

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
FEBRUARY 16, 2012

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, February 16, 2012, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:35 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Philips, Greg Waks, Erika Spott, Bill Jenaway and Carole Kenney. Also present were: Ron Wagenmann, Township Manager; Joseph McGrory, Township Solicitor, Rob Loeper, Township Planner; Tom Beach, Township Engineer, and Judith A. Vicchio, Assistant Township Manager.

MEETING MINUTES:

It was moved by Mr. Philips, seconded by Mrs. Kenney, all voting "Aye" to approve the January 12, 2012 Business Meeting Minutes and January 19, 2012 Workshop Meeting Minutes as submitted. None opposed. Motion approved 5-0.

CHAIRPERSON'S COMMENTS:

Chairperson Spott reported there was no executive session prior to this meeting. She also noted there would not be a business meeting next week; however, an executive session will be held on Thursday, February 23 to discuss personnel matters.

NEW BUSINESS

CONSENT AGENDA:

1. Authorization to Advertise re: PIB Loan - Widening of South Henderson Road Hearing Date - March 1, 2012
2. T&M Proposal for Professional Services re: Heuser Park to Valley Forge Park Trail Project
3. Tax Settlement
4. Citizen Board Appointments:

Gian Singla	Municipal Utility Authority
Dan Yarnell	Environmental Advisory Council
Linda Noll	Library
Sheryl Smith	ECDC
Robin Ross	ECDC

Board Comment:

Mrs. Spott stated Item #2 will be removed from the Consent Agenda and voted on separately. The Consent Agenda will consist of Item #1, Item #3 and Item #4.

Board Action:

It was moved by Mr. Waks, seconded by Mr. Philips, all voting "Aye" to approve Consent Agenda Items #1, #3 and #4 as submitted. None opposed. Motion approved 5-0.

T&M PROPOSAL FOR PROFESSIONAL SERVICES RE: HEUSER PARK TO

VALLEY FORGE PARK TRAIL PROJECT

Board Comment:

Mr. Waks explained why he is recusing himself on any matters dealing with the Valley Forge Park Trail now and in the future.

Mrs. Spott asked Mr. Wagenmann if he is in receipt of a Mr. Waks' recusal statement. Mr. Wagenmann responded in the affirmative and indicated it will be kept on file with the meeting minutes.

Mrs. Spott stated the T&M proposal to design the multi-use path from Heuser Park would provide a connection to the Valley Forge National Historical Park. She noted the township obtained grant funding for a significant portion of this trail.

Mrs. Spott asked for a motion to approve the T&M proposal, but excluding the lighting aspects. She explained there have been discussions and a consensus reached that the trail should not be lit and noted a significant savings will be realized as well.

Public Comment:

Mr. Scott Sibley, King of Prussia, expressed his continued support for the trail and is pleased it is moving forward. He noted the efforts of Neil Sardinias of the Park and Recreation Board, who served with him on the bike trail committee, Mrs. Spott who serves as Board of Supervisors liaison on the Park and Recreation Board as well as Mr. Waks who is Co-founder of Friends of Upper Merion Trails.

Board Comment:

Mrs. Spott also recognized the efforts of the Park and Recreation Board and other active and involved trail supporters.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Kenney, all voting "Aye" to approve the T&M proposal without the lighting portion of the project. Mr. Waks abstained. Motion approved 4-0-1.

ADOPTION OF BOARD POLICIES RE:

1. Agency Meeting Policy
2. Debt Management Policy
3. Guidelines for Position/Wage Structure
4. Investment Policy
5. Procedures for the Application for an Inter-Municipal License Transfer into the Municipality of Upper Merion Township and the Application for an Economic Development License into Upper Merion Township

Board Action:

It was moved by Mr. Jenaway, seconded by Mr. Philips, all voting "Aye" to approve the Board Policies as stated. None opposed. Motion approved 5-0.

HEARING RE: SEWER RATE ORDINANCE AMENDMENT

Mr. Joseph McGrory, Township Solicitor, opened the hearing for consideration of an ordinance to establish sewer rates in the township. He submitted exhibits for the Record, including, Proof of Publication from the *Times Herald* on February 7, 2012.

Mrs. Spott stated this ordinance amendment will allow the Board of

Supervisors in the future to adopt new sewer rates by resolution rather than by ordinance as other township fees are done at the beginning of the year.

Mr. McGrory asked for any public comment and seeing none the hearing was closed and the public meeting portion of the agenda resumed for the ordinance's consideration by the Board of Supervisors.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Waks, all voting "Aye" to adopt the Sewer Rate Ordinance Amendment. None opposed. Motion approved 5-0. Ordinance No. 2012-802 was adopted and will be filed in Ordinance Book #15.

HEARING RE: ORDINANCE AMENDING CHAPTER 165 OF THE UMT CODE, ARTICLE XXXV, ZONING HEARING BOARD, SECTION 248, MEMBERSHIP, AS AMENDED, TO INCREASE MEMBERSHIP FROM THREE TO FIVE MEMBERS

Mr. McGrory opened the hearing for consideration of this ordinance and outlined the following exhibits:

1. Zoning Hearing Board Ordinance - B-1
2. Letter to *Times Herald* dated January 13, 2012 - B-2
3. Proof of Publication from the *Times Herald* for February 2, 2012 and February 9, 2012 - B-3
4. Time-stamped copy of letter and Ordinance sent to Upper Merion Planning Commission dated January 13, 2012 - B-4
5. Time-stamped copy of letter and Ordinance to Montgomery County Planning Commission dated January 13, 2012 - B-5
6. Time-stamped copy of letter and Ordinance to County Law Library dated January 13, 2012 - B-6
7. The Montgomery County Planning Commission review letter dated February 3, 2012 - B-7
8. Legal Notice - B-8

Board Comment:

Mr. Jenaway noted the Upper Merion Planning Commission also reviewed this proposed ordinance in January; and it moved through the process unanimously. He stated he would like to reserve any comments on the ordinance until he has heard all testimony to determine if there are any options other than what is presented at this hearing.

Mrs. Spott stated the Board of Supervisors also received notification from the Montgomery County Planning Commission; there was no objection to the ordinance.

Mr. McGrory stated the county planning review letter was incorporated as Exhibit B-7. Since the minutes of the local planning commission were not official to date, they were not incorporated in an exhibit; however, Mr. McGrory noted it is good to know what their action was for the record.

Mr. McGrory opened up the hearing to the public for comment.

From the Public:

Mr. Vincent O'Grady, King of Prussia, spoke in support of the ordinance.

Mr. Robert Montemayor, Chairman, Zoning Hearing Board, spoke in opposition to the ordinance.

Mr. Brad Murphy, King of Prussia, spoke in opposition to the ordinance.

Dan Yarnall, King of Prussia, spoke in support of the ordinance.

Mr. Nick DeRosato, King Manor, spoke in support of the ordinance.

Board Comment:

After the public comment, Mrs. Spott offered her comments and assurance the Board of Supervisors will pick the most qualified people for the Zoning Hearing Board.

Mr. Waks pointed out the value of having five people on the Zoning Hearing Board asking probing questions and, in his view, is a sign of good government. He also outlined the highly qualified and highly regarded experience of a recent appointee to the Zoning Hearing Board and stated this is the type of person needed on the Zoning Hearing Board.

Mr. Jenaway outlined his pro and con assessment of a five member board. He does not have a problem with a five member board; however, he does have a problem with five people and two alternates. Mr. Jenaway stated he does not approve of more than five members whether it is full members or alternates and he would personally like it to remain at three, with two alternates.

Mr. Philips commented on the highly rated qualifications of a recent appointee to the Zoning Hearing Board.

Without further comment from the Board, Mr. McGrory closed the hearing and reconvened into the public meeting portion of the agenda for the Board of Supervisors to consider the ordinance.

Board Comment:

Mr. Jenaway asked if an offer would be made to Mr. Mark DePillis to reapply to the Board of Supervisors.

Mrs. Spott stated she did not have any conversations with Mr. DePillis, but the Board is open to his applying as it is for anyone to reapply. However, she emphasized no appointments would be made at this meeting.

Mr. Jenaway asked if there is an anticipated time frame as to when appointments would be made so all people who are interested in this position would have the opportunity to be vetted and meet with appropriate individuals.

Mr. Waks stated over the last few weeks three individuals have been interviewed.

Mrs. Spott commented applications will continue to be accepted. Once the vote on the ordinance is taken, the process will move to the next step and applications will remain open.

Mr. Philips pointed out regardless of whether there are two people waiting in the wings, there are three members of the Zoning Hearing Board that constitute a quorum until the additional individuals are selected.

Mrs. Spott asked for a motion to adopt the ordinance to expand the Zoning Hearing Board to five members.

Mr. Jenaway asked for clarification that there would be five members and no alternates.

Mrs. Spott stated the Zoning Hearing Board is expanding to five; there is currently one alternate that stays the same.

Mr. Jenaway required additional clarification.

Mr. McGrory stated there is no reference to alternate in this ordinance. He pointed out with a five member board an alternate is generally not needed.

Mr. Jenaway stated that was his earlier comment. He has no objection to going to five as long as there is no alternate.

Mrs. Spott said now we are clear. This ordinance expands the Zoning Hearing Board to five with no alternates.

Mr. McGrory stated an alternate can always be done in the future, but when you have a five person board it is generally not done.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Kenney, all voting "Aye" to adopt the ordinance which brings the Zoning Hearing Board to a total of five members. None opposed. Motion approved 5-0. Ordinance 2012-801 was adopted and will be filed in Ordinance Book #15.

RESOLUTION 2012-5 RE: REIMBURSEMENT OF ACQUISITION COST BY FUTURE BOND ISSUE - FORMER GOLD'S GYM BUILDING

Mrs. Spott stated the Township has closed on the Gold's Gym property and it is now the property of the Township. Certain funds were advanced to accomplish the purchase and the Township will be looking to recoup these funds with a future bond issue. Resolution 2012-5 is a technical resolution that is required to get the reimbursement.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve Resolution 2012-5 as stated. None opposed. Motion approved 5-0.

SPY GLASS AGREEMENT

Mrs. Spott stated this is an agreement the township will enter into whereby the Spy Glass Company will review township telephone costs and on a contingent fee basis, look for savings, and take a percentage of those savings as their compensation. If their analysis does not produce any savings they would not receive any compensation.

Public Comment:

Mr. Jim Cook, King of Prussia, asked about the bidding process for Spy Glass. Mr. Wagenmann explained why a bid was not necessary since it is a professional services contract and not for a particular item being purchased.

Board Action:

It was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve the Spy Glass Agreement as presented. None opposed. Motion approved 5-0.

CONCERTS SPONSORSHIP CONTRACT - BLOMSTROM CONSULTING NETWORK

Mr. Dan Russell, Director, Park and Recreation, stated this contract would

provide a continuation of the services with the Blomstrom Consulting Network to provide concert sponsorship consulting and solicitation for funds for the Concerts Under the Stars series under the same agreement as last year.

Mrs. Spott asked Mr. Russell to give further details about the scheduling of more concerts this year as a result of concert sponsorship. Mr. Russell responded, as a result of the joint efforts between the Blomstrom Consulting Network and the Township, it was possible to reduce the costs of concerts last year from \$10 per person to \$5 per person. This same admission fee will apply to the upcoming season and at the same time; concerts will be expanded from four concerts last year to six concerts this year.

Mrs. Spott asked for a motion to accept the concert sponsorship contract with Blomstrom Consulting Network.

Mr. McGrory asked for clarification the change he requested was made so Blomstrom would not get paid for the solicitations the township makes. Mr. Russell responded this change was made.

Mrs. Kenney asked if there were any substantive changes from last year's contract. Mr. Russell said the only change was if the township staff were to go out and receive sponsorships on their own, the Blomstrom Consulting Network would not get this credited toward their fees for services.

Board Action:

It was moved by Mr. Jenaway, seconded by Mr. Philips, all voting "Aye" to approve the Concerts Sponsorship Contract. None opposed. Motion approved 5 -0.

PLAN AMENDMENT RE: RATOSKEY & TRAINOR, 396 RIVER ROAD. AN AMENDMENT TO PLAN DP 2008-17 TO EXPAND AUTO STORAGE AND AUCTION OPERATION INTO ADDITIONAL PROPERTY

Mr. Rob Loeper, Township Planner, stated Ratoskey & Trainor, Inc. has submitted a plan amendment for land development approval granted on November 11, 2008 for a 20-acre site, owned by PECO, with frontage located at 369 River Road which follows along the Pennsylvania Turnpike and is adjacent to the Glasgow Quarry.

The property is comprised of two parcels: lease area "A" commonly referred to as the front area (16 acres) and lease area "B" (4 acres). Areas "A" and "B" are not physically joined but are separated by a small parcel owned by the Norfolk Southern Railroad.

The lease area "A" improvements approved in 2008 include a 2,160 square foot office, stormwater management and landscaping improvements. Insurance Auto Auction (IAA) operates a damaged vehicle facility on the site. Vehicles are stored on site until they are sold via a weekly auction. There is no dismantling of parts or any parts storage on the site.

Lease area "B" improvements were limited to stormwater management. Ratoskey & Trainor occupy this parcel to park company vehicles and equipment. In 2009, the plan amendment was approved for lease area "B" to allow for improvements including a 2,000 square foot garage, a 1,900 square foot storage garage and an 800 square foot office trailer. Utilizing the aerial, Mr. Loeper pointed out the locations of various aspects of the plan amendment.

The proposed amendment is to expand the IAA operations into lease area "B". A PennDOT permit was issued so that lease area "B" has access to Flint Hill Road. One of the questions raised with Ratoskey & Trainor was the possibility of making sure access can be provided across the site. Mr. Ratoskey responded they have an agreement with Glasgow Quarry for an easement so essentially all

access would still remain at the River Road entrance; the Flint Hill entrance would just be used as an alternate or emergency access. There are no other improvements proposed at this time.

Utilizing the aerial, Mr. Loeper pointed out the fencing which was installed as part of the original approval as well as the beginning part of a trail extending along the PECO right-of-way, and coming across the property that ultimately would be extended through to Flint Hill Road. The other portion of the PECO property is not part of this application.

Staff has reviewed the plans, found them to comply with township codes, and will provide approval pending comment from the Board of Supervisors.

Mrs. Spott asked how this proposed change will affect what the neighbors are experiencing in view of previous complaints. Mr. Ratoskey responded there were some previous noise complaints because of their concrete recycling operation that included Saturdays and Sundays at times. A meeting was held with some of the residents including the Township Manager and Chairman of the Board of Supervisors during which many of the issues were clarified such as the dust and dirt which was actually coming from the Glasgow Quarry and not the Ratoskey and Trainor operation. The residents asked if Ratoskey and Trainor would not make noise on Sundays; and if work had to be done at any time during the night, Ratoskey and Trainor would give them advance notice. Mr. Ratoskey responded since the meeting, as far as he knows, there have not been any complaints.

Mr. Ratoskey went on to explain IAA's hours are Monday through Friday on a 9 to 5 basis. In his view, noise or any kind of activity would be reduced. There will be no heavy truck traffic, but rather smaller trucks and all the access will be off of River Road. The only activity in lease area "B" will be the loader operator, either setting a car down or taking a car back.

Mrs. Spott asked the Township Solicitor if there is a way to incorporate the easement with this plan to ensure traffic will not be an issue on Flint Hill Road at some point in the future.

Mr. McGrory asked what is on the plan now.

Mr. Loeper responded the current plan shows access for parcel "B" out to Flint Hill Road; parcel "A" is out to River Road. That is the existing arrangement. Ratoskey and Trainor obtained a permit several years ago from PennDOT to extend their driveway to Flint Hill Road.

Mrs. Spott commented it is her understanding what is desired is to have access on River Road and not Flint Hill Road.

Mr. McGrory asked for clarification about River Road. Mr. Loeper responded it is a state road and there is a PennDOT permit for access at that point.

Mr. McGrory asked the applicant if he would agree to make the easement a condition of approval. Mr. Ratoskey said he could not agree to the condition since it is for IAA to negotiate. He said currently it will be a year-to-year license.

Mr. McGrory pointed out a license is revocable. Mr. Ratoskey responded in the affirmative and said it is revocable with one year notice. Mr. Ratoskey said attempts are being made to obtain a permanent easement with the railroad to go across the property.

Mrs. Spott asked if IAA does not want to be on the Flint Hill side because of the necessity of rearranging the equipment. Mr. Ratoskey responded in the affirmative. He noted if at some point in the future IAA is not able to get an easement, and it is necessary to set up on that side of the road, then a separate employee and a separate machine parked at that location the whole time would

be required and that is not desirable.

Mrs. Spott asked if there are any issues with traffic ingress and egress on Flint Hill. Mr. Ratoskey responded in the negative. He said all of their large trucks go into that driveway; they have the Highway Occupancy Permit for this state road and it does have the proper sight distance. Mr. Ratoskey noted if the worst case scenario would occur [no easement] IAA would have to use Flint Hill Road and they would rather not do that.

Mrs. Spott asked if any further comments have been received from residents. Mr. Wagenmann responded his office has not received any complaints since the aforementioned meeting with the residents.

Mr. Philips asked for clarification about the easement and how IAA is anticipating getting from Lease Area "A" to Lease Area "B". Utilizing the aerial, Mr. Loeper responded by pointing out various aspects of the property and immediate area.

Mr. Jenaway asked for clarification about the stormwater management that was done and asked, given the nature of this operation, if anything was done about management of the fuel oils and other particulates that might end up in the stormwater drainage. Mr. Loeper responded he believes that was covered when the original approval was granted in 2008. He noted that was one of the major issues with this property where there were ongoing stormwater problems along River Road prior to Ratoskey and Trainor making the changes and installing the appropriate basins.

Mr. Jenaway asked if there have been any issues with regard to the movement of fuel oils since the stormwater changes were made. Mr. Loeper responded he is not aware of any issues; and based on his observation, the site has been much cleaner since 2008 than it was prior to that time.

Mr. McGrory asked for clarification on what was installed at that location. Mr. Ratoskey responded stormwater management was installed as part of their approval process at which time they had a visit from DEP about car storage regulations. He explained the process when there is an accident as follows:

- a local tow truck would pick up a car and take it to their local yard first
- it sits there anywhere from 2 to 7 days until the insurance adjuster gets there.
- at that point in time the insurance adjuster makes a decision on the car
- the car is then picked up and gets towed to the IAA location.

Mr. Ratoskey stated if there are any fluids leaking they are pretty much done by the time they get to the IAA location. He then explained the cleaning process if a car is found leaking. Mr. Ratoskey noted IAA has a master environmental policy covered on the site and any spill over 5 gallons has to be reported to DEP, and to his knowledge, there have been no spills at this site.

Mr. McGrory questioned the location of the stormwater management. Mr. Loeper responded stormwater management is on both parcels. Mr. Ratoskey commented three basins were installed and he described their locations as off of River Road, at the top of the yard where there is an overflow from the basin going to lease area "B" and a third basin in lease area "B".

Mr. McGrory asked what protection there is in the lower basin for the separation of oils. Mr. Ratoskey responded they do not have any actual separation for oils and it was not required.

Mr. McGrory asked the Township Engineer if this is something that would be desired now that it is transitioning from a contractor yard to a car storage area. Mr. Beach responded it would be necessary to look at the operation. He said according to Mr. Ratoskey it sounds like they are draining most of the fluids out of the vehicles at some point either at the salvage yards or at this facility, so

the likelihood of having spills are minimal. Mr. Beach stated it is something that should be checked and his only question is if there are going to be any improvements as far as paving the lot or anything to affect the amount of stormwater coming off the site.

Mr. Beach asked about outflows and if they installed any kind of water quality structures on the end of the discharges from the detention basin. Mr. Ratoskey responded just rock filters.

Mr. Beach stated this is something to periodically monitor just to make sure and it sounds like DEP may already be part of it.

Mrs. Spott asked the plan amendment to be tabled until some of these open questions have been answered, including the environmental issues.

Mrs. Spott asked Mr. Ratoskey to work with the Township Planner, the Township Engineer and the Safety and Codes Department to take a look at what should be out there given the type of operation and whether something more is needed or not.

Mr. Jenaway said he would like to have his comfort level increased so that the open questions are answered and assurances provided this will not be contributing to potential problems with stormwater as far as environmental runoff.

Mr. Philips stated he would like to know if these vehicles are drained of all their fluids before they get to the IAA site and what is left when they are on the site.

Mr. Beach said there were some comments made that DEP is monitoring the site and he recommends the protocol be obtained as to what DEP is monitoring and how they do the monitoring and make it part of the record.

Mrs. Spott stated she would have this plan amendment placed back on the agenda at the next Board of Supervisors meeting.

Mr. McGrory asked if there is any chance of converting the license to an easement. Mr. Ratoskey responded the attorney and the person who runs Glasgow prefer to do it as a license.

Mr. McGrory told Mr. Ratoskey when the Board of Supervisors reviews this, to consider that document [license] to be worthless because it is revocable. For this reason, the alternative access should be looked at to see how it is viewed by IAA.

Mr. Ratoskey stated in terms of the traffic going out it has to be increasingly less than what he does. Ratoskey & Trainor has heavy truck traffic and have a lot of trips in and out versus what the cars do, but he could try and get more traffic information as well.

Mrs. Spott asked Mr. Ratoskey to work with the Township Planner and the Traffic Engineer and get back to the Board of Supervisors in two weeks.

REQUEST FOR PUBLIC HEARING RE: (1) MATT OUTDOOR. 170 ALLENDALE ROAD. CONSTRUCTION OF A 672 SF BILLBOARD. 1.96 ACRES, C-1 COMMERCIAL. ZONING HEARING DECISION - DECEMBER 7, 2011 (MARCH 1, 2012) AND (2) MATT OUTDOOR. 378 CROOKED LANE. CONSTRUCTION OF A 672 SF BILLBOARD. 1.96 ACRES, C-1 COMMERCIAL. ZONING HEARING DECISION - DECEMBER 7, 2011 (MARCH 1, 2012)

Board Comment:

Mr. Jenaway recused himself from the vote because of his position as Chief and President of the King of Prussia Fire Company located at the 170

Allendale Road.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Kenney, to approve the requests for public hearing. Mr. Jenaway abstained. Motion approved 4-0-1.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Mr. Waks, seconded by Mr. Jenaway, all voting "Aye" to approve the Accounts Payable for invoices processed from January 3, 2012 to February 6, 2012, in the amount of \$3,331,158.54 and the Payroll for January 6, 2012, January 16, 2012 and January 20, 2012 in the amount of \$1,394,013.24 for a total of \$4,725,171.78. None opposed. Motion passed 5-0.

TOWNSHIP MANAGER COMMENTS:

Mr. Ron Wagenmann, Township Manager, announced his resignation after 30 years of service. His departure will occur in mid-December 2012. The Board of Supervisors each responded individually by praising Mr. Wagenmann and his service to the Township.

ADDITIONAL BUSINESS

UPCOMING EVENTS IN TOWNSHIP

Mrs. Spott announced a number of Township meetings and events.

ST. PATRICK'S DAY PARADE

Mr. Philips announced the Ancient Order of Hibernians, Notre Dame Division No. 1, is hosting the Montgomery County St. Patrick's Day Parade to be held March 10, 2012. They are seeking Iraq and Afghanistan veterans to march in the parade.

ELECTRONIC AGENDAS

Mr. Jenaway remarked on the supervisors' use of electronic agendas.

From the Public:

Mr. Mike Santillo, Chairman, Transportation Authority, recalled some of his personal experiences with Mr. Wagenmann and praised him for his service and wealth of knowledge on Township matters.

Board Comment:

Mr. Waks asked Mr. Wagenmann to comment on the amount of funding, through the work of the Transportation Authority, Upper Merion Township has received in federal funding. Mr. Wagenmann responded over the years the township has invested approximately \$20 million dollars and benefited from an excess of \$1 billion worth of highway improvements.

From the Public:

Mr. Scott Sibley, King of Prussia, commented about the membership of the Zoning Hearing Board and the appointment process.

Board Comment:

With regard to the Zoning Hearing Board (ZHB) ordinance, Mr. Jenaway stated it was his understanding the Board voted to increase the ZHB to five members with no alternates.

Mr. McGrory responded the ordinance changes the membership of the Zoning Hearing Board from three to five; the number of alternates was not changed. If the Board of Supervisors would want to repeal the alternate that can be done; however, there is no need to fill the alternate position because there are now five members on the ZHB.

Mrs. Spott commented the alternate position has not been filled. There are now five members on the ZHB; and if there is consensus among the supervisors, the Solicitor can be directed to repeal the alternate.

Mr. Jenaway commented he agreed with that approach.

Mr. McGrory explained the alternate position is voluntary and boards have alternate positions that remain vacant because there is no reason to fill them until they decide at some point they wish to fill them. Mr. McGrory said if the supervisors want it off the books, he can do that. But there is no harm in keeping it on the books because it is still a five member Zoning Hearing Board until the supervisors decide otherwise.

Mr. Philips commented the Board of Supervisors just voted for a five member Zoning Hearing Board; however, the Municipality Planning Code (MPC) does provide the latitude to increase the Board, with an alternate. While the alternate does not have a voting right or get to discuss the matter, the alternate gains experience by observing the process. The alternate only comes into play when someone is either recusing themselves or absent from a meeting in which case they fill in. Mr. Philips reiterated there is now a five member Board; and if the supervisors choose to put the alternate in place, then the Board of Supervisors would choose to do this. He agrees with the Solicitor there is no need to do that at this point.

Mr. Jenaway commented he disagrees and said the alternate should be removed. Mr. McGrory responded he could easily remove it and asked for the consensus of the Board of Supervisors.

Mrs. Spott asked if the Board of Supervisors has to consider this now. Mr. McGrory responded it can wait, but he did not have a recommendation one way or the other. It does not involve an ordinance amendment, if the Board of Supervisors do not want an alternate, simply do not appoint an alternate.

There was still some confusion about membership of the ZHB and the municipal documents (ordinance or resolution) authorizing the alternate position. A discussion ensued after which Mr. McGrory explained if the Board of Supervisors previously created the alternate position by ordinance, it is not the proper procedure as it is done under a resolution in accordance with the Municipalities Planning Code (MPC) and the Board of Supervisors can take that action any time it chooses.

Mr. Jenaway he would like the repeal of the alternate on a future Board of Supervisors agenda.

Mr. Philips commented if the Board of Supervisors improperly passed an ordinance for an alternate, he would ask the ordinance be revoked since it is not the proper procedure for an alternate. If it is just a resolution, then it can be dealt with in a different way. He said whether we have it or not really makes no difference since the MPC allows it; and if the Board of Supervisors in the future decide to have an alternate, it is an easy process to actually appoint an alternate.

Mr. Philips said while the concern over the alternate was well spoken, he is not sure it matters, if the supervisors agree they are not going to do an alternate.

Mr. McGrory stated there is no problem in drafting an ordinance to rescind any improperly passed ordinance approved before, and he will look into this matter further and straighten it out.

Mrs. Kenney asked for clarification on where this matter stands at the present. She said an ordinance has just been passed for a five member Zoning Hearing Board and asked if there is or is not an alternate position right now. Mr. McGrory responded he does not know what the township did before. He said this ordinance did not change anything having to do with an alternate. Mr. McGrory reiterated the MPC calls for a resolution and if, in fact, an ordinance was passed it would have to be addressed.

Mr. Philips offered a clarification about ordinance or resolution. He stated Section 165-248, which is the establishment and membership of the Township ordinance for the Zoning Code, section (b) states the Board of Supervisors may appoint by resolution one resident of the township to serve as alternate member of the board. There is no ordinance that has created an alternate position.

Mrs. Spott commented if it did, the ordinance just passed repealed it. Mr. Philips responded in the affirmative.

Mrs. Spott stated if the supervisors would still like to discuss this matter at a workshop she would be open to it.

From the public:

Mr. Robert Montemayor offered his best wishes to Mr. Wagenmann and his wife on his retirement. He also commented on our local form of government.

Tom Kohler, King of Prussia, congratulated the Board of Supervisors for their action with the Zoning Hearing Board changes and also offered his best wishes to Mr. Wagenmann on his upcoming retirement.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Waks, seconded by Mr. Philips, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 5-0. Adjournment occurred at 9:50 p.m.

RONALD G. WAGENMANN
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered: