

August 11, 2008

POTTSTOWN BOROUGH COUNCIL

The regular meeting of the Pottstown Borough Council was called to order on Monday, August 11, 2008 at 6:30 p.m. in the Council Meeting Room, Pottstown Borough Hall, 100 East High Street, Pottstown, Pennsylvania, with President Garner in the Chair.

CONDITIONAL USE HEARING

Solicitor Garner announced a Conditional Use Hearing at the request of Sunny Dayz Child Care, Inc., to operate a Day Care facility at the property located at 333 High Street. Mr. Garner entered several items into testimony.

Attorney Joseph McGrory was present to represent the applicant. Jessica Pichardo, Director for the Day Care and Haydee Gonzales, owner testified on behalf of Sunny Dayz.

Terri Lampe was also sworn in and testified that this property is earmarked for economic development with Radnor Properties.

Solicitor Garner advised that Council has 45 days to render a decision on this matter and the hearing closed at 7:08 pm.

INVOCATION

The invocation was provided by Mayor Sharon Thomas.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

APPROVAL OF MINUTES

Motion by Councilor Gibson, seconded by Councilor Berry to approve the July 14, 2008 Council Meeting minutes as presented. Motion carried: 5 ayes, 1 abstention. President Garner abstained due to his absence at that meeting.

AGENDA ITEMS

President Garner announced that an issue with the Per Capital Tax will be added to the agenda allowing an adjusted time period to provide a full 60 days to residents for payment.

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President Garner also explained that no action is listed or pending before Council regarding an amendment to the Animal Ordinance.

COMMENTS FROM CITIZENS PRESENT

- a. Bruce Madara, 543 North Adams Street – expressed a concern regarding certain private meetings within the Borough indicating “moonlight” meetings. He also advised that his tax bill from Berkheimer took eleven days to reach him by mail.
- b. Catherine Williams, 709 Logan Street – objected to any amendments regulating the number of pets a homeowner may have.
- c. Mrs. Helen Mackewicz, 73 North Evans Street – questioned Council’s decision regarding Exelon’s request to allow mine water from Wadesville to enter the Borough’s water system. She also requested information on last month’s resolution regarding Preserve America, objecting to further restrictions to homeowners.
- d. James E. Rodgers, 548 Grant Street – praised the Blighted Property Review Committee for its efforts and urged code enforcement in the area of Grant Street and stated that he is tired of seeing police cars in that area.
- e. Michael Murphy, 215 North Penn Street – requested consideration on his utility bills while serving in the National Guard. He also requested that Penn Street be repaired and place restrictions on the trucks using Penn Street.
- f. Tracy Fox, 59 North Roland Street – spoke about the discrepancies in her water bill and stated she would be attending the Authority meeting.
- g. Jean Clark, 39 East 2nd Street – distributed information on behalf of Pottstown Pet Lovers and urged Council to not implement such an ordinance.
- h. Joan Stringer, 190 Hillside Drive – stated that she is opposed to any proposed pet limit laws.
- i. Charles E. Wise, Sr., 520 Grant Street – expressed concern regarding the smell of certain properties in his neighborhood and stated nothing is being done regarding these homes.
- j. Newstell Marable, NAACP, P. O. Box 13 – reiterated his request to rename Armand Hammer Boulevard to Martin Luther King, Jr. Boulevard. He also requested that Riverfront Park be renamed to Downie Park. Mr. Marable also requested that Borough citizens be involved with the restructuring of the Ricketts Center.

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k. Chris Dailey, 427 Walnut Street – spoke as the owner of the property and the condition of the properties at 431 and 433 Walnut Street and requested that these be addressed.

l. Mary Schultz, 546 North Charlotte Street – commented that it is wrong to penalize responsible pet owners and objected to any limitations set for homeowners.

m. Douglas Williams, 426 Cherry Street – spoke as a new resident of Pottstown adding that he would leave Pottstown as he did in Elverson if there were limitations on the number of animals he could have at his residence.

n. Chris Golden, 608 Grant Street – spoke on behalf of the Grant Street Community, requesting that something be done with Ralph and Karen Ludy's properties at 327, 329 and 553 Grant Street and 707 Hamilton Street. Ms. Golden noted numerous unnecessary complaints initiated by the Ludy's to the Police Department, Animal Control, Codes and the SPCA.

o. Melissa Levengood, 530 Grant Street – also complained about the situations on Grant Street, noting that no improvements have been made to better the Ludy's properties. She added that she was told six years ago that there was a case being built against the Ludy's and nothing has yet been done.

p. Joan Williams, Audubon – spoke as a member of the Spay Club and requested that there should be no limitations on the number of pets for responsible pet owners. She added that her organization provides mobile units and is working on a spay and neuter clinic.

MAYOR'S REPORT

Mayor Thomas reiterated the concerns regarding clean properties and the importance that places towards the safety and value of the property.

Mayor Thomas commended Captain Drumheller for his explanation of the traffic studies at the recent Committee of the Whole meeting.

Mayor Thomas reported that she would be conducting a forum on August 21st in the Council Chambers Room. There will be two forums, 10:30 a.m. and 5:30 p.m. to address specific neighborhood complaints. She also reminded that the Carousel of Flavor is scheduled for September 14th.

BOROUGH MANAGER'S REPORT

Manager Lopez reported that he had three separate meeting regarding shade tree issues and letters have been sent to the property owners. He also noted that meetings are ongoing for the Schuylkill River Festival scheduled for October 11th. Mr. Lopez added that he also met with Rettew, the new Borough Engineer and details are in the process to finalize the agreement.

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Mr. Lopez also reported that he is presently in a four-day Federally mandated NIMS training course along with several Staff members and will provide detailed information to the Councilors for their required training as it becomes available.

Mr. Lopez announced that several vacancies exist on the various boards.

President Garner urged any interested citizens to contact the Borough Manager's office and these would be considered at the September meeting.

COMMITTEE REPORTS

- a. Library – Councilor Allen had no report.
- b. Human Relations – Mayor Thomas advised that the members will participate in her August 21st forum. The next Human Relations meeting is scheduled for September 11th.
- c. PDIDA – Councilor Berry advised that transitional issues were discussed with the new Main Street Manager, Bill Haley. He added that a copy of the Main Street Assessment report, Year 2, was received, which PDIDA will be following.
- d. Cable – President Garner referred to the distributed report.
- e. COG – President Garner noted that the next meeting is September 9th in Douglass Township.
- f. EAC – Mr. Read advised that no new projects are before the EAC. He added that the committee is expected to review the first draft of the recycling program bid specs. The next Trash committee meeting is Monday, August 25th, 3:30 p.m.
- g. Regional Planning – Councilor Toroney reported that there was no meeting in July. The next meeting is scheduled for August 27th with the Route 100 traffic draft study report on the agenda. Mr. Toroney added that there would be a report of the rail system for the September meeting.
- h. Blighted Property Review Committee – Solicitor Garner advised that there was no meeting in July since there was no quorum, therefore no action was taken. The next meeting is scheduled for Thursday, August 28th, 3:30 p.m. He also explained that a requirement for a home to be considered blighted is that the property is vacant.
- i. Strategic Plan – Terri Lampe provided a brief summary of the 43 items targeted in the Plan. She added that 23 initiatives are underway and advised that the Advisory Board continues to meet monthly. Ms. Lampe also noted that the Homeownership Initiative Program has earmarked \$150,000 from the \$300,000 of the 2006 grant. She added that the building

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design of the Carousel has been forwarded to the County. She also reported that the Industrial Drive Request for Proposals would be completed within 30 days.

Ms. Lampe also referred to a request from Mr. Lopez to provide Council with a daily, weekly and monthly report on routine and extraordinary activities and requested that the format used by other Department Heads be provided to her in order to follow the same report.

Councilor Toroney questioned this request noting that as a member of Council, he did not make the request.

Mr. Lopez advised that Council has indicated, through general direction, its desire to receive updated information regarding Economic Development.

President Garner commented that this is a request between personnel, in which Council does not typically get involved.

UNFINISHED BUSINESS

None.

NEW BUSINESS

a. Per Capita Tax – Motion by Councilor Berry, seconded by Councilor Rhoads to reset the schedule for payment of the Per Capita Tax to allow the discount period to be August 9, 2008 to October 8, 2008, the regular net period to October 9, 2008 to December 7, 2008 and the penalty stage to begin December 8, 2008. Motion carried: 6 ayes.

President Garner advised that notification will be provided to Berkheimer along with a notice on the website.

b. May Street Crossing – Motion by Councilor Berry, seconded by Councilor Gibson to amend the final plan of the May Street Crossing Development Project to grant a waiver for any additional improvements to the Oak Street Alley as outlined in the Pennrose Properties letter of July 9, 2008.

Councilor Rhoads commented that this obligation should be met in order to improve this alley.

Councilor Allen also commented that she would not vote in favor of a waiver.

Presidia Garner noted that this is in the 7th ward and he has been involved with the developers and the property owners trying to obtain approval of the adjacent property owners, who are concerned with access and ownership of the alley. Mr. Garner called for a roll-call vote.

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

Mayor Thomas was called upon to break the tie vote and commented that to avoid unnecessary litigation she would vote in favor of the motion adding that there have many complications with this development that are unnoted by the residents of that development. She added that she would vote in favor of the motion after the due diligence of the Council President.

Motion carried: 4 ayes, 3 nays.

c. Lease-Installment Loan – Motion by Councilor Toroney, seconded by Councilor Allen to adopt a Resolution authorizing the Borough of Pottstown to enter into a Lease-Installment Loan with Municipal Services Group in an amount not to exceed \$674,130, with the final lease-purchase agreement subject to review of the Finance Director and Borough Solicitor.

RESOLUTION NO. 2008 –27

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE OF THE FOLLOWING 2008 CAPITAL EQUIPMENT: BUILDING SECURITY SYSTEM; TEN (10) MOBILE DATA UNITS; 2008 FORD CROWN VICTORIA; 2008 FORD EXPEDITION; 2008 FORD EXPLORER; POLICE AIM SOFTWARE; BOROUGH PHONE SYSTEM; 2008 CHEVROLET COBOLT; DUMP TRUCK; PCTV AUDIO/VIDEO EQUIPMENT.

WHEREAS, Borough Council has determined that a true and very real need exists for the acquisition of this equipment as described in Installment Purchase Agreement No. ____ (hereinafter referred to as “Agreement”); and

WHEREAS, the Borough Council of the Borough of Pottstown has taken the necessary steps, including any legal bidding requirements, under applicable law, to arrange for the acquisition and financing of this equipment; and

WHEREAS, the governing body hereby directs its legal counsel to review the Agreement and negotiate appropriate modifications to said Agreement so as to assure compliance with state law and local statutory law prior to execution of the Agreement by that person so authorized by the governing body for such purpose.

NOW, THEREFORE, BE IT ENACTED AND RESOLVED by the Burgess and Town Council of the Borough of Pottstown, as follows:

SECTION 1. The Borough finds that the terms of the Agreement are in the best interest of the Borough for the acquisition of the equipment described above and the Council designates and confirms that the Borough Council President and the Borough Manager are able

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to execute and deliver the Agreement and any related documents necessary to the consummation of this transaction contemplated by the Agreement.

SECTION 2. The acquisition of the equipment under the terms and conditions provided for in the Agreement is necessary, convenient, in furtherance of, and will, at all times, be using connection with the Borough's governmental and proprietary purposes and functions and are in the best interests of the Borough, and no portion of this equipment will be used directly or indirectly in any trade or business.

SECTION 3. The Borough certifies that it has not issued or effected the issuance of, and reasonably anticipates that it shall not issue or effect the issuance of, more than *Six Hundred and Seventy-Four Thousand, One Hundred Thirty Dollars (\$674,130.00)* of tax-exempt obligations during the 2008 calendar year, and hereby designates the financing of the equipment to which the Agreement pertains as a "qualified tax-exempt obligation," as defined by Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

SECTION 4. The Borough further covenants that it will perform all acts within its power which are or may be necessary to insure the maintenance of its legal status as being a duly organized and existing entity under the laws of the Commonwealth, which status is the basis for the interest portion of the rental payments coming due under the Agreement to at all times remain exempt from federal income taxation under the laws and regulations of the United States of America as presently enacted and construed or as hereinafter amended.

ENACTED and RESOLVED this 11th day of August 2008.

Mr. Armelin explained that the Resolution is required to enter into the five-year Lease-Installment loan to cover the capital projects of the General Fund and the PCTV fund. There will be two separate loan agreements with Municipal Services Group.

Motion carried: 6 ayes.

d. Parks & Recreation General Obligation Note – Motion by Councilor Allen, seconded by Councilor Berry to approve the recommendation of the Finance Director for the financing of the Parks & Recreation Department improvement projects by the issuance of a General Obligation Note in the approximate amount of \$620,000 and to authorize the Borough Administration, Solicitor and Bond Counsel to proceed with all action necessary for such financing including preparation of an ordinance for consideration by Council at a future meeting.

Mr. Armelin explained that the difference with this borrowing is that the Borough would incur debt.

Solicitor Garner also explained that this motion would start the borrowing process and would allow the Bond Counsel to proceed with preparing and advertising a borrowing ordinance.

Mr. Armelin also explained that the borrowing for the Airport would be a similar general obligation note but may be delayed.

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Councilor Toroney urged the need to move forward since the Airport is part of the Economic Development Plan.

Motion carried: 6 ayes.

e. Early Intervention Program – Motion by Councilor Gibson, seconded by Councilor Berry to approve and accept the Department of Community Economic Development Grant for the Early Intervention Program in the amount of \$35,000.

Councilor Rhoads suggested contacting the other municipalities and review their results rather than entering into another \$35,000 grant obligation match.

Mayor Thomas commented that it was previously discussed that the match may be covered through in-kind services.

Councilor Berry stated that this grant would allow the Borough to move forward with the financial stability of the future of the Borough and to deal with management issues that have burdened the Borough within the last few years.

President Garner advised that there was a previous vote to apply for the grant and this vote would allow for the acceptance of the grant. He added that he received comments from Ron Downie, Chairman of the Pottstown Borough Authority, and former Councilor, indicating that this is a worthwhile program. He added that Mr. Downie noted that it may be appropriate for the Authority to participate in any costs that may arise from this agreement. President Garner added that if approved, it would need to come before the Authority.

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

f. Chestnut & York Street – Motion by Councilor Allen, seconded by Councilor Berry to accept the Chestnut & York Street traffic study as recommended by the Police Department (no all-way stop warranted).

Councilor Rhoads commented that the residents have a legitimate concern for an all-way stop sign especially since the direction of York Street was reversed for easier emergency access to the north end of town.

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

g. Oak & Evans Street – Motion by Councilor Berry, seconded by Councilor Gibson to accept the Oak & Evans Street traffic study as recommended by the Police Department (Oak Street will remain two-way) and to authorize a comprehensive traffic study in that area and to not make any other changes in that area until the study is finalized.

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Solicitor Garner noted that as per Captain Drumheller's report, there would not be a recommendation to change to a one-way street without a comprehensive traffic study.

Motion carried: 6 ayes.

h. Evans Street & Jefferson Avenue – Motion by Councilor Allen, seconded by Councilor Berry to accept the Evans Street & Jefferson Avenue traffic study as recommended by the Police Department (no stop sign warranted) and to authorize a comprehensive study in that area. Motion carried: 6 ayes.

i. Chestnut & Evans Street – Motion by Councilor Berry, seconded by Councilor Allen to accept the Chestnut & Evans Street traffic study as recommended by the Police Department (no parking changes recommended) and to increase parking enforcement in the area and to place and replace signage as needed. Motion carried: 6 ayes.

j. Roland & South Street – Motion by Councilor Berry, seconded by Councilor Gibson to accept the Roland and South Street traffic study as recommended by the Police Department (no three-way stop warranted). Motion carried: 5 ayes, 1 nay. Councilor Rhoads cast the negative vote.

k. Temporary Drop-off location – Motion by Councilor Berry, seconded by Councilor Gibson to establish a temporary drop-off location on the north side of the 200 block of High Street as requested by the Tri-County Performing Arts Center and as recommended by the Police Department.

Councilor Berry commented that this should be closely watched as a temporary situation.

Councilor Toroney stated that he is a financial supporter and also a worker at the Performing Arts Center and questioned if PennDot was to be notified of this temporary situation. He also questioned if PDIDA was involved with this change. He also suggested seeing if the parking becomes a problem before any changes are made.

Solicitor Garner advised that the Borough regulates the parking and approval would not be required by PennDOT.

President Garner also responded that PDIDA was invited on two separate occasions to the Parking Subcommittee but chose not to attend or respond. He also noted that the recommendation of the Police Department is to place the temporary restrictions as an experiment at the time of the opening rather than to wait to a later date and then try to implement restrictions.

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Solicitor Garner recommended the adoption of a resolution, which would allow for experimental parking regulations on a temporary basis. He added that a formal resolution would allow a 90- day period and could be listed for the September meeting.

President Garner requested a roll-call vote.

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

Motion carried: 5 ayes, 1 nay.

l. Parking Restrictions – Motion by Councilor Berry, seconded by Councilor Gibson to authorize the Solicitor to amend the Master Traffic Ordinance addressing parking restrictions for items generally not a registered motor vehicle, as recommended by the Parking Subcommittee. Motion carried: 6 ayes.

m. 2008 Street Overlay Bid – Motion by Councilor Toroney, seconded by Councilor Gibson to award the 2008 Street Overlay bid to Reading Site Contractors, Pottstown, PA in the amount of \$602,730 subject to review of the Public Works Department and the Solicitor.

President Garner stressed the importance of this Council and future Councils to continue the project of the street paving.

Motion carried: 6 ayes.

n. COG Items – President Garner advised that there would be no action taken on this matter.

o. St. Aloysius Church– Motion by Councilor Berry, seconded by Councilor Allen to grant approval of the St. Aloysius Church Land Development Final Building Elevation Plan as recommended by the Planning Commission. Motion carried: 6 ayes.

p. YMCA Zoning – Solicitor Garner explained the request for zoning relief to allow an LED lighted message sign, having the same message for a week at time.

There was no action taken by Council on the zoning relief requested.

q. HARB – Motion by Councilor Allen, seconded by Councilor Berry to approve Certificates of Appropriateness for the following properties as recommended by HARB:

- a) 236 East High Street
- b) 367 East High Street
- c) 846 East High Street
- d) 961 East High Street

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- e) 104 King Street
- f) 221 East High Street

Motion carried: 6 ayes.

r. HARB – Motion by Councilor Gibson, seconded by Councilor Berry to ratify action of the Building Permit Officer approving Certificates of Appropriateness for the following properties:

- a) 810 High Street
- b) 450 High street

Motion carried: 6 ayes.

Executive Session

President Garner recessed the meeting to executive session at 9:30 p.m. for one item of personnel and one item of pending litigation.

Reconvened

The meeting reconvened at 9:50 p.m.

Upland Square Appeal - Solicitor Garner explained the pending dispute regarding the proposed height of certain buildings in the Upland Square Shopping Center as it relates to the potential development of the Airport and the proposed length of the runway. Mr. Garner added that West Pottsgrove Township approved the development in June 2008 prior to the Borough having a response from a March 6, 2007 sent to the developers from the Borough's Airport Consultant David Jones. The letter raised potential impact to the Airport. No response was received by Delta Airport Consultants or the Airport. Solicitor Garner advised that he filed a timely land use appeal July 17, 2008 at the direction of Borough Council.

Solicitor Garner also explained that a meeting was held July 29 with the Borough Staff, the Developers and the Airport Consultant. It was concluded that after reviewing the information that the Developers had recently filed its application with the FAA and that the buildings would not obstruct the approach of the extended runway and that no hazard to navigation presently exists.

Solicitor Garner recommended that several motions would be required to resolve this matter.

s. Upland Square Appeal – Motion by Councilor Berry, seconded by Councilor Toroney to ratify the filing of the Land Use Appeal from the development approval granted by West Pottsgrove Township. Motion carried: 6 ayes.

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t. Upland Square Appeal Withdraw – Motion by Councilor Berry, seconded by Councilor Toroney to authorize the Solicitor to withdraw the Land Use Appeal based upon the findings and conclusions communicated to the Borough by Delta Airport Consultants. Motion carried: 6 ayes.

u. FAA Review – Motion by Councilor Berry, seconded by Councilor Allen to authorize Borough Staff, the Borough Solicitor and the Airport Consultant to communicate with and review the FAA Submission along with other relevant issues that could impact the use of the Municipal Airport in the future.

Ralph Ludy questioned the status of the traffic light for the area.

President Garner responded that the study for the traffic light is outstanding and would not have an answer at this time.

Motion carried: 6 ayes.

REPORT OF BILLS

Motion by Councilor Berry, seconded by Councilor Gibson to pay the outstanding bills in the amount of \$1,411,831.53. Motion carried: 6 ayes.

ANNOUNCEMENT

Mayor Thomas announced that the Montgomery County District Attorney will conduct a town meeting on September 15, 7:30 p.m. at the Pottstown High School.

EXECUTIVE SESSION

President Garner announced an executive session at 10:00 p.m. for a personnel item.

ADJOURNMENT

The meeting adjourned on motion by Councilor Gibson at 10:40 p.m.

Attested,

Raymond W. Lopez
Borough Manager