

**LOWER POTTS GROVE TOWNSHIP    BOARD OF COMMISSIONERS**  
**October 5, 2015**

The Board of Commissioners of Lower Pottsgrove Township held its regularly scheduled meeting on Monday, October 5, 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; Lew Babel, Fire Marshal; Jennifer V. Marsteller, Treasurer/Tax Collector; Scott Exley and Chad Camburn, Township Engineers, Michele Christman, Finance Director and Michele Cappelletti, Secretary.

Emergency Management Coordinator Raymond W. Lopez was absent.

Commissioner Foltz announced the meeting was being recorded.

**EXECUTIVE SESSION:**

Solicitor Brant announced the Board, Solicitor Brant and Mr. Wagner met in executive session immediately prior to the meeting to discuss two litigation matters. No action was taken.

**BOARD OF COMMISSIONERS VACANCY:**

Commissioner Foltz reported interviews were conducted for the vacancy on the Board of Commissioners. He said we had good candidates and thanked all who participated in the interview process.

Commissioner Foltz then called for nominations from the Board. Commissioner Klotz made a motion to nominate Raymond W. Lopez to fill the vacancy on the Board of Commissioners. Commissioner Vlahos seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

Commissioner Foltz announced Mr. Lopez could not attend tonight's meeting because of another obligation. He will not be sitting on the Board until after he is sworn in.

**COMMENTS BY VISITORS:**

**Tony Doyle**, 1745 Kepler Road, had concerns about the non-uniformed and uniformed pension plans. He said the Township's 2015 total obligation for both plans was \$365,000 and felt it may be the time for all employees to pay into their pensions. It was Commissioner Klotz's understanding that the employees do contribute to their pensions. Mr. Wagner advised non-uniformed employees started contributing 2% two years ago. Uniformed employees have been contributing 5%, which is their maximum contribution.

Mr. Wagner advised an arbitration ruling requires that uniformed employees pay 5% in 2014, 7 ½% in 2015 and 7 ½% in 2016 towards their medical benefits. Non-uniformed employees currently contribute 7.5% towards their medical benefits.

Commissioner Klotz said the non-uniformed pension contribution was approved at a public meeting and the police contributions are in accordance with the police contract.

**Tom Troutman**, East High Street, asked if he could comment during the subdivision and land development presentation on tonight's agenda. Commissioner Foltz said not at that particular time. Commissioner Klotz said comments are for now and he could comment at the next meeting. Tony Doyle said the Montgomery County Commissioners ask for public comment prior to each vote and he felt Tom has the right to ask a question. Commissioner Klotz said our rules state comments are at the beginning of the meeting. Commissioner Foltz said discussion on subdivision/land development occurs at the Planning Commission meetings.

## **REPORTS:**

### **Police**

Chief Foltz publicly thanked Ringing Hill Fire Company for donating the use of their facilities to host training for the Police Department.

Chief Foltz presented the Police Report for the month of September 2015. He reported there were 927 calls for service. There were 56 traffic citations issued and 9 DUI arrests. There were 70 criminal violations recorded that involved 22 adults arrests and 4 juveniles were handled.

#### **1. Overtime**

- a. Overtime was slightly over \$10,000 for the month. It was expected that the Papal Visit alone would incur approximately \$9,000; however, we did not experience the problems that were anticipated.
- b. Approximately \$6,400 was incurred for the Papal Visit, the majority of which was attributed to the Mutual Aid provided to Lower Merion Township.

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

- a. The Department was awarded \$1,848 in grant funding from the Department of Justice, Bullet-Proof Vest Partnership Grant.
- b. The Department received \$1,000 in grant funding from Pennsylvania Attorney General's Office for portable breath testing devices under Community Drug Prevention Act.
- c. Traffic study was completed for Industrial Highway. The study reflects posting a 35 mph speed limit the entire length of Industrial Highway, which would be done by ordinance.

Commissioner Swavely asked if there was an update from the Chief's Association or the County in regard to pursuing reimbursement for overtime incurred during the Papal Visit. Chief Foltz said there is a remote possibility but there has not been a meeting since the event. Hopefully, more information will be available by the end of this month.

### **Emergency Management**

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

1. Numerous emergency management meetings were held in anticipation of the Papal Visit.

2. There was a planned EOC activation from Friday, September 25, 2015 at 9:00 a.m. through Sunday, September 27, 2015 at 5:00 p.m. for purposes of monitoring traffic conditions and providing support to public safety officials and citizens during the World Meeting of Families and Papal Visit.
3. The Township took delivery of generous donations from J. D. Eckman and Norris Sales to equip the Township's Critical Incident Management Response Trailer. Chief Foltz publicly thanked J. D. Eckman and Norris Sales and a letter of appreciation was sent as well.

### **Fire Marshal**

Mr. Babel highlighted the following statistics from his report:

<b>Station</b>	<b>Total Calls</b>	<b>Total Hrs. of Service</b>	<b>Total Personnel Hrs.</b>	<b>Total Personnel Training Hrs.</b>	<b>Total Fundraising Hrs.</b>
<b>Sanatoga (Station 58)</b>	26	28	87	208	Not provided
<b>Ringling Hill (Station 59) - Up-to-date with reports</b>					
<b>June</b>	35	23	213	Not provided	Not provided
<b>July</b>	18	12	109	Not provided	Not provided
<b>August</b>	20	10.5	79	Not provided	Not provided

(Hours are approximate)

Mr. Babel reported there will be a fire expo display of equipment from 7:00 p.m. to 9:00 p.m. on Thursday, October 8, 2015 at the Coventry Mall. All are invited to attend.

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

**C.O.G.**—No report.

**Engineering**—Bursich Associates provided a written Engineers' Report updating the Board on various projects and activities going on in the Township. Scott Exley reported Spring Valley Farms is on tonight's agenda and the Act 209 Study is on schedule.

**Treasurer**—Ms. Marsteller presented the Tax Collector's Monthly Report to Taxing Districts for the month of September 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. As announced earlier during the meeting, he discussed two litigation matters with the Board in executive session. The Solicitor's office prepared a suggested Preliminary Plan Resolution for Spring Valley Farms, which is on tonight's agenda for consideration by the Board.

Commissioner Foltz asked for an update on the Citgo Station. Solicitor Brant advised we have been following the model of North Coventry and attempting to get to a point where the Citgo Station will be dismantled and taken down. It is taking some time to get to this point and ultimately there would be a tri-party agreement between the record owner, Lower Pottsgrove Township and North End Shopping Center, who would be interested in helping with the cost of demolition. Solicitor Brant said we still need to resolve some environmental matters and title matters. According to the developer who assisted at the North Coventry site, it took 5 or 6 years to get to the point where it was resolved. The Solicitor's office is working its best to get this resolved.

### **Parks and Recreation**

**13<sup>th</sup> Annual Fall Festival**—Mr. Wagner reported the Fall Festival will take place on Saturday, October 24, 2015 starting at 10:00 a.m. The event will be held at the K-Mart parking lot and is in conjunction with the Police and Fire Departments' Community Day. Mr. Wagner recognized the efforts of Katie Smith and the Park Board on this project.

### **Pottstown Metropolitan Regional Planning Commission**

Mr. Wagner reported the Pottstown Metropolitan Regional Planning Commission meeting was held on September 23, 2015. The Commission discussed the Circuit Rider Grant Program and reviewed Justin Keller's first year as Regional Recreation Coordinator.

Mr. Wagner advised the Township needs to replace its commissioner representative on Regional Planning.

### **Lower Pottsgrove Township Authority**

Mr. Wagner reported the Authority members were notified via email from Kathy Kurtas that Jim Krynski lost his battle with cancer. Mr. Krynski served on the Authority from 2012 to 2014 and we gave a donation.

Mr. Wagner reported we received all the Pottstown Borough estimates for general operations and capital expenditures for 2016. Estimates will be reviewed and Mr. Wagner hopes to have a draft budget to Authority members next week.

### **NEW BUSINESS:**

**2014 Auditor Report**—Ron Minninger of Dreslin and Company explained and reviewed the audits for Lower Pottsgrove Township and the Lower Pottsgrove Tax Collector. Mr. Minninger thanked Ed Wagner and Michele Christman for being professional and responsive.

### **CORRESPONDENCE AND INFORMATION:**

None.

### **SUBDIVISION AND LAND DEVELOPMENT:**

**Resolution No. 1079-15, #2015-02 Spring Valley Farms II**—Bernadette Kearney from Hamburg Rubin and Rolph Graf of Graf Engineering were present at the meeting.

Ms. Kearney said her office reviewed Resolution No. 1079-15 and is in agreement with it; they did not see any changes that were needed.

Mr. Graf was present on behalf of 1934 Bleim Road Associates or Bleim Road Partners. He delivered a presentation on the Spring Valley Farms II proposed plan to construct 178 homes on 143.67 acres along Bleim Road in the R-1 Residential District with Preservation Subdivision District Overlay. He was seeking preliminary plan approval from the Board of Commissioners for this plan.

Mr. Graf said the road system is private and it is not being offered to Lower Pottsgrove Township for dedication. A homeowners association (HOA) will be created as part of this development and it will take care of the roads, curbing, stormwater management, detention basin, etc. The only exception is the sanitary sewer system. The centralized public sewer system will be offered to the Pottstown Borough Authority for dedication.

Mr. Graf explained preliminary approval will allow the project to move into the permitting phase. They still have to go to outside agencies such as PennDOT, Montgomery County Conservation District and the Pottstown Borough Water Authority before the project is ready to go to construction.

Mr. Graf said the developer is seeking a conditional approval and 7 waivers are being requested. Commissioner Foltz asked Mr. Graf to explain the waivers.

**1. Waiver to go from 100 feet to 80 feet for straight approaches at intersections on a private street.**

The ordinance requires 100 feet minimum straight distance as you approach an intersection. There are 2 areas with less than 100 feet distance and those areas are approximately 80 feet distance.

**2. Waiver to use plastic instead of reinforced concrete storm sewer piping.**

Mr. Graf advised the Township requires reinforced concrete pipe and, more recently, people are using the HDPE plastic or ADS type pipe. The applicant is requesting a waiver to use ADS pipe and said it is now allowed by PennDOT.

**3. Waiver for street trees.**

Mr. Graf explained the trees in the proposed development are between the curb and the sidewalk, similar to a borough, instead of the being on the outside of the right of way. He used the Borough of Pottstown as an example and said this is in keeping with the village-type character of the development. The applicant is requesting a waiver for street trees to be planted within the right of way.

Commissioner Foltz said the Board had concerns. There was extensive discussion on this waiver request:

- Commissioner Foltz said when trees are planted too close to the curb, they can interfere with fire trucks and trash trucks coming into the development. He also was concerned about the trees rooting up the sidewalk and curbing. Mr. Graf said a lot depends on the type of trees that are used and suggested columnar trees with a deep-root system, as opposed to shallow-rooted trees. Street widths were increased to 28 ft. wide to address concerns brought up by the Fire Marshal.

- Mr. Wagner advised the Preservation Subdivision District requires that the Board of Commissioners has to authorize this waiver. He said the Planning Commission did not like the species of trees Mr. Graf chose for the development.
- Commissioner Foltz asked if there is enough frontage to have the trees moved back. Mr. Graf said the front yards are approximately 20 to 25 feet so the street trees would take up quite a bit of the front yard.
- Commissioner Klotz pointed out the sidewalks are broken up in Pottstown's shopping district. He asked if Mr. Graf was thinking of using the same types of trees or something different. Mr. Graf said the trees they used in the original proposal raised concerns with the Planning Commission and Mr. Wagner. They agreed to go back and look at those trees again and to consider trees that are even more columnar and deep rooted.
- A big concern for Commissioner Klotz was the shale in this area. He did not know if there are trees that are deep-rooted enough to prevent the sidewalks from breaking up. Mr. Graf asked the Board to consider these will be private streets, so the curbs and sidewalks would be their responsibility, it would not be a municipal issue. Commissioner Klotz said it is still a planning issue and he would not put a stamp on a street tree that he did not think would work.
- Commissioner Foltz asked if the developer would consider having decorative lighting along the sidewalk and curbing instead of trees. Mr. Graf said that's not going to achieve what they are trying to achieve for this project. He said if you (the Board) tell me the trees need to be outside the right of way, we will move them to outside the right of way.

**4. Waiver for curbing.**

Mr. Graf advised Lower Pottsgrove's ordinance requires concrete curb. They are requesting a waiver to use Belgian block curbing. He explained Belgian Block curbing provides the same structural integrity as concrete curbing.

**5. Waiver from 200 foot clear sight distance in both directions at all intersections for new residential streets.**

Mr. Graf advised there are problems with meeting the 200 foot clear sight distance at two locations. They felt the waiver was appropriate because the smaller, privately owned streets will have a reduced speed limit of 15 mph.

**6. Waiver from minimum 30-foot wide cartway for proposed residential streets.**

Mr. Graf explained per the Preservation Subdivision Ordinance, the applicant was permitted to go down to a 26-foot cartway width. To allow parking on one side, the applicant is proposing a cartway width of 28 feet. According to Lower Pottsgrove's Subdivision and Land Development Ordinance, the minimum street width is 30 feet; therefore, the applicant is seeking a waiver for the proposed 28-foot cartway width.

**7. Waiver from requirement to plant street trees at a ratio of one tree per 50 lineal feet of street frontage.**

Mr. Graf advised 53 street trees could not fit along the proposed streets, but are being proposed internal to the development. They are requesting a partial waiver to allow street trees to be planted elsewhere in the project. They are not asking for a waiver in quantity; they are asking for a waiver of location.

Mr. Graf said they used the street names from the prior development but they can change the names.

Mr. Graf said there is another provision in the ordinance that says the Board could require an illumination study of the entire development to see where the foot candles are at different locations. He said they see this more for retail developments. Mr. Camburn advised the Planning Commission did not support an illumination study. Commissioner Foltz was concerned because the Township ran into a problem with a development in the past involving foot candles.

Mr. Camburn advised the streetlights at intersections are for aesthetics or to mark the location of the intersection. He said there are no real requirements for the developer to meet; they can put the streetlights where they want them unless the Board tells them otherwise. Mr. Exley said it is a different zoning than what we encountered in the past; before it was a requirement, it is not a requirement in this situation unless the Board wants it to be.

Commissioner Swavely asked how the 15 mph speed limit would be enforced. He was concerned that Chief Foltz would have to field complaint calls, and asked how the HOA will deal with violators since the Township has no authority. Mr. Graf said they have to post the 15 mph and it absolutely becomes an enforcement issue for the HOA. The HOA has to maintain the rules and they have the tools to do that with their Association documents.

Commissioner Swavely was also concerned because the site distances and reaction time are built around a 15 mph speed limit. If someone is driving 40 to 50 mph, it becomes a great safety issue. Mr. Graf's opinion is that the streets are designed safely for a 25 mph and dropping it down to 15 mph is an added measure of security. He said if people are doing 40 mph, there would be a problem.

Commissioner Klotz asked for details about the Belgian Block curbing. Mr. Graf said the Belgian Block curbing will have a concrete foundation that would go down approximately 10 inches.

Commissioner Klotz had questions about the species and placement of trees discussed in Waiver #7. Mr. Graf said the trees used internally in the development would be street tree species but there would be different trees for those uses. For example, trees in the storm water management basins would be different than those used as street trees. Commissioner Klotz's concerns were once the waiver is granted, inferior trees would be planted throughout the development because they would be in areas where you would not see them. Mr. Graf said the Township has criteria within the ordinance and there will be escrow money posted for the installation of trees to make sure they are in compliance with the plan.

Mr. Wagner said Planning Commission member Bill Wolfgang had concerns regarding existing trees on Pleasant View Road, between the curve at the Saylor property and Sanatoga Road. He did not think those trees would provide a sufficient buffer and he would like to see some of the trees mentioned in Waiver #7 planted in that area.

**PUBLIC COMMENTS:**

Tom Troutman would like to see some access for the children living in the development to get to Gerald Richards Park without walking down Pleasant View Road. He asked if there was an easement for the sewer line. Mr. Graf said yes, there is a utility easement but it does not provide access. Mr. Wagner said when the Saylor tract is developed there is 52 foot wide easement that would provide access to Deer Ridge.

Tony Doyle said it seems like we are cutting things down and asked what happened once the developer leaves and the HOA is in charge. Mr. Graf said the waivers they are requesting do not compromise quality and workmanship. He said homeowners associations have come a long way and they can enforce their own regulations and future maintenance requirements.

Mr. Doyle was concerned about the 15 mph being too slow for drivers to maintain. He asked if they can raise the speed limit later. Mr. Graf said 15 mph is what the developer is proposing for the speed limit and there is no real opportunity for the residents to come back and change it. He said there are traffic calming effects built into the development to slow speed down.

Joe Zlomek asked if the HOA is going to employ a security force. Mr. Graf was not aware that they would. Ms. Kearney said a professional management company would respond to complaints and they have the right to issue fines. Mr. Zlomek asked since this is a private community, does that restrict law enforcement from entering. Chief Foltz said the police have limited enforcement of traffic and parking violations and things of that nature. However, if a criminal act is involved, a violation of the Pennsylvania Crimes Code, the Police Department has authority.

Solicitor Brant prepared a resolution of preliminary plan approval. The resolution contemplates that this project will be developed in phases and each phase would then come before the Board for final plan approval. Preliminary plan approval establishes the layout, the engineering is completed and nothing can be changed on the plan. The Board will have the opportunity to see the plan as it comes through phase by phase.

The Solicitor advised the preliminary plan resolution has conditions of approval, all of which require compliance with the various review letters that were set forth by the reviewing agencies. He advised if the Board adopts the resolution, it would be granting the waivers that were requested and explained by the engineer.

Commissioner Foltz asked if the Board approves the resolution, would the waiver be granted to allow the trees between the curb and sidewalk. Solicitor Brant said he did not know about this issue when the resolution was prepared. He proposed adding the following language to the resolution: "Except that all street trees be placed outside of the right-of-way in the front yards of the houses and not bet the curbs and sidewalks." Commissioner Klotz thought it should be worked out before the Board grants preliminary plan approval because he does not know the species of location of the trees. Mr. Graf said they have a detailed landscaped plan that shows all

the proposed trees and their locations but some of them may not be an appropriate species based on the landscape review and require a change. Mr. Graf said if it is the Board's preference to move the trees outside the right-of-way, the developer is willing to agree to that and move forward.

Commissioner Swavely asked if language included on the last page of Resolution No. 1079-15 would cover the Township should we run into an issue with trees or whatever it may be. Solicitor Brant said the issue that came up with the trees would be something that needs to be dealt with in this resolution and it's the Board's call on how it should be handled. Commissioner Foltz polled the Commissioners and they had no concerns about the other waivers. Regarding Waiver #7, it was the consensus of the Board that the trees should be moved.

Commissioner Vlahos made a motion to adopt Resolution No. 1079-15, granting preliminary approval of a subdivision and land development plan called Spring Valley Farms, with the following language added to the resolution: "Except that all street trees be placed outside of the right-of-way in the front yards of the houses and not bet the curbs and sidewalks." Commissioner Swavely seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

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

**Advertisement of Ordinance No. 321**—Commissioner Klotz made a motion to advertise Ordinance No. 321, establishing the speed limit of 35 mph for the entire length of Industrial Highway. Commissioner Vlahos seconded the motion and it was unanimously approved. Vote was 4-0 in favor.

**Resolution No. 1079-15**—See **SUBDIVISION AND LAND DEVELOPMENT**.

**Warrant #841** for the month of September 2015 will be provided to the Board for its review.

#### **COMMISSIONERS COMMENTS:**

**Commissioner Vlahos** and **Commissioner Swavely** had no comments. **Commissioner Klotz** asked what the hold-up was with paving Buchert Road. Mr. Wagner said once they are finished milling Buchert Road and Pleasant View Road, they will begin with the paving. He said the rain held up the project and he will follow up with PennDOT. **Commissioner Foltz** had no comments.

**Mr. Wagner** and **Solicitor Brant** had no comments.

The next regularly scheduled Board of Commissioners meeting will be held on Thursday, October 22, 2015 at 7:00 p.m. There being no further business, the public meeting was adjourned at 8:12 p.m.

Respectfully submitted,



Michele M. Cappelletti  
Secretary