

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
MAY 27, 2010

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, May 27, 2010, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:42 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Bill Jenaway, Joseph Bartlett, Edward McBride and Erika Spott. Also present were: Ron Wagenmann, Township Manager; Joseph Pizonka, Township Solicitor; Rob Loeper, Township Planner; Russ Benner, Township Engineer; Judith A. Vicchio, Assistant Township Manager and Angela Caramenico, Assistant to the Township Manager.

MEETING MINUTES:

It was moved by Mr. Jenaway, seconded by Mr. Waks, all voting "Aye" to approve the April 15, 2010 Business Meeting Minutes, April 15, 2010 Workshop Meeting Minutes, April 22, 2010 Business Meeting Minutes and May 11, 2010 Special Bid Meeting as submitted. None opposed. Motion approved 5-0.

CHAIRMAN'S COMMENTS:

Chairman Bartlett reported on a Business Improvement District ordinance hearing held earlier. He also read a portion of an article about the students of Upper Merion Middle School who are among 13 schools in the country who have received national recognition in being named one of 13 National Schools of Character for their good manners, kindness and caring. Chairman Bartlett introduced a representative from the School Board who gave the Board an update on the activities of the Upper Merion Area School District.

NEW BUSINESS

PRESENTATION RE: RECOGNITION OF STUDENTS WHO PARTICIPATED IN THE ECDC TRICENTENNIAL LOGO CONTEST

Sharyn Clauson, Chairperson, Economic and Community Development Committee, presented awards to students who participated in the Upper Merion Township Tricentennial Logo and Slogan contest. The contest was sponsored by the Upper Merion Tricentennial Committee and a total of 53 students participated. The Tricentennial Committee selected the top three winners for both the slogan and logo portion of the contest; additionally, the committee selected eight students for honorable mention. These students will have their work displayed in a tricentennial calendar in 2013. The winners for the contest are as follows: Gregory Alfaro, 1st place logo; Leah Blair, 2nd place logo; Emilie Brosz, 3rd place logo; Christine Mina, 1st place slogan; Tara Kosowski, 2nd place slogan; Madhuri Vairapandi, 3rd place slogan.

CONSENT AGENDA:

1. Bid Recommendation re: Entrance Doors Replacement Contract #1 Burhans Glass Company - \$45,683.00
2. Permission to Advertise & Receive Bids re: Charles Street Sanitary Sewer Replacement Contract
3. Request for Abatement of Penalty & Interest
4. Equipment Replacement Request re: UMGA-TV Equipment - \$1,600

Board Action:

It was moved by Mr. McBride, seconded by Mr. Jenaway, all voting “Aye” to approve the Consent Agenda as submitted. None opposed. Motion approved 5-0.

HEARING RE: ORDINANCE AUTHORIZING THE PARTICIPATION OF UPPER MERION TOWNSHIP IN THE DELAWARE VALLEY HEALTH INSURANCE TRUST PURSUANT TO THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION LAW

Mr. Joseph Pizonka, Township Solicitor, stated that notice of this hearing was published in the Times Herald on May 19, 2010.

Mr. Ron Wagenmann was sworn in and stated that in order to participate in the Joint Purchasing Program in Pennsylvania it is necessary to adopt an ordinance authorizing the Township to do so. He explained that the Board of Supervisors has approved the Township’s participation in the Delaware Valley Insurance Trust Health Plan Program and this ordinance will fulfill the Township’s obligation to comply with the Cooperative Purchasing Act of Pennsylvania.

Board Action:

It was moved by Mr. McBride, seconded by Mrs. Spott, all voting “Aye” to approve the ordinance authorizing the participation of Upper Merion Township in the Delaware Valley Health Insurance Trust. None opposed. Motion passed 5-0. Ordinance No. 2010-790 was adopted and will be filed in Ordinance Book 15.

MINOR PLAN RE: PA TURNPIKE COMMISSION. DEVELOPMENT PLAN. N. GULPH ROAD (ADJACENT TO VALLEY FORGE TOLL PLAZA) LATTICE COMMUNICATION TOWER (195 FT), 6.7 ACRES, C-3 COMMERCIAL

Utilizing the aerial, Mr. Rob Loeper, Township Planner, pointed out the location of the communication tower along North Gulph Road adjacent to the Valley Forge Toll Plaza.

On January 7, 2010, the Board of Supervisors approved a land development plan for the construction of a 198 foot tall monopole communications tower. Mr. Loeper noted that this is the second plan being reviewed for this property. This application differs from the first one in that after the plan was approved and went into final design some changes were made which required a lattice tower as opposed to a monopole tower. The lattice communications tower will be 195 feet tall and will be used for microwave transmission of toll, safety and other data along the turnpike. Other telecommunication providers will be able to co-locate on the tower. In addition to the tower, there will also be a few equipment boxes for both the turnpike as well as T-Mobil equipment cabinets.

Other activity that has taken place with this property occurred in December, 2009 when it was rezoned from the AG Agricultural District to the C-3 Commercial District.

The applicant received necessary relief from the Zoning Hearing Board on May 19, 2010.

Staff has reviewed the plans, found them to comply with township codes, and are prepared to issue approval on June 1, 2010 pending comment from the Board of Supervisors.

Mr. Jenaway stated that in the past there have been radio communication problems in the general area of the subject property for the police, fire and ambulance squad. Mr. Jenaway asked if the applicant would be amenable to installing another repeater of some type if emergency services deemed it necessary in the future. Don Lowell, representing the Turnpike Commission, responded that the Commission accommodates emergency services, antennas and communication capabilities when they are able. He pointed out that there are times when a facility structurally will not handle something like that but the Commission works with emergency services and they would be open to that.

With no further comment from the Board of Supervisors, the minor plan is allowed to proceed.

MINOR PLAN RE: BOROUGH OF BRIDGEPORT. DEVELOPMENT PLAN. 375 RIVER ROAD, 768 SQ. FT. GARAGE, 3.43 ACRES, HI INDUSTRIAL

Utilizing the aerial, Mr. Loeper pointed out the location of the Bridgeport Wastewater Treatment Plant which is in Upper Merion Township on River Road just south of the Pennsylvania Turnpike. The 5.48 acre property is located in the HI Heavy Industrial District.

The applicant is proposing to construct a 768 square foot pole barn. He explained that a pole barn is the most basic building that can be built and it will be used for equipment storage. The borough recently removed the old sludge dewatering beds, thereby eliminating approximately 17,000 square feet of impervious area.

The borough is also requesting that the township waive permit fees for the project. Mr. Loeper noted that this has been done in the past for the school district and other municipalities with facilities within Upper Merion.

Staff has reviewed the plans, found them to comply with township codes, and are prepared to issue approvals on June 1, 2010 pending comment from the Board of Supervisors.

Mrs. Spott noted that the Borough of Bridgeport is requesting a waiver of fees and asked for clarification about the township's position on such waivers. Mr. Loeper responded that such accommodations have been done in the past for the school district, churches and religious institutions.

Mrs. Spott asked if the township recently adopted waiver of fees policy included building permits. Mr. Wagenmann responded that building permits were not changed and that the new policy had more to do with such things as signs.

Mrs. Spott asked what fee would have applied for a plan such as this. Mr. Loeper responded that the minor land development fee would have been \$300.

Mrs. Spott requested that staff verify that this waiver would not violate the new township policy.

With no further comment from the Board of Supervisors, the minor plan is allowed to proceed.

PHASE II DEVELOPMENT/SUBDIVISION PLAN RE: YSC REAL ESTATE, LP
DEVELOPMENT PLAN. 224 COUNTY LINE ROAD.
DEMOLITION/RENOVATION & EXPANSION OF EXISTING INDOOR SPORTS
FACILITY. EXISTING: 26,853 SQ. FT. NEW CONSTRUCTION: 59,846 SQ.
FT. TOTAL: 81,861 SQ. FT. AG-AGRICULTURAL DISTRICT, 7.47 ACRES.
Plan Expiration: June 8, 2010.

Utilizing a dated aerial photo, Mr. Loeper pointed out what once was the old Delaware Valley Swim and Tennis Club, more recently Rocket Sports, and is now planned for development of a YSC youth soccer facility. The changes on the property that are not reflected on the photograph are that the old swimming pool and tennis courts have been removed and converted into turf fields.

Recently the Board granted a special exception to allow the placement of outdoor lighting for this field. The applicant is proposing to demolish the small buildings and construct a 59,000 square foot building and the total building area will be about 81,000 square feet upon completion. There will be a slight decrease in total impervious area of slightly less than 1,000 square feet. The applicant has obtained a variance to allow the building coverage to exceed that which is permitted in the AG District as well as to increase the building height.

Mr. Loeper discussed the waivers requested as follows:

§ 145-20.C.(2) – To not provide sidewalks along Devon Park Drive and County Line Road (partial waiver The Chester Valley Trail will be located on the property parallel to Devon Park Drive)

§ 145-24.A.(1) – To reduce the required parking stall depth for a portion of the parking spaces (partial waiver). *Mr. Loeper noted these are primarily in the area adjacent to where the trail will be located.*

§ 145-24.1.E – To not provide the required street trees. *Mr. Loeper noted that this relates primarily to the fact that there are utility conflicts primarily along County Line Road. The applicant is providing other vegetation, but is asking not to provide the street trees.*

§ 145-24.1.G (1)(a) – To not provide the required buffer and screen plantings. *Mr. Loeper noted that the new owners of this facility have gone to great deal of effort to work with the neighbors in Colonial Village and have agreed to plant additional trees and buffer material on the neighbor's properties to shield them from lights and activities on the site.*

§ 145-24.1.G.3(d) – To allow parking within the required 15' buffer area.

§ 145-24.1.H – To not provide the required building plantings. *Mr. Loeper noted that the buildings are such that it is very difficult for them to provide the plantings.*

§ 145-24.1.H.1c - To not provide a planting area adjacent to the buildings a minimum of 10 feet in width.

§ 140-8.B.(2) – To allow grading and construction activities within 5 feet of the property boundary.

Mr. Loeper stated that during the Planning Commission review a great deal of time was spent working with the applicant trying to understand their needs and make sure that the facilities would be the best possible. During the Planning Commission review the applicant indicated that they are working with the neighbor in Tredyffrin Township for offsite overflow parking when certain activities are scheduled.

Mr. Loeper noted another recent issue that was discussed about a small portion of the existing field that encroaches on township property; an easement and settlement are being proposed to resolve that issue.

Mr. Robert J. Kerns, Esq., Kerns Pearlstine, Onorato & Fath, attorney for the applicant, discussed the waivers, most of which relate to landscaping and buffer plantings. Since much of the plant material cannot fit on the site, the applicant is proposing to plant these on the neighbors' properties. A berm will be constructed in an area in the front of the site which is all open fields. Mr. Kerns explained that the building will make it possible to encapsulate the lights which he indicated pleased the neighbors. He noted that the prior owner over developed a small corner of the property and for this reason the applicant will be asking the Board to consider an easement in that corner relative to township property. This is still being discussed at the staff level. Mr. Kerns noted that the applicant is allowing the Chester Valley Trails to put an easement in the front of the property. He indicated that one of the reasons the request for parking space reduction was made is that it goes across the front access to the property. With regard to the trees, the applicant is about 120 short. Forty (40) trees were provided for the neighbors' properties and the applicant is asking that this be considered as part of the Township's requirement. As part of the waiver, the applicant is also offering a \$15,000 contribution to the township as part of the balance for tree replacement. With regard to the open space fee, since this a recreational facility, the applicant is requesting that the Board consider waiving that fee. With regard to the Township Engineer's review, Mr. Kerns indicated that the applicant would be able to comply with the letter.

Mr. Kerns asked Mr. Michael Bowker, applicant's engineer, to discuss the partial waiver for County Line Road design standards.

Mr. Bowker, applicant's engineer, stated that a portion of County Line Road is currently a 50 foot wide right of way. He explained how this road eventually leads to the extension of County Line Road which is a dead end road and does not continue through the train tracks to the south of the site. Mr. Bowker said the area of the requested waiver is this portion of the road where the right of way is less than 50 feet. The ordinance calls for a 30 foot cartway including the parking area. The road has been widened so that there would be at least an 18 foot wide cartway and an additional 8 feet for the parallel parking space. A waiver of the 30 foot requirement is being requested.

Mr. Kerns said a partial waiver not to provide sidewalks along the Devon Park Drive and County Line Road is requested because of the Chester Valley Trail and that this situation is self-explanatory.

With regard to the neighboring trees, Mr. Kerns reiterated that the applicant would like to make an offer for a contribution to the township and he asked Mr. Bowker to discuss the street tree issue with the utilities.

Mr. Bowker stated that on the applicant's side of the street along County Line Road there are aerial utilities where PECO has severely chopped trees halfway up underneath the power lines. He said that planting any significant trees in that area would ultimately result in the same effect. In addition there is an underground gas main along Devon Park Drive that would prohibit the applicant from planting trees in that area.

With regard to the waiver from requiring buffers and screen plantings, Mr. Bowker said that Joe Rossotti, a landscape architect, could better address this issue.

Mr. Rossotti stated that the waiver is requested for the same reason Mr. Bowker previously indicated because of the issue with the utilities. With regard to the buffering requirements, a partial waiver is requested from some of those buffering requirements although there is sufficient heavy vegetation along the south side of the property line. Mr. Rossotti noted that there is approximately 60 feet of heavy vegetation between the sports complex and the railroad tracks to the south and to the east the parkland is fully wooded. In his view, Mr. Rossotti does not expect there will ever be a development occurring on that property so relief is being requested from buffer requirements in that area. Mr. Rossotti indicated that the applicant is providing some buffering in the location just south of this large field and buffering to the north along the PECO right of way.

With regard to the waiver for the perimeter foundation planting, Mr. Rossotti stated that the perimeter of the new building is quite substantial and it is just not possible to put them there. He noted that some foundation plantings will be provided consequently a partial waiver is requested.

With regard to the waiver to allow parking within the required 15 foot buffer area, Mr. Bowker stated there is a minor encroachment at the far southwest corner of the site where three spaces would extend into the 15 foot buffer.

With regard to the waiver not to provide a planting area adjacent to the buildings a minimum of 10 feet in width, Mr. Bowker responded that the area is constricted and the applicant would not have that minimum requirement in front of the proposed building.

With regard to the partial waiver to allow grading activities within 5 feet of the property boundary at the southwest corner of the site, Mr. Bowker indicated that would be for the three parking spaces that would be within the buffer.

Mr. Kerns pointed out that most of these waivers are waivers that relate to the site as it is and not as a result of the development itself. He summarized that the Chester Valley Trail is coming in, County Line Road is already in existence with certain issues and the applicant is constructing a building as opposed to having open fields thereby enabling the enclosure of the lights to the benefit of the community.

Mr. Waks asked if there have been any changes to the plan whatsoever since the last time the applicant met with the Colonial Village Civic Association. Mr. Kerns responded that the only change he is aware of is that the applicant has gone before the Zoning Hearing Board to get approval for the height of the building to go to 65 feet. Mr. Kerns stated that was already built into the plan in the agreement with the association so they knew that it was going to be done.

Mr. Waks asked if there were any residents of Colonial Village Civic Association at the Zoning Hearing Board meeting. Mr. Kerns responded in the negative.

Mr. Kerns stated that discussions were held with the neighbors on their property where plans were laid out so they knew where the trees would go. He added that most of the issues in the agreement are either accomplished or are working toward that.

Mr. McBride commended the applicant for the sensitivity shown to the community thus far.

Mrs. Spott commented how encouraging it is when developers take the concerns of the neighbors into consideration.

Mrs. Spott asked if the Shade Tree Committee reviewed the plans. Mr. Loeper responded that he will have to check the record. Mrs. Spott indicated that she wanted to assure that the Shade Tree Committee provided some input on the waivers.

Mrs. Spott asked for clarification about the applicant's donations for the street tree and other screen planting deficiencies. Mr. Kerns responded that it includes all the trees. The applicant owes 120 trees and 40 of these are being placed on the neighbors' properties. The applicant is offering \$15,000 contribution for the 80 remaining trees.

Mr. Jenaway asked if there were only three parking spaces that had the depth issue. Mr. Kerns responded in the affirmative.

Mr. Jenaway asked if something such as signage going to be done to assure that 28 foot cars or trucks would not park there. Mr. Kerns responded in the affirmative and said that would be easy to accommodate.

Mr. Jenaway commented that he is familiar with the subject property because his children once played at Rocket Sports and he was a long term member of the pool. He indicated that the applicant is doing a great job with this property, but he wanted the Park and Recreation Board to understand what has transitioned here. As a separate issue apart from the good property being provided by the applicant, Mr. Jenaway pointed out that with the loss of the five outdoor tennis courts and pool a sense of community has also been lost. He would like to see someone come in and put in tennis courts and a pool and rebuild that sense of community somewhere in Upper Merion Township.

Mr. Loeper clarified the issue of parking spaces. He said the normal depth is 19 feet and width is 228 inches. The applicant is proposing a depth of 17 ½ feet and width is 210 inches. Mr. Loeper pointed out that a Chevy Tahoe is 202 inches, an Explorer is 193 inches, an Expedition is 206 inches and it is when we get into the F-150 trucks where there is a problem. He said it is not really a compact issue, it is just when you get into the big trucks.

Referred back to staff.

REALEN VALLEY GREENS RE: DEVELOPMENT PLAN FOR 107,000 SQ. FT. RETAIL STORE

Mr. Loeper pointed out the unusual nature of the Realen Valley Green plan of the development of the Valley Forge Golf Course property. He indicated that the actual development is governed as part of a court settlement. The court settlement also includes a design manual which replaces traditional zoning and subdivision requirements and also supersedes a normal procedure that would be used under the municipalities planning code for land development approval. Mr. Loeper explained that the Stipulation Agreement or settlement agreement provides certain changes the applicant can make without Township approval and much of it rests on the recommendation by the Township Engineer that the plan complies with the settlement agreement.

The Phase I development plan allows for 310 multi-family dwelling units, 315,000 square feet of commercial space, 75,000 square feet of restaurant and bar space, 34,000 square foot cinema for a total of 425,000 square feet of commercial type space as well as a 250-room hotel. The letter that the Township Engineer provided outlines in great detail the changes which were made to the site which is one of the changes that the applicant can make. The application before the Board is to seek approval to build a Wegmans store, the first building on the site. Mr. Loeper pointed out that the plan showed that the store location would be located on the west side of the property basically along Guthrie Road.

The plan now moves the store over to the east side along Warner Road. Mr. Loeper stated this would be a better store location since it is the largest single element on the plan. The change also necessitated some minor changes to the road network and the general consensus was that any impact that it had was probably positive from the standpoint of traffic circulation. In addition to the Township Engineer's review the Traffic Engineer reviewed the plan and issued a letter. With regard to some comments raised in the Township Engineer's letter, the applicant has indicated these will be addressed.

Mr. Pizonka explained that technically this is not a Phase I since the applicant is not going to go through the standard phases, but rather a courtesy preview to the Board. It is Mr. Pizonka's understanding that as long as the plan complies with the engineering and design standards the Board would have to approve.

Mr. Marc Kaplan, Esq. indicated that with an agreement with Wegmans, necessary permits and a \$6 million bond with PennDOT, construction is about to start. Mr. Kaplan stated that the plans cannot be recorded in the Recorder's Office without the Township signing. He indicated that in the last three years there has been a good working relationship with the staff and Realen has or will be able to satisfy all of the Township Engineer's comments. Mr. Kaplan stated that issues with the one neighbor in Tredyffrin have been resolved. In addition the Environmental Hearing Board litigation with regard to stormwater has been resolved and there has been a settlement. Mr. Kaplan requested the Board of Supervisors to authorize the signing of the plans.

Mr. McBride asked if a motion was required. Mr. Pizonka stated that the motion should be made subject to final approval by the Traffic Engineer and the Township Engineer.

Mr. McBride stated that it is his understanding that the Township Planner indicated this is all within the Settlement Agreement. Mr. Pizonka responded in the affirmative.

With regard to the Township Engineer's letter, Mr. Kaplan stated that the plans will be tweaked slightly for relatively minor issues. He said they have no problem with the letter and most of it involves providing the Township Engineer with some additional information and those changes will be made.

Board Action:

It was moved by Mr. McBride, seconded by Mr. Jenaway, all voting "Aye" to authorize the signing of the development plan subject to ratification of any issues with the Township Engineer and Traffic Engineer. None opposed. Motion passed 5-0.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Mr. Waks, seconded by Mr. McBride, all voting "Aye" to approve the Accounts Payable [for invoices processed from April 8, 2010 to May 13, 2010, in the amount of \$729,509.98] and the Payroll [for April 2, April 16, and April 30, 2010 in the amount of \$1,712,016.94 for a total of \$2,441,526.92]. None opposed. Motion passed 5-0.

ADDITIONAL BUSINESS

CITIZEN BOARD APPOINTMENTS

Mrs. Spott nominated Gina Lomara to serve on the Police Citizens Advisory Board and Marianna Hern to serve on the Park and Recreation Board.

Board Action:

It was moved by Mrs. Spott, seconded by Mr. McBride, all voting “Aye” to appoint Gina Lomara to serve on the Police Citizens Advisory Board. None opposed. Motion passed 5-0.

Board Action:

It was moved by Mrs. Spott, seconded by Mr. McBride, all voting “Aye” to appoint Marianna Hern to serve on the Park and Recreation Board. None opposed. Motion passed 5-0.

Board Comment:

Mr. Bartlett commented that there were many quality people who applied for these citizen boards and those applications will be kept on file for future reference as additional vacancies occur.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 8:44 p.m.

RONALD G. WAGENMANN
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:

Minutes Entered:

The entire proceedings of the business transacted by the Board at this Business Meeting were fully recorded on audio tape, and all documents submitted in connection thereto are on file and available for public inspection. This is not a verbatim account of the minutes, as the tape is the official record and is available for that purpose.