

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
MAY 19, 2016

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, May 19, 2016, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:32 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Philips, Greg Waks, Bill Jenaway 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. Supervisor Erika Spott was absent.

MEETING MINUTES:

It was moved by Mr. Waks, seconded by Mr. Philips, all voting "Aye" to approve the April 7, 2016 Zoning Workshop Meeting Minutes, the April 7, 2016 Workshop Meeting Minutes, the April 14, 2016 Joint Meeting Minutes and the April 21, 2016 Business Meeting Minutes as submitted. None opposed. Motion approved 4-0.

CHAIRMAN'S COMMENTS:

Chairman Jenaway stated the Montgomery County Chamber of Commerce presented the Upper Merion Township Board of Supervisors with the Excellence in Public Service award in recognition of the Board's innovation and forward thinking which has enabled the township to become the economic engine of Montgomery County and the economic engine for the region.

NEW BUSINESS

CONSENT AGENDA RE:

1. Equipment Replacement Requests re:
 - a. Public Works – Purchase 2017 Diesel Mack Heavy Duty 6 Wheel Cab/Chassis outfitted with a snow plow package - \$196,075.00
 - b. Public Works – Replace Mower at the Matsunk Plant - \$4,000.00
 - c. Public Works – Transportation – Install Speed Hump on DeHaven Street - \$6,500.00
 - d. Public Works – Park/Shade Tree – Replace two John Deere mowers with two Kubota zero-turn mowers - \$19,646.00
 - e. Police Department – Replace automated External Defibrillators (AED) \$6,004.00
 - f. Police Department – Replace AED Pads - \$1,000.00
 - g. Police Department – Replace two marked patrol cars - \$87,400.00
2. Professional Services Agreement – ARRO re: New Sewage Grinder Unit at the Ross Road Pumping Station - \$5,880.00
3. Resolution 2016-22 re: Recognizing and Congratulating the Montgomery County Public Works Association on its 50th Anniversary
4. Bid Recommendations re:
 - a. Township Building Roof Repairs to Premier Roofing in the amount of \$116,821.50
 - b. 2016-2017 Montgomery County Consortium Fuel Contract to Riggings, Inc. in the amount of \$6,298,074.71

5. Authorization to Sign Settlement Stipulation re: AREP Triad, LLC v. Board of Assessment Appeals of Montgomery County and Upper Merion Area School District
6. Approve Extension Letter through August 31, 2016 re: Mancill Mill Road Company – Application for Preliminary Land Development Approval

Board Action:

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

BOARD OF COMMUNITY ASSISTANCE – ANNOUNCEMENT OF GRANT RECIPIENTS

Ms. Lydia Dan Sardinas, Board of Community Assistance (BCA), stated last year there was a total of 103 (54 organizations, 9 sports and 40 scholarships). This year there was a total of 95 applications (52 organizations, 10 sports and 33 scholarships).

Ms. Dan Sardinas stated last year there was approximately \$154,000 in available funds and \$153,534.30 was awarded to 71 recipients (38 organizations, 3 sports and 30 scholarships). This year \$153,000 is available for award.

Ms. Dan Sardinas announced the BCA 2016 recommendations for organizations and sports as follows:

- Upper Merion Stingrays Swim Team - \$5,000
- Upper Merion Lady Viking Basketball - \$2,500
- Upper Merion Aquatic Club - \$2,000
- KOP Soccer Club - \$7,500
- Upper Merion Boat Club - \$1,500
- Upper Merion Youth Viking Football & Cheer - \$5,000
- Upper Merion High School Ultimate Frisbee Club - \$500
- Alzheimer’s Association, Delaware Valley Chapter - \$1,500
- Communities in Motion, GVFTMA - \$2,500
- Cub Scout Pack #551 - \$1,000
- Elmwood Park Zoo - \$5,000
- Feel the Warmth - \$1,000
- Friends of Valley Forge Park - \$1,500
- Girl Scout Troop #640 - \$450
- KOP Firefighters Association - \$2,000
- Lafayette Ambulance & Rescue Squad - \$5,000
- Literacy Council of Norristown, Inc. - \$2,500
- Neighborhood Meals on Wheels - \$2,500
- Optimist Club of Valley Forge - \$1,000
- Roberts Elementary School - \$1,393.64
- Senior Fall Fling Committee - \$500
- Swedesburg Volunteer Fire Company - \$10,000
- Mother’s Club of UM - \$1,000
- UM Environmental Advisory Council - \$2,500
- UM Park & Historic Foundation - \$2,500
- UM Parks & Recreation - \$5,000
- UM Parks & Recreation - \$6,600
- UM Parks & Recreation - \$2,400
- UM Senior Service Center - \$1,000
- UM Tree Tenders - \$1,250
- UM Tree Tenders - \$1,250
- UMGA-TV - \$1,200
- UMT Codes Enforcement - \$2,100
- UMT Dr. Martin Luther King Jr. National Holiday - \$1,000
- UMT Girl Scouts Troop #7940 - \$500

- UMT Library - \$2,300
- UMT Library - \$830
- Upper Merion Emergency Aid - \$4,000
- Valley Forge Chorale - \$1,000
- Valley Forge Tourism & Convention - \$5,000

Ms. Dan Sardinias announced the 2016 scholarship recommendations as follows:

- Eunice Ardamoy - \$1,000
- Matthew Bilker - \$1,000
- Breda Marie Brady - \$1,000
- Jordan Cabahug-Almonte - \$1,000
- Michael DeStefano - \$2,000
- Kathryn Foy - \$2,000
- Elizabeth Goerneremann - \$1,000
- Natalia Grosso - \$2,000
- Sai Guntamadugu - \$1,000
- Lauren Kirkpatrick - \$2,000
- Sarah Kirkpatrick - \$2,000
- Katelyn Dlepacki - \$1,000
- Noelle Lewandowski - \$2,000
- Britney Lewis - \$2,000
- Hope Lu - \$1,000
- Anisha Mittal - \$1,000
- Katie Radzanowski - \$1,000
- Natalie Rosato - \$2,000
- Olivia Sborlini - \$1,000
- Rose Sedgwick - \$2,000
- Vraj Shah - \$1,000
- Patrick Shelton - \$2,000
- Diana Wambach - \$2,000
- Woonyong Bae - \$5,000 Ronald G. Wagenmann Scholarship
- Kate Wisniewski - \$10,000 General Von Steuben Scholarship

Mr. Waks provided some background on the agreements with the Valley Forge Casino which provides the funding to the township. He explained the township has two agreements with the casino. The first agreement was for a slot parlor which dates back to 2005/2006 prior to any of the current members of the Board of Supervisors. That agreement was to provide \$75,000 to the Upper Merion Township Foundation to be distributed for various charitable purposes and that a separate board would be created to administer that money.

The proposed slot parlor morphed to become a proposed casino and the original agreement was renegotiated with the amount of casino funds increasing from \$75,000 to \$142,500 per year. Additionally there were escalator clauses negotiated for future expansion should the state expand the number of table games or slot machines at the casino. An inflationary measure was also included so the \$142,500 has increased over the years to mitigate against inflation.

Mr. Waks also addressed the number of applications submitted this year as opposed to the previous year. He pointed out while there were more applications submitted in 2015, there were a significant number of 2015 applications from organizations and students who were actually ineligible. This year all applications were eligible for consideration therefore the number of applications that were reviewed were the same or more this year. In addition, the quality of applications was better, especially the student applications.

Mr. Waks expressed appreciation to all the members of the Board of Community Assistance who made some very difficult decisions regarding award recipients that will help a variety of organizations and students within our

community. He also mentioned the countless hours they spend reviewing the voluminous applications.

Mr. Waks encouraged those who were not on the list of recommendations this year to reapply next year.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Waks, all voting "Aye" to accept the recommendations of the Board of Community Assistance and approve the grants/scholarships as presented. None opposed. Motion approved 4-0.

POWERPOINT PRESENTATION BY THE UPPER MERION TOWNSHIP FOUNDATION

Vincent O'Grady and Laurel Dasher offered a presentation on the Upper Merion Township Foundation. A PowerPoint was shown.

Prior to a PowerPoint presentation, Ms. Dasher read the new mission statement for the Upper Merion Township Foundation.

Mr. O'Grady discussed the diversification of the Foundation's fundraising sources which until this time came mostly from the local business community. He explained AmazonSmile which is an automatic way for citizens to support the Upper Merion Foundation when shopping at the Amazon website. AmazonSmile will donate 0.5% of the purchase price from eligible AmazonSmile purchases to the Foundation.

Mr. Jenaway commented one of the reasons foundations are established is to reach out to the corporate community. Many businesses have their own foundations designed to support foundations like the Upper Merion Township Foundation. There is now a built in mechanism to allow the business community to provide funds to Upper Merion Township to support future projects as discussed during the presentation to help seniors, veterans, special needs children and at risk youth.

Mr. O'Grady mentioned the Foundation will continue to sponsor events like the "Concerts Under the Stars" Series, fireworks and similar events that benefit all residents of our community.

PUBLIC HEARING AND POTENTIAL RESOLUTION 2016-23 RE: REQUEST BY FOUNDING FARMERS KOP, LLC FOR APPROVAL OF ECONOMIC DEVELOPMENT RESTAURANT LIQUOR LICENSE

Joseph McGrory, Township Solicitor, opened the hearing and introduced into the Record Board Exhibit #1, the proposed Resolution; Board Exhibit #2 the August 6, 2016 letter to the Township requesting approval of the Economic Development Restaurant Liquor License; Board Exhibit #3, the legal notice; Board Exhibit #4, Proof of Publication in the *Times Herald* for April 27 and May 4, 2016.

Mark E. Kozar, Esq., Flaherty and O'Hara, introduced Dan Simons, Managing Partner, Founding Farmers. Mr. Kozar indicated the applicant is requesting approval of a resolution permitting the issuance of an economic development restaurant liquor license by the Pennsylvania Liquor Control Board to be in Upper Merion Township pursuant to the revised Liquor Code, Title 47, Section 461, subsection (b.1) for use by Founding Farmers for its restaurant in the King of Prussia Town Center, Building B.

Mr. Kozar provided background information on Founding Farmers KOP LLC. It is a Delaware limited liability company owned and operated by Farmers Restaurant Group LLC and 40,000 farmers who are members of the North Dakota Farmers Union. Farmers Restaurant Group currently owns and operates four restaurants in the Washington, D.C. area. The fundamental concept of Founding Farmers is fresh from the farm to the table foods. The restaurant will be open for breakfast, lunch and dinner from 6:30 a.m. until 2 a.m. (Mondays through Saturdays) and 6 a.m. to 2 a.m. with alcohol service starting at 9 a.m. on Sundays.

The restaurant will have seating in the downstairs area for 28 people and seating upstairs for 335 people. The restaurant will employ 220 full and part-time employees.

Mr. Kozar noted alcohol is served as a complement to the food at Founding Farmers and not as the main attraction. The percentage of alcohol sales is a percentage of total sales and last year was approximately 25%. All persons who serve alcohol will first undergo Responsible Alcohol Management Program (RAMP) training. Founding Farmers KOP is a responsible owner making a significant investment in Upper Merion and will be protected by responsible management and well trained employees. Not only will this restaurant provide Upper Merion with a unique dining option it will also bring over 200 jobs to the township and be a destination restaurant bringing additional consumers into Upper Merion.

For the aforementioned reasons, Mr. Kozar asked that the Board of Supervisors issue a resolution approving the Economic Development Liquor License into Upper Merion for use by Founding Farmers KOP, LLC.

Mrs. Kenney asked for clarification about the hours of operation. Mr. Kozar responded Monday through Friday the restaurant will open at 6:30 a.m. for breakfast and closing time will be a business decision. He said it could be as late as 2 a.m.

Mrs. Kenney asked how late the restaurant would be open as opposed to the bar. Dan Simons responded the kitchen remains open as long as the bar is open and their goal is to always be serving food during operating hours.

Mr. Jenaway asked if breakfast is served all day long. Mr. Simons responded the full breakfast menu is served at breakfast but they will keep a few breakfast items on the menu if there is a demand.

Mr. Jenaway asked if Founding Farmers is similar to any other restaurant. Mr. Simons responded they are positioned as upscale casual so it is approachable and affordable. Everything is cooked from scratch. Mr. Simons could not come up with a good competitive example. He said Founding Farmers are unique; they are not a chain but are more substantial than the typical mom and pop restaurant.

Mr. Philips asked Mr. Simons to elaborate on their focus on locally grown and asked if he would be using vendors in the area to do business and get products on the table. Mr. Simons responded they already buy a substantial amount of product from Pennsylvania, for example, mushrooms. They are working with the Pennsylvania Farmers Union to deepen their relationship which will influence the menu items. Mr. Simons pointed out because they are farmer owned they have better than usual relationships and resources to get into the supply chain.

Mrs. Kenney asked Mr. Simons to expand on what it means to be farmer owned. Mr. Simons responded they are both suppliers for some product and they are equity investors and owners. Part of the strategy and the reason the

company exists is to allow farmers to have a greater share of the food dollar as a supplier or an investor.

Mrs. Kenney mentioned the wonderful farms in Pennsylvania and in our immediate local area as well as the Farmers Market held at the Township Building on Saturdays. Mr. Simons said Founding Farmers already buys more Pennsylvania product than North Dakota product and their mission is about buying from American family farmers versus corporate farms.

Mr. Jenaway asked for the potential opening date for the restaurant and the percentage of anticipated alcohol to food sales. Mr. Simons responded they would hope to open in about a year in May or June 2017. He said they average about 20% of total sales as alcohol sales.

Hearing and seeing no further comment from the Board of Supervisors or public, Mr. McGrory closed the hearing and reconvene 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 Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve Resolution 2016-23, for an Economic Development Restaurant Liquor License. None opposed. Motion approved 4-0.

CONTINUE PUBLIC HEARING RE: CONDITIONAL USE FOR O'NEILL
PROPERTIES GROUP; 2901 RENAISSANCE BOULEVARD; 300-UNIT MF
RESIDENTIAL BUILDING; 10.928 ACRE, SM-1

Joseph McGrory, Township Solicitor, opened the continued hearing and had no further Board exhibits.

Mr. Michael Sheridan, entered his appearance to represent two entities as party litigants. He commented on one of the conditions in the Transit Oriented Development (TOD) ordinance to provide public parking for people using the train station. Mr. McGrory accepted his statement as an offer of proof but not as testimony and said it is assumed Mr. Sheridan would be introducing some type of testimony to that effect. Mr. Sheridan indicated he had a letter which he will submit later and would like the opportunity to cross examine the witnesses to the extent it is appropriate. Mr. McGrory asked Mr. Campbell if he had any objection to recognizing the two entities as party litigants, and Mr. Campbell responded in the negative.

Edmund J. Campbell, representing the applicant, stated the focus of this second hearing is to present testimony regarding landscaping, lighting and environmental issues.

Mr. Campbell's called his first witness Joe Orsatti, the landscape architect for the project who was sworn in and recognized as an expert in the field of landscape architecture. Mr. Orsatti's testimony indicated he has been involved with the applicant for the past ten years and the application follows an earlier application that was approved for two office buildings one of which is on the site where the multi-family residential units are proposed. What was previously approved at 2901 Renaissance was a five-story office building of approximately 170,000 square feet and a building height of 70 feet and what was approved at 2501 Renaissance was an almost identical building slightly less square footage of approximately 150,000 square feet. The applicant is asking the Board of Supervisors for permission to build approximately 300 residential units at 2901 Renaissance Boulevard.

According to Mr. Orsatti's testimony the landscaping designed for this project not only complies with the township's subdivision and land development

ordinance it exceeds what is required. It was also noted the landscaping plan provides a 20 foot buffer as the site interfaces with residential properties and in some cases it is upwards of 50 feet. The location of the proposed building has been moved 85 feet further away from Crooked Lane than the first version that was submitted. The applicant has used the additional space to enhance the buffer between the building and Crooked Lane. The proposed landscaping for the project calls for a total of 600 evergreen trees, 50 deciduous trees and 60 flowering trees. The only place where the landscaping is limited is in the cap area.

Mr. Orsatti's testimony regarding the lighting plan calls for high end LED lights and state of the art light fixtures which can be adjusted to either tone down or increase the lighting for a particular area. The light poles are 20 feet high and meet the requirements set forth in the township lighting regulations. The lighting plan not only complies with the code but maintains the light on the site so that it does not trespass into the neighborhood.

Mr. Orsatti discussed the landscaping in the area of the cap and said the landscaping was accomplished with shallow plantings, shrubs and ground cover. During the implementation of the landscaping plan, Mr. Orsatti will consult with the applicant's environmental experts in order to make sure the construction and installation of landscaping is done in a way that is consistent with appropriate environmental regulations.

Mr. Campbell referred to a rendering on the screen and Mr. Orsatti indicated the only thing not represented is the grade at Crooked Lane going up approximately 8-10 feet high on a berm. The evergreen trees are actually 8-10 feet higher against the building than what is portrayed in the rendering.

Mr. Campbell asked for an explanation of the schematic on the screen depicting the assumed movement of pedestrians on three pathways that can be followed from different locations to and from the train station parking lot. It also provided the timing of how long it takes someone to walk the distance from each direction of the walkways. Mr. Orsatti testified the furthest distance from the existing building to the train station is no more than a five minute walk.

Mr. Sheridan asked how pedestrians would cross Crooked Lane to the train station. Mr. Orsatti responded they will cross Crooked Lane at a painted crossing that will have to be approved by PennDOT.

Mr. Sheridan asked if there is any proposed traffic signalization. Mr. Orsatti responded that may be something PennDOT will require and it is something their traffic engineer may already be discussing.

Mr. Campbell reiterated today's hearing refers to lighting, landscaping and environmental issues. The applicant's traffic engineer is scheduled for the third hearing.

Mr. Philips asked for clarification about the plantings proposed over the cap and how they will be prevented from burrowing into the cap and hazardous material. Mr. Campbell said Mr. Orsatti can answer that question but his next witness who is the environmental consultant will be able to talk about the boot structure that is part of the program. Mr. Orsatti indicated there are no trees proposed over the cap. He said a tree may appear close to the cap on the plan, but in reality when they get out in the field they will make sure those situations are avoided where possible.

Mr. Philips asked if the applicant will be using some of the trees in the subdivision code. Mr. Orsatti responded he has already been before the Shade Tree Commission and they provided a series of comments.

Mr. Philips followed up on a question he asked at the last hearing about how the public will know where the parking area is located for their use. He asked if the landscape package will include signage to direct people to parking. Mr. Orsatti responded he will work together with and follow the lead of the traffic engineer and PennDOT. Mr. Campbell stated the applicant would accept as a condition of approval that an appropriate signage package is part of the final land development application.

Mr. Waks asked if conditional use is approved and the applicant moves forward to land development if the applicant would be willing to discuss with the residents of Hughes Park what types of signage or what types of specific landscaping should go in the area. Mr. Campbell responded the applicant will continue to be in a dialog with members of Hughes Park and review landscaping with them. He pointed out when the building was moved farther away the applicant was able to make the landscaping buffer more robust and the applicant would be happy to continue the dialog with local residents to maximize the buffer.

Patricia Buard, Holstein Road, said she lives across from the Hughes Park train station and asked what trees will be planted to shield her view. Mr. Orsatti responded there are 70 plus trees planned in that area consisting of evergreen, ornamental and deciduous trees. He said, as in the past, when it comes time to planting those trees Ms. Buard is welcome to be there and if there is a specific view she would like buffered they will work with her.

Ms. Buard asked how high the trees will be in relation to the building. Mr. Orsatti responded the trees will vary from 12-14 feet in height at time of planting and will grow to about 22 feet in height.

Ms. Buard asked if there is a way to shield neighbors from light spillage. Mr. Orsatti responded the applicant is using LED lights that are well directed and can be changed, if necessary, but he expressed confidence they will not see the light source. He said the area will be seen lit, but it will not be glowing.

Russ Patton, Schoolside Manor, asked about the quarries and the effect of utility piping during construction. Mr. Campbell responded his next witness is an environmental engineer who will talk in greater detail about contaminants on site, capping, intermediate measures and utilities for the proposed building.

Mark McKee, Jones Road, questioned the 70 foot building height referred to on the earlier slide for 2901 Renaissance being considered for the multi-family development since the underlying zoning in SM-1 District has a maximum building height of 50 feet that can go to a maximum of 65 feet with additional setbacks. Mr. Campbell said he would go back and look at the plans.

Mr. McKee also had comments regarding a plan amendment to move the apartment building back an additional 85 feet from the original proposal and a safer pedestrian crossing at Crooked Lane.

Peter Ciaramello, 519 Philadelphia Avenue, asked if the trees will have uplights. Mr. Orsatti responded in the affirmative.

Mr. Ciaramello asked how high the parking lot appears if he were standing at the center of Crooked Lane and Philadelphia Avenue. Mr. McGrory asked Mr. Orsatti if he knows the height of the parking lot. Mr. Orsatti responded the parking lot is somewhere between 8 to 10 feet above the Crooked Lane elevation since it berms up. Mr. Campbell said he thought the civil engineer addressed that and he will review the transcript and have him at the next hearing to clarify, if that, in fact, is incorrect.

Edward Tomchick, Philadelphia Avenue, commented SEPTA has no dedicated parking for the King Manor or Hughes Park station and it is not handicapped accessible.

Margery Patton, Schoolside Manor, commented children walking from the proposed apartment will have to cross Crooked Lane to get to school and at 8:30 a.m. it might be a problem with all the traffic.

Patricia Kunnane, White Avenue, expressed concern about the guard rail on Yerkes Road. Mr. Campbell said that is a traffic question for the next hearing.

Mr. Campbell introduced Haz Hijazi, a professional civil engineer for almost 30 years, who was sworn in and recognized as an expert witness in the area of environmental engineering. Mr. Hijazi is the project manager for the environmental aspect of 2901 Renaissance.

Mr. Campbell asked how this site came to be a Superfund site. Mr. Hijazi responded by providing the background of Alan Wood Steel Company that operated from the early 1900's to the mid-1970's. They manufactured coke and coke bi-products and generated waste including waste ammonia liquor (WAL) which was discharged into the quarries. Before Alan Wood Steel piped and discharged the waste into the quarries it was discharged into the river.

Mr. Campbell asked what EPA required the owners of the property to do to remediate the site. Mr. Hijazi responded prior to remediation there were investigations, water sampling, risk assessment and evaluation as to the best approach for remediation and for quarries 1 and 2 it was decided that capping those areas would be the best remedial alternative. Capping involves the placement of a series of impermeable layers to prevent infiltration and exposure to anything underneath the cap. According to Mr. Hijazi's testimony capping achieves many objectives. Most importantly it minimizes and eliminates exposure in terms of touching, digestion, vapors and prevents any infiltration of surface water into the quarries and encapsulates whatever is in the quarries and keeps it in place.

Mr. Campbell asked why capping is the approved and appropriate remedy rather than digging up all of the material and hauling off site. Mr. Hijazi responded before EPA approves a remedy a feasibility study is done to explore various options. The feasibility study determined capping is the most appropriate remedy for the site in order to eliminate the risks of exposure, vapors and dust that might occur during excavation.

Mr. Campbell stated originally an office building was proposed and now his client is proposing to develop the site for residential use. He asked if a human health risk assessment was done because of the use change. Mr. Hijazi responded in the affirmative. He said this analysis indicates there is no risk level that is not acceptable and indicates the change from non-residential to residential is an acceptable option. EPA is now reviewing.

Mr. Campbell asked Mr. Hijazi to explain why he has an appropriate level of confidence that vapor will not be an issue for the proposed use at this site. Mr. Hijazi responded most of the material is either inorganic like metals or semi-volatile and they are capping the area where this material is present. Anything that is going to be intrusive on top of the quarries is going to be booted, capped and sealed. The risk assessment was done and the result indicates everything is acceptable.

Mr. Campbell asked about the fact that the first level of residential occupancy is a full floor above that base level. Mr. Hijazi responded the first level will be open and not living space.

Mr. Campbell said a small portion of the building will be on the slab. He asked if there are appropriate protocols that can be implemented to make sure the lobby area will be protected from vapor. Mr. Hijazi responded in the affirmative.

Mr. Campbell referenced questions at last month's hearing about construction safety procedures and if there was an appropriate level of confidence there will be no safety problems during construction. Mr. Campbell asked if there is a construction safety protocol in place for the construction that has already occurred. Mr. Hijazi responded in the affirmative.

Mr. Campbell asked if Mr. Hijazi is confident that construction safety protocols already in place which will be tweaked through the EPA review and approval process will provide a safe environment during construction. Mr. Hijazi responded in the affirmative.

Mr. Campbell indicated part of the construction safety protocol is a requirement for daily activity records during construction. He asked Mr. Hijazi to discuss what that means. Mr. Hijazi responded every aspect of every activity is tracked in terms of people and personnel working on the site, the description of activities the weather, paperwork, monitoring data, sampling, photos and field notes. He said a very rigorous collection of data is included in a report provided to the regulators.

Mr. Campbell asked Mr. Hijazi to provide more details about protective measures for constructive activity as it relates to the cap. Mr. Hijazi responded there will be minimal intrusions in the area of the cap over the quarry. There will be a plastic liner which will be screened and tightly connected to whatever is going in deeper. It will be booted, sealed, tested and inspected to make sure nothing goes through.

During his testimony Mr. Hijazi stated scientific construction is very common these days since vapor intrusion is becoming more of a concern in the last ten years than it used to be when people were more concerned with soil and ground water issues. In the last 10-15 years vapor has become more of an awareness issue and more testing and analysis and remediation measures have been implemented which is what is now being done.

Mr. Campbell asked if Mr. Hijazi has an appropriate level of confidence that the proposed development will be safe for the people living there and for those working or living in the immediate community. Mr. Hijazi responded in the affirmative.

Mr. McGrory stated there are different standards under Act 2 for non-residential occupancy versus residential and human health standards must be satisfied. Mr. McGrory asked if the applicant has received approval that the human health standard has been satisfied. Mr. Hijazi responded the applicant submitted the human health risk assessment to EPA and DEP and they are in the processing of reviewing.

Mr. McGrory asked if it is correct that EPA and DEP have not signed off that it satisfied the human health standards at this point. Mr. Hijazi responded that is correct.

Mr. McGrory asked if the applicant will accept as a condition of approval that the township is provided with written proof that the human health standards have been satisfied by both EPA and DEP before filing the plan. Mr. Campbell responded in the affirmative. Mr. Campbell responded he has one other environmental witness who would be happy to share with the Board where the applicant is in the process of getting the approval. He said the applicant would accept as a condition of approval that the applicant have the appropriate EPA and DEP approvals in place before a plan is recorded or before the building permit is pulled and they can work on what that trigger is. Mr. McGrory said he would make the trigger the final plan recording because that is a standard the township has to have.

Mrs. Kenney asked about the difference between a Superfund site and a brownfield and a series of additional questions about these sites. Mr. Campbell said his next witness will be able to speak in additional detail about the difference between a CERCLA brownfield and Superfund designation. He said this witness can also offer a lot of testimony about construction on Superfund or similar sites.

Mrs. Kenney asked about the difference between volatile and non-volatile compounds. Mr. Hijazi responded volatile organics have the capacity to volatilize (become airborne into vapor) faster than a semi-volatile or non-volatile.

Mrs. Kenney asked if there are health problems that are in evidence after a period of time consequent to the use of such sites that have been remediated. She did not receive a direct response to the question.

Mrs. Kenney asked what kind of guarantee exists that all the rules will be followed during the remediation process. Mr. Hijazi responded there are multiple layers of controls of oversight and constraints by EPA, DEP and others.

Mr. Philips stated he would have preferred to see a cross section illustration of what the final cap will look like rather than just a written listing of all the layered materials.

Mr. Philips asked if the temporary cap would have to be removed before the final cap is installed. Mr. Hijazi responded in most cases they would have to remove the temporary cap.

Mr. Philips asked if there is a risk of exposure in the neighborhoods when removing any of the volatile or semi-volatile elements that are currently contained by the cap. Mr. Hijazi responded most of the impacted material is at the deeper depth when the cap will be ripped off. He said there will also be strict monitoring for dust as well as photo ionization detectors and the work would be done in a manner to prevent any negative effect.

Mr. Philips referring to Mr. Hijazi's initial testimony indicating how the WAL was dumped into the quarries. He asked if any of that liquid liquor is still in the bottom of those quarries. Mr. Hijazi responded most likely it is gone.

Mr. Philips asked if the township will receive copies of the daily activity records Mr. Hijazi referred to earlier in his testimony. Mr. Campbell responded he will provide the Board with the approval from 2007 and conditions that were attendant to the 2007 approval of the final land development approval. He said the applicant would accept either a condition of conditional use or more appropriately final land development when all the protocols are finalized a detailed list of the records Mr. Philips referred to.

Mr. Waks asked how the final cap composition was determined. Mr. Hijazi responded these are standards set forth by DEP waste regulations.

Mr. Waks asked if the DEP standards meet minimum requirements or if they are in excess of the basic DEP standards. Mr. Hijazi responded he did not know if the standards meet or exceed the DEP standards. He said it was the standard set forth under their waste regulations.

Mr. Waks asked if these would be the standards in any type of residential cap composition regardless of the project. Mr. Campbell responded the other environmental engineer is an expert in the mechanics of the cap remediation and he would be able to testify if protocols designed for the final cap exceed the minimums because certain specifics might change depending on what was underneath the cap.

Mr. Jenaway stated the cap goes beyond where the actual products exist, but it only addresses water infiltration from the top. He said it does not address

water infiltration from the sides where there might be gaps in the infrastructure of the earth. Mr. Hijazi responded the site has been investigated in a very detailed manner. He said there has been a geophysical investigation and borings done on the site so another fissure or subsurface void that they are not aware of is highly unlikely. Mr. Hijazi mentioned the extent of the cap does not stop exactly at the limit of the quarry but extends well beyond that point.

Mr. Jenaway said there is no geological assessment of 100 yards around that area to determine whether or not there are any gaps in the earth. He said it is not known if penetration through construction or any kind of trenching that might have to be done for water or sewer lines might end up with some water movement through there that would ultimately get into the caverns which would then cause movement of what product might be there. Mr. Hijazi did not agree and referenced the amount of investigation that has been done at various locations in and outside the quarry. He said, in his opinion, it is unlikely anything is going to seep given all the design precautions.

Mr. Jenaway pointed out there are a lot of sinkholes in that region.

Mr. Jenaway referred to a gradient to the Crooked Lane side of that property where water could flow out that way and asked if that is being monitored to make sure none of the effluents are coming down in that area. Mr. Hijazi responded final design takes into consideration surface flow.

Mr. Jenaway stated he believes the water table in that area is still going to be potentially affecting that site and he wanted to make sure it is being monitored.

Mr. Jenaway asked if it is known where the ground water is moving to and what those rates are. Mr. Hijazi responded there is a network of monitoring wells that are monitored on a quarterly basis with ground water elevation and concentrations of whatever is in the ground water. He said no one is allowed to be exposed to that water. No one is on private wells or allowed to drink the water so the exposure risk or factor is eliminated from that perspective.

Mr. Jenaway asked if the township receives copies of these reports at some point. Mr. Campbell responded the on-site testing that occurs is done by the other property owners who have been identified as the responsible parties for remediation and monitoring of ground water. It is his understanding those quarterly reports are publicly accessible and provided to DEP, EPA and the township.

Mr. McGrory asked if the applicant would accept as a condition of approval all reports to and from any environmental regulatory agencies are copied to the township simultaneous with their transmission. Mr. Campbell responded in the affirmative. He said the only nuance to that is the ground water monitors are required to be there and already in place and operated by other property owners on the site who interface with EPA and DEP. If the applicant receives this report it will be turned over to the township immediately. Mr. Campbell stated any report the applicant is required to create and provide to EPA or DEP will be communicated to the township simultaneously.

Mr. McGrory stated in thinking through the human health standards condition the applicant is converting from non-residential to residential. He said that places square in our sites the human health standard provision and it would have to be made a condition of conditional use approval that the applicant achieve that standard otherwise residential use could not occur. Mr. Campbell agreed.

In order to phrase that condition, McGrory asked what the applicant gets from DEP indicating those health standards have been satisfied. Mr. Campbell

responded his next witness will speak to that specifically. He said Mr. Hijazi is a technical expert and his next witness will address policy and approvals.

Dennis Rathore, Philadelphia Avenue, asked when the temporary cap was put in place. Mr. Hijazi responded in 2008. Mr. Rathore asked about the Superfund risk factor and the changes in the years since 2008 that these vapors have leached to the surrounding area. Mr. Hijazi referred to the human health risk evaluation that was submitted to EPA indicating there is no adverse risk.

Phil Pascorello, Lawndale Avenue, asked a series of questions about the cap most of which was answered in Mr. Hijazi's previous testimony.

Rick Boyer, Lawndale Avenue, asked for clarification if a cap would be placed over each of the three quarries. Mr. Hijazi responded the cap is proposed for quarry 1 and 2 which are related to the applicant.

Rob Erickson, Lawndale Avenue, asked if there will be signage during construction phase to warn pedestrians this is a Superfund site. Mr. Hijazi responded there will be signage, a fence and access will be limited. There will also be an exclusion zone with procedures for entering and leaving decontamination. There is also a protocol set up by EPA to ensure the public is aware and everyone is protected.

Mr. Erickson asked what will be done during the construction phase to contain any rain runoff. Mr. Hijazi responded there is a soil erosion sedimentation plan and water management plan to ensure nothing leaves the site. He said even if it is a normal construction project there are procedures to be followed for such things as retention basins taking surface rain water in certain areas and all that will be part of final design and implementation.

Mr. Erickson asked what happens if, for example, a truck making a delivery drops a refrigerator and breaks the cap. Mr. Hijazi explained the actual liner is going to be welded a certain amount of feet below the surface. The weld will undergo quality control, will be tested and monitored so that liner will be pretty much impermeable once it is installed.

Mr. Erickson made reference to the 2011 five-year report which was conducted by the EPA which contained information about the cap approved as the mediation methods for quarries 1 and 2 when the use was commercial. He said there are specific references in the report from 2011 that residential uses were not contemplated and, in fact, there was a restriction from having residential uses. Mr. Erickson said it would be helpful to discuss the difference in terms of the exposures, the hazard index for what is allowable for a commercial use as opposed to a residential use. Mr. Hijazi responded he is not a risk assessor and people who did the risk assessment are specialized in that field.

Mr. Erickson stated in the 2011 report it is assumed that for a commercial use there may be 8-9 hours of exposure whereas with residential there is the potential for 24-hour exposure. Mr. Hijazi said Mr. Erickson raised a very good point and that is why they had a new risk assessment evaluation completed and sent to EPA for review.

Mr. Erickson stated because the remediation method that was approved previously was based on the assumption that this was to be a commercial use it could come back from EPA requesting a different remediation method. Mr. Hijazi indicated the applicant is confident the EPA will come back with an approval.

Mr. McGrory stated the condition based on human health standards is much more stringent and the applicant will have to satisfy that standard for a residential use.

Tom Beach, Township Engineer, questioned the comment Mr. Hijazi made about the "runoff not leaving the site." He asked if that is during the construction period because he did not see anything like that on the preliminary plans he has seen so far. Mr. Hijazi asked if Mr. Beach's question is whether the runoff is going to leave the site or not.

Mr. Beach stated Mr. Hijazi gave testimony that surface runoff would be contained on the site and there would be no surface runoff. He wanted to clarify what Mr. Hijazi meant by that. Mr. Hijazi responded he was indicating that during construction because of the procedures in place the contaminated material would not run off the site. He said from a land development perspective he is sure there is going to be some way to manage stormwater which the civil engineer can discuss further. Mr. Hijazi said he was trying to indicate surface runoff that is going to be contaminated is going to be evaluated during the construction period.

Mr. Beach stated if the runoff is being contained on the site he assumes that under land development plans there would be a submittal as part of the package that would detail how the applicant plans on containing all the water. Mr. Hijazi said he would have to discuss with the land development engineers.

Mr. Campbell said the applicant would accept as a condition for final approval that they would have an E&S plan to manage not just the typical E&S issues but with protocols in place that specifically relate to the type of construction materials there.

Mr. Beach stated this is not a typical E&S procedure where water would be detained on site and then released. He said what Mr. Hijazi proposed during construction at the cap area is to contain it and keep it on site. Mr. Hijazi clarified he was saying there are going to be procedures to ensure there is no contamination discharged during construction.

Mr. Beach stated this is something that could be worked through the land development as a condition.

Mr. McGrory pointed out EPA is going to dictate certain construction procedures that must take place that will all be part of the DEP/EPA approvals.

Patty Erickson, Lawndale Avenue, commented the last time the site was remediated and the temporary cap was installed there was a lot of runoff down Crooked Lane and to some extent to Philadelphia Avenue when it rained. Mr. Hijazi responded the land development civil engineer can take that into consideration.

Mr. Philips asked the applicant to get with their civil engineer about some of the issues raised at this hearing. He said when the temporary cap is removed it will not be replaced in a day and there will be a period of time when measures have to be in place to deal with infiltration and those kinds of issues.

Mr. McGrory stated at least two more hearings would be needed to hear from the civil engineer, the other environmental engineer and the traffic engineer. It was determined the next two hearing dates would be scheduled for June 16th and July 21st at 7:30 p.m.

Mrs. Kenney suggested the applicant provide visuals at the remaining hearings to better facilitate understanding of such things as the appearance and location of the cap, traffic, etc.

Mr. McGrory adjourned the hearing and reconvened into public meeting portion of the agenda.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Mr. Waks, seconded by Mrs. Kenney , all voting “Aye” to approve the Accounts Payable for invoices processed from April 21, 2016 to May 11, 2016 in the amount of \$892,713.19 and the Payroll for April 22, 2016 and May 6, 2016, in the amount of \$1,443,226.42 for a total of \$2,335,939.61. None opposed. Motion passed 4-0.

ADDITIONAL BUSINESS

LOCAL ARTISTS DISPLAY IN THE LIBRARY

Mr. Waks mentioned the Montgomery County Guild of Professional Artists will be having a display of paintings and other art by local artists in the Library all day Saturday

UPPER MERION POOL OPEN HOUSE

Mr. Waks noted the Upper Merion Pool open house to be held on Saturday.

FARMERS MARKET OPENING

Mrs. Kenney announced the Farmers Market opening on Saturday.

NEW BUSINESSES OPENING IN UPPER MERION TOWNSHIP

Mr. Philips discussed the ribbon cutting for Edward Jones Financial Advisers and also the opening of the Wine and Spirits Shop and Fortunoff patio furniture store.

PARKS CLEANUP AT TOWNSHIP BUILDING AND WALKER FIELD

Mr. Philips thanked everyone who supported cleanup efforts at Township Building as well as at Walker Field.

SEPTA’S PROPOSED KING OF PRUSSIA RAIL

Mr. Philips mentioned he and Mrs. Kenney had the opportunity to meet with some of the residents at Valley Forge Homes regarding SEPTA’s proposed King of Prussia Rail.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Philips, seconded by Mrs. Kenney, all voting “Aye” to adjourn the meeting. None opposed. Motion approved 4-0. Adjournment occurred at 10:47 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered

