

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
FEBRUARY 18, 2016

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, February 18, 2016, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:50 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Bill Jenaway, 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 the Township Manager. Supervisor Philips was absent.

MEETING MINUTES:

It was moved by Mr. Waks, seconded by Mrs. Spott, all voting "Aye" to approve the January 7, 2016 Zoning Workshop Meeting Minutes; January 7, 2016 Workshop Meeting Minutes; January 14, 2016 Business Meeting Minutes as submitted. None opposed. Motion approved 4-0.

CHAIRMAN'S COMMENTS:

Chairman Jenaway stated prior to this meeting an Executive Session was held regarding personnel matters.

NEW BUSINESS

PROCLAMATIONS RE: FRIENDS OF BLACK HISTORY OF UPPER MERION TOWNSHIP

On behalf of the Board of Supervisors, Mrs. Kenney read and presented a proclamation to representatives of the Friends of Black History who organize the annual Celebration of Black History which will be held this year on Saturday, February 27, 2016.

Senator Daylin Leach presented a proclamation from the Senate of Pennsylvania recognizing Black History month and a proclamation from the Pennsylvania House of Representatives prepared by Representative Tim Briggs who was unable to attend.

Following the Black History Month presentations, Senator Leach provided an update on what is happening in Harrisburg with regard to the budget which has made it difficult to move on a lot of other legislation. He provided details on some of the legislative hurdles that must be cleared. Once the budget matter is resolved Senator Leach is looking to move on criminal justice reform. He said he has a number of bills designed to reduce the prison population while keeping people safe.

PRESENTATION RE: BOARD OF COMMUNITY ASSISTANCE

Mr. Scott Milner, Board of Community Assistance, provided an overview of the Board of Community Assistance (BCA). A PowerPoint was shown. Highlights as follows:

- BCA advises the Board of Supervisors on providing assistance concerning the monies received from the Valley Forge Casino Resort.
- Non-profit and 501(c) organizations can propose plans and projects that

will impact the Upper Merion community and college scholarships are offered to Upper Merion high school seniors.

- When the BCA began its work in 2013 there were 41 applications (33 organizations and 8 scholarships). In 2014 the applications increased to a total of 95 (62 organizations and 33 scholarships). In 2015 the BCA received 105 applications (65 organizations and 40 scholarships).
- Number of applicants awarded: 28 in 2013, 59 in 2014 and 68 in 2015.
- In 2013, there was \$145,000 available in funding and \$128,000 was awarded; in 2014, \$160,000 available in funding and \$154,441 was awarded; in 2015, \$154,000 available in funding and \$148,334 was awarded, and in 2016 there is \$150,000 available in funding.
- In the application process it is important to express what projects will be done to give back to the community

Ms. Dan Sardinas discussed the application process. Highlights as follows:

- The scholarship application is for any deserving Upper Merion high school senior. This includes Catholic/private school students.
- As with any application academics are considered, but the BCA places a great emphasis on the community service aspect and it must be a new project, not a senior project. Senior projects are finished by the end of the school year and BCA projects must start on June 1st. Confirmation of completion of the project is required.

Mr. Milner stated scholarships generally range from \$1,000 to \$10,000. Last year was the first Ronald G. Wagenmann Scholarship for \$5,000 and the General von Steuben Scholarship for \$10,000. The deadline for BCA applications is March 15, 2016.

Mr. Jenaway encouraged interested students and organizations to get their applications in before the deadline. He pointed out funding is available because it is a provision of the casino being able to operate in Upper Merion Township.

Ms. Dan Sardinas said many applicants may not receive a grant the first year they apply, but everyone is encouraged to try again because many who may not have succeeded the first year are successful the following year.

As Board Liaison to the Board of Community Assistance, Mr. Waks emphasized the holistic element to the application since BCA members look at the totality of the applications. He pointed out the importance, particularly with the scholarship applications, not only of the time and energy applicants put into their community and academics, but also how much thought they give to the application itself.

Mr. Waks expressed appreciation to everyone involved in the BCA application process and mentioned the wonderful work and contributions of former BCA member Robyn Briggs.

Mrs. Spott recognized the amount of time and effort it takes for the BCA members to read through the numerous applications and the very difficult decisions that have to be made during the evaluation process.

CONSENT AGENDA RE:

1. Budget Transfers re:

- a. Public Works – Transfer from Road Maintenance Material Account #2451 to Annual Resurfacing Account #4580 in the amount of \$4,000.00
- b. Public Works – Transfer from Fuel/Oil Vehicle Account #2300 to Annual Resurfacing Account #4580 in the amount of \$4,500.00

2. Two Change Orders re: T&M Associates for Additional Cost to Professional Service Agreement for the DeKalb Pike/Henderson Road Pedestrian Facilities Improvements in the amount of \$40,700.00
3. Request for Homestead Exemption by Township Resident
4. Resolution 2016-8 re: Disposition of Township Records
5. Authorization for the Solicitor to Sign Settlement Stipulations re:
 - a. Brandywine Operating Partnership, 600 N. Gulph Road
 - b. BRE/HV Properties, 400 American Avenue
 - c. BET Investments II, LP, 2002 Renaissance Blvd.
 - d. BET Investments II, LP, 2004 Renaissance Blvd.
 - e. BET Investments II, LP, 2008 Renaissance Blvd.
 - f. BET Investments II, LP, 2009 Renaissance Blvd.
 - g. BET Investments II, LP, 2010 Renaissance Blvd.
 - h. BET Investments II, LP, 2011 Renaissance Blvd.
 - i. BET Investments II, LP, 2012 Renaissance Blvd.
 - j. Cooper Frederick Properties, LLC, 381 Brooks Road
6. Community Center Change Orders re:
 - a. SMJ Contracting (General) Change Order #23 in the amount of \$79,634.10 for the following changes: supplement existing stair landing structure, reduce window and increase metal panel on new addition façade, add yard drain adjacent to main entry, additional flashing and added HVAC curbing on roof, upgrades to the dishwasher (cooking studio), interior window framing material upgrades and excavation for electrical conduit to the pool.
 - b. Pinnacle Electrical Construction Change Order #9 in the amount of \$67,525 for the following changes: switches to power rooftop units, additional panel and transformer for boilers, additional power and data for lobby desk, access control wiring, HVAC equipment power and floor boxes in senior center lobby
 - c. Jay R. Reynolds (Plumbing) Change Order #6 in the amount of \$18,214.28 for added costs related to the 108 day extension of time that was previously approved
 - d. Jay R. Reynolds (Plumbing) Change Order #7 in the amount of \$23,306 for the following changes: revision of underground fire service within the building, provide and install 3 compartment sink in cooking studio, provide 2-inch backflow preventer at secondary water service, provide ¾ inch backflow preventer at boiler make-up connection, install gas piping to roof top units
7. Agreement for Township Operation of Consortium of the Arts Program with Upper Merion School District
8. Consider Accepting an Extension of Time to April 1, 2016 re: Renaissance Land Associates II, LP for the Property at 2901 Renaissance Boulevard
9. Appointment of Edmund Campbell to the Upper Merion Municipal Utility Authority

Board Comment:

With regard to Item #6, Mr. Jenaway stated the community center project is still under budget. .

With regard to Item #7, Mr. Jenaway stated the agreement concerns the Consortium of the Arts which was an Upper Merion School District program along

with Norristown and Colonial Districts that is being transferred to the Park and Recreation Department of Upper Merion Township.

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.

PUBLIC HEARING AND POTENTIAL RESOLUTION 2016-7 RE: REQUEST BY YARD HOUSE USA, INC. FOR APPROVAL OF INTER-MUNICIPAL TRANSFER OF RESTAURANT LIQUOR LICENSE

Mr. Joseph McGrory, Township Solicitor, opened the hearing and introduced into the Record a Proof of Publication marked as Exhibit B1 and the application itself as Exhibit 2.

Mark E. Kozar, Esq., Flaherty & O'Hara, stated he is representing the applicant, Yard House USA Inc. He introduced Jeff Taylor, General Manager of the Yard House. Mr. Kozar indicated the applicant is requesting approval of a resolution permitting the inter-municipal transfer of a liquor license from outside the township to within it pursuant to the revised Liquor Code, Title 47, Section 461, subsection (b.3) for use by Yard House at the King of Prussia Mall.

Mr. Kozar provided background information on Yard House which is a subsidiary of Darden Restaurants and is a publicly traded company operating over 1,500 restaurants. The Darden concepts include Olive Garden, Long Horn Steak House, Capital Grille, Bahama Breeze, Seasons 52, Eddie V's and Yard House. Darden owns and operates 62 Yard House restaurants nationally and the one proposed for Upper Merion Township would be the first in Pennsylvania.

Mr. Kozar stated Yard House is an upscale casual full-table service restaurant with an energetic vibe. The Yard House menu features globally inspired flavors added to favorite American dishes and over 100 items are prepared fresh daily. The restaurant will be open for both lunch and dinner Sunday thru Thursday (11 a.m. to 1 a.m.), and Friday and Saturday (11 a.m. to 2 a.m.). It is proposed for the Yard House to occupy approximately 14,000 square feet in the old Sears building at the Mall and will employ between 250 and 300 full and part-time employees.

The Yard House is also known for its incredible selection of imported beers on tap. Anyone who serves alcohol will first undergo Darden's extensive in-house responsible alcohol server training. The manager there will also have to take the Pennsylvania Liquor Control Board's Responsible Alcohol Management Program (RAMP) training. Darden Yard House is a responsible owner making a significant investment in Upper Merion that will be protected by responsible management and well trained employees.

Mr. Waks said it is important for residents to know that just because the Board would grant a license transfer does not mean the Board has approved the redevelopment.

Mrs. Kenney stated while she has no objection to the liquor license transfer she asked Mr. Kozar to relay to the applicant the serious issue with the proposed deck for the new Yard House restaurant. As Board Liaison to the Upper Merion Municipal Utility Authority (UMMUA), Mrs. Kenney has been closely following the problem with the 30 foot easement which involves a sewer line that will be impacted by the placement of the proposed 18,000 square foot concrete deck. She pointed out safety is a major concern with the 40-year old pipes. If an emergency were to occur the deck would have to be taken down to gain access to the 16-inch mains. Mrs. Kenney emphasized how seriously the Authority is taking this situation and asked Mr. Kozar to relay to the applicant this

concern as well as the enthusiasm of the Authority for this new restaurant. She reiterated the approval of the liquor license transfer in no way signals that the deck issue is off the table until the deck matter is settled to the township's satisfaction. Mrs. Kenney stated the deck would be a wonderful addition to that building and the applicant should give serious consideration about making the additional investment necessary to make it safe.

Mr. Kozar assured Mrs. Kenney the message will be relayed to the applicant and appropriate representatives.

Mr. Jenaway stated at a recent workshop meeting the Board of Supervisors raised a number of issues with the applicant regarding the deck and the potential impacts to the driving public. He encouraged the applicant's engineering team to look at those issues and make sure they are discussed with the police department's traffic safety unit so they can be resolved.

Mr. Kozar stated timing is the issue with the license and he understands these are two separate items. He gave assurance that the message will go to the proper parties.

Hearing and seeing no further comment from the Board of Supervisors or public, Mr. McGrory closed the hearing and reconvened into the public meeting portion of the agenda placing the resolution in a position for consideration by the Board of Supervisors.

Board Action:

It was moved by Mrs. Kenney, seconded by Mrs. Spott, all voting "Aye" to approve Resolution 2016-7. None opposed. Motion approved 4-0.

PUBLIC HEARING AND ADOPTION OF ORDINANCE RE: FLOODPLAIN CONSERVATION DISTRICT OVERLAY. ZONING OVERLAY DISTRICT REGULATING DEVELOPMENT AND BUILDING WITHIN DESIGNATED FLOOD ZONES

Mr. Jenaway prefaced the opening of this public hearing by indicating that this ordinance is a mandate from the Federal Emergency Management Agency (FEMA) and a matter that must come forward for discussion by their directive. It was noted there are more properties moving out of the floodplains than there are moving in as a result of this adjustment.

Mr. McGrory opened the hearing and introduced into the Record the following exhibits: Board Exhibit #1 the ordinance itself; Board Exhibit #2 the Legal Notice, Board Exhibit #3 Proof of Publication in the *Times Herald* dated February 3rd and February 10th, 2016; Board Exhibit #4 Proof of Receipt by the Law Library dated January 26, 2016; Board Exhibit #5 proof of submission from Montgomery County Planning Commission dated January 20, 2016; Board Exhibit #6 Proof of Submission of Upper Merion Planning Commission dated January 20, 2016. Mr. McGrory emphasized the township does not select the floodplain map and does not select what properties are in or out of the floodplain district.

Mr. Rob Loeper, Township Planner, provided a brief summary of the ordinance. He said from time to time the Federal Emergency Management Agency updates flood maps because of changing conditions in topography and streams. The first flood plain maps for this township date back to the 1970's and the current maps are a version from 1999. The recent maps are referred to as the 2010 maps; however, they will become effective on March 2, 2016. It was noted the township must have the ordinance adopted by March 2, 2016 in order for the township to remain in good standing with FEMA and the National Flood Insurance Program.

Mr. Loeper pointed out there are two sets of standards for elevation and flood proofing requirements – one for residential structures and one for non-residential structures. He pointed out these regulations deal with new construction or substantial improvements. There are also special requirements for recreational vehicles that are stored within a flood plain.

The Chief Building Official will be designated as the flood plain administrator as well as requirements for permits that are approved for applications within the flood plain.

Mr. Loeper stated in some cases some construction may have to be referred for review by the county conservation district as currently occurs for most land development applications. There are provisions for enforcement, penalties, appeals and variances. It was noted there is a variance provision with restrictions on properties that may obtain variances.

Mr. Loeper pointed out Upper Merion Township participates in the National Flood Insurance Program which allows people who are in affected areas to obtain flood insurance through the federal program. This is not a completely new ordinance and the first floodplain overlay district which contained many of the provisions dates back to 1974. Mr. Loeper emphasized these are requirements that are placed on the municipality in order to participate in the flood insurance program.

Mr. McGrory commented he is not satisfied with some of the language in this ordinance but it is necessary to follow the county and federal government guidance on this matter. As an example, he said the use of the word “variance” will be very confusing since it is not a zoning variance, but there is certain terminology over which the township does not have any control.

Mr. Loeper mentioned the township website has a special section dealing with floodplain information which has contacts and links to FEMA. He said staff is providing direction to affected property owners to help them resolve legitimate issues.

Mr. McGrory opened the floor for any questions or comments from the public.

John Heath, James Street, asked if it is a matter of compliance to make sure the flood insurance is available. Mr. McGrory responded in the affirmative.

Ed Parks, Timber Creek Lane, asked for clarification on boundary disputes. Mr. Tom Beach, Township Engineer, responded boundary disputes would only be for new construction and for any existing residence it is necessary to use the Letter of Map Amendment (LOMA).

Mr. Parks stated the flood zone behind his house is one that dramatically increased in size and apparently only his house was placed into the zone. He asked if the township provided any information to FEMA regarding elevations or flooding or if FEMA came up with these changes totally on their own. Mr. Loeper responded FEMA determined the changes. He said the township website provides a link to a document in which FEMA describes the process and sources they used to make their determinations.

Dante Saldutti, Danny’s Auto Service in Swedesburg, stated he has been at this location for 61 years and never had any water in his garage from the river. He does not think the process is fair.

Mark McKee, Gulph Mills, asked how the 50 foot no development standard was determined since he believes it is government overreach. Mr. Beach responded the 50 foot buffer from a stream course is DEP’s requirement for any development.

Mr. McKee also felt that it was unfair for the burden to be placed on the resident to prove FEMA wrong when he believes the map assumptions are faulty.

Mr. Jenaway pointed out the true solution to the problems in the LOMA letter lies with our federal representatives and said the township has been helpful in moving a LOMA letter forward.

Mr. McGrory stated he stands by his statement at the beginning of the hearing by saying he is not happy with some of the language, but it is being forced upon the township. He said it does not mean there will not be case law providing the ability to change it later.

Donald Perper, Garrison Way, Gulph Mills, asked approximately how long the 50 foot buffer has been in effect. Mr. Beach responded it has been in effect 10-15 years.

Hearing no further questions or comments from the Board of Supervisors or public, Mr. McGrory closed 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 Mrs. Spott, seconded by Mr. Waks, all voting "Aye" to approve the Ordinance 2016-844. None opposed. Motion approved 4-0. Ordinance 2016-844 was adopted and will be filed in Ordinance Book #18.

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 January 14, 2016 to February 10, 2016 in the amount of \$2,356,658.00 and the Payroll for January 15, 2016 and January 29, 2016 in the amount of \$1,600,583.71 for a total of \$3,957,241.71. None opposed. Motion passed 4-0.

ADDITIONAL BUSINESS

BLIZZARD OF 2016

Mr. Jenaway stated this is the first business meeting since the "Blizzard of 2016" and thanked the residents for their patience during this significant weather event as well as the Public Works Department for their hard work in keeping the township running. He recapped relevant facts about the storm as follows:

- Public Works crew worked tirelessly for almost 72 straight hours under some very difficult conditions which was followed by several days of additional clean-up and road widening.
- 20 plows and front-end loaders worked on 376 streets which equates to 120 miles of township/state roads.
- Over 26 inches of snow fell on January 23 and 24, accompanied by high winds, repeated drifting with several hours of snow falling 2 to 3 inches per hour.
- This was the fourth worst snowstorm ever recorded in this region
- Most roads in the township were passable within 24 hours after the snow stopped.
- All roads, including cul-de-sacs and tertiary roads, were plowed within 36 to 40 hours.
- There were a couple of communications regarding emergency responses. During events such as this, a snow plow (or more if

necessary) is sent responding with emergency vehicles to assure passage and provide protection, if needed, to the responders.

Mr. Jenaway said following this storm he met with the Township Manager, Dave Kraynik, and the leadership of the public works team and conducted a thorough critique of the township's performance and how we can improve going forward. The following aspects were reviewed and any necessary adjustments will be made to improve efficiency: equipment (both township-owned and contracted), manpower levels, communications, working with PennDOT to assure adequate equipment and staff on streets.

Mr. Jenaway thanked everyone who contacted the township with comments, concerns and complaints and said all communications were noted and reviewed during the critique. Mr. Jenaway assured everyone plans are in place to protect the public safety.

NORRISTOWN HIGH SPEED LINE EXTENSION PUBLIC MEETINGS

Mr. Jenaway announced SEPTA will be holding a series of public meetings in March regarding the King of Prussia Rail Project. The project involves a proposed extension of the Norristown High Speed Rail Line into the King of Prussia area. He emphasized SEPTA is holding these meetings. Upper Merion is neither involved in the location of the meetings nor involved in scheduling the meetings. SEPTA has scheduled the next round of public meetings as follows:

Meeting 1 – Monday, March 7 - Open House: 4-8 p.m. – Presentation: 6 p.m. at the Radisson Hotel Valley Forge, Grand Ballroom, 1160 First Avenue, King of Prussia, PA

Meeting 2 – Wednesday, March 9 – Open House: 4-8 p.m. – Presentation: 6 p.m. at Norristown Municipal Building, 235 Airy Street, Norristown, PA

Meeting 3 – Tuesday, March 15 – Open House: 2-8 p.m. – Presentations: 3 p.m. and 6 p.m. at the Double Tree Hotel Valley Forge, Jefferson Ballroom, 301 W. DeKalb Pike, King of Prussia, PA

Mr. Jenaway noted SEPTA will be conducting a different meeting with the residents of Valley Forge Homes regarding the King of Prussia Rail concept which will be held in Freedom Hall at the Township Building on Monday, March 14th. Coordination for this meeting is being handled through SEPTA and the Valley Forge Civic Association – not through the township.

RESTAURANT WEEK

Mr. Waks announced the return of Restaurant Week to Upper Merion Township the week of March 7-13, 2016 with a variety of menus for every palate. A portion of all profits are donated to The Children's Hospital of Philadelphia (CHOP). Last year the event raised \$11,500 for the local CHOP hospital from participating dineKOP restaurants. Mr. Waks encouraged continued support of this great cause.

FARMERS MARKET

Mrs. Kenney reminded everyone about the Winter Farmers Market to be held on Saturday, February 27th from 10 a.m. to noon.

SEPTA MEETINGS

Mrs. Kenney stated she has been to several SEPTA meetings and found them to be informative. She said SEPTA representatives are there to help explain the process and answer any questions.

TRIVIA NIGHT

Mrs. Kenney invited everyone to the King of Prussia Fire House for Trivia Night hosted by the Park and Recreation Department on Thursday, February 25th starting at 6:30 p.m.

LIBRARY BOOK DEDICATION

As Board Liaison to the Library Board of Directors, Mrs. Kenney provided an update on the Book Dedication Program and suggested ways to take advantage of this unique way to memorialize or celebrate various events by donating \$25 to buy and dedicate a book for someone.

UPCOMING MEETINGS AND ANNOUNCEMENTS

Mr. Jenaway announced a number of upcoming Township meetings and events.

READY MONTCO

Mr. Jenaway stated many residents may not know that Upper Merion transitioned from a previous emergency notification system called Connect CTY to a system called Ready MontCo. This enhanced emergency notification system is a tool to assure public safety at the highest level in our community via alerts to phones, emails and mobile devices. Residents and businesses are strongly encouraged to sign up by visiting the township website and taking advantage of this emergency system. Notifications will be provided on road closures, missing persons, severe weather, flooding, gas leaks and certain police activity.

VACANCIES ON BOARD AND COMMISSIONS

Mr. Jenaway noted vacancies on the Board of Community Assistance, Environmental Advisory Council (student member), Planning Commission, Property Maintenance Board (1 alternate position) and three vacancies one full position and two alternates on the UCC Board of Appeals.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Waks, seconded by Mrs. Spott, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 4-0. Adjournment occurred at 9:33 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered