

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

April 21, 2014

A meeting of the Board of Commissioners was held on Monday, April 21, 2014, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Miller, Noll, Schreiber, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Police Chief William A. Moffett, Assistant Public Works Director Justin Bean, and Township Secretary Cynthia H. Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 15 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:

KEITH KEHL - 1941 Gilbertsville Road - Reported there is a branch from a cedar tree along Moyer Road and asked if the Public Works Department could pick it up. Mr. Kehl further reported that the gutters along Moyer and Ming Roads need to be graded. Justin Bean stated the highway department did gutter work at that location before winter; however he needs to be done again. Mr. Kehl noted that the trench or waterline that was installed near the Prout Farm open space and stated that it is full of water. Commissioner Miller stated he would look into the matter.

MIKE MCNAMARA - 1781 Orlando Road - Expressed his concern regarding the on-going dog situation at 1847 Orlando Road and noted that recently two of the dogs (pit bulls) got loose from that location and cornered him in his garage for fifteen (15) to twenty (20) minutes. Mr. McNamara stated a Police Officer, Game Warden and the Animal Control Officer responded. Mr. McNamara stated he thinks the property owner is raising and selling pit bulls. He further stated that the owner has been cited and has appeared in court numerous times. Commissioner Taylor stated the Township is doing everything they can legally do regarding the situation.

TOWNSHIP SOLICITOR - Reported that the police are continuing to issue citations to the dog owners when they receive complaints. He further reported that last month the Board authorized him to establish an ordinance that would regulate this type of use in certain districts. Attorney Garner stated that the township is looking into additional zoning violations, not only from a citation standpoint but a civil action standpoint to address these concerns.

CHIEF MOFFETT - Stated that the Police Department responds to every call and cites the property owner as well as the dog owner.

ERIN DICKEY - 1847 Orlando Road - Stated that when she questioned the Game Warden as to where the dogs (that got loose) were she was told that they ran off. She further stated that the dogs were not theirs.

MICHELLE O'CONNOR - 1875 Orlando Road - Stated that she lives next door to 1847 Orlando Road and expressed concern regarding the safety of her children. Ms. O'Connor stated this situation is escalating and it needs to be stopped. Commissioner Taylor agreed that the situation needs to be deescalated; however, the township is following through within the parameters of the law. Mr. Taylor stated that he is hopeful that the judicial system will bring a resolution to this matter.

MICHAEL GLASS - 1927 Irene Court - Made a formal request to assist in the drafting of the kennel ordinance and noted that he has years of experience in this field.

FIRE COMPANY REPORT - Commissioner Schreiber reported that the Fire Committee did not meet this month. Mr. Schreiber stated that Motorola will not support the radios that are currently being used by the Fire Company within the next five (5) to seven (7) years. Commissioner Schreiber reported that there were eighteen (18) calls handled by Goodwill for the month.

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 will begin on Thursday, April 24 thru Wednesday, April 30, 2014. She further reported that the Public Works employees cleaned storm inlets throughout the township, cleaned and painted snow plows prior to putting in storage, removed salt spreaders from trucks, restored yard around the Hollyberry Court pump station, televised laterals not done by Cleaver Cable Company, responded to call out at Regal Oaks pump station for pump failures, VFD failures and high wet well level, reset pumps and VFD's all okay, performed routine maintenance on the police vehicles and took the 2008 Freightliner to E.M. Kutz to have headlight switches and wiring harness removed and replaced.

When **KEITH KEHL, 1941 Gilbertsville Road**, asked who is responsible for cleaning out the grates along Gilbertsville Road; Justin Bean stated the PennDOT.

POLICE REPORT- Commissioner Miller read the monthly Police Report and noted that the biggest complaint is animal complaints.

PARKS, RECREATION AND OPEN SPACE - Commissioner Miller reported that the new pavilion at Sunset Park has been delivered and erected; however, there are numerous projects to be completed at both Sunset Park and Sussell Park. He further reported that the Prout Park sign will be erected on Wednesday. Mr. Miller stated he will meet with two scouts, to sign off on their paperwork, in order for them to proceed with their Eagle Scout projects. Mr. Miller stated that Greg Churach will be working together with Matt Dallas and his daughter on her Girl Scout project. Commissioner Taylor extended his appreciation to the scouts who are working on their various projects throughout the township. Commissioner Miller extended his thanks and appreciation to the thirty four (34) residents who picked up thirty six (36) bags of trash, five (5) tires, and a grill, the front end of a car, a mattress and several dead animals during the annual cleanup of the township. Mr. Miller noted that while the volunteers were cleaning up the township; peoples were driving by shouting degrading comments to them.

SPECIAL PROJECTS - Commissioner Noll reported that the unfunded mandate resolution that the Board passed last month is getting support throughout the state.

TOWNSHIP ENGINEER’S REPORT - It was noted that a copy of the Engineer’s monthly reported will be placed on the bulletin board.

TOWNSHIP SOLICITOR’S REPORT - Attorney Garner reported that he is currently working on drafting a kennel ordinance and it should be ready for discussion at the next meeting. He further reported that the Township received the funds for the Coddington View project and we can now move forward with Arcadia in completing the Phase II improvements in a timely fashion. Attorney Garner referenced the recent purchase of the Hilsee open space property by the Township and noted that the SAVE Alliance Foundation is being formed to own the house parcel. Mr. Garner advised that he is drafting an Operations Agreement which the Township agreed to work with the Foundation in order to manage the open space in that area so there will be a joint cooperation effort between the Foundation and the Township. Attorney Garner reported that the document should be ready for discussion by the Board at their next meeting. He further reported that he along with Commissioners Miller and Taylor met with Ken Hamilton, Executive Director of the SAVE Foundation to finalize plans. Commissioner Taylor stated that after many years of struggling with the completion of the Coddington View Development, everything is now coming together. Commissioner Taylor stated that he is appreciative of the residents and their patience during these difficulties. He further stated that within the next week or so trucks will be hauling tons of dirt from the Coddington View project to the Hollenbach ball fields to create another soccer field. Commissioner Taylor advised that the contractor at Coddington View is donating time in order to create, level, and seed the field and hopefully next year it will be ready for use.

FINANCIAL REPORTS - Copies of the monthly Financial Reports were included in the Board members’ meeting packets.

NEW BUSINESS:

ACT 537 PLANNING REIMBURSEMENT-RESOLUTION # 643 - A Resolution of the Upper Pottsgrove Township Board of Commissioners Requesting a Grant from the Sewage Facilities Program Project. A motion by Spaide, seconded by Miller, to prepare and apply for the Grant from the Sewage Facilities Program Project. All aye votes.

HANOVER STREET LINING PROJECT - RESOLUTION # 644 - A Resolution of the Upper Pottsgrove Township Board of Commissioners Requesting a Grant from the Pennsylvania Small Water and Sewer Program Project. Commissioner Taylor noted that the Township is requesting \$85,000.00 from the Commonwealth Finance Authority to be used for bidding and construction costs for the North Hanover Street Sewer Lining Project. He further noted that the Township is required to contribute a fifteen (15) percent match or \$15,000.00. A motion by Miller, seconded by Spaide, to request a grant for the Hanover Street Lining Project. All aye votes.

EDU REDUCTION - Commissioner Taylor explained that the Township's commercial sewer customers are billed according to their water meter readings and noted that there are some issues with regards to how the sewer bills are calculated. Mr. Taylor advised that Mr. Kim, owner of the Fujiyama Restaurant, is requesting that the Board consider reducing his EDU allotment from eight (8) EDU's to three (3) EDU's and that the reduction be reflected in the next quarterly sewer billing. Commissioner Taylor stated that Fujiyama is using the equivalent of three (3) EDU's or less and have been consistently for the entire ownership of the restaurant. Attorney Garner explained that in the event their (Fujiyama) usage exceeds the (3) EDU's they will have to buy back additional EDU's. He further explained that the Kim's have been made fully aware of this and they will sign an Acknowledgment and an Agreement stating that they understand if their usage increases they will have to purchase additional EDU's at the current rate of \$3,000. When **COMMISSIONER NOLL** questioned how the Township is documenting the fact that the owners are aware of the process if their actual usage exceeds three (3) EDU's; Attorney Garner explained that they (Kim's) made a formal request to reduce their allotment and they will sign an Acknowledgment and Agreement which will be signed by the owners and the Township and a copy will be on file in the office. After a brief discussion, a motion by Miller, seconded by Schreiber, to approve a reduction from eight (8) EDU's to three (3) EDU's for the Fujiyama Restaurant. All aye votes.

TRASH HAULER CONTRACT - Commissioner Taylor stated that the Trash Hauler Contract with J.P. Mascaro is coming up for renewal at the end of this year. Mr. Taylor further stated that the Township has until October 1st to notify J. P. Mascaro of our intentions. There was discussion regarding the options to renew the current contract with J.P. Mascaro or put it out to bid for a similar contract with a new hauler. Commissioners Spaide and Noll stated they are in favor of bidding out for a new contract.

FRANCE KRAZOLKOVICH - 92 Stonehill Drive - Expressed his concern that there is a Home Owner's Association in his development.

MICHELLE O'CONNOR - 1875 Orlando Road - Expressed her concern that she is paying a great deal of money for bag service. Ms. O'Connor reported that Mascaro is very careless and noted that they pick up anything if something drops onto the street. Commissioner Taylor advised that when there are problems with J.P Mascaro residents should contact the office because a supervisor is in the township while the hauler is picking up trash.

ALTHOUSE EDU'S – Commissioner Taylor stated that the Township has recently acquired the Althouse property and wishes to reduce the twenty two (22) EDU's allocated to this property on one (1) EDU. After further discussion, a motion by Miller, seconded by Noll, to approve the reduction of twenty two (22) EDU's to one (1) EDU for the Althouse property. All aye votes.

When **KEITH KEHL, 1941 Gilbertsville Road**, questioned if the Township paid for the twenty two (22) EDU's; Attorney Garner said "no" they are allocated under the EDU's that the Borough Authority says the Township is entitled to.

JOHN BEALER - 1521 Farmington Avenue - Explained that when DEP reviews the Chapter 94 report they consider any EDU that has been allocated as being used whether there is water going down the pipe or not. He further explained that the number of EDU's allocated to any approved plans, currently before the Board, are considered as being used by DEP if they are being developed or not.

SPROGEL'S RUN DEVELOPMENT – Commissioner Taylor referenced the Sprogel's Run Development and noted that the plan is currently under review; however, the Planning Commission did not meet this month and the Developer is running out of the ninety (90) day time frame. A motion by Noll, seconded by Spaide, to deny the Sprogel's Run Development plan subject to the Developer requesting an extension. All aye votes.

KEITH KEHL - 1941 Gilbertsville Road - Expressed his concern with the Crossroad's Subdivision not being developed and noted that that plan and the Sprogel's Run Development are owned by the same Developer.

OLD BUSINESS:

OUTDOOR WOOD BOILER ORDINANCE - Commissioner Taylor provided a brief history with regards to the installation of a wood burning boiler on Orlando Road. Mr. Taylor explained that it is used for heating water and heating the home; however, it emits a lot of smoke and is creating a nuisance for the nearby neighbors. He further explained that it is perfectly legal. Attorney Garner reported that he has prepared an amendment to the Zoning Ordinance to permit these types of furnaces by conditional use approval of the Board in the R-1, R-80 and R-2 Residential Zoning Districts provided there is compliance with the following requirements: the Outdoor Solid Fuel Burning Furnaces shall be setback at least 200 feet from any property lines, the furnaces shall have a permanent attached stack with a minimum stack height of 10 feet above the ground, the fuel used shall be limited to the following: clean wood or wood pellets made from clean wood, the Outdoor Furnaces shall not be used or operated between May 1st and September 30th of any given year, the Outdoor Solid Fuel Burning Furnaces shall be installed and operated according to the manufacturer's specifications or the ordinance, the use and operation of Outdoor Solid Fuel Burning Furnaces shall be in full compliance with all applicable federal, state and local rules and regulations, included but not limited to those of the EPA and the DEP, the following fuels are prohibited from being utilized in any Outdoor Solid Fuel Burning Furnaces: treated or painted wood, furniture, garbage, tires, lawn clippings, or yard waste, material containing plastic, material containing rubber, waste petroleum products, paint and paint thinners, chemicals, any hazardous waste, coal, glossy colored paper, construction and demolition debris, plywood, particleboard, salt water driftwood, manure, animal carcasses, asphalt products, cardboard and paper products. Attorney Garner explained that the Zoning Amendment would not address wood burning boilers that are already in place.

COMMISSIONER SPAIDE - Asked what can be done with existing boilers and noted that there are currently two in her neighborhood. Ms. Spaide stated these residents can't open their windows or sit out on their deck due to the excessive smoke from the boiler.

COMMISSIONER MILLER - Stated he was visiting a friend, who lives in a neighboring township and county, and he puts everything in his boiler. Commissioner Taylor stated that is what government is for and noted that he is violating current state law. Attorney Garner stated that these are only words on a piece of paper; there is an enforcement issue which can be challenging.

COMMISSIONER TAYLOR - Reported that DEP gives a sample ordinance that is much more stringent than the one we are reviewing. He further reported that their (DEP) ordinance outlaws wood burning boilers totally and they feel that they can support the fact that they are dangerous and unhealthy enough that they should be outlawed entirely.

MR. & MRS. GERHART - 2151 Yarnall Road - Mrs. Gerhart stated their neighbor's wood boiler is less than five (5) feet from their property and noted the biggest problem is the smoke which is creating a health hazard. Mrs. Gerhart stated it should run only during the winter months; however, the wood boiler runs year round. She further stated that while she realizes the installation of the wood boiler was "grandfathered" in; she would like to see an ordinance in place for future property owners. Mr. Gerhart reported that a permit was never obtained for the installation of the wood boiler and stated that it is a structure which has water and electric and it is a supplement to the heater inside the house. He further stated that it was not installed correctly. Mr. Gerhart questioned why the Township can't do anything regarding the existing wood boiler when there is a zoning issue involved. Commissioner Taylor stated that nothing was done improperly and if an electrical permit was required it would have been granted.

COMMISSIONER SCHREIBER - Expressed his concern with regards to the stack height requirements in the proposed ordinance and Phase 2 outdoor wood-fired boilers.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Asked why the Township can't just prohibit wood boilers in the Township. Commissioner Taylor advised that it would be hard to legally defend. Attorney Garner stated that the Township is looking at this through a Zoning Ordinance regulation which is totally permissible by a municipality. He further stated that the next step would be to regulate these, not through zoning, but through a regulatory ordinance.

KEITH KACHEL - 1412 Farmington Avenue - Clarified that the proposed ordinance will address issues going forward; not existing issues with regards to outdoor solid fuel burning furnaces.

OUTDOOR WOOD BOILER ORDINANCE CONT'D - It was agreed that the Solicitor would include the minor language changes with regards to the operation dates ~ change to April 15th to October 15th, amending R-1, R-80, R-2 and include the Limited Industrial District, and the stack height requirements. Attorney Garner stated he would confer with the Zoning Officer with regards to the draft ordinance.

ROAD PROJECTS 2014 - Commissioner Taylor reported that last year the Board discussed the idea of borrowing money to do a bigger road project rather than just bits and pieces. He further reported that the Board needs to confirm the scope of work ~ Option #1 which includes overlay of Yarnall Road, Snyder Road, Horseshoe Drive, Irwin Place and Hanover Drive for a total of ~ \$309,615. Option #2 includes micro surfacing of Juniper Street, Heather Place, Primrose Lane and Lotus Drive for a total of ~\$89,515. Total of both projects ~ \$399,130. Mr. Taylor noted that since we don't know at what price the bids will come in, the Public Works Director added Mock Road for overlay and Orlando Road for storm drain work for a total of \$57,616.

When **COMMISSIONER NOLL** questioned the difference between overlay and micro surfacing Justin Bean stated that overlay would be overlaying the present road with blacktop and micro surfacing already has a base down and a thinner type of material is used for the top.

COMMISSIONER TAYLOR - Explained that in the past the township has used only Liquid Fuels monies for road work and reported that those funds are not enough to do this year's proposed road project. Mr. Taylor noted that this year's Liquid Fuels allocation has increased by 10% - 11% and that is scheduled to increase over the next (5) years. Commissioner Taylor advised that the Township could apply for a State loan; however, there are a lot of bells and whistles associated with borrowing money from the State. Mr. Taylor reported that Fulton Bank has provided a loan proposal of \$500,000 at an interest rate of 2.35% for five (5) years with a variable rate of 60% of prime for the next five (5) years. **COMMISSIONER SCHREIBER** questioned whether the Township could use the money to purchase our own equipment in order for us to do the roads. After a brief discussion, a motion by Noll, seconded by Spaide, to approve the borrowing with Fulton Bank with Option #1 as recommended by Matt Dallas, Township Financial Advisor. All aye votes.

COMMISSIONER MILLER - Expressed his concern regarding the condition of Hanover Street and noted that the school buses are helping to deteriorate the road.

COMMISSIONER SCHREIBER - Expressed concern regarding borrowing so much money without knowing the life of the road. Commissioner Taylor advised the Township does not have enough money in Liquid Fuels funds to keep us with our road needs.

APPROVE PREPARATION OF BORROWING ORDINANCE, APPROVE APPLICATION TO PENNDOT FOR BOTH LOAN AND CONSTRUCTION AND APPROVE BID PREPARATION AND ADVERTISING - After a brief discussion, a motion by Noll, seconded by Miller, to approve the application to PennDOT for both the Loan and the Construction and to approve the preparation and advertising of the bid. All aye votes.

CURB AND SIDEWALK ORDINANCE - Commissioner Taylor stated that the ordinance has been properly advertised and explained that the ordinance places the responsibility for the maintenance, repair and upkeep of the curb and sidewalk on the property owner. He further stated that the ordinance also requires that the property owner shall be responsible for clearing the sidewalk of snow.

CURB AND SIDEWALK ORDINANCE CONT'D – Mr. Taylor referenced the clearing of snow from around fire hydrants and expressed concern that the ordinance places the burden on one property owner. A motion by Noll, seconded by Miller, to approve the Curb and Sidewalk Ordinance as advertised. Commissioner Miller questioned the language regarding fire hydrants. Commissioner Miller questioned Assistant Public Works Director, Justin Bean, if it is possible not to pile a lot of snow at the fire hydrant when plowing. Mr. Bean stated that if it is deep snow the public works employees try to go out and clear the snow from around the fire hydrants. Commissioner Taylor stated he would like the fire hydrant snow removal to be a community effort rather than lay the burden on one property owner. After a brief discussion, Commissioner Noll amended his motion to eliminate the language regarding snow removal around fire hydrants. Commissioner Miller seconded the amended motion. Aye votes: Miller, Noll, Spaide and Taylor. Opposed: Schreiber. Motion carried.

When **KEITH KEHL, 1941 Gilbertsville Road**, questioned whether this would be considered an unfunded mandate; Commissioner Taylor responded that when you buy into a community that has a curb and sidewalk you're responsible for maintaining it. Mr. Kehl reported that he does shovel the snow around the fire hydrant in close to his house as well as the one in front of his parent's residence. Mr. Taylor addressed Mr. Kehl and expressed his appreciation to him for volunteering his time with the clean-up brigade. Mr. Taylor stated it is a shame that the burden of the community falls on so few people.

FRANCE KRAZALKOVICH - 92 Stonehill Drive - Expressed concern regarding his responsibility of maintaining the sidewalk in front of his house. Mr. Krazalkovich questioned why he couldn't just block the sidewalk off, in front of his property, if the Township were to say there is a crack in the sidewalk and it is creating a dangerous situation. Attorney Garner stated it is a public right of way and the ordinance states that you can't block or obstruct a public right of way. Mr. Krazalkovich asked if the sidewalk is a public right of way why is the public rather than the Township responsible. Attorney Garner stated that the Township could allow itself to be responsible but can also delegate or require the property owner, who benefits from the curb and sidewalk, to maintain it which the elected officials are permitted to do.

OTHER PUBLIC COMMENT:

KEITH KACHEL - 1412 Farmington Avenue - Questioned the status of the ambulance distribution. Commissioner Taylor stated he has been in contact with a representative from County and they were supposed to let him know today whether the roll over took place. He further stated that since he hasn't heard from them (County) he is assuming nothing has been done. Commissioner Taylor stated he would continue to contact them regarding this matter. Commissioner Noll suggested that the Township give County until April 30th to make the change.

JOHN BEALER - 1521 Farmington Avenue - Commended the members of the Board for being creative with regards to the funding of the road projects and noted that some of the proposed roads have been on the wish list for several years. Mr. Bealer referenced the modular trailers on State Street and questioned whether they are ever going to leave. Mr. Bealer stated that in his opinion it is an eyesore. Commissioner Spaide agreed.

COMMISSIONERS COMMENTS:

COMMISSIONER SPAIDE - Expressed her thanks and appreciation to Commissioner Taylor for his dedication to the Township in managing the administrative offices while searching for a new Township Manager. Commissioner Spaide stated that if she didn't have to work she would be helping out too.

COMMISSIONER NOLL – Stated he wanted to commend the Fire Company for the successful Easter Egg Hunt they had again this year.

COMMISSIONER SCHREIBER - Stated that he was with the annual cleanup brigade and noted that there are cigarette butts all over the place. He further stated that on Saturday, April 26, 2014, there will be another clean-up of the Township with the boy scouts. Mr. Schreiber stated he would like to investigate the possibility of reducing the amount of oil consumption for next year.

PAYMENT OF BILLS - April 21, 2014 - Commissioner Miller questioned an open space invoice in the amount of \$700 from Earthcare Inc. Justin explained that it was for the installation of the silt sock at Hollenbach Park. Commissioner Schreiber questioned General Fund invoices from Donna's Cleaning Service and Mr. Windshield and a Sewer Fund invoice payable to Lower Pottsgrove Township. John Bealer, who was present in the audience, explained that the invoice from Lower Pottsgrove Township is for transportation costs. Mr. Bealer explained that the sewer flows from Turnberry Farms through Lower Pottsgrove Township and eventually to their pump stations. Commissioner Noll questioned a General Fund invoice from James Rodgers. Mrs. Saylor explained that the Township is refunding Mr. Rodgers for work that was done on the American Tower cell tower. After a brief discussion, a motion by Spaide, seconded by Noll, to approve the April 21, 2014, Bill List for General Fund in the amount of \$168,768.01; Fire Fund in the amount of \$8,293.11; Sewer Fund in the amount of \$30,180.11; Open Space Fund in the amount of \$21,132.26; State Fund in the amount of \$8,218.01 and Escrow Fund in the amount of \$6,897.58. Total Disbursements ~ \$243,489.08. All aye votes.

APPROVAL OF MINUTES - March 17, 2014 - A motion by Spaide, seconded by Noll, to approve the minutes of the March 17, 2014, meeting as presented. All aye votes.

APPROVAL OF MINUTES - March 24, 2014 - A motion by Spaide, seconded by Noll, to approve the minutes of the March 24, 2014, meeting as presented. All aye votes.

EXECUTIVE SESSION - At 9:13 P.M. Commissioner Taylor advised that the Board would hold an Executive Session to discuss matters of litigation, personnel and real estate with possible action being taken. The meeting reconvened at 10:25 P.M.

MATLOCK AGREEMENT OF SALE - A motion by Spaide, seconded by Miller, to approve and authorize the execution of a Real Estate Sales Agreement with Matlock Family Trust and Michael A. Matlock to purchase six separate parcels of property at Willow and Diamond Streets for the price of \$530,000.00 as reflected in the Agreement of Sale prepared by the Township Solicitor. All aye votes.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by Noll, to adjourn the meeting at 10:30 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary