

**UPPER MORELAND TOWNSHIP
BOARD OF COMMISSIONERS**

**FINANCE & ADMINISTRATIVE COMMITTEE
MEETING MINUTES**

January 22, 2008

CALL TO ORDER – Commissioner Valenza called a meeting of the Finance & Administrative Committee of the Board of Commissioners of Upper Moreland Township to order at 7:00 p.m.

ROLL CALL – Commissioner Valenza, Chairman took roll call. Present: Commissioners Efkwitz and Commissioner McKenna.

Others: David Dodies, Township Manager, Anne Thornburgh Weiss, Township Solicitor, and John Crawford, Assistant Township Manager/Director of Finance.

APPROVAL OF MINUTES:

Commissioner Valenza accepted the minutes of the December 10, 2007 Finance & Administrative Committee meeting into the record as submitted.

REPORTS:

Director of Finance

Mr. Crawford stated that the two highlights of December were the year end close of the Township's books as well as the budget preparation.

Tax Enforcement Officers

There were no questions

Earned Income Tax Collector

No comments made.

Investment Activity Report

Commissioner Efkwitz asked John Crawford what would happen on March 15th with the maturity of the last CD in the amount of \$96,000.00.

Mr. Crawford replied that the \$96,000.00 will be wire transferred back into our money market account and will be available to be spent. At this time the \$96,000.00 is in a Certificate of Deposit; therefore, we could not spend it now if we chose to.

Commissioner Efkwitz asked if the \$96,000.00 were earmarked for anything in the spring.

Mr. Crawford replied that it is not and said that they will reinvest it depending on what is available at the time.

REVIEW OF FINANCIAL STATEMENTS:

Current Bills Paid

Commissioner Valenza asked about GSS Tours Inc.

Mr. Crawford answered that it is from Parks & Rec. department for the Golden Age Club.

Revenue & Expense Summaries

General Fund – Commissioner Valenza asked Mr. Crawford if they could compare on the report so that he could see a month to month and year end. Mr. Crawford replied that he could do it.

Commissioner Efkwitz asked if we will see in the next month transfers from one account to another since this is complete for the year 2007.

Mr. Crawford replied that there will not be any necessary transfers at this point. We started with our new budget in January so you will not see any transfers. Any transfers you may see will be for investment purposes. As the tax revenues start to come in we will take that money and transfer it into various investments.

There were no comments or questions on the Liquid Fuel, Debt Fund, Escrow Fund and the Revolving Fund.

PERSONNEL

Appointments/Reappointments

Commissioner Valenza stated that there was some discussion as to whether or not we want to round up some of these dates to the end of the month instead of making them in the beginning of the month and to eliminate the problems that we just went through.

Commissioner Efkwitz asked the Solicitor about the Zoning Hearing Board. The expiration dates should be 12/31 of whatever year so if we choose not to take action on appointing someone to the Zoning Hearing Board and the expiration date passes and nothing is done the individual that sits in that seat would continue to serve until we actually do take action and if we take action on January 1, 2009 or the first reasonable time thereafter that would start the new term. The Solicitor confirmed that appointments could be made in this way.

Commissioner Efkwitz asked Mr. Dodies if he were aware whether the actual term dates are specified in our Zoning Hearing Board and Police & Fire Civil Service Commission.

Mr. Dodies replied just by length of term, not by specific dates.

Commissioner Efkwitz asked if the Board decided they wanted the Sewer Authority, Zoning Hearing Board and Civil Service Commission all to expire at the end of a year would the Solicitor suggest doing that by Resolution. The Solicitor stated that would be the appropriate method.

Commissioner Valenza asked whether it would be January 1st or December 31st.

Commissioner Efkwitz replied it probably should be December 31st.

Solicitor Weiss replied December 31st, as well.

Commissioner Efkwitz replied she would like to see that happen especially with the Zoning Hearing Board and the Police & Fire Civil Service Commission. She said she thought it would make it easier for this committee and the Board of Commissioners who are out there looking for willing volunteers.

Mr. Dodies said that what you are generally trying to do is to have all of the appointments expire on the 31st. He said if you do it for every Board and Commission then eventually you would hold everyone that's coming up, for example in 2008, you would simply let this list go by until the first meeting in 2009.

Solicitor Weiss replied that that is called a "hold over term".

Mr. Dodies said it would stay all the appointments in 2008 then in 2009 at the first legislative meeting they would all be due.

Commissioner McKenna said that this Board should not extend appointments beyond three-years and doesn't think they should change the appointments of past Boards.

Commissioner Efkwitz doesn't believe that they have to go so sweeping as to include the APA.

Commissioner Spearing said he was in favor of the 12/31 expiration for all appointments. It keeps it simple. Also, you talked about a stay for the rest of the year that would expire. Actually on the agenda for Parks & Rec. we have some consideration for non-active members so I wouldn't want a stay to cloud the issue with us placing those particular people so if there is a resolution to be considered let's do it now and incorporate existing terms of participation so that we can incorporate this stay into the resolution but then also the existing terms of participation so that we could also take action in-between. That's my recommendation.

Commissioner Efkwitz said in a situation where you have an inactive participant on a council or commission you may want to go to that person and say step up or step down.

Commissioner Spearing responded that he doesn't want his hands tied by a stay. He also stated that maybe this should be held over for committee again so we can all think about what we want to incorporate in the resolution so we can rewrite the whole thing instead of just pieces of it.

Commissioner Valenza said what normally happens is Pat Stasio would make recommendations or someone would ask Pat to make a recommendation.

Commissioner Spearing said we have guidelines but I don't know that they are incorporated into a resolution or if they are for each individual authority or group of people or organization. I don't see why we can't incorporate all this in one.

Commissioner McKenna stated that there are two different issues, first is the term and the second is who occupies the term. What Sam is presenting is really the term itself and then as far as the occupant of the term that's still to be determined.

Commissioner Spearing said the impression he got was at least for '08 that a recommendation of a stay of all replacements for the balance of this year would not take place that they would remain in their positions until 12/31 of this year.

Commissioner Efkwitz responded by saying unless they chose willingly to step down.

Commissioner Efkwitz said Solicitor Weiss suggested drafting a resolution for presentation at the next committee.

Commissioner Spearing was concerned about the stay conflicting with the terms overlapping again.

Commissioner Romaniello asked Mr. Dodies to put together a list of what expirations are coming up over the next eleven months and she would also like to see an attendance record.

Pat Stasio said that the Parks & Rec. Advisory Council has some bylaws that say that they have to attend 50% of the meetings and 50% of the special events. The difficulty we have is when folks are not participating and we can't make a quorum so if we keep folks on through the end of the year that are not participating it puts a strain on the rest of the Parks & Rec. Advisory Council to get enough folks to be a quorum. It sounds like the term would expire at the end of the year, however, if people aren't fulfilling their obligations they can be removed during the year so that you can find someone else to appoint to term through this year which would expire at the end of the year.

Commissioner Efkwitz responded absolutely, if you have cause.

Commissioner McKenna said he had spoken to Mark Gallagher and he would like to be reappointed to the Police & Fire Civil Service Commission.

Commissioner Efkwitz said that they would move the reappointment of Mark Gallagher for action in February.

Commissioner Comments

Commissioner Spearing commented that he got the impression that they weren't going to move anyone for action at this time.

Commissioner Efkwitz said that Mark Gallagher's expiration date was 12/31/07 so that position should have been reappointed at the January meeting.

Commissioner Spearing asked the solicitor would it be acceptable to have those discussions at committee meetings prior to the expiration and then moving for action in the following year.

Solicitor Weiss said that was acceptable.

Commissioner Valenza said they would move it for action to expire 12/31/2013 (Mr. Gallagher). But, technically John Bethard's position is going to expire before the next meeting (on the Parks & Recreation Advisory Council).

Commissioner Efkwitz replied that she thought the Commissioner from Ward 4 would like to reach out to both John and Vincent Pettinato and find out if they do intend to continue on the Parks & Rec. Advisory Council for another two years. If not the Commissioner of Ward 4 would need to find a suitable replacement.

Commissioner Efkwitz said that the vacancy on the APA should be put on the Board & Commissions sheet so that we are aware we are looking for an APA member in the seventh ward.

Commissioner Efkwitz asked Mr. Dodies whether the appointment for a Ward should be a resident of the Ward.

Mr. Dodies replied that as far as the APA, yes.

OLD BUSINESS

Consideration of Storm Water

Mr. Dodies said that this item was placed on this committee several months ago and doesn't understand why it is under this committee and would it be appropriate to move it under Community Development.

Commissioner Efkwitz said she was fine with removing it from the agenda and revisiting it later if needed.

Commissioner Romaniello believes that this could go to Community Development and would be happy to report back.

Commissioner Efkwitz replied for a storm water update.

Mr. de Jonge commented that he will be attending a conference called First Suburbs which includes storm water management.

Letter to neighboring communities concerning sex offender regulations

Commissioner Efkwitz asked Mr. Dodies if anyone has responded to the suggestion that was made.

Mr. Dodies replied there were none.

Commissioner McKenna asked if a letter could be sent to see if there is any interest with the new Boards and let them know that we are interested in it.

Commissioner Valenza said they were going to leave it on the agenda.

NEW BUSINESS

Lease Agreement between Upper Moreland Soccer Club and Township

Pat Stasio said that the soccer club approached the Parks & Rec. Advisory Council and they reviewed their proposal and accepted it for consideration by the Board of Commissioners who a month or two ago discussed it briefly at a committee meeting. He would like to ask the Solicitor to sit down with all parties and perhaps iron out any differences that might be in the Lease Agreement.

Commissioner Efkwitz said that at the last committee meeting there were concerns raised. I don't believe our new solicitor has had the opportunity to look at those concerns.

Pat Stasio replied that there was no draft by the previous solicitor.

Commissioner Efkwitz asked if they might have a draft lease to review next month in Finance & Administration.

Commissioner Comments

Commissioner Spearing is opposed to any type of lease that does not permit "windows of opportunity" and it's very important that they are structured. He doesn't believe that the field should be restricted to just soccer.

Commissioner Romaniello said she feels it is important to point out that we have a shortage of fields.

OTHER ITEMS

Ordinance No. 1524

Commissioner Efkwitz wanted to know what we are charging at this time.

Mr. Crawford replied that he doesn't believe Mr. Walter is charging anything right now but he won't charge fees without Board approval. The Township Treasurer is asking for a fairly routine fee to cover costs. Many Townships do this.

Commissioner McKenna said he would like the Township Treasurer to put a number to how many duplicates he does and what he anticipates monthly and annually.

Mr. Crawford said that according to the Township Treasurer's letter he felt that \$2.00 is sufficient to cover his overhead. He said that the Treasurer covers his own expenses and also the mailing.

Commissioner Efkwitz said that it should be left on the agenda until Mr. Crawford gets back to the Board with answers.

Mr. Crawford said he will have the Treasurer get back to them with his response.

No public comments.

Resolution R-2008-41 – Upper Moreland Township Calendar

The Committee moved the resolution for action at the February 4, 2008 meeting.

Amendment to the Board of Commissioners Bylaws

Commissioner Valenza asked Mr. Dodies if he read the amendment.

Mr. Dodies replied that he had. The Committee moved the By-Laws Amendments for action at the February 4, 2008 meeting.

Commissioner Comments

Commissioner Efkwitz said for public information that this is a resolution amending the Board's Bylaws. We are folding the redevelopment committee's efforts into the Community Development and Public Works committee so we will have four standing committees. We are not doing away with any of the efforts of the redevelopment committee at all; it will simply be that any issues that come before the redevelopment committee would come before any of the other four appropriate committees beginning with Community Development. We are also making a change in the fact that the department heads need not be reappointed bi-annually but the positions can be appointed when vacancies have occurred.

Commissioner Efkwitz said that there is also going to be a name change from Community Development & Public Works; Redevelopment to Community Development Committee.

Commissioner Romaniello asked to make things clear if the redevelopment efforts are going to be run by the government and through the Community Development Committee, is that correct?

Commissioner Efkwitz said where appropriate.

Commissioner Spearing commented that last week the Board took action to ratify and reaffirm appointments and said it was a necessary action because it prevented certain groups, organizations or Boards from functioning and that this action would effectively remove Mr. Spearing and Mr. Casey from their appointments. He wanted to know where Commissioner Valenza got the opinion that it would take place and they would be removed. Mr. Spearing received a letter from Mr. Dodies regarding his appointment and

also a letter of recognition from Mr. Washnock, the general manager and attended a meeting on January 8th as a newly appointed Board member. Where is it written that the action we have taken effectively removed anyone from those positions? How have we helped these organizations to move forward? How do we as Board of Commissioners instruct these groups as to who is the rightful representative to these positions. He said that he was asked to abstain due to a conflict of interest. He would like to know where the conflict of interest was for him. If it was the intention of those that could to create an environment where a quo warranto proceeding may be initiated I believe it has been successful. If that were your intention it was not clearly stated. If you believe a wrong has been committed I don't believe the way to correct that is by committing another wrong. I formerly request a written explanation detailing my conflict of interest regarding this matter and would like my other questions answered.

Commissioner Valenza said that the conversation with him talked about Mr. Spearing's dad and Mr. Dunleavy occupying the same position because he never got a letter stating that his appointment was terminated.

Commissioner Spearing said that the solicitor referenced Frank Bartle's letter as a valid argument for reaffirming and ratifying. We haven't received any instructions that they have been replaced. Do we indeed have two people that believe they have that position and if it's the intention of helping these Boards move ahead who do we assign?

Commissioner Efkwitz said she believes Mr. Spearing does not understand the intention. The intention was for the new Board of Commissioners that was seated as of January 2008 to take a position on who they felt who occupied those seats.

Commissioner Spearing said he didn't get that and that he doesn't believe that they have the authority to move those people from those positions. The Zoning Hearing Board and the Sewer Authority have defined methods of taking people out of office. Now that we have clarification that those people occupied those positions where did we get the authority to remove them.

Commissioner Efkwitz said that she would have to ask the Board who sat here in December of 2007 when they removed Jack Dunleavy and Herb Matthews. What authority did they have? She thinks it is a question for the solicitor.

Commissioner Spearing said he would like an answer to the other questions but the most important thing is moving forward.

Commissioner Spearing said that Mike Casey was appointed to the Zoning Hearing Board in December of '07. Herb Matthews' appointment of December of '05 was reaffirmed by this Board last week. He said that he did not see anything that said Mike Casey was removed from the Zoning Hearing Board and we do not have the authority to

do so as far as he understands it. A letter was sent that states Herb Matthews' position was ratified and reaffirmed; it never states that he was no longer to serve as a Zoning Hearing Board member nor does it say that we took the proper steps to remove him from that position.

Solicitor Weiss said that the person who properly holds the seat is the one who held it and has held it all along; that is what the reaffirmation and ratification action serves to do.

Commissioner Spearing said that what the Solicitor is saying is that those appointments that were made in December of '07 were invalid.

Commissioner Spearing said that the previous Board's action was to appoint two people, one to the ZHB and one to UMHJSA. They appear in minutes of the meetings, they have letters of recognition, one has received a payment and all those things that were cited as validation by Mr. Bartle and the document that the solicitor used to make the argument for ratification and reaffirmation, the same exact argument.

Solicitor Weiss said that over the course of a couple years and having received checks and attending meetings, I think Mr. Bartle was citing that as a reason to assume that those people were properly placed.

Commissioner Efkwitz said that as far as the check being issued to Mr. Casey the Solicitor said because we questioned that and we were going to pull that from the check run and the Solicitor said that by the action that we took tonight we were certainly in no way ratifying his position as a ZHB member just because he was paid a check. Now we could ask for the check back but the information we were given last week indicated that was not necessary.

Commissioner Spearing asked if indeed these people had the documents that reflect their positions on these respective boards if we have to take proper steps and procedures to remove them?

Solicitor Weiss said she doesn't think further action was required beyond the ratification and reaffirmation vote taken by the Board.

Commissioner Spearing said he thinks that it has to be clearly spelled out that these people are no longer recognized or that they never were. I don't know if I agree with that opinion. We still need something that reflects that opinion because what we have now is insufficient.

Solicitor Weiss said that she thinks if the Board feels that it is sufficient, no further action is needed. She said she read the record and understands what happened and thinks the action taken by the Board was clear.

Commissioner Spearing asked the solicitor if the previous Board acted incorrectly?

Solicitor Weiss said she wasn't in a position to answer.

Commissioner Romaniello said that her problem with this is that this was placed on a regular voting meeting agenda without going through the committee properly and we took action and we closed off public opinion. She is not convinced that this Board had to take action. She asked if that was the solicitor's recommendation.

Commissioner Efkwitz replied that it was not the solicitor but that Commissioner Valenza wanted it on the agenda. It was felt that it should take place as quickly as possible.

Commissioner Romaniello asked why it was not put through committee.

Commissioner Efkwitz asked why it was not run through committee when it was decided to unseat Herb Matthews and Jack Dunleavy in December.

Commissioner Romaniello said that at the advice of the lawyer in 2007, the Board was told these were invalid appointments.

Commissioner Efkwitz said that wasn't the advice she got from the solicitor she questioned. Solicitor Kerns indicated that it was inappropriate but apparently his co-council Solicitor Watts felt otherwise. Either way it did not run through committee. She said she never saw an opinion letter from Dick Watt at all but at least Bob Kerns gave an opinion and it was different than Dick Watt's. Dick Watt contradicted himself in that meeting on Dec. 3rd when he said in the beginning of the meeting I don't think this applies to the Zoning Hearing Board I really have to look into that, I really have to check that out and then when Commissioner Crilly turned to Solicitor Watt and asked do you understand what we are doing here with the ZHB position Dick Watt said it was perfectly acceptable.

Commissioner Valenza said that we need to wrap this up that it is old news and need to move forward. He said that he would do it all over again if he had to.

Commissioner Romaniello said she believes that if we follow the rules and policies and run things through committee and they get discussed then they can get moved to the full Board for a vote in the right way.

Commissioner McKenna said the reason that the Dunleavy position did not run through committee is because what did run through committee was the Nelson appointment to the Sewer Authority so then, in the 11th hour, there was a court case that we were all made aware of that said the way we have been making appointments was wrong and made

incorrectly according to the legal decision they were given. Based on the decision, the Herb Matthews appointment that was made in December of '05 was actually an appointment that should have been made by the Board that sat here for 2006 – 2007. In this case when the new Board came in 2008 they took the ZHB appointment away from the previous Board. It's just a matter of who is stealing what appointment. It's symbolic of politics.

Commissioner Spearing asked for a formal opinion about why my vote for or against Mr. Dunleavy was a conflict of interest.

Commissioner Efkwitz said she has no problem with that.

There were no public comments.

ADJOURNMENT: 8:20 P.M.

Respectfully submitted,

Arlene M. Nolan