

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS  
BUSINESS MEETING  
JULY 14, 2022

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, July 14, 2022, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:48 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Carole Kenney, Greg Waks, Bill Jenaway, Greg Philips, and Tina Garzillo. Also present were: Anthony Hamaday, Township Manager; John Walko, Esq., Solicitor's Office and Leanna Colubriale, Township Engineer.

MEETING MINUTES:

May 5, 2022 – Zoning Code Workshop  
May 5, 2022 – BOS Workshop  
June 9, 2022 – Business Meeting

Board Action:

It was moved by Supervisor Waks, seconded by Vice Chairman Garzillo, all voting "Aye" to approve the meeting minutes as presented. None opposed. Motion approved 5-0.

CHAIRPERSON'S COMMENTS:

Chairwoman Kenney announced that an Executive Session was held prior to the Business Meeting to discuss personnel and matters of litigation.

At last week's Board of Supervisors Workshop Meeting, the following Citizen Board appointments were made:

- Glenn Smith to the Sanitary & Stormwater Authority
- Janette Heil to the Library Board
- Priscilla Rosenwald to the Economic & Community Development Committee
- Buzz Rosenberg to the Property Maintenance Board (Alternate) and to the UCC Board of Appeals (Alternate)
- Pattijo Taylor to the Public Safety Committee

Chairperson Kenney also noted that the Board met with Township Department Heads for a Goals & Objectives Session. The purpose of this session is to set the course of the Township for the coming year.

Board Action:

It was moved by Supervisor Jenaway, seconded by Supervisor Philips, all voting "Aye" to move Item G (Proposed 2022 Bond Ordinance) to Item B under New Business and to take off Number 6 (Financial Escrow Release for 900 River Road) off the Consent Agenda. None opposed. Motion approved 5-0.

NEW BUSINESS:

PROCLAMATION RE: PARK & RECREATION PROFESSIONALS DAY, PARK AND RECREATION MONTH

Vice Chairperson Tina Garzillo, Staff Liaison to the Park & Recreation Board read the Park & Recreation Proclamation declaring July as Park & Recreation Month and July 15, 2022 as Park & Recreation Professionals Day.

PROPOSED 2022 BOND ORDINANCE – CONSIDERATION OF A PROPOSED ORDINANCE AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF BONDS IN THE AMOUNT OF UP TO FIFTEEN MILLION ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$15,180,000.00) FOR AMOUNG OTHER THINGS, OPEN SPACE ACQUISITION, CAPITAL PROJECTS AND CAPITAL EQUIPMENT; PROVIDING FOR THE DATE, MAXIMUM INTEREST, MAXIMUM MATURITY DATES AND PLACE OF PAYMENT IN RESPECT TO THE BONDS; SETTING FORTH THE PARAMETERS FOR ACCEPTANCE OF A PROPOSAL AND AUTHORIZING ACCEPTANCE OF A PROPOSAL FOR THE PUCHASE OF THE BONDS; AUTHORIZING THE PROPER OFFICERS TO EXECUTE AND DELIVER THE BONDS; AUTHORIZING AND DIRECTING THE PREPARATION, CERTIFICATION AND FILING OF THE PROCEEDINGS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; AND SETTING FORTH A FORM OF BOND

Anthony Hamaday, Township Manager stated that Mr. Wolf, Bond Council is present to answer any questions. This is a request to the Board of Supervisors to adopt this ordinance. It was advertised in accordance with the requirements. Chairperson Kenney stated that a good portion of this bond will be going to purchase open space for the citizens of Upper Merion Township. Supervisor Philips also noted that a portion of the money will be going to Capital Improvements, which are desperately needed throughout the Township.

Board Action:

It was moved by Supervisor Jenaway, seconded by Supervisor Waks, all voting "Aye" to accept this ordinance as presented. None opposed. Motion passed 5-0.

PUBLIC HEARING RE: A PROPOSED ORDINANCE ADDING SECTION 165-219.8 TO THE UPPER MERION TOWNSHIP ZONING ORDINANCE TO REGULATE SHORT TERM RENTAL UNITS WITHIN THE TOWNSHIP AND ESTABLISH PENALITES FOR VIOLATIONS

John Walko, Township Solicitor closed the Business Meeting and opened the Public Hearing for a proposed ordinance to regulate Short Term Rental Units with the Township and establish penalties for violations. He entered the exhibits into record. Mr. Walko gave a brief summary explaining the purpose of the ordinance.

Public Comment:

Antonio Zullo, 492 South Gulph Road, stated that he attended the May meeting and informed the Board that there is an AirBnB next door to him that started in December. He shares a driveway with his neighbor. He is happy that this ordinance is being proposed and hopes that it will pass.

James Quinn, stated that he lives on the other side of the AirBnB. He also noted that he is happy this ordinance will be adopted. He asked about liability issues with regards to potential problems occurring at an AirBnB or short-term rentals.

Melissa MacVaugh, 498 South Gulph Road asked if there was a provision in the ordinance pertaining to registration for Megan's Law for a 30-day rental. Mr. Walko, Township Solicitor stated that he can't speak for the Megan's Law requirements specifically for people relocating for short term rentals. This ordinance does not address that requirement.

Board Comment:

Supervisor Jenaway raised the question about how long it will take to implement this ordinance and if a person owns a property and has rentals scheduled for the next six months how is this going to be handled. Mr. Walko stated that there is no grandfathering in of future contracts so after the five days enforcement by the Township can begin against the property owner.

Vice Chairman Garzillo explained the difference between short term rentals and renting through leases. She asked if this ordinance is passed word needs to get out over social media and our website as well as form letters sent from the Township outlining the new ordinance and what it means to tenants and property owners.

After no other comments, Solicitor Walko closed the public hearing and opened up the Business Meeting for a Board vote on the Short-Term Ordinance.

PROPOSED SHORT TERM RENTAL ORDINANCE – CONSIDERATION OF A PROPOSED ORDINANCE ADDING SECTION 165-219.8 TO THE UPPER MERION TOWNSHIP ZONING ORDINANCE TO REGULATE SHORT TERM RENTAL UNITS WITHIN THE TOWNSHIP AND ESTABLISH PENALITES FOR VIOLATIONS.

Board Action:

It was moved by Supervisor Philips, seconded by Supervisor Jenaway, all voting "Aye" to adopt the Short-Term Rental Ordinance as presented. None opposed. Motion passed 5-0.

PUBLIC HEARING RE: A PROPOSED ORDINANCE AMENDING THE UPPER MERION TOWNSHIP CODE, CHAPTER 69, "CONSTRUCTION CODES, UNIFORM" TO ADOPT PROVISIONS OF THE 2018 INTERNATIONAL BUILDING CODE, RESIDENTIAL CODE, FIRE CODE, PLUMBING CODE, MECHANICAL CODE, EXISTING BUILDING CODE, AND URBAN-WILDLAND INTERFACE CODE, AND 2017 NATIONAL ELECTRICAL CODE, WITH CERTAIN ADDITIONS, INSERTIONS AND CHANGES

John Walko, Township Solicitor closed the Business Meeting and opened the Public Hearing for a proposed ordinance amending the Upper Merion Township Code, Chapter 69 to adopt the 2018 International Building Code. He entered the exhibits into record. Mr. Walko gave a brief summary explaining the purpose of the ordinance. He stated that the changes to the code were recommendations from Township Code Department staff members.

Public Comments: None

Board Comments:

Supervisor Jenaway clarified for the public that the way Pennsylvania's local government is structured, township officials are always operating on a series of codes one current edition behind. This ordinance will bring us into the current code available.

At this time Solicitor Walko adjourned the public hearing and adjourned back to the Public Meeting for a vote.

BUILDING CODE AMENDMENT ORDINANCE – CONSIDERATION OF A PROPOSED ORDINANCE AMENDING THE UPPER MERION TOWNSHIP DODE, CHAPTER 69, “CONSTRUCTION CODES, UNIFORM” TO ADOPT PROVISIONS OF THE 2018 INTERNATIONAL BUILDING CODE, RESIDENTIAL CODE, FIRE CODE, PLUMBING CODE, MECHANICAL CODE, EXISTING BUILDING CODE, AND URBAN-WILDLAND INTERFACE CODE, AND 2017 NATIONAL ELECTRICAL CODE, WITH CERTAIN ADDITIONS, INSERTIONS AND CHANGES.

Board Action:

It was moved by Supervisor Philips, seconded by Supervisor Jenaway, all voting “Aye” to adopt the Building Code Ordinance as presented. None opposed. Motion passed 5-0.

CONSENT AGENDA:

1. Budget Transfer from Building Maintenance Account to HVAC Contract Account in the amount of \$10,000.00 to cover the additional HVAC expenses this year.
2. Budget Transfer from Tuition Reimbursement Account to Utilities Account in the amount of \$6,000.00 to cover the utility use at Stations 356 and 56.
3. Schuylkill River West Trail Contract Payment 2 – James R. Kenney Excavating & Paving. Approve Payment Certificate #2 to James R. Kenney Excavating & Paving in the amount of \$222,381.00 for work to date on Phase 2 of the Schuylkill River West Trail.
4. Resolution 2022-30 – Montgomery County Transportation Program Grant Application – Henderson Road Pedestrian Crossing. Authorization for the Township Manager to submit a County Transportation Program Grant in the amount of \$149,056.00 to Montgomery County for the construction and installation of pedestrian crossing improvements on Henderson Road (SR 3029) at Crossfield Road.
5. Resolution 2022-31 – Multimodal Transportation Fund Grant Application – Henderson Road Pedestrian Crossing. Authorization for the Township Manager to submit a Multimodal Transportation Fund Grant in the amount of \$178,445.00 to the Commonwealth Financing Authority to be used for construction and installation of pedestrian crossing improvements on Henderson Road (SR3029) at Crossfield Road.
6. Financial Escrow Security Release No. 2, Stonebridge at Upper Merion Subdivision, DeKalb Pike – Approval of Escrow Release No. 2 to Toll Mid-Atlantic LP., in the amount of \$1,803,496.50 for the completion of required site improvements to date as part of the subdivision as recommended by the Township Engineer.

7. First Avenue Linear Park Phase 2 Contract Payment #1 – Road-Con, Inc. Approval of Contract Payment #1 in the amount of \$144,000.00 for the First Avenue Linear Park Phase 2 Project to be paid by the King of Prussia BID as part of the Linear Park Project Agreement.
8. Land Development Plan Review Extension – 450 W. Beidler Road LLC. Accept letter of extension from 450 W. Beidler Road LLC for the review of the proposed Land Development Plan through August 12, 2022.
9. Land Development Plan Review Extension – GCP Prussia, LP. Accept letter of extension from GCP Prussia, LP – 127 Gulph Road for the review of the proposed Land Development Plan through August 12, 2022.
10. Resolution 2022-34 – Multimodal Transportation Fund Grant Application – Linear Park Phase 3. Authorization for the Township Manager, in conjunction with the KOP BID, to submit a Multimodal Transportation Fund Grant in the amount of \$2,348,093.00 to DCED to be used for design and construction of Phase 3 of the Linear Park Project.

Board Action:

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

PRELIMINARY/FINAL LAND DEVELOPMENT PLAN – JM HOLDINGS/CHASE BANK, 677 W. DEKALB PIKE. CONSIDERATION OF THE PRELIMINARY/FINAL LAND DEVELOPMENT PLAN OF JM HOLDINGS/CHASE BANK, 677 W. DEKALB, DATED MAY 24, 2022, AS PREPARED BY BOHLER ENGINEERING PA, LLC FOR THE PROPOSED DEVELOPMENT OF THE PROPERTY INTO A NEW BANK, COMMERCIAL BUILDING AND ASSOCIATED SITE IMPROVEMENTS RESOLUTION 2022-32

Mr. Hamaday, Township Manager stated that no representative from Chase is present tonight. He did explain that they attended the work session to go over the changes to the plan. They removed the waivers for stormwater, the construction of the Chase Bank building and the 2600 sq. ft unnamed retail space. Per the terms of the settlement agreement they have agreed to comply with all stormwater requirements. The only waiver that they are requesting is for the street trees along DeKalb Pike due to the power lines. The trees will be relocated to a different area of the site. As part of the settlement agreement a note will be put on the final plan that would restrict the retail building from being used as a carry out or drive-thru restaurant.

Board Comments:

Supervisor Jenaway commented that this plan is disturbing to him. He feels that there is too much development for this site. He is against the kiosk due to traffic issues.

Supervisor Philips concurred with Supervisor Jenaway.

Board Action:

It was moved by Supervisor Waks, seconded by Vice Chairperson Garzillo to approve Resolution 2022-32 for JM Holdings/Chase Bank. Supervisors Jenaway and Philips voted "nay". Motion passed 3-2.

PRELIMINARY FINAL LAND DEVELOPMENT PLAN – VIMCO – 250 HANSEN ACCESS ROAD. CONSIDERATION OF THE PRELIMINARY FINAL LAND DEVELOPMENT PLAN FOR VIMCO, 250 HANSEN ACCESS ROAD, NOVEMBER 15, 2021, LAST REVISED JUNE 7, 2022, AS PREPARED BY BERCEK & ASSOCIATES, INC. FOR THE PROPOSED CONSTRUCTION OF A NEW 24,000 SF MANUFACTURING BUILDING AND ASSOCIATED SITE IMPROVEMENTS ON THE PROPERTY. RESOLUTION 2022-33

Mr. Hamaday, Township Manager, stated that the applicant and engineer are present tonight. They did present their revised plan at the July Workshop meeting. The plan is for a stand alone 24,000 square foot manufacturing building. The proposed resolution lists several waivers that the applicant is seeking. Solicitor Walko explained the waiver requests in detail.

Board Action:

It was moved by Supervisor Jenaway, seconded by Supervisor Philips, all voting "Aye" to approve Resolution 2022-33 for the development plan at 250 Hansen Access Road. None opposed. Motion passed 5-0.

CRAFT CUSTOM HOMES ESCROW RELEASE (FINAL) – 383 ANDERSON ROAD SUBDIVISION. CONSIDERATION OF A REQUEST FROM CRAFT CUSTOM HOMES FOR THE FINAL IMPROVEMENT ESCROW RELEASE IN THE AMOUNT OF \$28,965.56 AND FINAL INSPECTION ESCROW RELEASE IN THE AMOUNT OF \$12,000 POSTED FOR THE ANDERSON ROAD SUBDIVISION.

Mr. Hamaday stated that the contractor is asking for final escrow release for the Anderson Road Subdivision. The Township Engineer has inspected and found some deficiencies with construction on the site related to the road and ADA access ramp at Farm Lane and Anderson Road. Therefore, Township staff is recommending to the Board to not release the escrow amounts at this time. We have provided the developer with a punch list noting the deficiencies.

Public Comment:

Residents from 102, 104, 106 and 108 Farm Lane attended the meeting and spoke. They are in-agreement with the Board that the escrow should be denied. The residents wanted to state for the record that Craft Custom Homes inability to remediate any of the issues presented and their inability to answer any communications sent to him for the last several months are reasons to deny the release of the escrow.

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Jenaway, all voting "Aye" to deny the escrow release for this subdivision. None opposed. Motion passed 5-0.

DAVIS DEVELOPMENT GROUP STORM WATER PERMIT B WAIVER REQUEST – 696 NORTH HENDERSON ROAD. CONSIDERATION OF A REQUEST FROM DAVIS DEVELOPMENT GROUP WAIVING THE REQUIREMENT FOR GRADING TO BE SETBACK AT LEAST FIVE FEET FROM PROPERTY LINES TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY DWELLING ON THE PROPERTY AS RECOMMENDED BY THE TOWNSHIP ENGINEER.

Mr. Hamaday, Township Manager stated that this is a new single-family dwelling on a vacant lot on North Henderson Road. The applicant is proposing a swale between the two properties that will capture stormwater runoff. They need to grade in that 5-foot setback to create the swale. The Township Engineer as well as Township Staff agree that it does makes sense to create the swale to capture the stormwater.

Board Action:

It was moved by Supervisor Philips, seconded by Vice Chair Garzillo, all voting "Aye" to grant the waiver request from Davis Development Group. None opposed. Motion approved 5-0.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Supervisor Jenaway, seconded by Supervisor Waks, all voting "Aye" to approve the Accounts Payables for invoices processed from June 2, 2022 through July 6, 2022 and Payrolls dated June 10, 2022 and June 24, 2022 for a total of \$5,482,033.67. None opposed. Motion approved 5-0.

ADDITIONAL BUSINESS:

Supervisor Philips asked for a date as when the flashing beacon for the trail on Keebler Road will become operational. Township Manager stated that he has not heard from Gilmore & Associates about a date but as soon as he gets a date he will forward it to the Board.

Supervisor Jenaway announced annual National Night Out will be held on Tuesday, August 2, 2022. This event is for public safety agencies to hold demonstrations/open houses in various neighborhoods throughout the township. He urged all residents to come out and participate in this event.

Vice Chair Garzillo noted that the Farmer's Market Zucchini 500 Event is this Saturday, July 16<sup>th</sup>. This event is a great event for children. The judges are Supervisor Jenaway and HR Director Sibyl Bryant. The zucchini race starts at 10:30 am.

Supervisor Waks wished the Township's Muslim population a Happy New Year.

Chairperson Kenney mentioned the memorial bench which sits in the Township Park behind the Township Building. The memorial bench is in remembrance of our deceased Farmer Market friends, Alice & George Koresko, Joyce Livengood and Bill Kenney.

PUBLIC COMMENTS:

Mr. Richard Schofield stated that he has tried over the last few years to be nice with regards to his property and flooding issues. He reiterated his frustration with regards of no action from the Board of Supervisors over the years.

A lengthy discussion between Mr. Schofield, Township Solicitor and the Board of Supervisor took place with regards to Mr. Schofield's flooding issues. Much of the discussion revolved around what the Board can actually do legally to address these issues.

Chairperson Kenney stated that she understands the frustration but living next to a creek has its own consequences and Mr. Schofield chooses to live next to a creek therefore there is always a risk of floods. She explained to him that the Board is doing what they can to help but they cannot fix his problem entirely.

Several residents from Farm Lane expressed their concerns over Craft Custom Homes and their business practices. They asked the board to deny this builder building permits in the future. Supervisor Philips asked the manager and solicitor if our Blight Ordinance would apply to this situation. Solicitor Walko stated that he did review our ordinance but feels it does not apply to this issue.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Supervisor Jenaway, seconded by Supervisor Waks all voting "Aye" to adjourn the meeting at 9:22 PM. None opposed. Motion approved 5-0.

  
ANTHONY HAMADAY  
TOWNSHIP MANAGER

AH/cd  
Minutes Approved:  
Minutes Entered: