

July 14, 2008

POTTSTOWN BOROUGH COUNCIL

The regular meeting of the Pottstown Borough Council was called to order on Monday, July 14, 2008 at 6:30 p.m. in the Council Meeting Room, Pottstown Borough Hall, 100 East High Street, Pottstown, Pennsylvania, with Vice President Berry in the Chair.

CONDITIONAL USE HEARING – THE HILL SCHOOL, JULY 14, 2008, 6:30 P.M.

Solicitor Garner announced a Conditional Use Hearing at the request of The Hill School to utilize the first floor of an existing property located on Bailey Street to operate a child care facility for up to twelve Hill School faculty children. Mr. Garner entered several items into testimony.

Don Silverson represented The Hill School and explained that this would be a continuation of an existing day care facility operated by the YWCA to increase the number of children from approximately twelve to no more than twenty.

Councilor Toroney suggested that action be taken on this agenda.

The hearing closed at 6:50 p.m.

INVOCATION

The invocation was provided by Pastor Morris Longstreth, Christ Episcopal Church.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

AGENDA ITEMS

Vice President Berry announced that consideration for The Hill School's Conditional Use will be added to the agenda and the item for the Wal-Mart Expansion will be removed at the applicant's request.

APPROVAL OF MINUTES

Motion by Councilor Allen, seconded by Councilor Toroney to approve the June 9, 2008 Council Meeting minutes as presented. Motion carried: 6 ayes.

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COMMENTS FROM CITIZENS PRESENT

a. Newstell Marable, President NAACP – reiterated his request to rename Armand Hammer Boulevard to Martin Luther King, Jr. Boulevard and provided a letter to Council. He added that the bids for the Ricketts Center should be delayed in order to have the community involved otherwise it would be discrimination.

b. John Reber, Director Parks & Recreation – confirmed that he is not involved in the RFP process for the Ricketts Center. He added that he assumed that his previous submission of a proposal is still being considered as part of the process. Mr. Reber also acknowledged the independent contractors involved in keeping the Center open.

MAYOR'S REPORT

Mayor Thomas distributed her report of July 14th. She noted that her value points for July and August are Honesty and Peace and noted that the objective of law enforcement is to enforce the laws and emphasized that public safety is everyone's concern. Mayor Thomas also requested that each Councilor take part in the August 5th National Night Out.

BOROUGH MANAGER'S REPORT

Manager Lopez referred to a letter of August 13, 2007 to the Lower Pottsgrove Township Commissioners wherein he requested comments regarding the renaming of Armand Hammer Boulevard. He added that a letter was sent to Mr. Marable from President David Garner on April 16, 2008 outlining procedures for the renaming of Armand Hammer Boulevard. Mr. Lopez added that the Grants Assistant position is in place and the hiring of a Codes Director is in the final stages. He also noted that the invoices have been sent to the Clinton campaign regarding the visit of former President Bill Clinton.

Manager Lopez also reported that he is working with the readdressing system and is also dealing with Norfolk Southern for corrections to the grade crossings. He added that he will be sharing information regarding an EPA drinking water infrastructure survey when completed. Mr. Lopez also noted that NIMS, CPR and AED training are presently being scheduled. He also reported that he attended the Pennsylvania State Association of Boroughs conference, the TriCounty Area Chamber of Commerce Municipal Dinner and the Pottstown Early Action for Kindergarten Readiness (PEAK) dinner.

Mr. Lopez thank all involved with the successful July 4th events. He added that the Wastewater Treatment Plant is diligently working on controlling odors at the Plant and also noted that preliminary training on the Special Needs and Alert PA systems is taking place for Staff to assist constituents if needed.

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COMMITTEE REPORTS

- a. Library – Councilor Allen reported that a fundraising event will take place at Friendly’s on July 16th. She added that passports are available at the Library.
- b. Human Relations – Mayor Thomas acknowledged the passing of Reverend Roland Turnbach, a long time member of the Commission. She added that the committee is working on a new logo. The next meeting is September 11th.
- c. PDIDA – Vice President Berry reported that Bill Haley has been selected as the new Main Street Manager. He added that the large flowerpots on High Street are in the process of being repainted. Mr. Berry also noted that the money saved during transition of Main Street Managers does not have to be returned. It would roll into the new year.
- d. Cable – There was no meeting.
- e. COG – Mr. Lopez announced that an article from Chief Flanders featuring the Pottstown Area COG Emergency Response Team appeared in the PA COG’s summer newsletter. Mr. Lopez added that he has been appointed as the delegate to attend the PACOG conference in Pittsburg in August, compliments of the PACOG Association. The next COG meeting is scheduled for September 9th in Douglass Township.
- f. EAC – Mr. Read urged Council’s approval for several trash and recycling associated items listed on the agenda.
- g. Regional Planning – Councilor Toroney advised that the main topic for the August meeting will be the Route 100 Corridor traffic study along with a report on the rail system.
- h. Blighted Property Review Committee – Solicitor Garner noted that there was no meeting in June. The next meeting is scheduled for Thursday, July 24th, 3:30 p.m.

UNFINISHED BUSINESS

None.

NEW BUSINESS

- a. Presentation – Tom Weld, BCM Engineers, provided an explanation for the MS₄ Report submitted to the Department of Environmental Protection in June 2008. He stated that the MS₄, (Municipal Separate Storm Sewer Systems), program began in 2003 by the DEP. He advised that the Borough received a five-year NPDES, (National Pollutant Discharge

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Elimination System) permit, which the DEP has extended for the existing permit for a sixth year. Mr. Weld advised that this is an educational and awareness program developed through ordinances, videos and publications modified for the Borough.

b. NPDES – Motion by Councilor Wenzel, seconded by Councilor Rhoads to approve and accept the Borough of Pottstown’s MS₄ Report for the National Pollutant Discharge Elimination System (NPDES) Permit No. PAG130033 as submitted on June 4, 2008. Motion carried: 6 ayes.

c. Gallery School – Motion by Councilor Gibson, seconded by Councilor Rhoads to approve a letter of support and endorsement for the Gallery School of Pottstown and its 2008 –2009 programming for elementary and middle school aged students. Motion carried: 6 ayes.

d. Pottstown Symphony Orchestra – Motion by Councilor Wenzel, seconded by Councilor Toroney to authorize a letter of endorsement to the Pottstown Symphony Orchestra Association in support of its programming and fundraising efforts. Motion carried: 6 ayes.

e. Carousel of Flavor – Motion by Councilor Wenzel, seconded by Councilor Toroney to grant request of the Carousel at Pottstown to conduct its annual “Carousel of Flavor” event on September 14, 2008, resulting in the closing of High Street between York and Hanover Streets from 10:00 a.m. to 6:00 p.m., subject to approval of the Police and Fire Departments. Motion carried: 6 ayes.

f. IRPC – Motion by Councilor Toroney, seconded by Councilor Wenzel to support and approve in concept the Mission Statement of the Inter-Regional Planning Cooperative dated April 28, 2008 and as recommended by the Pottstown Metropolitan Regional Planning Committee. Motion carried: 6 ayes.

g. Preserve America – Motion by Councilor Wenzel, seconded by Councilor Toroney to adopt a Resolution and authorize the submission of the application to the Preserve America Program to designate the Borough of Pottstown to Preserve America status.

RESOLUTION NO. 2008 – 24

Preserve America Community Designation

WHEREAS, *Preserve America* is a White House initiative developed in cooperation with the Advisory Council on Historic Preservation, the U.S. Department of the Interior, and the U.S. Department of Commerce; and

WHEREAS, the goals of this initiative include a greater shared knowledge about our Nation’s past, strengthened regional identities and local pride, increased local participation in preserving the country’s irreplaceable cultural and natural heritage assets, and support for the economic vitality of communities; and

WHEREAS, this initiative is compatible with our community’s interests and goals related to historic preservation; and

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WHEREAS, designation as a *Preserve America* Community will improve our community's ability to protect and promote its historical resources; now therefore be it RESOLVED, that the Borough of Pottstown will apply for the designation of Pottstown, Pennsylvania as a *Preserve America* Community; and be it further RESOLVED, that the Borough of Pottstown in Pottstown, Pennsylvania, will protect and celebrate our heritage, use our historic assets for economic development and community revitalization, and encourage people to experience and appreciate local historic resources through education and heritage tourism programs.
Enacted and resolved this 14th day of July 2008.

Motion carried: 6 ayes.

h. Landfill Closure – Motion by Councilor Toroney, seconded by Councilor Gibson to ratify the May 21, 2008 letter of the Borough Manager to the Department of Environmental Protection in response to the Landfill Closure/Major Permit Modification.
Motion carried: 6 ayes.

i. Sewer Ordinance – Motion by Councilor Wenzel, seconded by Councilor Toroney to adopt an Ordinance amending sections of the Sewer Ordinance to adopt regulations developed by the Environmental Protection Agency.

ORDINANCE NO. 2053

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING VARIOUS SECTIONS OF CHAPTER 18, SEWERS AND SEWAGE DISPOSAL, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, TO ADOPT REGULATIONS DEVELOPED BY THE ENVIRONMENTAL PROTECTION AGENCY.

Motion carried: 6 ayes.

j. Ricketts RFP – Motion by Councilor Gibson, seconded by Councilor Rhoads to approve the revised Request for Proposals for the operation of the Ricketts Community Center and to authorize the advertisement of the RFP and accepting recommendations of the Ricketts Request for Proposal Committee. Motion carried: 6 ayes.

k. Reimbursement Resolution – Motion by Councilor Toroney, seconded by Councilor Wenzel to adopt a Reimbursement Resolution authorizing the expenditure for 2008 capital projects prior to borrowing the funds for the projects.

RESOLUTION NO. 2008 – 25

BOROUGH OF POTTSTOWN, MONTGOMERY COUNTY, PENNSYLVANIA

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A RESOLUTION OF INTENT TO INCUR INDEBTEDNESS TO FINANCE CERTAIN CAPITAL PROJECTS AND TO ALLOCATE A PORTION OF THE PROCEEDS THEREOF TO THE PAYMENT OF EXPENDITURES TO BE MADE TOWARD SUCH PROJECTS PRIOR TO THE ISSUANCE OF SUCH INDEBTEDNESS.

WHEREAS, This Borough (the "Borough") contemplates undertaking certain capital projects consisting of planning, designing and constructing improvements to the Pottstown Municipal Airport, including new hangar facilities; planning, designing and constructing certain recreational facilities in and about the Borough, including a miniature golf facility and a spray park facility, as well as undertaking certain renovations, additions and improvements to a ball field and its Parks and Recreation Office; acquiring certain equipment necessary to the Borough's operations; and paying related costs, fees and expenses (collectively, the "Project"); and

WHEREAS, The Council of this Borough has determined that it may be necessary for this Borough to incur debt (on a taxable or tax-exempt basis), in the estimated maximum principal amount of \$3,500,000 (the "Obligations"), to finance the costs and expenses of the Project; and

WHEREAS, This Borough contemplates that it may be necessary or appropriate to pay certain costs and expenses of the Project prior to the issuance of the Obligations with general funds and other available funds of this Borough and reasonably expects to reimburse such fund(s) with proceeds of the Obligations; and

WHEREAS, Section 1.150-2 of the Treasury Regulations promulgated by the United States Internal Revenue Service (the "Reimbursement Regulations"), which are applicable to the Project, requires this Borough to make a "declaration of official intent" to reimburse specified accounts or funds of this Borough for certain capital expenditures advanced in connection with the Project from a "reimbursement bond," as such phrase is defined in the Reimbursement Regulations; and

WHEREAS, This Borough desires to declare its official intent with respect to certain capital expenditures and reimbursement thereof to be made in connection with the Project. NOW, THEREFORE, BE IT RESOLVED:

1. This Borough hereby expresses its intent to proceed with the Project and to finance the Project by the issuance of the Obligations in an aggregate principal amount estimated to be not more than \$3,500,000.

2. This Borough hereafter, from time to time, shall apply money from its General Fund and other available funds for the purpose of paying certain expenditures relating to the Project, including the acquisition of portions of the Project, and related costs of a capital nature. Such expenditures of accumulated revenues were not originally budgeted for this purpose and are not intended to finance the Project on a long-term basis, but on an interim basis only.

3. This Borough declares its intention to reimburse itself for such amounts paid for expenditures allocable to the Project from proceeds of the Obligations. The debt evidenced by the Obligations shall be repaid on a general obligation basis by this Borough. Reimbursement shall be limited to expenditures made for "preliminary costs" within the meaning of the

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Reimbursement Regulations or those made not earlier than 60 days prior to the date of adoption of this Resolution.

4. This Borough hereby declares that this Resolution shall constitute a "declaration of official intent" within the meaning of Section 1.150-2 of the Treasury Regulations promulgated by the Internal Revenue Service under Sections 141 through 150 of the Internal Revenue Code of 1986, as amended.

5. The Secretary or Assistant Secretary of this Borough is hereby directed immediately to enter this Resolution upon the minutes of this Borough.

DULY ADOPTED by majority vote of the Council of this Borough at a public meeting duly convened and held on July 14, 2008.

Motion carried: 6 ayes.

l. Composting Site – Motion by Councilor Allen, seconded by Councilor Toroney to authorize the Solicitor and Staff to prepare an Agreement with Lower Pottsgrove Township associated with a joint municipal composting site. Motion carried: 6 ayes.

m. Roll-out Carts – Motion by Councilor Allen, seconded by Councilor Rhoads to authorize the purchase of 65-gallon Roll-out Carts from Rehrig Pacific Company as recommended by the Trash Committee subject to receipt of the appropriate bids by the waste haulers.

Councilor Toroney noted that this would be subject to the responses of the bidding process. He added that the grant runs out in October 2008 and therefore no money will be expended at this time.

n. DA Office/Codes – Motion by Councilor Allen, seconded by Councilor Wenzel to adopt a Resolution authorizing a partnership with the Montgomery County District Attorney's Office to allow the District Attorney to represent the Borough at Code Enforcement hearings.

RESOLUTION NO. 2008 – 26

BOROUGH OF POTTSTOWN, MONTGOMERY COUNTY, PA PARTNERSHIP WITH THE MONTGOMERY COUNTY DISTRICT ATTORNEY'S OFFICE

WHEREAS, the Borough of Pottstown is desirous of efficient code enforcement throughout its jurisdictional boundaries; and

WHEREAS, the Borough of Pottstown is entering into a partnership with the Montgomery County District Attorney's Office in enforcing its ordinances for the betterment of the citizens of the Borough of Pottstown; and

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THEREFORE, Risa Vetri Ferman, Esquire, District Attorney of Montgomery County or her designee, shall be permitted to act as a Borough of Pottstown Special Assistant Municipal Solicitor for Code Enforcement purposes.

ENACTED AND ORDAINED this 14th day July 2008, at the Regular Meeting of Pottstown Borough Council.

Motion carried: 6 ayes.

o. Probationary Period/Police Officer – Motion by Councilor Toroney, seconded by Councilor Wenzel to ratify the execution of an Agreement authorizing a six (6) month extension of the probationary period for a Pottstown Police Officer. Motion carried: 6 ayes.

p. Termination Police Officer – Motion by Councilor Gibson, seconded by Councilor Toroney to terminate the employment of a Pottstown Police Officer, Corporal John Skulski, effective immediately.

Councilor Rhoads commented that he cannot vote for this termination, having heard only one side of the story.

Motion carried: 5 ayes, 1 nay. Councilor Rhoads cast the negative vote.

q. Conditional Offer of Employment – Motion by Councilor Wenzel, seconded by Councilor Gibson to authorize the Chief of Police to extend a conditional offer of employment to the next eligible candidate from the Civil Service Eligibility List. Motion carried: 5 ayes, 1 nay. Councilor Rhoads cast the negative vote.

r. Cable Commission – Motion by Councilor Allen, seconded by Councilor Wenzel to appoint Celeste Faux to the Pottstown Cable Commission for a three (3) year term to expire June 1, 2011. Motion carried: 6 ayes.

s. Economic Development Advisory Board – Motion by Councilor Wenzel, seconded by Councilor Gibson to approve the President's appointment of Edwin Edwards to the Economic Development Advisory Board. Motion carried: 6 ayes.

t. Borough Engineer – Motion by Councilor Toroney, seconded by Councilor Wenzel to appoint Rettew as the Borough Engineering firm for the Borough of Pottstown as recommended by the Borough Engineer Ad Hoc Committee and with rates as set forth in the Proposal of August 2007 and subject to an agreement acceptable to the Borough.

Councilor Berry stated that he could not understand the need to appoint a specific engineer for projects, which have not yet occurred when these potential projects could be put out to bid. He also noted that the firm is based in Lancaster and expressed a concern regarding emergency response time. Mr. Berry also questioned if this precludes the Borough from seeking bids on certain projects in the future.

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Solicitor Garner stated that this transaction would not prevent other projects being bid. He added that the motion includes terminology that an agreement would be acceptable to the Borough and would be a one-year term as per the RFP's.

Robert Lauriello, Director of Civil/Municipal Engineering for Rettew, was present and stated that the firm has an office in Chester Springs and would not be responding from the Lancaster office.

Motion carried: 6 ayes.

u. Bursich Agreement – Motion by Councilor Toroney, seconded by Councilor Gibson to authorize the Solicitor to prepare an agreement with Bursich Associates as the Planning Commission Engineer as recommended by the Borough Engineer Ad Hoc Committee with rates as set forth in its January 17, 2008 letter.

Councilor Rhoads commented that he could not vote in favor of the motion due to the lack of information provided to him on the billing practices and police involvement. He added that certain information is received and retained by a select few.

Councilor Toroney requested a roll-call vote.

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

Motion carried: 4 ayes, 2 nays.

v. 924 South Street – Motion by Councilor Rhoads, seconded by Councilor Wenzel to deny the 924 South Street Land Development Plan of James Connelly/Christopher Cohen for the reasons set forth in the Bursich Associates' letter of September 10, 2007. Motion carried: 6 ayes.

w. St. Aloysius – Motion by Councilor Wenzel, seconded by Councilor Toroney to grant preliminary/final approval of the St. Aloysius Gathering Center Land Development Plan located at 214 North Hanover Street subject to satisfying the following conditions within 90 days:

- a) Compliance with the Bursich letter of June 11, 2008
- b) Submission of mutually acceptable front building elevation
- c) Payment in full of all Borough review fees
- d) Preparation and execution of a Developer's agreement

Councilor Toroney questioned the acceptability of the front building elevation.

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Solicitor Garner explained that the applicant has agreed to work with the Planning Commission on that issue and ultimately would be a Council decision if any problems arise.

Motion carried: 6 ayes.

x. St. Aloysius – Motion by Councilor Wenzel, seconded by Councilor Toroney to grant the following waiver requests from the Subdivision and Land Development Ordinance for the St. Aloysius Gathering Center, 214 North Hanover Street:

- a) Section 504 & 505 – requirement of open space, parking lot and street trees
- b) Section 511 – requirement of buffering along existing residential uses
- c) Section A404.19 & A531.4.b – requirement for showing existing property corner monuments and providing pins for all property owners

Motion carried: 6 ayes.

y. 720-726 Beech Street – Motion by Councilor Wenzel, seconded by Councilor Toroney to grant preliminary/final approval of the Eric & Susan Benedetti Subdivision Plan for the property located at 720-726 Beech Street subject to satisfying the following conditions within 90 days:

- a) Compliance with Bursich letter of June 12, 2008
- b) Confirmation of separate sewer and water connections and laterals for each of the four properties
- c) Payment in full of all Borough review fees

Mr. Yerger noted that he will confirm the condition of the separate sewer and water connections.

Motion carried: 6 ayes.

z. 720-726 Beech Street – Motion by Councilor Gibson, seconded by Councilor Toroney to grant the following waiver requests from the Subdivision and Land Development Ordinance for the Eric & Susan Benedetti Subdivision Plan:

- a) Section 504 & 505 – requirement of open space and street trees
- b) Section A402.1 – requirement of planimetric information within 100 feet of site
- c) Section A402.2 – requirement of providing elevation and contour data within 100 feet of site

Motion carried: 6 ayes.

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

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- a) 37 High Street
- b) 1314 High Street
- c) 559 High Street
- d) 1155 High Street
- e) 122 King Street
- f) 348 High Street
- g) 315 King Street
- h) 1046 High Street

Motion carried: 6 ayes.

ab. HARB - Motion by Councilor Wenzel, seconded by Councilor Toroney to ratify action of the Building Permit Officer approving a Certificate of Appropriateness for the property located at 714 High Street. Motion carried: 6 ayes.

ac. Hill School/Conditional Use – Motion by Councilor Wenzel, seconded by Councilor Toroney to approve the Conditional Use application as presented by The Hill School on July 14, 2008. Motion carried: 6 ayes.

REPORT OF BILLS

Motion by Councilor Wenzel, seconded by Councilor Allen to pay the outstanding bills in the amount of \$1,850,472.75. Motion carried: 6 ayes.

ANNOUNCEMENT

Vice President Berry confirmed that the Codes Department is following up on the complaints received about neon lighting at the business in the downtown district.

ADJOURNMENT

The meeting adjourned on motion by Councilor Gibson at 8:14 p.m.

Attested,

Raymond W. Lopez
Borough Manager