

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

**February 21, 2017**

The meeting of the Board of Commissioners was held on Tuesday, February 21, 2017, at the Upper Pottsgrove Township Administrative Offices, 1409 Farmington Avenue, with Commissioners Elwood Taylor, Herbert Miller, Jr., John Bealer and France Krazalkovich present. Martin Schreiber arrived at 7:23pm. Also present were Solicitor Charles D. Garner, Jr., Chief Francis Wheatley, Public Works Director Frank Quinter and Township Manager Carol R. Lewis. The meeting was called 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.

**PRESENTATION OF COMMENDATION AWARD TO SCOUT TROOP 129 FOR BRIDGE OVER FOX RUN** – H. Miller gave a background of the project and to those involved. Troop 129 has supplied over five (5) Eagle Scout projects in our Township to the betterment of our community over the past few years. To date their Troop has over sixty nine (69) Eagle Scouts. E. Taylor read and presented the commendations to Scout Troop 129 along with H. Miller.

**PUBLIC COMMENT:**

**KEITH KEHL –1941Gilbertsville Road** - Stated that he has protested in the past and he is protesting again the sewer line going through his property and the Township’s open space. He has a nice silver birch and does not want to lose it. There is a large stand of dead trees across the street and he asked if the Township was going to do anything special to the project to protect the land. He did not think it was right that Mingey is making money off the Township. The last time he did work the construction workers did not have port-a-potties and they went in the woods. He asked if they would be posting an escrow to make sure that the project goes through. He was advised that he would and that this is standard operating procedure. K. Kehl rebutted that if this was true what about Crossroads? He stated that he is losing ground and that muddy water goes into Sprugel’s Run. E. Taylor assured him that the Township does its best to make sure that work is done per our ordinances. K. Kehl reiterated that they should not be using public land to help developers.

**JAMES CAPINSKI – 1958 Yarnall Road** – Thanked Mr. Taylor for giving the short two (2) page statement at the last meeting admitting that the documents he has been asking for we have. It is also the first time he can remember the Township admitting to collecting escrows for Highview Lane. J. Capinski presented documents to the Commissioners for their review that were presented by John Mahoney. They show that Highview Lane was never to be a driveway and the specifications cite it should be wider and a cul-de-sac should be included. The County’s Comprehensive Plan document states that Highview Lane is a public road fifteen (15) times.

**REPORTS**

**PARKS, RECREATION AND OPEN SPACE REPORT** – H. Miller presented the Open Space and Recreation Report. He advised the Board that the group that has designed the low ropes course

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

**February 21, 2017**

for the Arboretum has asked to rent it from them for large groups. The Arboretum would get \$300 a day for its use. The Open Space and Recreation Board voted in favor of this and urged the Commissioners to do the same. Ken Hamilton has an agreement for them to sign that stresses they must provide indemnity and liability insurance name the Green Allies and the Township as additionally insured. Motion by M. Schreiber, seconded by J. Bealer and unanimously carried to approve this course of action pending the Solicitor's review of the agreement. H. Miller next advised the Board that D. Elliott did the Fish Rodeo last year and this year the West Pottsgrove Lion's Club is going to help with the event. He thanked the Manager for her work in developing the contracts for ballfield usage to help prevent trash and other problems. The Children's Forrest Trail will have an open house on Saturday, May 13, 2017. The farmhouse will be done at that time as well. Cornell University's Master Program is taking on the Arboretum as their project. They are designing the wooded section as a public garden and it will preserve them. Lastly, the Board discussed how they would like to develop the open space in the future. They are looking at putting in a nine (9) hole Frisbee golf game and a dog park at Fox Hill Trail. Lastly, the fence at Goose Run needs to be replaced. It is currently made of wood and is rotting away. This is not only a fence but a hand rail. Motion by H. Miller seconded by J. Bealer and unanimously carried to approve the installation of an almond vinyl fence in the amount of \$2,700.

**EMERGENCY SERVICES REPORT** – M. Schreiber presented the Fire Report. There were seventeen (17) calls for the month and seventeen (17) calls year to date. They reviewed service hours and staff hours. The Fire Company has been added to any cardiac in the Township and there have been three (3) year to date. There have been twenty three (23) EMS calls. He compared the response times between the two EMS responders and they are very close. He felt that the Commissioners made the right choice in the past when they divided the Township in the past. He presented the Police Report and applauded Chief Wheatley for sending the Officers to training. He next discussed the dedicated fire tax. Regarding dedicating fire tax funds for a truck; C. Garner had advised that future Boards can overturn this Board's decision. **Tax Credits for Volunteers** – Under the new law the Board of Commissioners can give tax breaks to volunteers to help promote volunteerism. M. Schreiber advised that they can give twenty (20%) percent on property tax and up to one hundred (100%) percent of EIT. M. Schreiber advised that the Fire Company would prefer EIT since two out of the five eligible volunteers at this time rent. C. Garner reiterated that these credits are given at the local level. E. Taylor responded that it would not be a lot of money and doesn't think that there will be a problem but would like the Fire Committee to present the Board with some options and scenarios. H. Miller commented that animal complaints comprise 11.6% of the complaints. Chief Wheatley agreed that the majority of them were dog complaints. H. Miller said that there are leashed dogs in the parks attacking other dogs and this is becoming a problem. M. Schreiber advised the Board that the Fire Company is reviewing and rewriting the By-laws and this will be coming their way for review in the near future. Motion by F. Krazalkovich seconded by H. Miller and unanimously carried to authorize the execution of the **Agreement with Probationary Officer Guldin**.

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

**February 21, 2017**

**PLANNING REPORT** – J. Bealer advised the Planning Commission did not meet but he wanted to discuss the cul-de-sac in regards to the development going on in the area. C. Garner advised that he had written a letter to the appropriate parties and to West Pottsgrove and has not received any response at this time.

**PUBLIC WORKS REPORT** – Motion by M. Schreiber, seconded by H. Miller and unanimously carried to authorize the execution of all documents and the resolution for the leasing of the backhoe.

**SEWER AND WATER REPORT** – J. Bealer advised the Board that for the bidding they have separate the road projects and the sewer overlay. M. Schreiber stated that he would prefer no seams. E. Taylor advised that there are five (5) properties that will have the ability to hook up once the extension is in. The Board of Commissioners has the authority to require the hook up. There is probably a mixture where some will want to hook up and some will not. M. Schreiber stated he would like to see a strongly worded letter urging them to hook up. J. Bealer agreed that they should hook up. E. Taylor reiterated that the intent is that everyone in the development will eventually hook up. F. Krazalkovich stated he has an issue telling property owners they have to hook up. H. Miller stated that they need to be educated. M. Schreiber asked if they have financial difficulties affording the sewer could the township help them. E. Taylor advised that they can set up a payment plan for the township's portion but they still need to be able to pay their plumber. The Manager will prepare an education letter to go out to potential hook ups to the sewer and the Board will review the letter before it goes out. K. Kehl asked if there is a DEP Law requiring them to hook up if they are within a certain number of feet. C. Garner advised him that it is a Township Ordinance that anybody within one hundred and fifty (150) feet could be mandated to hook up to the sewer. Next J. Bealer updated the Board that at the joint sewer meeting the Pottstown Borough Authority is proposing a dryer project. This project is not in the budget. The contributing municipalities are asking them to push the project off so that they can financially plan for it. J. Bealer felt that the project does have merit in the long run but needs to be budgeted for. H. Miller asked how the dry sludge was used. It is used for agriculture.

**INTERGOVERNMENT RELATIONS REPORT** – F. Krazalkovich advised that he attended the meetings he spoke about at the last meeting. On February 6<sup>th</sup> they had a Lobby Day in Harrisburg and he spoke to numerous policy makers regarding municipal pension reform, Act 111 reform and the use of local radar. Pennsylvania is the only state in the union that does not allow local police to use radar. Over the next month he will be forwarding resolutions that the Commissioners passed last year for them to consider passing again this year.

**MANAGER'S REPORT** – Motion by M. Schreiber, seconded by H. Miller and unanimously carried to authorize a resolution to apply for a MONTCO 20/40 implementation grant for the installation for solar on the new Public Works building. Motion by H. Miller seconded by J. Bealer and unanimously carried to authorize approval to form a worksite wellness initiative with an amount not to exceed \$1,000. C. Lewis advised that she is working with the Tri-County Area Chamber of Commerce and has already applied for a grant through United Healthcare and there is additional grant funding through the Pottstown Health and Wellness Foundation.

**Engineering** – C. Lewis advised that previously the Board had approved engineering for the new Public Works building not to exceed \$20,000. Due to adding the solar, having to put in a sprinkler system, getting the drawings for the salt shed and making changes to the building; the engineering has gone over the \$20,000. She informed the Board that they are taking their time and making sure that the bids are as tight as possible to prevent change orders which can be very expensive later on. Motion by H. Miller seconded by J. Bealer and unanimously carried to authorize additional funding for the engineering due to scope creep and to prevent change orders in the future not to exceed \$15,000. Next, C. Lewis advised that the Civil Service Commission will be meeting to review the Rules and Regulations on February 28<sup>th</sup> at 7:00pm. The Manager is working with the Chief to institute advancement procedures within the department.

**NEW BUSINESS**

**CONSIDER FORMATION OF REGIONAL UCC BOARD** – C. Garner explained that municipalities are to form a Board of Appeals. Each member serving on the Board must have their own area of expertise. Many municipalities are finding it difficult to find people to serve on the Board. The Regional Appeals Board could be formed. Each municipality participating would create an ordinance forming the Board on a regional basis. E. Taylor said the subject came up through the Regional Planning Committee. M. Schreiber asked if this could also be a COG issue. C. Garner agreed that it could be. E. Taylor advised that the County is very good at coordinating these types of activities and he will take it to the Regional Planning Committee meeting coming up on Wednesday.

**CONSIDER RESIGNATION OF DENISE BRUNO FROM CIVIL SERVICE COMMISSION** – Motion by F. Krazalkovich, seconded by H. Miller and unanimously carried to accept the resignation of Denise Bruno. E. Taylor advised that there is now an opening on the Board. There has been a turnover of members in the last few years. We have used the Manager and the Solicitor to support the Civil Service Commission as best we can. It is allowable to have a Commissioner on the Civil Service Commission which would help with communication and stability. M. Schreiber clarified that the Commissioner cannot hear appeals but can serve otherwise. Motion by H. Miller seconded by F. Krazalkovich and unanimously carried to appoint Martin Schreiber to the Civil Service Commission to fill out the remainder of Denise Bruno's term. F. Krazalkovich encouraged anyone who is interested to apply as an alternate member of the Civil Service Commission. There are currently two (2) alternate positions still open.

**CONSIDER ADDENDUM FOR CATALYST OUTDOOR LEASE OF THE BILLBOARD** – The Board reviewed the proposed Addendum to the Catalyst Outdoor Lease of the billboard. J. Bealer questioned under number three (3) what the gross revenue was that they were calculating twenty (20) percent of. C. Lewis replied that they will be providing us a copy of their audit statement for the previous year. Over the past three (3) years we have averaged over \$30,000 in revenue. M. Schreiber advised that he is not at all in favor of this Addendum and questioned what happens if they sell the business or go out of business. The Board agreed that they like the current lease and are not in favor of amending it.

**CONSIDER EASEMENT AGREEMENT FOR 908 COMMERCE DRIVE** – Aaron Rappucci was available to present the issue. He showed a layout that has a strip that was lost in the shuffle of the reconfiguration of SR100 and Commerce Drive. The title company cannot find Title of Control. PennDOT confirmed that they have vacated the strip. It is currently used for parking and ingress and egress of the property. When PennDOT abandons it goes to the municipality not to the property owner. M. Schreiber inquired as to squatter’s rights. A. Rappucci replied that they could take that avenue but it takes a long time and they are trying to settle soon. E. Taylor thinks it is a good idea as it preserves the Township’s right of way but allows the property owner to use it as they have. A. Rappucci advised the Board that the title company went back to the early 1900’s in researching this. Motion by M. Schreiber seconded by F. Krazalkovich and unanimously carried to execute the agreement upon review by the Manager and the Solicitor. J. Capinski asked if PennDOT could issue another vacation order. A. Rappucci said they could not because they couldn’t find it either. D. Updegrove questioned whether this would be referenced in his deed and will other properties face this issue. E. Taylor advised her that if other property owners find that they have the same problem, they will do this with them as well. This instrument will be recorded and added to his deed.

**DISCUSS REGIONALIZATION OF MEDICAL MARIJUANA** – E. Taylor stated that the State has legalized medical marijuana and it is highly regulated. In order to comply with new State laws the Township should provide for the allowance in our Zoning Ordinance. He questioned whether it was the Board’s preference to coordinate with the Regional Planning Committee or to keep it local. F. Krazalkovich stated that he prefers to handle it locally. H. Miller thought that the Region would be better able to handle it. He does not necessarily want it in the Township. E. Taylor advised that the Regional Plan would have to be discussed and approved. This business could be a boom to whatever community gets it. E. Taylor will advise the Regional Planning Committee that they want to talk about it.

**OLD BUSINESS**

**CONSIDER ADOPTION OF NOISE ORDINANCE** – H. Miller feels that the final product is well done and thanked C. Garner and M. Hovey for their work. Motion by H. Miller seconded by J. Bealer to adopt the Noise Ordinance as advertised. F. Krazalkovich stated that he entered into this skeptically but with the revisions that were made and adding the negligent and nuisance language he feels the standards now protects the neighbors who are calling just because they do not like each other. Motion unanimously carried. E. Taylor stated that they tried to do this ordinance many times over the years and do want to protect all of residents rights while encouraging neighbors to be neighborly.

**DISCUSS ANIMAL ORDINANCE** – C. Garner advised that at the last meeting there was a lengthy discussion. He received comments back from H. Miller, Chief Wheatley and other Commissioners. They amended the definition of animals that includes animals of any size and type except farm animals. Another section will be coming later on regarding agricultural animals. M. Schreiber pointed out that 8 needs a definition for vicious or dangerous animals. On page 2 under the Section Running at Large he questioned whether the owner or the person walking the dog is the

one responsible for the transgression. C. Garner pointed out that it is at the discretion of the Police to cite or not to cite. H. Miller feels it is the owner's ultimate responsibility whether it is a child or someone they are paying to watch the dog. F. Krazalkovich questioned whether the existing Dog Ordinance is being expanded to include all animals. C. Garner replied that this is a more comprehensive ordinance than the current Dog Ordinance. F. Krazalkovich felt that the old one should be incorporated into this one to keep from redundancies. He encouraged them to repeal and replace. H. Miller advised that he knows what the Police will be dealing with over the next six (6) months and this will be very important for the Police to enforce. E. Taylor reiterated that it seems to come down to owner vs. possessor. C. Garner suggested writing the ordinance to cite owner and or person who has control. Chief Wheatley advised that we are currently in a culture of people taking care of other people's pets. He felt that the and/or would be a very good insertion. C. Garner encouraged the Commissioners to email any additional comments to the Manager so they can be incorporated into the next draft. Chief Wheatley gave an analogy regarding the owner of the car vs. the driver of the car. J. Bealer pointed out that on page 2 under Duty to Secure it seems to address the minor situation. D. Updegrove questioned whether requiring ten (10) acres for farm animals would solve some of the problems people are having. E. Taylor advised her that this ordinance does not address agricultural use. That may be coming. They are trying to do this one right. D. Updegrove stated that she appreciates that the Board has different opinions but they can talk and can allow their opinions to be stated.

**CONSIDER FIRE COMPANY ACTIVITIES** – Motion by M. Schreiber seconded by F. Krazalkovich and unanimously carried to approve the Fire Company activities as presented.

**PUBLIC COMMENT:**

**JAMES CAPINSKI – 1958 Yarnall Road** – Stated that he was confused again. The Board is working on a Noise and Animal Ordinance but is considering a dog park. He asked if a child gets bit is the Township liable? C. Garner replied that it possibly could be. He also questioned the waste and the fact that you are inviting people to come but that it can be an issue. E. Taylor said it can be a nice thing for residents and we don't want to say no because it is hard to develop the required regulations. F. Krazalkovich stated that he is not a dog person but they owe it to dog owners to provide an area where they can play with their dogs.

**DIANA UPDEGROVE - 1404 Farmington Avenue** – Questioned where at Fox Hill Trail. C. Lewis explained that the Township owns two (2) acres of property where the current parking lot is on Mangers Mill Road. The Open Space and Recreation Committee is considering putting it at the rear of those two acres where it will not be close to a house but will be nearby a community that can walk to it.

**KEITH KEHL – 1941 Gilbertsville Road** – Advised that the Arboretum is collecting scrap and appliances this Saturday.

**COMMISSIONER COMMENTS**

**F. KRAZALKOVICH** advised that the Primary is coming up and there are three (3) seats on the

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

**February 21, 2017**

Board of Commissioners and the Tax Collector. He encouraged residents to vote and that in the next few weeks people will be circulating petitions. He advised they do not need permits for this activity.

**APPROVAL OF MINUTES** – Motion by F. Krazalkovich seconded by H. Miller, to approve the minutes of the January 17, 2017, as presented. M. Schreiber abstained as he was late for the meeting

**APPROVAL OF BILL LIST** – Motion by J. Bealer seconded by H. Miller and unanimously carried to approve the Bill List in the amount of \$208,338.96.

**EXECUTIVE SESSION** – At 9:23pm the Board adjourned into Executive Session to discuss matters of personnel and litigation. They reconvened at 9:45 pm.

**ADJOURNMENT** – Motion by F. Krazalkovich seconded by E. Taylor and unanimously carried to adjourn the meeting at 9:46 pm.

Respectfully submitted,

---

Carol R. Lewis, Manager