

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
APRIL 24, 2014

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, April 24, 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, Bill Jenaway and Carole Kenney. Also present were: David Kraynik, Township Manager; Joseph McGrory, Township Solicitor; James Majewski, Township Engineer; Sally Slook, Assistant Township Manager. Supervisor Greg Waks was absent.

MEETING MINUTES:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve the March 6, 2014 Workshop Meeting Minutes, the March 13, 2014 Meeting Minutes, and the March 27, 2014 Business Meeting Minutes as submitted. None opposed. Motion approved 4-0.

VICE CHAIRPERSON'S COMMENTS:

Vice Chairperson Spott stated Chairperson Waks was unable to attend this meeting because of personal and business obligations. An Executive Session was held prior to this meeting to discuss litigation matters.

NEW BUSINESS

POLICE DEPARTMENT COMMENDATIONS

Police Chief Tom Nolan stated the Upper Merion Township Police Department is committed to the service aspect of police work. He noted there is a part of police work which involves responding to crimes in progress and rendering aid in life threatening situations. In recognition of those acts of courage and valor, the following officers were awarded the Chief's Commendation:

- Officer Benjamin Mahaffie. On November 30, 2013, Officer Mahaffie arrested a fleeing suspect during a burglary at Sam Ash Music on E. DeKalb Pike.
- Officer James Siegfried and Officer Aaron Barkmeyer. On November 26, 2013, officers rescued three residents from their burning house at 263 S. Gulph Road. Also included in this commendation are Sgt. Brendan Brazunas and Cpl. Declan Coyle, who received their awards at roll call because they are away this week at a supervisory training course.
- Officer Joseph Davies and Officer Jonathan Jimenez. On January 17, 2014 the officers and medics with Lafayette Ambulance revived unresponsive male (age 61) in cardiac distress at the Sheraton Hotel.

Mrs. Spott commended the quality of police security provided in Upper Merion Township and applauded the police officers who face these challenges every day and go above and beyond their duties in serving our community and exemplifying the high standards of the Upper Merion Police Department.

Mr. Jenaway provided examples of the types of crime-fighting challenges the Police Department faces on a regular basis as well as assisting neighboring municipalities. He expressed appreciation for their effective, efficient and

valuable service to the community.

On behalf of the Mid-Atlantic Association of Women in Law Enforcement, Lt. Kelley Warner from Abington Police Department presented Chief Nolan and Cpl. Brandy Faherty with awards in recognition of their work in contributing to the success of their recent conference which was held in Upper Merion Township.

Mrs. Spott noted this cooperative spirit is indicative of the leadership of the Police Department and quality of commitment of its officers and reflects great credit on Upper Merion Township.

CONSENT AGENDA:

1. Equipment Replacement Requests re:
 - a. Replace Property Maintenance Officer Vehicle in Safety & Codes Department with an Alternative Fueled Electric Vehicle - \$35,000
 - b. Purchase of 2014 Ford Interceptor Utility Vehicle for Replacement of Patrol Unit #18 (2010 Ford Expedition) - \$28,923
 - c. Equipment Change-Over to New Patrol Unit #18 - \$12,188
2. Resolution 2014-25 re: Arbor Day – April 26th
3. Resolution 2014-26 re: Earth Day – April 26th
4. Authorization to Sign Settlement Stipulation re: Merion Mills Associates v. Upper Merion Area School District
5. Authorization to Sign Settlement Stipulation and Add Successor Appellee re: 780 Third Avenue Industrial Capital, LLC v. Board of Assessment Appeals of Montgomery County
6. Resolution 2014-27 re: Amending Business Privilege Tax Regulations to Require that Tax Returns include Amounts Rounded to the Nearest Dollar Amount in Accordance with Township Code and the PA Local Tax Enabling Act
7. Resolution 2014-28 re: Approval for Traffic Signal Amendment – Flashing Stop Sign at Reeseville Drive and Kingwood Road
8. Approve DEP Grant Agreement – Environmental Stewardship and Watershed Protection Grant Program – Crow Creek Watershed Restoration Project
9. Approve Indemnity Agreement with the KOP BID for the resurrection of flag poles and decorative banners on First Avenue in the Business Improvement District. *These poles and banners will be in the township right of way and it is the King of Prussia BID that is indemnifying the township.*

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Philips, all voting “Aye” to approve the Consent Agenda as submitted. None opposed. Motion approved: 4 -0.

ACCOUNTS PAYABLE & PAYROLL:

It was moved by Mr. Jenaway, seconded by Mrs. Kenney, all voting "Aye" to approve the Accounts Payable for invoices processed from March 19, 2014 to April 15, 2014 in the amount of \$1,781,125.80 and the Payroll for March 28, 2014 and April 11, 2014 in the amount of \$1,324,174.34 for a total of \$3,491,105.14. None opposed. Motion passed 4-0.

ADDITIONAL BUSINESS

PARK AND RECREATION DEPARTMENT

Mr. Jenaway announced the Upper Merion Township Parks and Recreation Department received a Pennsylvania Recreation and Park Society 2014 Excellence Award for their program "SNAP Soccer." SNAP (Special Needs Adaptive Program), is a soccer program for special needs children. Upper Merion was one of 10 park and recreation departments chosen out of 49 departments that applied from across the state.

ARBOR DAY FOUNDATION AWARD

Mr. Jenaway stated Upper Merion Township was named a 2013 Tree City USA by the Arbor Day Foundation in honor of its commitment to effective tree and forest management. Participating communities have demonstrated a commitment to caring for and managing their public trees and must meet four core standards of sound management.

TOWNSHIP POND

Mr. Jenaway stated as soon as issues were identified restricting the use of the township pond for the Fishing Rodeo, the Board of Supervisors and staff took several steps to identify the problem and seek solutions. Mr. Jenaway noted the body of water commonly referred to as the "township pond" is actually a stormwater retention basin. The basin captures stormwater runoff from the township property as well as the adjacent roadways. There are no streams naturally entering this body of water. Natural sediment as well as highway sediment and treatment materials all flow into this basin. These challenges were compounded by the number of winter storms that occurred prior to the identification of the problem by the angler's group.

Department of Environmental Protection experts in wildlife and vegetation visited the site to assure any potential clean up would not endanger any animals or vegetation species. In addition, a determination had to be made whether the Army Corps of Engineer would need to be involved and what permitting would be needed, if any, before action could be taken on the basin. The DEP recommended a qualified contractor be contacted for a cost estimate to determine the cost for cleanup and dredging. Mr. Jenaway and township staff met with a contractor who is contacting the DEP and the Township Engineer to determine possible options. Improvement in the basin has already begun. Following the recent rains, the water level has increased in the basin and the fountain devices were activated to move the water. The Board of Supervisors is pursuing what needs to be done to manage the stormwater retention basin in the most appropriate manner and will update the public more as we learn more from the available technical resources now looking into this situation.

FARMERS MARKET

Mrs. Kenney noted Saturday is the last Winter Farmers Market and the regular summer market will start on May 17th from 9 a.m. to 1 p.m. every Saturday.

EARTH DAY CELEBRATION

Mrs. Kenney noted the festivities to be held on Saturday at the Earth Day Celebration during which the township will be recognized for the 38th consecutive year by the Arbor Day Foundation for the Tree City USA award.

TRICENTENNIAL FINALE

Mrs. Kenney provided details for the May 1st interment of the Tricentennial Time Capsule.

ZONING HEARING BOARD APPLICATION

As the Board Liaison to the Zoning Hearing Board, Mr. Philips stated there is an application before the Zoning Hearing Board for an individual to put a commercial garage behind their existing house. It is an appeal of the Zoning Officer's determination. He offered a motion to send the Township Solicitor to the Zoning Hearing Board in opposition to the appeal of the Zoning Officer's determination and also in opposition to the application on its merits.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to send the Township Solicitor to the Zoning Hearing Board to defend the Zoning Officer's determination as well as to oppose the variance application itself. None opposed. Motion approved 4-0.

CONTRACTOR'S GOOD NEIGHBOR EXAMPLE

Mr. Philips commented one of his neighbors had work done on their property to replace the soil vent that goes into the street. He observed the contractor walking the street to clean up after themselves and was impressed with their good example and encouraged other contractors to do likewise.

PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS (PSATS)

Mr. Jenaway reported on the Board of Supervisors' participation in the PSATS Conference which was held this past week. He said an important aspect of the conference was the opportunity to spend a lot of time in technical training sessions and also meeting with their peers from other municipalities to learn about new stormwater regulations, a variety of public safety issues, park and recreation issues and other matters local officials face throughout Pennsylvania.

ADDITIONAL COMMENTS ABOUT PSATS

Mrs. Kenney noted Mr. Jenaway was a presenter at the recent PSATS Conference at four different presentations regarding fire department issues. Mrs. Kenney attended one of the sessions and was very interested to hear questions from other townships who are dealing with similar matters, in particular, the need for more fire department and emergency response volunteers.

UPCOMING EVENTS IN TOWNSHIP

Mrs. Spott announced a number of upcoming Township meetings and noted the Upper Merion Senior Service Center is having their 17th Annual Flea Market and Bake sale on Saturday, April 26th.

From the Public:

Lydia Dan Sardinas, Upper Merion Farmers Market Manager, highlighted the menu and activities of the 5th season opening of the Farmers Market to be held on Saturday, May 17th from 9 a.m. to 1 p.m.

From the Public:

Mr. Herbert Baiersdorfer discussed a notice he received from the Safety and Codes Department regarding construction work he is performing with regard to a railroad tie wall on his property. He was advised of the process to be followed in these circumstances. Mr. Baiersdorfer also 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. When questioned as to exactly where he lives, Mr. Baiersdorfer provided no response.

Mr. Robert Fredericks and Donna Thompson, who reside on Springbrook Lane, Wayne, expressed appreciation for the township's support of the DEP grant for the Crow Creek Watershed Restoration Project [item #8 on the Consent Agenda].

Joseph and Donna Rapine, W. Beidler Road, followed up on their statement at the Board of Supervisors April 3, 2014 workshop meeting and reiterated the issues associated with the outdoor boiler at 518 West Beidler Road. Mr. Kraynik reported on the DEP's response to Chairman Waks dated April 17th which indicated after 13 inspections DEP found the unit to be in compliance with all applicable regulatory requirements. The letter indicated DEP will continue to go out and monitor and inspect the property.

Mrs. Spott asked if DEP could be requested to conduct formal testing to measure the emissions. Mr. McGrory stated an additional letter could be sent to DEP requesting a formal testing.

In response to Mr. Rapine's question about the model ordinance, Mr. McGrory replied the model ordinance does not have any impact on a non-conforming use. He stated the only thing that is not grandfathered is what is placed in the furnace.

Mr. McGrory explained the DEP has the resources, the equipment, and personnel to handle air quality and that is why it falls into their jurisdiction. Municipalities do not have that kind of expertise. Mr. Philips also made the point the township does not have the authority under state law to be able to do that. Mr. Majewski (off microphone) indicated the Township Engineer is unable to do specialty type testing.

Referring to Mr. Philips comments about a possible nuisance suit, Mr. McGrory responded any property owner that is affected negatively by the use of someone else's property could potentially have a nuisance action.

Mrs. Kenney commented it seems the best course of action would be for either the neighbors or for the township to request the DEP to come out and test what is coming out of the smoke stack. Mr. McGrory stated he has no issue with sending a letter to DEP asking for more formal testing of the emissions from the smoke stack, but the township has no jurisdiction over DEP.

Mr. Jenaway stated this issue will be discussed at a future workshop with regard to an ordinance for the future. Mr. Jenaway asked if there are enough contaminants which would have adversely affected township structures [in the park] and asked if Public Works staff could take a look at the structures and see if there is any evidence of smoke movement, even discoloration. In addition, Mr. Jenaway would like Dan Russell, Park and Recreation Director, to talk with the leadership of Upper Merion Baseball Association (UMBA) to see if they have experienced any kinds of associated issues.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 4-0. Adjournment occurred at 9:01 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered