

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

December 17, 2012

A meeting of the Board of Commissioners was held on Monday, December 17, 2012, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Miller, Noll, Spaide and Taylor present. Also present were Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne, Jr., Police Chief William A. Moffett, Engineer Pete Eisenbrown, Zoning Officer Jeff Vogels, Public Works Director Frank Quinter and Township Secretary Cynthia Saylor. Commissioner Taylor called the meeting to order at 7:00 P.M. There were 7 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:

JOHN WEST - 1611 Applegate Lane - Advised the Board that he was recording the meeting.

EMERGENCY SERVICES - No report.

PLANNING & ZONING REPORT - Commissioner Taylor noted the Planning and Zoning issues would be discussed later on the agenda.

PUBLIC WORKS REPORT - Commissioner Spaide reported that the Highway Department finished patching on Kummerer Road; an area of Farmington Avenue and also in the Regal Oaks Development; cleaned leaves from storm inlets; responded to a call out from the Police Department to remove a downed tree on Moyer Road, salted areas around Snyder Road & Yarnall Road during house fire; performed routine maintenance on township vehicles; picked up and disposed of branches downed by Hurricane Sandy at Sussell Park and assisted M & S Services to install five (5) new floats at the Regal Oaks Pump Station.

PARKS, RECREATION AND OPEN SPACE REPORT - Commissioner Miller reported that a copy of the minutes from the last Park and Recreation Board meeting were included in the Board's meeting packets. Commissioner Miller reported that on Friday, December 14, 2012, Andy Paravis passed away and noted that he would like to dedicate the rest of the meeting in his memory. Mr. Miller advised that Mr. Paravis was a longtime Supervisor of North Coventry Township and stated the following: Andy Paravis was a man who was respected in his own Township as well as neighboring communities. It took years for him and his associates to save most of Laurel Locks Farm and many acres in the Big Woods which is part of the Highlands which starts in South Carolina and ends in Connecticut. Upper Pottsgrove Township, for those who may not know, is on the eastern edge of the Highlands. Mr. Paravis gave us helpful suggestions on how to commence application to properly pass a referendum to support funds for open space in Upper Pottsgrove Township. As our residents know we passed the referendum with over 60% support and has lead us to currently save better than 300 acres of open space. What many do not realize, Andy fought a terrible cancer, at times getting it into submission only to have it reoccur. With all these chemicals in his body he continued to accompany me on trips to National Lands Trust and Montgomery County Lands Trust

PARKS, RECREATION AND OPEN SPACE REPORT CONT'D - as we conveyed our ideas to protect open space and water, as well as discussing zoning issues having to do with housing and commercial development. Sure, he will be missed by this Commissioner in many ways. He was a personal friend and a wonderful visionary.

SPECIAL PROJECTS - No report.

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

SOLICITOR'S REPORT - No formal report.

TOWNSHIP MANAGER'S REPORT - Mr. Layne reported that he coordinated efforts with staff and Dallas Data Systems to prepare the 2013 Annual Budget; coordinated efforts for Township Commissioners and the Manager to meet with Montgomery County Commissioner Josh Shapiro and Deputy Chief Operating Officer Lee Soltysiak; met with FEMA, PEMA and Montgomery County Public Safety officials to discuss Township efforts to obtain funds from losses incurred during Hurricane Sandy totaling \$5,990; discussed the abandoned house located at the corner of Yarnall and Snyder roads that recently caught fire with Township officials and staff; contacted Fulton Bank officials regarding proposal for Township staff to have better capability for reviewing Township fund accounts; assisted in coordinating efforts in order to obtain additional open space; provided requested information to the Pottstown Area Health and Wellness Foundation for the Township to obtain the \$28,750 check from the Foundation for the grant they awarded to the Township; and attended Montgomery County Emergency Management Coordinator's training workshop.

FINANCIAL REPORTS - Mr. Layne reported that as of November 30, 2012, the Township has received 89.2% of its budgeted revenues and expended 84.8% of its budgeted expenses.

NEW BUSINESS:

DISCUSSION AND POSSIBLE AUTHORIZATION TO AWARD A CONTRACT TO CLEAVER CABLE CONSTRUCTION, INC. TO PROVIDE TELEVISION SERVICES -

It was noted that the Township received five (5) bids for the Cleaning and Televising Project. LTL Consultants is recommending that the Township award the bid to Cleaver Cable Construction who submitted the low bid in the amount of \$37,702.16. Commissioner Miller expressed his concern with regards to the \$50,000 differential between the bids that were submitted. After a brief discussion, a motion by Dolan, seconded by Spaide, to award the bid for the Cleaning and Televising Project to Cleaver Cable Construction, Inc. in the amount of \$37,702.16 subject to the review by the Township Solicitor. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF A REQUEST TO EXTEND THE TIME FOR THE APPROVAL OF THE PLAT DESIGNATED FOR THE MAKAREVITZ SUBDIVISION TO APRIL 4, 2013 - A motion by Miller, seconded by Dolan, to approve the extension request to April 4, 2013, for the Makarevitz Subdivision. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #613 CONFIRMING MUNICIPAL NON-REAL ESTATE TAXES FOR 2013 - Continuing in Force without change for Calendar Year 2013 the Realty Transfer Tax, Earned Income and Net Profits Tax, Local Services Tax and Per Capita Tax and Rates thereof, as imposed by Chapter 318 of the Township of Upper Pottsgrove Code of Ordinances. A motion by Miller, seconded by Noll, to approve Resolution #460. All aye votes.

DISCUSSION AND POSSIBLE ACTION AUTHORIZING THE PREPARATION OF AN ORDINANCE ESTABLISHING THE COMPENSATION OF THE ELECTED TAX COLLECTOR - Attorney Garner explained that there has been a recent amendment to the First Class Township Code with respect to the separation of the positions of Tax Collector and Treasurer. Mr. Garner noted that the separation of the duties will not take place until 2014. He further noted that no action is needed by the Board at this time with regards to the compensation of the elected Tax Collector.

DISCUSSION AND POSSIBLE ACTION REGARDING #3-12 THE PROPOSED HENRY AND GRACE BEALER MINOR SUBDIVISION - Commissioner Taylor explained that the plan proposes the subdivision of a 4.85 acre of property located on Farmington Avenue into two lots. The applicants/property owners are Henry and Grace Bealer. The Planning Commission reviewed the minor subdivision plans and recommends preliminary/final approval subject to compliance with all conditions outlined in the Engineer's letter dated December 6, 2012, and the Montgomery County Planning Commission review letter dated December 10, 2012. **RESOLUTION #614** - A motion by Noll, seconded by Miller, to approve the proposed Henry and Grace Bealer minor subdivision. All aye votes.

DISCUSSION AND THE POSSIBLE APPOINTING OF ROBERT ANTHONY AS A MEMBER TO THE ZONING HEARING BOARD - RESOLUTION #615 - A motion by Spaide, seconded by Miller, to enact a resolution appointing Robert Anthony as a member to the Zoning Hearing Board. Commissioner Miller addressed Mr. Anthony and noted the importance of the Zoning Hearing Board with regards to the "happenings" within the Township. All aye votes.

DISCUSSION AND THE POSSIBLE REAPPOINTMENT OF GREG CHURACH AS A MEMBER OF THE OPEN SPACE AND RECREATION BOARD FOR A PERIOD OF FOUR YEARS - A motion by Miller, seconded by Spaide, to reappoint Greg Churach as a member of the Open Space and Recreation Board for a four (4) year period. All aye votes. Commissioner Miller expressed his appreciation to Mr. Churach for a "nice job" over the last four (4) years.

OLD BUSINESS:

DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED 2013 ANNUAL TOWNSHIP BUDGET - A motion by Dolan, seconded by Spaide, to adopt the proposed 2013 Annual Township Budget. All aye votes. Commissioner Taylor noted that there is no tax increase reflected in the 2013 Budget.

PUBLIC HEARING: CONDITIONAL USE HEARING ON THE PROPOSED REVISIONS TO THE ZONING ORDINANCE AMENDMENT REGARDING ACCESSORY USES -

Attorney Garner explained that a Public Hearing is required anytime a township or municipality wishes to amend its Zoning Ordinance. Mr. Garner stated that the topic of the public hearing are the minor changes to Township's Zoning Ordinance specifically as they relate to accessory uses and accessory structures. He further stated that earlier this year there were recommendations made by Zoning Officer, Jeff Vogels, to clarify the language in our Zoning Ordinance as it relates to accessory structures. Mr. Garner reported that the Planning Commission reviewed the proposed ordinance at their last meeting and has recommended their approval.

JOHN WEST - 1611 Applegate Lane - Requested a clarification with regards to setbacks.

There were no further comments from the public. Attorney Garner closed the public hearing at 7:42 P.M. **ORDINANCE #460** - A motion by Miller, seconded by Noll, to adopt the proposed revisions to the Zoning Ordinance Amendment regarding accessory uses. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING ORDINANCE #461 FOR THE COLLECTION OF DELINQUENT TAXES - An Ordinance of Upper Pottsgrove Township approving Penalty, Interest and Fee Schedule for Collection of Delinquent Real Estate Taxes. A motion by Miller, seconded by Spaide, to adopt Ordinance #461. All aye votes.

DISCUSSION AND POSSIBLE ACTION REGARDING LIBERTY TOWERS WAIVER OF LAND DEVELOPMENT - After discussion, a motion by Miller, seconded by Noll, to waive the formal process for Liberty Towers Land Development and permit the applicant to proceed with a building permit with the following conditions: the applicant comply with all relevant and applicable provisions of the Township Zoning Ordinance, the Township Subdivision and Land Development Ordinance, the Township Grading Ordinance, and the Township Stormwater Management Ordinance, as reasonably determined by the Township Engineer and the applicant posting financial security to permit review and approval of the building permit by Township staff, including the Engineer and Solicitor. All aye votes.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE #462 ESTABLISHING MUNICIPAL REAL ESTATE PROPERTY TAX RATE FOR 2013 - An Ordinance Fixing the Real Property Tax Millage for the Year 2013. A motion by Dolan, seconded by Spaide, to adopt Ordinance #462. All aye votes.

OTHER PUBLIC COMMENT

JOHN WEST - 1611 Applegate Lane - Expressed his appreciation to the Public Works Department for the "good job" they did in providing snow removal during a recent storm.

COMMISSIONERS COMMENTS:

COMMISSIONER MILLER - Referenced the Zoning Report submitted by Jeff Vogels dated December 13, 2012 and expressed his concern regarding the condition of the property located at 1805 Yarnall Road.

COMMISSIONER MILLER CONT'D - Commissioner Miller noted that this is a safety issue and the Township is leaving ourselves wide open for vandals. Mr. Miller stated that there is a sofa in the front yard and that the property is an eyesore". Commissioner Taylor stated that it was his understanding that the Township was doing everything within its power to address the situation. Mr. Layne stated that he spoke with one of the inspectors from LTL Consultants regarding the matter and was advised that the Township is legally restricted as to what we can do. Attorney Garner advised the Township to send a Notice of Violation if there are any code violations. In another matter, Commissioner Miller reported that there has been deer poaching going on within the Township. Mr. Miller expressed his thanks and appreciation to the Chief for a very thorough investigation. Commissioner Miller referred to the resident hunters as "butchers" and has received numerous phone calls from residents inquiring as to the whereabouts of the small band of deer. Commissioner Miller advised that the Chief is in the process of notifying residents surrounding our open space, between North Hanover Street and Hanover Drive, including those residents residing on Maugers Mill Road. Commissioner Dolan stated that he is a hunter and took offense to Commissioner Miller's comments. Mr. Miller clarified that he was not referencing all hunters that abide by the rules.

COMMISSIONER DOLAN - Reported that the Health & Wellness Foundation was awarded a grant in the amount of \$100,000 and noted that they will match that amount. Commissioner Dolan stated the money will be disbursed through the Regional Planning Committee and will be used to purchase park equipment.

PAYMENT OF BILLS - December 17, 2012 - A motion by Dolan, seconded by Spaide, to approve the Bill List dated December 17, 2012, for General Fund in the amount of \$30,591.13; Fire Fund in the amount of \$39,022.81; Sewer Fund in the amount of \$7,171.75; Capital Fund in the amount of \$55,715.65; Open Space Fund in the amount of \$3,830.05; State Fund in the amount of \$3,437.73 and Escrow Fund in the amount of \$1,327.22. Total Disbursements ~ \$141,096.34. All aye votes.

APPROVAL OF MINUTES - November 19, 2012 - A motion by Noll, seconded by Dolan, to approve the minutes of the November 19, 2012, meeting as presented. All aye votes.

PUBLIC HEARING: CONDITIONAL USE HEARING ON THE MAKAREVITZ APPLICATION - Attorney Garner explained that the application was made by Jeannie Disante, Power of Attorney, for the legal owner ~ Helen Makarevitz. He further explained that the property is located at 96 Pineford Road in the R-2 Residential Zoning District and the applicant intends to subdivide the parcel using R-1 Residential Zoning standards. It was noted that the Conditional Use application was reviewed by the Planning Commission. The Planning Commission recommends their approval subject to the Township Engineer's letter dated December 6, 2012, with the exception of having to provide supporting documentation to show the inability of the site to be developed under R-2 standards and with the condition that there will be no further subdivision of the property. Roger Lehman, All County & Associates, was present to discuss the Conditional Use application and advised that he was representing Jeannie Disante. No one in the audience provided any testimony with regards to the Conditional Use Application.

JOHN WEST - 1611 Applegate Lane - Requested a clarification with regards to the access strip.

PUBLIC HEARING: CONDITIONAL USE HEARING ON THE MAKAREVITZ APPLICATION CONT'D - Attorney Garner closed the hearing at 8:15 P.M.

A motion by Dolan, seconded by Spaide, to approve the Makarevitz Conditional Use application subject to a condition of deed restriction against further subdivision and further that the applicant comply with the review letter of LTL Consultants dated December 6, 2012. All aye votes.

EXECUTIVE SESSION - At 8:17 P.M. Commissioner Taylor advised the Board would be meeting in Executive Session to discuss matters of litigation. The meeting reconvened at 8:55 P.M.

ZONING APPEAL - LAMAR ADVERTISING - A motion by Dolan, seconded by Spaide, to oppose the Zoning Appeal filed by Lamar Advertising and to authorize the Township Solicitor to appear at the hearing and represent the Township's interest. All aye votes.

A motion by Dolan, seconded by Spaide, to withdraw the Township's opposition to an amended Zoning Application of Lamar, which would include the following: reduction of sign height from 50 feet to 40 feet; increase side yard setback from 5 feet to 15 feet; withdraw/bifurcate any claims of substantive validity challenge to the Township Ordinance and Lamar would not seek to install any other off-premise advertising signs within Upper Pottsgrove Township for a minimum period of ten (10) years. All aye votes.

ADJOURNMENT - There being no further business, a motion by Dolan, seconded by Spaide, to adjourn the meeting at 8:56 P.M.

Respectfully submitted,

Cynthia H. Saylor
Township Secretary