

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
JANUARY 20, 2011

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, January 20, 2011, 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, Joseph Bartlett, Edward McBride, Bill Jenaway, and Erika Spott. Also present were: Ron Wagenmann, Township Manager; Joseph Pizonka, Township Solicitor, Monica Wall, Township Engineer, Judith A. Vicchio, Assistant Township Manager and Angela Caramenico, Assistant to Township Manager.

MEETING MINUTES:

It was moved by Mr. Waks, seconded by Mr. Bartlett, all voting "Aye" to approve the December 9, 2010 Business Meeting Minutes and the January 3, 2011 Reorganization Meeting Minutes as submitted. None opposed. Motion approved 5-0.

CHAIRMAN'S COMMENTS:

Chairman McBride reported on an executive session dealing with legal matters.

NEW BUSINESS

POLICE OFFICER SWEARING-IN

Chief of Police, Ron Fonock, introduced Telecommunicator Scott Boegly who was then sworn-in as a police officer by Judge William Maruszczak. Scott's official hire date is February 7, 2011 when he begins Act 120 training at the Montgomery County Community College Police Academy in Conshohocken.

POLICE COMMENDATIONS

Chief Fonock, presented awards to police officers and some of the civilian employees of the Police Department.

Unit Commendation – The following officers and telecommunicators were recognized for their excellent teamwork which resulted in the arrest of a potentially armed and dangerous suspect operating a vehicle stolen on July 18, 2010:

Sgt. Allan Elverson
Officer Christopher Dolga
Officer Thomas Tyson
Officer Joseph Bennett
Officer Jonathan Jimenez
Officer Keith Christian
Officer Marlon Lahjala
Telecommunicator Kevin Katarynick
Telecommunicator Jeffrey Houseal

Chief's Commendation – Detective Andrew Rathfon was recognized for his hard work, dedication and professional actions which lead to the apprehension of three suspects and recovery of stolen merchandise on August 23, 2010.

Chief's Commendation – The following officers and telecommunicators were recognized for their excellent teamwork which led to the arrest of a potentially armed and dangerous bank robbery suspect and the recovery of the stolen money on August 31, 2010:

Officer Michael Bruner
Officer Jennifer Emrich
Officer Brian Hill
Telecommunicator Nicholas Sorgini
Telecommunicator Jamie West

Unit Commendation – The following officers were recognized for their excellent teamwork which resulted in the arrest of three burglary suspects on October 2, 2010:

Cpl. Jeremy Johnson
Cpl. Declan Coyle
Officer Susan Bednar
Officer Joseph Davies
Officer Brandy Faherty
Officer Blaine Leis
Officer Theodore McGinley
Officer Martin Manago
Officer Jared Reiner

DEPARTMENT ACCREDITATION PLAQUE

Sgt. Christopher Bird explained the purpose of the state law enforcement accreditation program and the significance of the Upper Merion Police Department's placement as one of 70 police departments out of 1,100 police departments throughout the state that are accredited under the state program. Sgt. Bird presented the formal plaque of the department's renewed accreditation which was awarded by the Pennsylvania Chiefs of Police Association on July 11, 2010.

K-9 PLAQUE

Chief Fonock presented a formal plaque honoring past and current officers and canines that will be displayed in the police lobby.

CONSENT AGENDA:

1. Resolution 2011-5 re: PennDOT Surface Improvements Program: Group 6-10-CPR Project Letter Amendment 2011 Sanitary Manhole Adjustments – Route 202
2. Administration & Coordination Services Proposal – T&M Associates – Grant Services

Board Action:

It was moved by Mr. Bartlett, seconded by Mrs. Spott, all voting "Aye" to approve the consent agenda as submitted. None opposed. Motion approved 5-0.

PROPOSAL RE: UPPER MERION SWIM & TENNIS BUSINESS PLAN – 431 W. VALEY FORGE ROAD

Mr. Jenaway stated that in October 2010 Mr. Richard Frey approached Dan Russell, Park and Recreation Director, about the feasibility of reopening the dormant swim club located at 431 West Valley Forge Road. Subsequent to that contact Mr. Frey who has a strong background in the pool business, visited the pool, evaluated its condition and determined the viability of reopening the pool. In December 2010 Mr. Jenaway and Mr. Russell met with Mr. Frey for a preliminary review of the business plan he prepared that was subsequently presented to the Board of Supervisors last month in draft form.

Mr. Richard Frey reviewed the Upper Merion Swim and Tennis business plan for the property located at 431 Valley Forge Road (previously known as the King of Prussia Swim Club). He explained that he has a background renovating pools and has been in this area since 1978 working with swim teams, coaching swimming and managing a swim facility.

Mr. Frey reported on his evaluation of the pools and indicated that they are viable. He said the locker rooms and snack bar are in need of some major renovation and the grounds can be improved with some maintenance and clean up. Mr. Frey noted that this facility would provide approximately 10-20 part-time or full-time jobs. While it would be seasonal work, it would be ideal for students looking for a good summer job.

Mr. Frey discussed some of the family oriented activities that are planned such as a competitive swim program, snack bar staffed from 11 a.m. until 8 p.m., picnic table areas, teen dances, bands as well as some adult social parties.

Mr. Frey recalled that formerly there used to be three or four pools in the area and now there are none. Contacts have been made with former patrons of recently defunct swimming clubs outside the area who are looking for a place to swim and have fun. They are interested in coming back to Upper Merion.

Mr. Frey noted that the Ballard*King study indicated a need here for some type of swimming facility. Polling has indicated a high level of interest for swimming and family entertainment.

Mr. Frey indicated that Dan Russell is looking for a good facility for the Park and Recreation Summer Camp. He said this is certainly in the future plans if this proposal proceeds. Mr. Frey recalled that he worked with the Park and Recreation Department when he managed the swim facility back in the 1980's. He recalled that the children from each school would have their own day and they would spend from 10 a.m. to 1 or 2 p.m. at the pool. Mr. Frey reiterated that the swim team will reactivate and he has already been in contact with some of the league officials in this regard. There will be swimming lessons, day camp, scuba classes, and a venue for birthday parties. An additional goal in the business plan is to establish more tennis courts.

Mr. Frey discussed the business plan and said it presents a viable option with potential. He outlined the significant outreach he has done with various swimming and community groups. The cost per family will be in the \$500 to \$600 range and \$250 for an individual. This would be a few hundred dollars less than other swim clubs in the area and will draw people in.

Mr. McBride commented that he has been consistent in asking for a business plan before the Board commits the township to anything and he appreciates the fact that Mr. Frey has come forward with a business plan for the swim club.

Mr. McBride asked for clarification of the business plan wherein a reference is made to a three year exit and the township is being asked to commit for ten years at \$1 a year. Mr. Frey responded that he does not have a problem with ten years and that would be fine.

Mr. McBride emphasized that this is a business plan; however, when the contract is drawn up the township will be looking for specific language to protect the township. Mr. Frey indicated that he understands that.

Mr. McBride posed the scenario if Mr. Frey has to walk away from the business in two or three years in September with a full pool and matters remain that have to be taken care of before the winter. Mr. McBride said that legal safeguards are needed for the township such as a bond wherein Mr. Frey might put money on deposit so that the township does not have to pay for straightening things out with tax dollars. Mr. Frey agreed and said that he understands.

Mr. McBride commented that he supports this idea that would benefit the township and can be accomplished with little or no cost to the township.

Mr. Jenaway stated that a couple of years ago he served as Chair and Mr. Waks served as Vice Chair on the community center subcommittee. In the research that was conducted by members of the committee a swimming pool or aquatic facility was one of the major issues that arose over and over again from the inquiries that were made and the input that was received. Mr. Jenaway indicated that this proposal helps achieve one of the major goals that the community center committee was working to accomplish to enhance and improve community within Upper Merion Township. He also pointed out that some people have asked why a swimming pool and why does it make sense to do that. Mr. Jenaway pointed out that swimming and tennis are two sports which positively affect the health and wellbeing of individuals and can be enjoyed at any age. He cited the Ballard*King report that indicates in Pennsylvania and nationwide data that swimming is one of the top three types of recreation. Swimming involves more people in Upper Merion than any other sport in Upper Merion. Mr. Jenaway also indicated the need to work out language in the contract so there is limited cost and limited risk to the township.

Mr. Waks commented that this public/private partnership is a tremendous opportunity for the township. He agrees with Mr. McBride that a surety bond makes a lot of sense since operations will occur on township property. Mr. Waks also said the township would need some type of very strong indemnification clause to protect the township in case of a lawsuit. Mr. Frey agreed and said he has no problem with that.

Mrs. Spott indicated that she supports her colleagues' comments. She noted that she was present at last Tuesday's Park and Recreation Board meeting where this proposal was also discussed. Mrs. Spott reported that in general there is a strong positive feeling for this proposal. She said that several of the Park and Recreation Board members remember Mr. Frey when he ran the pool in the 1970's and 1980's and had very positive things to say. Mrs. Spott indicated that there were some concerns that she wanted to make Mr. Frey aware of and possibly address as to whether families would still come since the trend seems to be toward aquatic centers. Mrs. Spott asked what his experience in the business and his market studies have shown. Mr. Frey responded that the township has not changed that much since the 1970's and the demographics, in his view, are similar today. He said that people want a place to go with their kids where they can have fun as a family and have fun with their friends. Mr. Frey pointed out that the small swimming club is disappearing and when an heir dies off or the property is sold it becomes more advantageous to build a housing development. Mr. Frey provided the recent example of the closing of Markley Farms Swim and Tennis Club. It was a very viable swimming club until Mr.

Markley died and his heirs were unable to operate the club any more. He said that now there are 600-700 families with nowhere to go. Mr. Frey said he would like to provide them with that opportunity and if approved he provided assurance that it would remain a family swimming club.

Mrs. Spott commented that she was encouraged when she heard Mr. Frey say he would incorporate more activities so that it is not just a swimming club. She said it is important that the manager of the facility believes in the community. Mrs. Spott was pleased to note that there will be day rates so that more people can come and feel part of the community.

Mrs. Spott asked about the hours of operation. Mr. Frey responded that if everything goes according to plan the depending on the swim team it will probably start around 7 or 8 am with swimming practice at 8 or 9 am and lessons until about 11 a.m. After these sessions the pool would be open from 11 am through 8 pm. If the summer is particularly hot, he would be flexible and leave the pool open an extra hour.

Mrs. Spott indicated that the Park and Recreation Department operates many of its programs on a resident and non resident fee basis and asked if Mr. Frey would consider giving residents a break over non residents. Mr. Frey responded he would have to defer that answer right now, but he would be willing to discuss this more in the near future.

Mrs. Spott asked for clarification about the township's commitment and if it is basically a lease at a very nominal fee in exchange for Mr. Frey taking on the responsibility of upgrading, renovating, rehabbing and bringing the facility up to a current, functioning, safe, clean swimming pool for the community. Mr. Frey responded that this is the direction where this is going.

Mrs. Spott asked about legal paperwork and such items as indemnities and additional insurance language. Mr. Frey responded to the effect that such language would not be a problem.

Mr. Jenaway commented that this proposal is a positive step to what has been envisioned as a community center and provides more opportunities for discussion.

As a way to obtain more seed money, Mr. McBride asked if Mr. Frey would consider charter memberships as he is putting together the finances. Mr. Frey responded that this is an extremely good idea.

From the public:

Joan Kellet, King of Prussia, offered supportive comments about the referendum on Tuesday and the proposed swim club and was in favor of a Memorial Day opening. Ms. Kellet also inquired about a traffic signal at the corner of General Knox and Valley Forge Road. Mr. Wagenmann responded that he would have to check back with the engineer. Ms. Kellet also expressed opposition to a tower to be considered by the Zoning Hearing Board.

Mr. McBride stated that he was going to discuss the referendum under new business but since Ms. Kellet mentioned it, he wanted to make some clarifying comments. Mr. McBride indicated that there is a lot of confusion that Upper Merion Township and the Upper Merion Area School District are one in the same entity or in some way connected and they are not. He said the message needs to get out to the community about this misconception. Mr. McBride emphasized that the township and school district are two separate organizations.

Board Action:

It was moved by Mrs. Spott, seconded by Mr. Jenaway, all voting “Aye” to authorize the Solicitor to proceed with the drafting of the lease. None opposed. Motion approved 5-0.

From the Public:

Steve Hall, 621 Crestwyck Drive, commented that he is aware of many families who would want to join the swim club.

Paul Salamy, General Muhlenberg Road, a member of the Board for the Upper Merion Marlin’s Aquatic Club, stated that his membership of over 200 families are very enthusiastic about a summer swimming program. Using technology as much as possible he will work with his membership to get the word out and assist in every way possible.

Mrs. Spott commented that while she does not know Mr. Frey personally she appreciated hearing the supportive comments of those who do know him and have worked with him in the past. She said it has to be the right connection, the right cooperation, the right partnership and believes we are headed in the right direction.

ADDITIONAL BUSINESS

MEMORANDUM OF UNDERSTANDING BETWEEN UPPER MERION TOWNSHIP AND THE KING OF PRUSSIA PLAYERS

Mr. Pizonka stated that this matter was introduced last week to the Board of Supervisors. He indicated that the King of Prussia Players is a troupe of actors who intend to develop the Moore-Irwin properties as a site for their activities. The Players intend to tear down the non historical portion of the building and construct a theater there. Mr. Pizonka explained that the Memorandum expresses the township’s understanding of the project in that the township will provide the ground and the Players will develop the property subject to several conditions. Mr. Pizonka noted that Mrs. Spott expressed some concerns at the last meeting and discussions have been held about some modifications to the agreement. Mr. Pizonka said it is his understanding that the Board of Supervisors will approve the Memorandum subject to two changes:

1. The term of the project will be five years. The first three years will be subject to the Players obtaining financing and the build out will be within five years.
2. The term of the lease will be for one twenty-five year term plus one twenty-five renewal.

Mr. Pizonka stated that with the Board of Supervisor’s permission they would authorize approval of the Memorandum of Understanding subject to those conditions. Mr. Pizonka will make those changes and obtain the Players’ consent.

Board Action:

It was moved by Mr. Waks, seconded by Mr. Bartlett, all voting “Aye” to authorize approval of the Memorandum of Understanding with amended conditions. None opposed. Motion approved 5-0.

AGREEMENT BETWEEN UPPER MERION TOWNSHIP AND ATI

Mr. Pizonka stated that this relates to the litigation with ATI which is a tower construction company and Metro PCS which was one of the users of the company. After the Board of Supervisors signed and approved a settlement agreement, Metro PCS requested revisions that primarily deal with the King of Prussia Fire Company. Mr. Pizonka explained that it is the same agreement that has already been approved. Some of the text in the language has changed but not in so far as it relates to the settlement or obligations and he asked the Board to approve this subject to the changes that are now embodied in this agreement.

Board Acton:

It was moved by Mr. Bartlett, seconded by Mr. Waks, to approve the agreement as outlined by Mr. Pizonka. Mr. Jenaway and Mrs. Spott abstained. Motion approved 3-0-2.

COMCAST CABLE FRANCHISE AGREEMENT PUBLIC HEARING

Mr. McBride noted a public hearing that would be held on the Comcast cable franchise on Thursday, January 27 at 7 p.m.

POLICE TELECOMMUNICATIONS UNIT ESSENTIAL TO POLICE DEPARTMENT'S EFFECTIVE PERFORMANCE

Mr. Jenaway stated that earlier this evening as part of the Police Department commendations several members of the Telecommunications Unit were also recognized for their teamwork, dedication and professional actions. Mr. Jenaway wanted the public to know that as part of cost cutting discussions Montgomery County has proposed on numerous occasions that they would take over the telecommunications service. Mr. Jenaway pointed out that he cannot believe that the same level of commitment would occur with the same end results if this were to occur. Mr. Jenaway emphasized that telecommunicators are essential to the Upper Merion Police Department's effective performance and they need to stay in house.

SNOW STORM ON TUESDAY, JANUARY 18, 2011

Mr. Jenaway stated that there was a significant storm that hit Upper Merion on Tuesday, January 18, 2011. In that 24-hour time period Upper Merion fire and emergency medical services responded to twice the normal number of events that they normally do. He noted several of extreme situations that the police, fire and EMS responded to on this extremely busy day.

From the Public:

Mr. Gene Lonchar, Swedeland, commended the township for honoring the K9 services.

Lynn Lechter reminded the public about the school district referendum on January 25, 2011. She complained about the lack of notification the school district provided the public and that there was confusion about the vote.

A discussion ensued among the supervisors about the special election and the public was urged to inform themselves about the issues. It was emphasized that it is a school district matter and not a township matter.

Mr. McBride commented that he has made several public statements raising questions about the operation of the school district; it is a serious issue that he will continue to address.

Ms. Joan Kellet indicated her support for the upcoming referendum and commented about questions that were raised about test scores.

Mr. Stan Rasinowski, Petty Lane, commented that it is appropriate to question the test scores ; however, a whole education should not be judged solely by those numbers.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 9:10 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.