

## MINUTES

Upper Saucon Township Board of Supervisors  
Regular Meeting  
Monday, July 18, 2011 – 6:00 P.M.  
Township Municipal Building

Members Present: Miro A. Gutzmirtl, Chairman  
Stephen Wagner, Vice Chairman  
Joseph M. Horvath  
John E. Gilda, Jr.  
Joaquim “Jack” DeMatos

Staff Attending: Thomas F. Beil, Township Manager  
Robert E. Kassel, Jr., Asst. Township Manager  
Dennis Harman, P.E., Township Engineer  
Jeffrey Dimmich, Township Solicitor

### **CALL TO ORDER**

Chairman Gutzmirtl called the meeting to order at 6:00 p.m., in the Public Meeting Room of the Upper Saucon Township Municipal Building, 5500 Camp Meeting Road, Upper Saucon Township, Lehigh County, PA.

### **PLEDGE OF ALLEGIANCE**

Chairman Gutzmirtl asked all in attendance to stand and recite the “Pledge of Allegiance.”

### **PUBLIC COMMENT**

Stephen De Franco of Nazareth and Eugene Noel of Bachman Street, Hellertown – Messrs. De Franco and Noel asked the Board to adopt a resolution supporting HR 1489, “The Return To Prudent Banking Act” a bill introduced in Congress by Representative Marcy Kaptur. The Board will take the suggestion under advisement.

Margaret Steininger - 4220 W. Hopewell Road – Ms. Steininger asked the Board to waive late payment penalties on her water and sewer utility bills. Ms. Steininger contended that she never received the bills in the mail. Mr. Beil responded that he had reviewed the situation and the penalty charges would be waived.

### **CHAIRMAN’S REMARKS**

Chairman Gutzmirtl thanked Don Eck, Superintendent of Roads, for his efforts in making the Rails-to-Trails Project such a success. Chairman Gutzmirtl said he inadvertently forgot to thank Mr. Eck at the Rails to Trails ribbon cutting ceremony on June 11, 2011.

**PRESENTATION BY LARRY SHAUB OF REINSEL KUNTZ LESHER LP – 2010  
ANNUAL AUDIT OF TOWNSHIP ACCOUNTS**

Larry Shaub of Reinsel Kuntz Leshner LP provided an overview of the 2010 Annual Audit of Township accounts. The complete audit report is on file in the Township Manager's office. The Board directed Messrs. Beil and Kassel to devise a plan to address the auditor's internal control comments and to present this plan to the Administration & Finance Committee.

**PRESENTATION BY PETER STAFFELD AND PATRICK LEONARD – FINAL REPORT  
TO BOARD OF SUPERVISORS OUTLINING THE RECOMMENDATIONS OF THE  
OPEN SPACE STUDY COMMITTEE ON MATTERS RELATING TO THE  
PRESERVATION AND PROTECTION OF OPEN SPACE IN THE TOWNSHIP**

Mr. Staffeld said the Open Space Study Committee was asked to investigate various options for funding the Township's Open Space Program. After a series of public meetings and much discussion, the Committee issued a final report outlining its findings and recommendations which were based upon a feasibility study conducted by The Trust For Public Land and a public opinion survey of 300 likely voters. Messrs. Staffeld and Leonard reviewed the Committee's findings and recommendations, highlighting the following items:

Timing- An open space ballot measure may be feasible on the November 2012 ballot. The Committee recommends additional polling in early 2012 to gauge this.

Source/Amount- Voters favor an increase in the Earned Income Tax over a bond measure. Based upon the polling, there is little difference in support between an Earned Income Tax increase of 0.10% and 0.05%.

Duration- The inclusion of a ten-year sunset on an increase in the Earned Income Tax did not impact voter support for a ballot measure and so the Committee does not recommend including a sunset provision. This would allow for the option of issuing revenue bonds backed by earned income tax revenues generated through a ballot measure.

Purposes- The top uses for funds supported by voters polled included:

- Protect drinking water sources
- Protect water quality in rivers, lakes and streams
- Preserve farmland
- Preserve natural areas
- Preserve open space

Based upon these findings, the Committee recommends including these purposes in the ballot measure.

Accountability Measures- A large margin of voters are more likely to support a ballot measure if they knew that, 1) a citizens advisory committee would guide the Township in their decision-making, 2) there would be an annual independent audit of how funds are spent, 3) land would be purchased on a strictly voluntary basis from willing landowners, 4) the public would have access to lands purchased, and 5) funds raised locally would be matched. The Committee

recommends highlighting these accountability measures in the program design and ballot language.

Ballot Language- The Committee recommends the following ballot language based upon the polling and best practices:

Upper Saucon Township Water and Land Conservation Referendum

*"Do you favor the imposition of an additional Earned Income Tax at the rate of one-tenth of one percent (0.10%) by Upper Saucon Township to be used for the purpose of acquiring lands or interests in lands to protect drinking water sources and water quality, and to preserve farmland, natural areas and other open spaces, with oversight by a citizen advisory committee and an annual public audit of expenditures"?*

Educational Program- In the interim, the Committee recommends an educational program to better inform residents about open space preservation issues in Upper Saucon Township, including past preservation accomplishments, priorities and needs for future preservation, and the economic and other benefits of land preservation. This educational program might include articles in the Township Newsletter and public meetings or events.

The Board thanked Messrs. Staffeld and Leonard and the other members of the Committee for their service to the Township in this regard.

**SUBDIVISIONS & LAND DEVELOPMENTS**

None

**ORDINANCES**

None

**MINUTES**

Motion made by Mr. Wagner and seconded by Mr. Horvath to approve the minutes of the regular meeting of May 16, 2011.

The motion was approved by a vote of 5 to 0.

Motion made by Mr. Gilda and seconded by Mr. Horvath to approve the minutes of the regular meeting of June 6, 2011.

The motion was approved by a vote of 5 to 0.

**COMMITTEE REPORTS**

None

## **RESOLUTIONS**

### **Resolution No. 2011-21 - Appointment of Delegate and Alternate Delegates to the Lehigh County Tax Collection Committee**

Motion made by Mr. DeMatos and seconded by Mr. Horvath to adopt Resolution No. 2011-21 appointing delegates to the Lehigh County Tax Collection Committee to represent Upper Saucon Township.

The motion was approved by a vote of 5 to 0.

## **MOTIONS**

### **Request For Payment – Barry J. Hoffman, Inc. – Certification No. 4**

Motion made by Mr. Horvath and seconded by Mr. Gilda to authorize payment in the amount of \$9,000.00 to Barry J. Hoffman, Inc., for work completed on the grit handling system at the Sewage Treatment Plant.

The motion was approved by a vote of 5 to 0.

### **Request For Payment – Barry J. Hoffman, Inc. – Certification No. 5**

Motion made by Mr. Horvath and seconded by Mr. DeMatos to authorize payment in the amount of \$4,258.00 to Barry J. Hoffman, Inc., for electrical work completed on the Colonial Crest water supply well and the zinc mine water blending station.

The motion was approved by a vote of 5 to 0.

### **Request For Payment – Imperial Excavating and Paving, LLC – Certification No. 7**

Motion made by Mr. Wagner and seconded by Mr. Gilda to authorize payment in the amount of \$8,469.62 to Imperial Excavating and Paving, LLC for water system improvements at Stabler Corporate Center, Jared Drive and Main Street.

The motion was approved by a vote of 5 to 0.

### **Designate Date And Time For Upper Saucon Township Trick Or Treat**

Motion made by Mr. Wagner and seconded by Mr. Horvath to designate Friday, October 28, 2011 from 6:00 pm to 8:00 pm as Upper Saucon Township Trick or Treat.

The motion was approved by a vote of 5 to 0.

Motion made by Mr. Horvath and seconded by Mr. Wagner to designate Saturday, October 29, 2011 from 6:00 pm to 8:00 pm as the rain-date for Upper Saucon Township Trick or Treat and to authorize the Township Manager to make the final determination as to whether Trick or Treat will be rescheduled to the rain-date.

The motion was approved by a vote of 5 to 0.

## CORRESPONDENCE AND INFORMATION ITEMS

None

## DIRECTION/DISCUSSION ITEMS

### Storm Youth Football – Request to create a football field in the outfield of the large baseball field (Field #7) at Township Park

Bill Schaninger presented changes to the football field layout. It was the consensus of the Board to approve Storm's most recent proposal to create an 80 yard football field in the outfield on the large baseball field (Field #7) at the park. The most recent proposal addresses safety considerations identified by the Board at its June 6, 2011 meeting. Mr. Schaninger indicated that the field would be used for "B" games where younger players will be in competition.

### Director of Water/Sewer Resources

It was the consensus of the Board to approve the job description and timeline to hire a replacement for Dan Stahlnecker, Superintendent of Water/Sewer. The Board agreed with Mr. Beil that it would be in the best interest of the Township if Mr. Stahlnecker stayed on the job for at least an additional six (6) months to train his replacement. Mr. Beil indicated that there would need to be additional funds allocated in the 2012 budget to account for the overlap. Mr. DeMatos expressed concern that the Township could expend funds to train the new hire who might then decide to leave the Township for a better opportunity. Solicitor Dimmich suggested that the Township enter into an employment agreement with the new hire which could be written in such a way to address Mr. DeMatos concern by requiring the new hire to repay the Township for training costs if he or she leaves the Township soon after being hired.

### Township Water System Update

Mr. Harman reported that during normal testing, coliform was detected in the Township's water supply. Coliform bacteria are generally not harmful, however, they are considered an indicator that other potentially harmful bacteria may be present. Follow-up testing did not find any harmful bacteria such as fecal coliform or e-coli in the water system. Mr. Harman noted that positive samples could have been the result of more sensitive testing procedures or possibly improper sampling technique. Mr. Gutzmirtl noted that this was the second time in the past year that Township water tested positive for coliform bacteria. Mr. Harman will try to find out what caused the water in the Township's system to test positive for coliform bacteria.

### Repair 1999 Backhoe or Purchase Replacement Backhoe

Mr. Beil informed the Board that the Road Department's 1999 John Deere 710D Backhoe broke down and had to be taken out of service. A discussion ensued concerning whether to repair the backhoe at a cost of \$21,000 or to purchase a new backhoe at a cost of \$144,000. The 1999 backhoe has an estimated value of \$26,000 in its current, inoperative condition. It was noted that the 2011 budget does not include funds to purchase a new backhoe. Dan Guerrero, Assistant Superintendent of Roads, noted that the equipment supplier is willing to accept payment on a new backhoe in January 2012 even though the Township could take possession of the new backhoe in 2011. It was the consensus of the Board to authorize the purchase of a new John Deere 710J Backhoe off the State Contract for an estimated cost of \$144,000 (not taking into account any trade-ins) provided the equipment supplier accepts payment in January 2012 and allows the Township to take possession of the new backhoe in 2011. In addition, the Board authorized trading in the 1999 backhoe in order to receive a \$26,000 credit off the State Contract price of the new

backhoe which would reduce the total purchase price of the new backhoe to \$118,000. Because the 2012 budget will include the purchase of a new backhoe, the Board decided it would not be prudent to purchase a new dump truck in 2012 as scheduled in the 5 year capital plan and the purchase of the new dump truck should be deferred until 2013 or later.

### **BILLS, PAYROLL, AND COMMISSIONS**

Prepaid Invoice List #07182011 dated 07/15/2011 for \$581,321.79

Warrant List #07182011 dated 07/15/2011 for \$313,843.21

Motion made by Mr. Wagner and seconded by Mr. Horvath to authorize the payment of the Prepaid Invoice List and the Warrant List.

The motion was approved by a vote of 5 to 0.

### **PUBLIC HEARING – REQUEST BY EARL AND CAROL AFFLERBACH FOR AN EXEMPTION FROM THE WELL ISOLATION DISTANCE REQUIREMENTS OF 25 PA CODE 73.13**

Earl and Carol Afflerbach request an exemption from the 100 foot minimum distance requirement between an existing private well and a proposed sewage disposal system pursuant to 25 PA Code 73.13 and, if necessary, a waiver from the requirement of 25 PA Code 72.33 (c)(1) that an appropriate groundwater study accompany the written request for that exemption. The Afflerbach's propose to install a replacement on-site sewage disposal system on the property located at 2277 Salem Road. Components of the Afflerbach's on-site sewage disposal system will be located approximately 66.8 feet from an existing well on the Condict property at 2255 Salem Road and approximately 98.2 feet from the Afflerbach well.

Attorney Dimmich introduced the following exhibits into the record:

- Exhibit A: Complete copy of application submitted by Earl and Carol Afflerbach
- Exhibit B: Copy of Public Notice that ran in The Morning Call on Friday, July 8, 2011
- Exhibit C: Photographs of the Public Notice posted on the property at 2277 Salem Road, Coopersburg, PA
- Exhibit D: Figure showing minimum isolation distances
- Exhibit E: Photo copy of 25 Pa. Code 73.13 titled "Minimum Horizontal Isolation Distance"
- Exhibit F: Photo copy of 25 Pa. Code 72.33 titled "Well Isolation Distance Exception"
- Exhibit G: Photo copy of 25 Pa. Code 73.3(b) relating to well isolation distance Exemptions
- Exhibit H: Groundwater Report prepared by Allstate Septic Systems

- Exhibit I: Statistics and calculations for proposed replacement on-site sewage disposal system on property at 2277 Salem Road
- Exhibit J: Features and design specifications for proposed replacement on-site sewage disposal system on property at 2277 Salem Road
- Exhibit K: Existing and proposed site plans for property at 2277 Salem Road

The Afflerbach's hired All State Septic Systems to devise a plan to remedy their failing on-site sewage disposal system. Bruce Fox from All State Septic Systems gave testimony in support of the Afflerbach's request for an exemption from the well isolation distance requirements. Mr. Fox described the nature and extent of the repairs which would have to be made to the Afflerbach's on-site sewage disposal system. Mr. and Mrs. Afflerbach described the problems with their existing on-lot sewage disposal system and agreed the new system would be installed in accordance with the plan prepared by All State Septic Systems.

Newton Condict of 2255 Salem Road gave testimony in support of the Afflerbach's request for an exemption.

Solicitor Dimmich asked if anyone from the public wished to comment on the Afflerbach's request for an exemption. There was no response.

#### Groundwater Study Requirement

Motion made and seconded to accept the report (Exhibit H) prepared by All State Septic Systems as an adequate and appropriate groundwater study pursuant to 25 PA Code 72.3(c)(1).

The motion was approved by a vote of 5 to 0.

#### Exemption from Well Isolation Distance Requirement

Motion made by Mr. Wagner and seconded by Mr. DeMatos to approve the request of Earl and Carol Afflerbach for an exemption from the 100 foot minimum distance requirement set forth in 25 PA Code 73.13 in order to allow a replacement on-site sewage disposal system on the property at 2277 Salem Road to be located approximately 66.8 feet from an existing well on the Condict property at 2255 Salem Road and approximately 98.2 feet from an existing well on the Afflerbach property.

The motion was approved by a vote of 5 to 0.

#### ADDITIONAL BUSINESS

None

#### COURTESY OF THE FLOOR

None

#### EXECUTIVE SESSION

None

**ADJOURNMENT**

Motion made by Mr. Horvath and seconded by Mr. Gilda to adjourn the meeting.

The motion carried by a vote of 5 to 0.

Secretary

