

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
MARCH 27, 2014

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, March 27, 2014, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:34 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Philips, Erika Spott, Greg Waks, Bill Jenaway and Carole Kenney. Also present were: David Kraynik, Township Manager; John Iannozzi, Township Solicitor; Rob Loeper, Township Planner; Tom Beach, Township Engineer; Sally Slook, Assistant Township Manager; Angela Caramenico, Assistant to the Township Manager.

MEETING MINUTES:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve the February 6, 2014 Workshop Meeting Minutes, February 20, 2014 Zoning Working Meeting Minutes, and the February 20, 2014 Regular Workshop Meeting Minutes as submitted. None opposed. Motion approved 5-0.

CHAIRPERSON'S COMMENTS:

Chairperson Waks stated an Executive Session was not held prior to this meeting. He also provided an update on the issues involved with the potential dredging of the pond behind the township building.

NEW BUSINESS

CONSENT AGENDA:

1. Approve Settlement Agreement and Release between Upper Merion Township and MAACO Franchising, LLC
2. Approve Settlement Agreement between AFA Investment, Inc. and Upper Merion Township – Sewer Revenue
3. Resolution 2014-18 re: Upper Merion Community Center Land Development Plan
4. Resolution 2014-19 re: Approve MS4 Ordinance Fees
5. Change Order 1 – Matsunk & Trout Run WPCC – Sludge Dewatering Equipment Replacement - \$9,078.00
6. Bid Recommendation: 2014-2016 Parks & Township Properties Landscaping and Maintenance Contract – Gorecon, Inc., \$250,620.61 – 3 year total
7. Additional Professional Services – Buell Kratzer Powell re: Community Center - \$130,000.00
8. IT Systems Engineering Design and Construction Administration Services – Brinjac Engineering re: Community Center - \$23,460.00
9. Approve Purchase of 32 Alpha Pagers for Fire & Rescue Services - \$5,000.00

10. Resolution 2014-16 re: Rapid Flashing Beacon at Port Kennedy Road and County Line Road
11. Resolution 2014-17 re: Traffic Signal at Valley Forge Road and General Knox/Caley Road
12. T&M Proposal for Professional Services re: Upper Merion Township 2014 Road Resurfacing Program and 26 ADA Ramps - \$37,700.00
13. Resolution 2014-22 re: Establish 2014 Sewer Rates
14. Resolution 2014-23 re: Approval of Request of Cantino Laredo to Transfer Liquor License No. R-1746
15. Appointments to Citizen Boards re:
  - a. Economic and Community Development Committee – Dan Yarnall
  - b. Police Citizen Advisory Board – Barbara Krasner
16. Resolution 2014-24 re: Authorizing Manager to Sign Signal Permit Applications for Signal Modifications re: King of Prussia Mall Expansion Project

Board Comment:

With regard to item #6, Mr. Philips wanted to make sure the record is clear that the \$250,000 bid recommendation is for a total of three years.

With regard to item #7, Mr. Philips commented this is a change order for services from Buell Kratzer Powell which includes additional site work the township requested for parking, graphic design, and increased architecture coordination.

Mrs. Kenney asked for clarification regarding item #6 as to how many parks are included in the contract for the landscaping and maintenance and the cost differential from the previous contract. Mr. Ed O'Brien, Public Works Director, responded the previous contract covered 27 parks and 2 additional parks are being added for a total of 29 parks. Mr. Kraynik noted the increase in cost is reflective not only the two additional parks, but for additional cost for labor for the company from the 2011-2013 contract. He said 6 bids were received and it was a very competitive process.

With regard to item #6, Mr. Philips asked of the contractors who bid on the previous contract for 2011-2013, how many returned to bid on this year's contract. Mr. O'Brien responded a couple of them came back; however, the main reason they did not all come back is some were not big enough to do 29 parks.

With regard to item #12, Mrs. Spott asked if there was any competitive bidding for the road resurfacing work. Mr. Kraynik responded this is a contract that is normally handled by the one vendor. Mr. O'Brien commented T&M has done the road resurfacing for the last three years.

Mrs. Spott stated while the township is not obligated to do bidding for professional services, at some point it might be something to keep in mind for the future to stay competitive.

Board Action:

It was moved by Mr. Jenaway, seconded by Mrs. Kenney, all voting "Aye" to approve the Consent Agenda as submitted. None opposed. Motion approved: 5-0.

CONSIDER ADOPTION OF ORDINANCE RE: AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP CODE BY REPEALING CHAPTER 140, "STORMWATER, GRADING AND EROSION CONTROL," PURSUANT TO THE ENACTMENT OF CHAPTER 140A, "STORMWATER GRADING AND EROSION CONTROL – RESIDENTIAL," AND CHAPTER 140B, "STORMWATER, GRADING AND EROSION CONTROL – MULTI-FAMILY, COMMERCIAL, INDUSTRIAL, INSTITUTIONAL," BY ORDINANCE NOS. 14-816 AND 14-817, RESPECTIVELY

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Philips, all voting "Aye" to approve Ordinance 2014-820 as submitted. None opposed. Motion approved 5-0.

CONSIDER ADOPTION OF ORDINANCE RE: AN ORDINANCE AMENDING CHAPTER 149 OF THE UPPER MERION TOWNSHIP CODE, ARTICLE II, "REALTY TRANSFER TAX," SECTION 149-14, BY REVISING THE DEFINITION OF "REAL ESTATE COMPANY."

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Spott, all voting "Aye" to approve Ordinance 2014-821 as submitted. None opposed. Motion approved 5-0.

ZONING ORDINANCE HEARING – CONSIDER ADOPTION OF ORDINANCE RE: AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP ZONING ORDINANCE, ARTICLE XXIII, SECTION 165-127 BY ADDING NEW SUBSECTION "O" REGULATING LOT SIZE, FRONTAGE REQUIREMENTS, OPEN SPACE AND PARKING FOR MULTIFAMILY RESIDENTIAL PROPERTIES

Mr. John Iannozzi, Township Solicitor, suspended the public meeting and proceeded to a public hearing and marked the following exhibits for the record:

- Letter to the Township Planning Commission
- Letter to the Montgomery County Planning Commission
- Letter to the Law Library
- Legal Notice
- Ordinance

Mr. Rob Loeper, Township Planner, stated as work is being done to update the Zoning Code it has been recognized that the time for having districts restricted to one type of use has passed. This ordinance would allow multi-family residential development in the SM District. The SM District is primarily the area of the King of Prussia Business Park (formerly known as the Industrial Park) and it would allow multi-family development under the following conditions:

- minimum lot size of 5 acres.
- frontage on at least two roadways
- minimum of at least 20% open space
- parking would be based on 1.35 spaces per unit.

Mr. Loeper indicated this proposed ordinance was discussed at the most recent Zoning Workshop at length and it was decided to move forward. He pointed out a much larger amendment will be forthcoming shortly that will govern and change much of what is in the SM District.

Mr. Iannozzi stated the exhibits will be marked as B-1 for entry into the record of this hearing.

Mr. Waks commented this ordinance will involve the property on Moore Road and Ninth Avenue. He noted approximately five years ago the Board of Supervisors by a vote of 4-1 approved extended stay housing at that property. This ordinance would allow for high end apartments in Upper Merion Township on that property as opposed to an extended stay hotel and represents a significant upgrade.

Mr. Iannozzi stated for the record that the ordinance may apply to one property, but it also would apply to other properties. Mr. Loeper indicated his concurrence and said there are approximately 15 other properties that would meet the size and location criteria.

Mr. Iannozzi opened the floor for public comment and seeing none he closed the public hearing and reconvened into the public meeting portion of the agenda for the Board's consideration of the ordinance.

Board Comment:

Mr. Jenaway stated during previous workshop meetings, the supervisors heard from developers who gave provided significant positive reasons as to why this type of development should be allowed within this particular type of zoning area. He said some people might react and ask why a residential property would go into what was a previously non-residential area. Mr. Jenaway pointed out the importance of understanding the new dynamics of what people want in lifestyle and this will help meet that demand in Upper Merion Township for upscale housing.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve the Ordinance regulating lot size as submitted. None opposed. Motion approved 5-0. Ordinance 2014-822 was adopted and will be filed in Ordinance Book #16.

CONSIDER ADOPTION OF ORDINANCE RE: 2014 BOND ISSUE IN THE AMOUNT OF 10 MILLION DOLARS FOR A MULTI-USE COMMUNITY CENTER, RECREATION TRAILS, TRAFFIC IMPROVEMENTS, STORMWATER PROJECTS AND OTHER INFRASTRUCTURE PROJECTS

Board Comment:

Mr. Philips noted the \$10 million bond issue will address important capital infrastructure needs as well as provide for a much safer intersection at Caley and Valley Forge Roads and make the community center much more accessible with many more services and opportunities for the residents of Upper Merion Township.

Mrs. Spott commented she views the bond issue not only as an investment in our infrastructure, but an investment in our future. With the current favorable interest rates the timing is right to ensure the sustainability of our community.

Mr. Waks expressed support for his colleagues' comments.

From the Public:

Shirley Funkhouser, King of Prussia, had questions about the Community Center and asked to see the business plan for this project, and this will be provided to her. Several supervisors addressed her other concerns and informed her of the extensive communication effort, including numerous public meetings, to keep residents informed about the progress of the community center.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Spott, all voting "Aye" to approve the Bond Ordinance as submitted. None opposed. Motion approved 5-0. Ordinance 2014-819 was adopted and will be filed in Ordinance Book #16.

RESOLUTION 2014-20 RE: 530 HERTZOG BOULEVARD AMENDED DEVELOPMENT PLAN, 20,000 SF BUILDING FOR GYMNASTICS AND DANCE CENTER, 1.49 ACRES, LI

Mr. Rob Loeper, Township Planner, stated this is a plan for a property located at 530 Hertzog Boulevard. There have been two prior approvals for this site that were not built. The first approval was for a 38,000 square foot warehouse which was amended to reduce that building to a 15,000 square foot industrial building. The applicant is proposing to construct a one and two-story building with a 15,000 square foot building footprint and a total of 20,000 square feet.

A revised development plan was submitted reflecting comments from staff and the planning commission. The revisions include a 90° rotation of the building and an approximate 20 foot easterly shift of the Hertzog Boulevard entrance. The resulting plan provides a more efficient internal circulation, safer drop off area, and more convenient parking distribution to the main entrance.

The applicant obtained zoning relief from the Zoning Hearing Board to allow a recreation use in the Industrial District as well as a variance to eliminate the need to have a dedicated loading dock.

The vehicular access is from Glennie Circle and Hertzog Boulevard. Sidewalks are proposed along all three street frontages with ADA ramps at the driveways and intersections. The proposal includes parking for 67 vehicles.

No roadway improvements are proposed; however, the applicant will be required to enter into agreement with the Transportation Authority.

The plan incorporates an underground detention system and porous paving. In addition to the underground system, the parking lot (± 28,000 SF) will have porous paving with the exception of the entrances. There will be a rain garden along the Flint Hill Road frontage and an additional 10,000 SF of area will receive soil amendments and restoration as requested by DEP to improve soil percolation.

The landscape plan proposes 30 canopy trees, 6 understory trees, 8 evergreens and 140 shrubs. Several changes may be made due to ongoing review and discussion with the DEP regarding stormwater management and Best Management Practices (BMPs).

The applicant will be required to pay a fee in lieu of dedication of open space.

Four waivers are requested as follows:

1. The first waiver was carried from the original plan and waives requirements to provide plan features within 200 feet of the property.
2. No paving shall be permitted within the buffer area except for driveways. *The paving that is shown on the plan is within the 15 foot side yard buffers, reflects the same condition as the previously approved plan and is less paving than is in the driveway.*
3. No parking permitted within the buffer except for approved shared parking spaces.
4. Supply a traffic impact study and analysis.

Mr. Loeper indicated the applicant expressed concern about the amount of the highway fee prepared by Boles Smyth. The applicant is suggesting they would like to do some additional traffic studies to look at trip generation since much of the traffic is night off-peak traffic. Staff will review with the Transportation Authority.

Gregory R. Heleniak, Esq. stated the applicant will continue to work with the Montgomery County Conservation District and the Township Engineer to resolve stormwater issues on the site.

Mr. Francis Schultz commented he is anxious to proceed with the project and appreciates all the input he received in terms of traffic flow.

Mr. Philips asked for clarification about “shared parking” [noted in waiver #3 above.] Mr. Loeper responded generally parking is not allowed within the buffer unless it is shared; however, parking is not shared on this site.

After Mr. Philips made a motion, seconded by Mrs. Kenney, to approve the project, Mr. Beach wanted to make sure the approval is contingent upon his review letter. Mr. Beach stated everything has not been completely worked out as yet on stormwater management. Mr. Philips amended his motion to include meeting any requirements in the Township Engineer’s review letter.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Kenney, all voting “Aye” to approve Resolution 2014-20 contingent upon meeting any requirements in the Township Engineer’s review letter. None opposed. Motion approved 5-0.

RESOLUTION 2014-21 RE: 357 ROSS ROAD, 2 LOT SUBDIVISION (NO IMPROVEMENTS), 2.8 ACRES/R-2/HI

Mr. Loeper stated this 2.8 acre property is unique and the subdivision plan goes back to 2007 for a nine lot subdivision which was never built. There is an existing single family dwelling on this property owned by Mr. and Mrs. Bednar. The applicant has decided subdivide their property into two lots so they can build the house they want for their property and the existing house will remain at the back of the property. The subdivision would also include a land transfer of a strip of land to the neighboring property owner.

Mr. Loeper noted one of the unique aspects of this area is that most of the properties are zoned industrial and not zoned residential. Variances have been granted for residential use. At this point in time the applicant is not proposing any improvements. However, the applicant anticipates working on improvements including building a house which will require grading and stormwater management provisions.

At the last workshop meeting there were comments about some stormwater related issues in the area. The Township Engineer and planning staff met on the site last Thursday with Mr. Estock, Mr. and Mrs. Bednar, Mr. Al Rossi and Mr. Michael Stevens. It had rained the night before and the group had the benefit of seeing what happens on the site. Mr. Loeper explained there are two

small inlets on Ross Road that are then piped down through the Rossi property to a box, piped through the Bednar property and ultimately discharged into a wetland area. Specific easements could not be found and it could not be determined when the pipes were installed. According to Mr. Rossi portions of the pipe from Ross Road were replaced when the pump station was put in. Utilizing the aerial, Mr. Loeper pointed out the low point in the back area of the property where the water ponds. The water cannot get to the inlet because of the grades; however, once the water crosses the driveway there is sheet flow down to the wetland area. Public works staff will be going out in the next few days and televising the lines to see if there are existing problems in the lines.

Mr. Philips asked which lines Mr. Loeper was referring to. Mr. Loeper responded the line from the street back to the inlet and then down to the wetland area.

Mr. Philips asked for additional clarification about the line. Mr. Loeper responded it is not known whose line it is; however Mr. Rossi believes there are blockages in the line and it is something the township does from time to time to look at the lines, put a camera down, and get a better idea of what is happening in the area.

Mr. Philips recalled from a previous discussion that the line is less than 12 inches and not a very big line. Mr. Loeper responded it is a 15-inch line from the manhole. It was originally an 18-inch line but it has a liner and it is less than 18 inches.

Mr. Loeper said in the group discussion at the site it is believed once the applicant comes in with a grading plan and it is understood what improvements are going to be made they can better address some of the issues.

Mr. Beach commented the driveway almost acts like a dam. The drainage problem is the area above the driveway. Utilizing the aerial, Mr. Loeper pointed out the problem area. Mr. Beach said once the water gets across the road it sheet flows down to the wetlands and it basically goes away, but there may be some issues with the pipe.

Mr. Philips asked if it is correct that the problem area is not the Bednar's property. Mr. Loeper responded that is correct.

Mr. Beach commented there is more than enough fall from the driveway down to the wetlands so that when the Bednar's build their house on that property they would be able to address any issues that they create when they build the property. He said the stormwater could go around the house. Mr. Beach indicated the area above on private property is where the problem is and it would require the person who owns that property do some grading to alleviate the problem.

Mr. Philips made a motion to approve the 2-lot subdivision contingent upon meeting the stormwater requirements in the Township Engineer's letter. The applicant agreed.

#### Board Action:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve Resolution 2014-21 contingent upon meeting the stormwater requirements in the Township Engineer's letter. None opposed. Motion approved 5-0.

## ACCOUNTS PAYABLE & PAYROLL:

It was moved by Mrs. Spott, seconded by Mr. Jenaway, all voting "Aye" to approve the Accounts Payable for invoices processed from February 12, 2014 to March 19, 2014 in the amount of \$2,167,270.97 and the Payroll for February 28, 2014 and March 14, 2014 in the amount of \$1,324,164.43 for a total of \$3,491,435.40. None opposed. Motion passed 5-0.

## ADDITIONAL BUSINESS

### ROAD CONDITIONS DUE TO SEVERE WINTER

Mr. Philips indicated there are many roads that are coming under severe distress due to the severe winter. Mr. Kraynik responded road patchwork will be done all spring and into the summer and the Public Works crew and Highway Superintendent are identifying a list of areas where the whole road does not need resurfacing. The goal is to get to identify the areas and get to them as quickly as possible before they become serious issues.

### COMMUNITY CENTER PUBLIC INFORMATION

Mr. Jenaway commented on the constructive discussion at the February 6, 2014 workshop meeting which provided information about the community center. He provided guidance on how to access the video of the workshop meeting on the Township website which currently has had 1,039 viewers since it was posted on February 12<sup>th</sup>.

### COMMUNITY EVENTS

Mrs. Kenney announced several upcoming events to be held in Upper Merion Township including the internment of the Tricentennial time capsule on May 1<sup>st</sup>.

### ADDITIONAL UPCOMING EVENTS IN UPPER MERION TOWNSHIP

Mr. Waks announced a number of upcoming Township meetings and events.

### TOWNSHIP LINES – SPRING EDITION

Mr. Waks stated the *Township Lines* – Spring Edition will be arriving at residences by the middle of next week. This issue includes information about the new Community Center and about the upcoming Tricentennial time capsule internment. He called attention to the waste collection survey on page 11. Residents are welcome to drop off or mail in the survey to the Township Public Works Department starting next week. This survey will also be available at the Township Building, Senior Service Center and Township website.

### SENIOR SERVICE CENTER ANNUAL FLEA MARKET

Mr. Waks announced and provided details about the Senior Service Center's 17<sup>th</sup> annual Flea Market and Bake Sale to be held on Saturday, April 26<sup>th</sup> from 9 am to 3 pm (rain or shine).

### EARTH DAY

Mr. Waks noted Earth Day events will be held at the Township Building on Saturday, April 26<sup>th</sup> and encouraged public participation.



## TWO-ALARM FIRE ON BALLIGOMINGO ROAD

Mr. Waks commended the Township's outstanding fire and rescue services in responding to a recent two-alarm fire on Balligomingo Road. He noted our volunteer fire and rescue services most importantly save lives, but also save taxpayers between \$8 million and \$9 million per year.

## BOARD OF COMMUNITY ASSISTANCE

Mr. Waks reported the Board of Community Assistance (BCA) received grant applications from 62 organizations and 33 scholarship applications prior to the deadline. This year the BCA received more than twice as many organization applications and more than four times as many scholarship applications.

### From the Public:

Mr. Herbert Baiersdorfer, Gypsy Lane, reiterated his stormwater concerns raised at previous meetings which have been addressed by the supervisors on several occasions, including an on-site review and letter by the Township Engineer.

### ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mrs. Spott, seconded by Mr. Jenaway, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 5-0. Adjournment occurred at 8:56 p.m.

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DAVID G. KRAYNIK  
SECRETARY-TREASURER  
TOWNSHIP MANAGER

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Minutes Approved:  
Minutes Entered