

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

August 21, 2017

The regular meeting of the Upper Pottsgrove Township Board of Commissioners was held on Monday, August 21, 2017, at the Upper Pottsgrove Administrative Office, 1409 Farmington Avenue, with Commissioners John Bealer, France Krazalkovich, Herb Miller, Martin Schreiber and Elwood Taylor. Also present were Township Solicitor Charles D. Garner, Jr., Police Chief Francis Wheatley, Public Works Director Frank Quinter, Township Manager Carol R. Lewis and Engineer Linda Cluck from LTL Consultants. 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.

MS4 POLLUTION REDUCTION PLAN PRESENTATION – Linda Cluck presented the Pollutant Reduction Plan for the upcoming MS4 permit. The purpose of this permit is to discharge water from the township’s streets into the streams. This activity is monitored and regulated by the EPA and DEP. Every two years the streams in Pennsylvania are assessed of pollutants. The stream to Manatawny near State Route 100 is impaired. MS4 outfalls are where a system discharges to a stream. The Township looked at things they could do to treat the water to reduce the sediment by 10 percent of the total within five (5) years. In most instances the Township is trying to work with private property owners who may be amenable to work being done on their property. We are also checking with PennDOT to see if there are any opportunities to partner with them on their MS4 which would help ours. K. Kehl asked why Sprogel’s Run was not discussed. E. Taylor explained that Sprogel’s Run is not impaired per DEP and so it is not part of this plan. L. Cluck advised him that construction sediment is controlled by the Montgomery County Conservation District.

ROBERT SLOSS – 2097 Needhammer Road – Asked what the intent of the program was. L. Cluck responded that it is to reduce the amount of sediment for this stream and to keep other streams from being impaired through education and other initiatives. She explained that the State has water monitoring locations some of which are within the township. R. Sloss expressed that his concern is that contamination is coming from other areas such as other municipalities, counties, states or countries. E. Taylor explained that we have only one small shared watershed area with New Hanover, but the rest is contained within our township.

DIANE UPDEGROVE - 1404 Farmington Avenue – Asked who pays for these projects. L. Cluck explained that the Township is responsible for implementing the projects and paying for them. They try to find partners to help with the work. M. Schreiber offered that sediment is coming from banks and Sprogel’s is eroding the banks so maybe the Township should look at that. E. Taylor responded that the construction that is going on will eventually produce less erosion and flow into the streams and will help the situation. Motion by H. Miller seconded by J. Bealer and unanimously carried to approve the Pollutant Reduction Plan as presented and to authorize the submittal of the permit application with the \$500 application fee.

PUBLIC COMMENT

JAMES CAPINSKI – 1958 Yarnall Road - Presented a summary of attorney fees amounting to \$38,000 that he notes that the Township has spent so far in its litigation opposing the construction of Highview Lane to access his property. He also presented an estimate that the Township had solicited from Stern Nestor Paving in the amount of \$8,000 that was included in a proposed settlement agreement over this issue. J. Capinski stated that he had rejected this settlement proposal since the Township would not agree to maintain Highview Lane as a public road. He feels that he is being unfairly accused of costing the Township \$38,000. E. Taylor noted that since this issue was still in litigation that he would limit his response to what has already been publicly reported at the January 17, 2017 Board Meeting. He repeated the following statement made 40 years ago by the original owner of the property - *“I wish to state that the township has no obligation to make any (road) improvements. The owners of the three lots in the tract do not expect any improvements, and a revised plan was submitted and drawn in a fashion that it was, so that no improvements would be required.”* J. Capinski argued that that statement was just an argument the original owner was making to have his escrow refunded.

KEITH KEHL – 1941 Gilbertsville Road – Advised that the minutes state that he received two sewer connections for free and he wants that in writing.

REPORTS:

EMERGENCY SERVICES LIAISON – M. Schreiber reported that there were twenty two (22) EMS calls for the month and there were twelve (12) fire calls for the month with 117 fire calls to date. Motion by M. Schreiber seconded by F. Krazalkovich and unanimously carried to approve the By-Laws as presented. M. Schreiber explained that they added a Board of Directors to oversee personnel and policy changes in regards to operations. The Fire Committee is still the Appeals Board to the Board of Directors. They also clarified the election process. The Township will control the main copy. E. Taylor was happy to see that it maintains the same relationship between the Board of Commissioners and the Fire Committee.

CORPORAL – The Civil Service Commission approved an examination for the position of Corporal. Chief Wheatley explained that presently we have an Officer in charge position which the Corporal position will take the place of. There will be more structure for times when he is away and duties to be performed. The candidates had a reading list, then a written exam and an oral exam. They got years of service points, chief and education points. The rule of three states that the Commissioners can pick any of the three officers. Officer Al Werner was the top candidate and he recommends him. C. Garner verified that the Civil Service Commission has certified the list. Motion by F. Krazalkovich seconded by H. Miller and unanimously carried to appoint Al Werner to Corporal subject to a one year probation period. H. Miller applauded the Chief as he was very glad to see this come to fruition. E. Taylor applauded the efforts of all of the candidates and thought that the Civil Service had a well-regulated testing process. E. Taylor read off the officer’s scores. It does include a pay raise which will be balanced by the Officer in charge no longer receiving theirs. R. Sloss asked if there were Veteran’s preference points. Chief Wheatley responded that they have that for new officers but not for promotions. Veteran’s preference points can only be used one time in a career.

USED VEHICLE – M. Schreiber advised that the Chief is looking to negotiate for a vehicle. C.

Lewis explained that the money is in the budget. F. Wheatley clarified that the Impala is in the shop a lot. F. Krazalkovich asked how many vehicles have been acquired since he has been here. F. Wheatley responded that there have been two free used vehicles. Last month the Commissioners authorized the selling of the Impala on Pennbid. He explained that Springfield has a Chevy Tahoe 2011 from their Public Works; it may be a silent bid but it is fully equipped with four wheel drive and light package. F. Krazalkovich applauded the Chief for his acquisitions. Motion by F. Krazalkovich seconded by J. Bealer and unanimously carried to authorize the acquisition of a new used car not to exceed \$5,000.

TYRONE ROBINSON – 1488 Heather Place – Asked how many vehicles the Police Department has. Chief Wheatley responded there are a total of eight; three are regular day to day vehicles the others are part time vehicles with large miles. They need a minimum of seven vehicles and at least a few with four wheel drive. M. Schreiber advised that the Police will be out in force for back to school.

PARKS, RECREATION AND OPEN SPACE LIASION – H. Miller reported that Heather Place Park came in first in the Activity Challenge and third in the Selfies. We will be getting \$5,000. We also entered the park for an additional \$1,000 grant for building community.

TRAILS - Public comment for the Tri County Trail Study is open until September 2nd. The purpose of the Study is so that all trails in all the many townships would connect ultimately to the Schuylkill River Trail. Some residents of Turnberry Farms were at the meeting to express concern regarding safety and privacy. The speed limit on Charlotte Street has been reduced to 25 mph in anticipation of a trail crossing for the High School to Hollenbach Park. He feels that the 25 mph speed limit on Route 663 was a big win for the trail crossing from Lower Pottsgrove to Upper Pottsgrove. F. Wheatley advised that they will be doing an educational enforcement and give out warnings to help people so they become acclimated to the new speed limit.

PROGRAMS - The Arboretum had very successful camps this summer. They filled up quickly and had to turn people away. They need water due to a broken pipe from the well and are considering hooking up with Aqua. Their 5k run is coming up in September. Applications have been received for the archery hunt. There are eight slots in three areas to be hunted. The six hunters will be assigned dates and areas based on their preferences. A mandatory pre-hunt meeting will be held by Dennis Elliott, Chuck Note and Chris Delp. The Board is looking to develop a calendar for 2018 of all of their programs. Community Days will be held on September 23rd at Heather Place Park. Please contact Michelle Reddick if you are interested in helping for a time.

TRAIL MAINTENANCE - has been discussed. There are two sections where the grass is growing through the stone and the hill by Dallas needs work. Also, there is a possibility of a loop trail going in at Prout Farm Park. The worst section is off of Gilbertsville across from the Arboretum. They tried burning and spraying two times but the grass continues to come back. They will try using a combination of modified stone and fines to see if that works. If not, it may have to be paved. M. Schreiber asked about the work at Sunset Park, if work was done on the new trail. H. Miller said they have had a discussion on working the trail connection to Glendale but no money has been spent. M. Schreiber observed that Hopewell Trucking was there and asked how this got done without it being voted on. When the work was done on the Dallas Trail the Board had already voted on it first. H. Miller responded that “things get done”. C. Lewis was unaware of the project

and will look into the matter.

PART TIME WORKER – Dustin Schreiber worked through the summer but is now finished. Due to the unseasonal wetness of this year; they are overwhelmed with mowing and trimming and asked to hire a part time worker through October 31st. M. Schreiber asked if they had run an ad. F. Quinter responded that his son is interested. M. Reddick asked where the money is coming from. She was advised it was coming from the Open Space maintenance fund. Calculations are done at the end of the year and the amount is transferred. Motion by F. Krazalkovich seconded by H. Miller and unanimously carried, to hire a part time person at \$12 an hour until October 31st.

E. Taylor thanked M. Schreiber and Chuck Note for their efforts and coordination with the Park Contest and other items.

Robert Sloss asked if work was done at the park without Commissioners approval. E. Taylor responded that he cannot give an answer at this time but the connection was approved by the Board. R. Sloss then asked about the speed limit on Orlando Road which is currently 55 mph since it is not posted. Chief Wheatley agreed that reckless driving could be cited for but they cannot enforce the speed limit. The road is shared with Lower Pottsgrove. C. Lewis and F. Quinter will work on a list of roads that are not posted along with recommendations. F. Krazalkovich advised that Orlando Road is not in the Traffic Ordinance.

PLANNING LIAISON – 908 Commerce Drive Zoning Hearing Board Waiver Application –

E. Taylor advised that the Planning Commission is also looking at the antiquated Sign Ordinance and that the sign 908 Commerce Drive is asking for would qualify under the proposed ordinance. The Planning Commission is in support of the sign waiver. There is a tentative September 22nd grand opening for the Mattress Warehouse. Gabe Clark reviewed the project for the Commissioners. Motion by M. Schreiber seconded by F. Krazalkovich and unanimously carried to recommend approval of this project to the Zoning Hearing Board. The Board will also include a copy of the proposed Sign Ordinance for the Zoning Hearing Board to review. F. Krazalkovich noted that the sign request is in keeping with other signs in that area.

SIGN ORDINANCE – E. Taylor reported that the Planning Commission has been looking at the Sign Ordinance over the past several months. They have taken the County's boiler plate ordinance and tweaked it for our community. They have left the residential areas alone and expanded for the retail and State Route 100 corridor. The Planning Commission is recommending that the ordinance be adopted as presented. E. Taylor explained that they are not looking for approval tonight as he understands that the other Commissioners will want to review it. C. Lewis requested that if they have any questions that they submit them to her before the next meeting so she has time to get answers for them. C. Garner interjected that in 2015 the Supreme Court turned the sign ordinances upside down by limiting municipalities' ability to regulate sign's content. Signs must now be content neutral. The County has been trying to address the Supreme Court's ruling. E. Taylor reiterated that the Commission did discuss content neutrality and they will see that throughout the ordinance. J. Bealer said that this is especially evident in the six pages of definitions. They have taken out things like political signs or yard sale signs. C. Garner explained that if you have to read what the sign says to determine the kind of sign it is – you have violated the content neutrality. F. Krazalkovich asked if they were looking primarily at LI and RO zoning districts. This is correct. No other major changes except for content regulations. F. Krazalkovich asked if it was possible that our current ordinance was unconstitutional. C. Garner agreed that it is a possibility but that the

Supreme Court’s ruling is still being examined two years later.

ZONING AND ADMINISTRATION LIAISON – C. Lewis pointed out that under the Zoning and Building Report for July of 2017 if you look at pages 3 and 4 it outlines the various zoning issues that the Township has been dealing with over the past month. As previously reported there are a lot of high grass and weed complaints.

PUBLIC WORKS REPORT – H. Miller reported that the paving on Orlando is completed. There are site clearance problems on Detweiler and Orlando due to brush. F. Quinter explained that PennDOT uses a 75 foot site distance triangle. An ordinance would give the Township permission to remove brush within the triangle. C. Garner clarified that the ordinance sample was a SALDO ordinance on new properties. If we are going on to private property it is not a simple practice but they can look into it. E. Taylor asked if this type of ordinance would open the Township to litigation. C. Garner responded that the Township may have to acquire an alleged ‘taking’ in order to remove a mature tree or bush. There could be damage or taking claims by the property owner. H. Miller asked the Solicitor and Chief if someone has to go into the right of way and someone is killed, but the property has already been notified of the problem, would it go back on the property owner? C. Garner responded that hypothetical’s are hard to answer as these cases are very fact sensitive. But in theory, yes, if notified the property owner could be litigated. The Township does have some immunity under tort law. F. Krazalkovich asked if there was an existing ordinance requiring fences, trees, etc. to be back far enough to allow residents to see. E. Taylor explained that the right of way is the area off the road that is under the Township’s purview. F. Krazalkovich posed the example that North Hanover Street from Master you cannot see around the fence around the cemetery without going into the road. C. Garner explained that this would be a regulatory ordinance and therefore there would be no grandfathering. M. Schreiber proposed that possibly a four-way stop sign could be put in to manage these intersections instead of adopting the ordinance. E. Taylor explained that there are other areas that these would apply to as well. M. Schreiber asked if it was the same properties on the list year after year which it is. F. Krazalkovich does not want to infringe on private property but does want safety. M. Schreiber is not in favor of imposing laws for one or two people.

SEWER AND WATER LIAISON – J. Bealer reported that they had the preconstruction meeting for the North Hanover Street lining. A letter was sent to the residents notifying them of the work to come. He explained that the project included a run of 2,440 feet and the bids were very favorable when they came in. The State will not allow expansion of the project due to the demand on the money. Traffic control and bus usage of this road were stressed to the contractor. September 5th is the next Sewer and Water Committee meeting. He attended the joint meeting with the Borough. They reviewed upcoming projects of which the dryer is the largest one. Our contribution toward the project is \$130,200 which is 4% and based on our flows. E. Taylor commended the Sewer and Water Committee on the project as it will help reduce I&I and less flows to Pottstown. J. Bealer explained that in addition they are installing manhole pans to help with the I&I efforts. C. Pelka advised the Board that July of this year has been the second lowest on record even though we have had significant amounts of rainfall.

INTERGOVERNMENTAL RELATIONS LIAISON – F. Krazalkovich had no formal report. He attended Ryan Costello’s Townhall at Pottstown High School and found it very informative and well attended. The Legislature is very quiet. They approved a spending package but no package to fund the spending. J. Bealer questioned an email he received from a lawyer group regarding cell towers as he thought that had been decided. C. Garner responded that there have been two PUC decisions, one by the PUC and another confirming it that these are not regulated by the PUC and they must follow municipal zoning.

TOWNSHIP SOLICITOR – C. Garner reported that at last month’s meeting the Board discussed the regulating of agricultural animals. There was some good comments and input. H. Miller was not at that meeting. He requested permission to meet with H. Miller to provide comment for the following meeting.

TOWNSHIP MANAGER – C. Lewis advised that her report is in the packet. A five year agreement with Hough Associates for recycling grants was received with a \$500 increase. Previous agreements were for three years. Our current agreement ends December of 2017. J. Bealer asked as we partner with three other townships what they are going to do. C. Lewis will look into it to see if there are any other outfits out there that do this and what their costs are.

2018 BUDGET – C. Lewis provided a list of potential road projects for next year as presented by Frank Quinter. She has met with the Police and will be meeting with Sewer and Water and Fire and will be presenting the budget at the next meeting. F. Krazalkovich advised that we finally got the radios for the Fire Company. M. Schreiber added that the mobiles will be installed this Saturday. The County forced this program on the municipalities for the second time.

MONTHLY FINANCIAL REPORT – C. Lewis pointed out that the traffic signal contribution in the amount of \$61,323.11 has been received even though it does not reflect on the statement.

NEW BUSINESS:

CONSIDER ESCROW RELEASE FOR CODDINGTON VIEW – PHASE 3 TO \$10,000 – E. Taylor explained that Phase 3 is complete but the Township is still retaining \$10,000 until the grass comes in so the E & S permit can be closed out. Motion by F. Krazalkovich seconded by J. Bealer and unanimously carried to approve Escrow Release for Coddington View Phase 3 leaving \$10,000.

DISCUSS RENTAL PROPERTY MAINTENANCE – C. Lewis explained that we have been getting more and more complaints regarding tenant/landlord issues. LTL had provided a sample checklist that they do in other townships. C. Garner explained that this would be a new regulation and currently the Township does not have an inspection of rental properties. This is common in urban municipalities. The other option is to make it a civil matter through the landlord/tenant act. The permit process would cover the fees.

RENEE SPAIDE – 1979 Yarnall Road – Asked how the Township would know that the property has a new tenant? It was explained that landlords would need to report this.

MICHELLE REDDICK - 1416 Kummerer Road - Interjected that the Township currently maintains a Landlord/Tenant Data Base. A letter is sent out every two years requiring them to

update their information. She further explained that you can usually tell because the mailing address is different from the property address. Currently there are sixty to eighty rental properties in the Township. E. Taylor stated that staying out of tenant/landlord disputes is the least burdensome response for the Township and the Board needs to decide if they want to interject themselves into what is currently treated as a civil matter. M. Schreiber feels that it is up to the tenant to be a smart consumer. When the complaint is received we can interject at that time. J. Bealer stated that an inspection does not help a person who does not have heat, water, etc. H. Miller feels that absentee landlords are the problem. Most people care about their properties but it is very difficult when you live next to someone who does not. E. Taylor reiterated that currently if a tenant has a problem they can go to the court and go after their landlord. Currently the Township interjects in grounds and outdoor maintenance. F. Krazalkovich feels that by interjecting ourselves it is a big change of philosophy for the Township and he is not inclined to do so. He believes that the State provides a remedy for both parties. H. Miller would like to look at a sample ordinance that shows what can be done. F. Krazalkovich asked why he would want to; to which H. Miller responded they are our neighbors. Renee Spaide pointed out that tenants have a lease that spells out the tenant's rights. She does not think properties need to be inspected. Michelle Reddick pointed out that it is true that tenants have more rights than landlords. The decision by the Commissioners could be to advise tenants that file complaints of what they need to do. If the Township interjects itself it costs the Township money not the tenant or the landlord. Currently we can enforce property maintenance. J. Bealer also was not in favor of this type of ordinance.

OLD BUSINESS:

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

OTHER PUBLIC COMMENT:

KEITH KEHL – 1941 Gilbertsville Road – Asked if it would be in the minutes that E. Taylor is happy that Sprogel's Run is not monitored? E. Taylor clarified that he is happy that it is not polluted - not that it is not monitored. C. Lewis reiterated that the State checks every waterway within the state of Pennsylvania every two years. Sprogel's Run has been tested and it is not polluted at this time.

COMMISSIONER COMMENTS:

H. Miller reported that there has been a twenty percent increase in Lyme disease and he is concerned about the Spotted Lantern Fly and the Emerald Ash Borer. Acres of trees are at a loss and the emerald Ash Borer is now in thirty states.

F. Krazalkovich stated that while Upper Pottsgrove is not Charlottesville, Virginia, he feels he should say something about the recent activities. His grandfather joined in World War II in the 1940's and his grandmother was in a labor camp and wore a tattoo until she passed a few years ago. Spreading hatred is not right. If you sympathize with the people spreading hatred he does not want

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your support. He strongly feels that bigotry is vile and should not be perpetuated.

M. Schreiber had talked about a memorial for Tony Alessi who had worked for the township and

passed away a few years ago. He suggested dedicating a tree in one of the open spaces. C. Lewis will prepare for next month. The Open Space and Rec Board talked extensively about paving portions of the trail. He believes this matter should go back to the Board for them to decide. He questioned why we have an Open Space and Rec Board if they are not to be consulted on these matters. E. Taylor explained that maintenance and repairs are not their purview, but rather ‘Vision’ and planning for future land purchases and public uses are within their scope. If the Board is looking at changing something considerably - like paving - that is a big issue and should be considered by the Open Space and Rec Board. However, if just repairing a gravel trail - that falls under maintenance and is at the discretion of the Manager and Board of Commissioners.

APPROVAL OF MINUTES – July 17, 2017 – Motion by F. Krazalkovich seconded by J. Bealer and unanimously carried to approve the minutes of the July 17, 2017, meeting as presented. H. Miller abstained.

PAYMENT OF BILLS – Motion by J. Bealer seconded by M. Schreiber and unanimously carried to approve the payment of bills in the amount of \$401,164.57.

EXECUTIVE SESSION – The Board adjourned into Executive Session at 9:51 p.m. to discuss litigation and matters of personnel with no planned action. They reconvened at 11:30 p.m.

ADJOURNMENT – Motion by H. Miller seconded by F. Krazalkovich and unanimously carried to adjourn the meeting at 11:32 p.m.

Respectfully Submitted,

Carol R. Lewis, Manager/Secretary/Treasurer