

**LOWER POTTS GROVE TOWNSHIP    BOARD OF COMMISSIONERS**  
**August 3, 2015**

The Board of Commissioners of Lower Pottsgrove Township held its regularly scheduled meeting on Monday, August 3, 2015 at the Lower Pottsgrove Township Municipal Building, 2199 Buchert Road, Pottstown, Pennsylvania. Meeting was called to order at 7:00 p.m. and the Pledge of Allegiance was recited. The following were in attendance:

**Board of Commissioners:** Bruce L. Foltz, President; Stephen M. Klotz, Vice President; James W. Vlahos and Earl E. Swavely, Jr.

Robert L. Brant, Solicitor; Edward C. Wagner, Manager; Michael A. Foltz, Chief of Police; Lew Babel, Fire Marshal; Jennifer V. Marsteller, Treasurer/Tax Collector; Scott Exley and Chad Camburn, Township Engineers and Michele Cappelletti, Secretary.

Commissioner Shawn Watson and Raymond W. Lopez, Emergency Management Coordinator, was absent.

Commissioner Foltz announced the meeting was being recorded.

**EXECUTIVE SESSION:**

Solicitor Brant announced the Board met at 6:00 p.m. in executive session to discuss a potential litigation matter that the Solicitor will address in his report and a police personnel matter that required no action.

**COMMISSIONER SHAWN WATSON:**

Commissioner President Foltz addressed the current situation with Commissioner Shawn Watson. Commissioner Foltz said Commissioner Watson's personal matters are a concern to the Board; however, there is nothing the Board can do about it. Commissioner Watson was elected by the people and therefore the Commissioners cannot release him of his duties. Removal from office would be through the State Ethics Commission or by the election process. Commissioner Foltz explained at this time, as Board President, the only thing he could do was make a motion to request Shawn's resignation.

Commissioner Foltz then made the motion to request the resignation of Commissioner Shawn Watson from the Board of Commissioners of Lower Pottsgrove Township. Commissioner Swavely seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Bob Franciose, Barbara Way, asked if the Board of Commissioners' Code of Ethics had actions against members who commit improprieties. Commissioner Foltz said the Township contacted the Ethics Commission (Pennsylvania) and the matter is under investigation. Mr. Franciose asked about the Board's own Code of Ethics and wanted to know what the members of the Board have done to say you either clean your act up or get off the Board. Commissioner Klotz said the Board simply just did that by making the motion to request Commissioner Watson's resignation.

Joe Zlomek of the Sanatoga Post asked for clarification of the motion. Commissioner Foltz clarified the motion was to request the resignation of Commissioner Watson.

James Prendergast, 1304 Walnut Ridge, asked if Commissioner Watson could be recalled. Solicitor Brant did not believe that would necessarily be the successful route and he was not familiar with a recall petition for a public official. He confirmed that Commissioner Foltz is correct in saying that other than requesting the resignation, the Board cannot compel the resignation.

Mr. Prendergast asked if the Board can suspend Commissioner Watson from having any activity on the Board. Solicitor Brant answered no, if he is a validly sitting commissioner, absent being ordered off the Board by some other enforcement agency, he has the right to participate in public meetings.

Mr. Franciose questioned why the Board has no ability to remove a rogue employee. Mr. Brant said Mr. Watson is not a "rogue employee" and the Board did what they are capable of doing in this specific set of circumstances.

Mr. Zlomek asked if Shawn Watson was advised that this vote would be taken tonight and Commissioner Foltz said he advised Shawn of the action at 8:00 a.m. Mr. Zlomek then asked if Shawn has given any indication of what his decision might be or if he tendered his resignation. Commissioner Foltz said Shawn has decided not to tender his resignation.

Bill Wolfgang, Pruss Hill Road, has a huge problem with Mr. Watson sitting on the Board because of trust and integrity issues. He felt residents have to trust that the Commissioners are handling their issues relating to health, welfare, etc. the best that they can.

Commissioner Foltz said the Board does not condone the illegal, immoral conduct of any Commissioner; however, the Board does not know which of the allegations against Shawn are true and which are not. He said that is not the Board's decision to make and we cannot judge Shawn on that. Commissioner Foltz said the Board wants to do the right thing and he believes they did the right thing tonight.

Tony Doyle, 1745 Kepler Road, said he appreciates the way the Commissioners are handling this situation. He agreed, the Commissioners are not lawyers and we don't know how much being said about Shawn is true. He said the way the Board is handling this matter is perfect from his point of view and he appreciates it.

Mr. Prendergast commended the Board for taking action and for doing what they can do. He said the Board had to have a lot of courage to do this.

Speaking on behalf of the Board, Commissioner Foltz said it is not a pleasant thing to do. Commissioner Klotz added it may not be pleasant, but it is the right thing to do, it is the right thing to do for our Township and that's why we did it.

Joe Zlomek asked Commissioner Foltz what he anticipated the working relationship will be with Shawn going from here on out. Commissioner Foltz responded that Shawn has been nothing but cooperative with all Board members and he had no idea if this would change.

Solicitor Brant said the Board took an appropriate step this evening and it was not known what the result will be. He explained the Board's action needs to be communicated to Mr. Watson,

which he assumed would be done by letter coming out of the Township Manager's office, and the matter will then be in Mr. Watson's corner on how he responds to the request for his resignation.

#### **COMMENTS FROM VISITORS:**

**Bill Wolfgang, Pruss Hill Road**, asked for the timeline for the Pruss Hill Road Bridge closure. Mr. Wagner advised the road will be closed for one day for oil and chip.

**Tony Doyle, 1745 Kepler Road**, asked about the 2014 Voyager fuel bill for the Highway Department and Sewer Department. He asked if additional trucks were purchased in 2015 because there are only 2 trucks listed for Highway and 2 trucks listed for the Sewer Department. Mr. Wagner said no trucks were purchased in 2015 and he will review the bill with Mr. Doyle.

**Mr. Doyle** referenced Keith Diener's comments at the June 8, 2015 Board of Commissioners regarding Verizon. Mr. Wagner advised Randy Run is on Verizon's schedule and he contacted Keith with that information.

**Mr. Doyle** noticed girls playing soccer on our field with orange uniforms and asked if they are Pottsgrove Soccer Association players. Mr. Wagner said they are running a camp and the players could have been wearing orange pinnies. Commissioner Klotz said the intramural teams can wear any color; the travel teams and school teams generally wear maroon or white.

**Mr. Doyle** asked Chief Foltz how many radios he is going to need. Chief Foltz replied he is ordering 22 portable radios (20 officers plus 2 extra) and 13 mobile radios for the patrol cars. Mr. Doyle asked about the in-car video cameras. Chief Foltz said 4 have been installed and he plans on budgeting for 4 or 5 more next year so all marked cars are equipped.

#### **APPROVAL OF MINUTES:**

Commissioner Klotz made a motion to approve the minutes of the July 23, 2015 Board of Commissioners meeting. Commissioner Vlahos seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

#### **REPORTS:**

##### **Police**

Chief Foltz reported during the month of July, there were 1,158 calls for service. There were 143 traffic citations were issued. There were 97 criminal violations recorded that involved 30 adults arrests and 5 juveniles were handled.

Chief Foltz highlighted the following from his written report:

#### **1. Calls for Service/Departmental Activities**

- a. Very active with meetings regarding the impact of the upcoming Papal visit to Philadelphia on September 27, 2015. Chief Foltz and the Township Emergency Management Coordinator are preplanning for any emergencies. Mutual aid to other Departments, overtime, fuel, etc. are expenses to consider. Worst case scenario—if a situation would arise, Chief Foltz estimated overtime costs could be as high as \$10,000 for that 24-hour period.

## 2. Criminal Investigations/Arrests

- a. Two significant incidents occurred on July 31, 2015:
  - i. A car was stolen out of Rehoboth Beach and Pottstown Police pursued the vehicle to CVS. All parties were apprehended and are of no further threat to the community;
  - ii. At 11:00 p.m. the same night, there was a carjacking at Cutillo's. Upper Merion Police located the vehicle and another chase took place. The juvenile suspect was apprehended and is in custody.

## 3. Fleet

- a. Watch-Guard In-Car Mobile Video Recording devices have been up-fitted in 4 cars. System is up and running.

**Radio Upgrade** – A copy of the Montgomery County Radio Order for bulk price purchasing was attached to Chief Foltz's report. The order summary shows the estimated costs to cover the equipment needs of the Police Department, both Fire Companies, Emergency Management and the Fire Marshal. Chief Foltz is now awaiting commitment agreements from Montgomery County.

Commissioner Foltz noted prices are listed on the proposals but not the number of radios needed. Chief Foltz will provide that information from his spreadsheets.

All statistics and information are included in Chief Foltz's written report.

Commissioner Klotz pointed out there were 97 criminal violations in July and the Police Department is getting busier. He also commented on the results of the DUI checkpoint – in 4 hours, there were 945 total contacts, resulting in 1 DUI arrest, 2 DUI drug arrests (1 adult and 1 juvenile) and 1 misdemeanor drug arrest. Commissioner Klotz feels that one DUI stopped a checkpoint could save lives and is worth all the time spent. He said this sends a message that we won't tolerate it in Lower Pottsgrove Township and expressed his appreciation to the Police Department for a job well done.

Commissioner Swavely asked if there is a possibility of getting some backfill funding if our officers accrue overtime during the Papal visit. Chief advised as of now, there is no serious feedback as to whether or not the government is going to reimburse. The County is encouraging municipalities to declare a local emergency and activate the Emergency Operations Center (EOC) during that time. By doing so, if back funding does become available, the Township has already met the requirement.

## Emergency Management

In EMC Ray Lopez's absence, Chief Foltz delivered highlights of the Emergency Management Report for the month of July 2015:

1. There were no EOC activations.
2. EMC Lopez monitored storm situations.
3. Finalizing Bakken Crude Oil Strategic Emergency Planning with Montgomery County.
4. The Limerick Generating Station exercise is scheduled for November.

## Fire Marshal

Mr. Babel highlighted the following statistics from his report:

Station	Total Calls	Total Hrs. of Service	Total Personnel Hrs.	Total Personnel Training Hrs.	Total Fundraising Hrs.
Sanatoga (Station 58)	35	48	95	67	Not provided
Ringling Hill (Station 59)	No report due to computer problems.				

(Hours are approximate)

Mr. Babel reported Dennis Miller, a past chief and lifetime member of Sanatoga Fire Company, passed away. There will probably be a full fireman's funeral this week. He reported another firefighter, Paul Landis, also passed away.

**Highway—Public Works Department:** Commissioner Foltz read the Public Works Report for the month of July 2015. Report will be posted on the bulletin board.

Commissioner Foltz reported the restrooms at Sanatoga Park are not adequately marked. To avoid confusion, John Fogel will be installing large signs for "Men" and "Women" on the wooden placards.

Commissioner Foltz reported line painting at the Park was done free of charge. Also, H&K swept the Park free of charge. He asked Mr. Wagner to send thank you letters to the line painter and H&K.

**C.O.G.**—No report. Next meeting is in September.

**Engineering**—Bursich Associates provided a written Engineers' Report updating the Board on various projects and activities going on in the Township.

**TIFAC Act 209 Study**--Chad Camburn delivered a progress report on the Act 209 Study. At its most recent meeting on July 30, the TIFAC recommended the Land Use Assumption Report be sent out to Montgomery County Planning Commission, Chester County Planning Commission, Pottsgrove School District and the 6 municipalities adjacent to Lower Pottsgrove Township. There is a 30-day review period and a hearing will be held on September 10, 2015. At that time, the TIFAC may request or recommend that the Board of Commissioners approve the Land Use Assumption Report.

Mr. Camburn reiterated the TIFAC's recommendation that the Board consider adding the three intersections discussed last month, with the understanding that there will be no increase in time to the study. He advised those counts were already done and if the Board would so choose to add those three intersections, the cost would be \$2,383 per intersection, which is an average of all the other intersections that are done.

The three intersections recommended by the TIFAC are Pleasantview Road and Bleim Road, Evergreen Road and Route 422 Eastbound ramp and Evergreen Road and Route 422 Westbound

ramp. On behalf of the TIFAC, member Bill Wolfgang said he would appreciate if the Board would reconsider adding the three additional intersections.

Commissioner Vlahos understood if the ramps and intersections are not included in the study, the Township, in turn, cannot collect impact fees for those particular areas. Mr. Wolfgang confirmed that was correct and he felt if there is pending development and the intersection isn't studied, we could regret it down the road.

After discussion, Commissioner Vlahos made a motion to add the following three intersections to the study area: Pleasantview Road and Bleim Road; Evergreen Road and Eastbound Route 422 Off-Ramp and Evergreen Road and Westbound Route 422 Off-Ramp. Commissioner Klotz seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Commissioner Klotz asked if the timeline was good for Act 209. Mr. Camburn reported we remain on pace; however, outside influences could affect the timeline. TIFAC members have adjusted their schedules and they have had 4 meetings in 2 months and, as a result, we are on pace to hit the deadline. Mr. Wagner complimented the Committee and Chair Greg Herb for doing a great job.

Commissioner Foltz received a call from Wil Hallman regarding pass through traffic from New Hanover Township. Mr. Wolfgang said the Committee is frustrated but we can only govern Lower Pottsgrove Township. He said it is a part of life and we have to deal with it.

**Treasurer**— Ms. Marsteller presented the Tax Collector's Monthly Report to Taxing Districts for the month of July 2015 to the Commissioners for review.

### **Solicitor**

Solicitor Brant's written report to the Board of Commissioners provided a synopsis of all projects his office worked on in the past month. He reported the Matt Outdoor Advertising Application to the Lower Pottsgrove Township Zoning Hearing Board was discussed in executive session. The matter was discussed in executive session because the application includes a challenge to the substantive validity of our ordinance as it pertains to off premises signs (billboards). Solicitor Brant reached out to counsel to the applicant and strongly suggested that they withdraw that portion of the request to the Zoning Hearing Board and they agreed to do so. The Board of Commissioners will remain neutral on the application and the Zoning Hearing Board will decide on the remaining variances requested pertaining to size and height of the sign. No action was required by the Board of Commissioners.

### **Parks and Recreation**

**Summer Concert Series**—Mr. Wagner reported the Summer Concert Series is going very well. The last concert will be held on Sunday, August 9, 2015 at 6:00 p.m.

Tom Troutman, E. High Street, asked when the Township sign would be installed. Mr. Wagner said the Board is reviewing the final draft of the sign ordinance.

Mr. Troutman asked for a description of the proposed Sanatoga Park improvements. Mr. Exley said the improvements are an additional seating level, parking improvements, ADA compliant path and restroom upgrades.

**Pottstown Metropolitan Regional Planning Commission**

Mr. Wagner reported Pottstown Metropolitan Regional Planning would like to deliver a PowerPoint presentation on Montco 2040 at the second Board meeting in September.

**Lower Pottsgrove Township Authority**

Mr. Wagner reported the next meeting of the Lower Pottsgrove Township Authority will be held on August 10, 2015 at 7:00 p.m. The Authority is continuing to work on the resolutions for refunding the bond into a DelVal loan.

**CORRESPONDENCE AND INFORMATION:**

**None.**

**SUBDIVISION AND LAND DEVELOPMENT:**

**None.**

**OLD BUSINESS:**

**TIFAC ACT 209 Committee Program Summary and Recommendations—See REPORTS: Engineering.**

**NEW BUSINESS:**

**Rupert Road Bridge Ownership Agreement**—Mr. Wagner provided the Board with two draft versions of the Rupert Road Bridge Ownership Agreement. Once the Agreement is finalized, Lower Pottsgrove will assume ownership of the new Rupert Road Bridge.

Mr. Wagner explained Agreement 1 contains language he added to Paragraph 4 stating “the cost relating with the final inspection shall be incorporated as part of the contract(s) the County enters into for construction of the bridge replacement project.” Agreement 2 is the original agreement and does not contain the additional language.

Commissioner Vlahos asked Mr. Wagner if Montgomery County has seen the language added to the Agreement. Mr. Wagner said they have not; however, the Agreement was reviewed by Blake Dunbar of the Solicitor’s office and we did receive an email from the County saying they would cover the cost.

Commissioner Vlahos Jim said this matter has been going back and forth for some period of time and it was discovered that the cost of the final inspection was not included in the original Agreement. Commissioner Vlahos spoke to Mr. Wagner about making sure that is covered in the contract because the engineer doing the design cannot inspect his own work.

Commissioner Vlahos then motioned to authorize execution of the contract between Lower Pottsgrove Township and Montgomery County, which is designated as Agreement 1. Commissioner Swavely seconded the motion.

Commissioner Foltz asked if the fee for the final inspection of the Bridge will be paid by Montgomery County. Commissioner Vlahos said there is an email from the County Solicitor

saying the County will pay the inspection fee. Commissioner Vlahos felt it was proper to include that language in the final contract.

After discussion, the motion on the floor made by Commissioner Vlahos and seconded by Commissioner Swavely was unanimously approved. Vote was 4-0 in favor.

Joe Zlomek asked if there is a timeline for what happens once the Agreement is signed. Mr. Exley said it is his understanding that the County would have to sign the cost and price and scope that was submitted to them. Once that is done, we can move forward with the project.

#### **RESOLUTIONS AND ORDINANCES:**

**Resolution No. 1074-15**—Commissioner Klotz made a motion to appoint Michael Tornetta to the Lower Pottsgrove Township Transportation Impact Fee Advisory Committee, to fill the vacancy occasioned by the resignation of Jay Tornetta. Commissioner Vlahos seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**Warrant #839**—Warrant #839 for the month of July was provided to the Board of Commissioners for review.

#### **COMMISSIONERS COMMENTS:**

**Commissioner Vlahos** and **Commissioner Swavely** had no comments.

**Commissioner Klotz** reported Chief Foltz arranged a tour of new Upper Providence Police Facility. He was very impressed with how the building was designed to meet not only the demands of today's world, but the future as well. Commissioner Klotz said it was an eye-opener and he realized how far behind the Lower Pottsgrove Municipal Building is as far as technology, security and design are concerned.

Bill Wolfgang and Chief Foltz discussed safety concerns. Mr. Wolfgang thought some modifications could be made to the Police Department until plans have been finalized regarding the future of the Municipal Building.

Tony Doyle said comparing Upper Providence to Lower Pottsgrove is comparing apples to oranges because Upper Providence is one of the wealthiest municipalities in the County. Commissioner Klotz agreed and he was not saying we could build a facility like Upper Providence's building. He felt they are a good resource when do decide to proceed with our building project.

**Commissioner Foltz** asked Chief Foltz if he sent a letter of appreciation to Upper Providence's Police Chief. Chief Foltz did reach out to him but did not send a letter. Commissioner Klotz asked Mr. Wagner to send a thank you letter from the Board of Commissioners.

#### **MANAGER'S COMMENTS:**

Mr. Wagner stated the Board was provided with a Zoning Hearing Application for 1992 Kepler Road. The zoning hearing is tentatively scheduled for August 26, 2015 at 6:00 p.m.

Mr. Wagner announced the Board of Commissioners meeting scheduled for August 20, 2015 has been cancelled. The next regularly scheduled Board of Commissioners meeting will be held on Tuesday, September 8, 2015 (day after Labor Day).

There being no further business, the public meeting was adjourned at 7:55p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michele M. Cappelletti".

Michele M. Cappelletti

Secretary