

TOWNSHIP OF UPPER CHICHESTER

July 10, 2014

I. CALL TO ORDER

The regular meeting of the Board of Commissioners was called to order by Michael Gaudiuso, President, in the Meeting Room of the Municipal Building, Furey Road, Delaware County, Pennsylvania. Mr. Gaudiuso conducted the Pledge of Allegiance.

II. ROLL CALL

Roll was conducted by Township Manager Mr. McMullan and called as follows: Mr. Gaudiuso, Mr. Raikowski, Mr. Neary, Mr. Baiocco, Ms. Whitaker, Mr. Viscuso, Mr. Catania, Ms. Devlin, absent. All others present unless otherwise noted.

III. MEETING MINUTES

Commissioner Gaudiuso made a change to the minutes, which included: noting no arrest by Police during narcotics inspection at High School and noted he asked the Township Solicitor to write a letter to Baker Residential to resolve the punch list items and to acquire a deed for the at roads Concord Valley. Moved by Mr. Neary; seconded by Mr. Raikowski that the Board approve the meeting minutes from July's regular meeting. Question? Motion carried without dissent.

Mr. Gaudiuso noted that the Board had Executive Sessions via conference call on July 1st and July 2nd 2014 prior to discuss various personnel and litigation matters, and an Executive Session prior to the current meeting (July 10th) for the same matters.

IV. COMMENTS OF CITIZENS

Mr. David Ebison, Kingsman Road, received a letter regarding sales of homes to a development company for the purpose of building a Walgreens. Mr. Ebison was unaware of tonight's meeting and did not receive an information about tonight's meeting.

Mr. Gaudiuso explained tonight's meeting is a regular scheduled meeting and not a meeting about the letter that was sent to residents on Kingman's Road. Mr. Gaudiuso did encourage residents on Kingsman Road to attend the meeting to discuss the letter. Mr. Gaudiuso explained his understanding is there is a deed restriction involving the homes that received the letter. Mr. Gaudiuso than asked the Township Solicitor to speak on the matter.

Mr. Catania explained what he found from taking a look at the letters and what he found from looking at public records. Mr. Catania

discussed the houses built to the recorded plans were built with restrictions in Boothwyn Heights. He informed residents to review their deeds for the restrictions. He noted the developer, Arista Development must have noted the restriction and they are going to court to ask the Courts to lift the restriction. He noted only the holders of the deeds have the right to uphold the restrictions, not the Township. He noted the residents, who are holders of the deed have "standing" and have the right to fight to uphold the restriction in court, not the Township. The restriction must have been placed in the deed to protect the people that must have first lived in those homes. He said the Township as a form of government cannot intervene in court on behalf of the residents, but the residents, as the deed holders, have that right. He said to initiate the process, a letter would be served by the Sheriff's Department. He recommends you not follow their advice, but to seek legal advice. Mr. Catania said he would be happy to answer any questions. He said Arista Development cannot proceed until residents are made aware. He suggested residents to look at the County's Public Records Website about the case or directly contact the Sheriff's Office.

Ms. Nicole Steinbacher, Kingsman Road, comments regarding same issues as above citizen. Ms. Steinbacher voiced her concerns about Walgreens opening on her street. She commented she did not receive a letter and wanted to know why she did not receive a letter.

Mr. Catania said in 1942, the restriction should have been written into every deed. He said there must be a reason why not all residents are covered by the restriction.

Ms. Steinbacher continued with her concerns including: traffic concerns on Chichester Avenue and Walgreens would have to apply for variances and she feels the Arista Development does not regard the required set backs this zoning district.

Mr. Catania stated the Township does not have the ability as Township government to argue the deed restriction in court, however can enforce sub-division and land development ordinances, which it would do as it applies. Mr. Catania explained the planning and zoning process and how this involves the Township. He reiterated, the deed restriction is a private issue.

Mr. Gaudiuso reinforced the planning and zoning components to the process. Mr. Baiocco and Mr. Neary also commented about the public involvement process.

Ms. Ann Christiansen, commented on the potential stormwater issues that could be created by a Walgreens at the corner of Kingsman and Chichester Avenue.

Mr. Gaudioso noted the review process and Mr. Viscuso noted the new stormwater ordinance that will be introduced tonight for adoption and the requirements contained in the newly introduced ordinance.

Mr. ? Sunnyside Lane, Garnet Valley, commented about the noise from Apria Healthcare. Mr. ? is concerned about the level of noise particularly at night, during overnight hours.

Mr. Gaudioso referred to Mr. McMullan. Mr. McMullan stated he spoke to the regional manager who is well aware of the situation and has spoken to the residents on Sunnyside Lane. Mr. McMullan explained the Apria regional manager has a plan in place to decrease the noise levels which include moving the tank from the rear to the side of the building and installing noise barriers. Mr. McMullan noted staff from the Township Inspections Department completed a visit in March 2013 and current staff will stay involved.

Ms. Carolyn Saunders, advocate for Ms. Megan Watson, Thornton Road. Ms. Saunders is a caseworker from a Homeless Shelter that is working with Ms. Watson and her family. Ms. Saunders feels that Ms. Watson and her family are being harassed by staff from the Township's Inspections Department. Ms. Watson stated Mr. Keith Crowley acted and said inappropriate comments to her and her family. She said the Township had no right to take her dogs away from her house and condemn her house.

Mr. Gaudioso read a letter prepared by Mr. Crowley to Ms. Saunders and Ms. Watson. Mr. Gaudioso informed them both the Township does not tolerate inappropriate behaviors from staff. Ms. Saunders questioned the Township's reluctance to assist the family. Mr. Gaudioso rebutted and said that he personally assisted the Watson family last year. He said he connected them to Community Action Agency of Delaware County.

Mr. Catania explained that Mr. Gaudioso and others on the Board were only presented with this information tonight. Mr. Catania asked for contact information for Ms. Watson or Ms. Saunders. Mr. Catania informed both speakers, that Mr. McMullan would get their information at contact them.

Ms. Saunders asked for the harassment to stop and the dogs need to be returned. Mr. Catania said that Ms. Saunders was raising issues that we all need to investigate.

Ms. Watson requested written documentation about condemning her home. Mr. Catania said the house was posted and the Township does not have to divulge the caller about the home.

Ms. Whitaker explained the process of a neighbor calling into the inspections department. Ms. Whitaker explained the caller may have been anonymous. Ms. Whitaker asked that Ms. Watson give us some time to look into the situation.

V. ENGINEER'S REPORT

1. *Mr. Viscuso presented the Engineer's report.*
2. *Moved by Mr. Neary; seconded by Mr. Raikowski to approve the payment to Maxis in the amount of \$72,580.95. Question? Motion carried. Ms. Whitaker abstained. Mr. Baiocco commented we're holding 25%, Mr. Viscuso said we're holding 10%, with 25% being withheld for the fencing.*
3. *Creekside Development updates. Mr. Viscuso informed Mr. Neary progress is taking place.*
4. *Mr. McMullan and Mr. Schneider from Pennoni's office attended a kick-off meeting from the CDBG projects. Mr. McMullan and Mr. Viscuso are signing the appropriate paperwork to begin the projects.*
5. *Bids for the street pole painting contract with Aston. No bids were received, we're going to rebid. That is the recommendation from Mr. Viscuso. A motion requested to rebid by Mr. Viscuso, moved by Mr. Neary, seconded by Mr. Gaudio.*
6. *Road program has gotten approval. Mr. McMullan has been very helpful in the process. The road will be marked in the next week or so. Mr. Raikowski had a question about Ogden Firehouse. His question is when the state came through, nothing was noted about that the storm water is not properly running off. Mr. Raikowski would like to use some milling to create a swale out front of the firehouse. Mr. Viscuso to meet Mr. Raikowski at the firehouse.*

7. Resolution 14-38, for partial release #5 for Maple Zone in the amount of \$42,812. Moved by Mr. Baiocco and seconded by Mr. Raikowski. Question? Mr. Neary wanted to confirm line of credit release and Mr. Viscuso confirmed. Motion carried without dissent.

Mr. McMullan noted, due to vacation schedules, Royal Farms requested to move their conditional use application and planning application back a month. Mr. Viscuso commented Royal Farms should submit a letter. Mr. McMullan to request an extension letter from Royal Farms.

Mr. Gaudiuso asked if anyone had any questions for Mr. Viscuso. Mr. Raikowski had a question about the street light pole painting contract. Mr. Viscuso noted that Aston has to vote at their next meeting to rebid the painting contract.

Mr. Gaudiuso asked Mr. Viscuso to speak on Aston's ordinance about traffic calming. Mr. Viscuso commented Aston passed a traffic calming ordinance at their meeting last month that puts the residents to the tasks of working together with the Township to install traffic calming measures. Mr. Gaudiuso requested the Commissioners read Aston's Traffic Calming Ordinance he sent as an attachment in an email and provide comments. Further discussion took place between Commissioners.

VI. SOLICITOR'S REPORT

1. *Mr. Catania presented the Solicitor's Report.*
2. *Moved by Mr. Raikowski; seconded by Mr. Neary to approve Ordinance # 690, Storm water Ordinance, which amends the existing ordinance and becomes part of the sub division and land development ordinance. Motion carried without dissent. Questions?*

Mr. Catania asked Mr. Viscuso to comment on the ordinance. Mr. Viscuso noted that we as a Township of almost 18,000 residents we are required to have a MS 4 permit. Mr. Viscuso stated the new ordinance will easier assist residents with items such as decks and additions and help protect the community. He said the ordinance will require more from developers.

Mr. Catania noted there is a comprehensive federal effort to lessen the amount of storm water run-off. This ordinance is modeled after the County's Planning Stormwater Ordinance and believes it is the Township's legal requirement at this time. Mr. Catania recommended approving and passing onto the Township's Planning Commission for review.

3. *Mr. Catania discussed two items for discussion to vote on at the August meeting: additions to the IPMC, Adopting the 2012 edition of the International Property Maintenance Code, and refining the definition of retail stores in the Ordinance book. Those have been sent to the Delaware County Planning Commissioner, as well as to the Upper Chichester Township Planning Commission.*

Mr. Gaudiuso asked if there are any questions from Mr. Catania. Mr. Raikowski had a question about the home on 3rd Street Avenue. Mr. Catania took pictures to authorize taking actions. Mr. Catania was unable to locate the unusual address and person who purchased the property at a tax sale. Mr. Catania said he will have to file a Request Permission to do Alternate Services, with the Courts to serve the owner.

VII. MANAGER'S REPORT

1. *Mr. McMullan, noted at the request of Mr. Raikowski, he looked into information about insurance coverage for volunteers, outside of fire firefighters. Gibbons insurance submitted a proposal for volunteer insurance that covers up to 30 volunteers at an annual cost of \$500. Mr. McMullan was instructed to confirm the 30 volunteers. Moved by Mr. Baiocco and seconded, by Mr. Raikowski. Motion carried without dissent. Questions?*
2. *Mr. McMullan updated the board on the energy audit completed by Johnson Controls. Mr. McMullan noted that Johnson Controls was impressed with the energy efficient lights that have been installed in various Township buildings by the Highway Department. Johnson Controls would like to attend the August Caucus meeting to present their findings from energy audit.*
3. *Mr. McMullan noted he is looking into using Wilson Auction to sell used Police Vehicles. Mr. McMullan noted the commission rate retained by Wilson Auction, but believes there is savings by not having to publicly advertise the vehicles. Wilson Auction will advertise the vehicles. Motion to sell 5 used police vehicles: Moved by Mr. Neary and seconded by Mr. Raikowski. Moved without dissent. Questions?*

VIII. REPORTS OF COMMISSIONERS

A. Highway & Sanitation, Library, Street Lighting & Traffic Signals – Mr. Baiocco, Chairman

1. Mr. Baiocco asked for a motion for the second allotment of the library funds in the amount of \$35,000. Moved by Mr. Gaudiuso and seconded by Mr. Neary. Moved without dissent. Questions?
2. He noted the library's fundraiser was held at Pappas and attended by 72 people. Sold close to 80 tickets.
3. He moved onto Highway. He noted the Highway Department has been busy with Spring Storms. He also noted, Highway will soon need a new dump truck. He noted converting a used trash truck into a dump truck for approximately \$15,000. Mr. Baiocco noted he will bring up the dump truck at the August meeting.

B. License & Inspections, Recreation, Sewer & Water – Ms. Whitaker, Chairman

1. Ms. Whitaker noted that all of the reports were on file at the office for review.
2. She did not receive a License and Inspections Report.
3. Ms. Whitaker noted the one year anniversary of the death of former longtime employee and Township Secretary, Ms. Dora Coleman. She discussed naming the administration building after Ms. Coleman. Ms. Whitaker requested a picture of Ms. Coleman from her family and sent the picture to a photographer, so that Ms. Coleman's picture can be placed on a plaque.
4. She noted as of June all of the fees collected by Inspections. The report is on file in the Department.
5. Community Day activities are going to be scaled back this year. Summer Youth Camp is actively ongoing with over 130 children daily. Ms. Whitaker noted all the activities the children are participating in during the camp and encouraged everyone to view the Recreation Department's Facebook page to view pictures from the camp.
6. Ms. Whitaker announced the date for the Health and Safety Fair scheduled for October 4th, 2014. The event is filling up with vendors and if you have anyone to refer, please contact Joan Morrison.
7. Community Day is slated for August 31 and will be scaled back, but everyone will have a great time. In addition to the fireworks, a retired

professional football player will be attending the event to sign autographs. A band will play before the fireworks. Movie night will be Saturday, August 30th. Wiffle ball held at the Municipal Complex on Saturday, September 7th, 2014. The Rec Department will still have the \$10,000 drawing. Tickets are available from the Township Building and from Recreation Volunteers.

C. Fire & Safety, Zoning & Planning – Mr. Raikowski, Chairman

1. Mr. Raikowski had a question about fees/fines collected by citations. He wanted to know who collects the fees/fines. Mr. Catania said if the citations are criminal, fees and fines are collected by the Police.
2. Mr. Raikowski commented how well the fire departments reacted to the last storm. He noted that many residents lost power for up to five hours and the situation was handled well by the fire companies.
3. Mr. Raikowski noted one thing for planning is Royal Farms requesting an extension.
4. Mr. Raikowski thanked Mr. McMullan for getting the insurance coverage for the volunteers.

Ms. Whitaker asked Mr. Raikowski if he could talk to Mr. Dave Holland, Fire Marshall, about a fire on Belvue Terrace. There is considerable damage to a house and the neighbors are concerned about the damage.

Mr. Baiocco informed Mr. Raikowski he had an unfortunate personal experience with the Upper Chi medic unit; however, Mr. Baiocco said the Medic Unit was very professional and was grateful for their service.

Mr. Gaudiuso noted that Mr. Raikowski has been working on some property maintenance issues that we can hopefully vote on next month. Mr. Gaudiuso encouraged the board to forward comments.

C. Administration/Finance, Grants, Open Space/Shade Tree – Mr. Neary, Chairman

1. Mr. Neary noted that the financial reports were on file at the office for review.

2. Moved by Mr. Neary, seconded by Mr. Raikowski, that the Board approve the List of Bills for the General Fund, in the amount of \$494,657.78. Question? Motion carried without dissent.

3. Moved by Mr. Neary, seconded by Mr. Raikowski, that the Board approve the exoneration list 14-07. Question? Motion carried without dissent.

4. Mr. Neary noted we need to set up a meeting for Ward re-districting. A meeting had been previously scheduled for July 16th, 2014 at 6:30pm.

5. Mr. Neary provided a budget update and noted that we will meet about the budget within the next month.

6. Mr. Neary moved the appointment to the Board of Health for the 4th Ward, Ms. Marge Omlar. Motion carried without dissent. Questions?

7. Mr. Neary noted that all Commissioners received the deadline date for submissions for the newsletter from Jeanmarie. If no objections from the Commissioners, Mr. Neary would like to highlight the Upper Chi medic unit on the front cover with a photo of the ambulance. No objections.

D. Public Safety & Historical Society – Mr. Gaudioso, Chairman

1. Mr. Gaudioso noted that all reports were on file in the office.

2. Mr. Gaudioso noted that the Police Department is having the body damages caused by the hail storm to police cruisers fixed. He noted no increase in insurance premiums because the hail storm is considered a catastrophic event. Same would apply to the pick-up trucks that sustained minor exterior damage from the hail storm.

3. Mr. Gaudioso noted that the Historical Society requested assistance with removing bulk trash and that was completed.

4. Mr. Gaudioso noted that he noticed several street light poles in Ward 5 that need to be painted. He also noted that some of the poles may have structural issues and asked Mr. Viscuso to look at the poles.

5. Mr. Gaudioso, commented that if we move forward with the street light painting bid (contract) for the painting of 50 poles that 10 could be painted in each Ward. He said that if a Ward does not require 10, that he has more than 10 poles for painting.

6. *He talked about stream bank erosion behind the homes on Jennifer Way. He asked Mr. Viscuso to work on a solution to the erosion.*
7. *Mr. Gaudiuso noted traffic concerns and the hours the residents felt drivers were speeding on Flora Lane. That triggered him to send out the recently approved Aston Traffic Calming Ordinance.*
8. *He discussed dedication of Concord Valley and requested Mr. Catania at the last meeting to send a letter to Baker Residential about the Title and Punchlist. Mr. Catania said the response was favorable, from what he read in an email from the General Manager of Baker Residential. GM has concerns though about the concrete in the stream.*

Mr. Viscuso noted that, after dedication is taken by the Township, Baker Residential will continue to be responsible for maintenance issues for 18 months.

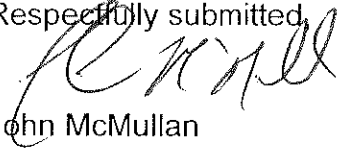
9 New Business

1. *Mr. Neary commented that he received a request via Mr. McMullan for the placement of a gazebo at Bethel and Larkin, where the Sewer Authority owns property that floods. The requestor said he will maintain and paint. Requestor wants to use the gazebo as a place to post services offered in the Township: painters, electricians, etc.*
2. *Mr. Neary wanted to clear up an issue regarding Creekside Development. The issue is a tree, located on a piece of open space directly behind the home of a resident, fell into the back yard and onto a section of the resident's rear deck. Mr. Catania cleared up the issue of the dedication of the streets, but noted the deed for the open space is being held in escrow. So therefore, the land is not in possession of the Township. Mr. Neary summed up the situation by saying that he would recommend the resident to submit a claim to his insurance carrier.*

9. ADJOURNMENT

Moved by Mr. Gaudiuso; seconded by Mr. Neary that the Board adjourn. Question? Motion carried without dissent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. McMullan', written in a cursive style.

John McMullan
Township Manager/Secretary