

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
DECEMBER 15, 2016

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, December 15, 2016, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:36 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Bill Jenaway and Greg Philips. Also present were: David Kraynik, Township Manager; Rob Sebia, Solicitor's Office; Rob Loeper, Township Planner; Isaac Kessler, Township Engineer; Sally Slook, Assistant Township Manager. Supervisor Spott and Supervisor Kenney were absent.

MEETING MINUTES:

It was moved by Mr. Waks, seconded by Mr. Philips, all voting "Aye" to approve the November 3, 2016 Workshop Minutes and the November 17, 2016 Business Meeting Minutes as submitted. None opposed. Motion approved 3-0.

NEW BUSINESS

PRESENTATION OF COMCAST CABLE TELEVISION GRANT CHECK IN THE AMOUNT OF \$22,500.00 TO UPPER MERION AREA SCHOOL DISTRICT

Mr. Waks was joined at the dais by the members and liaisons of the Media Communications Advisory Board along with members of the Upper Merion Area School Board for the Comcast Cable Television grant check presentation.

Howard Hoffman, Chairman, Media Communications Advisory Board, provided the background for the lengthy negotiations with Comcast to rebrand the television system within Upper Merion Township. During the negotiations part of the rebranding called for an equipment grant for Upper Merion Township. The Media Communications Advisory Board felt that the Upper Merion Area School District (UMASD) should receive an equipment grant as well for their Viking Channel. As part of the negotiations, the Media Communications Advisory Board was able to secure Comcast's agreement to provide UMASD with a \$22,500 equipment grant.

Dr. John Toleno, Superintendent, Upper Merion Area School District, expressed appreciation for the arduous efforts of the Township and the Media Communications Advisory Board to acquire the \$22,500 grant for new equipment. The money will be used towards the conversion of the Viking Channel equipment to allow for online programming in High Definition. Dr. Toleno mentioned this represents a huge advancement for the school district and something they could not have done without these funds.

Mr. Waks emphasized what a long laborious process it was for the Media Communications Advisory Board to achieve this positive result for the school district after multiple years of negotiations. He said past franchise agreements provided funding for the Township to purchase equipment, but because of the foresight of the Media Communications Advisory Board and their recognition of the Viking Channel's equipment needs, they decided to open negotiations with Comcast to get funding for the school district as well. On behalf of the Board of Supervisors, Mr. Waks expressed appreciation to the Media Communications Advisory Board for their dynamic interaction in the negotiation process resulting in this successful outcome.

CONSENT AGENDA RE:

1. Community Center Change Orders:
  - a. Pinnacle Electrical Contractor – Change Order #13 in the amount of \$20,890.00 for the following: power and data for maintenance office, circuits for air conditioning in the MDF room and power supply for garbage disposals.
  - b. SMJ General Contractor – Change Order #28 in the amount of \$125,536.44 for the following: painting of metal frames, various roof work, connection of downspouts to underground system, cabinetry work in the senior center, green roof and rain garden at lower entrance, additional plantings/landscaping on the site.
  - c. SMJ General Contractor – Change Order #29 in the amount of \$9,987.81 for the following: excavation and backfill for electrical conduits, excavation for work needed on the sanitary sewer lines near the pool to Valley Forge Road and additional cabinetry work in the senior center.
2. Structural Engineering Services for the Upper Merion Community Center Roofing Project to Hunt Engineering Company in the amount of \$7,560.00
3. Award Professional Services for ADA renovations to the Township pool and restrooms to GLP Architects, PC in the amount of \$9,400.00
4. Resignation of Jonathan Black from the Library Board of Directors

Board Comment:

Mr. Philips noted the change orders for the Community Center were for additional requested items.

Mr. Philips commented on the resignation of Jonathan Black from the Library Board of Directors and, on behalf of Mrs. Kenney who serves as Board Liaison to the Library Board, thanked him for his good humor and faithful service. Mr. Philips expressed appreciation for everything Mr. Black has been able to do for the township and wished him all the best for the future.

Mr. Jenaway mentioned Mr. Black was a regular at the Park and Recreation Board meetings even though he was not a member of that board. He said Mr. Black had an interest in park and recreation and wanted to do more for the community in this way.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Waks, all voting “Aye” to approve the Consent Agenda as presented. None opposed. Motion approved 3-0.

HEARING AND ADOPTION OF 2017 BUDGET

1. Resolution 2016-47 re: Adoption of 2017 Capital Improvement Budget

Board Action:

It was moved by Mr. Waks, seconded by Mr. Philips, all voting “Aye” to approve Resolution 2016-47 re: the modified 2017 Capital Improvement Budget. None opposed. Motion approved 3-0.

2. Resolution 2016-48 re: Adoption of 2017 General Operating Budget

Board Comment:

Mr. Waks was pleased to say there will be no real estate tax increase from the township which will be the seventh consecutive year without a real estate tax increase from our municipality.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Waks, all voting "Aye" to approve Resolution 2016-48 and adopt the 2017 General Operating Budget. None opposed. Motion approved 3-0.

3. Adoption of the Sewer Revenue Fund Budget

Board Action:

It was moved by Mr. Philips, seconded by Mr. Waks, all voting "Aye" to adopt the Sewer Revenue Fund Budget. None opposed. Motion approved 3-0.

APPROVE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN VALLEY FORGE CONVENTION CENTER PARTNERS, LP (C/B/A VALLEY FORGE CASINO RESORT) AND UPPER MERION TOWNSHIP

Mr. Dave Kraynik, Township Manager, stated in September of this year the Pennsylvania Supreme Court in a case identified as Mount Airy vs. the Pennsylvania Department of Revenue struck down certain portions of the Pennsylvania Gaming Act. The main provision struck down was the local-share assessment casinos provide to home municipalities. A legislative remedy is anticipated before the January deadline. In the event the General Assembly fails to fix the local-share assessment, a Memorandum of Understanding (MOU) has been negotiated with the Valley Forge Casino Resort which will allow them to continue to pay the local-share assessment amount which has been budgeted for \$1.95 million and just adopted for 2017. Mr. Kraynik noted this is a very amicable agreement with the casino and puts forth their pledge to continue to provide the township with revenue in the event the legislature does not act by the end of January. The MOU protects both the casino and the township.

Board Action:

It was moved by Mr. Waks, seconded by Mr. Philips, all voting "Aye" to approve the Memorandum of Understanding with the Valley Forge Casino Resort as presented. None opposed. Motion approved 3-0.

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. Rob Loeper, Township Planner, stated the Upper Merion Area School District submitted land development plans for the replacement school and staff has worked with them to ensure the plan not only meets code, but also serves the needs of the district's children and well as the neighbors.

The proposed new Caley School building will be built behind the existing school which will be in operation as the new one is built. Once the new school is occupied the existing school will be demolished and the new ball fields and parking lots will be implemented.

Mr. Loeper said the new school will have significantly more parking than the current school and the drop off area for parents will be significantly improved in that the parent drop off for cars and the school bus drop off will be completely separate with no interference between the two.

The plan has been reviewed by the Upper Merion Planning Commission and Montgomery County Planning, the Township Engineer, and Traffic Engineer.

Mr. Loeper discussed the following requested waivers/partial waivers:

- Partial waiver from §145-26 regarding the requirement to provide separate preliminary and final plans – *It was noted this is going right to final.*
- Partial waiver from §145-24.1.G(3) regarding the property screening buffer requirement – *the fencing around the property will be an 8-foot chain link fence vinyl coated in addition to the various landscaping.*
- Partial waiver from §145-24.1.D(3) regarding the parking lot screening requirement
- Partial waiver from §145-24.1.F(1) regarding the stormwater basins and associated facilities landscaping requirement
- Waiver from §145-24.1.F(3) regarding the stormwater basin screening requirement
- Partial waiver from §145-24.1.C(4) regarding the tree replacement requirement
- Waiver from §145-24.1.F.1(A) regarding the waiver that, within and around basins, no trees shall be planted within 30 feet of pipes requirement, to instead permit plantings within 10 feet of pipes
- Partial waiver from §145-24.1(H) regarding the building plantings requirement
- Request for waiver from §140A-13(2)(a)[2][b] regarding the berm size requirement

Mr. Loeper noted the existing school does not have any real stormwater management and there will be a marked improvement on this site with positive stormwater management and best management practices for stormwater.

Mr. Jenaway asked if the school district met with the neighbors regarding the landscaping issues. Dr. Toleno responded in the affirmative. He said there were two meetings at the Caley School on two separate evenings during which he answered numerous questions from approximately 25 attendees at each meeting. Some questions concerned landscaping and some were all other aspects of the buildings. Dr. Toleno stated going forward he will hold the same types of meetings with residents around the Gulph School as well.

Mr. Jenaway commented when his children entered Caley he was on the review team to build the new school and as a measure of how long this project has been discussed his children are now out of college.

Mr. Philips offered a series of questions regarding the landscaping waivers in order to make the point that this plan has much more landscaping than exists today even with some of the waivers.

Russ Patton, 713 Edgewood Road, asked if this project would affect the old Henderson cemetery and was under the impression this proposal was for the Gulph School. It was pointed out this proposal is for Caley Elementary. Dr. Toleno mentioned when they eventually start work on the Gulph School it will not affect that cemetery.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Waks, all voting “Aye” to adopt Resolution 2016-50 re: the approval for Caley Elementary School Development plan. None opposed. Motion approved 3-0.

Comment by Dr. Toleno after vote:

Dr. Toleno commented what a pleasure it has been working with the planning staff, Mr. Kraynik and supervisors during this process over the last number of months.

Mr. Jenaway mentioned it has been a mutually positive experience from the township's standpoint.

Mr. Jenaway asked about the timing for the current construction. Dr. Toleno responded they hope to bring this project and the Gulph School project to bid in the spring with shovels in the ground by June with openings for both schools by September 2018.

CONDITIONAL USE DECISION RE: O'NEILL PROPERTIES GROUP; 2901 RENAISSANCE BOULEVARD; 300-UNIT MF RESIDENTIAL BUILDING; 10.928 ACRES, SM-1

Mr. Robert Sebia, Township Solicitor, stated at the conclusion of the public hearing on this application the Board authorized the Township Solicitor's office to prepare an Opinion and Order for the Conditional Use Application of Renaissance Land Associates II, L.P., an affiliate of O'Neill Properties Group, L.P. for 2901 Renaissance Boulevard. Mr. Sebia read the Order of the Board of Supervisors of Upper Merion Township as follows:

"It is hereby ordered and decreed that the Board of Supervisors of Upper Merion Township finds that the Applicant presented sufficient testimony and evidence to grant the conditional use requested, with the following conditions:

1. The Applicant must comply with the testimony and exhibits of the Applicant at the public hearings before the Board of Supervisors;
2. The Applicant must comply with all conditions for land development plan approval of the Property set forth under separate Resolution.
3. The Applicant shall develop a proper crosswalk over Crooked Lane, which shall be approved by the Township Engineer and/or the Township Traffic Engineer.
4. The Applicant shall have an Erosion and Sediment ("E&S") Control Plan that has specific protocols in place related to the construction materials used to develop the Property, and made to the satisfaction of the Township Engineer.
5. The 87 parking spaces located on Lot 4 will be made available to the public as public parking spaces for the nearby transportation center. The Applicant will provide signage in and around the Property to the satisfaction of the Township Planner and the Township Traffic Engineer to notify the public of such available parking;
6. If recommended by the Township Engineer, the Applicant shall install a safety barrier or fence to the satisfaction of the Township Engineer, to prevent access to the drainage basins
7. No movements at the seven intersections indicated in the Applicant's traffic study shall be at a level of service "F". The Applicant shall make any necessary improvements to prevent an intersection from being at a Level of Service "F" for movements (except for Southbound and Eastbound turning movements of the intersection of South Gulph Road and Crooked Lane). To the extent that any such intersection improvements are also calculated into the Act 209 Traffic Improvement Fees payable by the Applicant, the Applicant shall be provided a credit toward such Act 209 Traffic Improvement Fees for the costs of such improvements. However, the Applicant shall only be given a half (1/2) credit toward any such improvements made to state roads.
8. The Applicant will obtain all approvals from the PADEP and EPA necessary to allow multi-family residential uses on the Property, including

- the EPA's issuance of a modification to the Record of Decision ("ROD") allowing multi-family residential uses.
9. The Applicant will provide the Township with written documentation from the PADEP and EPA that the proposed development satisfies human health standards prior to filing Final Plan. The Applicant will provide the Township with copies of all reports to and from any environmental regulatory agencies pertaining to the Property simultaneous with the transmission of such reports.
  10. The Applicant will implement all required environmental remediation efforts pursuant to the ROD (as it may be modified), PADEP and EPA guidelines, protocols and regulations, and will comply with all other applicant state and federal regulations
  11. Upon the Township's request, the Applicant will hold progress meetings with the Township to review the progress of construction, the implementation of any environmental remediation plans, and the implementation of land development plan. The Township may ask the EPA, PADEP, or other stakeholders to attend such progress meetings. These meetings shall be held at the Township Building at mutually agreeable times and dates, but the Township shall have the right to hold any such meetings during the construction process if concerns arise regarding the environmental remediation process. The Applicant will address any written requests for information from these meetings and associated reviews.
  12. The Applicant shall hire an environmental consultant to monitor all earthmoving activities during development of the site and submit periodic written progress reports to the Township.
  13. Implementation of the Quarry One capping, as well as general construction activities will be carried out in strict accordance with the ROD (as modified) and approved PADEP and EPA plans and protocols.
  14. No building permit shall be issued until after the owners have executed a Highway Capital Improvement Assessment Agreement with the Upper Merion Transportation Authority.
  15. The Applicant shall provide deeds of dedication for the through-road connection at the time of final approval and escrow the improvements for a period of 5 years from the date of final approval. At the end of the five year period, any unused funds will be refunded to the A
  16. At the time that the plans are released for recording, the Applicant will contribute up to \$25,000 to the Township for additional traffic and traffic related studies relating to Crooked Lane, Yerkes Boulevard and Philadelphia Avenue.
  17. As required pursuant to the Voluntary Declaration of Restrictive Covenant filed against the Property dated October 15, 2014 and filed with the Montgomery County Recorder of Deeds as Instrument Number 2014069534, the Applicant has reached the maximum number of non-age-restricted multi-family residential units on the Property. As such, the remainder of any Units to be constructed on the Property, and on 2501 Renaissance Boulevard, shall be dedicated to, provide for, or compromise a portion of a skilled-care residential facility, continuing care retirement community or other age-restricted residential use.

Mr. Jenaway commented based upon the requested conditional use the roadway does not open.

Mr. Waks expressed appreciation to the Gulph Mills Civic Association, Hughes Park Civic Association, and residents who live near these communities for attending the hearing proceedings over the many preceding months to offer their insights and opinions on this matter.

Mr. Waks stated one fact played a role in his decision on this matter. He said on June 21, 2007 the Board of Supervisors at that time approved the building of a 170,000 square foot 5-story office building. As part of the testimony of numerous witnesses throughout the process it was explained that the office

building would provide and create more traffic in the neighborhoods than the proposed residential development, especially during rush hours. Mr. Waks pointed out because of the prior approval in 2007 if an applicant came in and wanted to build a 170,000 square foot 5-story office building they could and all they would have to do is file the necessary permits. Mr. Waks emphasized it was not a choice of the Board of Supervisors between something versus nothing. It is a choice of one (residential) versus the other (office) and the residential will create far less traffic in nearby and adjacent neighborhoods.

Mr. Philips appreciated the resident participation in this arduous process and that it provided a forum for their voices to be heard and considered. He said his background as an architect and lawyer played a role in his decision process as to what makes sense for a plan and what does not work and what has to be done and can be done under the code. Mr. Philips emphasized these decisions are not made lightly and nothing is foregone as a conclusion, but the citizen input is invaluable in making these decisions.

Mr. Jenaway stated if the owners of the industrial park want to solve their transportation issues they need to find a way to open up Hertzog Boulevard and find an alignment down to River Road in as easy a fashion as possible.

Mr. Jenaway commented about the complicated roadway interface at the intersection of Crooked Lane, Yerkes Road and School Line Road and that going forward any development has to look at a comprehensive plan taking into consideration the bigger picture of an area.

Patricia Cunane, Hughes Park, thanked everyone for listening and caring about the residents and school children.

#### Board Action:

It was moved by Mr. Philips, seconded by Mr. Waks, all voting "Aye" to approve the conditional use with conditions as read. None opposed. Motion approved 3-0.

#### Board Comment:

Mr. Waks stated this was just the conditional use approval and not development plan approval. He said the development plan is anticipated early next year and it will provide another opportunity for resident input and questions. Mr. Waks urged Mr. Ed Campbell, the applicant's solicitor, to meet again with the civic associations and residents to discuss landscaping, buffering or any other issues.

#### ACCOUNTS PAYABLE & PAYROLL:

##### Board Action:

It was moved by Mr. Waks, seconded by Mr. Philips, all voting "Aye" to approve the Accounts Payable for invoices processed from November 17, 2016 to December 7, 2016 in the amount of \$314,001.28 and the Payroll for December 2, 2016 in the amount of \$745,891.99 for a total of \$1,059,893.27. None opposed. Motion passed 3-0.

### ADDITIONAL BUSINESS

#### CROW CREEK TRAIL GRANT

Mr. Waks stated Upper Merion Township last week received a \$1.25 million grant from the state in order to construct the Crow Creek Trail. The Crow Creek Trail will run from the area of the Middle School/High School up to the new Community Center. He expressed appreciation to State Senator Daylin Leach,

State Rep Tim Briggs, township staff and everyone else who was involved in promoting the grant application. Mr. Waks said trails, sidewalks and any type of public infrastructure project is very expensive and the grant will go a long way in helping fulfill the vision of the township.

#### UPPER MERION VOLUNTEERS

Mr. Philips recognized the corps of volunteers who serve Upper Merion Township on our citizen boards and other organizations. He said the volunteers form the backbone of our township and fulfill a wide range of positions that help make Upper Merion Township successful and one of the top ten places to live in the country. On behalf of the Board of Supervisors, Mr. Philips expressed appreciation to all the volunteers who serve this township every day.

#### TOWNSHIP POOL SUCCESS

Mr. Philips commented on the success during the first full season the Park and Recreation Department operated the township pool. He noted the pool improvements approved at this meeting will go a long way to enhance and improve our park and recreation facilities.

#### HOLIDAY GIFT IDEAS

Mr. Jenaway reminded everyone that a membership at the community center or pool would be an ideal present during this holiday season. He extended an invitation to tour the community center complex and see firsthand the variety of recreation options.

#### 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.

#### REORGANIZATION MEETING JANUARY 3RD

Mr. Jenaway announced the Board of Supervisors Reorganization Meeting will be held on Tuesday, January 3, 2017.

#### HAPPY HOLIDAYS

The entire Board of Supervisors joined in wishing everyone a "Happy Holiday."

#### ADJOURNMENT:

There being no further business to come before the Board, it was moved by Mr. Waks, seconded by Mr. Philips, all voting "Aye" to adjourn the meeting. None opposed. Motion approved 3-0. Adjournment occurred at 8:20 p.m.

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DAVID G. KRAYNIK  
SECRETARY-TREASURER  
TOWNSHIP MANAGER

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Minutes Approved:  
Minutes Entered