

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

August 19, 2013

The meeting of the Board of Commissioners was held on Monday, August 19, 2013, at the Upper Pottsgrove Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Miller, Noll, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne, Jr., Police Chief William A. Moffett, Public Works Director Frank Quinter, and Township Secretary Cynthia Saylor. There were twenty five 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 have served and are currently serving our country in the armed forces.

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

PUBLIC COMMENTS:

JOHN WEST - 1611 Applegate Lane - Advised the members of the Board he was taping the meeting. Mr. West advised that people using the Heather Place Park pavilion are parking on the grass. Mr. Layne noted that it has been posted as part of the Rules and Regulations at the park.

MICHELLE O'CONNOR - 1875 Orlando Road - Expressed concern regarding dogs continuously barking at 1847 Orlando Road. Ms. O'Connor stated that there are approximately 24 - 27 pit bulls at this address and it appears that they are being cared for by young children. She further stated that she is unable to open her windows due to the excessive barking and has been in contact with the Montgomery County SPCA as well as the Police Department regarding the matter. Ms. O'Connor commended the police department in their efforts in handling this matter. She stated that the Board needs to enforce an ordinance regulating the number of dogs and the selling of dogs.

CHIEF MOFFETT noted that the Police Department has issued approximately five or six citations to the owners of the property and has been in contact with the Code Enforcement Officer and the Animal Control Officer regarding the matter. Chief Moffett stated that the Township does not have an ordinance stipulating the number of dogs a property owner can have on their property.

COMMISSIONER NOLL stated that the Township does have an ordinance which addresses barking dogs and noted that fifteen minutes is the maximum amount of time with regards to barking dogs.

ATTORNEY GARNER stated the Police should continue to cite the owners on a daily basis, if needed, any violations of our existing ordinance. Attorney Garner questioned whether there is any evidence of business activity such as the selling of dogs.

VIRGINIA MCNAMARA - 1781 Orlando Road - Addressed the same concerns regarding the barking dogs and suggested that the township adopt a resolution restricting the number of dogs a property owner can have.

MIKE MCNAMARA - 1781 Orlando Road – Stated that the dogs bark all day long and encouraged the Township to keep the pressure on. He further stated that he is certain that the property owners are operating a kennel and questioned whether this would be considered a zoning violation.

MATT DAILY - 215 Rose Valley Road - Questioned the plans for the roads within the Regal Oaks Subdivision and stated that the continuous patching is no longer working. Mr. Daily also questioned whether there are any future plans for water and sewer installation within the development. Commissioner Taylor stated that the members of the Board and the Public Works Director are aware of the condition of the roads within the Regal Oaks Development. He further stated that none of the resident's tax dollars goes towards road repair; repairing roads comes from a subsidy from the State. Commissioner Taylor reported that the Township receives approximately \$100,000 annually and that doesn't go very far. Mr. Taylor explained that there is a mandate from the Department of Environmental Protection that the Township bring sewer to the development; however before the Township paves the roads the underground work needs to be done first. Mr. Daily suggested the purchase of a paving machine in order to do some of the roadwork ourselves. Public Works Director, Frank Quinter, stated that a used paving machine would cost approximately \$100,000 and then we would need a roller and additional trucks then what we currently have. Mr. Daily questioned whether an article could be placed in the Township Newsletter providing a timeframe to the residents.

COMMISSIONER MILLER - Noted that in addition to Mr. Daily concerns he received phone calls from two township residents regarding the condition of the roads in the Regal Oaks Development.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Presented a proposed resolution and requested the Board to take action regarding the right to keep and bear arms.

COMMISSIONER MILLER - Stated that he was in favor and supports the proposed resolution as written. Mr. Miller read the following statement and said that he supports, obeys and defends the Constitution of the United States. The Second Amendment is an integral part of our Constitution. I'm appalled, as most people are, about the tragedies by mentally sick or madmen; however, I can gather and lay at your feet many stories about guns being used in crime, but I can show you also the many persons where guns prevented crime and those persons protected themselves as they waited for police who were either many miles away and could not respond quickly to the call for help. Plinking is a sport that I enjoy. I believe I'm a rather good shot. It is a sport enjoyed locally, state and nationwide and we all know it is a competitive sport within the Olympic program. This resolution includes promoting better knowledge of the safe handling of firearms and the responsibility to develop self-discipline and self-reliance. This Commissioner is against any measures to discourage new laws to change or void any part of our Second Amendment as stated in the Constitution. Some in the audience may be too young to remember what happened in Europe when the young men in brown shorts with red band swastikas requested residents in Germany, Austria and Poland to register their firearms. This led to the gestapo and the SS confiscating those weapons and the people were defenseless to the invasions by the Nazis. This is why I don't have a

problem with this resolution.

COMMISSIONER MILLER CONT'D - Does not mean we are making a law, but showing support to the Constitution.

COMMISSIONER TAYLOR addressed Mr. Krazalkovich and read the following statement: A few months ago when you first approached this Board of Commissioners, you urged us to adopt a resolution you had prepared that would nullify federal actions you believed would infringe on a citizen's Second Amendment right to keep and bear arms. You laid out a series of debatable legal opinions with historical context to justify this action. In the name of the citizens of Upper Pottsgrove Township who had elected us to our positions, you wanted us to approve a resolution that would have ~ "Condemned, in no uncertain terms" any federal actions that would regulate firearms; supported PA House Bill #357 which would nullify federal restrictions on firearms and make it a felony for local officials who enforced any such laws and punish them with a \$15,000 fine and seven years in jail; affirmed the Township's right to enact its own legislation to prevent enforcement of federal firearms regulations in the Township, and notified every public official from President Obama on down to Representative Painter of our newly minted resolution.

At that time, not wishing to encourage a drawn-out argument over an issue that had only polarized and radicalized political discussion throughout the nation, we simply quoted and affirmed the response the PA House of Representatives gave over 200 years ago when it was asked to nullify a federal act for the first time. It determined that the Constitution did not recognize nullification as a legal response to federal laws and that nullification was in essence, an act of rebellion and "destructive" of our recently established Constitutional Democracy. They warned that spouting nullification rhetoric is nothing more than a political tactic designed to instigate loud and unruly arguments and incite community violence.

Now you are presenting us with another, yet essentially similar resolution for our consideration. Since you have stated that the Board's last response to your request to adopt a gun rights resolution was "dismissive", I will take this opportunity to more fully explain my thoughts on the matter and why it would be a violation of my elective oath to recommend such a nullification resolution to the other members of the Board.

Apart from consideration of your resolution on its merits, the State of PA preempts the right of a township to regulate gun rights. PA's Uniform Firearms Act assures its citizens that their gun rights are not determined by a confusing patchwork of various and conflicting standards across the Commonwealth. It would be an overreach of our authority and a violation of our elective oath, to legislate an issue that the State has reserved to itself.

In any case, when I am true to my elective oath of office to support and defend the Constitution, I am also supporting the unique system of government it established and furthering the goals of the people who designed it. "We the People" realized that their original plan of government was impotent to "secure the blessings of liberty" for its citizens due to the limited power the individual States had granted to the national government. "We the People" were suffering as the States and regions bickered among themselves and the people were on the verge of overt rebellion. In order to break the gridlock in Congress and "ensure domestic tranquility", a new agreement between the

COMMISSIONER TAYLOR CONT'D - States was adopted. My elective oath obligates me to play by the rules established by that agreement or risk leading the people back into a state of anarchy.

Back when you first presented the Board with your nullification resolution, you directed me to some articles supportive of your position located on a website called the Tenth Amendment Center. Members of the Center, so called Tenthers, discuss and justify their opposition to almost any federal act or program based on the Tenth Amendment to the Constitution, which restricts the federal government from exercising any powers not specifically delegated to it by the States. Besides the issue of unrestricted gun rights, Tenthers also opine on other hot-button issues, claiming big-brotherism and “government overreach” in the case of Obamacare and TSA airport screening. They support the legalization of marijuana as well as a return to the gold standard for our money system. They are opposed to the authority given to the federal government to protect us from terrorists and want to make it a crime for federal officials to enforce federal law anywhere in the country unless they have the specific permission of the local sheriff to do so. Bradley Manning and Edward Snowden are not traitors, buy hero whistleblowers. The President of the United States is referred to as “Barry” and Supreme Court Justices as “black-robbed goons”. On that website, I was dismayed to also find my name in an article you had posted titled “**KEEP YOUR OATH, COMMISSIONERS**”. In it, you broadcast to the world-wide web about how Upper Pottsgrove Commissioners had failed to follow through on your Gun Rights Resolution. Readers were urged to eMail me to reconsider the Board’s “dismissive” response. You went on to swear that if you were elected to the Upper Pottsgrove Board of Commissioners that you would “aggressively oppose any federal legislation” that was contrary to the Gun Rights Resolution you had proposed.

Now, while it is certainly your right to do so, I question the propriety of encouraging outsiders to exert pressure on our local Board of Commissioners. It also makes me wonder if Township residents were aware of your position on opposing federal law when you stood for election in the May Primary. In your letter to the Tenthers, you expressed your hope that you would able to lead Upper Pottsgrove to “join with the likes of the Borough of Gilberton....in passing Second Amendment Preservation Resolutions in Pennsylvania.” Upper Pottsgrove residents may wish to know that Gilberton is the community who last January, at the urging of their police chief, Mark Kessler, adopted the same sort of Gun Resolutions that you continue to urge on our community. Initially praised by the Tenth community for standing up to government overreach, due to subsequent events, Gilberton may now regret opening this Pandora’s Box. After his success in passing the Gun Rights Resolution, Chief Kessler was emboldened to take a more assertive action by organizing a “Constitutional Security Force” composed of citizens prepared to resist federal authorities who they deemed might violate their natural rights. Members of this security force supply their own weapons and must be certified in firearms use. They are trained in hand to hand combat, knife fighting, urban combat, and sniper shooting. This should have been a hint of even worse things to come. Chief Kessler was soon posting disturbing videos on the internet showing him handling and firing off machine guns while going on a profanity-laced tirade criticizing liberal thinkers as “libtards” and calling Secretary of State Kerry a traitor. Needless to say, such behavior was not viewed kindly by many members of the community he has sworn to defend. At a recent meeting of the same Board that had adopted Chief Kessler’s Gun Rights Resolution, he was called on to give an account of his actions. However, for a member of the public to attend that meeting,

they would have had to wade through a throng of almost one hundred gun-toting members of the Chief's Constitutional Security

COMMISSIONER TAYLOR CONT'D - Force. There are now calls out to deploy the National Guard to disarm Chief Kessler. I won't speculate how this tense and explosive situation will be resolved for the residents of Gilberton, but I know for a fact that I do not want to open the door for a similar controversy here in Upper Pottsgrove.

Your solicitation of outsider support was not limited to anonymous Tenters as you also posted a plea for assistance from PA State Representative Daryl Metcalfe. You specifically asked Representative Metcalfe "to urge Mr. Taylor to **KEEP HIS OATH**" and to follow through with your Gung Rights Resolutions. I did not know who Representative Metcalfe was, but with a quick web search found that he represents the people from some rural districts in far western PA. "Why Representative Metcalfe," I wondered? As it turns out, Representative Metcalfe, is a self-proclaimed Teapartier and avowed Tenter who is cultivating a national profile not only as a leader in the controversial efforts against gun control, but is also a major player in opposition to immigration reform and same-sex marriage. Along with Tenter nullification rhetoric, he unabashedly proclaims his religious beliefs as justification for his legislative agenda. At a gun rights rally in Harrisburg he stated that "the Second Amendment is not just a Constitutional right, it's a God given right. Guns are the greatest deterrent to tyrants who get elected and trample on our Constitution." Recently, when another elected member of the PA House tried to address the assembly on the issue of same-sex marriage, Representative Metcalfe blocked him from speaking, explaining that "I do not believe...that I should allow someone to make comments (supporting same-sex marriage) that ultimately were just open rebellion against what the word of God has said, and just open rebellion against God's law." I don't believe that seeking outsider pressure from someone with the dogmatic beliefs of a religious zealot are conducive to reasoned discourse. It does not encourage the consensus and compromise required for people of different beliefs and opinions to peacefully and productively coexist. It wouldn't be in keeping with my elective oath to ensure the "domestic tranquility" our constitutional legal system is intended to secure.

As I said earlier, I am not directly addressing the substance of the Gun Rights Resolution you have proposed, but rather the inappropriate and dangerous use of nullification to advance your political agenda. In your post to the Tenters, you correctly noted that nullification tactics have been used for the noble purpose of opposing the government's restriction of the free speech rights of its citizens as well as to protect runaway slaves prior to the Civil War. However, the same Tenter nullification arguments have been used for more despicable and misguided purposes. The Southern States resorted to nullification after they concluded they could no longer maintain their slave-owner culture and co-exist with States that condemned the practice. Civil War was the ultimate consequence. More recently, the Governor of Alabama, George Wallace, spewing Tenter rhetoric in his inaugural address, referenced Confederate leaders Robert E. Lee and Jefferson Davis while asserting his State's right to discriminate against its black citizens, infamously crying "segregation now, segregation tomorrow, and segregation forever!" Later he actually stood on the steps and blocked the doorway of the University of Alabama that was being integrated by federal directive and delivered a lesson on the Tenth Amendment. He proclaimed that he was exercising his State's reserved powers to prevent its black citizens from attending school with whites.

COMMISSIONER TAYLOR CONT'D - As I conclude my remarks, I'd like to include a brief statement about the personal experiences and beliefs that factor into my position on these issues. I am not antagonistic towards gun use and ownership. I myself carried a gun in service to my country as a US Marine. Incidentally, I qualified as an expert marksman with the M-16 automatic assault rifle. I also hold deep religious beliefs but respect the right of others to hold different beliefs or interpretations.

My overriding concern in addressing this request to nullify federal law is the same concern expressed by the PA House of Representatives in response to Thomas Jefferson's nullification proposal back in 1799. They believed it was an act of rebellion that would incite community violence and lead to anarchy. The Constitution established a political process for settling the differences between conflicting opinions and desires. But it only works when the citizens and its leaders agree to honor and abide by the decisions and enactments that the system produces. The system itself is monitored through an array of multi-level checks and balances where there are many opportunities to modify and negotiate an actions or law to better represent the will of the people. Nullification is not part of that system and amounts to little more than an attempt by activist groups who have lost their argument with the majority, to short-circuit the citizen-approved methods.

I will conclude by describing another example of nullification rhetoric that is even now playing itself out in our very own community and is making national headlines. You no doubt are aware that Montgomery County officials have recently begun to issue same-sex marriage certificates in violation of existing State law. These local officials have defended their actions by claiming that they could not be true to their oath of office and deny citizens their right to "pursue their own happiness." And so they decided on their own, apart for Constitutional due process and without action by either the State Congress or Courts, that PA's Defense of Marriage Act was unconstitutional and therefore unenforceable. This act of Nullification by Montgomery County has subsequently been praised by the Tenth Amendment Center who "welcomes same-sex marriage advocates to the nullification movement." Needless to say, State officials responsible for defending the rule of law, have condemned this act as blatant civil disobedience and a failure to properly administer established law. One such official was very blunt in his assessment of this situation and has said, "It's not legal. Our laws are very clear about what marriage is. Marriage is between a man and a woman. Anything that that (Montgomery County) courthouse issues to anyone other than a man and a woman would not be valid in PA. The individual doing so is committing an act of lawlessness (and should be impeached). It's outrageous to see a locally elected official believing he has the ability to set State policy like this from a local county office. If it wasn't so wrong, it would be laughable."

Would anybody here like to guess who that state official is that is condemning Montgomery County's nullification rhetoric so adamantly and vehemently? None other than Representative Metcalfe! Don't you love irony? As long as nullification rhetoric advances his own agenda, he is all for it. But when the same tactic is used against his sacred cow, it becomes an act of rebellion.

Taken together with the rest of what I have shared with you, this last example perfectly illustrates the problem I have with accepting nullification as an appropriate political process. My elective oath

to

COMMISSIONER TAYLOR CONT'D - defend the Constitution of both the nation and the State, precludes me from picking and choosing what laws I'll enforce and which ones I won't. That way, the administration of the law is not arbitrary and at the whim of whatever politician is pushing a personal agenda or seeking political leverage. The good people we lead must have an expectation that their elected representatives will not be favoring one individual's or group's concerns over another based on their private interpretation of what the law says.

Our system of government is not perfect – none can be - but it provides mechanisms for change and improvements that address the changing times and will of the people, such as fair and open elections, amendments that can change the Constitution itself, and the judicial process. Even though some may not be entirely happy with the results of this process, we can all be confident and secure knowing that we are all being treated fairly and can expect a uniform response from government officials when dealing with our concerns.

COMMISSIONER TAYLOR - Stated he was sorry for the way that had to go down.

COMMISSIONER MILLER - Stated that a resolution was brought to the floor and I didn't know we were going to have an academic reply or I would have presented some more facts on this topic.

COMMISSIONER NOLL – Stated that we heard two passionate speeches here this evening. We heard a very passionate speech from one side of the fence and an equally passionate speech from the other side of the fence. I respect both opinions greatly and I respect the time and energy that was spent to give their sides of the story. But I'm going to walk on top of that fence, right down the middle, and I'm going to lean one way or another and I'm going to tell you why I would lean one way or the other. I am going to give you my side as to how I approached this topic. This is a resolution. I have read the resolution; the previous one and the revised one and was asked to provide input, which I did. I have been in local government for fourteen years as an elected official in local government so obviously I'm a strong supporter of local government and the things local government can do for the constituents within the municipality that you're elected to serve. I believe in doing what is best for the Township that elected me and do what the majority of the residents within that Township would want. Local government has lost the ability and the power to actually govern our municipalities due to a lot of mandates that come down from the State and from the Federal government. We are affected tremendously by mandates. So much that certain First Class Townships choose to go outside the First Class Township Code and go to a Home Rule Charter which will allow that local government to have more power outside of the First Class Township Code dictated by the State. So local governments do have the ability and the power to make change but it's very limited based on what the State and Federal government mandate to us. So after fourteen (14) years I always want to do something that gives local government more power to manage the municipality for the citizens of that municipality. With that being said, in reading the resolution and reading the websites that Commissioner Taylor referred to, I did look at all the websites and I read the articles that Mr. Taylor referred to and I thoroughly read the resolution that Mr. Miller commented on. With that being said, I'm not as passionate as either one of those, but my decision is based on what is best for Upper Pottsgrove Township.

COMMISSIONER NOLL CONT'D - And in the comments that I hear throughout the years, especially while standing in front of this building on Election Day, you hear a lot of comments and a lot of residents constituents come up to you knowing that you are running for office and give you their opinions. Based on the comments and opinions I received in the recent years, we have a lot of supporters in Upper Pottsgrove Township, this rural community, that are strong supporters of the Second Amendment and not taking control away from them for their guns and firearms. And we have a lot of individuals that are really concerned about taking away their use of firearms. So with that being said, when I read this resolution and I saw more positives in here than negatives, I take this as a resolution not an ordinance or law and look at it where it calls upon the Governor and General Assembly of the Commonwealth of Pennsylvania. We are not dictating to the State what to do. We cannot control as Upper Pottsgrove Township what the State does, but we can make a statement as a local government, like we do with open space. We have a huge open space initiative and Upper Pottsgrove Township is known for what they have been doing over the years with open space. I think as a supporter of the residents of Upper Pottsgrove Township I would lean in favor of this resolution because of the positive things that I see in it. I think, based on the comments I received, a lot of township residents would be okay with just having a resolution supporting this type of action. Nothing negative, I feel, will come from this resolution that would affect our township or affect our residents. I look at it as a way of local government growing and making a statement. I tended to be in favor of the resolution based on reading the resolution and laying on the side of Mr. Taylor and looking at the articles and websites; it didn't deter me enough from agreeing with what's in this resolution based on how it's been amended. With that being said, that's where I stand and obviously I'm not walking down the middle just because I'm leaning one way, because of the research that I've done and how I feel this would affect our residents and what our residents would want me to do as an elected official.

A motion by Miller, seconded by Spaide, affirming the individual right of the People of the Township of Upper Pottsgrove, Montgomery County, PA to keep and bear arms, which shall be known and may be cited as the "Upper Pottsgrove Right to Keep and Bear Arms Preservation Resolution."

COMMISSIONER DOLAN - Stated that he is clearly not in favor of this resolution because it is a violation of what America is and what it has been for all its time; but certainly since 1803 with Mulberry & Madison determining or holding the courts as to what's constitutional and what's not constitutional. It's not our individual rights; it's certainly not down to a Township Commissioner to determine it; it's the courts that determine it. Although you're saying how much you love America and how much you're supporting America; you're really working against it because you're not following the rules that have been established. The whole resolution is just "asinine." The sixth paragraph of the resolution says you're going against any federal law, executive order, rule or regulation with the purpose, intent, or effect of confiscating **ANY** firearm, banning **ANY** firearm imposing any limit on the ammunition purchased for **ANY** firearm, taxing **ANY** firearm ~ so what are we going to do about the sales tax on firearms? Are we going to say that that's wrong? Are we not going to allow township residents that sell guns, and we have a gunsmith in the Township, are we not going to allow him to charge sales tax on guns or when he sells ammunition? What about requiring the registration of any firearms or ammunition? Do you know that all you hand guns are

COMMISSIONER DOLAN CONT'D - now registered? Do you know that? What are we going to do if we have a sale in the township? Are we going to say “no” we’re not going to follow that registration; we’re going to encourage our residents to disobey Federal and State law? What do you think the Constitution meant when it said a “well regulated” Militia? Are you saying that we should be able to have the bazookas or fully automatic weapons? Are you encouraging our residents to go ahead and totally thumb their nose to the Federal laws? This is just idiotic. It’s not our place to regulate this kind of stuff or put out policies like this stuff. And what is the most interesting ~ you put your whole election on this “dumb” resolution and you lost ~ so take the message; you lost; so give it up. I don’t see you here supporting anybody or any significant constituency. It’s your own battle. You lost ~ give it up.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Noted that there were a lot of points brought up with regards to the proposed resolution and said it would be difficult to address them all. Mr. Krazalkovich addressed Commissioner Taylor and stated that his email address is public information on the Township’s website. There was further discussion between Mr. Krazalkovich, Commissioner Taylor and Commissioner Dolan with regards to the proposed resolution. Mr. Krazalkovich concluded by stating ~ I’m asking you to affirm that this township is loyal to the rights and liberties secured by the Constitution of the United States and the Constitution of this Commonwealth.

COMMISSIONER TAYLOR - Stated that this is what he was trying to avoid the last time the resolution was presented. He further stated that he is concerned and felt it would be unwise to have five people here vote, at this point and time, without having a thorough discussion with their community and a thorough understanding of what our community thinks of the proposed resolution would be dangerous.

COMMISSIONER NOLL - Stated that he is concerned that this appears to be a battle between some individuals in this room. This is simply a resolution that should be and can be decided by a majority of the Board. He further stated that this is becoming personal. Commissioner Noll stated the Board needs to move forward with their motion and not continue down this destructive road of criticism.

COMMISSIONER TAYLOR - Stated that there is nothing personal with regards to this proposed resolution. He further stated that his opinions are not based on any persons here.

ATTORNEY GARNER - Stated that it is the Board’s pleasure on how they want to proceed. Mr. Garner stated that he appreciated Commissioner Noll’s comments. He further stated that a motion and a second were made and there was debate. Mr. Garner explained that there is a rule in the procedure that is called a privileged motion to table. A privileged motion will supersede the motion on the floor; a motion to table takes a second, there is no debate and there is a vote. If the vote to table passes; it’s tabled to the next meeting. If it doesn’t you return to the original motion. It’s the Board decision on how to proceed.

A motion by Spaide, seconded by Dolan, to table further discussion on this matter. Roll call vote ~ Aye votes: Dolan, Spaide and Taylor. Nay votes: Noll and Miller. Motion to table carries.

RUTH HOOD - 1885 Orlando Road - Reiterated the concerns of some of her neighbors with regards to the barking dogs and stated it sounds like the dogs are being tortured. Ms. Hood stated that she runs in the township and on two occasions dogs that were unsecured came out of the house and she was fearful that she could be attacked by the pit bulls. Ms. Hood expressed concern that young children are caring for these dogs.

KEITH KACHEL - 1412 Farmington Avenue – Asked if the traffic light battery had been repaired. Public Works Director, Frank Quinter, stated he would take care of the matter. Mr. Kachel noted that there are missing pylons at the Route 100/State Street intersection. Mr. Quinter stated he notified PennDot of the situation. In another matter, Mr. Kachel reminded residents of the reflective address signs that the Fire Company is selling.

In response to a question from **MARTIN SCHREIBER, 138 Rose Valley Road**, regarding sewer installation in the Regal Oaks Development; Commissioner Taylor stated the whole community needs to hook up to the sewer system regardless if their septic systems are failing or not.

BETH LANG - 1883 Orlando Road - Questioned the amount of the citations being issued to the owners of the barking dogs. Attorney Garner stated that the District Justice that hears the case will impose a fine for the citation amount. He further stated that there are parameters within the law depending upon the nature of the violation. Mr. Garner explained that the Judge will escalate the amount of the fine based on the number of complaints or citations.

RICHARD KUMMERER - 1303 Farmington Avenue - Expressed his concern with regards to a violation notice he received from LTL Consultants regarding his pool. Mr. Kummerer questioned why he is being singled out when all of his neighbors have pools. Commissioner Taylor stated that Mr. Kummerer attended the Planning Commission meeting and addressed his concerns at that time. He further stated that there is a letter in the works that addresses Mr. Kummerer's questions. Attorney Garner stated that when the Code Enforcement Officer sees or witnesses a violation they take the same steps for every resident and issues a violation notice. Mr. Garner assured Mr. Kummerer that he is being treated like everyone else.

COMMISSIONER DOLAN questioned whether the ordinance regulating swimming pools needs to be amended and noted that there are a lot of temporary pools for sale that aren't intended to last for more than a couple years. Attorney Garner explained that this is a State code; it's no longer regulated by the municipality. The State code requires a permit whether the pool is twenty four (24") inches or greater.

JOHN WEST - 1611 Applegate Lane - Asked if there will be a public hearing regarding the proposed right to bear arms resolution since the matter was tabled. Commissioner Taylor stated that the matter will appear on the next meeting agenda. Attorney Garner noted that there will be additional discussion and public comment prior to any action by the Board.

COMMISSIONER NOLL - Reiterated that the matter should appear on the next meeting agenda.

REPORTS:

EMERGENCY SERVICES - Chief Moffett summarized the monthly Police Report and noted a copy would be posted on the bulletin board. Commissioner Dolan reported that the Fire Company received a donation of approximately 100 smoke detectors which will be handed out at this year's Community Day. He further reported that the Fire Company will be hosting a tanker meeting. Mr. Dolan noted that the reflective sign sales are going well.

POTTSTOWN REGIONAL PUBLIC LIBRARY - Susan Davis presented an overview of the activities of the Pottstown Regional Public Library. Ms. Davis requested an increase in our yearly allocation to the library by \$4,000.

PLANNING & ZONING REPORT - Commissioner Taylor reported that the Planning Commission met this month and reviewed a development that is going in on Moyer Road of approximately fifty eight (58) single homes. He further stated there was an offering of the building of a network of trails in the area of the old Prout Farm. The developer is proposing to construct a sidewalk trail which would connect this development over to the Hillside Aquatic pool area. Mr. Taylor stated that there was discussion at the Planning Commission meeting regarding the creation of a loop; having the trail go from the Prout Farm down to the pool property and cross over Sprogel's Run at Cherrytree Farms. After a brief discussion, a motion by Dolan, seconded by Spaide, to authorize LTL Consultants to create a design for trail construction not to exceed \$3,000. All aye votes. Commissioner Taylor noted that the money would come from the non-referendum open space fund.

COMMISSIONER MILLER - Expressed expressed concern due to the fact that the Board is voting on a matter that has not been discussion with the Open Space Committee and stated it is out of protocol.

PUBLIC WORKS REPORT - Commissioner Spaide reported that the Public Works employees patched and compacted potholes on Coolidge Avenue, replaced faded "No Parking Signs" on Diamond Street and Farmington Avenue; replaced "No Outlet Sign" at Micklitz Road and Gilbertsville Road; reinstalled "Stop Ahead" signs on Gilbertsville Road; cut down tree at the corner of Cross & Moyer Roads; made repairs to storm drain located at 1411 Meadowview Drive, continues with highway mowing; installed trash receptacle and bench along Fox Run Trail; continued with mowing of Township owned open space and parks.

BETH LANG - 1883 Orlando Road - Noted that the Hollenbach Park trail is in disrepair and its becoming a dump site. Ms. Lang expressed concern that children could get hurt if they are playing there. Public Works Director, Frank Quinter, stated he would look into the matter.

PARKS, RECREATION AND OPEN SPACE REPORT - Commissioner Miller reported that the split-rail fence within the Turnberry Farms Development needs to be weeded and the trash needs to be removed. He further reported that arrows denoting the Fox Run Trail have been installed.

PARKS, RECREATION AND OPEN SPACE REPORT CONT'D - Mr. Miller stated that the Township has a project for an interested Eagle Scout. There are three additional volunteers that have signed on as part of the clean-up brigade. Commissioner Miller stated that the Township is in the process of securing a mini-grant for a 14' x 20' pavilion. Mr. Layne explained that the members of the Board need to act on this matter before the next Parks, Rec and Open Space meeting. Mr. Layne noted that September 6th is the cut-off date for the grant. There was discussion with regards to the placement of the pavilion; whether at Sunset Park or Sussell Park. Commissioner Taylor stated he was uncomfortable placing the pavilion at Sunset Park because it would be in the back yards of the neighbors. Commissioners Dolan and Taylor both were in agreement in placing the pavilion at Sussell Park. Commissioner Noll stated it would be in neighbors' back yard as well if it were placed at Sussell Park. Commissioner Spaide suggested the Parks, Recreation and Open Space Committee hold a special meeting to discuss this matter.

JOHN WEST - 1611 Applegate Lane - Asked if we need to specify the location where the pavilion would be placed.

COMMISSIONER TAYLOR - Stated in his opinion the Township should give up the grant for this year and noted that there are too many things to take into consideration.

COMMISSIONER DOLAN - Suggested placing a gazebo rather than a pavilion at Sunset Park.

COMMISSIONER MILLER - Commented that there is more parking at Sunset Park; there is a well dug there for water and it is handicapped accessible. Mr. Miller further commented that there is a horseshoe pit, chin up bar and picnic table at Sunset Park. At Sussell Park you would have to park along the roadway which would create a traffic hazard with the police. Mr. Miller reported that he spoke with some of the neighbors surrounding Sunset Park and they are okay with having a pavilion there.

After discussion, a motion by Dolan, seconded by Spaide, to authorize the Township Manager to work with the Park, Recreation and Open Space Committee and accept their recommendation with respect to the use of the grant funds. All aye votes. Commissioner Noll stated that his vote is based on the use of Sunset Park as the location.

SPECIAL PROJECTS REPORT - No report.

ENGINEER'S REPORT - It was noted that a copy of the monthly report would be posted on the bulletin board.

SOLICITOR'S REPORT - No report.

TOWNSHIP MANAGER'S REPORT- No report.

MONTHLY FINANCIAL REPORTS - Mr. Layne reported that as of July 31, 2013, the Township has received 69.1% of the budgeted revenues and disbursed 55.7% of the budgeted expenses.

DISCUSSION AND POSSIBLE ADOPTION OF RESOLUTIONS RECOMMENDED FOR APPROVAL BY THE TOWNSHIP CIVIL SERVICE COMMISSION - Resolution #628 –

Amendments, corrections and appended language plus formatting adjustments to completed Upper Pottsgrove Township Civil Service Rules and Regulations. A motion by Dolan, seconded by Spaide, to approve Resolution #628. All aye votes. **Resolution #629** – The reappointment of Richard D. Linderman, Esquire, as the official Solicitor of the Civil Service Commission. A motion by Dolan, seconded by Miller, to approve Resolution #629. All aye votes. **Resolution #630** - Appointment/Promotion of Alternate to Commissioner. Appointment of Armando Johnson to fill the vacancy left by Michele Jeter. A motion by Spaide, seconded by Miller, to approve Resolution #630. All aye votes. **Approval of the Complete Upper Pottsgrove Township Civil Service Commission Rules and Regulations - Resolution #631** - A motion by Spaide, seconded by Dolan, to approve the Complete Upper Pottsgrove Township Civil Service Rules and Regulations. All aye votes. The members of the Board expressed their thanks and appreciation to Mr. Leister for all his hard work with regards to the Civil Service Commission Rules and Regulations.

DISCUSSION AND POSSIBLE ACTION REGARDING THE NORTH HANOVER STREET SEWER LINING PROJECT - This matter was tabled to a future meeting. Attorney Garner explained that the Township has sixty (60) days to award the contract.

DISCUSSION AND POSSIBLE ACTION REGARDING THE CORRECTIVE ACTION PLAN - Attorney Garner explained the Corrective Action Plan that was filed with the Pottstown Borough Authority required a report be submitted to the Authority by today, August 19, 2013. Mr. Garner noted that the deadline has been extended with the approval of the Authority. The Engineer is working on an analysis of the first two Phases of the Corrective Action Plan and also a proposed Phase 3. No action is required at this time.

DISCUSSION AND POSSIBLE APPROVAL OF THE SCHOOL RESOURCE OFFICER PROGRAM AGREEMENT WITH THE POTTS GROVE SCHOOL DISTRICT FOR THE 2013-2014 SCHOOL YEAR - A motion by Spaide, seconded by Dolan, to approve the School Resource Officer Program Agreement with the Pottsgrove School District for the 2013-2014 School Year subject to review by the Chief, Solicitor and Manager. All aye votes.

MARTIN SCHREIBER - 138 Rose Valley Road - Noted that the Pottsgrove Middle School does not have an Assistant Principal.

DISCUSSION AND POSSIBLE ACTION REGARDING THE POSSIBLE UTILIZATION OF LIQUID FUELS FUNDING TO REPAY FUNDS BORROWED FOR ROAD IMPROVEMENTS - Commissioner Taylor stated that the roads throughout the community are suffering due to lack of sufficient funds to do the maintenance and repairs. He further stated that the Township depends on the annual Liquid Fuels funding which is approximately \$100,000. Commissioner Taylor suggested that the Township borrow on the Liquid Fuels subsidy in order to do a significant amount of road work. After a brief discussion, it was the consensus of the Board to explore all options regarding the possible utilization of Liquid Fuels funding to repay funds borrowed for road improvements.

OLD BUSINESS: None

OTHER PUBLIC COMMENT:

JOHN BEALER - 1521 Farmington Avenue - Addressed the Public Works Director and noted there are several potholes located at the Farmington Avenue bridge over Route 100 and also on the southbound ramp to Route 100. Mr. Bealer stated that he was aware that the potholes are actually the responsibility of PennDOT. Public Works Director, Frank Quinter, stated that PennDOT was out last week and the potholes are probably on their schedule to repair.

COMMISSIONERS COMMENTS:

COMMISSIONER DOLAN - Reported that there are some areas within the building that need repair and the members of the Fire Company would like to discuss the matter when preparing for next years budget.

COMMISSIONER SPAIDE - Stated that the members of the Board need to be more professional and need to respect each other.

PAYMENT OF BILLS - August 19, 2013 – A motion by Dolan, seconded by Spaide, to approve the Bill List dated August 19, 2013, for General Fund in the amount of \$52,009.23; Fire Fund in the amount of \$6,594.27; Sewer Fund in the amount of \$43,811.87; Open Space Fund in the amount of \$10,059.40; State Fund in the amount of \$2,888.40; and Escrow Fund in the amount of \$1,224.98. Total Disbursements ~ \$116,588.15. All aye votes.

APPROVAL OF MINUTES - July 15, 2013 - A motion by Dolan, seconded by Miller, to approve the July 15, 2013, meeting minutes as presented. Aye votes: Dolan, Miller, Noll, and Taylor. Abstain: Spaide. Motion carried.

EXECUTIVE SESSION - At 9:30 P.M. Commissioner Taylor announced that the Board would be meeting in Executive Session to discuss matters of litigation, real estate and collective bargaining with no decisions being made. The meeting reconvened at 9:52 P.M.

ADJOURNMENT – There being no further business, a motion by Spaide, seconded by Dolan, to adjourn the meeting 9:53 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor
Township Secretary