

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
BUSINESS MEETING  
JUNE 20, 2019

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, June 20, 2019, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:44 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Bill Jenaway, Greg Philips, Carole Kenney, and Tina Garzillo. Also present were: John Walk, Solicitor's Office; Rob Loeper, Township Planner; Mike Joyce, Engineer's Office. Absent:

MEETING MINUTES:

It was moved by Mr. Jenaway, seconded by Mrs. Kenney, all voting "Aye" to approve the following meeting minutes: May 2, 2019 Zoning Workshop, May 2, 2019 Supervisor's Workshop and May 23, 2019 Business as submitted. None opposed. Motion approved 5-0.

CHAIRMAN'S COMMENTS:

Chairman Waks was pleased to announce that the Board of Supervisors has reached an agreement with Anthony "Tony" Hamaday to the next Township Manager. Mr. Hamaday will take office on July 15, 2019 and his contract to be the Township Manager will be approved at the July 11, 2019 Supervisor's Workshop meeting contingent on a successful background check. At this time Mr. Waks called upon Mr. Hamaday to the podium. Mr. Hamaday expressed gratitude to the Board for selecting him to be the new Township Manager as well as appreciation and excitement in this new role. Mr. Waks also mentioned that Mr. Hamaday is currently the Township Manager at Marple Township and prior to Marple Township he was Township Manager in Upper Providence.

Mr. Waks also stated that a brief executive session was held prior to this meeting to discuss a legal matter. Mr. Jenaway took a moment to recognize the four residents of Upper Merion Township who served on the selection committee and assisted the Board in selecting the final candidate.

NEW BUSINESS

CONSENT AGENDA RE:

1. Authorization for Solicitor to Sign Settlement Stipulations re:
  - a. UMASD v EOS at 1000 Continental LLC and the Montgomery County Board of Assessment Appeals, et al – 1000 Continental Drive – Tax Parcel No. 58-00-06427-00-4
  - b. UMASD v Liberty Property, LP and the Montgomery County Board of Assessment Appeals, et al – 2301 Renaissance Boulevard – Tax Parcel No. 5-00-18603-01-4
2. Resolution 2019-21 re: Authorizing the Submission of a Grant Application for the DVRPC Competitive CMAQ Program for the Construction of Phase II of the First Avenue Linear Park in the amount of \$1,692,258.00
3. Accept Extension Letters re:
  - a. Top Golf Development Plan: 588 N. Gulph Road to July 31, 2019
4. Motion to Ratify the Designation of \$2,000,000.00 in the Revenue Stabilization Fund as Committed Fund Balance in the 2018 Upper Merion Township Financial Statements
5. Resolution 2019-24 re: Amend Resolution 2016-11 to add a Student Member to the Community Center Advisory Board

6. Rejection of Bid re: Community Center Roof
7. Resolution 2019-24 re: Authorization to Sign PA DOT Traffic Signal Permit Application for S. Henderson at Saulin Boulevard
8. Resolution 2019-25 re: Authorization to Sign PA DOT Traffic Signal Permit Application for Bill Smith Boulevard
9. Resolution 2019-26 re: Authorization to Sign PA DOT Traffic Signal Permit Application for Saulin Boulevard
10. Resolution 2019-27 re: Authorization to Sign PA DOT Traffic Signal Permit Application for DeKalb Pike at Saulin Boulevard
11. Lease of King of Prussia VFC Fire Station on Allendale Road to Upper Merion Township
12. Acceptance of Resignation of Ann Marchino from the Shade Tree Commission
13. Resolution 2019-29 re: Disposition of Township Records
14. Appointments to Citizen Boards
15. Agreements with GKO to perform Library Feasibility Study - \$12,500.00

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Philips, all voting "Aye" to approve the Consent Agenda as presented. None opposed. Motion approved 5-0.

PUBLIC HEARING: REQUEST FOR INTERMUNICIPAL LIQUOR LICENSE TRANSFER – WSA II, LLC, TO 411 SWEDELAND ROAD, KING OF PRUSSIA, PA RESOLUTION 2019-11

Mr. Walko opened the hearing by introducing the following Exhibits: Board Exhibit 1 is the Proposed Resolution Granting Approval of the License Transfer; Board Exhibit 2 is May 30, 2019 Email Requesting the Liquor License Transfer From the Applicant's Attorney; Board Exhibit 3 is the Legal Notice of Tonight's Public Hearing to Consider this Transfer Request; Board Exhibit 4 is the Proof of Publication of Tonight's Hearing in the Times Herald which was Published on June 5<sup>th</sup> and June 12<sup>th</sup> of 2019. The applicant is represented by counsel whose here and can present about this application. Mr. Walko stated that the resolution should be revised to indicate that it should be on Building 23 for liquor license purposes. He then circulated a packet that was presented by the applicant and marked it as Applicant Exhibit 1.

Mr. Walko turned over the hearing to the applicant to explain the proposed use of the proposed liquor license transfer. Francis X O'Brien, attorney for MLP, approached the podium and began by calling his first witness, Jerry O'Connell with a brief presentation. Mr. O'Brien asked Mr. O'Connell who MLP is and what he does. Mr. O'Connell stated he is the COO and Vice President of Development for MLP Ventures and they bought the million square foot GSK West Campus. He was then asked to give a brief description of the development and what is planned. Mr. O'Connell responded the property was bought back in October and GSK stayed in the building until the end of April. GSK has also leased back 100,000 square feet and leaving them with 900,000 square feet to lease up. Mr. O'Brien proceeded to ask how a restaurant fits into the development concept and Mr. O'Connell stated that they want to attract millennial tenants and give as much amenities as possible like a restaurant, coffee bar and fitness center. He then referenced the Exhibit he presented and showed where the existing restaurant is located which GSK operated. Mr. O'Connell mentioned they are looking for a foodservice like Nectar or Savona and a few other local restaurants. In regards to page 2 of the Exhibit, it was asked where the proposed restaurant would go and Mr. O'Connell responded that it would be inside building 23 with outdoor seating as well. The next two pages is an amenities package with ideas they are thinking about doing in the future like a beer hall, some common areas and even a hotel. It was then asked why a liquor license is needed and Mr. O'Connell stated that as part of the deal to have a full service restaurant, the two people they are talking to want to have a liquor license. It was asked why they wanted to bring

the license to Upper Merion Township and Mr. O'Connell said they already own one in the County but where they own one they are not building anything there. It was clarified that it is a license they already own. Mr. Waks gave thanks to the team for publishing the BOS with a copy of this.

Mr. Jenaway asked where the liquor license was being transferred from and Mr. O'Connell stated it is from a piece of land in Conshohocken where a 420,000 square foot office building is no longer being built. Mr. Philips asked if the restaurant would be open to the public, when he anticipates filling the space with the liquor license and does zoning permit the restaurant or would they have to go in front of rezoning. Mr. O'Connell confirmed it would be accessible to the public, and anticipates filling the space in less than two years. He was not certain about zoning permitting a restaurant and stated he would have to check but would go through zoning if necessary. Mrs. Kenney asked how many tables and seats the restaurant would have and Mr. O'Connell stated that right now there are about 100 seats in the existing facility and because remodeling does have to be done he was not sure how many square feet it is. Mr. Philips asked if there was an overall timeframe for when they will actually see what Discovery Labs and the retail components are and Mr. O'Connell responded that right now it is uncertain but they can have meetings with the Township to keep them up to date. With no further comment from the Board or public, Mr. Walko closed the public hearing, adjourned back into the public meeting and stated this resolution is now in the position to be voted upon by the Board.

Board Action:

It was moved by Mr. Jenaway, seconded by Mr. Philips, all voting "Aye" to approve the Intermunicipal Liquor License Transfer, Resolution 2019-11 as presented. None opposed. Motion approved 5-0.

CONDITIONAL USE HEARING RE: BRANDYWINE OPERATING PARTNERSHIP, LP, DEVELOPMENT PLAN: 650 PARK AVENUE, DEMOLITION OF EXISTING 2-STORY (+ 50,000 SF) OFFICE BUILDING AND CONSTRUCTION OF 4-STORY (+ 100,000 SF) OFFICE AND 4 LEVEL PARKING STRUCTURE. 3.12 ACRES, KPMU KING OF PRUSSIA MIXED USE REDUCTION FRONT YARD IN ACCORDANCE WITH PROVISIONS OF KPMU. PLAN EXPIRATION: 7/4/19

Mr. Walko stated that this a request for a conditional use to increase the proposed building height for the building from 50 feet to 60 feet and to reduce the First Avenue front yard setback from 50 feet to 25 feet. This hearing was commenced after proper notice, an advertisement on May 23<sup>rd</sup> of 2019. At that time it was continued on the record to tonight's hearing to finalize additional details regarding a potential use for a retail space within the building that is being proposed. Mr. Walko stated there has been correspondence with the attorney for Brandywine, Mr. Fuscaldo who is here today, and they have proposed a condition in an attempt to address what the Board is looking for regarding a public retail space in the building.

Mr. Walko turned over the hearing to Mr. Fuscaldo to lay out exactly what is being presented at this time and the reasons they believe this is satisfactory to the Board to address what they are looking for in the KPMU District. Mr. Fuscaldo stated they spent a significant time in the last month with Brandywine trying to draft a condition that would satisfy the state of desire of the Board to provide a retail space within the building. Brandywine has created a proposed condition utilizing their twenty plus years of experience leasing and owning over multiple millions of square feet throughout the county including a million square feet here in Upper Merion Township. Mr. Fuscaldo turned the hearing over to Mr. Reindl to go through the various components of the condition. Mr. Reindl stated the idea is to lease 500 to 1,200 square feet to offer some flexibility to any tenant that would be willing to come. The idea of how this is leased would be based on Brandywine initially getting a tenant which would kick off the building and for

Brandywine that is typically a 50% tenant. At that point Brandywine would make the best efforts to lease the retail space from 500 to 1,200 square feet for a period of 18 months after 65% leased space. The search for tenants has already started and the broker's incentive has been increased. Brandywine will also offer a tenant allowance to aid in fitting out the space as an incentive. However if at the end of the 18 months the building is built and no tenant has been found, a tenant will be created and a public amenity space of 500 square feet. It would be some sort of grab and go type of scenario where deliveries are made daily. A question was raised whether this space would be accessible to people going down First Avenue and Mr. Reindl responded yes it would be. Mrs. Kenney expressed her concern and disappointment as the grab and go backup plan makes it seem that Brandywine will not be able to fill the retail space.

With no further comment from the Board or public, Mr. Walko closed the public hearing, adjourned back into the public meeting and stated this conditional use application is now in the position to be voted upon by the Board. Mr. Waks stated that at this time it is appropriate to make a motion to approve the conditional use including the conditional use which was discussed and described today to be added to the original conditional use application. Mr. Walko asked the motion be made pursuant to a few conditions he will try to articulate on the record and finalize at a later time. The first being that the applicant substantially comply with any testimony or exhibits that has been presented through the course of the conditional use hearing; The second is that the applicant comply with all applicable federal, state, local laws, regulations and ordinances; The third that the applicant as required under the zoning code provide and record that 25 foot easement along First Avenue for the benefit of the public and the Township be named as a grantee of that easement; The fourth is that Brandywine will enter into a listing agreement with a reputable retail brokerage firm to pursue the potential leasing of an area of between 500 to 1,200 square feet in the building to a retail tenant. The listing agreement will be for a minimum of 18 months and such period will commence on the date that Brandywine provides Township with written notice that at least 65% of the building has been leased. The lease agreement will use a success fee based incentive to increase the brokerage commission and in addition Brandywine will also offer significant incentives to retail prospects by enhancing the tenants fit out fee. If a retail tenant is not found during the listing period, Brandywine will utilize the minimum of 500 square feet as retail or amenity space for the benefit of the public and for the building tenants. With the acceptance of these conditions, Mr. Walko amended the motion that those conditions be imposed as part of any vote to grant the conditional use.

Board Action:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve the Conditional Use Application as presented. None opposed. Motion approved 5-0.

LAND DEVELOPMENT PLAN: BRANDYWINE OPERATING PARTNERSHIP, LLC 650 PARK AVENUE; DEMOLITION OF EXISTING 2-STORY (+ 50,000 SF) OFFICE BUILDING AND CONSTRUCTION OF A 4-STORY (+ 100,000 SF) OFFICE AND 4 LEVEL PARKING STRUCTURE. 3.12 RESOLUTION 2019-12

Mr. Loeper stated this Land Development Plan is to demolish the existing two-story building and replace it with a four-story building. Mr. Loeper provided some background recalling back in December when Brandywine received several variances from the Zoning Hearing Board. Subsequently the plan was submitted. The plan went through the review process with the Township Planning Commission, Remington & Vernick Engineers and Tom Beach and also the traffic study with McMahan & Associates. One of the major changes from a cite plan standpoint is the current building has a driveway entrance on both First Avenue and on Park Avenue. This will eliminate the driveway access onto First Avenue and access from Park Avenue. From a traffic control and safety standpoint this is generally a much better situation.

There is a partial waiver request for sidewalks along Park Avenue. This was the first preferred option for Brandywine which would connect from the property line on Park Avenue and come up towards the building, directing people more or less to the amenities spaces as well as the retail space, and then wrap around the building over to Linear Park. The applicant will be buying additional ED Use for sanitation, a fee in lieu of open space, and a transportation impact fee. Those fees amount to slightly more than \$200,000.00. There are several waiver requests: The first is one that goes along with the Zoning Hearing Board decision regarding allowed parking stall dimensions to be 9 by 18 as opposed to 9.5 by 19; The second is to not allow building planning adjacent to the parking garage; The third is the partial waiver for the sidewalk; The fourth is to allow certain stormwater pipes to be less than 15 inches and a partial waiver regarding stall size for 60 degree spaces. Mr. Loeper reviewed the three sidewalk options. Mr. Loeper mentioned that regardless of any of these items and waivers before the plans are recorded the plans would have to be reviewed for compliance with both Remington & Vernick Engineers and McMahon & Associates. After the five waivers were further explained and an acceptance of conditions it was decided by the applicant that they would install larger pipes and so the fourth waiver was withdrawn.

#### Board Comments:

Mr. Waks asked if the Planning Commission have an opportunity to review the various sidewalk plans and if so did they give any type of preference and Mr. Loeper responded they did not look at these sidewalk plans. Mr. Jenaway suggested Chief Rubin review the plans for access to make sure there are not any other issues particularly due to the additional two flights. He also asked if Brandywine would be giving the Township preplanning from a consulting firm so that Chief Nolan and Fire & EMS would have access to it and no response was given at the time.

Mrs. Garzillo asked for clarification on the waiver requesting a reduction in the stormwater pipes and it was responded there are a few pipes on the west side of the building in very small areas and calculations have been run for the one hundred year storm to determine they are more than adequate. Mrs. Kenney asked for Mr. Loeper to point out where Linear Park is located on the presentation and asked if Brandywine would be paying the cost of rebuilding the Linear Park and that space and it was responded they would be paid by Brandywine and also noted that they have been working with the BID. A brief discussion ensued regarding the Board's preferred sidewalk and it was then reiterated that the sidewalk chosen aimed in bringing in more people to the area.

#### Board Action:

It was moved by Mr. Philips, seconded by Mr. Jenaway, all voting "Aye" to approve Waiver 1, 2, 3 with Sidewalk Option C, and 5 along with the Compliance from Chief Rubin and the Department of Public Safety as presented. None opposed. Motion approved 5-0.

#### ACCOUNTS PAYABLE & PAYROLL:

##### Board Action:

It was moved by Mrs. Kenney, seconded by Mrs. Garzillo, all voting "Aye" to approve the Accounts Payable and Payroll. None opposed. Motion approved 5-0.

#### ADDITIONAL BUSINESS:

##### Shredding Event at Candlebrook Elementary

Mrs. Kenney announced on Saturday there is a shredding event at

Candlebrook Elementary from 9 a.m. to 1 p.m. for Upper Merion Township residents.

#### Concert Under the Stars

Mrs. Garzillo announced to the public that Concert Under the Stars would be celebrating their 35<sup>th</sup> Anniversary. Also noting the event is free for the public and the last concert will be August 11, 2019.

#### Farmer's Market

Mrs. Garzillo reminded the public that a pop up market on Friday mornings was started at the King of Prussia Mall to be held for the rest of June and into July. Mr. Garzillo also wished everyone a happy and safe summer.

#### Summer Solstice

Mr. Philips reminded the public that schools have let out and to be mindful of children. He also mentioned that the Township has a various summer programs and amenities residents should take advantage of.

#### Swedesburg Annual Fourth of July Parade

Mrs. Garzillo stated that Swedesburg Volunteer Fire Company is having their Annual Fourth of July Parade at the firehouse next Saturday at noon and encourage residents to attend.

#### Upper Merion Township Annual Fourth of July Parade

Mr. Waks reminded the public that the Township's Annual Fourth of July Parade will be held next Thursday at Heuser Park starting at 3 p.m. There will be a carnival, beer garden operated by Workhorse, music and fireworks. The carnival will also be held Friday and Saturday.

#### Road Closures

Mr. Jenaway announced that due to the storm from last night West Beidler Road is closed completely from Saratoga to Caley Roads.

#### Upper Merion Community Pool

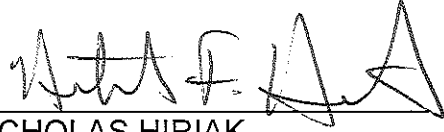
Mr. Jenaway reminded the public that pool memberships are available and encouraged residents to join. He also mentioned the pool has a volleyball court, gaga court.

#### Public Comments:

A resident, Alex, expressed gratitude for the opportunity to speak to the Township for the 10<sup>th</sup> year regarding the 10<sup>th</sup> Annual Alex's Lemonade Stand on Saturday, July 13 at the Valley Forge Towers from 11 a.m. to 3 p.m. They are looking to raise \$16,565.00 to make \$100,000.00 raised in the 10 years they have been fighting childhood cancer. The resident encouraged the public to come out to the event mentioning there will be activities such as raffles, water ice from Petrucci's, Kona Ice and face painting. Santa Clause and the Upper Merion Police and Fire Department will also be there.

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 5-0. Adjournment occurred at 9:12 p.m.



NICHOLAS HIRIAK  
ASST. SECRETARY/TREASURER

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Minutes Approved:

Minutes Entered:

