

MINUTES OF PUBLIC MEETING

SEPTEMBER 22, 2008

7:30 P.M.

**1. CALL TO ORDER**

The September 22, 2008 Public Meeting of the Board of Commissioners was called to order at 7:30 P.M. by President of the Board, James A. Santi. The following individuals were in attendance:

James A. Santi	President
Eugene P. Ziemba	Vice President
Kenneth E. Kroberger	Commissioner
M. Clare Edelmayer	Commissioner
Thomas A. Duffy	Commissioner
Leonard T. Perrone	Manager
Sally Slook	Assistant Manager
Arthur Boesler	Czop/Specter, Inc.
Richard Watt, Esquire	Township Solicitor
David W. Duffy	Chief of Police

**2. MOTION TO APPROVE THE MINUTES OF THE WORKSHOP MEETING HELD ON AUGUST 19, 2008.**

Mr. Santi noted that the Workshop Minutes had been received with the Agenda packet. Hearing no questions or comments, upon motion of Mr. Duffy, seconded by Mrs. Edelmayer, the Minutes of the August 19, 2008 Workshop Meeting were approved as presented.

**3. MOTION TO APPROVE THE MINUTES OF THE PUBLIC MEETING HELD ON AUGUST 25, 2008.**

Mr. Santi noted that the Minutes of the Public Meeting had been received with the Agenda packet. Hearing no questions or comments, upon motion by Mr. Kroberger, seconded by Mr. Duffy, the Minutes of the August 25, 2008 Public Meeting were unanimously approved.

**4. MOTION TO APPROVE THE DEPARTMENTAL REPORTS FILED BY TOWNSHIP STAFF.**

Mr. Santi informed that the Departmental Reports had been sent with the Agenda and asked for comments or questions. Hearing none, upon motion of Mr. Ziemba, seconded by Mrs. Edelmayer, the Departmental Reports were approved as submitted.

**5. RECOGNITION OF DENNIS GERHART ON HIS TWENTY-FIFTH ANNIVERSARY WITH UPPER GWYNEDD TOWNSHIP.**

Mr. Santi recognized Dennis Gerhart on his twenty-fifth anniversary with the Public Works Department. Denny was presented with a gift from the Board and was congratulated by all.

**6. PRESENTATION OF THE UNIFORM AND NON-UNIFORM MINIMUM MUNICIPAL OBLIGATIONS FOR 2009.**

Mr. Santi advised that each year Minimum Municipal Obligation (MMO) for both the Uniform and Non-Uniform Pension Plans are prepared and presented to the Board. He explained that these figures represent the amount that needs to be contributed to each pension plan. Mr. Santi stated that \$106,868 and \$255,770 would be contributed to the Non-Uniform and Uniform Pension Plans respectively. He also noted that part of these contributions will come from State Aid.

**7. PRESENTATION OF PUBLIC COMMENTS AND CONCERNS (LIMIT OF FIVE MINUTES PER INDIVIDUAL).**

Mr. Santi took a moment to recognize an article that Quentin Dancer placed in The Reporter newspaper. He indicated that Mr. Dancer had accused him of being misleading in answers to questions posed at last month's meeting. Mr. Santi stated he tried to be honest as he could, but was wrong in his response to how much the Township has spent on the Horgan matter. Mr. Santi indicated he does not keep track of details such as that on a daily basis because there are a lot of projects going on. Mr. Santi further commented about the last election when there was a movement by residents to replace him, Mr. Kroberger and Mr. Duffy and to get rid of Bob Kerns. Now, the "other side" is in favor of getting rid of Jim Santi and Bob Kerns.

Also in response to Mr. Dancer's article, Mr. Santi commented on the capacity of Horgan's crushing and the various number of vehicles estimated to be entering and leaving the site. Mr. Santi stated that two years into this matter, two members of the Board of Commissioners sat down with a group of residents to see if something could be mediated in order to come to a conclusion on the matter. Mr. Santi indicated the residents agreed, but when Mr. Horgan was approached, he did not want to talk about the issue at that time. Then, in 2007, when a number of vehicles was mentioned (5,000) and Mr. Santi asked Mr. Horgan if would agree to that number, he indicated he would not.

Mr. Santi indicated that four or five months ago, two members of the Board sat down with representatives of the Horgan organization to again bring the matter to a conclusion and were told "no". Mr. Dancer indicated that two pages of "talking points" had been presented which he felt were ridiculous. Mr. Santi felt those talking points were a starting point to discussion.

Mr. Santi conceded that the Township has spent a lot of money on this issue and he further commented that Mr. Horgan is a pillar of the community and that he had nothing bad to say about Mr. Horgan personally; Mr. Horgan does much for the Church, the baseball association and other organizations. Mr. Santi stated there is nothing personal involved in this issue; it is about sitting down and identifying what would be a reasonable use for the site and trying to bring the matter to a satisfactory conclusion.

Joe Horgan addressed the Board, indicating that Mr. Santi had stated that he had refused to participate in the negotiations. Mr. Horgan reported that Allied Concrete had also refused to take part in any discussions. Mr. Horgan asked what right the Board had to ask him to give up his Constitutional right relative to the 5,000 trucks. Mr. Santi indicated it was simply a way of settling an issue.

Mr. Horgan further stated that (Mr. Kroberger?) had approached him in November about settling the issue, but indicated it was too close to the election and it would need to wait a while. Mr. Horgan stated he told Mr. Kroberger he was not interested.

Mr. Horgan stated he and one of his brothers had met with the two Commissioners in December and that he had told them unequivocally at that time that he would provide them with numbers they were not entitled to. Mr. Horgan indicated he had given the Board thirty days to respond, but heard from no one for four months.

Mr. Horgan addressed Mr. Duffy about a January statement that the Township needed some control at the Horgan site, when he has proven there have been no more than 5,000 trucks. Mr. Horgan reminded that he had met with various Board members, they know the facts and that there are no issues at the site. Mr. Horgan advised he was not going to "roll over".

Mr. Santi referenced a chart containing vehicle numbers that had been provided by the Horgan organization. Mr. Horgan stated he could very well agree to 15,000 trucks, but they would never reach that number.

Mr. Santi stated the Township was looking for an agreement that would make everyone comfortable knowing what the number was going to be. Mr. Horgan asked Mr. Santi what other businesses in the Township the Board felt it needed control over, is the Board aware of other businesses' capacities and have there been any actions filed against any other businesses? Mr. Santi stated that the Township has addressed other businesses with respect to excess sewer capacity. Mr. Horgan again asked what other business the Township feels it needs control over that have not expanded? In response to a question from Mr. Dancer about how many trucks Allied is limited to, Mr. Santi indicated he did not know. Mr. Horgan asked if the Township knows Allied's rated capacity. Mr. Kroberger indicated Allied had not changed anything that has been there since it started. Mr. Dancer commented that Allied has grown.

Mr. Horgan stated he had only addressed the Board because information about Allied had been left out.

Mr. Dancer spoke to the Board and stated that in January Horgan had provided information on the vehicles (about 5,000), and at that time there had been studies concerning sound and vibrations and the Health Department had conducted a study and all found no problems with Horgan Recycling. Mr. Dancer referenced seven or eight hundred thousand dollars as the amount spent by the Township and asked what the Township's problem is with Horgan at the present time. Mr. Santi responded that the Township wants a clear understanding and agreement on the number of trucks going in and out of the facility. Mr. Dancer indicated the Township might have made progress on that issue had it not stated the 5,000 number, and indicating that if the number was 5,001, the Township would have had the police out. There was some dispute over who brought up the number 5,000.

Mr. Santi stated that what brought a lot to the table was the vehicle chart. If the chart was averaged, it was a little over 5,000 trucks. Mr. Duffy advised that what the Township was looking for was something to start with, in order to reach an agreement that was acceptable to both parties.

Mr. Dancer asked if the Board thought the "talking points" was a start. Mr. Kroberger advised that the first time he had met with Mr. Horgan and his brother, they walked in with a figure, which he still does not know, on the number of trucks. Mr. Kroberger indicated that a comment was made that Mr. Horgan was not going to discuss the number of trucks until everything else was off the table.

Mr. Kroberger reiterated what Mr. Santi had said about Mr. Horgan and he admitted that he and Mr. Horgan respectfully disagree with each other on the issues of the matter. Mr. Kroberger reiterated that when the discussion took place with Mr. Horgan and his brother, Mr. Horgan was prepared to offer a number of trucks, but stated there would be no other conversation. Mr. Kroberger indicated the Township could not make that commitment. During ensuing conversation, Mr. Kroberger and Mr. Horgan disagreed on several matters.

Mr. Dancer continued, stating there are no noise, vibration, or health issues. Mr. Santi commented that residents continue to be concerned about air quality, even though every test done by various public entities did not find issues. In response to a question as to whether the Board is satisfied concerning health issues, Mr. Santi indicated the Board has gone as far as it can. In response to a question from Mr. Dancer about what the

issue is, Mr. Santi stated that trucks are the issue. Mr. Dancer asked how many trucks the Board wanted, and Mr. Santi indicated there needed to be dialogue about that, based on the chart. Mr. Duffy asked that Horgan supply an anticipated number and Mr. Dancer indicated that was not something to be discussed at a Public Meeting.

Mr. Horgan asked what other businesses the Board would be approaching about potential expansion.

Mr. Kroberger commented that Mr. Horgan and the Township have not been able to come to an agreement and the matter is going before the Zoning Hearing Board and he felt that is where the matter should remain. Mr. Dancer confirmed that the matter was going to the Zoning Hearing Board because of the issue of the number of trucks. Mr. Kroberger advised that had to do with the expansion and that is what the Zoning Hearing Board will determine.

Mr. Horgan commented that the Township was taking him to court because of his capability to expand and he again asked what other businesses that have the capability to expand would be taken to court? Mr. Santi advised there were no other non-conforming pre-existing uses.

Mr. Dancer again inquired whether the Board had reviewed Allied's rated capacity and the number of trucks that equates to. Mr. Santi did not know and stated that Allied was a pre-existing use and that the pre-existing use was for crushing concrete left over from Allied. Mr. Dancer further inquired about the capacity of Dunkerly Landscaping's screener and how many trucks he has on the road. Mr. Perrone indicated the Township has had no complaints about Dunkerly. Mr. Ziemba commented that Dunkerly is located in a light industrial zone. Mr. Dancer asked if the issue revolved around the volume of complaints filed against Horgan Recycling. Mr. Perrone addressed that issue indicating that the Township is a public agency and as such responds to the concerns of the residents.

For the record, Mr. Perrone stated that the figure mentioned by Mr. Dancer as having been spent by the Township on the Horgan matter was conjecture and not necessarily based on fact.

Donna Mirynowski, 644 Eagle Lane, asked the Board if it planned to consider, during any negotiations with Horgan, the residents living on West Point Pike (more than just a few) who are upset about this matter, but have been intimidated by "slap suits" previously initiated by Horgan. Mr. Santi advised the Township had spoken with the neighbors multiple times. With respect to the testing, Mrs. Mirynowski commented that Horgan was aware that testing was going to take place and she did not find the testing results credible. Mr. Santi stated the Township has no reason to believe that the testing was not credible and explained how the noise testing was done. Mr. Duffy concurred and commented that the agencies do not feel that any further testing is necessary.

Ed Elborne, 627 Collins Avenue, indicated he was not aware of the Horgan issue in 2004, but stated he knows there were residents who came before the Board to complain about noise and vibration issues at that time. He questioned why no vibration testing was done until 2007. He also stated he understood that Bill Lawrence had issued violation notices to both Horgan and Allied a few months ago. Mr. Duffy explained that the vibrations were coming from a very defined source and that both companies have been asked to limit the truck bed vibrations. The Board did not wish to belabor this point.

Mr. Elborne reported that he had submitted an outline pertaining to Robert Brant to the Township. Due to circumstances surrounding Mr. Brant's representation of the Township, Mr. Elborne inquired whether the Board has considered action against Mr. Brant to seek reimbursement of fees. Mr. Santi advised that the Court had decided the conflict of interest case and determined that Mr. Brant had done nothing wrong. Mr. Santi advised that the Township would not be taking any other action.

Mary Ann Bogert, 749 Shearer Street, asked for clarification concerning the Horgan Zoning Hearing. Mr. Kroberger indicated that the parties were trying to schedule the hearing and Mr. Santi reported that the residents would be notified when the hearing is scheduled. Mr. Perrone clarified that property owners within 500 feet of the subject property are notified.

Mrs. Bogert also inquired about what the "dust warning" signs meant. She was informed that the Township had not placed the signs and were likely an attempt by Allied or Horgan to slow truck traffic in order to limit kicking up dust. In response to another question about when Cottage Avenue would be paved, Mr. Perrone advised that the Township was waiting for Allied to complete its current project which would limit drag-out.

Mrs. Bogert also noted her concern about the possibility that "drag-out" from the Allied and Horgan Facilities is getting into streams. Mr. Perrone advised that the run-off issue is constantly monitored.

Ginny Oldt, Gosling Drive, asked that the Horgan Zoning Hearing Board notice be posted on the Township's web site.

Eileen Erkes 1439 Cathy's Lane, commented that her children participated in the Junior Police Academy and complimented the activity. She also thanked the Police Department for its efforts in the Gwynedd Gardens Development.

**8. MOTION TO APPROVE RESOLUTION 09-2008, A RESOLUTION DESIGNATING OCTOBER 4<sup>TH</sup> THROUGH OCTOBER 11<sup>TH</sup> AS FIRE PREVENTION WEEK.**

Mr. Ziemba noted that each year the Township prepares a resolution recognizing all of the volunteers in honor of Fire Prevention Week, which is October 4<sup>th</sup> to October 11<sup>th</sup> this year. Upon motion by Mr. Ziemba, seconded by Mrs. Edelmayer, the Board unanimously approved Resolution 09-2008.

**9. MOTION TO APPROVE RESOLUTION 10-2008, A RESOLUTION RECOGNIZING THE UPPER GWYNEDD TOWNSHIP FIRE DEPARTMENT'S 100<sup>TH</sup> ANNIVERSARY.**

Mr. Ziemba advised that Township had prepared a resolution commemorating the Fire Department's 100<sup>th</sup> Anniversary which is to be celebrated on October 4<sup>th</sup>. Mr. Ziemba read Resolution 10-2008 which outlined the history of the Department. Upon motion of Mr. Ziemba, seconded by Mr. Kroberger, the Board unanimously approved the resolution.

Mr. Ziemba listed the activities scheduled as part of the celebration and he presented the resolution to Chief Alpert and David Winder. Congratulations were offered by the members of the Board of Commissioners.

**10. MOTION TO APPROVE RESOLUTION 11-2008, A RESOLUTION ACKNOWLEDGING THE UPDATE OF THE OFFICIAL UPPER GWYNEDD TOWNSHIP EMERGENCY PLAN DATED SEPTEMBER 2008.**

Mr. Ziemba advised that the Board had been asked to approve an updated Emergency Operations Plan. While the plan is basically the same plan as before, it is now in PEMA's format. Mr. Ziemba explained that the plan designates where Township officials are to gather and what they are to do in the case of an emergency or hazardous situation. Upon motion by Mr. Ziemba, seconded by Mr. Kroberger, the Board unanimously approved Resolution 11-2008, a resolution acknowledging the update of the Township's Emergency Plan.

11. **MOTION TO APPROVE THE PROVIDENCE DEVELOPMENT GROUP'S REQUEST FOR A ONE-YEAR EXTENSION OF THE DEVELOPMENT AGREEMENTS ASSOCIATED WITH ITS PROVIDENCE RESERVE SUBDIVISION ON ALLENTOWN ROAD. THE NEW AGREEMENTS WILL EXPIRE ON SEPTEMBER 22, 2009.**

Mr. Kroberger advised that the Township had received a letter from the developer of the Providence Reserve Development requesting a one-year extension of the Development Agreements associated with its subdivision on Allentown Road. Upon motion by Mr. Kroberger, seconded by Mr. Duffy, the Board unanimously approved the extension. The new Agreements will expire on September 22, 2009.

12. **MOTION TO APPROVE BSI ELECTRICAL CONTRACTORS' APPLICATION FOR PAYMENT NO. 20 IN THE AMOUNT OF \$109,723. THIS PAYMENT RELATES TO THE WASTEWATER TREATMENT EXPANSION AND REPRESENTS A REDUCTION IN RETAINAGE TO 2.5%.**

Mrs. Edelmayer advised that BSI Electrical Contractors had submitted Application for Payment No. 20 in the amount of \$109,723 which actually represented a reduction in retainage of 2.5%. Upon motion by Mrs. Edelmayer, seconded by Mr. Duffy, the Board unanimously approved the payment.

13. **MOTION TO APPROVE JOAO & BRADLEY'S APPLICATION FOR PAYMENT NO. 4 IN THE AMOUNT OF \$8,500. THIS REPRESENTS FINAL PAYMENT ON THE SOUTHWEST INTERCEPTOR PROJECT.**

Mrs. Edelmayer reported that the Southwest Interceptor Project had been completed last fall, however, the Township had held funds relative to final landscaping. Upon motion by Mrs. Edelmayer, seconded by Mr. Ziemba, the Board unanimously approved payment in the amount of \$8,500 to Joao & Bradley.

14. **MOTION TO APPROVE JOAO & BRADLEY'S CHANGE ORDER NO. 1 IN THE AMOUNT OF \$66,800 THIS CHANGE ORDER REPRESENTS A CREDIT AND EFFECTIVELY REDUCES THE ORIGINAL CONTRACT PRICE FROM \$496,000 TO \$429,200.**

Mrs. Edelmayer explained that Joao & Bradley had submitted Change Order No. 1 in the amount of \$66,800 relating to the Southwest Interceptor Project. She further explained that the Change Order effectively reduced the amount of the contract from \$496,000 to \$429,200. Upon her motion, seconded by Mr. Kroberger, the Board unanimously approved the Change Order for \$66,800.

15. **MOTION TO APPROVE MILFORD BUILDERS, INC.'S BID IN THE AMOUNT OF \$154,489.34 FOR THE CONSTRUCTION OF A SALT STORAGE BUILDING FOR THE PUBLIC WORKS DEPARTMENT.**

Mr. Duffy reported that the Township had received four bids, ranging from \$154,489.34 to \$268,772 in response to a request for bids for a new salt building for the Public Works Department. Upon motion by Mr. Duffy, seconded by Mr. Kroberger, the Board unanimously approved Milford Builders, Inc.'s bid in the amount of \$154,489. It was noted that this bid was actually below the engineer's estimate for the project.

**16. ANNOUNCEMENT OF AN OPEN HOUSE TO BE HELD AT THE TOWNSHIP BUILDING ON THURSDAY, OCTOBER 2, 2008 FROM 7-9PM FOR THE PURPOSE OF REVIEWING THE PROPOSED DESIGN FOR THE WEST POINT STREETScape PROJECT.**

Mr. Duffy advised that the Township was working on the West Point Streetscape Project, which would include curbs, sidewalks, and lighting. He noted that the design was almost complete and that an Open House had been scheduled for October 2<sup>nd</sup> to present the details of the plan to the residents. Mr. Perrone added that the Township had received a grant for the project and the targeted area was West Point Pike from xxxxx to Jones Avenue.

**OTHER BUSINESS**

Mrs. Edelmayer noted this week's carnival. Hope for good weather.

**17. APPROVAL OF THE SEPTEMBER 2008 BILLS.**

Mr. Santi noted that the Board had received a copy of the General Fund bills. Hearing no questions, upon motion by Mr. Ken, seconded by Mr. Duffy, the General Fund bills for September were approved. Mrs. Edelmayer abstained from approving the Zoning Solicitor's bill.

Mr. Santi advised that the Board had also received a copy of the bills from the Sewer Fund and asked for questions or comments. Hearing none, upon motion by Mrs. Edelmayer, seconded by Mr. Ziemba, the Board unanimously approved the bills for all other funds.

Mr. Santi advised that the Board was also being asked to approve invoices from all other funds. Upon motion by Mr. Edelmayer, seconded by Mr. Ken, the Board unanimously approved these invoices as well.

Mr. Santi advised that there were a number of invoices that had been prepaid. Upon motion by Mr. Ziemba, seconded by Mr. Duffy, the Board unanimously approved the pre-paid invoices.

**18. CALL FOR ADJOURNMENT**

There being no further business, upon motion by Mr. Ken, seconded by Mrs. Edelmayer, the meeting was adjourned 8:20PM.

Respectfully submitted,

Charles J. Testa  
Secretary

/sac

**Approved October 27, 2008**