

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
SEPTEMBER 22, 2016

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, September 22, 2016, 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, Bill Jenaway, Carole Kenney and Erika Spott. Also present were: David Kraynik, Township Manager; Joe McGrory, Township Solicitor; Kyle Brown, Associate Planner; Tom Beach, Township Engineer, Angela Caramenico, Assistant to the Township Manager. Supervisor Philips was absent.

MEETING MINUTES:

It was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve the July 21, 2016 Business Meeting Minutes; August 4, 2016 Zoning Workshop Meeting Minutes; August 4, 2016 Business Meeting Minutes, and the August 18, 2016 Workshop Meeting Minutes as submitted. None opposed. Motion approved 4-0.

CHAIRMAN'S COMMENTS:

Chairman Jenaway stated an Executive Session was held prior to this meeting to discuss litigation. The Executive Session was preceded by a meeting of the Upper Merion Township Foundation.

NEW BUSINESS

PRESENTATION OF SHADE TREE & BEAUTIFICATION AWARDS

Mr. Jenaway recognized the hard work of the Shade Tree and Beautification Commission in preparing this awards presentation.

Ann Marchino, Vice Chairperson, Shade Tree & Beautification Commission, introduced Bill Schutter, staff liaison, who assisted in presenting the beautification awards.

A video of the award winning properties followed and afterward beautification awards were presented to the residents in recognition of their beautification efforts.

CONSENT AGENDA RE:

1. Citizen Board Resignations re:
 - a. David Burns from the Park & Recreation Board
 - b. Eileen Connelly from the Park & Recreation Board

2. Bid Recommendations re:
 - a. 2016 Upper Merion Township Road Program to Glasgow, Inc. for \$743,120.95. The following roads will be milled and overlaid: King of Prussia Road (from Route 202 to S. Gulph), Bill Smith Boulevard (approaching S. Gulph), A Street (W Street to U Street), W Street (A Street to B Street), Richards Road (N. Gulph to Township Boundary), Raven Road, Robin Hill Road, Bob White Road (Falcon Road to Mallard Road), Bob White Terrace, Pine Hill Road (Limehouse Road to Gypsy Lane), Meadow Lane and Shoemaker Road (S. Gulph to Henderson Road)

- b. Ross Road Pump Station Grinder Installation awarded to Controlex Services Corporation in the amount of \$42,995.00
 - c. 2016 Sewer Forms Printing & Invoicing Services Contract awarded to BerkOne, Inc. in the amount of \$24,931.70
 - d. First Avenue Linear Park Demonstration Project awarded to Ply-Mar Construction Co., Inc. in the amount of \$154,000.00
- 3. 2017 Minimum Municipal Pension Obligation (MMO) for Police and Non-Uniform Employees
- 4. Budget Transfers re:
 - a. Building Maintenance for increased service required for Police Department's Overhead Garage Operations - \$12,000.00
 - b. Trout Run – Press garage roof needs to be replaced and the canopy roof needs recoating - \$25,000.00
 - c. Trout Run – Staff Wages - \$3,500.00
- 5. Resolution 2016-34 re: Authorize Supplemental Agreement with PennDOT for Winter Traffic Services
- 6. Resolution 2016-35 re: Authorize Township Manager to execute the lease agreement for fitness equipment located at the Community Center
- 7. Approve Cable Franchise Agreement with Comcast –*Mr. Kraynik noted this is a 15-year agreement with one 5-year renewal. Franchise fees stay at 5% of gross revenues amounting to approximately \$380,000 per year from Comcast to the township. Two significant capital grants are included in the contract – one is 116,400 to the township for UMGA-TV and \$22,500 for the school district channel. If the five year renewal kicks in there would be another \$29,000 for the township and another \$5,625 to the school district. Mr. Kraynik expressed appreciation to the Media Communications Advisory Board for their assistance in negotiating this agreement.*
- 8. Awarding of Professional Design Services Contract re: Police Renovation Project to GLP Architects, PC in the amount of \$14,500.00. *Mr. Jenaway noted the Park and Recreation Department has moved its facilities and operations to the new Community Center. The purpose of the contract is to convert the former park and recreation space for use by the Police Department.*
- 9. Resolution 2016-36 re: Disposition of Township Property – Three Vehicles to Auction
- 10. Community Center Project – Change Orders re:
 - a. Jay R. Reynolds (Plumbing Contractor) #10 in the amount of \$1,583.00 for the addition of four (4) shallow depth two-bowl sinks
 - b. SMJ Contracting, Inc. (General Contractor) #27 in the amount of \$60,768.68 for various Construction Change Directives (CCD) including: enclosing and drainage under the Senior Center floor deck, removal of roof insulation, repairs to existing concrete walls and additional material costs for resilient floor in the women's locker room

Board Comment:

Mr. Waks stated the road repaving work that will be authorized will occur in the relatively near future.

As board liaison to the Media Communications Advisory Board, Mr. Waks expressed appreciation to Dave Kraynik, Township Manager, and the Media Communications Advisory Board for their hard work on the Comcast franchise

agreement. It was noted this agreement was negotiated for several years working out the legal and high tech issues which resulted in an agreement which is in the township's best interest.

Mr. Jenaway stated while there are a few roads to the north, the majority of the roads to be milled and paved are located on the south side of US 202. He also noted several residents have asked when roads will be paved subsequent to completion of their water line replacement process. Mr. Jenaway pointed out Aqua is a public utility and as such the township does not have any control over their paving timetable but he anticipates it would be before the winter months.

Board Action:

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

PUBLIC HEARING RE: CONDITIONAL USE EXTENET SYSTEMS; C/O RILEY, RIPER, HOLLIN & COLAGRECO; POLE FIXTURE WITH DAS ANTENNA/TELECOMMUNICATIONS FACILITY, 349-509 WEST BEIDLER ROAD, 575 PRINCE FREDERICK STREET, 501-533 DARTMOUTH DRIVE AND 139-155 ROSS ROAD

Mr. Joseph McGrory, Township Solicitor, opened the hearing and stated there are four separate conditional use applications, separate hearings and separate decisions for each proposed antenna. He said because of the extensive nature of the agenda there will be one body of testimony and the same two exhibits (application and proof of publication) incorporated into each conditional use hearing.

Mr. Christopher H. Schubert, representing ExteNet Systems, a Distributed Antenna System (DAS) provider, provided an overview of the four conditional use applications that have been filed with the township for a DAS node installation for four separate locations. It was noted the township adopted a new telecommunications ordinance last year and in accordance with that ordinance ExteNet has been in the process of developing a DAS network throughout residential sections of the township to provide the solution for additional cell phone coverage to those areas that are not adequately served by existing telecommunications infrastructure. There are 20 of these DAS nodes that have been established throughout various sections of the township. ExteNet is now getting down to the nodes requiring new utility poles for the installation of the antennas. There are currently four nodes under consideration identified by ExteNet as node #3, #13, #19 and #24.

Mr. Schubert introduced the first application which is located near 349 West Beidler Road. Mr. McGrory asked if anyone in the audience wanted to enter their appearance as a party litigant in this application. The following residents responded:

Kevin Miller, 755 Champlain Drive (proposed antenna is in his backyard)

Phoebe Baxter, 751 Champlain Drive (two doors down from Mr. Miller)

Karen Kelly, 757 Bunker Hill Road (adjacent to antenna)

Lorraine Rensman, 757 Bunker Hill Road (adjacent to antenna)

Eileen Connelly, 740 Champlain Drive (across the street from Kevin Miller)

Retan Persaud, 753 Champlain Drive (Kevin Miller's neighbor)

Mr. Schubert stated the second location is near 575 Prince Frederick Street. The following residents responded:

Charles Barrett, 571 Prince Frederick Street (100 feet from pole)

Phillip Greenberg, 587 North Prince Frederick Street, (adjacent to his property)

Catherine Valleo, who has power of attorney for her mother, Catherine Kelley, 575 Prince Frederick Street (pole would be in her front yard).

Mary Beth and Miguel Arechaballa, 554 North Prince Frederick (100 yards from pole).

Mr. Schubert stated the third application is a proposed installation near 501 Dartmouth Drive. Mr. McGrory asked that the record reflect no one expressed an interest in entering as a party of interest.

Mr. Schubert stated the last application is a proposed installation near 139 Ross Road. Mr. McGrory asked that the record reflect there are no parties entering their appearance in this application.

Mr. Richard Angelini, Director of Engineering and Implementation, ExteNet, was sworn in as Mr. Schubert's first witness. It was noted Mr. Angelini would testify regarding any particular site plan or photo simulation that was done for each of the individual nodes but there would be redundant testimony incorporated into each of the applications. Highlights of his testimony follow:

- the main business for ExteNet is Distributed Antenna Systems. ExteNet holds a public utility license issued by the Pennsylvania Public Utility Commission and is authorized to build telecom networks and systems
- Mr. Angelini has served as Director of Engineering and Implementation for six years and has built multiple networks in different regions and states
- DAS involves antennas and electronics on utility poles wherever available. Nodes are connected typically 20-30 in each network via fiber optic cable. That signal is transported to a hub location to extend wireless coverage into an area that otherwise did not have sufficient coverage.
- So far there have been 20 DAS nodes approved and built in Upper Merion Township most of which were able to utilize existing utility poles and are on air and accepting traffic
- The current project scope involves 26 altogether. Four applications are being considered at this hearing and two others are still in development.
- With regard to the four particular nodes Peco and Verizon rejected the poles due to specific electronic equipment on the poles.

Highlights of Mr. Angelini's testimony regarding four node locations:

- Node #3 on Beidler Road: the first choice was to utilize the utility pole across the street but Peco had high powered power plus three phase conductors on those specific poles.
- Node #13 along Prince Frederick Drive. The pole of choice on Prince Frederick was denied. The issue was a step down transformer on the pole that they needed to supply electricity to several residents in that particular neighborhood.

- Node #19 along Dartmouth Drive. The preferred pole had electrical disconnects at the top of the pole as well as some high power. Peco denied the request to attach to this pole.
- Node #24 on Ross Road. This pole also had high power wires and multiple communication wires and was denied by the pole owner.

Additional highlights from Mr. Angelini's testimony:

- Proposed DAS node installations are permitted by conditional use within these areas and are located within the R2 zoning district.
- No historic districts are impacted within these installations.
- All proposed installations are within 100 feet of existing above ground utilities.
- It is ExteNet's preference to use existing utility poles when and where possible.
- For node installation #3 at Beidler Road – This would be a basic wood pole installation. An antenna and electronics would be installed on the pole. Fiber optic cables follow the communication lines and the node would be fed by a fiber cable running all the way back to the central hub location.
- In accordance with the ordinance the maximum height for the pole would be 40 feet with 6 inches to the top of the antenna. If the township were to interpret the overall height includes not only the pole but the antenna the pole could be buried deeper to bring it down into conformance.
- The antenna is about 24 inches in height and 14 inches in diameter.
- Radio equipment is mounted between 15 and 18 feet from the ground depending on the conditions and nothing would be installed on the ground except for the pole itself.
- While the network of DAS nodes is being developed for Verizon Wireless currently other wireless companies are encouraged to utilize each of these locations. Additional antennas would not have to be added.
- Each node location has signage indicating there are RF emissions as well as contact information for ExteNet's 24/7 network operation center.
- No lighting or noise is associated with the proposed installations.
- A soils report is not necessary for this type of installation unlike a macro site which requires a soils test. If the township deemed a soils test necessary ExteNet would be willing to do a soils report.
- ExteNet would cooperate with township to ensure the public safety.
- While site plans for node #3 were reviewed, it was noted all four proposed DAS will be identical.
- One of the ordinance requirements is to prove that no registration is required by the Federal Aviation Administration. It was noted there is no concern with regard to aviation safety because poles are so low and these structures do not require registration with the FAA.

- Routine maintenance is performed annually.
- Pole locations are proposed to be located within 100 feet of existing utilities.
- Photo simulations for each proposed node were shown.
- If required as a condition of approval, ExteNet would be willing to have a structural letter prepared to confirm these installations will support the antennas and the equipment.
- ExteNet would be willing to provide a written commitment to the township to make these facilities available to other potential co-locators such as T-Mobile, Sprint and AT&T.
- As a condition of approval ExteNet would be willing to submit all maintenance inspection reports and if any problems are noted the deficiencies in the installations would be corrected within 60 days.
- ExteNet would be willing to allow the township to inspect each of these facilities as it sees fit to assure compliance with township codes.
- ExteNet would submit a certificate of insurance to the township showing adequate liability coverage for these installations.
- If these facilities were no longer needed ExteNet would be willing to guarantee the removal of these facilities within a reasonable period of time and would be willing to post adequate security with the township to assure removal.

Mr. Waks asked if a less intrusive installation would be possible such as a 15 foot pole as opposed to a 40 foot pole. Mr. Angelini responded he would have to defer that question to ExteNet's engineer who would be able to speak to signal strengths.

Mr. Waks asked if anyone at ExteNet met with any of the residents living near the proposed DAS installations. Mr. Angelini responded in the negative.

Mr. Jenaway asked if there is a feasible alternative to having a 40 foot pole in someone's back or front yard with an option such as a pole top extension. Mr. Angelini responded they looked at replacing the pole and asked Peco if the pole top extension was an option. Because of the high power it was an absolute safety issue Peco did not want to deal with whatsoever.

Mrs. Kenney mentioned the opposite side of Beidler where trees are located and asked if the pole installation could be placed along side of the Peco poles. Mr. Angelini responded that is called a mid-span pole and gets back to the initial request that Peco would not allow any mid-span poles in the right-of-way.

Mrs. Kenney asked for clarification about RF emissions. Mr. Angelini responded RF emissions refer to radio frequency. Mr. Schubert stated he will later have a witness who will testify to the RF issues.

Mrs. Spott referred to a previous statement that there was no effect on public safety and health and asked what that statement is based on. Mr. Angelini responded each node is submitted to an independent contractor who registers the RF emissions and ExteNet has to be within FCC limits on each one of the nodes. They have look at the power of the antenna and at the occupational level which is at the pole top and also at the public level on the ground. At the public

level they were below 1% of the FCC requirements and that is done on all ExteNet installations. Everything is documented.

Mrs. Spott questioned relying on the FCC as a medical expert and wanted to have more assurance regarding the health risks. Mr. Schubert responded he has been involved with other applications in other municipalities. He said the Telecommunications Act has been adopted and one of the issues that has been preempted is the issue of health effects. As long as it can be established that there is compliance with what the FCC says is acceptable in terms of emissions that is all that needs to be done. Mr. Schubert offered to have a preeminent biomedical engineer professor at the University of Pennsylvania who has extensive experience studying these issues appear at a future hearing.

Mrs. Spott said she would like to have the professor address the health issue and stressed the importance of meeting with the residents directly.

Mrs. Spott asked what would happen if all four applications are not approved. Mr. Schubert responded that might be better answered by the frequency engineer. Mrs. Spott emphasized she wants that question answered.

Mrs. Spott asked how ExteNet arrived at these specific four locations. Mr. Schubert responded it is another RF issue. He said it depends on how much the signal generates from each of these locations, what is being covered and what sites are available with existing telephone poles whenever possible.

Mrs. Spott asked if Heuser Park was considered as a DAS location. Mr. Angelini responded in the negative. Mrs. Spott pointed out node #3 on Beidler Road is very close to Heuser Park.

Mrs. Spott summarized she wants to hear more about the RF emissions and what happens in terms of service if these applications are not approved.

Mr. Jenaway recalled when the supervisors looked at all of the other applications that have been approved so far they were on existing poles with one exception on Keebler Road where an ornamental device was discussed but ultimately was placed on a telephone pole across the street. Mr. Schubert responded Peco would not approve the Keebler site because of the power limits on that pole.

Mr. Jenaway asked if the cell tower at 300 West Beidler Road was considered. He said it is used by three competitive providers to provide cell service to that region and when it was built it improved cell service immensely to those providers. Mr. Jenaway indicated there is space left on that tower. Mr. Angelini asked if Verizon is on that tower. Mr. Jenaway said he does not believe they are.

Mr. McGrory stated there is additional evidence the applicant has to bring forth and it will be necessary to continue the hearing and schedule for a date certain. He said this will also provide time for the applicant to reevaluate the proposed sites and determine if some of the concerns raised at this hearing can be satisfied by restudying the issue. Mr. McGrory encouraged the applicant to meet with the residents and address some of their concerns and inform them what is being done and why.

Mr. Schubert stated he had no objection and said the applicant is in a position of doing more homework and getting another witness that might help allay some of the fears regarding the radio emissions. He indicated ExteNet has done community outreach in the past and suggested having a spokesperson for each one of the residential areas to coordinate and meet with ExteNet.

It was decided to continue this hearing on November 17, 2016 at 7:30 p.m. Mr. McGrory stated the next hearing will begin with the cross examination of the parties that have entered their appearance.

RESOLUTION 2016-37 RE: MANCILL MILL ROAD COMPANY
DEVELOPMENT PLAN; REVISED PLAN, 112-UNIT HOTEL ON 7.23 ACRES.
(PREVIOUS PLAN; WAREHOUSE & OFFICE FACILITY (298,000 SF) AND
TWO HOTEL BUILDING (245 UNITS); 22.82 ACRES, SM/SM-1. *Plan Expiration
9/30/16*

Mr. Kyle Brown, Associate Planner, stated this development plan was reviewed at a workshop meeting in August. The applicant proposes a 112-unit hotel on 7.32 acres in the SM/SM-1 district which is split-zoned. This is a revised plan from a previous plan that had a warehouse and office facility as well as two hotel buildings.

Mr. Michael Gill, Esq., Buckley, Brion, McGuire and Morris, representing the applicant, introduced the members of his client's team.

Mr. Gill stated during the course of this land development application questions came up about the status of the Act 2 remediation at the site and Walter Hungarter, RT Environmental, will be able to answer any questions that may come up in that regard. The applicant has received review letters from the township's professional consultants with regard to the most recent version of the plan and is prepared to discuss these matters.

Mr. Gill provided some history about the land development application which was originally submitted in September 2014 for two hotel developments with warehouse facilities. After receiving comments from the Board of Supervisors, planning commission and members of the community the plan was scaled back in terms of the scope of the development. Mr. Gill pointed out this is now a preliminary land development application for a single hotel development. At the township engineer's request, the applicant provided a plan sheet showing what the future development of the remainder of the property might conceptually look like. This was done with the reservation and the qualification that this is not what is before the township with regard to this application.

Mr. Gill stated the township's engineer review letters are benign in nature and the applicant will have no problem complying with the Remington Vernick review letter dated June 24, 2016. Mr. Gill indicated the applicant has the most recent review letter from McMahon Associates, the township's traffic engineer and will comply with their letter as well.

During the August workshop there were some questions the applicant had about the McMahon letter with regard to the interpretation of the drive aisle. Mr. Gill indicated it remains the applicant's position this is an existing paved driveway which will be utilized in its current condition if that is the direction provided by the township.

With regard to the status of the Act 2 cleanup, Mr. Gill stated the legal position is that the land development approval was only based on the applicant's adherence to the township's subdivision and land development code and zoning code. In view of the questions members of the community might have about the status of the Act 2 cleanup, Mr. Gill indicated Mr. Walter Hungarter, RT Environmental, will be available to address any questions or concerns the Board of Supervisors or members of the public might have.

Mr. Gill stated at the applicant's request a court reporter is transcribing these proceedings. Mr. McGrory asked if there is any objection to the township purchasing a copy of the transcript. Mr. Gill stated there is no objection.

Mr. Gill said he provided the township planner with a list of 27 individual items for inclusion as part of this land development application.

Mr. McGrory referenced the driveway issue. He stated while he understands the argument that it is a driveway and the hotel is a low impact traffic generator with no truck traffic, as the rest of the site is built out he would classify that as a road because there will be associated trucks and higher traffic generators. In the event the Board of Supervisors were to agree that it is a driveway for this particular application, Mr. McGrory stated he wanted to reserve the ability to say it is not necessarily a driveway for other additional uses.

Mr. Gill indicated he understands the township's position and reservation in this matter. He said the only consideration the applicant is seeking approval for at this meeting is the development of the hotel as depicted on the plans. Mr. Gill said he understands the township would take the position for a future application for build out that the driveway would have to be improved depending on what the township standards are at that point in time for a private road. Mr. Gill stated at that point in time if such an application were submitted the applicant would respect the township's position that the driveway has to be upgraded to private road standards. Mr. Gill said for purposes of this application it is a driveway and should be treated as such.

Mr. McGrory stated, if approved, that would be in the resolution. Mr. McGrory emphasized and wanted to make it clear it is not a precedent for future build out. Mr. Gill indicated he understands as does his client.

Mitch Lerman, Valley Forge Towers, expressed concern over the stability of the ground. He would also like to see another set of core samples.

Bob Poston, Valley Forge Towers, asked that test borings be done. He also asked how the ground was compacted.

Mr. McGrory noted the Pennsylvania Department of Environmental Protection has the ultimate jurisdiction over all the environmental issues. He said they have a remediation plan in place. Mr. McGrory stated the resolution he drafted requires the applicant to follow the DEP's remediation plan or any other DEP directives. He said while the township has some oversight over what DEP is doing, the township does not have jurisdiction.

Herbert Geller, Valley Forge Towers, said the trees acting as filter and protecting the airway between the remediation and the Towers were removed. He also mentioned the trucks were not always cleaned during the remediation process.

Mr. Gill pointed out the entire scope of public comment is with regard to an issue that is outside of the township's jurisdiction. He said the applicant has no problem with a condition on the land development approval that requires the applicant to comply with the Act 2 remedial action plan.

Mr. Waks asked if there are any additional architectural renderings of the site. Mr. Gill responded they are not prepared to share renderings of the exterior of the building at this point in time. He offered to provide images of what the interior of the building might look like.

In response to Mr. Jenaway's questions, it was noted that the Upper Merion Planning Commission recommended approval, but a letter has not been issued as yet by Montgomery County Planning Commission.

Mrs. Kenney requested clarification about the township's oversight/jurisdiction. Mr. McGrory responded the township does not have jurisdiction or enforcement, but he is adding a condition to the resolution that the

applicant has to comply with DEP standards and if the applicant does not comply with DEP standards they have violated the approval.

Mrs. Kenney asked for additional details about personnel involved in oversight. Mr. McGrory responded during construction DEP would be out on the job supervising the site as well as the township engineer. Mrs. Kenney wanted to make sure the lines of communication among DEP, township staff and engineers are functioning at an optimal level.

Mr. Tom Beach, Township Engineer, stated there are two issues. He said the township engineer would be responsible for the site and there will also be in-house building code officials addressing the issues of the foundation. The foundations will have to be approved by DEP before they can have an approved foundation. With regard to the issues of compaction of the site, Mr. Beach said he is making a note to assure adequate subgrade material has been adequately compacted. He indicated there is a cap on top of the existing landfills which makes it a little more difficult, but it is something that has been done before and the township engineer will make sure everyone is aware of what is going on.

Mr. McGrory stated in his experience with construction of these sites there are certain ways to pierce the cap and it is all spelled out in the remediation plan and enforced by DEP.

Mrs. Spott asked about the cross section for the cap construction. Mr. Adam J. Brower, Civil Engineer, Edward B. Walsh & Associates, stated a sampling of three cross sections was taken from three different areas. The profiles vary depending on the actual location, but contain three of the same components. Mr. Brower explained they tried to pick some elements of the design that are critical with a relationship to the contaminated soil. For example, for the underground pipe storage system they paid attention to the fact that it is getting close to the cap. They made sure they are staying two feet above and that it increases in separation as it goes to the right. The second cross section is the one that has been most of the focus. They are showing that structure at grade and that separation from the contaminated soil at the minimal separation. The third is the parking lot to the right with some of the storm pipes going through the parking lot area where they had to be mindful of the cap separation to make sure they maintained at least the two feet going across. Mr. Brower said it is a sampling of sections through the proposed improvements but he believes it is fairly representative of the various components and improvements and what they had to be conscious of with the design.

Mr. Beach stated it looks like there is still some significant fill coming into the site. He noted one of the questions that came up was on the foundations. At this point to truly design a foundation for a multi-story building he assumes it would be necessary to go back and take borings. Mr. Beach asked if they have already taken borings to the existing contaminated area. Mr. Brower responded he does not believe they have taken borings and assumes Mr. Beach is referring to the compaction. Mr. Beach said he was also referring to the design of the foundations. Mr. Brower indicated they will need to do that because even though that is the footprint of the hotel they are simply looking to get to that final stage before they start doing the geotechnical work.

Mr. Beach asked for confirmation that any of the additional borings that would be done would be in accordance with all DEP requirements and Act 2. Mr. Brower responded in the affirmative.

Mr. McGrory stated in the past there have been issues with extended stay hotels or even hotels that seem to convert themselves into apartment buildings. He asked if the applicant agrees that the hotel not be converted into an apartment building. Mr. Gill responded it is not the applicant's intent to have the hotel "creep" into apartments. He expressed his understanding of Mr. McGrory's statement.

Mr. McGrory read Resolution 2016-37 and asked if the resolution is acceptable to the applicant. Mr. Gill expressed general agreement and asked a point of clarification regarding the final number of EDU's. Mr. McGrory responded the final number will be determined by the township prior to recording the plan. Mr. Gill indicated his acceptance. Mr. Gill asked about the traffic impact fee. Mr. Gill said it is his understanding this application would be entitled to approval based on the impact fee that was in place when the application was submitted.

With regard to the impact fee, Mr. McGrory stated the wording of the resolution will indicate a payment of a traffic impact fee calculated by the township planner without reference to a number. Mr. Gill accepted that change.

From the public:

Norman Desouza, Valley Forge Towers West, expressed concern about how the building will be supported and wanted information about the foundation plan and whether they are using pilings. Mr. Jenaway asked Mr. Beach about the normal time frame such information would be presented. Mr. Beach responded the applicant would have to have the foundation design when they submit their actual building permit.

Jay Casmo, Valley Forge Towers, asked if the driveway is wide enough for a fire truck. Mr. Beach responded McMahan's letter detailed all the requirements to upgrade this driveway. He noted it is 25 feet wide which would allow two-way traffic including emergency vehicles.

Board Action:

It was moved by Mrs. Spott, seconded by Mrs. Kenney, all voting "Aye" to approve Resolution 2016-37 for this preliminary plan development as read and discussed by the Township Solicitor and agreed upon by the applicant. None opposed. Motion approved 4-0.

ADOPTION OF ORDINANCE RE: BOND ISSUE

Mr. McGrory opened the hearing and introduced into the record Exhibit B1, the Ordinance itself and Exhibit B2, Proof of Publication.

Mr. Michael Wolf, Boenning and Scattergood, indicated he briefed the Board of Supervisors at a recent workshop meeting about an opportunity to refinance prior bonds and save the township approximately \$300,000. Mr. Wolf said some steps have already been taken and the next action is the adoption of an ordinance. Once the ordinance is adopted he will meet with Moody's and be in a position to sell bonds. He introduced the bond counsel from Fox Rothschild, Nevena Simidjiyska.

Ms. Nevena Simidjiyska, bond counsel, provided a brief summary of the parameters ordinance which authorizes the issuance of the 2016 bonds in one or more series in the amount of up to \$11,390,000. It provides for the date, the maximum interest and the maximum maturity dates with respect to the bonds and sets forth the parameters for acceptance of the proposal. The ordinance authorizes the proper officers to execute and deliver the bonds and the remaining documents and it authorizes the preparation and filing for the proceedings with the department of Community and Economic Development.

Mr. McGrory pointed out none of this is new money; it is only a refiling of existing debt.

Mr. Jenaway noted the ultimate savings will be approximately \$300,000.

Hearing and seeing no further comment from the Board of Supervisors and the public, Mr. McGrory closed the hearing and adjourned 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 2016-848 as submitted. None opposed. Motion approved 4-0. Ordinance 2016-848 was adopted and will be filed in Ordinance Book No. 18.

RESOLUTION 2016-38 RE: LECESSE DEVELOPMENT PLAN, 750 MOORE ROAD, AMENDED LAND DEVELOPMENT, 248 APARTMENTS, 5.097 ACRES, KPMU KP MIXED USE DISTRICT

Mr. Brown stated the development plan is proposed for 750 Moore Road in the King of Prussia Mixed Use District. The proposal calls for 248 apartments above parking. This is an amended plan from a previously approved plan. Revisions include augmenting the layout of the building as well as including additional parking. It was recommended by the Upper Merion Township Planning Commission.

Gregg Adelman, representing the applicant, stated the applicant is returning to amend a prior approval that was granted by the Board of Supervisors in November 2015. The proposal calls for a change in building footprint and an increase in surface parking based upon the proposed development. The unit count, overall cover, and the one bedroom/two bedroom mixes previously approved remain the same. There are increased setbacks from the prior approvals based upon the reconfiguration of the building. A proposed rendering and elevation of the building was shown on the screen.

Mr. Adelman stated there are no other aspects of the project requiring modification and all prior fees remain the same.

Mr. Waks said it is important to note there is a sidewalk plan associated with this facility which was previously approved [November 2015]. Mr. Waks noted additional history about the site and mentioned it was approved in 2009 as an extended stay hotel. He indicated the current plan is an improvement over what was approved in 2015 and a vast improvement over what was approved in 2009.

Mr. Jenaway indicated he drove by the site today and said it will be a significant improvement for that location.

Board Action:

It was moved by Mrs. Kenney, seconded by Mrs. Spott, all voting "Aye" to approve Resolution 2016-38 as submitted. None opposed. Motion approved 4-0.

RESOLUTION 2016-39 RE: CONLINS COPY CENTER DEVELOPMENT PLAN, 1011 WEST 8TH AVENUE, 6499 SF INDUSTRIAL; LOADING DOCK ADDITION; 2.24 ACRES, KPMU KP MIXED USE DISTRICT

Mr. Brown stated this is an expansion of an existing use as well as the addition of a loading dock. The expansion is in the amount of 6,499 square feet with the addition of a loading dock. There are no new employees at this time for the site. It was noted there is vast improvement in stormwater management where none existed previously.

Mr. Jenaway stated Mr. Conlin met with the Board of Supervisors at a workshop meeting and went over the minor plan at that time.

Board Action:

It was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve Resolution 2016-39 as submitted. None opposed. Motion approved 4-0.

APPROVAL OF TOWNSHIP MANAGER'S EMPLOYMENT AGREEMENT

Mr. Jenaway stated under the Pennsylvania Second Class Township Code manager employment agreements are in two-year increments. He indicated the Board of Supervisors reviewed the contract and met with Mr. Kraynik to make sure the plans for the next two years are in place to meet the needs of Upper Merion Township.

Board Action:

It was moved by Mrs. Kenney, seconded by Mrs. Spott, all voting "Aye" to approve the Township Manager's employment agreement for a two-year period. None opposed. Motion approved 4-0.

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 August 4, 2016 to September 14, 2016 in the amount of \$1,971,155.15 and the Payroll for August 12, August 26 and September 9, 2016 in the amount of \$2,199,649.19 for a total of \$4,170,804.34. None opposed. Motion passed 4-0.

ADDITIONAL BUSINESS

UPPER MERION TOWNSHIP EVENTS ON OCTOBER 1, 2016

Mr. Waks provided details for the 5k run/walk at the McKaig Nature Center and the Upper Merion Township Fall Fair.

COMMUNITY CENTER UPDATE

Mr. Waks reported that as of this date over 900 passholders have signed up for their Community Center membership.

PASSING OF ALAN BOROFF

Mrs. Kenney sadly noted the passing of Alan Boroff, former township solicitor and community leader.

UPPER MERION FARMERS MARKET BEST IN CLASS AWARD

Mrs. Spott announced that the Upper Merion Farmer's Market received best in class award from American Farmland Trust – 6th in the state by customers and in the top 60 nationwide.

CITIZEN BOARD VACANCIES

Mr. Jenaway: announced a number of openings on township citizen boards and encouraged interested citizens to apply

KING OF PRUSSIA 9/11 MEMORIAL RUN

Mr. Jenaway reported on the successful KPVFC 9/11 memorial run which continues to grow year after year.

MODERN DAY POLICING SERIES

Mr. Jenaway provided details about the Modern Day Policing series to be hosted by the Upper Merion Police Department in October. He also reminded citizens to stay vigilant and report all suspicious activity to the Upper Merion Police Department.

CELL TOWER ISSUE

Mr. Jenaway summarized the background of the cell tower issue. He provided further clarity to correct information released by the county as well as a pathway to completing the necessary processes.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mrs. Kenney, seconded by Mrs. Spott, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 4-0. Adjournment occurred at 10:43 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered