

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
DECEMBER 1, 2016

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, December 1, 2016, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:39 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; Rob Loeper, Township Planner; Tom Beach, Township Engineer; Sally Slook, Assistant Township Manager, 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 October 27, 2016 Budget Workshop Meeting Minutes and November 3, 2016 Budget Workshop Meeting Minutes as submitted. None opposed. Motion approved 4-0.

CHAIRMAN'S COMMENTS:

Chairman Jenaway stated a Zoning Workshop meeting was held prior to this meeting.

NEW BUSINESS

SWEARING IN – POLICE OFFICER PROMOTIONS

Police Chief Tom Nolan stated in early November the Upper Merion Township Police Department conducted testing for the ranks of Corporal, Sergeant and Lieutenant to fill anticipated openings due to restructuring in the department and pending retirements. The list that was established will be used for promotions that will be occurring in 2017 and early 2018.

District Justice William Maruszczak officiated at the swearing-in ceremony for Officer Michael Bruner, promoted to Corporal, Corporal Brandy Faherty, promoted to Sergeant and Sergeant Paul Cooper, promoted to Lieutenant. Promotions will take effect in January 2017.

2016 GRANT PRESENTATIONS TO UPPER MERION TOWNSHIP SPORTS ORGANIZATIONS

Mr. Dan Russell, Director, Parks & Recreation, was joined by Park and Recreation Board Chair, Tina Garzillo, in presenting the various sports organizations with grants approved for 2016. Each organization was called to the podium, offered their comments about their organization, and thanked the Board of Supervisors for their support. Mr. Russell emphasized how much all the organizations rely on volunteerism. On behalf of the Park and Recreation Department and Park and Recreation Board, he expressed appreciation for their support in the community. The following were presented with 2016 grants:

King of Prussia Soccer Club  
Upper Merion Lacrosse Club  
Upper Merion Baseball Association  
Upper Merion Aquatic Club

Upper Merion Youth Wrestling Association  
Valley Forge Generals  
Upper Merion Crew Boosters  
King of Prussia Football Association

On behalf of the Board of Supervisors, Mr. Jenaway expressed appreciation to everyone associated with the sports organizations who are helping to build the future of Upper Merion Township. He pointed out the benefit of this important learning environment for children.

CONSENT AGENDA RE:

1. Resolution 2016-49 re: 2017 Fees Schedule
2. Authorization for Township Solicitor to sign Settlement Stipulations re:
  - a. TNHYIF REIV Uniform , LLC, 301 W. DeKalb Pike, Upper Merion Township Parcel Number 58-00-06322-00-1
  - b. Mary C. Funston Living Trust, 739 W. DeKalb Pike, Parcel Number 58-00-17143-00-7
3. Resolution 2016-55 re: Reducing Police Officers' Contributions to the Police Pension Plan for the Year 2017
4. Accept the Fire & Rescue Study
5. Award Professional Services Contract for Stormwater Management Study to Gannett Fleming in the amount of \$206,950.00 as recommended by the Municipal Utility Authority
6. Budget Transfer re: Public Works – Road Maintenance Material - \$4,000.00
7. Resolution 2016-56 re: Authorization to Submit and Sign Grant/Reimbursement Agreement for the Green Light-Go Program in the amount of \$52,420.00
8. Engage financial advisor regarding sewer issues in the amount not to exceed \$10,000
9. Resolution 2016-57 re: Multimodal Transportation Fund Grant Application of \$1,345,211.86 from PennDOT to be used for the Crow Creek Trail
10. Resignation of Michael Sullivan from the Shade Tree and Beautification Commission
11. Accept Extension Letter re: O'Neill Properties Group Development Plan; 2901 Renaissance Boulevard

Board Comment:

Mrs. Kenney commented Gannett Fleming conducted the previous stormwater study in 1995 and they did an excellent job. After an extensive application and interview process, the Municipal Utility Authority unanimously recommended Gannett Fleming to perform the Stormwater Management Study which is necessary to proceed with stormwater management mandated by law.

Mr. Waks mentioned Gannett Fleming provided the best presentation for the stormwater management study and was coincidentally the low bidder.

Mr. Waks expressed appreciation to the Upper Merion Area School District for their letter in support of the Multimodal Transportation Fund Grant application to be used for the Crow Creek trail. It was noted there is a trail

segment that will run from the Middle School/High School area to the Community Center.

Board Action:

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

RESOLUTION 2016-50 RE: CALEY ELEMENTARY SCHOOL DEVELOPMENT PLAN, 435 CROSSFIELD ROAD. REPLACEMENT SCHOOL WITH ASSOCIATED FEATURES, AMENITIES AND STORMWATER MANAGEMENT. 19.62 ACRES, R-2A RESIDENTIAL

Mr. Jenaway announced that this agenda item has been rescheduled for the December 15<sup>th</sup> business meeting.

COLONIAL ELECTRIC/BRIGHT LIGHT DEVELOPMENT PLAN, 485 S. HENDERSON ROAD. DEMOLITION OF EXISTING OFFICE/WAREHOUSE AND CONSTRUCTION OF A NEW 8,000+ SF LIGHTING SHOWROOM. 1.4 ACRES, LI

Mr. Rob Loeper, Township Planner, discussed a development plan for a property located at 485 S. Henderson Road. The current non-conforming building is beyond its useful age and currently has no stormwater management. The proposal is to demolish the existing building and build a new showroom for the Bright Light lighting store. The most significant aspect of this site is the fact that a large portion of asphalt at the rear of the site will be removed which alone has a positive stormwater benefit. In addition, Best Management Practices will be provided for stormwater management with a rain garden located within that area.

Mr. Loeper mentioned the applicant is under a time constraint as they cannot renew the lease at their current location. While the applicant meets the requirements of the stormwater ordinance on an overall basis, there is a waiver included concerning stormwater. It was explained there are two watersheds within the site and typically it would be necessary to deal with the stormwater with each individual watershed. Because of the location of the property and the grading of the property it cannot be done that way. The applicant has the support of the Township Engineer for the technical waiver.

Mrs. Kenney asked for additional information about the two watersheds. Mr. Loeper responded the engineer looked at the direction of the water flows on the site. Some water flows to the front and some flows to the back. The front is very difficult to control because it is right up on the street with a grade. It is proposed to transfer some water from one watershed into the other. Mr. Tom Beach, Township Engineer, commented by combining both areas into one watershed the applicant will not have to install detention or retention basins for both areas.

Mrs. Kenney asked if this will meet the standards for MS-4 stormwater management. Mr. Beach responded in the affirmative.

Mrs. Kenney asked why a waiver is needed. Mr. Beach responded technically the applicant would be required to have two basins and they are going to have one basin.

Mrs. Kenney asked if one basin will be sufficient. Mr. Beach responded in the affirmative. He mentioned the applicant is reducing the amount of impervious on the site by a substantial amount and he is comfortable with the design approach.

Board Action:

It was moved by Mrs. Kenney, seconded by Mrs. Spott, all voting "Aye" to approve Resolution 2016-51 contingent upon the applicant meeting all the conditions in the Township Engineer's review letter. None opposed. Motion approved 4-0.

RESOLUTION 2016-52 RE: REALEN VR5 HANOVER DEVELOPMENT, SOMERSET & SOUTH GODDARD BLVD. 6-STORY RESIDENTIAL BUILDING (337 UNITS), 6-LEVEL PARKING GARAGE

Utilizing the aerial, Mr. Loeper reviewed the overall plan of the Village at Valley Forge including the portions that are completed (Wegman's and CHOP), much of the commercial that has recently opened and soon to open, and the residential in various stages of completion.

Mr. Loeper stated Realen VR5 is another Hanover development and is similar to the other developments in that it is a residential development with courtyards and a parking deck. The unit count on this one is 339 units with a 7-level parking garage.

Mr. Loeper indicated in conjunction with the settlement agreement this land development follows a different procedure for approval than other developments in that it is more of a technical review for compliance with the settlement agreement.

Mr. Dennis Maloomian, President of Realen, discussed this second phase of the Hanover project which he described as a twin to the project that will soon open. He said the second phase would be turned up a notch architecturally and is a little more contemporary and more articulated than the first phase, but in all other respects it is a twin. Mr. Maloomian mentioned 100 residents are living in the first project now and demographically the response is fulfilling expectations absorbing some of the 60,000 people driving into Upper Merion each morning. It was noted the first phase of Hanover is about to open for leasing.

Mr. Waks asked when construction would begin on this development and when it will open. Mr. Maloomian responded if the Board of Supervisors approves this development tonight construction would begin soon.

Mr. Waks commented most of these buildings tend to take 12-18 months for completion. Mr. Maloomian indicated that was a fair statement.

Mr. Waks asked if this Hanover development is the more expensive twin. Mr. Maloomian did not know the answer to that question. He said that would be a function of responding to market demand.

Mrs. Kenney asked for the bedroom breakdown of the apartments. Mr. Maloomian responded he did not know offhand, but could get that information.

Mrs. Kenney asked if there was any information about school age children moving into the residential. Mr. Maloomian responded he did not have the demographics in terms of male or female or families/non-families. He reiterated the people moving in are people who were commuting into the township.

Mrs. Kenney said it would be helpful to have numbers of potential students for our schools. Mr. Maloomian responded to date there have not been any children.

In response to Mrs. Kenney's earlier question, an unidentified individual provided an inaudible response off microphone regarding the breakdown of the bedroom units.

Board Action:

It was moved by Mrs. Spott, seconded by Mr. Waks, all voting "Aye" to approve Resolution 2016-52 as presented. None opposed. Motion approved 4-0.

PUBLIC HEARING RE: REQUEST FOR INTERMUNICIPAL TRANSFER OF LIQUOR LICENSE TO TFK, TRUE FOODS KITCHEN, 160 N. GULPH ROAD, OUTLOT D, KING OF PRUSSIA, PA RESOLUTION 2016-53

Mr. Joseph McGrory, Township Solicitor, opened the hearing and introduced into the Record Board Exhibit 1, letter to the Township dated November 7, 2016 to request the liquor license transfer; Board Exhibit 2, Notice of this Public Hearing; Board Exhibit 3, Proof of Publication in the *Philadelphia Inquirer* dated November 11, 2016 and November 18, 2016; Board Exhibit 4, the proposed Resolution of Approval of the liquor license.

Jonathan Jordan, Esq., on behalf of TFK KOP LLC indicated his client has entered into a lease for a restaurant along Mall Boulevard (north of JCPenney) and is seeking approval of their transfer of a liquor license from 16 Bar Inc. doing business with Toner's Beef and Ale at 101 E. Pennsylvania Avenue, Fort Washington, Pennsylvania, Upper Dublin Township, to True Foods at the King of Prussia Mall. This will be a stand-alone 6,900 square foot restaurant which the Board of Supervisors approved for land development last summer.

True Foods Kitchen is based in Arizona with 16 restaurants nationwide mostly on the west coast. There are five restaurants scheduled to open in 2017 mostly on the east coast. This restaurant features healthy dishes based on Dr. Andrew Weil's anti-inflammatory diet. The dishes are influenced by Mediterranean, Asian and California cuisine and carafe cocktails are served in the bar. The current plan is to be open Monday-Thursday 11 a.m. to 10 p.m., Friday 11 a.m. to 11 p.m., Saturday 10 a.m. to 11 p.m. and Sunday 10 a.m. to 9 p.m. The manager and servers will receive Responsible Alcohol Management Program (RAMP) training from Liquor Control Board.

The restaurant contains approximately 6,900 square feet of indoor space seating 167 patrons and a 1,500 square foot patio with seating for 80 patrons. There will be approximately 150 full and part-time employees. Sales revenue from alcohol is not expected to exceed 25% and there will be no dancing or live entertainment.

Mrs. Kenney asked about the timeline for opening. Mr. Jordan responded the applicant would like to open in summer 2017.

Mr. Jenaway asked if there are any visible televisions or objects of that nature that would be placed in outdoor seating area directed out toward the street. Mr. Jordan responded that is not the plan. He said the patio points toward the mall rather than Mall Boulevard.

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 Mr. Waks, all voting "Aye" to approve Resolution 2016-53 as presented. None opposed. Motion approved 4-0.

PUBLIC HEARING RE: REQUEST FOR INTRA-COUNTY TRANSFER OF LIQUOR LICENSE TO DAVIO'S KING OF PRUSSIA TOWN CENTER, 200 MAIN STREET, KING OF PRUSSIA, PA, RESOLUTION 2016-54

Mr. McGrory opened the hearing and introduced into the Record Board Exhibit 1, the letter to the Township dated November 8, 2016 requesting the liquor license transfer; Board Exhibit 2, legal notice of this public hearing; Board Exhibit 3, Proof of Publication in *Philadelphia Inquirer* of this public hearing dated November 11, 2016 and November 18, 2016; Board Exhibit 4, the proposed Resolution of approval of the license transfer.

Ellen Freeman, Esq., Flaherty and O'Hara, representing Davio's Northern Italian Steakhouse, indicated the applicant is requesting a Resolution permitting an Intra-County transfer of a liquor license from outside the county to within it pursuant to revised Pennsylvania Liquor Code Title 47, section 461(b)(4). The applicant is requesting the receiving municipality which is Upper Merion Township issue a resolution recognizing that the King of Prussia Town Center is a Mixed Use Town Center and permit the license transfer to Davio's.

Ms. Freeman stated currently the only Mixed Use Town Center development that qualifies in Montgomery County is the King of Prussia Town Center. In order to qualify as a Mixed Use Town Center there must be more than 100 contiguous acres but at least one million square feet of proposed development with a mix of retail, hospitality, commercial and residential uses. The Village at Valley Forge has 125 acres with 390,000 square feet of retail and hospitality tenants, 3,000 residential units and 1.2 million square feet of office and hotel space and will qualify as a Mixed Use Town Center.

Ms. Freeman provided a background summary of Davio's which offers an upscale restaurant experience and an extensive menu with a variety of choices as well as an extensive wine list. Alcohol is served as a complement to the dining experience at Davio's and is not the main attraction.

Davio's currently employs over 75 full and part-time employees. All Davio's employees serving alcohol first undergo the Responsible Alcohol Management Program (RAMP) training.

The Davio's at King of Prussia has been open and operating for approximately six weeks under a temporary license from the Liquor Control Board and during this time they have had a perfect record with the Pennsylvania Liquor Control Enforcement Bureau with no citations. It was noted the Davio's in Philadelphia which has been open and operating for 17 years and operates in substantially the same manner as the Davio's in the King of Prussia location has also had a perfect record with the Bureau of Liquor Control and Enforcement.

Ms. Freeman stated Davio's is a responsible owner making a significant investment in Upper Merion Township that will be protected by responsible management and well trained employees and requests Upper Merion Township approve an Intra-County transfer of a restaurant liquor license into Upper Merion Township for use by Davio's.

Mr. Waks and Mr. Jenaway commented they attended the Davio's ribbon cutting and wished them continued success.

Hearing and seeing no further comment, Mr. McGrory adjourned hearing and reconvened into the public meeting portion of the agenda placing the resolution in a position for the Board's consideration.

Board Action:

It was moved by Mrs. Spott, seconded by Mr. Waks, all voting "Aye" to approve Resolution 2016-54. None opposed. Motion approved 4-0.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Mr. Waks, seconded by Mrs. Spott, all voting "Aye" to approve the Accounts Payable for invoices processed from November 9, 2016 to November 23, 2016 in the amount of \$877,857.44 and the Payroll for November 17, 2016 in the amount of \$731,567.83 for a total of \$1,609,424.94. None opposed. Motion passed 4-0.

ADDITIONAL BUSINESS

ADMINISTRATIVE OFFICES RETURNING TO 5-DAY WORK WEEK

Mr. Waks stated as a cost-saving measure following the 2009/2010 recession the township administrative offices moved to a four-day work week and were closed on Friday. Now that the economy has improved starting in January 2017 Upper Merion Township's administrative offices will return to a 5-day work week.

SILVER&FIT ACCREDITATION

Mr. Waks announced the Park and Recreation Department was able to attain Silver&Fit accreditation which opens the Community Center to more eligible participants. He expressed appreciation to the 165 seniors who access the facility through Silver Sneakers as well as the 1,275 people who have become passholders of the Upper Merion Community Center.

THREE-DAY FREE PASS TO COMMUNITY CENTER

Mr. Waks reminded everyone to take advantage of the 3-day pass (until December 23) to use the Upper Merion Community Center.

WINTER FARMERS MARKET

Mrs. Spott noted the Winter Farmers Market begins December 3rd from 10 a.m. to noon and will be held every other week thereafter.

VACANCIES ON CITIZEN ADVISORY BOARDS

Mr. Jenaway reminded everyone of the vacancies on citizen advisory boards and encouraged interested citizens to submit an application and get involved in their community.

HOLIDAY HOOPLA

Mr. Jenaway provided details on the Holiday Hoopla to be held at the Township Building on Friday, December 2<sup>nd</sup> from 6:30 to 8 p.m.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 4-0. Adjournment occurred at 8:37 p.m.

---

DAVID G. KRAYNIK  
SECRETARY-TREASURER  
TOWNSHIP MANAGER

rap  
Minutes Approved:  
Minutes Entered