

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
NOVEMBER 12, 2015

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, November 12, 2015, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:37 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Erika Spott, and Carole Kenney. Also present were: David Kraynik, Township Manager; Sally Slook, Assistant Township Manager; Joe McGrory, Township Solicitor; Rob Loeper, Township Planner; Tom Beach, Township Engineer and Angela Caramenico, Assistant to Township Manager. Supervisor Bill Jenaway and Supervisor Greg Philips were absent.

MEETING MINUTES:

It was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve the October 8, 2015 Zoning Workshop Minutes, October 8, 2015 Workshop Meeting Minutes, October 15, 2015 Business Meeting Minutes, and October 22, 2015 Budget Workshop Meeting Minutes as submitted. None opposed. Motion approved 3-0.

CHAIRPERSON'S COMMENTS:

Chairperson Spott indicated an Executive Session was not held prior to this meeting.

NEW BUSINESS

CONSENT AGENDA:

1. Resolution 2015-39 re: First Avenue Road Diet TAP Reimbursement Agreement
2. Bid Recommendations re:
 - a. 2016-2018 Trash/Recycle Services for Township Facilities Contract to Advanced Disposal Services - \$113,186.48 for a 3 year contract
 - b. Police Duty Handgun Project Contract – Firing Line, Inc. - \$25,413.00
 - c. 2016-2018 Biosolids Removal and Disposal Contract – Waste Management - \$1,258,350.00
3. Bid Rejection re:
 - a. 2015 Maintenance Garage Roof Replacement Services Contract to Manchester Roofing Systems - \$167,131.00 (*Mr. McGrory clarified this is actually rejecting all bids and putting that project out to bid again*).
4. Equipment Replacement Requests re:
 - a. Replace Police Department SWAT Vehicle - \$12,000.00
 - b. Installation of Additional Emergency Lights (Roof & Side) for Police Department Vehicles to Improve Motorist Visibility and Officer Safety - \$7,922.00
 - c. UMGA-TV – Replace Existing Field Cameras - \$35,000.00
 - d. Ergonomic Office Chairs for the Administrative Staff - \$5,000.00

5. Budget Transfer re:
 - a. Elimination of Staircase connecting Spring Lane to E. Valley Forge Road because of disrepair and not ADA compliant. Transferred money also to be used to repair a section of sidewalk at the Township Building - \$30,000.00

6. Community Center Project – Change Orders
 - a. SMJ Contracting (General) Change Order #20 – in the amount of \$24,362.48 for the following: 1) additional masonry work in the lower level; 2) several changes to office doors; 3) additional framing and blocking on east side gutter area due to poor existing conditions.

 - b. Pinnacle Electrical Construction Change Order #6 – in the amount of \$21,780 for added costs related to the 108 day extension of time.

 - c. Pinnacle Electrical Construction Change Order #7 – in the amount of \$118,335 for the following: 1) addition of underground conduit and junction boxes for future tele-data and power needs; 2) addition of duct detectors; 3) installation of power to operate motorized gymnasium divider curtains.

7. Citizen Board Resignation re: Russell Buxton from the UCC Board of Appeals

8. Citizen Board Appointment re: Environmental Advisory Council – Katherine L. Vaccaro. *(Mr. Waks noted Ms. Vaccaro is an environmental attorney).*

Board Comment:

With regard to Consent Agenda Item 3a, Mrs. Kenney asked for clarification about the delay. Mr. Kraynik responded the bids will be redone and back out on the street as soon as possible. It will delay the project possibly two to three months, but there are temporary measures in place in the interim and it should not be a problem.

With regard to Consent Agenda Item 5a, Mrs. Spott said she was disappointed to note the elimination of the staircase connecting Spring Lane to East Valley Forge Road as it provided a nice option to get down without walking on Valley Forge Road.

Public Comment:

Joe Rapine, 540 W. Beidler Road, asked for the total number of change orders and the total number of dollars for the community center project, and he was told to submit a Right to Know request.

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Waks, all voting “Aye” to approve the Consent Agenda as amended by Mr. McGrory’s comments to Item #3a. None opposed. Motion approved 3-0.

POSTING OF PROPOSED 2016 BUDGETS

Mr. David G. Kraynik, Township Manager, presented the 2016 Operating, Capital and Sewer budgets for Upper Merion Township. He pointed out these budgets represent the culmination of a six-month process and involved many hours of hard work by the Board of Supervisors, department heads and township

staff. It was noted the budget process started in June 2015 when department heads met for a half-day session identifying goals and objectives for next year. In July there was a day-long session with the supervisors and from that second session goals and objectives were formed and agreed upon which become the framework for the budget proposal presented at this meeting for 2016. During the week of September 21st there was a week-long series of budget meetings with Mr. Dave Kraynik, Township Manager, Mr. Nick Hiriak, Director of Finance and the various department heads. On October 22nd and November 5th two public budget workshops were conducted by the Board of Supervisors during which the department heads presented their budgets.

After this presentation and upon the concurrence of the Board of Supervisors, the proposed budget will be posted online and it is anticipated that on December 3rd there will be a public hearing and a budget adoption for next year.

Highlights are as follows:

- The 2016 Operating Budget is balanced and contemplates no property tax increase. The budget reflects a total overall increase of 8.3% or \$2,603,970 over the 2015 adopted budget.
- The General Fund component is a 8.2% or \$2,351,008 increase. (primarily due to the Community Center which was budgeted for a full year of utilities and operational expenses for the building and anticipating three-fourths of a year of revenue for programming)
- The Library Fund component is a 0.6% increase or \$12,471 increase.
- The Liquid Fuel component is a 38% or \$240,491 increase due to the increase in the gas tax funding that will go directly to maintenance of roads, primarily road resurfacing projects
- 2016 will be the first year of implementation of a pay-for-performance program. For non-uniformed personnel and as a result there are no salary increases shown in any specific department budget. There is an amount in the budget for increases.
- Health insurance is increasing 2.20% or \$93,169
- Workers Compensation Insurance increasing 2.39% or \$11,297
- Property and Liability Insurance – General government increase of 12.8% or \$37,860 (due primarily to opening of Community Center); Comp/collision Lafayette fleet increase of 4.25% or \$1,360; and Flood insurance increase of 20% or \$9,648
- Equipment replacement budgeted at 50% level of \$508,310.
- Police officer wages contractual increase of 3.75% or \$316,257
- Minimum Municipal Police Pension Obligation increase of 82.7% or \$392,200
- Parks and Recreation Department (Community Center/Pool) 51.3% increase or \$1,134,122
- 2016 total operating expenses: \$33,988,412 – the three largest expenditures are same as in past years: Police at 43.67% or \$14,843,071; Public Works at 12.69% or \$4,312,948 and Park and Recreation at 9.84% or \$3,344,550
- 2016 Operating Revenues match the expenses: \$33,988,412 – that money is primarily made up of real estate taxes, more out of commercial than residential, Act 511 taxes (business taxes) is the major revenue generator at \$15,519,871; and Permits & Fees at 14.51% or \$4,930,480
- The 2016 real estate tax dollar breakdown: made up of three components – the School District at 78.12% with a 18.960 millage, the County at 12.99% with a 3.152 millage, and Township at 8.90% with a 2.159 millage.
- For the Township the residential tax bill the average residential assessment if \$150,000. If you apply all three millage rates you come to a total tax bill of \$3,551 and when you net the Homestead Exclusion the final

- tax bill for the average assessed house is \$3,395
- The average commercial tax bill is \$6,908, \$58,752 from the School District and \$10,086 from the County
- The 2016 Sewer Operating Budget, totaling \$7,172,983 which reflects a 3.9% increase or \$271,258, funds the 125 miles of sewer lines throughout this community. It was noted that 6 million gallons of sewage is treated daily at the two treatment plants; 12 pumping stations serve over 10,700 acres of the watershed.
- 2016 Capital Budget Total: \$2,339,157 – General Government \$278,440, Public Works \$662,717, Sewer \$750,000 and Fire and Rescue \$648,000
- 2016 Major Capital Projects: Comprehensive Plan first year cost \$16,000, bridge repair projects \$170,000, Swimming pool upgrades \$92,200, Bob White Park vine removal \$30,000, Police equipment and technology \$36,600, Stormwater management study \$175,000, replacement of sewer lines \$250,000 and Tannery Drive stormwater project \$250,000 (project will start in 2017 when other 50% will be appropriated).
- 2016 Liquid Fuels Fund dollars from the Commonwealth of Pennsylvania used for the maintenance and reconstruction of Township roads total revenue is \$740,765, which reflects an increase of over \$109,663 from 2015 due to the increase in the gas tax funding

Mr. Kraynik assured the Board of Supervisors and the community that the Township will continue to make prudent financial decisions in 2016. With the renewed cooperation of the Upper Merion community the staff will continue to provide the highest quality services possible and the most cost effective and efficient manner.

Mr. Kraynik expressed appreciation to the Board of Supervisors and department heads that assisted in the budget process and, in particular, Finance Director Nick Hiriak for his help and guidance.

Mr. Kraynik submitted and officially posted the proposed 2016 Operating, Sewer and Capital Budgets for Upper Merion Township and recommended their adoption in December. He noted that a public hearing and adoption of the budget is scheduled for Thursday, December 3 at 7:30 p.m. in Freedom Hall.

Mr. Waks stated budgets are about setting priorities as exemplified in this budget. He noted there is no tax increase for the sixth consecutive year. It was also noted the 2016 budget reflects a heavy investment in the Community Center and pool. Mr. Waks said the Board of Supervisors recognizes residents' desire for additional recreation opportunities and the new Community Center and pool will help fulfill that need. It was noted personnel additions include hiring an additional police officer and an addition to the property maintenance crew. Mr. Waks mentioned the supervisors have been receiving many property maintenance complaints over the last few years and the addition to the property maintenance staff will help resolve some of these issues.

Mrs. Kenney asked for more details on the \$175,000 for the stormwater management study. Mr. Kraynik responded there are over 270 outfalls and the study will address stormwater comprehensively throughout the entire township. Previously this was done piecemeal project by project in various neighborhoods. Mr. Kraynik indicated a couple of years ago the governor signed legislation allowing Second Class townships to create authorities to deal with stormwater issues. It is anticipated that in 2016 the township will either establish a stormwater authority or more likely expand the scope of the existing utility authority. The study will provide the first step to proceed in that direction by quantifying exactly what the stormwater issues are, prioritize the number of projects and the recommended remedial action and associated costs. It will be

up to the authority to see how they will be enacted working closely with the Board of Supervisors.

Mrs. Kenney commented a stormwater study was done in 1995 that established a number of projects some of which have been done and some which are still yet to be done because of financial constraints. She said stormwater management is a bigger issue today because of a federal mandate with MS4 regulations. The stormwater management study will help assure compliance with that mandate.

Mrs. Spott reiterated Mr. Kraynik's expression of gratitude to the staff for their hard work on the budget. She said local government has three significant responsibilities: police protection, infrastructure and park and recreation amenities. She offered specific examples of how these responsibilities are carried out by the various township departments as well as the investment made in the community center which all make Upper Merion Township a desirable place to live, work and enjoy a variety of leisure and recreational opportunities.

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Waks, all voting "Aye" to approve posting of the 2016 Budget. None opposed. Motion approved 3-0.

HEARING RE: AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP ZONING ORDINANCE, CHAPTER 165, PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT, PROVIDING FOR DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES AND NON-TOWER WIRELESS COMMUNICATION FACILITIES; PROVIDING FURTHER FOR THE REGULATION OF SUCH FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AND OUTSIDE THE PUBLIC RIGHTS-OF-WAY; AND PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS

Joseph McGrory, Township Solicitor, opened the hearing and introduced into the Record Board Exhibit #1, the ordinance itself; Board Exhibit #2, the legal notice; Board Exhibit #3, the Proof of Publication in the *Times Herald* dated October 28, 2015 and November 12, 2015; Board Exhibit #4, the proof of receipt by the Law Library of Montgomery County on October 29, 2015; Board Exhibit #5, the proof of submission to the Montgomery County Planning Commission dated October 13, 2015; Board Exhibit #6, proof of submission to Montgomery County Planning Commission dated October 13, 2015.

Mr. McGrory stated this ordinance is for state of the art technology for cellular communication which has changed radically in recent years. He said townships are being approached with applications for a different type of technology using the acronym DAS or similar kind of technology. It involves a much smaller antenna located much lower than traditional towers that have been erected previously for cell towers. Because it is a sophisticated system it also requires some sophistication in its regulation. Upper Merion Township was faced with an application to install these [DAS] facilities and like most townships did not have an ordinance in place to regulate these facilities. Mr. McGrory indicated after consultation with various municipalities across the Commonwealth as well as some consortiums in central Pennsylvania he utilized pieces of an ordinance drafted by an expert in the field to produce the original draft which represents what works for the industry yet provides reasonable protection to the

municipalities. He indicated the draft was then given to John Walko in his office and after a series of meetings and input from very knowledgeable people, including the Media Communications Advisory Board and Chris Schubert, an attorney representing a DAS provider interested in proposing a DAS network for Upper Merion Township, an ordinance was produced that could very well serve as a model for most of the municipalities in Pennsylvania.

Because of the technical aspect of the ordinance, Mr. Waks provided a brief basic explanation of the need for this ordinance. He indicated because of the increasing growing demand of people using not only cell phones and various other wireless devices a lot of the existing cell tower sites have grown to a point of exhaustion and a strain has been placed on the existing infrastructure in terms of the ability to provide high speed internet access and access to the telephone network. It has become necessary to work to increase the amount of bandwidth so everyone using WiFi in any capacity will have the ability to keep using their WiFi. With the ordinance in place it will be possible to introduce a DAS network for Upper Merion Township.

Mr. Waks expressed appreciation to John Tallman who is a member of the Zoning Hearing Board and is an expert in the industry, the Board of Supervisors, Solicitor Joseph McGrory, and John Walko, who worked very closely to craft a cutting edge ordinance and also one that protects residential aesthetics.

Hearing and seeing no comment from the public, Mr. McGrory 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. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve Ordinance No. 2015-840 as submitted. None opposed. Motion approved 3-0. Ordinance 2015-840 was adopted and will be filed in Ordinance Book No. 18.

HEARING RE: ORDINANCE AUTHORIZING THE TOWNSHIP TO RECEIVE A LOAN FROM MONTGOMERY COUNTY AND ISSUE A PROMISSORY NOTE, SERIES 2015, IN THE AMOUNT OF \$767,960 FOR THE PURCHASE OF RADIO EQUIPMENT AND SERVICES FOR THE TOWNSHIP POLICE, FIRE AND EMERGENCY PERSONNEL AND PAY COSTS OF ISSUANCE INCURRED BY THE TOWNSHIP IN CONNECTION WITH A BULK PURCHASING AGREEMENT AND A 2015 NOTE.

Joseph McGrory, Township Solicitor, opened the hearing and introduced into the Record Board Exhibit #1 the ordinance itself, Board Exhibit #2 Proof of Publication. He stated this ordinance simply allows the township to obtain zero percent financing from the county to purchase radio equipment and services for the police department, fire and emergency personnel.

Police Chief Tom Nolan stated the radio project was put together by the county. Their infrastructure is in a condition where it needs to be replaced and coincides with the township's timing to replace the police, fire and EMS radios as well. The Township will receive a five-year no interest loan to do this replacement.

Mrs. Spott indicated this will enhance the safety and responsiveness of emergency personnel.

Hearing and seeing no further comment from the public, Mr. McGrory

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. Waks, seconded by Mrs. Kenney, all voting "Aye" to approved Ordinance 2015-841. None opposed. Motion approved 3-0. Ordinance 2015-841 was adopted and will be filed in Ordinance Book No. 18.

RESOLUTION 2015-40 RE: DEVELOPMENT PLAN: 750 MOORE ROAD/O'NEILL PROPERTIES (PLAN AMENDMENT); 248 UNIT APARTMENTS; 5.1 ACRES KPMU DISTRICT; AMENDMENT INCLUDES CHANGES TO PARKING AND STORMWATER MANAGEMENT

Mr. Rob Loeper, Township Planner, stated 750 Moore Road is located at the intersection of Moore Road and 8th Avenue. He provided a brief synopsis of what has happened with this development plan over the years. The plan has undergone a series of amendments dating back to 2002 at which time it was planned to demolish the existing building and build a three-story office building. In 2003, a four-story extended stay hotel was proposed which was amended again in 2004, 2008, and in 2011 there were amendments to that plan primarily related to conditions.

The current plan amendment calls for 248-250 units most of which will be one-bedroom units, 7 one-bedroom units will have a den, and 88 units will have two bedrooms.

The four-story building will be built over a parking area. Outdoor amenities include a swimming pool and other athletic facilities.

Mr. Loeper pointed out there were two ordinance amendments in 2014 and 2015 that addressed changes to the parking calculations for multi-family units. The plan calls for 335 parking spaces.

The current plan amendment is based primarily on the fact that because of the time lapse the NPDES permit for stormwater management expired and all the DEP rules have changed.

The major change with the plan is stormwater and parking. Because of the change in parking ordinance the applicant is able to provide less parking than previously required.

Due to the changes in the stormwater management requirements most of the stormwater will be handled through an underground detention basin located to the east of the site and two bioretention swales (one in the front along 8th Avenue and one in the rear). Parking areas along the outside of the site will be built with porous paving which allows for infiltration of water and is a more environmentally friendly way of providing stormwater management.

The plan was reviewed by the Township Engineer for code compliance and was submitted to the Upper Merion Planning Commission which recommended approval.

The applicant has agreed to purchase the necessary EDU's in the amount of \$766,000. In addition to the amenities, the applicant is providing a payment the equivalent of \$1,000 per dwelling unit which would go towards overall park and recreation and capital projects within the township. A \$256,000 payment will be made to the Transportation Authority for highway improvements based on the

peak hour p.m. traffic generation from the development.

Mrs. Spott noted this plan was vetted significantly at the workshop and was encouraged to see the use of porous pavement.

Mrs. Kenney asked if the reduction in parking translated into a lower percentage of impervious. Mr. Loeper responded it has made a slight reduction in impervious. He said the main point with the impervious is the fact that the applicant is using porous paving.

Mr. McGrory pointed out the resolution utilizes a deferral instead of the originally requested waiver. He explained there is a retaining wall proposed; however, the architectural structural engineering is not done yet and the wall may change. The applicant is requesting a deferral until such time as application is made for a building permit and the structural integrity of the retaining wall is submitted to the Township Engineer for review and approval.

Mr. McGrory indicated the applicant as agreed to the terms of the resolution.

From the Public:

Joe Rapine, 540 W. Beidler Road, asked how many parking spaces would be available for this project. Mr. Loeper responded there will be 335 parking spaces as required and it is based on one parking space for each bedroom in the complex.

Board Action:

It was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve Resolution 2015-40. None opposed. Motion approved 3-0.

RESOLUTION 2015-41 RE: DEVELOPMENT PLAN RE: VILLAGE AT VALLEY FORGE; BOZZUTO, 232 AGE RESTRICTED APARTMENTS, 3.7 ACRES. *Plan Expiration 12/7/15.*

Mr. Loeper stated the applicant is proposing a 298,000 square foot four-story rental apartment building (232 units) above structured parking which will be located on a 3.7 acre site at the intersection of Swedesford Road and Bryce Lane (southwest corner of the golf course site along Swedesford Road and US 422).

The applicant will be providing 278 parking spaces; 232 are required. Mr. Loeper pointed out the parking counts for the Village at Valley Forge are different than other areas because it is based on a shared parking concept since this is adjacent to residential areas.

A rendering of the main entrance of the building on Bryce Lane as well as other aspects of the site and outdoor amenities were shown on the aerial.

The revisions made to the plan were reviewed by the Township Engineer and he determined the plan is in compliance with the settlement agreement.

Mr. Loeper mentioned while the plan has been promoted as an age restricted residential plan there is nothing in the resolution that maintains it will always be an age restricted apartment building.

Mr. McGrory stated a reference in the resolution was made to age restricted; however, the applicant asked that this reference be removed as they are going by the court-ordered stipulation. Mr. McGrory pointed out at the workshop meeting [October 8, 2015] he raised an issue with the applicant and

asked what happens when someone enters into a two-year lease for an apartment being marketed as an age restricted facility and then it is decided to make it a market rate. He saw it as an issue if someone entered into a two-year lease with no protection that it would remain age restricted for the term of the lease. During the workshop Mr. McGrory asked the applicant to look at that situation and get back to him with their thoughts. There was no response to that request.

Peter Sikora, Bozzuto Development Manager, stated the applicant is marketing and intending to operate the apartment building as an active adult 55 plus age restricted community. He said it is a self-imposed restriction to operate the property as an age restricted active adult community. Mr. Sikora said the applicant will comply with the Fair Housing Act and the Housing for Older Persons Act which will require that 80 percent of the units be occupied by one person over the age of 55 and the applicant will be in full compliance with all rules and regulations pertaining to that restriction.

Mr. McGrory pointed out that restriction would enable the applicant to discriminate based on age, but if the applicant decides to no longer discriminate based on age it could just go market rate then the Fair Housing Act 80 percent standard would no longer apply. Mr. Sikora indicated that is a correct statement.

Mr. McGrory stated it could flip to a market rate at any time. Mr. Sikora said the applicant is self-imposing this restriction and wanted to reserve the right to have flexibility down the road if the market changes. He indicated Bozzuto would stand by their word and proceed accordingly.

Mr. McGrory followed up and said it is a matter of how to notify people entering into a lease that it may not be age restricted. He asked if the applicant would agree to put something in the lease to that effect so prospective renters have some notice it may not be age restricted. Mr. Sikora responded he would have to talk to their counsel about getting something in their lease agreements.

Mrs. Spott asked if the applicant's counsel is present. Mr. Sikora responded in the negative.

Mr. McGrory emphasized he wanted the Board of Supervisors and the public to be aware of the possible scenario that could develop. He said while the township is bound by the constraints of the settlement agreement, it would be fair for people to understand what they are entering into.

Mrs. Spott questioned the applicant's reluctance to put additional clarifying language in the resolution as Mr. McGrory discussed, particularly since it was discussed in the workshop meeting. Since the applicant's counsel was not present, Mrs. Spott suggested tabling the matter until the next business meeting.

Dennis Maloomian, President of Realen, master developer for this project, stated flexibility to change to market rate is important to lenders and, in his view, would be an impediment to financing.

Mr. McGrory reiterated what he recommended at the workshop if someone entered into a lease for an age restricted facility that there be a paragraph in that lease indicating it will remain age restricted during the term of the lease to at least honor the commitment made to the people that signed the lease. Mr. McGrory point out this would be a fair and reasonable compromise that would have nothing to do with the applicant's financing and would have no permanent impediment on the land.

After a discussion between Mr. Maloomian and Mr. McGrory, Mrs. Spott indicated she needed more time to confer with the Solicitor on the matter.

Mrs. Kenney commented many people have complained to her personally about the lack of housing for seniors in this township and emphasized the need for such housing to become a reality.

Mr. Maloomian asked Mr. McGrory to clarify the discussion that occurred at the workshop. Mr. McGrory responded he understands Mr. Maloomian's position and ordinarily he would ask for a covenant, but he is not asking for that. Mr. McGrory said he did talk in terms of the lease and no one got back to him after the workshop with their ideas. Mr. McGrory stated more time is needed to work out language for the lease and incorporate that in the resolution.

Mrs. Spott stated since the Solicitor still does not have an answer from the applicant on the language, this matter is best deferred until the next business meeting.

Mr. Maloomian indicated he is uncomfortable setting a precedent; however would be willing to depart from the path in this instance to provide a level of comfort that it is their intent to have that particular apartment complex marketed in a certain fashion.

Mrs. Kenney asked Mr. Sikora about the question she asked at the workshop about what would happen if a couple would like to move in and one was 67 and the other was 52 since she was told they would not qualify. Mr. Sikora responded he was incorrect and Mr. McGrory corrected him on that point at the workshop. Mr. Sikora said the Housing for Older Persons Act which applies to age restriction only requires that 80 percent of the units have one person age 55 or older.

Mrs. Kenney followed up by asking if it would then be correct that 20% of their units could be people of any age. Mr. Sikora responded in the affirmative.

Mr. McGrory stated to accommodate the applicant work can begin on some of the paperwork for the land development process that is post approval so as to avoid a delay which would accommodate the applicant to some degree.

Mrs. Spott asked if that is acceptable to the applicant. Mr. Sikora responded in the affirmative.

Mrs. Spott stated the resolution will be back on the business meeting agenda for December 3 and if everything can be worked out in the meantime it would not be necessary for the applicant to return.

Mr. Sikora said the applicant's counsel will work with the Solicitor in coming up with an amenable solution.

RESOLUTION 2015-42 RE: DEVELOPMENT PLAN RE: NEXT DOOR BAR AND GRILL, CONSTRUCTION OF A 10,818 SQUARE FOOT FREE STANDING RESTAURANT AT THE VILAGE AT VALLEY FORGE

Mr. Loeper provided some of the original background on Wegman's plans to build their flagship restaurant, a Next Door Bar and Grill, in King of Prussia.

Utilizing the aerial, Mr. Loeper pointed out various aspects of the proposed free-standing, 10,000 square foot restaurant which will be located in front of Wegman's as opposed to the rear of the building as originally anticipated. The net leasable area is approximately 7,000 square feet and the site area is

approximately 3.6 acres. The overall Wegman's site is 12.9 acres. This plan will result in a decrease of approximately 83 parking spaces from the front of the Wegman's. Employee parking will be relocated to the rear of the site which was the original site for this restaurant.

Mr. Loeper indicated as part of the stipulation this plan has been reviewed by the Township Engineer and the only comment made at the Planning Commission had to do with pedestrian circulation which was discussed at the workshop meeting. The stipulation agreement calls for sidewalks on one or both sides of the street; however, it is not specific in some areas as to what is required.

Utilizing the aerial, Mr. Loeper pointed out various options, alternatives and aspects of pedestrian circulation.

Tom Beach, Township Engineer, stated this is the first case of redevelopment within the overall golf course site. He said it was unfortunate the opportunity was missed when the original Wegman's was built to put in all the sidewalks for the area. Currently there is no sidewalk on Warner Road and nothing in front on North Gulph Road. Mr. Beach indicated it might be possible to make it work by removing a couple of trees along North Gulph and Warner. He said he realizes the Board is concerned about sidewalk linkages and there is a natural gap that has occurred over the years. It comes down to what makes the most sense for providing pedestrian circulation.

Mrs. Spott asked for clarification about what was on the screen. Mr. Loeper pointed out Wegman's, Market Street, Village Drive, North Gulph, and Warner Road as well as the sidewalk connections Wegman's has proposed for the Next Door Bar and Grill. He called attention to the location of a major intersection which does have crosswalks and another major intersection which has crosswalks that extend to the Wegman's grocery store. There is a sidewalk that has been installed along the opposite side of Village Drive.

Mrs. Spott asked for clarification about the connector to the crosswalk at North Gulph Road. Mr. Loeper responded someone at the townhomes at CHOP or anything else along N. Gulph Road would have the connection along N. Gulph Road to come in that way.

Mrs. Spott commented while she is supportive of sidewalks there is a highway interchange on the other side of North Gulph Road. She questioned how many people would realistically be walking there.

Mrs. Kenney commented it is not desirable to have gaps in places where people will be walking.

Mr. Beach commented the biggest gap on the map currently is on North Warner Road. In that location there is an office building on the right hand side without sidewalks. So there may be some pedestrian activity from the office building to the restaurant.

Mr. Kraynik commented it is worth noting the Police Department has received requests from the office building on Warner Road just referenced by Mr. Beach for sidewalks for better pedestrian access.

Mr. McGrory asked about items in the Township Engineer's letter. Ms. Kim Grogan, representing Wegman's Food Market, stated after working through these issues the applicant is agreeing to what was mentioned.

Mr. McGrory said the only difference from the engineer's letter is the sidewalk issue.

Mrs. Spott asked if there is a crosswalk at all on the Warner Road side anywhere. Mr. Loeper responded he does not believe so and the request that came in from the office building was primarily for a mid-block crossing in the vicinity of the Wegman's store. He pointed out mid-block crossings can be problematic in that people are given the false sense that it is a safe place to walk out and it would be something they would have to be looked at closely.

Mr. Waks agreed.

Mr. McGrory asked if the Board had any objections to taking the next item on the agenda so that counsel can meet with Wegman's representatives and go over some resolution language.

Mrs. Spott asked for clarification about the exit from Wegman's parking lot onto Warner Road which is a "right turn only." She pointed out many people turn left. Chief Nolan responded it is signed "no left turn" and the police department is aware of the problem and is doing selective enforcement.

Mr. Beach commented if the left turn were allowed there would be more of an issue due to the volume of traffic and the queuing off of North Gulph Road.

Mrs. Spott said there has to be something done to discourage a left turn. Chief Nolan agreed and said he is talking about putting delineators in the center of the road and it is something to look at.

Mrs. Spott called for consideration of the next agenda item so that counsel could work on clarification of the resolution.

RESOLUTION 2015-43 RE: DEVELOPMENT PLAN RE: KOP MALL RESTAURANT PAD; CONSTRUCTION OF A 8,400 SF FREE STANDING RESTAURANT ON THE NORTH SIDE OF THE PROPERTY, SOUTH OF MALL BOULEVARD. *Plan Expiration 12/7/15*

Mr. Loeper stated the location of the proposed 8,400 square foot free standing restaurant is opposite the Atrium Building on the outer ring of the Mall area along Mall Boulevard.

Utilizing the aerial, Mr. Loeper pointed out various aspects of the plan including the entrance, outdoor area, signalized intersection with signalized crosswalk, and the connections into the site. Mr. Loeper mentioned at the workshop meeting there was a discussion about connectivity for Mall shoppers to access the site safely and the best location for a crosswalk. He said during the workshop discussion the point was made that by having the crosswalk right at the intersection anybody coming in can see those who might be crossing. Mr. Loeper explained the way these entrances work, inbound traffic does not have a stop; however, the cross traffic and outbound traffic must stop. The concern was in moving it further along the restaurant someone might come around the corner and not adequately see anyone.

There will be improved stormwater management with the plan. The applicant will be buying additional EDU's for the restaurant. In addition there will be a highway capital fee for the restaurant of approximately \$81,000 for the additional sewer capacity, \$61,000 in highway fees and \$1,300 for an open space contribution which is based on square footage.

Mr. Loeper noted the Township Solicitor has placed some special

language in the resolution because in the past Simon Property Group as well as other developers have used bonds to secure their improvements. The Solicitor has some special concerns with bonds and has placed additional language in the resolution in the event that a bond is used.

The waivers include grading within 5 feet of the property line, requiring parking stalls to have the double lines and cross slopes within the parking lot. Mr. Loeper indicated the Township Engineer is in agreement with those waivers.

Mr. McGrory stated the bond language has been worked out with Ms. Yarnoff and she is in agreement with the proposed language and it is no longer an issue.

Mrs. Spott commented she is a proponent of double lines for parking stalls. On another matter, Mrs. Spott expressed concern and disagreement with regard to the crosswalk to the Atrium. She pointed out since the Hyatt has been built she has supported having a connector, possibly just five stairs so that people could connect to that crosswalk rather than walk all the way down the street. Mrs. Spott stated it would be to the benefit of this restaurant that something be worked out between the Atrium property and the Hyatt.

Mr. Loeper stated the Atrium is owned by Kravco and is not a Simon property and he was not sure who owns the Hyatt. He said in conversations he has had with Kravco their main concern was that people could park on the Atrium and Capitol Grill lot and be closer to the Crab Shack than if they park on the Crab Shack lots because of the configuration of the lot. Mr. Loeper indicated Kravco acknowledged Mrs. Spott's concern about the mid-block crossing on a curve on a four-lane street with a median and actually suggested they would be willing to work together to look at solutions including spending some money to make an appropriate crossing at the appropriate place.

Mrs. Spott asked about what discussions have occurred since she has been asking about this many times. Mr. Loeper responded that is as far as it has gone and he can go back and talk to Kravco. He said he has not gone back to the Hyatt representatives and he will take responsibility for doing that.

Mrs. Spott asked who owns the Hyatt and Joe's Crab Shack. Mr. Loeper said it is all one property and he is not sure who the property owner is. Mr. Loeper pointed out the safe crossing that is signalized, but understands the concern that there are people coming from other locations that should cross in this location but it is not convenient for them.

Mrs. Spott asked Ms. Yarnoff if she represents Kravco anymore. Ms. Yarnoff responded she has not been working with Kravco on anything related to the Atrium for quite some time. She said she has expressed Mrs. Spott's concern on several occasions and Mr. Loeper has met with Kravco representatives relatively recently about this issue. Ms. Yarnoff indicated she would also express Mrs. Spott's continuing concern to them.

Mr. Waks asked about the name of the proposed restaurant. Ms. Yarnoff responded this will be a True Foods restaurant featuring healthy eating.

On behalf of a resident who has inquired, Mr. Waks asked the number of parking spaces lost since this restaurant will be built on existing parking spaces. Ms. Yarnoff responded there are approximately 70 spaces that will be removed and noted there is excess parking on the mall property and the applicant will still be within the requirements of the ordinance.

Board Action:

It was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve Resolution 2015-43. None opposed. Motion approved 3-0.

RESUMTION OF CONSIDERATION OF RESOLUTION 2015-42, NEXT DOOR BAR AND GRILL

Mrs. Spott asked if the resolution has been updated. Mr. McGrory responded the resolution has been updated by a more current plan and is in a position for consideration by the Board of Supervisors.

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Waks, all voting "Aye" to approve Resolution 2015-42 as updated. None opposed. Motion approved 3-0.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Waks, all voting "Aye" to approve the Accounts Payable for invoices processed from October 7 to November 4, 2015 in the amount of \$1,587,805.83 and the Payroll for October 9, 2015 and October 23, 2015, in the amount of \$1,394,484.81 for a total of \$2,982,290.64. None opposed. Motion passed 3-0.

ADDITIONAL BUSINESS

IN MEMORY OF MIKE SANTILLO

Mr. Waks mentioned the passing of long-time Upper Merion Township resident, Mike Santillo, who served as Chairman of the Transportation Authority for approximately three decades. During his time on the Transportation Authority and working with his fellow members of the Authority as well as other township personnel, the Transportation Authority was able to obtain over \$1 billion dollars in funding for road improvement projects in Upper Merion Township. It was noted besides serving on the Transportation Authority Mike was a veteran who served overseas both in Vietnam and Bosnia. He was a King of Prussia volunteer firefighter and also served in Upper Merion Township in other capacities.

AUTHORITY VACANCIES

Mr. Waks noted Mike's passing has created a vacancy on the Upper Merion Transportation/General Authorities. The vacancy on the Upper Merion Municipal Utility Authority was also noted. Mr. Waks said it is highly likely next year the Municipal Utility Authority will be dealing with stormwater issues and provided guidance on applying for these vacancies.

BOARD OF COMMUNITY ASSISTANCE

Mr. Waks reminded residents that the 2016 Board of Community Assistance (BCA) application period begins on Monday, November 16th and runs through the middle of March 2016. It was noted the BCA over the last three years has provided approximately \$400,000 to \$450,000 in grants to organizations which provide services to Upper Merion residents or to graduating high school seniors who reside in Upper Merion Township and are looking to further their educational career either in college, community college or trade, vocation or tech school. Additional details about the application process were also provided.

FARMERS MARKET

Mrs. Kenney reminded everyone about the two remaining Saturdays for the regular Farmers Market. She indicated the winter season will begin on Saturday, December 5th and will be open every other Saturday from 10 am to noon.

UPCOMING MEETINGS AND ANNOUNCEMENTS

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

NORVIEW FARM ROOSTER

Mrs. Spott announced the 7 foot rooster at NorView Farm, 670 N. Henderson Road, is being replaced on Monday, November 16th. After more than 50 years of service the fiberglass was cracked and feet were badly damaged. The new identical rooster is made of cast aluminum and will be placed in the same location. A picture of the rooster is posted on the Township's Facebook page.

SHADE TREE COMMISSION TREE PLANTING

Mrs. Spott stated the Shade Tree Commission is seeking volunteers to help plant trees on Saturday morning, November 14th and provided details on how to volunteer.

From the Public:

Peter Anmeth, King of Prussia, offered high praise for the Upper Merion Police Department, Park and Recreation Department, township employees and volunteers. He also commented on the current Board of Supervisors, their outstanding accomplishments, professionalism, and team work and expressed his appreciation for their work in enhancing the quality of life in Upper Merion Township.

Joe Rapine, West Beidler Road, reiterated his request for an ordinance for outdoor woodburning boilers. His concern centers around his neighbor's wood-burning appliance which he has previously said burns inefficiently and has been his long standing concern in his neighborhood. Mrs. Spott noted the problem obtaining substantiating evidence despite visits to Mr. Rapine's home by two of the supervisors and safety and codes staff as well as attempts to verify any problem with odor at Heuser Park.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mrs. Kenney, seconded by Mr. Waks, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 3-0. Adjournment occurred at 10:08 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered

