

LOWER POTTS GROVE TOWNSHIP BOARD OF COMMISSIONERS  
January 20, 2011

The Board of Commissioners of Lower Pottsgrove Township held its regularly scheduled work session meeting on Thursday, January 20, 2011 at the Lower Pottsgrove Township Municipal Building, 2199 Buchert Road, Pottstown, Pennsylvania. Meeting was called to order at 7:00 p.m. The following attended:

**Board of Commissioners:** Jonathan H. Spadt, President; Bruce L. Foltz, Vice President; Michael McGroarty and James D. Kaiser.

Solicitor R. Kurtz Holloway; Rodney P. Hawthorne, Township Manager; Alyson Elliott, Assistant Manager and Michele Cappelletti, Secretary.

Commissioner James C. Phillips was absent from the meeting.

After the Pledge of Allegiance, Commissioner Spadt asked for a moment of silence for the victims and families of the Tuscon tragedy.

**COMMENTS FROM VISITORS:**

**Bill Herbert**, 229 S. Park Road, asked if there have there been any recent talks on rezoning near the outlets to allow for commercial. He felt that the addition of Costco could bring more people to the area.

Commissioner Spadt said it is certainly in the works. Mr. Hawthorne explained that the Township has had sporadic meetings with Limerick Township. These meetings were not public; they were cooperative meetings between the two townships. They are still working on zoning, roads, signage, etc. and Limerick has applied for a grant to help them and Lower Pottsgrove with ramping. Mr. Hawthorne said there is more to come, it is a cooperative effort.

Mr. Herbert said the information on the (Township's) website is from 2008 and asked for the best way to get updated information. Mr. Hawthorne suggested that Mr. Herbert check Joe Zlomek's Sanatoga Post, or call him or Alyson Elliott whenever he has questions.

Commissioner Spadt stated that since 2008, things have slowed down. He said as it picks up and comes together again, Mr. Herbert will see more information. Commissioner Spadt said there could be "growing pains" for the Herberts but right now it is too early to know what is going to happen.

Ms. Elliott said a lot of research has been done and plans are still in the draft stage. She told Mr. Herbert he is welcome to come into the Township office for information. Ms. Elliott said some of the concepts are the same as 2008, while others have changed. The Township will get the public involved once it gets to that point in the planning process.

**APPROVAL OF MINUTES:**

Commissioner Foltz made a motion to approve the minutes of the January 6, 2011 Board of Commissioners meeting. Motion was seconded by Commissioner McGroarty and unanimously approved. Vote was 4-0 in favor.

**RESOLUTIONS AND ORDINANCES:**

**Ordinance No. 298, Fire Insurance Escrow Act**—Mr. Hawthorne presented Ordinance No. 298 for approval. He explained that the Pennsylvania Fire Insurance Escrow Act authorizes municipalities to enact ordinances that would require fire insurance companies to escrow funds with the Township from any fire insurance claim being paid, if the Township was owed any delinquent taxes, fees or assessments. Mr. Hawthorne said this is another tool for the Township to use to collect outstanding taxes or fees on a property.

Commissioner McGroarty made a motion to approve Ordinance No. 298, the Fire Insurance Escrow Act. Commissioner Kaiser seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**Resolution No. 889, Comcast Cable Franchise Agreement**— As a member of the Montgomery County Consortium of Communities, Lower Pottsgrove Township entered in an intergovernmental agreement for legal services for negotiation of the Comcast franchise agreement. Legal services were provided by Daniel S. Cohen of Cohen Law Group.

Mr. Hawthorne highlighted the following from the proposed Comcast Agreement:

1. A 5% franchise fee that pays Lower Pottsgrove Township on revenue from 21 different sources. Last year the Township received \$160,000 + in revenue;
2. A one-time franchise grant in the amount of \$6.00 per subscriber (approximately \$21,300) for the Township to use as it sees fit;
3. Free basic internet service to a fire station, library, etc. Mr. Hawthorne said the Township's free internet service will be for John Fogel's office (Brown Street Public Works facility);
4. State of the art requirement to upgrade the Township's equipment;
5. Performance bond in the amount of \$35,000 for faithful service on all obligations under the contract;
6. Length of contract extended from 10 years to 12 years.

Commissioner Kaiser mentioned the Comcast-NBC merger and recommended that Mr. Hawthorne check our agreement, as it may provide service automatically to fire companies and libraries.

**P. J. McGill**, 953 Rivendell Lane, felt that Police and Fire may already get free service. He asked if the Comcast agreement impacts FIOS. Commissioner Spadt said they are totally separate.

**Joe Zlomek** of the Sanatoga Post asked how the numbers compared to Verizon. Mr. Hawthorne advised that the franchise fee is the same.

**Commissioner Foltz made a motion to approve Resolution No. 889, Authorizing Execution of a Cable Franchise Agreement Between the Township and Comcast of Southeast Pennsylvania, LLC.** Commissioner McGroarty seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**CORRESPONDENCE AND INFORMATION:**

**Montgomery County Association of Township Officials (MCATO)**—Mr. Hawthorne reported that MCATO will be holding its Spring Convention on Friday, February 25, 2011 at Presidential Caterers in East Norriton, Pennsylvania. Mr. Hawthorne asked the Commissioners to contact him if they would like to attend.

The following information was included in the Commissioners' packets:

1. Zoning Hearing Application No. 2011-01 of National Penn Bank, S. Sunnybrook Road and E. High Street. Request for variance (LED sign).
2. Ringing Hill Fire Company financial reports.
3. Thank you note from Pottstown Cluster of Religious Communities.

**SUBDIVISION AND LAND DEVELOPMENT:**

**None.**

**OLD BUSINESS:**

**Lamar Advertising Zoning Application Discussion**—Solicitor Holloway announced that he met with the Board in Executive Session immediately prior to tonight's meeting to discuss legal strategy with regard to the Lamar Advertising zoning application.

The Solicitor advised that the Township has entered its appearance, in principal, because the applicant is challenging the validity of the Township's zoning ordinance. He stated there was discussion during executive session on the validity challenge and the existing zoning variance that was approved for Lamar's current signage. Lamar's zoning application is scheduled for a hearing before the Lower Pottsgrove Township Zoning Hearing Board on February 15, 2011.

The Solicitor asked the Board how it wanted to proceed. He asked the Commissioners if they remained in complete opposition or if they had any other ideas.

Commissioner Spadt said the Board took the step to oppose, if necessary, and that brought Lamar Advertising back to the table. As a result, Lamar proposed that the Township could use the signage for Amber Alerts and other community service messages. Commissioner Spadt felt if we get all the right benefits for Lower Pottsgrove Township, the Board might be willing to go with it.

P. J. McGill asked for clarification on the Lamar sign zoning application.

Solicitor Holloway explained that Lamar Advertising's existing sign sits on Porter Road but is visible from Route 422. It is a 2-sided sign, 247 square feet in size with signage on each side. Currently, it has changeable, tri-fold panels.

Commissioner Spadt said that Lamar wants to convert this existing sign into an LED sign. He is annoyed that the applicant is threatening litigation but felt if the Township can get to the point where we can negotiate the proper terms with limitations, we could work it out and willingly go along with it. Commissioner Spadt stated that the potential legal fees are not minor.

Commissioner Foltz felt that staff and legal counsel should see if both the Township and Lamar Advertising can benefit. He mentioned using the sign for Amber Alerts and Exelon Power Plant messages.

Commissioner McGroarty's first reaction was that Lamar came into the Township forcefully (by threatening litigation); however, he now feels there is negotiation room and the Board should give staff and Lamar the opportunity to negotiate appropriately.

Commissioner Kaiser agreed with the other Commissioners. He felt that Lamar was wrong to use the tactic of threatening a lawsuit but, from a safety standpoint, an LED sign could be a benefit to the Township.

Joe Zlomek of the Sanatoga Post said he had someone do legal research and found that case law is pretty much against the Township. Solicitor Holloway said that is not true and anytime we are involved in litigation, the outcome is never certain.

Commissioner Foltz made a motion to authorize the Solicitor and Township staff to negotiate an agreement with Lamar Advertising and to present the proposed agreement to the Board of Commissioners for its review and consideration for approval. Commissioner Kaiser seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Commissioner Spadt stated that the Township thinks it has very good legal footage and we believe we are right, but there could be a better way to handle the matter.

**National Penn Bank Zoning Application**—Solicitor Holloway reported that also pending is a new application filed by National Penn Bank, E. High Street and S. Sunnybrook Road. National Penn is requesting a variance to install an LED sign, which is in violation of the zoning ordinance, as LED signs are not permitted in that zoning district of the Township. Also, the dimensions of the sign exceed the square footage allowed in that district.

Commissioner Spadt made a key point – National Penn Bank is located in a zoning district that does not allow LED signs. On the other hand, the Lamar Advertising sign would be located in a zoning district that does permit LED signage, but Lamar's proposed sign is larger than what is allowed.

The Commissioners discussed the National Penn Bank zoning application. Commissioner Kaiser said the zoning is clear, we don't allow LED signs in that district.

Commissioner McGroarty did not see any overwhelming reasons to make an allowance for the sign. Commissioner Foltz said the Township is going to be hit with applications like this on a regular basis in the Village District. He felt the Township has to oppose the application.

P. J. McGill said that Pottstown is struggling with the same issue. He suggested that the Township touch base with them. Commissioner McGroarty said we do have an ordinance in place to prevent this.

Commissioner Kaiser made a motion to authorize the Solicitor to enter his appearance at the zoning hearing, on behalf of the Board of Commissioners, to oppose the sign variance application filed by National Penn Bank. Commissioner McGroarty seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**NEW BUSINESS:**

**Special Counsel Request**—The Smith/Lignelli medical practice is planning to construct a professional medical building on lot C-3 in the Heritage Sunnybrook Development. Their project will require a certain amount of land development. Since Solicitor Holloway has represented several of the doctors in this practice, he stated that there is a conflict of interest and his firm will not represent the Township or the client in this matter. As requested by the Board, Solicitor Holloway will provide a recommendation for special counsel at a later date.

**Purchase of New Chevrolet Tahoe SUV Police Vehicle**—Commissioner Spadt reported that Chief Shade is now prepared to exercise the purchase of a new police vehicle. Purchase of this vehicle was approved as part of the 2011 police budget.

Commissioner Kaiser made a motion to approve the purchase of one (1) 2011 Chevrolet Tahoe 4 x 4 SSV (Special Service Vehicle) for a total amount of \$30,757.10. Commissioner McGroarty seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**Warrant #784** — Commissioner Foltz made a motion to approve Warrant #784 for the month of December 2010. Commissioner Kaiser seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**Approval of Treasurer's Report**—Commissioner McGroarty made a motion to approve the December 2010 Treasurer's Report, as prepared and submitted by Jennifer Marsteller, Tax Collector/Treasurer. Commissioner Kaiser seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**Floodplain Maps**—Mr. Hawthorne said he received information from Mr. Zlomek regarding redrawing the floodplain maps in Lower Merion Township. Mr. Hawthorne reported that FEMA is changing the floodplain maps that were prepared in 1993 and updated in 1996. It will be the responsibility of any municipality, not just Lower Merion, to identify where the changes will be and to notify its residents. Consequently, Lower

Pottsgrove Township, at its own expense, will be sending out a postcard that will indicate whether a property is in or out of the floodplain. Scott Exley of Bursich Associates is currently working on an overlay and he will report on this matter at the February 7, 2011 meeting.

**COMMISSIONERS' COMMENTS:**

**Commissioner Foltz** asked for an update on the status of the list of vacant commercial buildings in the Township. Mr. Hawthorne said Jen Corley is working on the list and it is almost complete. Commissioner Foltz would like to promote these buildings to attract commercial business to the Township and wants to move forward with this project.

There were no further comments from the Commissioners.

There being no further business, the public meeting adjourned at 7:35 p.m.

Next meeting will be held on Monday, February 7, 2011 at 7:00 p.m.

Respectfully submitted,



Michele M. Cappelletti  
Township Secretary