

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

**January 19, 2010**

A meeting of the Board of Commissioners was held on Tuesday, January 19, 2010, at the Upper Pottsgrove Township Administrative Office, 1409 Farmington Avenue, with Commissioners Dolan, Miller, Spaide and Taylor present. Also present were Township Solicitor Charles D. Garner, Jr., Township Manager Jack P. Layne and Township Secretary Cynthia Saylor. Mr. Taylor called the meeting to order at 7:00 P.M. There were 6 people present in the audience. Commissioner Noll was absent.

**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:**

**JIM CAPINSKI - 1958 Yarnall Road** - Addressed the members of the Board and referenced a copy of the Franchise Agreement with Comcast dated November 30, 2004. Mr. Capinski expressed his concern that the Township will give Comcast the right to run their cables up Highview Lane; however, the Township still refuses to maintain Highview Lane. Mr. Capinski stated the reason why the Township says they don't want to maintain Highview Lane is because they don't want to set a precedence of maintaining a road in which they have no legal deed of dedication. He further stated that Mr. Layne sent him a copy of the deed of dedication for Poplar Street; however it was never signed or dated. Mr. Capinski questioned why the Township will maintain Poplar Street without a legal deed of dedication but will not maintain Highview Lane. Mr. Capinski expressed his opinion that the Township has ready set precedence with Poplar Street.

**REPORTS:**

**EMERGENCY SERVICES** - It was noted that copies of the monthly Police Report and the Fire Committee Report would be posted on the bulletin board.

**PLANNING & ZONING REPORT** - Commissioner Taylor reported the Planning Commission had their "first look" at the proposed plans for Commerce Corner. He also reported that the Planning Commission discussed LED sign regulations.

**PUBLIC WORKS REPORT** - Commissioner Spaide summarized the monthly Public Works Report and stated a copy would be posted on the bulletin board. Ms. Spaide reported that the prisoners from the MONTCO Early Release Program will be in the Township to pick up trash along the roadways. In response to a question previously asked by **KEITH KEHL** regarding the Cherrytree pump station; Commissioner Spaide explained that the Public Works Department performs periodic checks on the pumping station as a preventative measure especially after a heavy rain or when there has been a lot of melting from the ice and snow.

**KEITH KEHL - 1941 Gilbertsville Road** - Expressed his concern regarding water run off at West Moyer Road, near the old Prout Farm, and stated it creates an icing condition.

**PARKS, RECREATION AND OPEN SPACE REPORT** - None.

**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** - Mr. Garner advised the members of the Board that he advertised the sewer ordinance amendments discussed during the past several meetings and stated it will be ready for the Board's consideration at the February meeting. Mr. Garner provided a brief history with regards to the "Woodbrook Commercial" project which received preliminary plan approval in 2005. Mr. Garner explained the proposed plan shows a 5,000 square foot office building to be located along Farmington Avenue and advised it has been resubmitted as a final plan. The Planning Commission recommended final plan approval and it is currently undergoing review.

**TOWNSHIP MANAGER'S REPORT** - Mr. Layne reported he assisted in the submittal of a third reimbursement request from the PennVest program; assisted with the North State Street Road improvement project which should begin in a couple of weeks; assisted in efforts to monitor the Regal Oaks Pumping Station and Farmington Avenue West Phase II Projects; responded to numerous inquiries and concerns regarding the Single-Hauler Trash Collection and Recycling Contract and coordinated the preparation and submittal of the PECO Green Region grant application. Mr. Layne reported that Fulton Bank is requesting a resolution that will add Vice President Renee Spaide as one of the three designated signers on the Township's bank accounts. A motion by Dolan, seconded by Miller, authorizing Commissioner Spaide as a signer on the Fulton Bank accounts. All aye votes.

**MONTHLY FINANCIAL REPORT** - Copies of the December Financial Reports were provided to the members of the Board in their meeting packets. Mr. Layne reported that we ended the year \$267,052.60 in the black; however he noted that some minor reconciliation still need to be done. He further reported that the Township received approximately \$71,000 in earned income taxes during the month of December and \$50,000 more in private contributions which was additional revenues that had not been budgeted. Mr. Layne commended the Police Chief, Public Works Director and the Administrative Staff for "watching their pennies" throughout the year.

**COMMISSIONER MILLER** questioned the punch list regarding Woodbrook Commercial that appears on the monthly Engineer's Report.

**NEW BUSINESS:**

**DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED EASEMENT AGREEMENT WITH THE HILLSIDE AQUATIC CLUB** - Attorney Garner reported that in December 2009 the Board approved the Lease Agreement with TowerOne which was contingent on the Township obtaining an Easement Agreement with Hillside Aquatic Club. Mr. Garner explained the Easement Agreement is for a period of thirty (30) years; the site is a 50' x 50' section of the Swim Club property to be used as a cellular tower communication facility. He further explained that the Township will be responsible for utilities, taxes and insurance on that portion of the easement property. All revenue generated from the cell tower and provided to the Township will be divided with 72% going to Upper Pottsgrove and 28% going to Hillside Aquatic. TowerOne has agreed to provide certain storm water improvements for the Hillside Aquatic Club and they will be able to utilize the neighboring Township property for overflow parking.

**DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED EASEMENT AGREEMENT WITH HILLSIDE AQUATIC CLUB CONT'D**

- A motion by Spaide, seconded by Miller, to approve and authorize the proposed Easement Agreement with the Hillside Aquatic Club. Commissioner Miller explained that he voted no at the previous meeting because the construction of the tower was built in such a manner that it was in line with the driveway macadam and there was no security provided to prevent vehicles from running into the fence or the cell tower site. Mr. Miller reiterated that the landscape should include shrubbery that grows at a fast rate i.e. Leland Cyprus trees that would camouflage the fence and the site. Attorney Garner reported that TowerOne has agreed to change the type of fencing and the type of landscaping and has also intensified the landscape buffer. He further reported that TowerOne will provide a site plan within the next two (2) to four (4) weeks and they anticipate construction to begin within the next six (6) weeks. All aye votes.

**ARMANDO JOHNSON - 236 Micklitz Road** - Requested a clarification as to the location of the cell tower.

**DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED CONTRACT WITH A CELL TOWER LEASE RESALE ADVISOR**

- Commissioner Taylor explained the Township has received an Option Agreement from Point Providers whereby they would purchase the lease rights to the cell tower located on Heather Place for \$ 323,928.00. The Board discussed proposals from two consultants who would perform consultation services for the Township in regards to the proposed sale of the lease rights of the cell tower. Ken Schmidt, Steel in the Air, Inc., is proposing consultant fees in the amount of \$500/per hour for approximately three hours of service. Dave Espinosa, Communications Services, charges \$800 upfront for the initial review and analysis plus a 5% charge on lump sum transactions with a guarantee increase over the best written offer by 10%.

**JOHN WEST - 1611 Applegate Lane** - Expressed concern that the contract with Point Providers would be a conflict of interest with TowerOne. Attorney Garner stated that Point Providers and TowerOne do not provide the same type of services. He further noted that TowerOne does not buy out leases. When Mr. West questioned whether the configuration of the tower would change; Attorney Garner stated the lease doesn't change.

A motion by Dolan, seconded by Spaide, to hire Ken Schmidt, Steel in the Air, Inc. to perform consulting services in regards to the proposed sale of the lease rights of the cell tower. All aye votes.

**DISCUSSION AND POSSIBLE ACTION REGARDING THE YORK STREET SANITARY IMPROVEMENTS COST REIMBURSEMENT TO THE BOROUGH OF POTTSTOWN**

- Commissioner Taylor explained that DEP has required that the Township abandon the Regal Oaks Wastewater Treatment Plant and convey the wastewater to the Borough of Pottstown's Treatment Plant. As a result, it was determined that approximately 1,400 feet of the existing 21-inch sewer in York Street, between Beech and High Streets, is at capacity and would have to be increased to 30 inches. To address the costs associated with the replacement of the York Street sewer, Upper Pottsgrove and the Pottstown Borough Authority entered into an "Agreement For Cost Sharing", in which both parties would share equally the cost for the replacement of the York Street sewer.



**DISCUSSION AND POSSIBLE ACTION REGARDING THE YORK STREET SANITARY IMPROVEMENTS COST REIMBURSEMENT TO THE BOROUGH OF POTTSTOWN**

**CONT'D** - As part of the "Agreement" both parties also agreed to equally share in any funding that may be obtained for the project. The Borough obtained an H2OPA Grant from the Pennsylvania Department of Community and Economic Development for the project. The amount of the grant and availability of the money has not been determined; however, it is estimated that the grant will be for approximately \$600,000. The construction was started on August 31, 2009 and completed on October 7, 2009. Commissioner Taylor stated the Township has received an invoice in the amount of \$502,465.30 for their share of the costs for the project. Mr. Layne noted the expenditure would be paid from the PennVest funding. After further discussion, a motion by Dolan, seconded by Miller, to reimburse the Pottstown Borough Authority \$502,465.30 pursuant to the "Agreement for Cost Sharing" dated February 17, 2009. All aye votes.

**DISCUSSION AND THE PROPOSED APPOINTMENT OF BOARD LIAISONS**

- The Commissioners agreed on the appointment of the following Board liaisons: Elwood Taylor/Planning and Zoning, Russell Noll/Emergency Services, Renee Spaide/Public Works, Herbert Miller/Open Space, Parks and Recreation and Peter Dolan/Administrative, Special Projects (Regional Police/Open Space Maintenance Funding). After a brief discussion, a motion by Dolan, seconded by Spaide, to replace Commissioner Spaide with Commissioner Miller on the Pottsgrove Recreation Board. All aye votes.

**DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION #571 APPROVING THE PROPOSED GREEN REGION PROGRAM PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS**

- A Resolution of the Upper Pottsgrove Board of Commissioners approving the Master Plan for the Sprogels Run Trail within the Prince/Austerberry property A/K/A Sunset Park and authorizing the expenditure of designated funds for the Sunset Park Trail project. A motion by Spaide, seconded by Miller, to approve Resolution #571. All aye votes.

In response to a concern from **COMMISSIONER DOLAN** regarding the demolishing of the building located at 1401 North Charlotte Street, Mr. Layne stated he spoke with the Public Works Director and the Fire Marshal and advised it can be done at little or no cost to the Township. **COMMISSIONER MILLER** stated the Township needs to be sure that there isn't anything in the building that could explode. **COMMISSIONER DOLAN** expressed his concern that kids have gotten inside even though it is supposed to be locked. **COMMISSIONER MILLER** suggested that a bathroom be constructed since there is already plumbing at the site. **COMMISSIONER TAYLOR** noted that there is a fairly new well located on the property. After discussion, it was agreed that further investigation needs to be done before the structure could be demolished.

**OLD BUSINESS:**

None.

**PUBLIC COMMENTS:**

**KEITH KEHL** - **1941 Gilbertsville Road** - Questioned the status of the Althouse property. Commissioner Taylor stated he is anticipating a plan in the near future.