

**Minutes – Board of Commissioners
Upper Pottsgrove Township****February 4, 2008**

A meeting of the Board of Commissioners was on Monday, February 4, 2008, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners, DeLena, Spaide, Dolan and Taylor present. Also present were Solicitor Charles D. Garner, Jr., Township Engineer Chris Hannum and Township Manager, Jack Layne. There were 10 people in the audience. Mr. Taylor called the meeting to order at 7:04 P.M. Commissioner Noll was absent due to his attendance at the PSATC Conference in Harrisburg where they would be meeting with State Legislators.

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 COMMENT:

DARRYL TILLMAN – 151 Rose Valley Road - Inquired as to how much funding was available in the Township's Capital Reserve Fund. He stated that he had previously spoken to Mr. Layne who had informed him that the General Fund for the approved 2008 Budget projected an ending balance of \$3,095 and the Sewer Fund projected a year-end balance of approximately \$17,000. Mr. Tillman stated that considering that there was a 62% property tax increase and a 65% increase in the sewer rates and whether these increases were fair and adequate to meet the needs of the Township. Mr. Taylor responded that if we have a positive balance at the end of the year then we would have sufficient funds to make it through the year. Mr. Tillman also inquired as to why those sitting on the Commission four years ago who now sit on the Commission, i.e., Mr. Taylor and Commissioner Noll, did not vote in favor of the recommendation by Commissioner Bobbie Reeves at that time that a 1% tax be implemented in order to establish a Rainy Day Fund. Mr. Layne inserted that when Mr. Tillman was referring to a Capital Reserve Fund the reference should be to a Rainy Day Fund and that he had previously informed Mr. Tillman that there was approximately \$700,000 in the Capital Fund and that a payment of approximately \$371,000 was forthcoming from the Pennsylvania Department of Environmental Protection (PADEP) that would increase the Capital Fund to over \$1,000,000. Mr. Taylor stated that there is no Rainy Day Fund in the 2008 Budget and that the only "rainy day funding" is what might be remaining at the end of the year. And, that furthermore to establish a Rainy Fund was a political decision. He added that his preference is that funding should be designated for specific projects. Mr. Tillman added that perhaps if a Rainy Day Fund had been established the Township would have had funding reserves in place. Mr. Taylor responded that the 62% increase in property taxes provided for this projected positive year-end fund balance and that the projected year-end fund balance could only have been larger if the tax increase had been higher. Mr. Tillman reiterated that \$3,095 was not a desired dollar amount for a Rainy Day Fund considering the cost for services, such as plumbing services, etc. and did he feel that this amount was proper to handle unanticipated expenses that might arise.

Mr. Taylor responded that he was not happy with a fund balance of \$3,000 and it could have been much higher and added that our Financial Consultant recommended a 10% year-end fund balance. And, furthermore he did not feel that the Township was willing to accept a doubling of the tax rate in order to accomplish this desired year-end balance. Mr. Tillman reiterated as to why the Commission did not act on establishing a Rainy Day Fund three years ago. Mr. Taylor responded that this year's Budget was the result of our efforts to manage the Township without a huge tax increase. He added that we could have doubled the tax increase and had more money or tripled it and kept one police officer and that we decided to use the tax increase and still manage the Township in a reasonable fashion. He further stated that if we have a good year we will have more of a fund balance. He also stated that the Township did not have nearly the development as projected over the past two years and that if the 500 to 600 housing starts that were projected had occurred the Township would be rolling in money right now. And, that the national economy is presently not doing very well and we are doing the best we can at the present time.

JIM CAPINSKI – 1958 Yarnall Road - Mr. Capinski distributed copies of pertinent segments of the Upper Pottsgrove Township 1972 Comprehensive Plan. Mr. Capinski noted specific items in the 1972 Comprehensive Plan that he felt showed that the Township considered Highview Lane as being a public road. He stated the Planning Commission had spent 15 months preparing this document. He noted that Sherwood Yergey was the Township Solicitor when this Comprehensive Plan was being developed in 1971 and 1972, when Highview Lane was approved as a subdivision in 1969 and in 1973 when the Township returned part of the escrow agreement money and kept the remaining balance and put it into the General Fund. He stated that the Comprehensive Plan mentioned 15 miles of Township roads, Highview Lane is highlighted as an existing road and as an existing cartway, Highview Lane is cited as a road that should be widened and that there is discussion about Highview Lane getting road improvements. He stated that he thought that the 1972 Comprehensive Plan was an official Township document that provided evidence that Highview Lane was a Township road.

JIM CAPINSKI – 1958 Yarnall Road – Mr. Capinski commented on the open space tax and how the utilization of Transferable Development Rights (TDRs) could possibly be used by the Township for procuring open space land as opposed to using tax generated funds for this purpose. Mr. Taylor responded that they were familiar with TDRs and that they had recently attended a Regional Planning Conference where it was shown that they have not worked very well in Montgomery or Chester Counties. He further stated that over the past six to seven years, the Township has worked very diligently with developers to create a code that insures that developers set aside open space within developments and that requires developers to pay money in lieu of open space in order to support other Township-wide open space initiatives. And, that this ongoing effort combined with the utilization of other funding and support from other entities, such as Montgomery County Lands Trust grant funds, has preserved from 100 to 200 acres of open space in the Township for building trails and providing parkland. Mr. Capinski cited areas where TDRs have seemingly worked efficiently. Mr. Taylor stated that to make TDRs work you have to be able to set aside land that you are willing to see densely developed in order for

it to be desirable for someone to be even being bothered working the transfer. He added that if the Township opted to densely develop other areas of the Township this would cause much conflict. In summary, Mr. Taylor stated that the Township already has designated densely developed areas and unless there is interest to create more densely developed areas, the TDR program would not work well for us. Mr. Dolan added that to make the TDR program attractive the Township would have to make its existing dense areas even denser. Mr. Dolan stated that development rights will be discussed at the February 19, 2008 Commission meeting where the Sprogels Run Trail Plan will be discussed.

DARRYL TILLMAN – 151 Rose Valley Road – Mr. Tillman asked to-date since the Township has began obtaining funds from the tax referendum for the preservation of open space how many acres have been acquired, where is the status of this fund and what does it look like. Mr. Layne stated that he would have to provide specifics to him, which he did not have at that time. Mr. Dolan stated that a financial advisor would be attending one of the Commission's March 2008 meetings where this matter will be discussed. He added that the Township has not utilized any of the tax referendum funding to purchase open space and that approximately \$200,000 annually is projected to come from this tax referendum funding. Mr. Taylor stated that these funds will be utilized to borrow funds in that the taxed amount will be used as collateral against borrowing, which will allow us to buy the open space land areas that we desire. Mr. Tillman stated that the election was in May to collect this tax and when did the Township actually start to collect that tax. Mr. Layne stated that the election was held in November 2006 and that tax funds began arriving at the end of the first quarter of 2007.

NEW BUSINESS:

REQUEST BY ROUSE/CHAMBERLIN FOR THE APPROVAL OF A TOWNSHIP ESCROW RELEASE NUMBER 6 OF \$503,870.85 – Mr. Taylor noted

that a letter had been submitted by the Township Engineer recommending an escrow release of \$486,518.85 because the wearing course (Chestnut Grove Realignment) costing \$17,355 had not been completed. Ms. DeLena moved that the Township approve the Escrow Release Number 6 of \$486,518.85 to Rouse/Chamberlin for the Summer Grove development. The motion was seconded by Mr. Dolan. Mr. Sloss asked which development this escrow release was for. Mr. Taylor responded that this was for the Summer Grove development. Mr. Sloss also asked when these funds would be released how much in funding would remain for this project. Mr. Taylor responded that the amount remaining would be \$1,025,000 and that two-thirds of the total number of homes to be constructed had been completed. He further stated that the amount of escrow remaining was for a specific purpose. And, that the amount that is being recommended has been approved by the Township Engineer. Mr. Capinski asked if the developer would walk away from this project could the Township take the escrow money and put it into the General Fund and then tell the people that it is private road. Mr. Taylor stated that he understood his question and stated that Mr. Garner had answered this question previously. Mr. Capinski asked how the road would get dedicated if the developer walks away from the project. Mr. Garner stated that we would try to contact the developer to urge him to sign a Deed of Dedication after we were satisfied that the work had been

completed. Mr. Capinski asked what if you were unable to contact the developer? Mr. Garner stated that we would petition the court to allow us to accept the road as a public road and extinguish the rights of the developer. Mr. Capinski asked if this could happen to Highview Lane? Mr. Garner responded that in theory yes. Mr. Capinski then asked would the Township do this. Mr. Taylor stated that he saw no pressing need to do this. Mr. Taylor emphasized that the Township has received an opinion from the Solicitor regarding this matter, which they will refer to. Mr. Taylor stated that he did not have any interest in spending that kind of money on that kind of road. Mr. Capinski asked what was the official opinion of the Commissioners? After discussion on this matter, Dolan moved that the Commission support the opinion letter provided by the Township Solicitor regarding Highview Lane. DeLena seconded this motion. The motion was approved by a vote of three in favor and one opposed. The motion was approved unanimously for providing the escrow release of \$486,518.85 to Rouse/Chamberlin for the Summer Grove project.

APPROVAL OF BID FOR THE FARMINGTON WEST PROJECT – Mr. Taylor stated that a significant number of contractors bid on the Farmington West Project and that the apparent low bids were under the engineering estimated total cost for this project. Mr. Hannum stated that 12 bids were submitted for the Farmington West Project and that bids consisted of a base bid and Alternate A (trench only), Alternate B (overlay without widening), Alternate C (widening without overlay) and Alternate D (widening with overlay). The apparent low bid, which was submitted by Anrich, Inc. totaling \$604,060, was recommended for award by LTL Consultants. Mr. Taylor stated that he was concerned and happy about getting Chestnut Grove Road fully reconditioned. Mr. Dolan asked if Chestnut Grove Road would be made wide enough to have a bike lane inserted. Mr. Hannum stated with the proposed widening to be a maximum of 5 feet, a bike lane could not be provided. Mr. Dolan moved that subject to the final review of the Township Manager and the Township Solicitor the Farmington West Project contract in the amount of \$604,060 be awarded to Anrich, Inc. Mr. Sloss inquired as to whether this bid would cover all the homes on Farmington Avenue west. Mr. Taylor stated that it would cover Farmington Avenue on this side of State Route 100 and Chestnut Grove Road, will not involve the Farmington Avenue west area and will go to the Waste Management property homes up to the hill. Mr. Sloss asked when do we anticipate doing the real Farmington West area? Mr. Taylor responded that this is projected to begin in 2009 and we are coordinating project funding efforts for this project with developers and that a lot depends on what happens this year with respect to development. Mr. Leister asked if his section on the far side of Farmington Avenue would not begin this year? Mr. Taylor responded that it would not begin this year due to financial and other considerations. The motion was seconded by Ms. DeLena. The motion was approved. Mr. Sloss inquired as to whether public water had been installed in Chestnut Grove Road. Mr. Taylor responded that they did not have public water at this location but that there is public water on Heather Place. Mr. Sloss suggested that the Township discuss this matter with the Superior Water Company. Mr. Garner stated that Superior does not unilaterally expand their service area or main lines unless a developer or state governmental entity is involved.

APPROVAL OF RESOLUTION NO. 529 APPOINTING JULIE GALLISDORFER AS A ZONING HEARING BOARD ALTERNATE

– After brief discussion, Mr. Dolan moved that Julie Gallisdorfer be appointed as an Upper Pottsgrove Township Zoning Hearing Board Alternate. Ms. DeLena seconded the motion. The motion was approved by a vote of three in favor and one opposed.

OLD BUSINESS:

DISCUSSION REGARDING THE PROPOSED VILLAGE COMMERCIAL ORDINANCE

– Mr. Taylor stated that a zoning map was available for review for the proposed area proposed to be designated as the Village Commercial area. He stated that the establishment of a Village Commercial area was an attempt to take the properties and make them more lucrative for commercial development and make it easier for them to make income off of their property and bring in tax money for the Township. Mr. Taylor stated that the Board had previously reviewed this proposed Ordinance and that some of the issues raised then included the historic properties (on page 7) and the other concerned drive-throughs being provided for banks (on page 5). Mr. Layne stated that Mr. Dolan had previously commented on the value of the property proposed for demolition versus retaining the property for historic preservation. Mr. Layne agreed that the worth of structure and not the land should determine if the proposed historic property should be demolished. Ms. Spaide emphasized that efforts should be made to preserve valuable historic pieces of property in the Township. She reiterated that the preservation of historic pieces of property was important. It was noted that designated historic properties should be architecturally significant and sound. Mr. Dolan stated that if a property was structurally unsound, regardless of its age, that he would not support sustaining that structure if it impaired the economic growth and development of the Township. Mr. Dolan further stated that he desired that the Township become economically viable. Mr. Taylor stated that the goal was to create something unique. Mr. Dolan stated that the Township should concentrate on its needs. Mr. Dolan added that the Township needed commercial development and that the Township should not restrict what people want to do with their buildings. Mr. Taylor stated that the proposed Village Commercial area is a residential district. It was noted that the type of commercial development proposed for this area might be similar to the type of commercial development that has occurred in Skippack. Mr. Dolan stated that it might be interesting to see how Lower Pottsgrove Township is able to provide its level of commercial development. Ms. Spaide stated that she did not believe that the Township should tear down old structures but that the Township should safeguard old structures. Mr. Garner suggested that a representative of the Montgomery County Planning Commission be invited to address the Commissioners regarding the proposed Village Commercial Ordinance. Mr. Tillman stated that he viewed Upper Pottsgrove Township as a nice, special housing, bed and breakfast type of community. He added that he considered the Township as being a laid-back type of community and that the Township should consider the market and who you would like to promote it for. Ms. Spaide stated that the Township should be a nice, balanced area to live in and that commercial development was needed. Mr. Tillman reiterated that the Township should look at the market prior to establishing the product. Christopher Manos stated the Township should consider whether the “cute shops” compared to a WaWa

would offset the high taxes on the residents. Mr. Taylor stated that perhaps other areas of the Township might be more viable for certain commercial opportunities. Mr. Dolan suggested that the Township should consider rezoning the east side of State Street. Mr. Taylor stated this proposed change would turn some residential areas into commercial areas. Mr. Taylor recommended that the Montgomery County Planning Commission come to a Board of Commissioners meeting and discuss both the proposed Village Commercial and Retail Office District Ordinances.

DISCUSSION REGARDING PROPOSED RETAIL OFFICE DISTRICT ORDINANCE

– The Commission discussed the proposed Retail Office District Ordinance. It was noted that more detail was needed on page 3, that on page 4 “. . .f. Body repairs and painting shall not be permitted” should not provide for body repairs and painting being the primary use of that structure and that no food service drive-throughs should be permitted on page 5. The proposed expansion of the commercial area on Charlotte Street was supported. Mr. Taylor stated that the upgrading of existing commercial properties should be considered. He added that the Township could provide a retail office area while protecting the residential area. Ms. Diane Updegrave stated that no car repair or painting shops should be permitted to be located adjacent to a residential area due to the potential harmful effects of the paint on the residents.

DISCUSSION ON THE SALE OF THE STAUFFER HOUSE

– Mr. Garner stated that the Township had a signed agreement for the sale of the Stauffer House and that the Township intended to sell the house in order to recoup the funding utilized by the Township for the purchase of the house. He stated that how the Township would go about selling this house, i.e., auction of house, etc., would have to be determined. He added that the Township needed to close on the purchase of this property by June 2008 at the latest. Mr. Dolan stated that the septic system for this property needed to be repaired. He also stated that more than one person was interested in purchasing this property. He added that the property was surrounded by 20 acres of open space, although it had a relatively small kitchen. Ms. Spaide stated that this was a viable piece of property. Mr. Dolan stated that the Montgomery County Open Space Board had placed certain restrictions on what could be done to the property, for example an outbuilding, such as a shed, would be permitted. Mr. Garner stated that the Township could auction the house if there were interested parties or proposals could be authorized providing for a bid to be submitted allowing for the property to be provided to the highest bid or proposal submitted. Mr. Capinski asked whether the County would allow the Township to sell the house on the property. Mr. Taylor responded that the County had allowed for Township to sell the house and retain the funding obtained from this sale. Mr. Sloss asked what was the sale price of the property? Mr. Dolan stated that the agreed sale price was \$750,000. Mr. Taylor added that the Township would be exhausting all of the available County open space grant funding. Mr. Sloss stated his concern that the County had stated that they would provide 80% of the funding for the open space program. Mr. Taylor stated that we had already used up the County funding available for this purpose. Mr. Dolan added that the County had stated that a certain amount of funding was designated for the open space program, with the Township’s allocation being \$714,000, and that when you applied for grant funding that they would match up to 80% of the total project cost. And, that under phase

2 of this program, the County would be providing additional open space grant funding beginning April 2008. Mr. Tillman asked how much of the County Open Space funds have been expended this year and was the Township's liability greater than the 20% threshold? Mr. Dolan responded that with the purchase of the Stauffer property the amount would be approximately \$714,000, which is the total allocation to the Township from the County for this purpose and that the County did not promise the Township 80% on each purchase but \$714,000. Mr. Dolan added that the Township's Open Space funds obtained as a result of the approved tax referendum for the preservation of open space in the Township would be utilized towards the purchase of the Stauffer and other properties in the Township. Mr. Tillman suggested that the Commission adopt a sunset ordinance that would establish a timeline for the existence of the approved tax referendum for the preservation of open space. Mr. Sloss asked would the funds obtained from the purchase of the Stauffer house come back into the Township's Open Space fund. Mr. Taylor responded that these funds would be placed back into the Open Space fund.

OTHER PUBLIC COMMENT

REGINALD LEISTER – 1693 Farmington Avenue – Mr. Leister stated that he had been working in conjunction with Herbert Miller to designate and install historic markers throughout the Township. He stated that the inside of some these homes in the Township were gorgeous. He suggested that the Township consider specifying a building in the Township as a Historic Society Building, which would be utilized for storing Township historic memorabilia.

ROBERT SLOSS – 2097 Needhammer Road – Mr. Sloss asked whether both LTL Consultants and the Township Public Works Department did inspections of road and water projects. Mr. Taylor responded affirmatively. Mr. Taylor stated that developers are required to provide for the inspection of new construction. Mr. Hannum stated LTL Consultants provided inspection services for the Wolf Run Project. He also asked if the Public Works Department was licensed to do these inspections. Mr. Garner responded that they were.

CHRISTOPHER MANOS – 1406 Kummerer Road – Mr. Manos inquired as to whether funds that would be borrowed for the purchase of additional open space land would come from existing Referendum Tax funds. Mr. Taylor stated that the Referendum Tax funds would be utilized to pay back the funds borrowed for this purpose. Mr. Taylor stated that casino gambling had nothing to do with Township revenue. Mr. Taylor stated that State Representative Thomas Quigley and State Senator John Rafferty might be contacted regarding the elimination of property taxes and the utilization of other sources of revenue.

APPROVAL OF MINUTES – January 22, 2008 – A motion by DeLena, seconded by Spaide, to approve the minutes of the January 22, 2008 meeting as presented. All aye votes.

EXECUTIVE SESSION – At 9:14 P.M. Commissioner Taylor reported the Board would meet in Executive Session to discuss possible litigation. The meeting reconvened at 10:15 P.M.

RESOLUTION AUTHORIZING EMINENT DOMAIN – A motion by Dolan, seconded by Spaide, to approve a resolution authorizing the Township to take by Eminent Domain a portion of parcel number 60-00-0092-00-8 for a sanitary sewer collection-line easement. All aye votes.

ADJOURNMENT – There being no further business, a motion by DeLena, seconded by Spaide, to adjourn the meeting at 10:20 P.M.

Respectfully submitted,

Jack P. Layne, Jr.
Township Manager

Next Regular Meeting 7:30 P.M., Tuesday, February 19, 2008