

January 14, 2008

POTTSTOWN BOROUGH COUNCIL

The regular meeting of the Pottstown Borough Council was called to order on Monday, January 14, 2008 at 7:00 p.m. in the Council Meeting Room Pottstown Borough Hall, 100 East High Street, Pottstown, Pennsylvania, with President Garner in the Chair.

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

Councilors present were Mark Gibson, Maureen Allen, Michael Wenzel, Stephen Toroney, Greg Berry, Jody Rhoads and David Garner. Also present were Solicitor Charles Garner, Borough Manager Raymond Lopez, Mayor Sharon Thomas and Borough Secretary Virginia Takach.

APPROVAL OF MINUTES

- a. Motion by Councilor Berry, seconded by Councilor Rhoads to approve the December 10, 2007 Council Meeting minutes as presented. Motion carried: 7 ayes.
- b. Motion by Councilor Berry, seconded by Councilor Rhoads to approve the December 26, 2007 Council Adjournment Meeting minutes as presented. Motion carried: 7 ayes.

ADD-ON

President Garner announced that a matter for the Alexander Run Subdivision/Land Development Plan would be added to the agenda.

COMMENTS FROM CITIZENS PRESENT

- a. Helen Mackewicz, 73 North Evans Street – presented Council members with a copy of the United States Constitution and the Commonwealth of Pennsylvania Constitution.
- b. Ron Otis, 226 North Warren Street – questioned why his water bill is exactly the same as his neighbor's. His bill did not indicate that it was an estimate.

Mr. Lopez responded that the bills have been estimated and any credit would be reimbursed to the homeowner during 2008. He added that the water meter reader job should be posted tomorrow with Council's approval.

Mr. Otis also complained about grey water running down Warren Street onto Lincoln Avenue from Brunish's store. The water is freezing and causing hazardous conditions.

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c. Pressly Day, 660 Jefferson Avenue – reiterated statements and pledges from newly elected 7th Ward Councilor, David Garner and requested that he adhere to his promises of providing integrity and factual decisions while serving on Council. Mr. Day also requested that citizens be allowed to express themselves without any repercussions. He also commented on the book he is writing “On the Hot Seat.” Mr. Day questioned Mr. Lopez if he sought advice from the Solicitor regarding the report from the Ricketts Center.

Mr. Lopez responded that the Solicitor was made aware of the situation and that a report would be forthcoming and made available to Council if so desired.

Mr. Day also provided information regarding items purchased by him for the Ricketts Center.

d. Tom Carroll, 418 Wilson Street – requested consideration in being reappointed to the Pottstown Borough Authority.

e. Sam Green, 501 High Street, Apt. 207 – stated that he hoped the new Council would settle these matters with the Ricketts Center. He added that the racism issue is pathetic. He added that the Montgomery Elks provided food and toys to the Center during the holidays with no word of recognition.

f. Reggie Brooks, 28-30 North Washington Street – spoke as Pastor of Victory Christian Life Center, noting that the only things that keep Pottstown from recovering are regrets of the past and fear of the future.

g. Kenneth Butler, 825 North Franklin Street – commented that the Borough needs more open communication to move ahead.

h. Chris Watt, 30 North Roland Avenue – expressed a concern that the Borough does not clean the leaves on the island on North Roland Avenue. He added that a tree was planted over a cistern in the area of 65 North Roland Avenue.

Mr. Lopez noted that this would be addressed.

MAYOR’S REPORT

Mayor Thomas referred to her written report and provided information on the Faith Based Initiative, a combined partnership with Community Partners, the Police Department and the Human Relations Commission. She added that the Human Relations Commission would be conducting meetings at alternate locations within the community. The next meeting will be February 21st, 7:00 p.m. at the First Baptist Church, King and Charlotte Streets. The Mayor also reviewed her suggested themes for each month of 2008, January being *Respect* to coincide with the Borough’s *No Place for Hate* certification.

BOROUGH MANAGER'S REPORT

Manager Lopez reported on the water alert due to the diversion of raw sewage in the Schuylkill River by the City of Reading. All measures were taken to keep the water at premium level. Mr. Lopez also referred to the Homeownership Initiative Program article in the recent Sunday *Philadelphia Inquirer*. He added that the Borough would be participating the Greater Valley Forge Historic Home Show on January 18th to 20th, represented by Bill Sharon and Michelle Borzick along with the Clean and Lien Department.

Mr. Lopez also advised that the gymnasium floor in the Ricketts Center would be refinished and the gym only would be closed from January 28th to February 3rd. He added that the Schuylkill River Festival has been scheduled for October 11th, 11:00 a.m. to 4:00 p.m. He also noted that the Reconnections project is continuing with North Coventry Township and the Planning Commission. Mr. Lopez advised that he participated in a film segment on PCTV with Solicitor Charles Garner and hosted by Dene Liott addressing Borough issues. He also noted that meetings are on going with PennDOT regarding traffic improvements at the Route 100 and Shoemaker Road intersection.

COMMITTEE REPORTS

- a. Library – No report.
- b. Human Relations – Mayor Thomas noted that she would be making an appointment in February.
- c. PDIDA – No report.
- d. Cable – No report.
- e. COG – President Garner reported that he attended the COG meeting on January 8th hosted by Pottstown. He advised that Martin Dyas was appointed Chairman and Bud Jenschke was appointed as Vice Chairman. Mr. Lopez was reappointed as Secretary/Treasurer. The next meeting is scheduled for March 11th at West Pottsgrove Township.
- f. EAC – Mr. Read advised that the EAC is continuing to review the Landfill Closure Plan. He added that the Title V Section, Air Permits, is now under review and the DEP has extended the comment period to the beginning of February. Mr. Read requested Council's approval of acquiring profession assistance with this review and response. He added that he was in contact with Eric Conrad, Consultant, and the cost for the review would not exceed \$1,400.

Councilor Wenzel motioned to authorize Staff to correspond with Consultant, Eric Conrad to review and respond to the DEP regarding Title V Permit of the Landfill Closure Plan. Councilor Toroney seconded the motion.

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President Garner opened a public hearing at 7:53 p.m. and requested public comment. Hearing none, he closed the public hearing at 7:54 p.m.

President Garner emphasized the importance of providing accountability for these unbudgeted expenditures. Mr. Armelin agreed to provide that information to Council.

Motion carried: 7 ayes.

NEW BUSINESS

a. Borough Solicitor – Motion by Councilor Gibson, seconded by Councilor Wenzel to ratify Council's action of January 9, 2008 appointing Charles D. Garner, Jr. as the Borough Solicitor. Motion carried: 7 ayes.

b. Berkheimer – EIT – Motion by Councilor Berry, seconded by Councilor Wenzel to adopt a Resolution authorizing and approving the execution of an Agreement with Berkheimer, Inc. for the collection of the Earned Income Tax for the year 2008, in a form acceptable to the Borough Solicitor and the Finance Director.

RESOLUTION NO. 2008 – 1

A RESOLUTION OF THE GOVERNING BOARD OF POTTSTOWN BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICERS OF THE GOVERNING BOARD TO EXECUTE AN AGREEMENT WITH BERKHEIMER WHEREUNDER BERKHEIMER IS RETAINED AS THE EXCLUSIVE TAX OFFICER FOR THE RESPECTIVE TAX ENACTMENT OF THE GOVERNING BOARD LEVYING AND ASSESSING THE EARNED INCOME TAX FOR THE TERM HEREIN DEFINED, TOGETHER WITH SUCH EXTENSIONS AS MAY BE AGREED UPON, SAID TAX ENACTMENT HAVING BEEN ADOPTED UNDER AND PURSUANT TO THE AUTHORITY OF THE PENNSYLVANIA LOCAL TAX ENABLING ACT (ACT 511, P.L. 1257); AND APPROVING AND ADOPTING THE RULES AND REGULATIONS PREPARED BY BERKHEIMER TO ADMINISTER AND ENFORCE THE EARNED INCOME/NET PROFITS TAX.

Solicitor Garner commented that the School District has taken action with respect to the Berkheimer agreements.

Motion carried: 7 ayes.

c. Local Services Tax – Motion by Councilor Berry, seconded by Councilor Allen to adopt a Resolution authorizing and approving the execution of an Agreement with Berkheimer, Inc. for the collection of the Local Services Tax for the year 2008, in a form acceptable to the Borough Solicitor and the Finance Director.

RESOLUTION NO. 2008 – 2

A RESOLUTION OF THE GOVERNING BOARD OF POTTSTOWN BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICER OF THE GOVERNING BOARD TO EXECUTE AN AGREEMENT WITH BERKHEIMER WHEREUNDER BERKHEIMER IS RETAINED AS THE EXCLUSIVE TAX OFFICER FOR THE COLLECTION, ADMINISTRATION, RECEIPT AND ENFORCEMENT OF THE PROVISIONS OF THE RESPECTIVE TAX ENACTMENT OF THE GOVERNING BOARD LEVYING AND ASSESSING THE LOCAL SERVICES TAX FOR THE TERM HEREIN DEFINED, TOGETHER WITH SUCH EXTENSIONS AS MAY BE AGREEMENT UPON, SAID TAX ENACTMENT HAVING BEEN ADOPTED UNDER AND PURSUANT TO THE AUTHORITY OF THE OF THE PENNSYLVANIA LOCAL TAX ENABLING ACT (ACT 511, P.L. 1275); AND APPROVING AND ADOPTING THE RULES AND REGULATIONS PREPARED BY BERKHEIMER TO ADMINISTER AND ENFORCE THE LOCAL SERVICES TAX

Motion carried: 7 ayes.

d. Liaison Officer – Motion by Councilor Berry, seconded by Councilor Wenzel to adopt a Resolution appointing Robert Armelin to act as a Liaison Officer between the Borough of Pottstown and Berkheimer, Inc.

RESOLUTION NO. 2008 – 3

A RESOLUTION OF THE GOVERNING BOARD OF POTTSTOWN BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICER OF THE GOVERNING BOARD TO APPOINT A LIAISON BETWEEN IT AND BERKHEIMER, THE DULY APPOINTED COLLECTOR OF EARNED INCOME TAX AND LOCAL SERVICES TAX FOR THE DISTRICT, FOR THE EXPRESS PURPOSE OF SHARING CONFIDENTIAL, TAX INFORMATION WITH THE DISTRICT FOR OFFICIAL PURPOSES.

Motion carried: 7 ayes.

e. Tax Hearing Officer – Motion by Councilor Gibson, seconded by Councilor Wenzel to adopt a Resolution appointing Berkheimer, Inc. as the Borough's Tax Hearing Officer for appeals involving Earned Income Tax and Local Services Tax.

RESOLUTION NO. 2008 - 4

A RESOLUTION OF THE GOVERNING BOARD OF POTTSTOWN BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICERS OF THE GOVERNING BOARD TO APPOINT

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BERKHEIMER AS ITS TAX HEARING OFFICER UNDER AND PURSUANT TO THE LOCAL TAXPAYERS BILL OF RIGHT FOR THE EXPRESS PURPOSE OF ADJUDICATING APPEALS THEREUNDER.

Motion carried: 7 ayes.

f. Costs for Collection Delinquent Taxes – Motion by Councilor Wenzel, seconded by Councilor Allen to adopt a Resolution authorizing Berkheimer, Inc. to impose and retain costs for Collection of Delinquent Taxes.

RESOLUTION NO. 2008 - 5

A RESOLUTION OF THE GOVERNING BOARD OF POTTSTOWN BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING AND EMPOWERING ITS LOCAL TAX COLLECTOR, BERKHEIMER, TO IMPOSE AND RETAIN COSTS OF COLLECTION ON DELINQUENT TAXES.

Motion carried: 7 ayes.

g. Delinquent Real Estate Taxes – Motion by Councilor Berry, seconded by Councilor Rhoads to adopt a Resolution directing the Montgomery County Tax Claim Bureau to not collect Delinquent Real Estate Taxes on behalf of the Borough of Pottstown.

RESOLUTION NO. 2008 - 6

A RESOLUTION DIRECTING MONTGOMERY COUNTY TAX CLAIM BUREAU NOT TO COLLECT DELINQUENT REAL ESTATE TAXES ON BEHALF OF THE BOROUGH OF POTTSTOWN

Whereas, the Borough of Pottstown is authorized to collect delinquent taxes pursuant to the Municipal Claims and Tax Liens Act, 53 P.S. Section 7101 et seq. (the” Act”); and

Whereas, the Borough of Pottstown has determined that it is in the best interest of all taxpayers and other residents to have vigorous enforcement of all delinquent and other unpaid charges, utilizing the procedures set forth in the Act; and

Whereas, the Borough of Pottstown has contracted with a third party collector for the collection of delinquent real estate taxes for the years, 2004, 2005, 2006 and 2007, utilizing the procedures set forth in the Act; and

Whereas, the Montgomery County Tax Claim Bureau is an agent of the Borough of Pottstown as per 72 P.S. Section 5860.208 of the Real Estate Tax Sale Law (RETSL); and

Now therefore, it is hereby ordained and enacted by Borough of Pottstown as follows:

1. The Borough of Pottstown declares that it is collecting the delinquent real estate taxes for the years 2004, 2005, 2006 and 2007 utilizing the procedures set forth in the Act, exclusively and independently of any other statute governing the collection of taxes, including the act of July 7,

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1947, (P.O. 1368, no. 542), known as the “Real Estate Tax Sale Law’ and independent of any county tax claim bureau.

2. The Borough of Pottstown directs the Montgomery County Tax Claim Bureau not take any action to collect the delinquent real estate taxes for the years 2004, 2005, 2006 and 2007. Furthermore the Borough of Pottstown directs the Montgomery County Tax Claim Bureau not to incur any costs or liabilities for said delinquent taxes.

3. Related Action. The proper officials of the Borough of Pottstown are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Resolution.

Enacted and resolved this 14th day of January 2008.

Motion carried: 7 ayes.

h. Revitalization Projects – Motion by Councilor Toroney, seconded by Councilor Wenzel, to approve the submission of three projects to the Montgomery County Community Revitalization Board and prioritize as follows:

- (a) Pottstown Airport
- (b) Industrial Drive Redevelopment
- (c) Reconnections – Hanover Street Bridge (Phase I)

Mr. Lopez advised that there is a 10% local match required after the Revitalization Board reviews and grants the amount to the municipality. He also explained that the Industrial Drive project is for a survey of the former Bethlehem Steel complex for its redevelopment potential.

Ms. Lampe added that the Keim Street Bridge has been addressed as a number one priority for Montgomery County. She also explained that the County allows a 30-month window of time for these projects and that the match has been budgeted in the grant fund budget.

Motion carried: 7 ayes.

i. Disciplinary Action – Motion by Councilor Gibson, seconded by Councilor Allen to ratify the Mayor’s disciplinary action of a one (1) day suspension imposed upon a Pottstown Police Officer. Motion carried: 7 ayes.

j. HARB – Motion by Councilor Wenzel, seconded by Councilor Gibson to approve Certificates of Appropriateness for the following properties as recommended by HARB:

- (a) 542 High Street
- (b) 150 North Hanover Street
- (c) 25 King Street
- (d) 152 East High Street
- (e) 435 High Street
- (f) 414 High Street

Councilor Berry questioned the action on 152 High Street.

Ms. Gerber explained that this is for a new sign at Stephen Ross' office since he merged with another attorney.

Motion carried: 7 ayes.

k. Alexander's Run – Solicitor Garner explained the urgency for Council's action prior to January 31st on the request of the applicant for a 12-unit development in the area of Eighth & York Streets. He advised that the applicant has been granted numerous extensions since December 2006. Mr. Garner recommended a denial of the plan for failure of the applicant to comply the Borough's Zoning and Subdivision Ordinance as specified in the Bursich letter of December 14, 2007. Solicitor Garner also added that failure to take action prior to January 31st would result in an automatic approval by law.

Councilor Wenzel motioned, seconded by Councilor Toroney to deny the approval of the Alexander Run Subdivision and Land Development Plan for failure to comply with the requirements of the Bursich letter of December 14, 2007. Motion carried: 7 ayes.

l. Borough Authority – Motion by Councilor Toroney, seconded by Councilor Gibson to reappoint Thomas Carroll to the Pottstown Borough Authority for a five (5) year term to expire January 1, 2013. Motion carried: 6 ayes, 1 abstention. President Garner abstained from voting.

m. PDIDA – Motion by Councilor Gibson, seconded by Councilor Berry to reappoint Matt Crouse to the Pottstown Downtown Improvement District authority for a five (5) year term to expire January 1, 2013. Motion carried: 7 ayes.

n. Blighted Property Review – Motion by Councilor Rhoads, seconded by Councilor Gibson to appoint Cheryl Chiarello, Councilor Mark Gibson and Dennis Wausnock to the Blighted Property Review Committee for one (1) year terms to expire December 31, 2008.

President Garner advised that letters of interest for the at large position were received from Bill Krause, Cheryl Chiarello and Gail Yoder.

Motion carried: 7 ayes.

o. Zoning Hearing Board – Motion by Councilor Wenzel, seconded by Councilor Toroney to adopt a Resolution reappointing Mark Patrizi to the Zoning Hearing board for a three (3) year term to expire January 1, 2011.

RESOLUTION NO. 2008 – 7

A RESOLUTION APPOINTING MARK PATRIZI AS A MEMBER OF THE
POTTSTOWN BOROUGH ZONING HEARING BOARD FOR A TERM OF THREE (3)
YEARS

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Whereas, Article IX of the Pennsylvania Municipalities Planning code and Section 901 of the Pottstown Borough Zoning Ordinance authorizes Borough Council to appoint, by Resolution, members of the Pottstown Borough Zoning Hearing Board.

Now, Therefore, be it and it is hereby resolved by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, as follows:

1. Mark Patrizi is hereby appointed to the Pottstown Borough Zoning Hearing Board for a three (3) year term, expiring January 1, 2011.

2. That the said member shall participate in all proceedings of the Pottstown Borough Zoning Hearing Board to the same and full extent as provided by law.

Enacted and resolved this 14th day of January 14, 2008.

Motion carried: 7 ayes.

p. Shade Tree Commission – Motion by Councilor Rhoads, seconded by Councilor Toroney to appoint Tom Yates to the Shade Tree Commission for a five (5) year term to expire January 1, 2013.

President Garner noted along with Mr. Yates, letters of interest for the Shade Tree Commission were received from Gregg Heimer, Chris Watt and Tom Hylton

President Garner requested a roll-call vote.

Allen	No	Rhoads	Yes
Berry	No	Toroney	Yes
Gibson	No	Wenzel	Yes
Garner	No		

Motion defeated: 4 nays, 3 ayes.

Councilor Berry motioned, seconded by Councilor Allen, to appoint Thomas Hylton to the Shade Tree Commission for a five (5) year term to expire January 1, 2013.

Councilor Rhoads expressed concern that Mr. Hylton's donation of \$10,000 to Trees, Inc. presented an unfair circumstance to the other applicants. He also commented on the recent article by Mr. Hylton in the *Pottstown Mercury*, noting that the Mercury is Mr. Hylton's former employer, wherein he has unlimited free press, another disadvantage to the other applicants. Mr. Rhoads commented that a new attitude is needed on this Commission.

Councilor Toroney asked the Finance Director if Mr. Hylton questioned why there were no funds allotted for Shade Trees in the 2008 budget.

Mr. Armelin replied that Mr. Hylton did not question him about any allotment for Shade Trees.

Councilor Gibson commented that he would not hesitate in removing an individual from a committee if one does not understand that Borough Council and the Borough Manager oversee the actions of these committees.

Mayor Thomas commented that she attended one of the last Shade Tree Commission meetings, which at times was out of control and suggested that this qualified for the individuals to be removed from the meeting.

President Garner requested a roll-call vote.

Allen	yes	Rhoads	no
Berry	yes	Toroney	no
Garner	yes	Wenzel	no
Gibson	yes		

Motion carried: 4 ayes, 3 nays.

q. Regional Planning – Motion by Councilor Berry, seconded by Councilor Gibson to appoint Stephen Toroney to the Pottstown Metropolitan Area Regional Planning Committee. Motion carried: 7 ayes.

r. EAC – Motion by Councilor Wenzel, seconded by Councilor Berry to appoint Brian George to the Environmental Advisory Council to fill a vacant three (3) year term to expire August 10, 2010 and Stephen Toroney to fill a vacant three (3) year term to expire August 10, 2008. Motion carried: 7 ayes.

s. Orientation Meeting - Motion by Councilor Gibson, seconded by Councilor Allen to approve and advertise the date of January 30, 2008, 6:00 p.m. for a Council Orientation Meeting.

Councilor Berry advised that he will be out of town on that date and unable to attend the meeting.

Motion carried: 7 ayes.

t. Committee and Subcommittee Appointments – President Garner advised that the appointments are not yet finalized and requested any further input from the Councilors be forwarded to him as soon as possible.

REPORT OF BILLS

Motion by Councilor Wenzel, seconded by Councilor Toroney to pay the outstanding bills in the amount of \$1,305,457.82. Motion carried: 7 ayes.

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ANNOUNCEMENTS

President Garner reviewed the invitation for the January 20th, 4:00 p.m. ceremony at the Mt. Olive Baptist Church, honoring Martin Luther King, Jr. He added that another celebration is scheduled at the Second Baptist Church on January 21st, 10:00 a.m.

Solicitor Garner advised that he received a letter from the Attorney representing the Mt. Olive Baptist Church requesting that Council send correspondence to the Zoning Hearing Board in favor of the Church's variance request with certain agreeable conditions. Solicitor Garner noted that Council typically takes no action.

President Garner noted that he spoke with Pastor Ball of the Mt. Olive Baptist Church and recommended that as the 7th Ward Councilor, no action should be taken by Council.

Councilor Gibson requested that the former members of the Safety Committee members continue to meet as scheduled on January 29th, 3:30 p.m.

President Garner, hearing no objections, approved this request.

President Garner thanked all the citizens for their comments, respect and attendance at the meeting.

ADJOURNMENT

The meeting adjourned on motion by Councilor Wenzel at 8:50 p.m.

Attested,

Raymond W. Lopez
Borough Manager