

LOWER POTTS GROVE TOWNSHIP BOARD OF COMMISSIONERS
July 7, 2011

The Board of Commissioners of Lower Pottsgrove Township held its regularly scheduled meeting on Thursday, July 7, 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 were in attendance:

Board of Commissioners: Bruce L. Foltz, Vice-President; James C. Phillips, Michael McGroarty and James D. Kaiser.

R. Kurtz Holloway, Solicitor; Rodney P. Hawthorne, Manager; Alyson E. Elliott, Assistant Manager; Jennifer V. Marsteller, Treasurer; Michael Shade, Chief of Police; Chad Camburn, Township Engineer and Michele Cappelletti, Secretary.

Jonathan H. Spadt, President and Lew Babel, Fire Marshal were absent from the meeting.

COMMENTS FROM VISITORS:

P. J. McGill, 953 Rivendell Lane, offered his compliments to the guys for paving Rupert Road and Shire Drive. Mr. McGill also mentioned that the Snell Farm has been cut.

Mr. McGill expressed concern about vacant properties in the Woodgate development and asked how the Township is dealing with this problem. He specifically mentioned 880 Rivendell Lane, where there is a pool with stagnant water and high grass. Commissioner Foltz said that he talked to the Township's Code Officer, Keith Place, about two other properties with high grass in the Woodgate development. Mr. Hawthorne will have Mr. Place check out 880 Rivendell Lane in addition to the other properties.

Tony Doyle, 1745 Kepler Road, noticed that the field at Pleasant View Park has been cut. He asked if there was somebody who would cut the field for free. He said the field was cut with a brush hog and Mr. Hawthorne said the Township rented a tractor to cut the field. Commissioner Foltz suggested getting a farmer to cut it (for hay, etc.). Mr. Hawthorne will check into having someone other than Township staff cut the field at Pleasant View Park at no charge.

Mr. Doyle said he would like to give Mrs. Cappelletti a check tonight to cover the cost for copies of the warrant from January 2011 through June 2011. The check will be in the amount of \$20 and if more money is owed, Mr. Doyle will pay the difference when he picks up the copies. He asked if this was okay or does he have a problem. There was no opposition from the Board and Mr. Hawthorne advised Mr. Doyle to submit a public records request.

PRESENTATION:

License Renewal Overview/Limerick Generating Station—United States Nuclear Regulatory Commission (U.S.NRC) representatives Robert Kuntz, Safety Review Project Manager and Lisa Regner, Environmental Review Project Manager, delivered a presentation on the license renewal process for the Limerick Generating Station. Public meetings will be held during the renewal process. There are two websites that have information to keep our constituents up-to-date:

For license renewal information:

<http://www.nrc.gov/reactors/operating/licensing/renewal/applications/limerick.html>

Limerick Listserve (For all correspondence going in and out of the NRC):

<http://www.nrc.gov/public-involve/listserver/plants-by-region.html>

Mr. Hawthorne asked if the public meetings are for the entire area. Mr. Kuntz replied yes, there will be two sessions at the end of August or the beginning of September that will be for public involvement. Commissioner Foltz asked if the public hearings will be for everyone within the ten-mile radius of the Limerick Generating Station. Mr. Kuntz advised that a public hearing would be for a specific reason and is a separate, judiciary process. Public hearings would be separate from the public meetings.

Ms. Regner stated that on the environmental side, they welcome people with issues and anyone who shows up at a meeting can ask questions. They address each and every comment.

Commissioner Phillips said there are fundamentally three parts to the process: 1. The veracity of the documents the Limerick Generating Station files with the NRC; 2. The consideration of public comments and he then asked 3. Does the NRC send a team to the Limerick site. Ms. Regner said she will lead a team and go on-site and she explained the inspection process.

Commissioner Kaiser pointed out that the term of the license for Unit 1 expires in 2024 and the Unit 2 license expires in 2029. He asked if it is typical to apply for license renewal so early. Mr. Kuntz explained that the law allows them to come in 20 years prior to the expiration of the license. Ms. Regner said that some applicants get in line and submit an intention to renew their license early.

Solicitor Holloway asked about issues relating to the storage of spent fuel. Ms. Regner advised that this issue is addressed in a generic manner, as most of the plants have the same spent fuel storage process. Every power plant will have a supplemental environmental impact statement regarding spent fuel storage.

At the conclusion of the presentation, Mr. Kuntz and Ms. Regner asked the Commissioners to call them if they have any questions.

APPROVAL OF MINUTES:

Commissioner Kaiser made a motion to approve the minutes of the June 6, 2011 and June 23, 2011 Board of Commissioners meetings. Commissioner McGroarty seconded the motion and it was approved by a vote of 4-0 in favor.

REPORTS:

Police

Communication System Upgrade (Police Radios)--Chief Shade reported this was discussed at last month's meeting and he supports upgrades to the radio system. He advised that the Department needs 17 portable radios, one for each officer. His concerns are that during a major event, such as an event at Exelon or what recently happened in Douglass Township, he would have to call in a majority of his staff. For safety reasons, Chief Shade recommends that each

officer have his own radio. The fixed price for each radio is \$6,400, which would amount to a total cost of \$109,000 to outfit each of the 17 officers with a radio.

Commissioner Foltz was concerned about how the switch over would be handled and asked about the fire companies. Chief Shade said we need to get an understanding from the fire companies concerning the radios. Commissioner Foltz said that with the purchase of the new radios, there will be no radios in the cars. He asked what happens if the new phones don't work in certain areas (dead spots). Chief Shade said they intend to put in more towers and this issue will be addressed with the County.

Commissioner McGroarty asked, for budgetary reasons, if it would be a major issue to phase the radios in by purchasing ½ the radios in year one and the other ½ in year two. Chief Shade is concerned about safety of the officers if each officer doesn't have a radio to communicate during a major incident. He again mentioned the incident that occurred recently in Douglass Township.

Commissioner Phillips asked if Montgomery County approved the entire system. Chief advised it is coming in September. Commissioner Phillips asked Chief Shade if he was asking for the Board to take action. Chief Shade advised that he was offering the Board his opinion.

Commissioner Foltz asked if the letter needed to be signed before the County approves it. Chief stated that if the County has a commitment from 80% or more of the municipalities, they would move forward with a vote to upgrade. Chief Shade thinks this is the way to go, as what the Police Department has now is obsolete. No action was taken by the Board of Commissioners.

Chief Shade highlighted the following from his June 2011 report—

1. **Fleet:** Chief Shade requested approval to list and sell the 88-10 Ford SUV on Municibid. Chief estimated that the value of the vehicle is between \$3,000 and \$5,000.

This vehicle, a 2006 Ford Expedition with 110,000 miles, has transmission problems. Commissioner Phillips said it is worth more than \$3,000 to \$5,000 and Commissioner Kaiser asked about putting a reserve price on Municibid. Commissioner Phillips felt there was not enough information provided. Commissioner Foltz recommended that the Department's mechanic take a look at the vehicle and determine what it would take to repair it. Chief Shade will come back to the Board with numbers. No action was taken.

2. **DUI Checkpoints** numbers are included in the report.

Executive Session—Chief Shade announced that prior to the public meeting, an executive session was held to discuss a personnel matter that involves taking disciplinary action against Officer Matt Meitzler.

Commissioner Kaiser made a motion authorizing Chief Shade to enforce a two-day (two 12-hour shifts) suspension without pay for Officer Matthew Meitzler. Commissioner Phillips seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Solicitor Holloway asked when the suspension would be implemented. Chief Shade responded in two or three weeks.

On behalf of the Police Department, Chief Shade thanked the Board of Commissioners for approving the improvements to the office, including new carpet and dividers, and said the officers are enjoying the new set up. Chief Shade also thanked Keith Place for his efforts during this project.

All statistics and information are included in Chief Shade's written report. Chief Shade asked the Commissioners to contact him if they had any questions or comments.

Emergency Management

The Emergency Management Report for the month of June, prepared by Lt. Michael A. Foltz, Emergency Management Coordinator, was attached to Chief Shade's police report.

All statistics and information are included in Lt. Foltz's written report. Chief Shade asked the Commissioners to contact Lt. Foltz if they had any questions or comments.

Fire Marshal

Mr. Babel was absent from the meeting. The following statistics were taken from Mr. Babel's report for June 2011:

Station	Total Calls	Total Hrs. of Service	Total Personnel Hrs.	Total Personnel Training Hrs.	Total Fundraising Hrs.
	June 2011	June 2011	June 2011	June 2011	June 2011
Sanatoga (Station 58)	28	29	342	101	Not provided
Ringling Hill (Station 59)	26	30	145	122	242

(Hours are approximate)

Commissioner Foltz reported that Mr. Babel will be on vacation from July 23 to July 30, 2011. Richard Lengel, Fire Marshal for the Borough of Pottstown, will cover for Mr. Babel in his absence.

Highway—Public Works Department: Commissioner Foltz read highlights from the Public Works Report for the month of June 2011. The report will be posted on the bulletin board.

C.O.G.—Commissioner Phillips reported there was no C.O.G. meeting. Next meeting will be held on September 22, 2011.

Engineering—Mr. Camburn had no report.

Treasurer—Ms. Marsteller delivered the Tax Collector's Monthly Report to Taxing Districts for the month of June 2011.

Commissioner Kaiser motioned to accept the Tax Collector's Monthly Report to Taxing Districts for the month of June 2011, as prepared by Jennifer Marsteller, for review. Commissioner McGroarty seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Parks and Recreation—Ms. Elliott reported that there was no meeting this month, due to the light summer schedule. She reported that the first of the summer concerts was held on Sunday, June 26, 2011. The next concert will be held on Wednesday, July 13, 2011 at 7:00 p.m. to accommodate the Army Band's schedule. The concerts will be back to the regular Sunday schedule on July 17.

Solicitor

Resolution No. 902—Solicitor Holloway presented Resolution No. 902, approving the Stipulation to Settle the Heritage-Sunnybrook, L. P. Tax Assessment Appeal for the Tax Parcel No. 42-00-04684-04-4, the Heritage Sunnybrook Village property along Heritage Drive, to the Board for its approval. Once approved, the resolution also authorizes the Township's Tax Collector, Jen Marsteller, to issue a bill to the taxpayer for the underpayment of taxes.

Ms. Marsteller stated that the millage rate in Resolution No. 902 is incorrect. Solicitor Holloway recommended that the Board defer action until he gets clarification and sees if the stipulation can be changed. No action was taken by the Board.

Residential Sprinkler Ordinance—Solicitor Holloway reported that late in 2010, the Pennsylvania Supreme Court upheld the Commonwealth Court's decision to invalidate Schuylkill Township's Ordinance requiring sprinklers beyond the requirements of the UCC.

This case has no bearing affecting the validity of the Lower Pottsgrove Township residential sprinkler ordinance, which was enacted prior to July 1, 1999.

CORRESPONDENCE AND INFORMATION:

The following information was included in the Commissioners' packets:

1. Email. Subject: Board of Commissioners Meeting Minutes – June 6, 2011.
2. Email to Rod Hawthorne. Subject: Municipal Right-of-Way Authority in Jeopardy.
3. Important Information Regarding Act 32 of 2008 (Earned Income Tax Collection System).
4. Thank you from Sunnybrook Foundation.

SUBDIVISION AND LAND DEVELOPMENT:

Resolution No. 869-A, Cilluffo Property Holdings, LLC—Ms. Elliott presented the final land development plan of Cilluffo Property Holdings, LLC, Application #2009-04P, to the Board of Commissioners for approval. The plan proposes to construct a restaurant and offices at 2209 E. High Street. Ms. Elliott advised that staff and the Lower Pottsgrove Planning Commission have reviewed the plan and recommends approval.

Commissioner Foltz asked Ms. Cilluffo when construction would begin. She replied that as soon as the Township is ready, they are ready to start construction.

Commissioner Phillips made a motion to approve Resolution No. 869-A, granting final approval of the final land development plan of Cilluffo Property Holdings, LLC, Application #2009-04P. Commissioner McGroarty seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Resolution No. 903, Bassett Industries, Inc.—Ms. Elliott presented the minor land development plan of David E. Milks Family Limited Partnership (Bassett Industries, Inc.) for 2119 Sanatoga Station Road, Application #2011-02A, to the Board of Commissioners for approval. Ms. Elliott explained that the applicant had prior approval of a plan in 1997, which was to be completed in phases. Resolution No. 903 outlines the conditions of approval and was not signed by the applicant.

Mr. Milks was opposed to signing the financial security agreement required by the Township for all land developments. Instead of signing a tri-party financial security agreement with the bank, Mr. Milks proposed putting forward a check for 110% of estimated costs and having the Township hold that check as his financial security.

The Solicitor advised that a property owner can post financial security with a check (which would be cashed), a letter of credit or a tri-party agreement; however, the agreements are still required to be signed to protect the Township. The Township requires a developer's agreement, a financial security agreement and a BMP/easement agreement.

Commissioner McGroarty said if it is a Township standard, Mr. Milks should sign the resolution. Commissioner Foltz asked Mr. Milks if there was a reason he would not sign the resolution. Mr. Milks said he did not have a problem posting the financial security but he did not want to sign the 15-page financial security agreement. Solicitor Holloway said the document does not go away, no matter what.

Commissioner Kaiser said the agreements are in place to protect both parties. He sees value in the agreements and was not interested in moving forward with the approval until the agreements were signed.

Mr. Milks said he notified Mr. Hawthorne, via email, that he (Mr. Milks) was opposed to #9 and #11 of the easement agreement. He said #9 states that the applicant pays for all inspections for easements. He said this was never discussed and he doesn't want to pay for the inspections. He also disagreed with #11, holding the Township harmless should any damage occur to his property.

Commissioner McGroarty said there is still an issue and recommended that staff and the Solicitor work out the problems and keep the process moving. Mr. Milks asked the Board why a decision couldn't be made tonight. Mr. Milks said he wants to build and the Solicitor advised that Mr. Milks would not get a permit if the documents aren't signed.

The Commissioners agreed that if Mr. Milks signed the resolution, they would take action tonight. After Mr. Milks signed the resolution, Commissioner Phillips made a motion to approve Resolution No. 903, granting final approval of the minor land development plan of David E. Milks Family Limited Partnership (Bassett Industries, Inc.) for 2119 Sanatoga Station Road, Application #2011-02A. Commissioner McGroarty seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Regarding his objections to #9 and #11 of the easement agreement, Mr. Milks asked if the Solicitor would be sending him a proposed revision of this agreement. Solicitor Holloway did not think the Board should be put in the position to negotiate the terms of the agreement tonight.

He is willing to talk with Mr. Milks, Mr. Hawthorne and Ms. Elliott. If the Board decides to allow changes to the document, the Solicitor will proceed in that direction. He will contact Mr. Milks early next week.

OLD BUSINESS:

Armand Hammer Boulevard Sidewalk Maintenance Agreement with PennDOT—At the June 23, 2011 Board of Commissioners meeting, Mr. Hawthorne reported that PennDOT is requiring the Township to take ownership and maintain the sidewalk to be built along Armand Hammer Boulevard. As requested by the Board of Commissioners, Mr. Hawthorne spoke to a PennDOT representative regarding the maintenance responsibilities the Township would incur should it take ownership of the sidewalk.

Mr. Hawthorne was informed that PennDOT has to install the sidewalk and it has to meet ADA requirements. Other townships would be required to do the same thing. If the Township does not sign the agreement, the feds would get involved. If the site is developed in the future, the Township could negotiate with the developer to turn the sidewalk maintenance over to the developer.

Township engineer Chad Camburn checked the sidewalk specifications and they were satisfactory. The sidewalk would be maintained by the contractor while he is installing it and a one-year warranty would be held by PennDOT. Solicitor Holloway's concern was if the Board is inclined to accept the obligation, it should advise PennDOT that it will do so only after the improvements have lasted through the warranty period.

Commissioner Foltz asked if the Board needed to decide on this matter tonight. Mr. Hawthorne said no, he was not given a specific deadline. Commissioner Phillips clarified that Solicitor Holloway's recommendation was that the Board can approve with the stipulation that the Township's agreement to maintain would commence after the warranty period. Solicitor Holloway's recommendation was only to consider this option. He said the Township would want the improvements to go through the warranty period. The Township cannot enforce the warranty, only PennDOT can because they have the contract.

Commissioner Kaiser asked if the Township accepts maintenance of the sidewalk, does this nullify PennDOT's warranty. Solicitor Holloway did not know if it would or not. Commissioner Kaiser then asked what the Township's relationship was with PennDOT; for example, could a phone call handle an issue with the sidewalk?

Commissioner Foltz asked for the footage of the sidewalk and what it would cost if we would have to replace it. Mr. Camburn did not have this information. Mr. Camburn agreed that the Township should not accept responsibility for the sidewalk prior to the expiration date of the maintenance period. Commissioner McGroarty felt this option would present the least responsibility to the Township.

Commissioner Kaiser asked if Mr. Hawthorne could put in a courtesy call to PennDOT and find out if the Board could sign the agreement now, with the maintenance responsibilities commencing after the expiration of the warranty period. Mr. Hawthorne said it could either be handled that way or PennDOT could provide an amended agreement. Commissioner Phillips felt

the maintenance period was very important because of the substandard quality of work recently performed by PennDOT on Kepler Road.

Joe Zlomek of the Sanatoga Post asked if the Township accepts maintenance responsibilities, does it do so in perpetuity. He also asked what the estimated annual maintenance cost would be. Mr. Hawthorne replied that it would be minimal, whatever it costs to have John Fogel snow blow and cinder the sidewalk. He said that the sidewalk would have to be cleared within 48 hours and it would be the last thing on John's list. The roads take priority.

From what he saw on the plan, Mr. Zlomek understood that PennDOT was proposing to replace part of the sidewalk at the Antonelli school, then the crosswalk. He asked if part of that was the owner's responsibility. Mr. Hawthorne said it was all on BCW's property, not Antonelli's. Tony Doyle commented that maybe Antonelli could pick up some of the responsibility.

Commissioner Foltz requested that Mr. Hawthorne find out how many feet the sidewalk will be so the Township has an idea of how much it would cost to replace it. He also wants to know exactly where it is going to be installed ("to and from") and requested that Mr. Hawthorne place a courtesy call to PennDOT regarding this matter. Mr. Hawthorne will get the information requested by Commissioner Foltz. He will also ask PennDOT if the agreement can be amended or if it could be accepted now, but not become effective until after the expiration of the warranty period.

The Board took no action on the Armand Hammer Boulevard Sidewalk Maintenance Agreement with PennDOT.

NEW BUSINESS:

See **PRESENTATION:** License Renewal Overview/Limerick Generating Station.

RESOLUTIONS AND ORDINANCES:

Resolution No. 901—Mr. Hawthorne presented Resolution No. 901, approving the sale of a portion of Armand Hammer Boulevard to the Commonwealth of Pennsylvania Dept. of Transportation for \$20,900.

Commissioner Kaiser asked if the price was fair. Mr. Hawthorne did not know, he doesn't have an appraisal for the property.

Commissioner McGroarty made a motion to approve Resolution No. 901, approving the sale of a portion of Armand Hammer Boulevard to the Commonwealth of Pennsylvania Dept. of Transportation and granting a temporary construction easement for the area adjacent to the subject property to the Commonwealth for the total consideration of Twenty Thousand Nine Hundred Dollars (\$20,900.00), in accordance with the terms and conditions of all documents stated in the resolution. Commissioner Phillips seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Warrant—Warrant No. 790 for June 2011 was distributed via email for the Commissioner review.

COMMISSIONERS COMMENTS:

The Commissioners had no comments.

MANAGER'S COMMENTS:

Equipment Rental and Labor Agreement—Mr. Hawthorne reported that at 2:00 p.m. on this date, the Township opened and read aloud sealed bids that were received for the 2011-2012 Equipment Rental and Labor Agreement. Two bids were received:

Contractor Name	Address	Bid Total
Reid Paving	1850 Swamp Pike Gilbertsville, PA	\$58,135.00
Reading Site Contractors	392 Sanatoga Road Pottstown, PA 19464	\$102,190.00

Solicitor Holloway reviewed the bids and the low bidder has complied with the provisions of the bid package. H recommended that the bid be awarded to the lowest bidder, Reid Paving.

Commissioner McGroarty made a motion to award the 2011-2012 Equipment Rental and Labor Agreement to Reid Paving, whose total bid for the complete schedule of equipment (13 items) was \$58,135.00. Commissioner Phillips seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

There being no further business, the meeting was adjourned at 8:30 p.m.

Next meeting will be held on Thursday, July 21, 2010 at 7:00 p.m.

Respectfully submitted,



Michele M. Cappelletti
Secretary