

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
OCTOBER 18, 2012

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, October 18, 2012, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:33 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Erika Spott, Bill Jenaway and Carole Kenney. Also present were: Ron Wagenmann, Township Manager, David Kraynik, Township Manager Designee; Joseph McGrory, Township Solicitor; Rob Loeper, Township Planner; Tom Beach, Township Engineer; Judith A. Vicchio, Assistant Township Manager, Angela Caramenico, Assistant to the Township Manager. Supervisor Philips was absent.

MEETING MINUTES:

It was moved by Mrs. Kenney, seconded by Mr. Jenaway, all voting "Aye" to approve the September 13, 2012 Workshop Meeting Minutes as submitted. None opposed. Motion approved 4-0.

CHAIRPERSON'S COMMENTS:

Chairperson Spott stated an Executive Session was not held prior to this evening's meeting.

NEW BUSINESS

PROCLAMATION RE: RECOGNIZING B'NAI B'RITH TOWERS LODGE

Mr. Waks read and presented a proclamation recognizing B'nai B'rith Towers Lodge for their recent \$5,000 donation and their support of the Upper Merion Township Library throughout the years. The Proclamation was presented to Mr. Bill Bly, president of the Towers Lodge, and Mr. Karl Helicher, Library Director, was present to offer his appreciation.

On behalf of the Towers Lodge of B'nai B'rith, Mr. Bly expressed appreciation for the encouragement, recognition and support of the Board of Supervisors over the years.

On behalf of the Board of Supervisors, Mrs. Spott expressed appreciation for the generosity of the Towers Lodge of B'nai B'rith and for their continued good work in the community.

CONSENT AGENDA:

1. Acceptance of Resignation of David Sullivan - Shade Tree & Beautification Commission (*Mrs. Spott noted that this resignation creates a vacancy on this Commission and encouraged interested citizens to submit their application*)
2. Awarding of Bid re: 2012 Paving Program
3. Application for Permit to Install and Operate Traffic Signals, DeKalb Pike & the Valley Forge Shopping Center Driveway. (Partial signal for the Target/Wawa/Chic-fil-A Development)
4. Appointment to Zoning Hearing Board - John Tallman

Board Action:

It was moved by Mr. Waks, seconded by Mr. Jenaway, all voting "Aye" to approve the Consent Agenda as submitted. None opposed. Motion approved 4-0.

#### HEARING RE: ANTI-DISCRIMINATION ORDINANCE

Mr. Joseph McGrory, Township Solicitor, opened the hearing to consider the Anti-Discrimination ordinance by introducing the following exhibits into the record: Board Exhibit #1 - a letter to the newspaper dated October 10, 2012, Board Exhibit #2 - proof of publication in the newspaper dated October 11, 2012, Board Exhibit #3 - a copy of the attested ordinance to the Law Library, Board Exhibit #4 - the ordinance itself, Board Exhibit #5 - the legal notice. Mr. McGrory stated this ordinance prohibits discrimination based on sexual orientation. He explained under the State Human Relations law the state does not directly cover discrimination based on sexual orientation, consequently there is a deficiency in the law. Upper Merion Township joins several townships across Montgomery County and elsewhere that have enacted ordinances to protect this class against various forms of discrimination.

Mr. McGrory opened up the hearing for public comment.

#### From the public:

Mr. Todd Brown, King of Prussia, commented in favor of the ordinance.

State Senator Daylin Leach spoke in support of the ordinance.

Mr. Ted Martin, Executive Director, Equality Pennsylvania, commented in favor of the ordinance.

Without further comment from the public, Mr. McGrory adjourned the hearing and reconvened into the public meeting portion of the agenda.

#### Board Comment:

Mrs. Spott thanked everyone for their well-spoken comments.

Mr. Waks stated he is proud to be supporting this ordinance and emphasized the Anti-Discrimination ordinance was thoroughly reviewed during three Workshop Meetings. Mr. Waks stated all people should have a remedy against discrimination, and public opinion polls indicate overwhelming support for these measures. He was pleased that no one came out at this meeting in opposition to the ordinance, and noted he did not receive one negative email or comment from anyone. In reaching this milestone, Mr. Waks expressed appreciation to township staff, particularly Township Manager Designee Dave Kraynik who helped pass a similar ordinance during his tenure as Township Manger in Cheltenham. He also thanked the Township Solicitor, the office of State Representative Tim Briggs, the office of State Senator Daylin Leach, and Equality Pennsylvania.

Mrs. Spott commented many people do not realize there are no federal or state protections for the classification of sexual orientation. She believes people in the workplace should be judged on their qualifications and nothing else. Mrs. Spott said it is most appropriate to take this action as Upper Merion Township celebrates its Tricentennial in this historic area so meaningful to the freedoms and rights we enjoy.

Mrs. Spott asked for a motion to approve the ordinance.

#### Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Jenaway, all voting "Aye"

to approve Ordinance 2012-808 as submitted. None opposed. Motion approved 4-0. Ordinance 2012-808 was adopted and will be filed in Ordinance Book #16.

FIRST REVIEW: KING OF PRUSSIA ASSOCIATES. DEVELOPMENT PLAN. THE CONTAINER STORE AT KING OF PRUSSIA MALL. CONSTRUCTION OF A 24,216 SF RETAIL BUILDING IN AN EXISTING PARKING LOT AT THE KING OF PRUSSIA MALL. THE PROJECT WILL INCLUDE MODIFICATIONS TO THE PARKING, UTILITIES, LIGHTING AND LANDSCAPING. SITE ACREAGE: 127±, PROJECT ACREAGE: 2.36, ZONING: SC-SHOPPING CENTER

Mr. Rob Loeper stated this is the first of several applications the Board of Supervisors will consider in the near future for the King of Prussia Mall. The applicant proposes a 24,000 square foot free standing retail store called The Container Store to be located in the parking lot in front of the former Strawbridge's along DeKalb Pike. Most of the time this site has been used for snow piles or storage of heavy equipment during a construction project.

Utilizing the aerial, Mr. Loeper pointed out the actual location of the site. He noted the Shopping Center District does not have building setbacks in the same way as other zoning districts. Many communities are adopting ordinances to eliminate building setbacks, especially in commercial areas so that buildings are closer to the street to provide a better atmosphere for shopping pedestrians.

The project area is 2.3 acres; the mall area 127 acres. Proposed parking is in excess of 13,000 parking spaces; 12,000 spaces are required. Handicapped spaces also exceed the minimum requirement.

The major site change to occur is the relocation of the entrance (currently opposite Long Road) into the court approximately 80 feet to the south. This is done primarily in order to accommodate the store and provide the primary parking on this parking lot. Mr. Loeper noted this change could have additional benefits along the Route 202 corridor. He explained in reviewing other applications along the Route 202 corridor, there has always been the concern about the impact it might have on residential neighbors if that driveway were to be opened as a full driveway.

The applicant has requested three waivers. The first waiver refers to grading within five feet of the property line. The second waiver concerns the parking stall striping. The applicant is requesting single line parking stalls as opposed to the double line. The third waiver relates to the shade tree requirements. The applicant is proposing plantings slightly different than those normally required, putting in more shrubs and smaller planting material than some of the required trees.

Mrs. Spott asked for clarification about the waiver for the single parking line versus the double. Denise Yarnoff, Esq., Simon Properties, responded the trend toward single stripe allows for easier maintenance, less cost and additional parking spaces and the applicant viewed this option from that standpoint and thought it made the most sense with this type of retail.

Mrs. Spott pointed out the township ordinance requires double lines for new development and from a safety standpoint makes it easier for drivers to pull in and back out. Ms. Yarnoff commented the trend is to reduce impervious by a small percentage overall by using single stripes, and said double stripes require more maintenance with additional painting.

Mrs. Spott questioned the suggestion that there would be less impervious in this case since it is now all concrete. Ms. Yarnoff indicated that was correct.

Mrs. Spott asked the applicant to reconsider the striping and live within the ordinance.

Mr. Loeper commented a common misconception about single versus double stripe is that the double stripe lined spaces are larger because they are

not. He said the actual spaces are the same either way. He noted; however, by having the double striped line, drivers are more inclined into the center of the space rather than right on the line.

Mrs. Spott followed up on Mr. Loeper's previous comment and stated double lines are helpful and that is why it is so stated in the township ordinance. Ms. Yarnoff responded the applicant will take a look at this issue.

Mr. Jenaway asked for clarification about sidewalks since on the plan it appears some sidewalks are being retained, but not in other areas. Mr. Marshall responded there is an existing sidewalk on the lot along DeKalb Pike. Because of the lane shift, the sidewalk will also be shifted; however, the applicant will continue to maintain a sidewalk along DeKalb Pike as well as "clean up" the access across the island where there is currently a sidewalk and bring it into compliance.

Mr. Jenaway stated he wanted to make sure there is continuous sidewalk on the applicant's side so that eventually there will be sidewalk installed on both sides.

Mr. Jenaway suggested the applicant should be prepared to discuss the traffic pattern change with this intersection at the planning commission next week. There are issues about the speed of Route 202 and traffic management on Route 202, and while this may not be applicable in this case, the applicant should be prepared to discuss it.

Mr. Jenaway asked about future plans for snow storage. Mr. Bob Hart, General Manager, King of Prussia Mall, responded another location will be found on an outer lot away from the property. He indicated it will not be located on a deck.

Mrs. Kenney asked if the relocation of the entrance would change anything on Long Road. Mr. Marshall responded the applicant is keeping the same configuration and just shifting the entrance. He noted because of the median, it is still not possible to egress out of the entrance to go north on DeKalb Pike.

#### From the Public:

Mr. Michael Panza, King of Prussia, commented about the confusion at Long Road and Route 202 about what turning movements are allowed.

#### Board Comment:

Mrs. Kenney asked if The Container Store was located at the Court several years ago or was it a different named store with a similar product line. Mr. Wagenmann responded there was a store that sold a lot of different containers and organizing materials.

With regard to the light at [the entrance] and Route 202, Mr. Waks asked if there is any discussion involving the light that would require bringing PennDOT into the conversation. Mr. Wagenmann responded PennDOT will have to come into the discussion if the intersection is moving down. The signal will have to be relocated for left turns in so there will have to be an amendment to the signal permit.

#### ACCOUNTS PAYABLE & PAYROLL:

It was moved by Mr. Waks, seconded by Mr. Jenaway, all voting "Aye" to approve the Accounts Payable for invoices processed from September 6, 2012 to

October 4, 2012, in the amount of \$1,249,208.05 and the Payroll for September 14, 2012 and September 28, 2012 in the amount of \$1,269,252.82 for a total of \$2,518,460.87. None opposed. Motion passed 4-0.

### ADDITIONAL BUSINESS

#### PARK AND RECREATION BOARD VACANCY

Mr. Waks stated the appointment of John Tallman to the Zoning Hearing Board created an opening on the Park and Recreation Board and with the passage of the Anti-Discrimination ordinance people are needed to serve on the Human Relations Commission (five vacancies). He encouraged interested citizens to submit their applications which can be found on the township website.

#### From the Public:

Mr. Herbert Baiersdorfer, Gypsy Lane, reiterated his ongoing stormwater concerns. These concerns were addressed in the Township Engineer's written report to Mr. Baiersdorfer. Mr. Baiersdorfer also commented on a citation he received for a safety hazard on his Old Fort Road property, and he was provided with advice from the Township Solicitor.

#### Board Comment:

#### TRICENTENNIAL WEBSITE

Mrs. Spott noted the township's website for the Tricentennial is: [www.uppermerion300.org](http://www.uppermerion300.org). Volunteers are needed to help with a variety of activities. Interested citizens should email the Tricentennial Committee at [Tricentennial@uppermeriontownshp.org](mailto:Tricentennial@uppermeriontownshp.org).

#### CONGRATULATIONS TO KEN SEYMORE

Mrs. Spott offered congratulations to Kenneth Seymour, Langdale Court, King of Prussia, who won the compost bin raffled off at the Community Fair this past September. The bin was sponsored by the Upper Merion Township Environmental Advisory Council.

#### PUBLIC MEETING ON TUESDAY, OCTOBER 23

Mrs. Spott reported there will be a public meeting on Tuesday, October 23 in Freedom Hall. PennDOT is conducting a study to realign South Gulph Road and replace the walls separating it from Gulph Creek. The realignment will move traffic from Hanging Rock. More information can be found on the township website.

#### UPCOMING EVENTS IN TOWNSHIP

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

#### TRICENTENNIAL CELEBRATION

Mrs. Kenney noted an initial event which is part of the Tricentennial Lecture Series, the initial presentation on the Industrial Revolution and how it came to affect Upper Merion.

#### ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Waks, seconded by Mr. Jenaway, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 4-0. Adjournment occurred at 8:25 p.m.

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RONALD G. WAGENMANN  
SECRETARY-TREASURER  
TOWNSHIP MANAGER

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Minutes Approved:  
Minutes Entered