

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
JUNE 26, 2014

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, June 26, 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 (arrived 7:55 p.m.) and Carole Kenney. Also present were: David Kraynik, Township Manager; Sally Slook, Assistant Township Manager; Joseph McGrory, Township Solicitor; Andrew Olen, Solicitor's Office; Rob Loeper, Township Planner, Tom Beach, Township Engineer, Angela Caramenico, Assistant to the Township Manager.

MEETING MINUTES:

It was moved by Mr. Philips, seconded by Mrs. Kenney, all voting "Aye" to approve the April 10, 2014 Joint Meeting Minutes; the April 24, 2014 Business Meeting Minutes; and the May 1, 2014 Zoning Workshop Meeting Minutes as submitted. None opposed. Motion approved 4-0.

CHAIRPERSON'S COMMENTS:

Chairperson Waks stated there was an Executive Session held prior to this meeting regarding potential litigation.

NEW BUSINESS

PROCLAMATION RE: HONORING ARTHUR POWELL POSTHUMOUSLY

On behalf of the Board of Supervisors, Mr. Waks read and presented a proclamation to Richard Powell, son of the late Arthur Powell, who was accompanied by Steven Powell, a grandson of Arthur Powell. Mr. Waks stated Arthur Powell is being honored posthumously for his public service, philanthropic endeavors, commitment to education, most notably his support of scholarships and endowments, and his financial support of Upper Merion Township in funding various projects such as the Library automation project, the summer concert pavilion, playground equipment, emergency operations center, restoration of the King of Prussia Inn, the Upper Merion Township Foundation and most recently a \$30,000 grant to the Daniel T. Kellett Skate Park which will be constructed on the grounds of the Township Building.

CONSENT AGENDA:

1. Equipment Replacement Requests re:
 - a. IT Department – Replacement of PC's which are older than 5 years - \$15,000.00
 - b. IT Department – Replace Software needed for backing up our current physical and virtual servers - \$7,000.00
 - c. Public Works Department – Purchase 2015 Ford F-350 Super Duty Pick Up with Plow Package and Salt Spreader - \$47,117.00
2. Budget Transfers re:
 - a. Trout Run Sewer Plant – Component Failures (Pumping System and Grinder) - \$50,000.00
 - b. Trout Run Sewer Plant - Repair Building Roof - \$25,000.00

- c. Matsunk Sewer Plant – Equipment Repairs – Rebuilt Channel Grinder, Rebuild Sludge Grinder, Replace Electrical Conduit, Replace the Fire Suppression System Control Panel - \$65,000.00
 - d. Public Works – Reimbursement of Liquid Fuels Money to Road Maintenance Account - \$18,000.00
- 3. Waiver of Fees re: Swedeland Pump Station Upgrade and Force Main - \$39,298.00
- 4. Resolution 2014-31 re: Disposition of Township Vehicles and Equipment
- 5. Resolution 2014-32 re: Disposition of Library Records
- 6. Resolution 2014-33 re: Application for Participation in the DVRPC's Transportation and Community Development Initiative (TCDI) Grant Program - \$98,500.00
- 7. Bid Recommendations re:
 - a. Land Tech Enterprises - \$328,955.00 for Drainage Improvements to Diana Court, Sharon Court and Red Oak Terrace
 - b. 2014-2016 Emergency Sinkhole Repair Contract TD Construction Company - \$1,750.00 per 8 hour day
- 8. Authorization to Sign Settlement Stipulation re: Upper Merion Area School District v. Valley Forge Tower Apartments N, LP and the Board of Assessment Appeals of Montgomery County, et al.
- 9. Designation of \$2,000,000 in the Revenue Stabilization Fund as committed fund balance for the 2013 Upper Merion Township Financial Statements
- 10. Resignation of Tom Sincavage from the Planning Commission
- 11. Resignation of Jeffrey Pasquale from the Media Communications Advisory Board
- 12. Appointment of Eileen Rodrique to the Media Communications Advisory Board
- 13. Resolution 2014-34 re: Application for Pennsylvania Gaming Local Share Account Montgomery County Grant to be used for a complete streets linear park demonstration project along First Avenue - \$163,920.00
- 14. Resolution 2014-35 re: Approval of Application for Traffic Signal Upgrades and Modernization – North Gulph Road & Mall Boulevard
- 15. Authorize Motion to Send Solicitor in Support of Proposed Development Plan/Zoning Request on the South Side of DeKalb Pike between Route 202 and Forge Road
- 16. Authorize Motion to Send Solicitor in Opposition to a Possible Mental Health Facility – 504 & 538 Swedeland Road
- 17. Authorize Motion to Send Solicitor in Opposition to Zoning Application for Pool Encroachment on Turnpike property – 225 Bradley Street

18. Resolution 2014-37 re: Application for a Multimodal Transportation Fund Grant from the Pennsylvania Department of Transportation in the Amount of \$295,949.50 for "Lighting Retrofits/Upgrades at Township Parks and Facilities"

Board Action:

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

AUTHORIZATION TO SIGN AGREEMENTS RE:

1. Temporary Construction Easement for Valley Forge Park Trail (Mancill Mill Road Co.)
2. Permanent Trail Easement Agreement for Valley Forge Park Trail (Mancill Mill Road Co.)
3. Permanent Trail Easement for Valley Forge Park Trail (Lafayette at Valley Forge)

At this point in the agenda, Chairperson Waks turned the meeting over to Vice Chairperson Spott. Mr. Waks noted as he has in the past he will continue to recuse himself from all discussions and/or votes on the proposed trail. While technically not a conflict of interest according to Pennsylvania law since he falls under what is known as the "class exemption," he is one of several hundred people who will receive a benefit from the trail. Mr. Waks emphasized how important it is to have a higher level of standard than just what the law mandates.

Mrs. Spott stated a longstanding project approaching construction is coming to fruition. The agreements now under consideration are related to the construction of the Valley Forge Trail connecting Heuser Park to Valley Forge National Historical Park which represents a great asset for the community.

Board Comment:

Mr. Philips pointed out these agreements are some of the final pieces to put in place before going out to bid.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Kenney, to approve signatory authority for the agreements as stated. Mr. Waks recused himself. Motion approved 3-0-1.

AMENDMENT TO ACT 51 – KILLED IN SERVICE BENEFITS – UPPER
MERION POLICE DEPARTMENT COLLECTIVE BARGAINING AGREEMENT

Board Action:

It was moved by Mr. Philips, Seconded by Mrs. Kenney, all voting "Aye" to approve the Amendment to Act 51. None opposed. Motion approved 4-0.

PUBLIC HEARING RE: AN ORDINANCE AMENDING THE PENSION PLAN
FOR POLICE OFFICERS PROVIDING FOR THE REPLACEMENT OF THE
REPEALED KILLED IN SERVICE BENEFIT UNDER ACT 600

Mr. Joseph McGrory, Township Solicitor, opened the hearing to consider the Ordinance amending the Pension Plan for Police Officers by introducing into

the record by introducing some exhibits as follows: Board **Exhibit #1** is a letter to the Law Library dated June 12, 2014, Board **Exhibit #2** is the Ordinance itself which was prepared by the consultant to the Pension Administrator to make provisions in the Ordinance consistent with state law passed a few years ago regarding Killed in Service benefits which are now paid by the state.

Mr. McGrory opened the floor for any further Board or public comment, and hearing none he adjourned the hearing and reconvened into the public meeting portion of the agenda placing the Ordinance in a position for consideration by the Board of Supervisors.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Spott, all voting "Aye" to approve Ordinance 2014-823. None opposed. Motion approved 4-0. Ordinance 2014-823 was adopted and will be filed in Ordinance Book #16.

PUBLIC HEARING RE: AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP ZONING ORDINANCE, ARTICLE XXXVI, SECTION 165-259, "PUBLIC HEARING AND NOTICE" PURSUANT TO THE REQUIREMENTS OF THE MUNICIPALITIES PLANNING CODE

Mr. Andrew Olen, Esq., opened the hearing and introduced the following exhibits into the Record:

Exhibit #1: Letter to the Montgomery County Planning Commission dated May 23, 2014

Exhibit #2: Letter to the Upper Merion Planning Commission dated May 23, 2014

Exhibit #3: Letter to the Times Herald dated May 23, 2014

Exhibit #4: Letter to the Law Library dated May 23, 2014

Exhibit #5: Ordinance itself

Exhibit #6: Legal Notice and Proof of Publication

Mr. Olen explained the proposed Ordinance updates the Zoning Ordinance so that notice provisions are consistent with those in the Municipalities Planning Code.

Mr. Olen opened the floor for any further Board or public comment, and hearing none he adjourned the hearing and reconvened into the public meeting portion of the agenda placing the Ordinance in a position for consideration by the Board of Supervisors.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Spott, all voting "Aye" to approve Ordinance 2014-824. None opposed. Motion approved 4-0. Ordinance 2014-824 was adopted and will be filed in Ordinance Book #16.

PUBLIC HEARING RE: PROPOSED ORDINANCE TO RENEW THE KING OF PRUSSIA BUSINESS IMPROVEMENT DISTRICT (BID) FOR A FIVE YEAR PERIOD

Mr. McGrory explained the special circumstances associated with this hearing. He indicated there are certain requirements for the Ordinance for the BID renewal which involve a series of advertisements and at this point in the process there are no exhibits to introduce into the Record.

Mr. H. Jeffrey DeVuono, Executive Vice President and Senior Managing Director, Brandywine Realty Trust, is a member of the Brandywine Realty Trust. He noted the significance of his comments is that originally he was opposed to the formation of the BID and now proudly serves as Chairman of the Board of the King of Prussia Business Improvement District.

Mr. Eric Goldstein, Executive Director, King of Prussia Business Improvement District (BID), described the progress made by the BID since its inception almost five years ago and a PowerPoint was shown which was made a part of the hearing record. Highlights as follows:

- The King of Prussia Business Improvement District (BID) is a public/private partnership with Upper Merion Township, the 296 stakeholders and the BID staff serving about 1,900 acres (3 miles)
- Commercial land use and classified properties are assessed through assessment information provided by the County at a very fixed assessment fee.
- Focus is on transportation, land use, zoning, physical improvements, marketing, communication and tax policy.
- Successful in partnering with the township for various grants:
 - \$25,000 grant for a Road Diet study in the Business Park for improving vehicular and pedestrian safety. The study has been completed.
 - \$500,000 grant for Connector, a commuter shuttle service system (three year pilot program)
- Work being done on other transportation projects, such as slip ramp proposal from westbound Pennsylvania Turnpike into the Business Park and new bridge over US 422.
- Installed gateway signs at six different locations at exits and entrances to King of Prussia.
- Replace concrete and asphalt with plantings in various areas of the township.
- Work in marketing with various events to create an active engaged community as well as social media, news media, and distribution of informational publications throughout Southeastern Pennsylvania and New Jersey.
- BID has been the recipient of a number of awards and recognitions.

Highlights of the BID's work this year and proposed for next year:

- Will remain active in the next two years continuing the long term initiatives launched in 2010 and 2011 such as transportation, zoning and tax policy initiatives.
- Preparing to launch a complete new vision for the Business Park.
- Work remains in boosting Connector ridership and keeping it running efficiently and effectively.
- The slip ramp project off the Turnpike is a long term, comprehensive and complex project that the BID will continue to work on the next few years if given the opportunity to renew.
- Working on King of Prussia rail extension project. BID served on the steering committee for that project.
- With regard to marketing and communications in addition to work on initiatives already launched would like to introduce other events such as Restaurant Week, and Economic Development Symposium to attract investors and potential developers.
- Conduct presentations for a number of professional associations around the country.
- Actively engaged in the community serving on a number of boards and committees such as the Montco 2040 Committee.

- Commercial office side of business was struggling the most in 2010, but now starting to see investment into commercial office properties that were not in evidence four to five years ago.

Mr. McGrory indicated the process for consideration of the ordinance is different than any other ordinance the Board of Supervisors considers. There are certain criteria that are required the first of which is a public hearing to receive public comment and input and if the plan changes another hearing is held for more public comment and input until it eventually culminates into an ordinance that would renew the BID for a five-year period. Mr. McGrory asked Mr. Goldstein for a copy of the PowerPoint that was just presented for incorporation into the Record as Exhibit #1.

Mrs. Kenney asked about the overall vacancy rate in Upper Merion now as opposed to four years ago. Mr. Goldstein responded industrial and flex space have done very well and is now at 97 percent occupancy. Class A office space has seen the biggest improvement. Mr. DeVuono stated the overall vacancy rate for the last four years has gone down 300 to 400 basis points overall and today stands at roughly 15.7% down from 19.7 at the creation of the BID.

Mrs. Kenney indicated she is trying to get a sense of assessed values that have gone up because that would be a tangible measure of success. Mr. Goldstein responded all he can comment on is the number of properties that have been added to the record. He said the BID does not monitor on a property by property basis.

Mrs. Kenney asked Mr. DeVuono what changed his mind about his initial views regarding the BID. Before responding to that question, Mr. DeVuono added an additional comment about the tax question and indicated in 2014 the rents are higher and occupancy rates are lower which represents a creation of value. He said Mr. Goldstein noted the County deals with valuations and tax policy and it is a very challenging process. He indicated there is a 15.7% overall vacancy rate which is healthier than it was four years ago, but it is still not considered a healthy market overall. Mr. DeVuono said there is still a mission and a lot of work that needs to be done. With regard to his company's objections to the original formation of the BID, Mr. DeVuono indicated they were supportive of BID in general; however, there were some agenda items they felt were important to its mission that were not included at the time. Through some productive dialog with the founding members participating at this hearing the agenda was expanded and they were fortunate to secure the leadership of Eric Goldstein who has steered the BID in a very deliberate way and helped create value for everyone in the community. Mr. DeVuono stated from his company's perspective the expanded agenda has been executed well.

Mr. Philips commented in support of the extension of the BID for another five years. He said the BID far exceeds any expectations anyone could have for redevelopment of our community, getting our business districts back in shape and moving forward with a vision often lacking in some municipalities.

Mr. Waks emphasized it is important to note that many BID programs and events are open to the general public for the benefit of the community. He also indicated how real estate transfer taxes have helped the local school district and as such help the residents as well. Mr. Waks said the BID was formed and founded by commercial real estate owners, but it is not exclusively for commercial real estate owners and it benefits everyone.

Denise Yarnoff, Esq., an attorney representing Children's Hospital of Philadelphia (CHOP), expressed CHOP's strong support for the renewal of the BID for all of the reasons presented by the BID's board members at this hearing.

Without further public comment Mr. McGrory adjourned the hearing and reconvened into the public meeting portion of the agenda. He noted the public still has a right to comment over the course of the next few weeks.

RESOLUTION 2014-36 RE: FAIRFIELD INN, 258 MALL BOULEVARD,
ADDITION TO LOBBY AND DINING AREA

Mr. Rob Loeper, Township Planner, pointed out some minor changes that were made to the plan and went over the plan again. The square footage for the agenda has been increased to 931 as opposed to the lower number. The change was requested by Marriott for building additions along the back of the building. Utilizing the aerial, Mr. Loeper pointed out the location of the building addition which was originally going to be a parking area. He also provided a photo of the building from Mall Boulevard. The additional 180 square foot space is proposed to become part of the breakfast area which is the factor driving part of the plan. Mr. Loeper also pointed out the business center and elevator addition.

The plan change eliminates one handicapped space and squares off the building. There will be four parking spaces removed from the site as a result of this application; however, the site has in excess of 600 parking spaces which is well in excess of the code minimum.

The overall plan results in a slight decrease in the total impervious surface on the site. The areas in the back were originally paved parking areas and some will be changed back into green space.

The Township Engineer has reviewed the plan and issued minor comments regarding some things such as dimensions and other plan elements that should be included on the plan.

Mr. Waks commented this is a minor plan and was pleased to note the reduction in impervious surfaces.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve Resolution 2014-36. None opposed. Motion approved 5-0.

DISCUSSION OF REQUEST FOR NIGHT WORK RE: SIMON DEVELOPMENT
PLAN – KING OF PRUSSIA MALL CONNECTOR

Denise Yarnoff, Esq., representing the Simon Property Group, provided an update on the timing and construction of the King of Prussia Mall Connector. A preconstruction meeting was held about 3-4 weeks ago with all the appropriate staff at the township level, consultants and the County. Discussions and meetings have continued between the Simon Group as well as their contractor, township staff, and police and emergency personnel in preparation for construction which is scheduled to begin next month. Some of the construction will occur at night to reduce any disturbance and allow the construction to move along faster and keep traffic flow moving appropriately.

Mrs. Kenney asked for more details about the night work such as hours and days of the week it would occur. Ted Jeffries, Project Director, IMC Construction, responded the night work would occur sporadically throughout the duration of the project. The King of Prussia Mall closes at 10 p.m. The hours of construction would be 11 p.m. until 7 a.m.

Mrs. Kenney asked if the night work noise would disturb any nearby residences. Mr. Jeffries indicated he does not know how many homes are

adjacent to construction areas. He said the project will occur at the center of the Mall proper. Construction vehicles will generate very similar noises to that which occurred on US 202 or Allendale Road reconstruction with saw-cutting asphalt pavement, paving, and 10-wheel tractor trailer trucks. One portion of the Connector building will be built on top of the Mall. A night-time crane will be used to install heavy structural steel framing much like what would occur on a Turnpike bridge overpass.

Mr. Jenaway asked if any contact has been made with the Crowne Plaza or Fairfield Inn about the proposed night work. Mr. Jeffries indicated his company has not had direct contact with these hotels although people in the area have heard for some time about the project.

Mr. Jenaway indicated there is some high activity in those hotels from time to time and it would be appropriate to reach out to them about the project. Ms. Yarnoff indicated they can certainly reach out to them.

Mr. Philips asked for specific clarification about what is meant by “sporadic night work.” Mr. Jeffries responded the project itself is about 24 months in total duration. There will be a fair amount of night work in various phases of the project. One of the first phases is to realign Plaza Boulevard adjacent to Neiman Marcus which will occur at night for about a three week period. The subsequent 60-90 day phase of the project and work would occur to remove asphalt, relocate underground utilities, grade and repave those lots. The whole project is staged over 10 ultimate phases and there would be some night components in probably 7 of the 10 phases.

Mr. Philips asked if there is any rock removal work that would occur during the night. Mr. Jeffries responded in the negative.

Mr. Philips asked if it is correct that the crane work would be for setting the steel. Mr. Jeffries responded in the affirmative and indicated it would be for structural steel and deck on top of the roadway. He said the contractor would not go vertical on this project until probably the winter of 2015 when the steel starts coming up out of the ground.

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Philips, all voting “Aye” to approve the night work for the King of Prussia Mall Connector project. None opposed. Motion approved 5-0.

TOWNSHIP MANAGER’S EMPLOYMENT AGREEMENT

Board Comment:

Mrs. Spott expressed appreciation to Mr. Kraynik for the significant change in this contract which represents the initiation of a performance review process where any salary increases will be dependent on performance of the top executive. She said it is a great example to set for the township organization in general.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Kenney, all voting “Aye” to approve the Township Manager’s Employment Agreement. None opposed. Motion approved 5-0.

Mr. Kraynik expressed appreciation to the Board of Supervisors for their confidence and support.

ACCOUNTS PAYABLE & PAYROLL:

Board Comment:

Mr. Jenaway noted one item in Accounts Payable which is a reimbursement to one of the fire companies for some radio purchases. He pointed out Upper Merion Township was fortunate to have received a FEMA grant in excess of \$500,000 to replace all of the fire department radios which saved Upper Merion taxpayers \$500,000. The \$43,000 co-pay for the township's share came from the Capital Fund.

Board Action:

It was moved by Mr. Philips, seconded by Mrs. Kenney, all voting "Aye" to approve the Accounts Payable for invoices processed from May 7, 2014 to June 18, 2014 in the amount of \$2,024,386.82 and the Payroll for May 23, 2014 and June 6, 2014 (including holiday pay of June 26, 2014) in the amount of \$1,580,753.31 for a total of \$3,605,140.13. None opposed. Motion passed 5-0.

ADDITIONAL BUSINESS

KIDS COP CAMP PROGRAM

Mr. Philips reported on the wonderful experience his daughter had participating in the Kid's Cop Camp Program offered by Upper Merion Township. All the children had an opportunity to learn about what our police officers go through on a day to day basis. Mr. Philips expressed appreciation to Officer Harry Nuskey and his staff and all the work they did to make this such a worthwhile experience.

FARMERS MARKET

Mrs. Kenney reminded citizens the Farmers Market will be held on Saturday from 9 a.m. to 1 p.m.

UPCOMING MEETINGS AND ANNOUNCEMENTS

Mr. Waks announced a number of upcoming Township meetings and events, including the 4th of July celebration at Heuser Park.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Philips, seconded by Mrs. Kenney, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 5-0. Adjournment occurred at 8:58 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered