

Minutes
Council Meeting
April 14, 2009

- I. A regular scheduled meeting of the Borough Council was called to order at 7:02 p.m. by President Edward M. Mitchell. The meeting was held in the Upland Municipal Building.
- II. Present were: President Edward M. Mitchell and Vice President Christine Peterson. Present were Council members Mrs. Sandy Miazza, Mrs. Georgianna Hicks, Ms. Moira Crawford, Mr. Lee Hunter and Mr. Dennis Walls. Mayor Michael Ciach, Mr. Charles Catania, Sr. P.E., Mr. Robert O'Connor, Esquire and Mrs. Shirley Purcival, Borough Manager/Treasurer Secretary were present.
- III. Approximately thirteen residents attended the meeting.
- IV. The Pledge of Allegiance to the American Flag was lead by President Edward M. Mitchell. The Pledge was followed by a moment of silence.

President Edward Mitchell asked to suspend the normal order of business.

President Edward Mitchell stated, "We have the real pleasure of having a new business come into Upland Borough. We are always proud and very pleased to have a very successful market move into the Upland Shopping Center. We are very honored to present Sam and Sam's Grocery Store the following proclamation":

Ms. Crawford stated: Whereas, Upland Borough Council does deem that the Sam and Sam's Grocery/Deli Store has brought excitement to the Borough with great customer service, low prices, a clean shopping environment, friendly employees and has been voted to be the #1 Business of the month in the Borough of Upland. Signed by: The Upland Borough Council

President Mitchell asked the Borough Manager to contact Sam and Sam's to pick up the proclamation.

Mayor Michael Ciach administered the Oath of Office to the newly appointed part time Police Officer, Joseph McCreary III.

Mayor Michael Ciach stated on April 1, 2009 he was invited to and attended an event that the Borough Engineer, Mr. Charles Catania, Sr. was honored as "Engineer of the Year" and basically recognizing his 52 years of service to the County.

Mayor Ciach stated this is his first Mayoral Proclamation since he has been in office.

Mayor Ciach reads the following:

WHEREAS, Charles J. Catania has served as engineer for over fifty-two years serving many municipalities in the County of Delaware and;

WHEREAS, Wednesday, April 1, 2009 Charles Catania is recognized by his peers in the Delaware County Chapter of the Pennsylvania Society of Professional Engineers by awarding him the recognition of his fifty-two years of service on what was their 75th Anniversary Celebration of the NSPE, being labeled Mr. Delaware County Municipal Engineer.

WHEREAS, Charles J. Catania has been responsible an immeasurable amount of tax dollars for the Upland Borough residents as well as attaining an equally measurable amount of grant funds that can only be measured in the amount in millions or tens of millions of dollars, all while insuring safe and responsible fine construction of many of our Borough's projects and structures;

WHEREAS, Charles J. Catania has served as the Official Engineer for the Borough of Upland since August 20, 1964;

WHEREAS, according to the records of the Borough of Upland, Charles J. Catania first started engineering for the Borough of Upland at the March Council Meeting in the year of 1963 as the engineer of record for Harris, Henry & Potter, Inc. and served his first full month as Engineer for the Borough of Upland in April 1963;

NOW, THEREFORE BE IT RESOLVED, that on behalf of the Borough of Upland, the Upland Borough Council and the residents of the Borough of Upland, I'd like to recognize Charles J. Catania during the month of April on his 46th Anniversary as "Engineer Serving the Borough of Upland". This was issued April 8, 2009.

The reading is followed by applause by Council and the audience.

Mr. Catania stated, "Thank you Mr. Mayor. It has been a real pleasure to be here in Upland all of these years."

President Mitchell asked to return the meeting back to the normal order of business at 7:15 p.m.

V. Roll Call

VI. President Mitchell asked for a motion to accept the minutes of the Council Meeting Minutes of March 10, 2009.

A-1-4 Vice President, Christine Peterson made a motion to accept Items A-1 through A-4, which is seconded by Mr. Hunter.

Council unanimously voted aye on the motion.

VII. Treasurer/Manager's Report - Mrs. Shirley Purcival

A-1-3 Mrs. Miazza made a motion to accept Items A-1 through A-3, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.

VIII. Auburn Village - Christine Peterson

A-1 Vice President, Christine Peterson offered a motion for the Award of the Roof Bid on Birch Lane to Ellis Construction, which is seconded by Mr. Hunter.

Council unanimously voted aye on the motion.

A-2 Vice President, Christine Peterson offered a motion to accept a proposal submitted by Caraminico & Sons, Inc. for the wall and the sign in Auburn Village, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

A-3 Vice President, Christine Peterson offered a motion to accept a proposal submitted by Accurate Custom Renovations for the roof shingles in Auburn Village, which is seconded by Mr. Hunter.

Council unanimously voted aye on the motion.

President Mitchell stated to Mrs. Miazza and Mrs. Hicks that Joseph Ferguson gave us an estimate and then submitted the name of the lowest price to Council.

IX. Code Official Report - Mr. Leland Hunter

Mr. Hunter stated he is making good progress.

Mr. Hunter stated that Dave Favinger has completed eleven fire rental inspections in the month of March.

A-1 Mrs. Hicks offered a motion to accept the Fire Marshall's Report, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

A-2 Report of Fire Chief - Dan Smith

Dan Smith stated the Monthly Report for March 2009 as follows:

0 Fire Incidents, 15 Non-Fire Incidents, 20 Mutual Aid for a total of 35 Incidents. There were 2 drills for a total activity of 37. There were 18 Assists for Fire, 1 cover assignments, 1 rapid intervention call, 2 motor vehicle accidents, 1 ambulance assist, 1 gas leak, 1 appliance fire, 3 fire alarms system failure, 1 fire alarm system human error, 1 Controlled Burn, 1 CO Detector, 4 Good Intent. There were 24.7 hours of service for the month, 18 day time, 19 night time for an average runner of 9.

President Edward Mitchell asked Dan Smith how the membership was going?

Dan Smith advised they had 2 voted in last month. We will probably either have one to three to look at and interview next month. We haven't entertained the cadet members.

President Edward Mitchell asked Dan Smith if he was going to stick around for the rest of the meeting as the Solicitor has a report on a couple of things that came out of the conference in Hershey.

Dan Smith advised he would stay for the report.

A-3 Mr. Hunter stated he has a letter from the Upland Fire Company #1 requesting permission to hold their annual Tag Days on the following dates in May and September:
May 8 - 3:30 p.m. to 7:00 p.m., May 9 - 10:00 a.m. to 3:00 p.m. The rain date will be September 11th from 3:30 p.m. to 7:00 p.m., September 12th from 10:00 a.m. to 3:00 p.m., with the next rain date for the following week.

Mr. Hunter offered a motion to grant permission to the Upland Fire Company, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

X. Public Safety Report - Mrs. Shirley Purcival

None

XI. Building and Grounds - Mrs. Sandra Miazza

A-1 Mrs. Miazza offered a motion to approve the bid award for Grass Cutting Services for one year with Kelly Landscaping for \$265.00 bi-weekly from May 10, 2009 through October 20, 2009, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

- A-2 Mrs. Miazza offered a motion to approve \$3,400.00 for flags to be purchased and placed along the parade route and in the ballpark on Memorial Day, which is seconded by both Mr. Walls and Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

- A-3 Mrs. Miazza offered a motion to accept a proposal of \$6,123.96 for K&D Communications, Inc. for a new telephone system, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

- A-4 Mrs. Miazza offered a motion to approve the payment of \$3,495.00 for a planter around the new Borough Sign at Borough Hall, which is seconded by Mr. Walls.

Council unanimously voted aye on the motion.

- A-5 Mrs. Miazza offered a motion to approve the payment of \$3,225.00 and possibly an additional \$600.00 for planters on Kerlin Street and Upland Avenue, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.

- A-6 Mrs. Miazza offered a motion to approve the payment of \$2,950.00 to remove the large blue spruce tree and have it transplanted when the new police station is completed, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

- A-7 Mrs. Miazza stated a forty foot flagpole was donated to the Borough, which when completed will be placed in front of the new police station.

XII. Finance and Insurance Report - Moira Crawford

- A.1 Ms. Crawford offered a motion to approve the March Bills for approval for the General Fund in the amount of \$106,554.38 which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

- A.2 Ms. Crawford offered a motion to approve the March Bills for approval for the Auburn Village in the amount of \$19,064.62, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

XIII. Ordinances and Resolutions - Mrs. Georgianna Hicks

- A-1 Mrs. Hicks offered a motion to approve Resolution #6 of 2009 - Application for Allocation of County Liquid Fuels Tax Funds, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

- A-2 Mrs. Hicks offered a motion to approve Resolution #7 of 2009 - Appointment of William Denton of Scott Avenue to the Planning Board, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

XIV. Research and Development Report - Moira Crawford

None

XV. Streets and Equipment Report - Christine Peterson

- A-1 Vice President, Christine Peterson offered a motion to award the F-350 Ford Truck bid to Brian Hoskins Ford, which is seconded by Mr. Hunter.

Council unanimously voted aye on the motion.

- A-3 Vice President, Christine Peterson offered a motion to enter into an agreement with Charles Catania, Sr. of Catania Engineering for the Commercial and Residential Plan Reviews, which is seconded by Mrs. Miazza and Mrs. Hicks.

Council unanimously voted aye on the motion.

- A-4 Vice President, Christine Peterson offered a motion authorizing Catania Engineering to bid out the Road Program, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.

- A-5 Vice President, Christine Peterson stated the inlet at Upland Avenue has been lifted up so that when we do the Road Program it will not cost the Borough twice as much money to go back and re-dig it.

XVI. Community Affairs Report - Sandra Miazza

- A-1 Mrs. Miazza offered a motion to donate \$150.00 to the Upland Athletic Club toward the Easter Egg Hunt, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

- A-2 Mrs. Miazza offered a motion to pay not more than \$6,000.00 and not less than \$5,000.00 toward the fireworks for Labor Day Weekend, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.

Mrs. Miazza stated the Easter Egg Hunt will be on Saturday at 9:00 a.m. on the ballfield.

Mrs. Miazza stated the Fire House Banquet is May 2nd, and also Clean Up at the Pusey House which begins at 8:00 a.m. to 1:00 p.m.

Mrs. Miazza stated the Borough's "Annual Clean Up Day" will be Saturday, May 16th from 8:00 a.m. to 12:00 p.m.

Mrs. Miazza stated the Annual Memorial Day Parade will be held on Monday, May 25th from 9:00 a.m. to 10:00 a.m. followed by the "Annual Community Picnic".

President Edward Mitchell asked Mrs. Miazza the outcome of the "Movie Night"?

Mrs. Miazza stated she was trying to cut her report short, however, the "Movie Night" that the kids enjoyed and it turned out really nice and we had the Breakfast with the Easter Bunny this past Saturday that turned out really nice too! It was fun.

President Edward Mitchell asked if the pictures are on the website yet?

Ms. Crawford replied, "Yes".

Mrs. Miazza stated there was a "History Night" that was a big success and she would like to thank Kenny Miller for a coffee pot that he donated.

Mrs. Hicks stated the "History Night" went really well and everyone seemed to enjoy it. There are tons of pictures up there from everyone from the Pusey House from the 30's, 40's and 50's. It was really nice to see all of those.

Mrs. Hicks stated there was a lot of information that Mr. Peden had out that people were really interested in both the past and the future of the Upland community.

Also, everyone from the Pusey House is very grateful to Council that we are willing to pitch in and have the grass cut this year so they can use this for other things they need to take care of.

XVII. Use and Occupancy Report - Shirley Purcival

Mrs. Purcival stated a total of 9 units received Use and Occupancy Certificates for March 2009. 7 units failed their inspections and a total of \$1,800.00 was deposited into the General Fund for the Use and Occupancy Inspections.

Mrs. Purcival requested permission to have our Solicitor prepare the necessary contracts for grass cutting, the truck bid and Ellis Construction for the roof replacement.

XVIII. Mayor's Report - Mayor Michael Ciach

Mayor Ciach stated for the month of March 2009, 183 citations were issued. The total amount of citation fines was \$19,660.00 of which \$9,830.00 was the Borough's share. There were 7 parking tickets issued, 13 motor vehicle accidents, and 7 reports were copied. The total amount received from DJ court was \$2,528.97. The total calls answered were 223 and there were 8 total assists. Also, during the month of March we had 7 assaults, 13 thefts and burglaries, 10 disorderly conduct and 8 DUI's.

Mayor Ciach stated as a training note, Brian Boyd completed his SWAT Training and he wanted to recognize Chief John Easton doing an exceptional job.

XIX.. Solicitor's Report - Mr. Robert E. O'Connor, Esquire

1. Mr. O'Connor drafted the Proclamation in support of Governor Rendell's proposal to consolidate the number of school districts within the Commonwealth of Pa.
2. Draft Contract for Grass Cutting Services
3. Draft Contract for Truck Purchase
4. Draft Contract for Auburn Village Roof Rehab; and
5. Draft Auditor Letter

Mr. O'Connor stated that President Edward Mitchell asked me to report on something he mentioned earlier in the meeting in regard to the Fire Company.

Mr. O'Connor stated there is a bill in the Pennsylvania Legislature, #1133 which pertains to providing Borough Officials with new hiring and EMS budgeting tools and it's from the General Assembly of the Commonwealth of Pa.

Mr. O'Connor stated as a summary, the bill provides as follows:

The bill was drafted for the purpose of clarifying the responsibility of Borough's in providing Emergency Services within their municipality.

This amendment also provides that the Borough is supposed to consult with their Emergency Services providers in order to discuss the emergency needs of the Borough.

The major provisions can be summarized as follows:

1. The Bill provides that the Borough shall be responsible for insuring that fire and emergency medical services are provided within the municipality.
2. The Bill requires the Borough determine and provide the appropriate financial and administrative assistance necessary so as to provide these services.
3. The Bill provides that the Emergency Services Organizations who receive Municipal funds are required to provide an annual itemized listing of expenditures of these funds prior to the organization receiving any further or additional funds.

Mr. O'Connor asked if anyone had any questions.

There is no response.

Mr. O'Connor stated the last thing he has been asked to comment on is with respect to public employment contracts, and in the case law of the Commonwealth of PA. Public Employees are "at will" employees who are subject to "summary dismissal" unless the legislature for the Commonwealth of PA. has explicitly conferred tenure as an integral part of comprehensive government employment scheme.

Mr. O'Connor stated, basically what that means is that unless there is some statute that provides that an employee has some right as an employee, basically the municipality has the ability to hire and fire and terminate at will.

Mr. O'Connor stated case law in the Commonwealth of PA.:

1. Public employers do not have the power unless conferred by statute to enter into employment contracts which prevent the employer from summarily dismissing their employees at will.

President Edward Mitchell responded, "The question has always been, and it's kind of confusing, what we had is a five year contract that came to this Council from the previous Council and you can't do that." "Case in point is the Clayton Contract." "We touched briefly on the fact that you just cannot do that. What Mr. O'Connor is recommending to this Council is that we go back and re-issue the contract. The only other licensed salver in the general area would be Luongo's."

President Edward Mitchell asked Mrs. Purcival if everyone on Council got a copy of both proposals, and if not, can we have that ready for next month's meeting and get a copy of that to the Solicitor to make sure that it is okay to get it back as quickly as you can to Council.

Mrs. Purcival stated she had Clayton's contract and will make copies for Council.

Vice President, Christine Peterson stated that Chief Easton had a copy of Luongo's contract.

Mrs. Purcival will copy both contracts for Council.

President Edward Mitchell stated, "The quicker we act on this, the quicker we will get out from that umbrella. It's been our effort all the way through to clean up anything that has happened in the past and be very open about it."

President Edward Mitchell asked if anyone had any questions on this?

XX. Engineer's Report - Mr. Charles J. Catania, Sr. P.E.

Mr. Catania stated all of the items on his report have already been addressed by Council with the actions they have taken this evening.

Mr. Catania stated he had nothing further.

XXI. Old Business - President Edward Mitchell

Ms. Crawford offered a motion to cancel the 2nd Council meeting of the month, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

Solicitor, Mr. O'Connor stated, "In regard to a recent court matter that we were involved in, I wanted to thank our Borough Manager because she did a really terrific job jumping into a situation and helped make a lot of progress to resolve the matter."

XXII. New Business - President Edward Mitchell

- A-1 President Edward Mitchell stated a new Fireworks Committee will be created with Mrs. Miazza as Chairman, Mrs. Hicks and Ms. Crawford will be committee members along with Chief John Easton and Fire Marshall, Dave Favinger.

President Edward Mitchell stated a resolution will be adopted and approved at the next Council meeting appointing the committee members.

Mrs. Purcival asked Mrs. Miazza to provide a complete list of the members on the committee.

- A-2 President Edward Mitchell stated a new Borough part-time clerical employee, Ms. Fuller will work three days a week, four hours a day at \$10.00 per hour.

Mrs. Miazza offered a motion to appoint Ms. Fuller to the part time clerical position, which is seconded by Mr. Hunter.

Council unanimously voted aye on the motion.

Mrs. Miazza asked President Mitchell if the part-time employee is needed for more than three days a week, four hours a day will that be allowed.

President Edward Mitchell responded that at last months meeting that option was built into the employment of Ms. Fuller who will fill in for vacations as she is flexible with her hours.

XXIII. Floor Open to the Public

Dan Smith - Fire Chief, Upland Fire Company #1 stated that he hopes Council awards the towing contract to Clayton's as he has worked with the Fire Company for a lot of our training exercises, he's always been there for us for open houses and hopefully we won't lose that contact that we have with this contractor.

Dan Smith stated as Chief of the Fire Company he puts his interest in Claytons. getting the contract.

President Edward Mitchell responded, "Very well taken."

Ray Peden - 901 Mulberry Street

Mr. Peden stated, "As the President of the Friends of Pusey House, I want to thank everybody, more than I can say for all of the support that you're giving the historic element of the community in the last year."

Mr. Peden stated, "The meeting on March 18th was a great meeting. A lot of people came. We signed people up that were interested in volunteering. We signed a couple of people up that might be interested in, later on, we decided to have a historic commission."

Mr. Peden thanked Council again and especially for the offer of grass cutting this year. Mr. Peden stated, "He can't tell Council how much they appreciate that, because as of the 2nd of April, our contributions were off for 2009 by 61%."

Mr. Peden stated this will help them to redirect the funds they would have had to use for grass cutting to be able to do some serious work with some dangerous trees that we're going to take care of.

Mr. Peden stated he is also a member of the Delaware County Heritage Commission and in that guise, we are very concerned about properties in the county that are deteriorating, that are owned by the county. We have gotten the feeling that perhaps Council might be interested in somehow procuring the building over on the Netherly property, the Carriage House, which is badly deteriorated right now. Mr. Peden asks Council, if the opportunity comes up, and we can talk to someone about that, would Council be interested in me representing the Borough?

President Edward Mitchell responded, "Ray, I know that was brought up at the presentation that you had a few weeks ago. You had two things that are very important: the historical Upland aspect of it, which is trying to get a rebirth, so to speak and the other being the Netherland"

President Edward Mitchell stated, "That any time we can bring Upland history back to Upland, get it out of the county's hands, because it's just sitting there, because it's a beautiful wooded area and everybody as kids played up in those woods, which is a gorgeous area and now it's fallen into disrepair. President Edward Mitchell stated, "I think when we polled Council on the night of your presentation, there was a tremendous amount of support."

President Edward Mitchell asked Mr. Peden, that if he feels comfortable, we can ask for a motion and a vote.

Mr. Peden responded that "he was just interested in an indicator, because right now, obviously, this is all very informal and I may have an opportunity to influence this, one way or another and I just want to make sure that I'm not getting out ahead of Council, because if I can influence something, I'd like to influence it in a positive direction."

President Edward Mitchell verbally polls the Council members as follows:

Mrs. Hicks: "Of course, I'm interested."

Mrs. Miazza: "Of course."

Mr. Walls: "I can support him."

Ms. Crawford: "Yes."

Vice President, Christine Peterson: "Yes."

Mr. Hunter: "Yes."

President, Edward Mitchell: "Yes."

President Edward Mitchell stated Council supports Mr. Peden by a unanimous vote

President Edward Mitchell stated to Mr. Peden, "Keep up the good work and stay healthy."

XXIII. Adjournment

There being no other business before the Council, President Mitchell requested a motion to adjourn.

Mrs. Peterson offered a motion, which is seconded by Mr. Hunter to adjourn the meeting at 7.55 p.m. Council unanimously voted to adjourn the meeting.

Respectfully submitted,

Shirley Purcival
Borough Manager/Secretary/Treasurer

Virginia M. Sentyz
Recording Secretary