

UWCHLAN TOWNSHIP BOARD OF SUPERVISORS

MINUTES OF REGULAR MEETING

SEPTEMBER 14, 2009

The meeting was called to order at 7:30 p.m. by Chairman Joseph E. Toner and the Pledge of Allegiance was recited.

Present: Supervisors: Joseph E. Toner, Frederick W. Gaines and Milton H. Bozarth; Township Manager Doug Hanley; Building/Zoning Officer Tom Cooke; Township Treasurer Sue Bernhard; Township Solicitor Guy Donatelli and Police Chief Pontarelli.

Absent: Township Secretary Lynda Phiel and Fire Marshal Mike Holmes.

Minutes: Mr. Gaines made a motion to approve the minutes of August 10, 2009 and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

BUSINESS:

REPORTS:

Police: Chief Pontarelli reported that there were 259 traffic citations, 24 criminal arrests and 15 traffic accidents during the month of August.

Also, Officers Fortmann, McBride and Scott received individual Letters of Commendation for their response to a report of drug sales at the Wawa store on W. Uwchlan Ave., which led to the arrest of two suspects.

Treasurer: Ms. Bernhard has submitted her report for the month of August. The following is a list of revenues and expenses:

<u>Fund</u>	<u>Revenues</u>	<u>Expenses</u>
General	\$828,592.94	\$554,662.73
Hydrant	163.02	7,974.00
Sewer	234,967.07	215,844.18

Ms. Bernhard reported that for the month of August, the Township has collected approximately 71% of its budgeted revenues and spent about 61% of its budgeted expenditures.

Road Department: Mr. Hanley reported that for the month of August the Road Department cut brush and tree limbs along roadways; repaired catch basins on Norwood Rd., Williamsburg Blvd., and Shelmire Rd.; repaired and replaced signs; installed a swale and head wall on Philips Rd.; and performed State inspections and vehicle maintenance.

Sanitation Department: Mr. Hanley reported that for the month of August:

Daily Average Flow	
Downingtown	1.54 million gpd

There were no new sewer connections at either plant.

The Township has received 8.47 inches of precipitation during the month of August. Year-to-date, there is a surplus of 3.23 inches.

Also noted, due to the wet conditions prevailing at the tot lot behind Target, additional ground drainage work was required. This work was completed last week.

Fire Marshal: Mr. Hanley reported that Mr. Holmes answered 16 fire calls during the month of August, 9 of which were during work hours; spent 12 hours of work time handling Fire Department activity; conducted fire inspections of commercial buildings; and reviewed plans for commercial buildings and inspected those under construction.

Lionville Fire Co.: Mr. Hanley reported that the Fire Company answered 44 alarms during the month of August, 23 of which were in Uwchlan Township.

Also, the Fire Company will hold their annual Open House on Wednesday, October 7th from 6:00 p.m. until 8:00 p.m.

Uwchlan Ambulance Corps: Mr. Toolan reported that the Ambulance Corps responded to 195 calls during the month of August, 64 of which were in Uwchlan Township.

Mr. Toolan also announced that there will be a Municipal Relations meeting on September 22nd when they will discuss the change from a membership driven Corps to a community driven Corps.

Mr. Gaines made a motion to accept the Reports as submitted and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

Eagleview Blvd. and Deep Willow Dr.: Road Bid Recommendation

1. Deep Willow Dr.: The Township has received and opened 6 bids ranging in cost from \$519,334 to \$987,782.50, the lowest being Charlestown Paving. Township Engineers, E.B. Walsh, have recommended the Township accept Charlestown Paving as the lowest, qualified bidder.
2. Eagleview Blvd.: The Township has received and opened 3 bids ranging in cost from \$550,755 to \$943,123.05, the lowest being Reading Site Contractors (Haines Kibblehouse). Township Engineers, E.B. Walsh, have recommended the Township accept Reading Site Contractors as the lowest, qualified bidder.

Mr. Gaines made a motion to award the bids as outlined by Mr. Hanley and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

Work is expected to begin next week. Money for this project will be from the Township's reserve fund.

Ordinances: A Court Reporter was present during discussion of the following Ordinances. For full account, see Transcript.

1. No. 2009-03: Amends PCID

This Ordinance amends the provisions of certain sections of the Zoning Ordinance such as building types, minimum parking requirements, building lengths, and adds definitions of age restricted apartment and subsidized elderly apartment units in the PCID.

Mr. Gaines made a motion to adopt Ordinance No. 2009-03 as discussed and Mr. Bozarth seconded. Mr. Toner asked for public comment. There being none, the motion was carried.

2. No. 2009-04: Adopts Ordinances Codification
3. No. 2009-05: Adopts Revised Zoning Map

This item was tabled by Mr. Donatelli because both need to be sent out to neighboring municipalities for comment. Comments can be received up to 45 days after mailing.

Mr. Bozarth asked if the Township could adopt the Ordinance Codification now and the map at a

later date, after comments have been received. Mr. Donatelli explained that they need to be done in tandem.

The time period falls between October 20th and November 3rd. Adoption will be advertised for October 22, 2009 at 9:00 a.m.

The Court Reporter suspended her transcription, which was restarted for the Hankin Conditional Use Hearing below.

4. No. 2009-06: Amends Ordinance No. 1985-11 by Requiring Homeowners to Remove Trees/Limbs in Rights-of-way that Pose a Risk of Harm to the Public

Mr. Gaines made a motion to adopt Ordinance No. 2009-06 and Mr. Bozarth seconded. Mr. Toner asked for public comment. There being none, the motion was carried.

John Ganski, 116 Lakeview Dr., asked if this Ordinance covers bushes encroaching on sidewalks. Mr. Donatelli said, "No", it covers dangerous situations such as dead tree limbs overhanging roadways.

Conditional Use Hearing Decisions:

1. Morphotek - 213, 215 & 217 Welsh Pool Rd.:

Mr. Donatelli has drafted the Conditional Use Decision that would allow Morphotek to construct a 61,200 s.f. building on three existing lots which will be merged to form one lot located along Welsh Pool Rd. Some of the Conditions are listed below but are not limited to:

- A. Applicant shall install 142 parking spaces.
- B. Applicant shall submit an application for Preliminary and Final Land Development approval for development of the property. The application for Preliminary and Final Land Development approval shall be consistent with the testimony provided at the Hearing as well as with all the exhibits introduced during and review letters provided at the Hearing. Except as may be modified by the Conditions herein, review and approval of said application shall be in accordance with all of the otherwise applicable standards, specifications and regulations of Uwchlan Township and all other agencies with jurisdiction over any aspect thereof.
- C. Applicant shall use its best efforts to extinguish the cross-easement agreement(s) which currently encumber the Property. Irrespective of whether Applicant is successful in having the cross-easement(s) extinguished, the Applicant shall install separate driveways and parking, the configuration of which will be determined during Land Development.
- D. Exterior caged areas where waste will be stored shall be secure with details determined in Land Development.
- E. In lieu of the Fiscal Impact Study per Township Zoning Ordinance Section 806.4.f(2), Applicant will contribute, and agrees to contribute, the sum of \$13,818.80 as an unrestricted contribution.
- F. All chemicals shall be stored in proper vessels and in non-flammable cabinets.
- G. Contemporaneously with the recording of the Final Land Development plan, the Applicant shall record against the Property a restrictive covenant, in form and

substance satisfactory to the Township Solicitor, prohibiting the use of the Property for the manufacture, display, sale and/or distribution of drug paraphernalia.

Mr. Gaines made a motion to approve the Decision & Order for Morphotek and Mr. Bozarth seconded. Mr. Toner asked for public comment. There being none, the motion was carried.

2. Hankin Group: Elderly Housing in Eagleview Town Center

The Hearing that began on August 10, 2009 was reopened to hear any additional testimony. There was no additional evidence presented so the Hearing was closed.

Mr. Donatelli has drafted the Conditional Use Decision that would allow the Hankin Group to add senior citizen housing to the Eagleview Town Center, consisting of 50 subsidized elderly apartments and 160 age restricted market rate apartments but denies the application for the requested 20% reduction in the required parking spaces subject to the strict and complete compliance with the Conditions listed below but are not limited to:

- A. The approvals are based on the successful construction of the subsidized elderly housing apartment complex, containing 50 units of the same caliber and function as the existing Potter Building and have the same rents, means-tests and subsidies. This building must be permitted and under construction prior to application for building permits for the 160 unit age restricted market rate apartment complex, and must be completed prior to or contemporaneously with the 160 unit age restricted market rate apartment complex. The Board finds that the absence of the subsidized elderly apartment building would severely undermine the entire project and the Board's reasons for the approvals herein and would not be in the best interest of the Township and its residents. Accordingly, if the Applicant fails to construct the subsidized elderly housing apartment complex first, Applicant's entire request for Conditional Use approval is denied and no further construction or progress on the project shall be allowed.
- B. The 50 unit subsidized elderly apartment building and the 160 unit age restricted market rate apartment complex shall carry deed restrictions that restricts their use to that which is described in the definition of each use (Paragraph 10 of the Finding of Fact) in the Zoning Ordinance.
- C. A designated parking plan shall be made part of the new Land Development Plan and shall depict the appropriate parking locations for the Potter Building, the 50 unit subsidized elderly apartment building and the 160 unit age restricted market rate apartment complex. All spaces required for the Potter Building and the 50 unit subsidized elderly apartment building shall be marked as such and strictly enforced.
- D. Applicant shall create a "Parking Authority" for the Town Center made up of owners and tenants of the Potter Building, the 50 unit subsidized elderly apartment building, the 160 unit age restricted market rate apartment complex, the tenants of the stores within the Town Center, and the owners of the condominiums already in the Town Center that will enforce the parking requirements pursuant to all plan approvals and Restrictive Covenants. In the event that the Authority is remiss in enforcement, the Township will have the right but not the obligation to enforce the parking laws and Ordinances. The Applicant shall provide to the Township the right to enforce parking and traffic regulations within the limits of the Town Center.
- E. Applicant shall develop the plans for the approved accessory restaurant to be placed in the 160 unit age restricted market rate apartment complex during the

Land Development process.

- F. Applicant shall submit a Fiscal Impact Study at the Land Development stage or in lieu of make an unrestricted contribution satisfactory to the Township to offset the Impact of the pending development.
- G. Applicant shall comply with all comments and recommendations set forth in correspondence of E.B. Walsh & Associates (Exhibit B-5), Gannett Fleming (Exhibit B-6), Fire Marshal (Exhibit B-7), Township Police Department (Exhibit B-8), and Planning Commission minutes (Exhibit B-9).
- H. A revised Home Owners/Property Owners' document that adds these two new uses shall be submitted during Land Development for approval by the Township Solicitor.

Mr. Bozarth made a motion to accept the Decision & Order as presented and Mr. Gaines seconded. Mr. Toner asked for public comment. There being none, the motion was carried.

Township and UTMA Mutual Agreements:

1. First Amendment to the 1993 Contract and Lease Agreement to allow the UTMA to operate the sewers in Upper Uwchlan Township
2. Service Agreement providing the Township with the authority to do billing, maintenance and administrative work for UTMA in the Upper Uwchlan sewer system
3. Bulk Rate Discount Agreement which permits the Township to provide a 60% bulk rate discount to UTMA for Upper Uwchlan sewer treatment

These three documents provide legal arrangements for sewer service to Upper Uwchlan Township customers.

Mr. Gaines made a motion to approve all three agreements and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

Resolution No. 2009-29: Establishing the Minimum Municipal Obligations for the Township's Two Pension Plans for 2010

Mr. Gaines made a motion to adopt Resolution No. 2009-29 and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

Board of Supervisors Meeting Date Change from Monday, 10/12 to Tuesday, 10/13:

Due to the Columbus Day holiday, Mr. Gaines made a motion to change the Board's meeting date from October 12th to October 13th and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

PennDOT Five Year Winter Traffic Services Agreement:

Every 5 years the Township renews the service agreement with PennDOT to snowplow portions of Dowlin Forge Rd., Worthington Rd., Newcomen Rd. and Pine Creek Rd. PennDOT reimburses the Township in the amount of \$4,100.

Mr. Gaines made a motion to approve the 5yr. Service Agreement and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

Downingtown High School East Campus: Request for Bonfire on 10/08

Downingtown High School's Student Council has requested permission to have a bonfire on October 8, 2009. The Fire Company and Police Department have no problem with this event.

Mr. Gaines made a motion to allow the bonfire and Mr. Bozarth seconded the motion. Mr. Toner asked for public comment. There being none, the motion was carried.

Calvary Chapel of Chester Springs: Request for a Conditional Use Hearing Date

In the past, Calvary Chapel received Conditional Use approval for a 1-story church structure. They now would like to add a 2nd floor to their Phase II expansion which was approved to be one story. The square footage of the building will be increased by this proposed expansion.

The Hearing was scheduled for October 13, 2009.

Proposed Alternative Energy Ordinance No. 2009-07:

This Ordinance will be advertised for adoption at the next Board meeting.

ANNOUNCEMENTS:

1. 9/16 - Zoning Hearing Board - 7:00 p.m. - Decision - 707 Dover Court Place
2. 9/28 - Board of Supervisors - 7:30 p.m. - Cancelled
3. 10/05 - Park & Recreation Board - 7:30 p.m.
4. 10/07 - Planning Commission - 7:30 p.m.
5. 10/08 - Historical Commission - 7:30 p.m. @ Cadwalader House

OPEN TO THE PUBLIC FOR QUESTIONS AND COMMENTS

Chief Pontarelli announced that the YMCA will be holding a Triathlon on Saturday, October 10th.

Lisa Compton, 207 Severgn Dr., asked that the Township Park Rules and Regulations be changed to delete the "No firearms allowed" since it is in violation of the right to bear arms. If left on the sign, the Township could be open to lawsuits.

Mr. Toner thanked her for bringing this to the Board's attention. It is a legitimate concern. Mr. Donatelli assured her that the Township will look into changing the signs as quickly as possible without destroying the sign completely since these signs were recently redone.

Peg McCorry, 901 Welsh Ayres Way, asked the procedure for dealing with the County tax office regarding open space/common ground in the Welsh Ayres community. The Homeowners Association has received a delinquent tax bill for 2 parcels which should be non-taxable.

Mr. Donatelli explained that he is working with the County Assessors office on resolving this issue.

Mrs. McCorry also asked about the status of the possibility of re-opening Milford Rd. She checks back periodically on this issue. Mr. Hanley stated that the Engineer has looked at the situation but since there was no immediate need to re-open Milford, the idea was dropped. Mrs. McCorry stated that she wants the issue revisited; she feels there is a definite need for the road to be re-opened.

Mr. Toner announced that immediately following the meeting, they will be holding an Executive Session to discuss pending legal issues.

There being no other business, Mr. Gaines made a motion to adjourn the meeting at 8:30 p.m. Mr. Bozarth seconded and the motion was carried.

Respectfully submitted,

Doug Hanley
Township Manager

/jc