Township; the premium for a policy of municipal bond insurance issued by Build America Mutual Assurance Company; and all costs of issuance related to the 2013 Bonds. Manrico Troncelliti, Jr., Bond Counsel outlined the proposed ordinance with regards to the proposed 2013 Borrowing Endeavor. After further discussion, a motion by Dolan, seconded by Miller, to authorize and direct the incurring of non-electoral debt through the issuance of Upper Pottsgrove Township General Obligation Bonds, Series 2013, in an amount of \$4,505,000. Roll call vote: Dolan ~ aye; Miller ~ aye; Noll ~ aye; Taylor ~ aye; Spaide ~ aye. Aye votes ~ 5. Nay votes 0.

DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE A BID AWARD TO A CONTRACTOR FOR THE LEVENGOOD AND SELL ROAD COMBINED PROJECT -

Township Engineer, Pete Eisenbrown, reported that the bid opening for the 2013 Road Program and the Levengood/Sell Road project took place this morning at the Administrative office. Mr. Eisenbrown reported that the township received five (5) bids for the 2013 Road Program which includes a portion of Farmington Avenue out by Burden's Corner, a stretch of Yarnall Road from Mock Road to Snyder Road. He further reported that Reading Site Contractors provided the low bid of \$59,441 for the 2013 Road Program. Public Works Director, Frank Quinter, noted that because there is money left in the budget, the township received a bid for additional base repair for approximately 300 square yards on Yarnall Road. After a brief discussion, a motion by Noll, seconded by Miller, to authorize the low bid to Reading Site Contractors for the 2013 Road Program and the additional base repair on Yarnall Road. All aye votes. When Commissioner Miller asked when the road work would start; Mr. Quinter stated that would be entirely up to the contractor.

JOHN WEST - 1611 **Applegate Lane** - Questioned whether public sewer was in the future for Yarnall Road. Commissioner Taylor stated that Yarnall Road was not on the schedule for public sewer. Mr. Eisenbrown reported that the township received six (6) bids for the Levengood/Sell Road Combined Project and noted that this is a joint project between Upper Pottsgrove and West Pottsgrove Township. He further reported that the low bid was submitted by Reading Site Contractors in the amount of \$81,035 for Levengood Road and \$142,835 for Sell Road. He further reported that the bid documents must be reviewed by himself and the Solicitor. A motion by Spaide, seconded by Dolan, to authorize a bid award to Reading Site Contractors for the Levengood and Sell Road Combined Project in the amount of \$59,441 for the 2013 Road Program and \$223,870 for the Levengood/Sell Road Project, subject to the review of the Township Engineer, Solicitor, PennDot and the acceptance from West Pottsgrove Township. All aye votes.

DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION #626 TO SUPPORT A CIRCUIT RIDER FOR A REGIONAL RECREATION COORDINATOR

- Anna Brendle Kennedy, Program Officer of the Pottstown Area Health and Wellness Foundation, was present to discuss the proposal to create a Regional Recreation and Parks Coordinator Position. Ms. Kennedy explained that the project goal for the seven (7) municipalities, with the help and support of the Pottstown Metropolitan Regional Planning Committee and the 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 residents of each municipality. Commissioner Miller noted that Dave Kraybill, Executive Director of the Pottstown Area Health and Wellness Foundation, attended the recent Open Space & Recreation meeting and provided an overview regarding the proposed Regional Recreation Coordinator position. Commissioner Dolan stated that he is totally in favor of the Regional Recreation Coordinator; however, he does not think that it is the Regional Parks and Recreation Committee's job to do this. Commissioner Miller expressed his concern that the individual selected has to be one that motivates but also understands that this Township is pretty "aggressive" and he doesn't want to see us bogged down by politics. Commissioner Taylor stated that the Regional Recreation Coordinator would provide a number of beneficial services including grant writing, locating park resources and providing ongoing professional recreation support and consultation. After a brief discussion, a motion by Dolan, seconded by Miller, to adopt Resolution #626, to support a Circuit Rider for a Regional Recreation Coordinator. All aye votes.

JOHN WEST - 1611 Applegate Lane - Expressed his concern regarding revenue sharing from events and asked if there is an event in Upper Pottsgrove Township do we share the revenue from that event with the other municipalities in the consortium. Commissioner Miller stated that it gives us an opportunity to connect or interact with other our neighboring townships.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Questioned what municipalities have not committed their support regarding the Regional Recreation Coordinator. Ms. Kennedy stated that Lower Pottsgrove Township will vote on this matter at their next meeting and East Coventry is reconsidering.

DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED JOB DESCRIPTION FOR THE FIRE MARSHAL - A motion by Dolan, seconded by Miller, to approve the job description for the Fire Marshal. All aye votes.

OTHER PUBLIC COMMENT:

GREG CHURACH - 144 Snyder Road - Requested an update with regards to the property located at 1805 Yarnall Road. Mr. Layne reported that he has not received any feedback from the Code Enforcement Officer. He further reported that according to the last information he received; the property owner was in compliance; however, he stated he will look into the matter. Mr. Churach stated according to the township's ordinance; the property is a "public nuisance".

KEITH KEHL - 1941 Gilbertsville Road - Expressed his concern regarding the tree stumps on Moyer Road. Public Works Director, Frank Quinter, stated they will be ground down with a stump grinder.

BRIAN FULMER - 253 Stonehill Drive - Questioned whether the trees in the Coddington View Development were planted by the Township. Mr. Layne stated that there were not any trees planted by the Township within the Coddington View Development. Engineer, Pete Eisenbrown, explained that there were trees required by the Ordinance under the landscaping plan.

MARTIN SCHREIBER - 138 Rose Valley Road - Reported that there is graffiti on the Boxwood Court street sign. Public Works Director, Frank Quinter, stated the Highway Department would take care of the sign. Mr. Schreiber questioned whether the Board would be appointing someone as Fire Marshall now that the job description has been established. Mr. Layne stated he would look into the matter.

JOHN WEST - 1611 Applegate Lane - Expressed his appreciation to those involved in getting the new flag on the cell tower. Commissioner Taylor noted that this has been a long process because there have been several repairs made to the tower.

COMMISSIONER NOLL - Requested that a second flag be ordered to be used for "back up". Public Works Director, Frank Quinter, explained that the township employees are not allowed in the area surrounding the cell tower.

COMMISSIONER COMMENTS:

COMMISSIONER DOLAN - Reported that the Fire Company would like to paint the Administrative/Firehouse building white. A motion by Miller, seconded by Dolan, to authorize the Fire Company to paint the building white.

PAYMENT OF BILLS - May 20, 2013 - A motion by Spaide, seconded by Noll, to approve the Bill List dated May 20, 2013, for General Fund in the amount of \$97,547.26; Fire Fund in the amount of \$562.19; Sewer Fund in the amount of \$127,686.75; Open Space Fund in the amount of \$37,477.86; State Fund in the amount of \$664.80 and Escrow Fund in the amount of \$4,196.06. Total Expenditures ~ \$268,134.92. All aye votes.

JOHN WEST - 1611 Applegate Lane - Questioned invoices from Irwin G. Tyson & Son in the amount of \$1,485.00 and Lower Pottsgrove Township in the amount of \$21,975.19. Mr. Quinter explained the invoice from Tyson & Son was to rebuild pump #1 at Hollyberry Court in Regal Oaks. Mr. Layne noted that the Lower Pottsgrove Township invoice is for Upper Pottsgrove's use of the sewer lines that flow into the Porter Road Pumping Station.

APPROVAL OF MINUTES - A motion by Spaide, seconded by Noll, to approve the minutes of the April 15, 2013, meeting as presented. All aye votes.

EXECUTIVE SESSION - At 8:50 P.M. Commissioner Taylor advised that the Board would be meeting in Executive Session to discuss matters of litigation, personnel and real estate. The meeting reconvened at 9:25 P.M.

RESOLUTION #625 - Coddington View - Revised Final Plans for a Portion of Phase 2 and all of Phase 3. A motion by Spaide, seconded by Dolan, to adopt Resolution #625. All aye votes.

ADJOURNMENT - There being no further business, a motion by Dolan, seconded by Spaide, to adjourn the meeting at 9:26 P.M.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary