

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

January 5, 2009

The meeting of the Board of Commissioners was held on Monday, January 5, 2009, at the Upper Pottsgrove Administrative Office, 1409 Farmington Avenue, with Commissioner DeLena, Dolan, Noll, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne, Jr. and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:02 P.M. There were 35 people and a Mercury Report present in the audience.

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: None.

NEW BUSINESS:

AUTHORIZATION TO EXECUTE ALL DOCUMENTS REQUIRED FOR THE TAX ANTICIPATION NOTE - A motion by Spaide, seconded by Dolan, to authorize the execution of all documents required for the Tax Anticipation Note. All aye votes.

AUTHORIZATION TO APPOINT/REAPPOINT INDIVIDUALS TO EXPIRED COMMITTEE/BOARD TERMS - Commissioner Dolan suggested the Historical Committee provide a monthly report listing their activities. After a brief discussion, a motion by DeLena, seconded by Spaide, to approve the appointments to the various Committees and Boards as listed with the exception of the Zoning Hearing Board. Commissioner Taylor noted the appointments include Anthony Vitacco – Civil Service Committee; Robert Sloss, Gilbert Duncan, Stanley Hildenbrand and Tom Mattingly – Fire Committee; Herbert Miller- Historical Society; Herbert Miller and Marie Novack – Open Space Committee; Stephen Ailes and Herbert Miller – Park & Recreation Committee; Megan DeLena – Pottstown Area Regional Planning Commission; David Crock – Sewer & Water Committee and Dennis Elliott – Vacancy Board; Stanley Hildenbrand – Fire Marshall; and Jon Daywalt – Animal Control Officer. All aye votes.

RESOLUTION #546 - A Resolution appointing Henry Shontz and Scott Newton to serve as members of the Upper Pottsgrove Township Zoning Hearing Board for a three (3) year term, expiring on December 31, 2011. A motion by Dolan, seconded by Spaide, to appoint Henry Shontz and Scott Newton to the Zoning Hearing Board for a three (3) year term. All aye votes.

APPROVAL OF THE REGAL OAKS CONSENT ORDER AND AGREEMENT WITH THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION – Solicitor Chuck Garner provided a brief history regarding the Township’s acquisition of the Regal Oaks Package Treatment Plant noting the plant was built in 1970 as the result of a court order even though the Township was against it (Regal Oaks Subdivision.) He further explained that in 2001 the Pennsylvania Department of Environmental Protection documented pollution coming from the treatment plant and was it was running into Sprogel’s Run. Mr. Garner reported the owners of the plant were financially insolvent and despite how unfair it seems, under the law of Pennsylvania, the

maintenance and upgrading of the plant became the responsibility of the Township.

APPROVAL OF THE REGAL OAKS CONSENT ORDER AND AGREEMENT CONT'D -

Mr. Garner stated that during the past year the Township has been negotiating the Consent Order and Agreement with DEP. He further stated that DEP requested that the Township implement both long and short term measures with respect to the operation of Regal Oaks. Long term measures include public sewer to that area, which would go through a pump station and ultimately be served by Pottstown Borough's Sewer Treatment Plant. Under the terms of the Agreement the Township would have until July of 2010 to complete that work. Short term measures include the installation of grinder pumps as well as a flow-paced chlorine feed prior to the chlorine contact tank. He further stated the Township could be liable for fines and noted the Agreement with the PADEP will limit them to \$100 per day per violation and \$500 for any overflows into Sprogel's Run. Mr. Garner noted currently there is a minor penalty set forth in the Agreement in the amount of \$2,050 for past violations that the Township will have to pay. Mr. Garner stated the Agreement is a fair document, under the circumstances, and noted the plant has been functioning better of late and we are hopeful that the plant will continue to function until the permanent upgrades are completed so that any costs to the Township are nominal with respect to the stipulated plans. Commissioner Taylor stated the Agreement is the "starting point" for many good things to come in helping to resolve a lot of sewer issues within the Township. He further stated this has to be done before Pottstown can open up capacity in order to handle the different projects that will help bring revenue into the Township.

When **KEITH KEHL, 1625 Gilbertsville Road**, questioned whether the Township is going after the state for any financial return; Attorney Garner stated no – unfortunately the Township is without recourse or remedy to what happened back in the 70's and early 80's. He further stated the financial responsibility falls on the shoulders of the Township.

MARIAN FRY - 1478 Lotus Drive - Questioned is this the reason the resident's are paying outrageous sewer bills and why we'll be paying even more in the future. Commissioner Taylor explained this year's increase (\$20.00 per quarter) is due to the expansion of the sewer system and the collapse of the housing market; thus robbing the system of potential new customers. He further explained that there are 1,100 sewer customers paying for the sewer infrastructure.

KEN WATERMAN - 1292 Juniper Street - Questioned how a private company can come into the Township and operate so badly for so long. Attorney Garner explained there was an entity that owned and operated the plant and apparently there was very little, if any, oversight by DEP with respect to the condition of the plant. Mr. Garner stated it was not the Township's responsibility in fact the Township did not want the project at all but it got overridden by the County Court. He further stated when Sprogel's Run started to show signs of pollution the DEP got involved and DEP then "flexed their muscle" to the owner and operator of the plant; who was essentially insolvent and was operating the plant "on a shoestring." It was at that point that they contacted the Township and based upon the laws of Pennsylvania advised the Township of their responsibility to take over the plant and make the necessary upgrades or be fined. Mr. Garner stated the Board was placed in a very difficult position and could have done one of two things: it could have hired a "high priced" legal council and spent hundreds of thousands of dollars to try and fight that and in the end probably still have to upgrade and own the plant or it could do the responsible thing and try and deal with the

problems they were dealt. He further stated the Board is trying to minimize the cost and the expense to everyone in the Township.

ROBERT SLOSS - 2097 Needhammer Road - Questioned the cost of fixing just Regal Oaks. Commissioner Taylor stated the plant itself is not that bad; the problem is the infrastructure leading to it; the sewer pipes are full of holes and every time it rains it washes out into the stream. He further stated the plant itself is antiquated but if we could keep the inflow and infiltration down it would be manageable; however there is a cost involved with doing that and the Township has been trying to mitigate the cost by bringing in other "players." The more people that are connected to the facility the more people there are to pay it. Mr. Sloss questioned how the Township can be responsible for something they didn't create and stated the DEP should be financially responsible; not the residents of the Township. Mr. Sloss stated the sewer rates will double and triple in order to bring the Regal Oaks Treatment plant into compliance. Commissioner Taylor clarified that there is nothing in our estimations that indicate the sewer fees will double or triple in the short run. Mr. Taylor stated he is very confident that even without state grant money, as long as the developments come through that are supposed to be connecting to the system, that we will have some monies.

COMMISSIONER NOLL - Stated that this Board is proactively looking at utilizing grant monies that are available at the state level and noted there is \$800 million dollars in grants set aside for infrastructure improvements.

When **HENRY BEALER, 1386 Farmington Avenue**, questioned whether the Township would need to install another pump station; Mr. Layne responded "yes."

KEITH KEHL - 1625 Gilbertsville Road - Stated the pipes in Regal Oaks should be fixed. Commissioner Taylor stated the Township has already spent a considerable amount of money fixing a good portion of the piping within Regal Oaks however; it wasn't enough to reduce the inflow and infiltration as much as required. Mr. Taylor further stated part of the project is going to be to replace all of the pipes that we need to within the Regal Oaks Subdivision.

GARY NOVACK - North Hanover Street - Requested a clarification with regards to the grant application. Commissioner Taylor reported the rules for applying for the grants were just released in mid-December, but the Township, which is working together with the Pottstown Borough Authority, has already begun the process.

ROBERT SLOSS - 2097 Needhammer Road - Asked if the Board approves the Consent Order and Agreement with the DEP will the Township be accepting financial liability for this project. Attorney Garner explained the Consent Order and Agreement sets and stipulates penalties for violations with respect to the existing Regal Oaks Treatment Plant. He further explained rather than risking fines of thousands of dollars for violations it sets forth fines at \$100 per violation and a \$500 fine for an overflow. Mr. Garner stated that in the past eighteen (18) months there have been a number of violations and two overflows. He further stated that without the Consent Order and Agreement the Township could be liable for as much as \$15,000-\$20,000 per violation. Mr. Garner added the Township is reducing the amount of the fines with the understanding that we address the long term issue, which we have to do any way, in a timely fashion. When Mr. Sloss questioned how

the Township can reduce something we didn't create; Commissioner Taylor stated it is our legal obligation – we have no choice. He further stated the Township is doing what we need to do and we're doing it in the most economical fashion possible.

When JENNIFER GROVES, 1425 Chestnut Grove Road, requested a time frame for the completion of the Regal Oaks project; Commissioner Taylor stated the middle of 2010.

When KEN WATERMAN, 1292 Juniper Street, questioned the year DEP got involved with Regal Oaks; Commissioner Taylor stated the mid-70's is when the project was approved by the Courts. As far as the involvement with DEP and the Township it started in 2005.

A motion by Spaide, seconded by DeLena, to approve the Regal Oaks Consent Order and Agreement with the Pennsylvania Department of Environmental Protection. All aye votes.

AUTHORIZATION TO EXECUTE THE CONTRACT WITH RETTEW TO PROVIDE A MASTER PLAN FOR PRINCE/AUSTERBERRY PARK - Commissioner Dolan reported the Township acquired the Prince/Austerberry in 2006 and noted the property is located along North Charlotte Street up to Maugers Mill Road. Mr. Dolan explained that Rettew has agreed to prepare a Master Plan in accordance with the DCNR guidelines so that the plan will be suitable for future grant applications to DCNR and to develop the site as an integral part of the Sprogel's Run Pedestrian Trail project. It was noted that a \$25,000 grant was obtained from the Pottstown Health and Wellness Center. A motion by Dolan, seconded by Spaide, to execute the Contract with Rettew to provide a Master Plan for the Prince/Austerberry Park. All aye votes.

COMMISSIONER NOLL - Requested a clarification regarding the time frame. It was noted that Rettew is proposing an accelerated schedule to meet the April 2009 deadline.

KEITH KEHL - 1625 Gilbertsville Road - Expressed his concern regarding Sprogel's Run being polluted and questioned why the Township would bother building a park around it.

HENRY BEALER - 1386 Farmington Avenue - Expressed his concern that the Township is purchasing too much open space and that's the reason why we need to increase taxes every year.

APPROVAL OF PROPOSED 2009 MEETING SCHEDULE FOR THE SEWER AND WATER COMMITTEE - A motion by Spaide, seconded by Noll, to approve the proposed 2009 meeting schedule for the Sewer and Water Committee. All aye votes.

KEITH KEHL - 1625 Gilbertsville Road - Expressed his concern regarding the time set for the Sewer and Water Committee meetings and noted a lot of people work later than 5:00 P.M. Commissioner Taylor explained 5:00 P.M. was the best time for the volunteers who serve on the Sewer and Water Committee. Mr. Taylor advised Mr. Kehl to contact the Township Manager if he had questions regarding any sewer issues.

OLD BUSINESS:

CODDINGTON VIEW ESCROW RELEASE #5 - PHASE II - A motion by Noll, seconded by DeLena, to approve Escrow Release #5 for Coddington View Phase II in the amount of \$223,652.99 subject to the payment in full of the outstanding review fees. All aye votes.

COMMISSIONER NOLL questioned whether the Public Works Director reviewed the requests for the Escrow Releases for Coddington View. Mr. Layne stated he was not aware of any problems with the Public Works Director regarding the Escrow Releases.

When **ROBERT SLOSS, 2097 Needhammer Road**, asked how much money is owed to the Township is outstanding review fees; Mr. Layne stated \$21,849.47.

CODDINGTON VIEW ESCROW RELEASE #7 - PHASE I - A motion by Noll, seconded by DeLena, to approve Escrow Release #7 for Coddington View Phase I in the amount of \$761.46 subject to the payment in full of the outstanding review fees. All aye votes.

OTHER PUBLIC COMMENT:

KEN WATERMAN - 1292 Juniper Street - Stated he spoke with Mr. Layne this morning with regards to the tax increase. Mr. Waterman expressed his concern and stated that judging from his impression, from listening to everyone who spoke at the meeting; the Board members just don't care what the residents think. Mr. Waterman referenced the 19% tax increase and stated the budget is set in stone; however everyone he has talked to regarding the increase is against it. Commissioner Taylor offered the following explanation: the Township is required to adopt the Budget prior to the end of the year which the Board did at their December 15, 2008, meeting. The Township Staff has worked for approximately four months, beginning in mid-August, making all the data available as it was produced. Every Board member had access to those numbers; it was presented at several Board meetings and Budget meetings from August through December and public input was permitted and encouraged. Commissioners had the opportunity to say yes or no; the only specific Commissioner comment made in that time period was one concerning the Pottstown Library funding and nothing else. No motion was made by any Board member based on anything they heard from the public, either in public or private conversations. With regards to the Board members "not listening"; "not listening" doesn't mean doing what we would all like to do and that mean's have no tax increase or not pay for services. The Township is obligated to pay for certain services. This Township had a \$150,000 gap to fill in what it felt that it needed versus the money it had in hand. Our neighboring townships had over \$800,000 that they were missing out of their budget to pay for the services that they needed to do - West Pottsgrove had \$850,000 and Lower Pottsgrove had \$933,000 that they were short in what they needed to accomplish their goals. Unlike West Pottsgrove we don't have a 23 million dollar bank account based on all the funds they collected over the years for a landfill; unlike Lower Pottsgrove we don't have a population of 20,000 people; we don't have business taxes. They have staffing in excess of what we do. We are at the minimum level of personnel to do the jobs that we need to do. We have had residents compare us to Berks County who doesn't raise taxes. We're not sitting still like those counties; we have a population increase; we have infrastructure that needs to be built and maintained. We're a growing community. We have growing pains. It costs money. We can't do anything about that; it needs to be taken care of. I heard people talking about doing away with CMERT the SWAT team for the community that takes care of

emergency police intervention. I heard at the very same time, that someone in Pottstown was looking to attack the kids in Pottstown. We have to make decisions about what we need. We spend \$3,500 a year to provide a SWAT team for our community. I think it is \$3,500 well spent even though I've heard people say we shouldn't be spending that money. We have people coming to us and saying we should cut our police force and out of the same breath they say that the crime rate is going down in Upper Pottsgrove. We are a growing community; our population is increasing; and our crime rate is going down. I would put the two and two together and say our Police are doing a pretty good job; it's not time to fire them. We have a growing community in regards to commercial activities. There is the Upland Square Shopping Center, in our next door township; we are going to need the Police that we have. We have expectations of similar development in our own community; it's on the drawing board. We are going to have similar commercial development in our own community; it's going to require infrastructure; it's going to require police. Mr. Taylor stated "if I sound frustrated I'm sorry – but I am." He further stated there have been so many things said by so many different people, in letters and at meetings that are not adequately addressed. The majority of the Board believes that the money that we need spend to do the project we need to do is going to cost and extra 18%. Mr. Waterman said he knows of two Commissioners that voted against the 2009 budget and stated he would be curious to know if they voted against it because they disagreed with the 18% increase or if they had another idea and if they had another idea he would like to hear it. Commissioner Taylor stated he voted in favor of the 2009 budget because there was an obligation to cover the expenses as presented.

COMMISSIONER SPAIDE - Stated that there weren't many places that we could cut and noted she was one of the Commissioners who voted against it. She further stated she mentioned the funding to the Pottstown Library. Ms. Spaide stated this is not the tax that is killing us; it's the school tax and she encouraged the residents to attend the School Board meetings.

COMMISSIONER TAYLOR - Stated the 18% is on the smallest tax that the residents pay. He further stated the Township tax pays for police protection, the roads and the sewer. Mr. Taylor noted that the 18% increase amounts to approximately \$75.00/year for the average homeowner.

COMMISSIONER NOLL - Stated he went over the 2009 budget with a fine tooth comb and advised he would be happy to meet with any resident to discuss the budget.

VICKI BAKER - 1277 Juniper Street - Stated the average salary increase is 3% and the members of the Board raised taxes 19%. Ms. Baker questioned how the residents are supposed to pay the rest. She also expressed concern regarding the maintenance of the roads and the open space within the Turnberry Farms Development. Commissioner Taylor suggested she contact Mr. Layne with regards the road maintenance issue.

GARY NOVACK - North Hanover Street - Referenced the Master Plan for the Prince/Austerberry property and questioned whether there would be a link added to the Township's web site.

ROBERT SLOSS - 2097 Needhammer Road - Reported that last year the Board increased taxes 65% and couldn't balance the budget so this year the Board raised taxes an additional 18%. Mr. Sloss asked how the Township finished the year in comparison to the budget. Mr. Layne stated we don't have that information as of yet. Commissioner Taylor stated that we spent well; however we didn't get the revenue we anticipated. He further stated the \$150,000 gap was not that short and was due to the recession.

KEITH KEHL - 1625 Gilbertsville Road - Asked who is responsible for "cleaning up" the debris after an accident in the Township. Mr. Layne stated the Public Works Department would be responsible unless it is on a state road then it would be the PennDot's responsibility.

KEN WATERMAN - 1292 Juniper Street - Stated the Board should take into consideration what the residents are paying. He further stated the residents are not just paying \$75.00 we're paying for school taxes and sewer fees. The \$75.00 is **NOT** insignificant. Commissioner Taylor stated we can **NOT** do the job. We can **NOT** pay our bills. We can't stop inspecting homes. We can't stop providing services. We can't stop fixing potholes and we can't stop paying Pottstown to take our sewage. We do a very good job of mitigating the costs.

JENNIFER GROVES - 1425 Chestnut Grove Road - Reiterated residents' suggestions from a previous meeting that the non-uniform personnel contribute towards their health care benefits.

COMMISSIONER COMMENTS:

COMMISSIONER DOLAN - Stated he was glad to see the frustration with regards to the Consent Order with DEP. He further stated he wished everyone would direct their concerns and write letters to their legislators. Commissioner Dolan referenced one comment that was made regarding the Board trying to discourage attendance at the meetings and stated that is farther from the truth. Mr. Dolan stated he has attended many municipal meetings throughout the three counties and no one allows for public comment like this Township does. He further stated he doesn't know how the Board could encourage any more participation. Commissioner Dolan stated the Board doesn't want to raise taxes; there were budget meetings and township meetings and we worked on the budget for hours; we tried our best to get the figures down. Mr. Dolan encouraged people to come to the meetings and understand the process. Commissioner Dolan stated he is discouraged about having to raise taxes and noted he plans on looking into regionalization of the police force. Mr. Dolan stated he has contacted the former Chief, our current Chief, representatives in Harrisburg and surrounding municipalities to see if there is any interest with regards to regionalization. Mr. Dolan requested the approval from the other Board members to formally approach other Township Managers and Boards and invite them to attend a meeting. Mr. Dolan set a meeting date of Monday, March 30, 2009 to discuss the matter with neighboring officials. Commissioner Taylor reported Upper Pottsgrove Township looked into regionalization with police departments three years ago and got very little support from the surrounding municipalities.

COMMISSIONER SPAIDE - Suggested that Commissioner Dolan attend the next COG meeting and noted she has seen a big change since then. Ms. Spaide reported they (COG) are looking at the possibility of combining forces with surrounding townships with respect to road maintenance and line painting in an effort to cut down on expenses.

COMMISSIONER DELENA - Referenced the Pottstown Metropolitan Area Regional Planning Commission and stated the eight communities that are involved have discussed combining efforts in order to do things together, be more efficient and save money. She further stated it's not just Upper Pottsgrove – everyone is struggling to find a way to make their community better. Mrs. DeLena reiterated it's not that we don't care; we do care.

COMMISSIONER TAYLOR - Discussed a possible initiative for selling houses within the Township. Mr. Taylor reported a typical new home brings in approximately \$5,300 in revenue for the Township by way of real estate taxes, inspection fees, and sewer rentals. Mr. Taylor stated the Township has been asked if there is anything we can do to encourage a discount on some of those fees in order to promote homes being sold specifically during the first half of this year. He further stated that three developments within the Township were paying \$1,000 per home during the Wolf Run Project. The members of the Board briefly discussed the elimination of the \$1,000 special fee as a possible incentive to sell homes.

COMMISSIONER NOLL - Questioned whether this would be a savings to the homeowner or a savings to the Developer. Mr. Noll stated he is opposed to giving up potential income to help the Developer in order for him to make a sale and get the commission. He further stated he is on board with the philosophy of making it easier for people to purchase homes in the Township; however in reality giving up that negotiated amount for a specific purpose will only benefit the Developer financially.

COMMISSIONER DELENA - Stated that unless the Developer can show that the homeowner will benefit from the elimination of the \$1,000 fee then she is not in favor of it.

COMMISSIONER DOLAN - Stated he liked the idea.

ROBERT SLOSS - 2097 Needhammer Road - Expressed his concern that the fees were negotiated between the Township and the Developer and are part of the Developer's Agreement. Attorney Garner explained that when the Township was faced with the issue of Wolf Run and the TCE in the water we were looking for funding sources; the Developers agreed to contribute \$1,000 per home to be deposited into the Township Water Fund to help defray the costs. He further explained that it is agreed to in writing; however, it occurred outside the scope of the individual developments.

When **GARY NOVACK, North Hanover Street**, questioned whether this is a sort of impact fee; Attorney Chuck Garner stated it is a negotiated voluntary contribution. Mr. Novack stated he is not in favor of making it easier for Developers to build more houses in the Township.

JOHN WATERMAN - 1292 Juniper Street - Referenced the discouragement comes when the Board of Commissioners passes the budget knowing full well that if it was put before the residents it would have been voted down.

PAYMENT OF BILLS - A motion by Noll, seconded by DeLena, to approve the Bill List dated January 5, 2009, for General Fund in the amount of \$16,631.08 and Open Space Fund in the amount of \$443.12. Total Expenditures - \$17,074.20. All aye votes.

APPROVAL OF MINUTES - December 1, 2008 and December 15, 2008 - A motion by Spaide, seconded by DeLena, to approve the minutes of the December 1, 2008 and December 15, 2008, meetings as presented. All aye votes.

EXECUTIVE SESSION - At 8:35 P.M. Commissioner Taylor announced there would be an Executive Session to discuss real estate acquisition and a personnel matter; however no decisions would be made. The meeting reconvened at 9:20 P.M.

ADJOURNMENT - There being no further business, a motion by Spaide, seconded by DeLena, to adjourn the meeting at 9:22 P.M. All aye votes.

Respectfully submitted,

Cynthia H. Saylor,
Township Secretary