

**UPPER MORELAND TOWNSHIP
BOARD OF COMMISSIONERS**

REGULAR MEETING MINUTES

September 10, 2007

CALL TO ORDER – Comm. Crilly, President of the Board of Commissioners called a Regular Meeting of the Board of Commissioners of Upper Moreland Township to order at 7:00 p.m.

Comm. Crilly announced that George Crotts, a 52-year volunteer of the Willow Grove Fire Company suddenly and unexpectedly passed away. He asked Comm. Hotchkiss to say a few words about Mr. Crotts.

Comm. Hotchkiss said with deep regret, the Willow Grove Fire Company announces the untimely death of a 52-year active member of the Volunteer Fire Company #1, George Crotts. This is our first line-of-duty death in the past 100 years of our Fire Department. It has been his personal privilege to have known George and his family for over 30 years. He always had deep-hearted commitment to his faith, his family, friends, the Fire House and our community. His daily actions portrayed honesty, integrity, fairness and most of all, compassion and commitment to serving our community. He has been married to his wife, Ruth for 43 years and they had four children and nine grandchildren.

His service to our community began 52 years ago when he decided to join the Willow Grove Volunteer Fire Company. He is the fire company's oldest, active volunteer. He currently served as a driver, engineer and the Fire Department's Treasurer. He died falling from an antique fire truck that he was preparing to take to a parade. He died doing what he loved doing so much.

George will be sadly missed by all, but his legacy will continue and always remain. A viewing will be held at the Cheltenham Hills Baptist Church, Limekiln Pike, Dresher, this Friday night from 6-9 p.m. and a full line-of-duty Fire Department ceremony will be heard at the Cheltenham Hills Baptist Church, on Saturday at 11:00 a.m.

A MOMENT OF SILENT MEDITATION WAS HELD IN HONOR OF THE PASSING OF GEORGE CROTTS FOLLOWED BY THE PLEDGE OF ALLEGIANCE

PRESENTATIONS/ANNOUNCEMENTS:

There were none.

ROLL CALL – Township Manager, David Dodies took roll call. Present: Commissioners Michael Crilly, President, Richard Booth, Vice President, James Hotchkiss, James Martin, Lisa Romaniello, Stacey Efkowitz and James McKenna.

Others: David Dodies, Township Manager and Robert Kerns, Township Solicitor.

PUBLIC COMMENTS – NON-AGENDA ITEMS ONLY:

Nick Scull, 507 Inmann Terrace, said he is a member of the UMHC and Friends of Boileau and there is an administrative problem at the Boileau Farmstead. The Township owns the buildings at Boileau, which are irreplaceable and invaluable. He is concerned about the care that the Township has taken of its most historic assets. He gave handouts to the Board and included are the seven goals of the open space plan one of which is preserving and protecting historic structures and sites. He had a copy of the Malloy Park Master Plan that the Board approved in March, 2004. Referring to Page 1 that says, "The Upper Moreland Historic Commission was established in 2002 by this ordinance, and It is the purpose and intent of Upper Moreland Township to preserve and protect buildings, structures, sites, object and districts of historic value that exist within the Township." This is a commitment by the Board to preserve historical buildings. Page 2 says, "The deliberate disregard of routine maintenance causing weakness, decay and deterioration of an historic resource for purposes of avoiding the provisions of this ordinance. Also the intentional act of disregarding the security of an historic resource resulting in degradation by criminal activity." As you know, we had break-ins over this past summer causing \$1,000 in damages that were done to the house. This ordinance was enacted and ordained on July 1, 2002.

The Malloy Park Plan has been politicized that the Friends of Boileau are out to stick the Township with an enormous amount of money. An estimate that was prepared in November 7, 2002 for restoration and repairs was in the amount of \$182,100.00. He asked for \$100,000.00, which is .00625% of \$16 million dollars or if the Board had spent \$160,000.00 on Boileau, at any time, you would have spent one percent of the annual budget.

Arthur Adams, Architect prepared a structural plan for saving a portion of the barn that is in disrepair. He received verbal estimates between \$15-20,000 to shore up the building. The Friends of Boileau has \$3,000 to contribute towards making this emergency repair to the building. He has two plans we would like to discuss with the Administrative Committee. The first is getting a DCNR grant to improve the trail portion of the park; however, we can only apply for one grant at a time and the Township has applied for a grant for walking trails. A condition of the grant is that Boileau has to have a 25-year lease on the property. He would like to discuss the possibility of a long-term lease.

Last year, he was trying to rebuild the carriage house with a \$100,000 grant and \$100,000 from the Township. Arthur Adams's idea is that if we rehabilitate the carriage house for \$200,000 and charge \$1,500 a month rent for a tenant to live there; that would pay back the loan.

Comm. Crilly said we will place the additional funding issue on the Parks & Recreation Committee meeting agenda for next week and the lease of the building will be addressed in the Finance & Administrative Committee meeting next week too.

Len Spearing, 51 St. Dunstons Road, said some time ago, Comm. Booth was asked how much does the redistricting effort cost for the court cases that refuted the plan submitted by this committee. The total map cost \$17,318.72 for the redistricting effort that was a sham. He is still waiting for an answer for the cell tower. T-Mobile, the construction company, never received or applied for a special exception. Where does it say that a special exception that is granted by the ZHB is transferable?

Comm. Crilly replied generally we do not allow questions during public comments. Our Solicitor will answer that question in the Finance & Administrative Committee meeting.

Mr. Spearing said there is no place that says that a special exception granted by the ZHB is transferable.

TREASURER'S REPORT:

Comm. Booth made a MOTION, seconded by Comm. Romaniello to approve the Treasurer's Report of August, 2007 as presented.

Comm. Booth reported that for August, 2007, expenditures were \$1,777,764.00 and receipts were \$468,973.00 with a fund balance of \$2,421,128.00.

There were no public comments.

MOTION was ADOPTED 7-0.

APPROVAL OF MINUTES:

Comm. Efkwitz made a MOTION, seconded by Comm. Hotchkiss to approve the minutes of the July 16, 2007 Special Meeting and August 6, 2007 Regular Meeting as presented.

There were no public comments.

MOTION was ADOPTED 7-0.

FINANCE & ADMINISTRATIVE COMMITTEE:

Appointments:

MOTION was ADOPTED 7-0.

OTHERS ITEMS:

Proposed Settlement –Acme Box v. Upper Moreland Township:

Comm. McKenna made a MOTION, seconded by Comm. Efkwitz to accept the proposed settlement of Acme Box v. Upper Moreland Township.

Solicitor Kerns said since August 30, 2001, Acme has taken remedial action in order to correct the situation. They are now in compliance, and there is an agreement that is part of this settlement that they will stay in compliance and will meet a standard relative to noise around the neighborhood, which is better than what PennDOT calls for. The matter was in Commonwealth Court when settlement negotiations begun. The Township will receive \$40,000, which reimburses the Township for its out-of-pocket expenses as well as costs related to this matter. It will be paid in 20 days and it is before the Board this evening for action.

Comm. Martin asked is the \$40,000 considered a fine.

Solicitor Kerns replied under the agreement, it is called attorneys fees and costs. It is a penalty and they are paying \$40,000 in addition to the costs they paid to take remedial action. The idea is to make them comply as they are Township residents like everyone else.

Comm. Martin asked how much did Acme Box pay for the remediation of the sound problem?

Solicitor Kerns replied he does not know at this time as that is not part of the settlement agreement.

Comm. Romaniello said it took six years to come to a settlement; regarding our noise ordinance, don't we need something with more teeth?

Solicitor Kerns replied we put a reference to a sound requirement in the agreement and that provision under Paragraph 4 says, "After elimination of all ambient noise unrelated to the operation of Acme's facility, are no greater than 60dB "A" weighted," which means there is a quantifiable number that applies against them. Our ordinance to-date has won in the lower court and Acme Box settled with us. Another way to do it to set defined limits based on PennDOT's standards.

Comm. Romaniello asked is that enforceable?

Solicitor Kerns replied yes.

Comm. Booth asked didn't we just review the noise ordinance six months ago and we elected not to go that route.

Solicitor Kerns replied that is correct.

Comm. Booth said we should wait until the new Board comes in next year and see if they want to make any changes to the noise ordinance.

Comm. Romaniello commented the current ordinance didn't shorten the end result of the lawsuit.

Comm. Efkwitz said the ordinance we have now is stricter for our citizens than what we might have if we retooled the whole thing.

Solicitor Kerns added that our ordinance held up in Common Pleas Court. Judge Nicholas found in favor of our ordinance and that is why there was an appeal to the Commonwealth Court.

Comm. Martin said this settlement agreement only applies to Acme Box and they have to adhere to the 60 decibel limit.

Solicitor Kerns replied that is correct.

Comm. Hotchkiss said he can personally attest that he is not being woken up anymore at 5:24 a.m.

Comm. Booth commented that the people who live close to Acme Box suffered from this noise for five years, and it is unfortunate that the homeowners will not receive some kind of compensation for their pain and suffering.

Solicitor Kerns said we couldn't go any further than enforcing the code.

There were no public comments.

MOTION was ADOPTED 7-0.

COMMUNITY DEVELOPMENT & PUBLIC WORKS COMMITTEE:

OTHER ITEMS:

Ordinance No. 1547 – Adopting a Certain Zoning Map as the Official Zoning Map of the Township and further Amending the Map:

Comm. Martin made a MOTION, seconded by Comm. Efkwitz to table the adoption of Ordinance No. 1547.

Comm. Martin said the zoning map has a few inaccuracies that need to be corrected before adoption. A public hearing was held on August 6, 2007 for the purpose of considering adoption, which was prepared by the MCPC; however, the full text of the proposed ordinance and a display of the zoning map were available to the public over the last 30 days and there were some inaccuracies.

Mr. Dodies asked does the Board wish to advertise this for action on November 13th or return the matter to committee?

Comm. Martin said he would like to direct our Solicitor to re-advertise the proposed ordinance with the changes.

Solicitor Kerns recommended that the Board allow the advertisement as soon as the map is corrected by the County and approve the advertisement of it at the next Regular Board meeting because we have to go through the 30-day process again.

Comm. Crilly asked do we need a motion to re-advertise?

Solicitor Kerns replied yes, once the map comes back corrected and, it is to the satisfaction of the Township staff and Board, then the Township Solicitor should be directed to re-advertise as expeditiously as possible.

Comm. Crilly asked do we need to take public comments on a motion to table?

Solicitor Kerns replied it is not necessary.

Comm. Crilly asked for any public comments.

Len Spearing commented regarding North Willow Grove Park, there were two public hearings. August, 2006 and October, 2006 and Comm. Efkwitz indicated that the North Willow Grove Park was zoned institutional. During the July, 2007 committee meeting, Comm. Efkwitz informed everyone that she was aware that this park was zoned RC. He is concerned with putting off adopting this certain zoning map because it appears that no one has clearly stated that that ordinance was accepted and that North Willow Grove Park is zoned RC.

MOTION was ADOPTED 7-0.

Comm. Martin made a MOTION, seconded by Comm. Booth to direct our Township Solicitor to re-advertise the proposed Ordinance No. 1547 so the public has sufficient notice to review the text and zoning map, which will be on display at the Township Building once the MCPC corrects it.

There were no public comments.

MOTION was ADOPTED 7-0.

Direct Township Solicitor to advertise a public hearing for Monday, October 15, 2007 at 7:00 p.m. to consider an ordinance amendment to the Township Zoning Map by creating a Unified Commercial Development District on ground owned by Abington Hospital adjacent to the Pennsylvania Turnpike:

Comm. Martin asked who petitioned for a public hearing?

Solicitor Kerns replied Abington Hospital.

Comm. Martin said should a petition of this nature be submitted and signed by the property owner before a public hearing is scheduled?

Solicitor Kerns replied the property owner made a request for rezoning and the public hearing.

Comm. Martin asked was a fee paid with the petition?

Solicitor Kerns replied he does not know.

Comm. Martin said regarding creating a unified commercial district development, in the MPC there are two steps that need to be taken prior to setting a date for a public hearing. The first step is a pre-application meeting would have to take place with the Solicitor, which already happened, and the second is that we need to have basic information on what the applicant is proposing to do such as a site plan. He would like to table this to look at it at the Community Development Committee meeting.

Mr .Dodies said any plan submission takes place in the Code Enforcement office.

Solicitor Kerns said there is no plan. This is an application for a zoning text amendment and that has been applied to a certain parcel of ground. There is no requirement for the applicant to come in with a plan because until it is rezoned the applicant doesn't know what the plan will be. The ordinance has to come first because there are a lot of different uses and a lot of different plans that could be put forth under those uses.

Once the ordinance is adopted, the applicant will come forth with a sketch plan to be presented to the Board. The Board reviews the sketch plan and places conditions and, after that, the applicant will present a land development plan that is fully engineered.

Comm. Martin said he is concerned that the adjacent property owners be notified of the public hearing so then can attend.

Solicitor Kerns replied the reason for the October 15th date is that it will go back to the County for review and the APA for review and then to committee for review before a public hearing is held.

Comm. Martin made a MOTION, seconded by Comm. Efkwitz to direct Township Solicitor to advertise a public hearing for Monday, October 15, 2007 at 7:00 p.m. to consider an ordinance amendment to the Township Zoning Map by creating a Unified Commercial Development District on ground owned by Abington Hospital adjacent to the Pennsylvania Turnpike.

Comm. Romaniello said she has no recollection on giving our Solicitor's office direction to write this. We were expecting to see how they were going to develop that property. She does not know how it got this far that we ended up with a unified development commercial district. She would like to see the applicant present their ideas at a committee meeting prior to a public hearing.

Solicitor Kerns replied the applicant went to the APA for review with the intent of going before the ZHB. The applicant was told at the Board's request that the applicant should go to the ZHB. The Board wanted to see this unified commercial development and act on it themselves. The APA made a recommendation that the applicant make a presentation to the Board. An ordinance was submitted to him by the applicant about three months ago, and he referred it to the Board and was directed at that time to review it and make any necessary changes. This is a draft that the Board has to look at and make a decision on after the County and APA reviews it and then hold a public hearing.

Comm. Romaniello asked could we encourage the applicant to consider zoning that we already have such as C-2?

Solicitor Kerns replied that is what this is. If you model the uses in this ordinance against the C-2 uses they are the same except that there is an office component allowed. He is sure the applicant will bring in a site plan and a possible development phase of it.

Comm. Martin said at the very minimum, he would like to see a proposed site plan.

Solicitor Kerns replied the problem is that that may not be the plan that gets developed. Until the ordinance is adopted, the applicant doesn't know what will be allowed. The first step is to review the ordinance and John Chambers can also review it. The important issue is what is allowed by-right. Office buildings comply with the C-2 District. That is your underlying by-right approval in this district. Everything else is by conditional use.

Comm. Efkwitz said it is important to the Board that we have control over this parcel. This proposed unified commercial development district is located at the corner of Maryland and Easton Roads. It is about 10 acres and only for that 10 acres or grassland.

Solicitor Kerns added that this is set for this site only.

Comm. Romaniello said she is concerned that we are writing zoning for one particular parcel and that parcel is owned by a property owner who has three other parcels for a total of about 30 acres. We have to look at the entire Township and ask how can this new zoning district be applied somewhere else.

Solicitor Kerns replied you can't. It only applies to this district.

Comm. Crilly said he is comfortable applying it to just the 10 acres. He would never expand it beyond those 10 acres.

Solicitor Kerns said it is completely up to the Board whether to enact this ordinance or not.

Comm. Booth said we are just approving the advertising of it tonight, and we will discuss the details in committee.

Comm. Crilly said we have an ordinance that went through a process that we requested the Solicitor to follow and we did that in Executive Session. We have a copy of the ordinance and multiple opportunities for public comment and input before the final draft of the ordinance. We can ask Abington Hospital for some idea what the project would include. This is the best way to allow for what would occur there and for this Board to have the final say of what goes in there.

Comm. McKenna asked does the applicant pay for the hearing costs?

Solicitor Kerns replied yes.

Comm. McKenna asked does the applicant pay the legal fees for the zoning designation.

Solicitor Kerns replied yes.

Comm. McKenna asked is the applicant entitled to a public hearing?

Solicitor Kerns replied no.

Comm. Crilly asked for any public comments.

Len Spearing said it is a new zoning district and the applicant is Abington Hospital, but they are not necessarily the people who will develop it.

Solicitor Kerns replied that is correct.

Len Spearing said this is more valuable zoning than C-2.

Solicitor Kerns replied that depends on the market. Office zoning can be more valuable than retail. This ordinance allows the applicant to do office, commercial or retail uses. It has the benefit to be flexible to meet market conditions, which is also good for the community.

Mr. Spearing asked who is the legal representative for Abington Hospital?

Solicitor Kerns replied Marc Jonas.

Mr. Spearing asked is he associated with any other developer?

Solicitor Kerns replied yes.

Mr. Spearing asked will the information of who else Mr. Jonas represents come out at the public hearing?

Solicitor Kerns replied it is not relevant. Attorneys are entitled to represent various groups of people at different times. Once the ordinance is in place, the Township will have control over it no matter who develops the property and who uses the property

Comm. Efkowitz said we will discuss the details of the ordinance at the Community Development Committee meeting.

Solicitor Kerns said the applicant submitted a plan to the APA.

Comm. McKenna commented he would like to see a site plan of where the zoning will be applied to.

Denis Hurley commented the APA's concern is the walkway on that property.

Comm. Crilly said the Board asked the applicant to follow this process and they have been cooperative.

MOTION was ADOPTED 7-0.

PARKS & RECREATION COMMITTEE:

Comm. Efkwitz said there were no action items at this time; however, our Parks & Recreation Comprehensive Plan is available for public review in the Township Building and the Board will move it for action in October. We will be discussing Pioneer Woods at the next Parks & Recreation Committee meeting.

PUBLIC HEALTH & SAFETY COMMITTEE:

Comm. Hotchkiss said there were no action items at this time.

REDEVELOPMENT COMMITTEE:

Comm. Romaniello said there were no action items at this time.

NEW BUSINESS:

There was no New Business at this time.

COMMISSIONER COMMENTS:

Comm. Romaniello announced that the redevelopment website was launched by KSK and the website address is www.downtownwillowgrove.com. It will be a link to our Township website.

Comm. Romaniello said she received emails regarding trash collection on holidays and that people put their trash out regardless of the holiday schedule. She asked that our Township Manager run the holiday trash collection schedule on the new cable channel.

Mr. Dodies said hopefully we will have the launch of the new channel directly to the Township Building by the first week of October and content will run by November 1st so we will have our channel to run the announcement.

Comm. McKenna asked is the new channel from Comcast or Verizon?

Mr. Dodies replied Comcast.

Comm. McKenna asked when will Verizon start their public television?

Mr. Dodies replied they don't have significant penetration yet in the Township, but they are obligated to provide a public access channel.

Comm. Hotchkiss announced the Fire Company would like to cordially invite everyone to our 100th Anniversary Celebration Community Day and Firefighter Challenge on Saturday, October 6th, 2007 from 9 a.m. – 5 p.m. It will be held at the Elementary/Intermediate School Complex. We will have firefighter demonstrations, a firefighter challenge, DJ and free food.

Comm. Booth said during public comment, Mr. Spearing made comments in regards to redistricting. Some time ago, Mr. Spearing asked him what the costs of redistricting were, and he referred Mr. Spearing to the Township Manager's office. The redistricting was passed by five Commissioners. It was an official policy of the Township. There was, at that time, a group of people who elected to contest the redistricting so it wasn't the Commissioners who spent the money, but it was occasioned by the people who didn't like the redistricting. We defended it and it cost the Township \$17,000. New Commissioners were appointed to the Board and we discussed it and decided to not push the case and do a whole new redistricting. He along with Comm. McKenna and another individual did a redistricting. Mr. Spearing is very good about suing people himself. He sues public entities. He sued the Sewer Authority and other people. When someone sues the Township, it costs all of the taxpayers' money.

He also noted that there is a light problem at Easton and Dallas Roads and asked the Traffic Engineer to look at it.

Mr. Dodies replied he will look into it.

Comm. Booth said he would like our policy on repairing curbs and sidewalks to be placed on the next Public Health & Safety Committee meeting agenda.

ADJOURNMENT: 8:30 p.m.

Respectfully submitted,

S. Elizabeth Vile

