

December 29, 2008

POTTSTOWN BOROUGH COUNCIL

The Adjournment Meeting of the Pottstown Borough Council was called to order on Monday, December 29, 2008 at 6:00 p.m. in the Council Meeting Room, Pottstown Borough Hall, 100 East High Street, Pottstown, Pennsylvania, with President Garner in the Chair.

INVOCATION

The invocation was provided by Mayor Thomas.

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 Mayor Sharon Thomas, Solicitor Charles Garner, Borough Manager Raymond Lopez and Borough Secretary Virginia Takach.

EXECUTIVE SESSION

President Garner recessed the meeting to executive session at 6:05 p.m. one item of collective bargaining and one item of pending litigation.

RECONVENED

The regular meeting reconvened at 6:40 p.m.

Solicitor Garner noted that a possible motion would be listed for approval of the Police Officers Contract as a result of the executive session.

Vice President Berry read a statement on behalf of Council thanking the Pottstown Police Officers Association for voluntarily providing a wage freeze for 2009 and a 3.5% increase in 2010, the second year of the two-year contract, resulting in a savings to the Borough's General Fund at \$138,000 or the equivalent of .154 mills. Mr. Berry expressed appreciation and cooperation to the PPOA on behalf of Council and the entire community.

Mr. Bobst added that this would reduce the tax increase from 12.36% to 10.44% and would also change the General Fund millage to 5.19803 resulting in a total millage of 8.88872. Mr. Bobst also advised that the total revenue and expense figure would be \$35,114,988.

COMMENTS FROM CITIZENS PRESENT

a. Johnny Corson, 544 Jefferson Avenue – questioned the need to have two Borough Managers with the absence of the Economic Development Director and the Borough Manager being relieved of his Authority Manager’s duties. He added that with eliminating one of the manager positions, it would further benefit the taxpayers.

Mayor Thomas also thanked Assistant Manager Jason Bobst and Consultant Timothea Kirchner and the finance team for their efforts in providing this budget. She noted that the team reduced the budget from a 30% increase to approximately 10% while reasonably maintaining services to residents. She also thanked the AFSCME Union for understanding the complex budget process and noted that every effort was taken to consider the proposals that were brought to the Budget Team. The Mayor referenced the top three contributors to the budget, which are the Police Department, the benefits package and the Codes Department.

UNFINISHED BUSINESS

None.

NEW BUSINESS

a. Police Contract – Motion by Councilor Gibson, seconded by Councilor Wenzel to approve and authorize the execution of a two-year Collective Bargaining Agreement with the Pottstown Police Officers Association, the final form to be acceptable to the Borough Manager and the Borough Solicitor.

Solicitor Garner explained the proposed contract was approved in concept by the Association and is a two-year contract to run from January 1, 2009 to December 31, 2010. He added that there will be no increase in base compensation and a 3.5% increase in the second year. Solicitor Garner also advised that the new benefit is the Deferred Retirement Option Plan (DROP), which allows the officers to work longer to assist in their retirement.

President Garner requested a roll-call vote.

Allen	yes	Rhoads	yes
Berry	yes	Toroney	yes
Garner	yes	Wenzel	yes
Gibson	yes		

Motion carried: 7 ayes.

b. 2009 Budget – Motion by Councilor Wenzel, seconded by Councilor Allen to approve the 2009 Budget with total revenues of \$35,114,988 and total expenditures of \$35,114,988 as adjusted on December 29, 2008.

Councilor Toroney commented that he would be voting against the budget for not having the auditing firm provide a report to Council, for the elimination of the Economic Development position and for balancing at least part of the budget on the taxpayers.

Councilor Berry stated that he would have recommended further cuts from the budget but felt that further cuts would not be supported by the majority of Council.

Councilor Gibson commented that the budget was easier to understand and commented that after second thought he may have voted differently on the cuts in positions, stating that he is appointed for the citizens of the Borough.

President Garner requested a roll-call vote.

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

Motion carried: 4 ayes, 3 nays.

c. Tax Ordinance – Motion by Councilor Wenzel, seconded by Councilor Gibson to adopt an Ordinance to fix the Borough tax rate for real property for the Year 2009 as follows:

ORDINANCE NO. 2055

AN ORDINANCE OF THE BOROUGH OF POTTSTOWN, COUNTY OF MONTGOMERY, COMMONWEALTH OF PENNSYLVANIA, FIXING THE TAX RATE FOR THE YEAR 2009

Tax rate for general purposes, the sum of	5.19803 mills
For debt purposes, the sum of	1.06871 mills
For fire house maintenance purposes, the sum of	1.30635 mills
For library purposes, the sum of	0.18505 mills
For street light purposes, the sum of	0.33670 mills
For shade tree purposes, the sum of	0.00000 mills
For parks and recreation purposes, the sum of	<u>0.79388 mills</u>
TOTAL MILLAGE	8.88872 mills

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Councilor Toroney questioned if a Tax Anticipation Note would be required for this period.

Mr. Bobst responded that at this point it would not be necessary.

President Garner requested a roll-call vote.

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

Motion carried: 4 ayes, 3 nays.

Councilor Gibson abstained from voting on the Fire Tax maintenance item.

Mayor Thomas voted yes on the fire tax item to break the tie vote, resulting in a 4 ayes, 3 nays vote for the Tax Ordinance.

d. Fee Resolution – Motion by Councilor Wenzel, seconded by Councilor Gibson to adopt a Resolution amending the Comprehensive Borough Fee Resolution.

RESOLUTION NO. 2008 - 39

A FEE RESOLUTION AMENDING THE COMPREHENSIVE BOROUGH FEE RESOLUTION TO AMEND CERTAIN PERMIT FEES AND OTHER TYPES OF FEES WITHIN THE BOROUGH OF POTTSTOWN.

WHEREAS, the Burgess and Town Council of the Borough of Pottstown adopted a comprehensive fee resolution on July 10, 1995; and

WHEREAS, the Borough annually reviews the Fee Resolution to determine if additions or amendments to the Fee Resolution are necessary and appropriate; and

WHEREAS, the Burgess and Town Council of the Borough of Pottstown desires to amend certain fees/service charges due to the change in cost for providing such services.

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:

SECTION 1. In accordance with the Open Records Access Policy adopted by Resolution No. 2008 - 40 there shall be imposed Twenty Five Cents (\$0.25) per page for duplication of requested records. All other fees and costs associated with the Open Records Access Policy are contained specifically in that Policy.

SECTION 2. The Pottstown Borough’s annual service charge for collection and disposal of garbage, rubbish, refuse and recycling for each residential unit shall be increased from Three Hundred Nine Dollars (\$309.00) per unit to Three Hundred Fourteen Dollars per unit (\$314.00).

SECTION 3. The kennel fee to house animals shall be increased from Fifteen Dollars (\$15.00) per day to Twenty Dollars (\$20.00) per day for all instances.

SECTION 4. The following fees of the Pottstown Borough Police Department shall be established and be charged as set forth below:

- A. Arrestee Processing Fee only - Fifty Dollars (\$50.00/instance).
- B. Arrestee Video Arraignment Fee - Fifty Dollars (\$50.00/ instance).
- C. Arrestee Processing and Video Arraignment Fee - One Hundred Dollars (\$100.00).
- D. Arrestee Incarceration/Processing/Video Arraignment Fee - One Hundred Seventy Five Dollars (\$175.00/instance).

SECTION 5. The following fees of the Finance Department shall be amended and provide as follows:

- A. Returned checks - Thirty Dollars (\$30.00) plus actual costs of certified mailing.
- B. Water Service Turn-On Fee - Fifty Dollars (\$50.00).
- C. Penalty for Delinquent Hangar Rental - Thirty Dollars (\$30.00) per month plus actual mailing costs.
- D. General Accounts Receivable - Six Dollar (\$6.00) penalty fee for payment beyond thirty (30) days.

SECTION 6. The following fees imposed by Code Enforcement relating to Housing, Plumbing, Property Transfers, and Rental; Change of Occupancy shall be amended and read as follows:

<u>Use & Occupancy Permits</u>	<u>Fees</u>
Residential Additions	\$70.00
New Residential Building	\$115.00
Ind/Commercial/Non res	\$175.00
Ind/Commercial/Non res addition	\$130.00
<u>Plumbing</u>	<u>Fees</u>
Basic Inspection Fee	\$40.00**
Failure to Attend Inspection	\$28.00
Rough In and Final Inspections	\$28.00**
** Eliminate rough in and final inspection fees and adjust basic inspection fee to \$56.00.	
<u>Housing</u>	<u>Fees</u>
Licensing Fees for rental units	
- Licensing Fee	\$75.00 single family
	\$57.00 all other units
- Reinspection	\$40.00 per unit
- Reinstatement	\$57.00 per unit

Registration Fee:	\$115.00
<u>Property Transfer Use & Occupancy Inspection</u>	<u>Fees</u>
Residential Rental Unit	\$75.00 single family
	\$57.00 all other units
Residential Property Transfer	\$115.00
Commercial Rental	\$113.00
Commercial Property Transfer	\$115.00
Short Term Rental	\$28.00
Second and/or subsequent inspects	\$23.00

SECTION 7. The following fees, imposed by Code Enforcement, associated with Building Permits, Plumbing Permits, and Plan Reviews shall be amended to provide as follows:

Building Permit Fees (Based on computable square footage)	Fees
Residential Construction	\$0.30/sf (\$75.00 minimum)
Addition or Alteration (Addition - decks, garages, sunroom, patio, roof extension, etc.) (Alteration - kitchens, bathrooms, conversion of garage, porches, attics or basement require 2 nd means of egress into habitable space, etc.)	\$0.25/sf (\$50.00 minimum)
New Non-Residential	\$0.40/sf (\$300.00 minimum)
Tenant Outfit or Alterations Existing	\$0.35/sf (\$300.00 minimum)
More than 25% of roofing cover replaced or installed	\$3.50/100 sf (\$50.00 minimum)
Siding & Stucco	\$3.50/100 sf (\$50.00 minimum)
Demolition - Residential	\$0.15/sf (\$100.00 minimum)
Commercial	\$0.25/sf (\$250.00 minimum)
Electrical Work Processing/Tracking fee	\$25.00

<u>Plumbing Permits</u>	<u>Fees</u>
Each plumbing fixture installed:	
- Residential	\$15.00
- Commercial	\$15.00
Sewer Ejector or Interceptor (grease, hair, oil, etc.)	\$25.00
Sewer lateral/water lateral/gas installation or repair minimum	\$25.00 (\$25.00/100 lineal feet or fraction thereof)

<u>Reviews (based on computable square footage)</u>	<u>Fees</u>
Plan Review	\$0.05 (\$25.00 minimum)
Energy Review	\$0.05 (\$25.00 minimum)
Accessibility Review	\$0.05 (\$25.00 minimum)
Mechanical Review	\$0.05 (\$50.00 minimum)
Plumbing Review	\$0.05 (\$50.00 minimum)

SECTION 8. The Property Maintenance Hourly Fee per worker shall be amended to Twenty Nine Dollars and Seventy-Five Cents (\$29.75) per worker with a minimum charge of Thirty Four Dollars and Fifty Cents (\$34.50) for overhead.

SECTION 9. The fee associated with a General Business License under the category of Licenses, Permits and General Business Regulations shall be increased to One Hundred Dollars (\$100.00).

SECTION 10. Application Fee requiring Borough approval prior to recording any Deed shall not exceed the amount permitted by State Law.

SECTION 11. All future modifications of these fees and other fees established by the Comprehensive Borough Fee Resolution shall be made by Resolution duly adopted by the Burgess and Town Council of the Borough of Pottstown.

SECTION 12. This Resolution shall become effective immediately upon enactment and such fees shall become effective January 1, 2009.

ENACTED and RESOLVED this 29th day of December 2008.

Solicitor Garner commented that a fee for the recycling bins would be incorporated into the new recycling ordinance.

President Garner requested a roll-call vote.

Allen	yes	Rhoads	yes
Berry	yes	Toroney	yes
Garner	yes	Wenzel	yes
Gibson	yes		

Motion carried: 7 ayes

e. Open Records Policy – Motion by Councilor Wenzel, seconded by Councilor Allen to adopt a Resolution adopting an Open Records Access Policy establishing \$.25 per page copying charge.

RESOLUTION NO. 2008 – 40

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN ADOPTING AN OPEN RECORDS ACCESS POLICY PURSUANT TO ACT 3, OF 2008, KNOWN AS THE PENNSYLVANIA RIGHT TO KNOW LAW.

WHEREAS, on February 14, 2008, the governor of the Commonwealth of Pennsylvania signed into law Act 3 of 2008 requiring municipalities to establish an official Open Records Access Policy to become effective on or before January 1, 2009; and

WHEREAS, in order to come into compliance with the Pennsylvania Right to Know Law, the Borough has created an Open Records access Policy containing, inter alia, the designation of an open record officer, the establishment of a process to obtain open records, and a Fee Schedule associated with such record request; and

WHEREAS, the Burgess and Town Council of the Borough of Pottstown wishes to formally adopt, by Resolution, the Open Records Access Policy.

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

SECTION 1. There is hereby adopted an Open Records Access Policy which shall become the process by which the Borough of Pottstown shall respond to requests for public records. A true and correct copy of the Policy is attached hereto, incorporated herein, and marked as Exhibit "A".

SECTION 2. All other resolutions or policies inconsistent with the Resolution are hereby repealed.

SECTION 3. The amendments to this Policy shall be made from time to time by Resolution of Pottstown Borough Council.

SECTION 4. This resolution shall become effective January 1, 2009.

EXHIBIT A - OPEN RECORDS ACCESS POLICY -OF THE BOROUGH OF POTTSTOWN

SECTION 1. Applicability. This Policy shall govern all requests made for access to open/public records of the Borough of Pottstown (hereinafter "Borough").

SECTION 2. Purpose. The purpose of this Policy is to assure compliance with Act 3 of 2008, the Pennsylvania Right to Know Law, as amended; to provide access to public records of Pottstown Borough; to preserve the integrity of Pottstown Borough's records; and to minimize the financial impact to residents of the Borough regarding resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

SECTION 3. Creation of Position of Open Records Officer. Virginia Takach, the Borough Secretary, is hereby designated as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right to Know Law, in

accordance with the guidelines set forth in this Policy. In addition, the Open Records Officer may designate certain employees to process public record requests. It is the duty and goal of the Open Records Officer to minimize, where possible, the financial impact to the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of all public records.

SECTION 4. Oral/Verbal Request for Access. Oral or verbal requests for access to public records may be honored by the Open Records Officer so long as that verbal or oral request for access to records is made directly to the Open Records Officer. However, if a requester wishes to pursue the relief and remedies provided for in the Pennsylvania Right to Know Law, the request for access to records must be in writing.

SECTION 5. Written Request for Access. Written requests for access to public records of the Borough shall be addressed to the Open Records Officer and shall be specific in identifying and describing each public record requested. The identification or description of the records should be with such sufficient specificity so that the record can be located without speculation as to the record being sought.

A. All requests for public records shall be submitted, in writing, and include the date of the request; the requester's name, address, telephone number, and email address, certification of United States residency, signature of requester and, if duplication is requested, appropriate payment.

B. In no case shall the Borough be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Borough does not concurrently compile, maintain, format or organize the public record.

SECTION 6. Processing of Requests. The Open Records Officer shall make a good faith effort to determine whether each record requested is a public record. The Open Records Officer shall respond to the requestor within five (5) business days from the date of receipt of the written request. The response provided by the Open Records Officer shall consist of (1) approval for access to the public records; (2) review of the request by the designated employee as described in Section 7 below; or (3) denial of the access to the record requested. If the Open Records Officer does not respond within five (5) business days of the receipt thereof, the request is deemed denied.

The Open Records Officer shall facilitate a reasonable response to all requests for Borough public records. In no case however, is the Borough expected to provide extraordinary staff to respond to the requests, but will respond in a manner consistent with the Borough's administrative responsibilities and consistent with the requirements of the Pennsylvania Right to Know Law.

SECTION 7. Requests Under Review. If the request for access is being reviewed, based upon the fact that one of the factors listed in this Section applies, the Open Records Officer shall send written notice to the requestor within five (5) business days of the receipt of the request for access. The notice shall include a statement notifying the requestor that the request for access is being reviewed, the

reason for the review, a reasonable date that a response is expected to be provided and an estimate of the applicable fees owed when the records becomes available.

If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for, the request for access shall be deemed denied, unless the requestor has agreed in writing, to an extension to the date specified in the notice. If the requestor agrees to the extension, the requestor shall be deemed denied on the day following the date specified in the notice if the Borough has not provided a response by that date.

Review of the request is limited to situations where:

- A. The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to grant of access. The redacted information is considered a denial as to that information;
- B. The record requires retrieval from a remote location;
- C. A timely response cannot be accomplished due to staffing limitations;
- D. A legal review is necessary to determine whether the record is a public record;
- E. The requester has failed to comply with the requirements of the Borough's Open Records Access Policy;
- F. The requester refuses to pay the applicable fees;
- G. The extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, the Open Records Officer shall send written notice to the requester within five (5) business days of the receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided, and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for, the request for access shall be deemed denied unless the requester has agreed, in writing, to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

SECTION 8. Approval of Request. If access to the public record requested is approved, the public record shall be available for access during regular business hours at the Pottstown Borough Hall, 100 East High Street, Pottstown, Pennsylvania, 19464, unless the Open Records Officer designates an alternative location where the records can be reviewed. Inspections shall be made between 9:00 a.m. and 4:00 p.m. during any weekday, Monday through Friday, except public holidays or days when Borough Hall is not otherwise, generally, available and open for business.

- A. The Open Records Officer or designated employee shall cooperate fully with the requester while also taking reasonable measures to protect the Borough's

public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

SECTION 9. Denial of Request/Appeals. If the request is deemed denied or denied:

A. The requester may file an appeal with the Commonwealth Office of Open Records (COOR) within fifteen (15) days of the mailing date of the Borough's notice of denial, or within fifteen (15) days of the deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.

B. Within thirty (30) days of the mailing date of the final determination of the appeals officer of the COOR, the requester or Borough may petition for review or other relief, as required by the rules of the Court of Common Pleas for Montgomery County. The decision of the Court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clear and concisely explain the rationale for the decision. A petition for review under this section shall stay the release of documents until a decision is issued.

SECTION 10. Fees. The following fees shall be due and be paid by any person or entity requesting access to the Borough's public records:

A. The actual postage on any mailing made in response to said request;

B. An additional One Dollar (\$1.00) per record, if a certification is being requested of the records being produce.

C. Fees for duplication of public records in the amount of Twenty-Five Cents (\$0.25) per page, which the Borough, at its discretion, may waive; and

D. In the event the estimated cost of fulfilling the requests submitted under this Policy is expected to exceed One Hundred Dollars (\$100.00), the Open Records Officer shall obtain the expected cost in advance of fulfilling the request to avoid unwanted expense of Borough resources. Thereafter, the Open Records Officer shall notify the person or entity requesting the copies of the records and copies will not be made until the cost of the copies, as estimated by the Borough Open Records Officer is paid in advance. Either a supplemental bill or a refund shall be made if the actual costs are different than the Borough's estimate.

E. For specialized documents such as blueprints, color copies, or non-standardized sized documents, as well as, facsimile or microfiche, the actual cost incurred by the Borough.

F. If the record is maintained electronically or in other non-paper media, duplication fees shall be the fee for duplication on paper.

There is no charge for inspecting the public records. The fees stated above are for request of copies for public records. However, once the request is fulfilled and prepared for release, the open records officer shall not release the records to the requester until the requester submits the payment associated with the production of the records.

SECTION 11. Effective Date/Modification. This policy shall be in effect for all requests for public records made on or after the date of the adoption of this

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Policy. Any and all amendments to fees, and any and all future changes to this Policy shall be made by Resolution of Borough Council.

This Open Records Access Policy of Pottstown Borough has been adopted by Resolution of the Borough Council on the 29th day of December 2008.

President Garner requested a roll-call vote.

Allen	yes	Rhoads	yes
Berry	yes	Toroney	yes
Garner	yes	Wenzel	yes
Gibson	yes		

Motion carried: 7 ayes.

f. PDIDA - Motion by Councilor Rhoads, seconded by Councilor Wenzel to adopt an Ordinance permitting the extension of the existence of the Pottstown Downtown Improvement District Authority for an additional four (4) years.

Councilor Berry explained that in the third year, PDIDA would receive \$60,000 exit dollars after completing the Main Street Manager program.

President Garner requested a roll-call vote.

Allen	yes	Rhoads	yes
Berry	yes	Toroney	yes
Garner	yes	Wenzel	yes
Gibson	yes		

Motion carried: 7 ayes.

ANNOUNCEMENTS

President Garner advised that he would entertain a discussion at the Committee of the Whole meeting regarding the appointments to the committees and subcommittees.

Councilor Toroney commented that he is requesting to be reappointed to the Regional Planning Committee.

ADJOURNMENT

The meeting adjourned on motion by Councilor Allen at 7:25 p.m.

Attested,

Raymond W. Lopez
Borough Manager