

**UPPER MORELAND TOWNSHIP  
BOARD OF COMMISSIONERS**

**FINANCE & ADMINISTRATIVE COMMITTEE  
MEETING MINUTES**

*May 21, 2007*

**CALL TO ORDER** – Comm. Booth called a meeting of the Finance & Administrative Committee to order at 9:25 p.m.

**ROLL CALL** – Comm. Booth took roll call. Present: Commissioner Michael Crilly.  
Absent: James McKenna.

Others: John Crawford, Assistant Township Manager, Robert Kerns, Township Solicitor.

**APPROVAL OF MINUTES:**

Comm. Booth accepted the minutes of the April 9, 2007 Finance & Administrative Committee meeting into the record as submitted.

**REPORTS:**

Director of Finance:

There were no questions.

Tax Enforcement Officers:

Comm. Booth said as of May 15<sup>th</sup>, we are close to being on budget with \$4,273,000 for Business Taxes and we are at \$3,652,000, which is 85% and that compares to 83% last year.

Earned Income Tax Collector:

Comm. Booth said this report shows for April, 2007 that we collected \$166,684, YTD distributions of \$879,500.

Mr. Crawford said collections are slower at this time than they were in 06', but we are in good shape.

Comm. Martin said he noticed the variable amounts for 2001, 2002 and 2003. What are they for?

Mr. Crawford added they are delinquent collections.

**REVIEW OF FINANCIAL STATEMENTS:**

Current Bills Paid:

Comm. Booth asked about Check #81953 in the amount of \$5,370.00.

Mr. Crawford replied that is for maintenance contract for police software.

Revenue & Expense Summaries:

**General Fund:**

Comm. Booth said the expenses are in line at 33%; however, we spent a lot more for revitalization, which we have a budget of \$183,000, and we spent \$106,000 at the end of four months so there is \$76,000 left to spend. \$20,000 of it is general expense; what is that for?

Mr. Crawford replied for incidentals. It is high now because we have three studies being done by our consultants at the same time.

Comm. Booth said we need to monitor it closely.

**Liquid Fuel Fund:**

Comm. Booth said we have a revenue budget of \$502,000. We have \$449,000 and we have had expenditures of \$123,000.

**Debt Fund:**

Comm. Booth said the debt fund is budgeted for \$1,011,000.

**Escrow Fund:**

Comm. Booth asked for a breakdown of this account.

Mr. Crawford replied a breakdown of the account is given each quarter.

Comm. Romaniello said when we are in the budget process and how funds may or may not be used for certain projects should be in writing.

Comm. Booth said we have a capital fund and, with the approval of the Board, we can spend money from that capital fund, so we schedule certain items like money for the expansion of Boileau field.

**Revolving Fund:**

Comm. Booth said we have \$41,000 in this account and had disbursements of \$33,000 and we have outstanding revenue due in the amount of \$46,239.

**PERSONNEL:**

Boards & Commissions:

Comm. Booth said we have several appointees pending. Michael Conkey for the PRAC for a two-year term; term expired 12/7/06.

Comm. Hotchkiss said he spoke to Mrs. Conkey and she said Mr. Conkey is unsure whether he wants to continue serving. If Mr. Conkey does not want the position, he has someone else in mind and will report back next meeting.

Comm. Booth said we will move for action the reappointment of William Seiberlich, Jr. to the APA for a two-year term at our next Regular Board meeting.

Comm. Booth said there is a vacancy for the ZHB alternate position; however, we do not have any resumes at this time. There are two vacancies for the APA.

Comm. Romaniello said she is working on appointments for the vacancies on the APA.

**OLD BUSINESS:**

Maille, Falconiero, & Company, LLP analyzing records of previous EIT collector:

Comm. Booth asked for the final report from the Solicitor.

Solicitor Kerns said there are issues related to ongoing litigation, which is outstanding for individuals who worked for Bob Walter, Tax Collector and the Township as well as potential claims. He is not making his report public because of the ongoing potential claims as well as litigation; however, the facts are that Berkheimer, our current tax collector for EIT has produced a claims list outstanding in the amount of \$523,692.62. The issue is that the money we may have received during the final quarter of 2003 and first quarter in 2004 has not been determined as to where it should have been sent to and whether it should have been paid to other claimants, other municipalities. Mr. Walter was an independent tax collector and was elected to do that job and it was his responsibility.

There was a dispute between him and certain people he brought in to do that tax collection over a period of time, and that dispute led to a breakdown in their relationship and it was terminated. There appears to be a lack of supporting records that should have been in the Tax Collector's office for the last quarter of 03' and first quarter of 04' and, without that supporting data, the Township brought suit in order to collect all data available. We had an order entered by preliminary injunction to the Court of Common Pleas and we collected all data that was available and it is being held by the Township. That data was reviewed by Maille, Falconiero & Company and by Mr. Crawford.

At this point there probably will be claims brought for that outstanding money. It then becomes the determination as to where that money should have appropriately been sent to. Understanding that there are competing interests between the Township and School Board because we believe significant portions of that money may have been sent to the School Board as part of Mr. Walter's function to collect taxes for the School Board itself. That is a matter to be determined and one of the issues the Township needs to look at is what is rightfully owed to other municipalities and what should have been paid to the School District and what should have been held by this Township. Those are the questions to be answered and he cannot answer them at this time. We have exhausted all possibilities of looking for additional records and that leads us to the current situation.

Comm. Booth said Maille, Falconiero never found any malfeasance by the Tax Collector, Mr. Walter, but rather incorrectly disbursed monies to ourselves and to the school instead of other Townships.

Solicitor Kerns said the issue is record keeping, and we have put Mr. Walter on notice concerning any claims that may be brought forth.

Comm. Booth said there was a certain amount of money that was not accounted for which was about \$35,000.

Solicitor Kerns replied that is correct.

Comm. Booth said that money will not affect this year's budget, but it would be nice to have to spend on certain needs of the Township.

Comm. Crilly said Berkheimer has placed us on notice of claims that could total \$524,000. Is there anything we can do to verify if those claims are valid?

Solicitor Kerns replied the process is that claims should come forth and we should be able to determine from them if they have a valid shortage. The issue that we may end up having is the breakout between the Township and School Board because monies were paid to us that may not be ours and probably the same can be said for the School District. We want to verify any claims made to specificity so we know that we are paying out appropriately.

Comm. Crilly said to pay the \$524,000 assumes that we received that money at sometime and we may never have received it.

Solicitor Kerns replied that is an issue to be determined. Records that we have right now makes it difficult for us to precisely determine who those pay orders should have been.

Comm. Crilly said if the records existed to determine whether this was a valid claim by Berkheimer, what would that have included?

Solicitor Kerns replied the normal occurrence is that when payments were made to the Township by Mr. Walter, there would have been listings of who those pay orders were.

Comm. Crilly asked was there ever a time that Mr. Walter kept records to that specificity?

Solicitor Kerns replied most of the time that Mr. Walter was the EIT Collector; he had someone else subcontracted to do that. Those two women have initiated suit against Mr. Walter as well as the Township after we were able to get all of the records by filing suit in the Court of Common Pleas Court to have the records turned over to us. The Township probably has more money in their treasury than they should and the School District has more money in their treasury than they should.

Comm. Crilly referred to Page 3 of the Solicitor's report that says, "It appears that both the Upper Moreland Township and School District received payments from the Upper Moreland EIT without supporting details. A portion of these payments may be related to the claims from Berkheimer; however, the Township should not make any refunds without appropriate support." Would the appropriate support come from Berkheimer?

Solicitor Kerns replied the only other source would be from other taxing authorities and, if Berkheimer was the collector for those authorities, then Berkheimer would be the source.

Comm. Crilly said we have placed Mr. Walter on notice via the letter. This is the worst thing he has ever had to deal with. Mr. Walter was the elected person to collect real estate taxes and under contract to collect the earned income taxes. We know that from reports in the newspaper that related to real estate tax collections that he was collecting certification fees and was not reporting that to the IRS. That matter has been dealt with in an opinion by the State Ethics Commission. The information required to determine whether \$524,000 is a valid amount doable from the Township and maybe the School District, cannot be verified because the records do not exist. He sees a troubling pattern. He does not know if it is misfeasance or malfeasance, but he will not speculate on either one of them. There has been no cover up from this Board in terms of protecting Mr. Walter. He found this experience to be very frustrating beyond belief.

Mr. Walter is an elected official and this Board is not allowed to have him removed as the collector of real estate taxes. He does not know what the truth is and doesn't think he will ever know what the truth is. People at the polls have told him they have lost confidence with the tax collections in Upper Moreland. If \$524,000 was unaccounted for in a corporation, heads would fall. It is up to the voters to remove Mr. Walter from office. As a Township Commissioner, he will do everything he can to make sure that only a portion of the \$524,000 that Upper Moreland is responsible for paying will be paid and no more than that. As a voter in Upper Moreland Township, he feels Mr. Walter should resign. This is not something a First Class Township should tolerate, and the voters are very important in making a meaningful change where we would have more accountability in the future.

Comm. Martin said there are two unclaimed audits, is that correct.

Solicitor Kerns replied yes.

Comm. Martin asked what are other towns doing to get their money back?

Mr. Crawford replied he does not know. He hasn't heard from any of them.

Solicitor Kerns added what would happen is a claim letter would be sent based on what Berkheimer has indicated.

Comm. Martin asked didn't Berkheimer already make a claim?

Solicitor Kerns replied yes.

Comm. Martin asked is it true Mr. Walter shredded tax records prior to the audit?

Solicitor Kerns said he has no knowledge of that. All he knows is that there are records not accounted for.

Comm. Martin said to Mr. Crawford, as a Commissioner he heard claims and statements that there was a lot of unusual shredding activity within the Township building immediately after those two individuals were terminated. He knows Mr. Crawford was not employed with the Township at that time.

Mr. Crawford replied he was not employed with the Township at that time. He has no knowledge from Township staff that was employed at that time.

Comm. Martin asked did Mr. Walter's former employees hand over hard copies of the tax records around the time that the two employees were terminated?

Mr. Crawford replied no.

Comm. Martin asked Solicitor Kerns, regarding EIT collections, were audits done each year as part of our contract with Mr. Walter?

Solicitor Kerns replied he believes they were all concluded.

Comm. Martin asked were audits done each and every year since Mr. Walter started working as the Tax Collector for the Township?

Solicitor Kerns replied he does not know because we focused on the period of time the issue came up. We looked in the 03', 04' and 05' area, so prior to that he does not have an answer.

Comm. Martin asked when were audits done for the period of time that Mr. Walter was the Tax Collector?

Mr. Crawford replied he does not have that information.

Comm. Martin said referring to the audit that was done by Maille, Falconiero, is it inconclusive?

Solicitor Kerns replied it is inconclusive because they were not able to make a determination relative to records necessary to verify the last quarter of 03' and the first quarter of 04' collection practice.

Comm. Martin referred to David Onorato's letter that says, "I suggest to Mr. Walter to put him on notice for potential liability." The word "indemnification" was used. Indemnification means security against hurt, loss or damage. Will Upper Moreland Township have to pay the unpaid claims because a party will have to be held responsible?

Solicitor Kerns replied any claims the Township looks towards Mr. Walter for relative to out-of-pocket expense and claims that will be brought by third parties against the Township relative to funds, which they claim the Township is holding. Those are the two issues we are looking for indemnification by.

Comm. Martin asked should we notify our bonding company?

Solicitor Kerns replied it is not necessary. The idea of notifying the bonding company would be that if there is defalcation where by someone had funds that was no longer available to pay claims; that is the purpose behind indemnification.

Comm. Martin asked was Mr. Walter audited in previous years other than in 2003?

Comm. Booth said there is a written contract that specifies that an audit be done and, to his recollection, it was done every year and he is sure the Township has copies of it.

Comm. Martin said it is clear that an audit is an audit and anything less than an audit is not an audit. He feels what was done in previous years was not an audit.

Comm. Booth said the audit that Mr. Walter had on the earned income tax by Bee, Bergvall was not a certified audit, but a secondary audit.

Comm. Martin asked Mr. Crawford if that is accurate and does he agree with that.

Mr. Crawford replied he will not comment on it.

Comm. Martin said he would like a follow up done on the question that he asked earlier if audits were done on years prior to 2003.

Comm. Romaniello asked why wasn't a more detailed audit requested by Mr. Walter? We do not know what else is missing and we should have a higher level authority look at it.

Comm. Booth said Bee, Bergvall, who is an outside certified accountant, decided the level of audit that was necessary. We hired Maille, Falconiero to sort this out and their report was inconclusive.

Solicitor Kerns said it is difficult to write a report with no records of the last quarter of 03' and first quarter of 04' that were available through any source.

Comm. Romaniello said we knew last summer that \$524,000 needed to be distributed.

Solicitor Kerns disagreed. We did not know until we went to court to obtain the records from the two individuals who subcontracted with Mr. Walter and went through the entire paper trail.

Comm. Romaniello asked do we know if it has all been collected?

Solicitor Kerns replied he does not know, but what we found out is it appears that all the monies that were due and owed have been collected. No one has filed suit against the Township, but claims have been made to Mr. Walter. We know the revenue was collected because deposits were made, but we don't know who they were collected from or where it should have gone.

Comm. Romaniello said a higher level audit should be conducted.

Comm. Martin said he does not think Mr. Walter was responsible for any malfeasance. He feels it was just mismanagement and incompetence. What concerns him is that for 14 years, Mr. Walter collected the EIT and he feels an audit was never done. He asked to see a copy of the 2002 audit that was done from the EIT office.

Mr. Crawford said he will look into it.

Comm. Booth suggested contacting Bee, Bergvall for a copy of it.

Public Comments:

Dennis Hurley, resident, commented a lot of people in the community do not know about this and he asked why and they responded they buy the Philadelphia Inquirer and not the local newspaper.

Nick Scull, resident, asked why hasn't law enforcement taken an interest in this matter?

Comm. Booth replied there is no crime in bad record keeping.

Solicitor Kerns said there was an issue between Mr. Walter and the subcontractors because we filed separate actions to get those records because there was an impasse as to who had the records, who should keep them and their value.

Gene Welsh, resident, commented he is impressed by the sincerity and the demand of detail of these discussions. People look for leadership, and he thanked the Board of Commissioners for their service.

Sam Valenza, resident, asked how many years were audited?

Mr. Crawford said Upper Moreland Township enacted the earned income tax in 1991.

Mr. Valenza asked about the forensic audit.

Solicitor Kerns said they went back to the second quarter of 03' to last quarter of 04'.

Township Solicitor review of existing Township ordinances related to cell towers, billboards and signs:

Solicitor Kerns said he sent to the Township a proposed revised Billboard Ordinance and asked the APA review it.

Director of Finance to prepare report of all prior expenditures relating to inception of revitalization:

Comm. Booth said we received a report from our Finance Director. The purpose of the report is to keep track of how much we are spending on revitalization. The one thing missing from the report is bills from last year for the Solicitor.

Mr. Crawford asked is this going to be an ongoing report?

Comm. Booth said he would like to see the legal costs on the report.

Comm. Martin commented all seven Commissioners approved spending for revitalization and it is money well spent.

Comm. Romaniello referring to revitalization, the majority of money has been spent in the last 16 months and a lot of work has been done. That is money well spent and we will get a return on our investment.

Comm. Booth removed this item from the agenda.

**ADJOURNMENT:** 11:00 p.m.

Respectfully submitted,

S. Elizabeth Vile

