

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
BUSINESS MEETING
DECEMBER 8, 2022

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, December 8, 2022, 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, Tina Garzillo, Carole Kenney, Bill Jenaway and Greg Philips. Also present were: Anthony Hamaday, Township Manager; Ashton Jones, Township Planner; John Walko, Township Solicitor's Office and Leanna Colubriale, Township Engineer.

MEETING MINUTES:

October 13, 2022 – Business Meeting
November 3, 2022 – Workshop Meeting
November 10, 2022 – Business Meeting

Board Action:

It was moved by Supervisor Jennaway, seconded by Supervisor Waks, all voting "Aye" to approve the Meeting minutes listed above. None opposed. Motion approved 5-0.

CHAIRPERSON'S COMMENTS:

Chairwoman Kenney stated that there was an Executive Session involving legal and personnel issues prior to tonight's Business Meeting.

NEW BUSINESS:

PRESENTATION TO Dr. Morrison, retiring after 40 Years of Performing Police Psychological Exams

Chief Thomas Nolan presented Dr. Morrison with a Retirement Plaque, the same as all Upper Merion Township Police personnel receive when retiring.

PROCLAMATION – 50th Anniversary of Temple Brith Achim

Supervisor Waks read and gave the proclamation to Ms. Schulski, representative for Temple Brith Achim.

CONDITIONAL USE HEARING – Royal Garden, LP, 1100 First Avenue.
Conditional Use application of Royal Garden, LP, 1100 First Avenue to permit the construction of multi-family apartments, structured parking garage and sidewalk construction variances on the KPMU Zones property.

Mr. John Walko adjourned the meeting to open the hearing and submitted (7) seven Board exhibits then turned the meeting to the applicant's attorney Mr. Christakis from Buckley Brion Law Firm who asked for a continuance since his team was unable to attend tonight's meeting.

Public Comment: None

Board Action:

It was moved by Supervisor Philips, seconded Vice-Chair Garzillo by all voting "Aye" to allow the continuance for Royal Garden, LP to present at the January 12, 2023 meeting which will be held at 7 pm. None opposed. Motion passed 5-0.

PUBLIC HEARING – Proposed Ordinance amending the Upper Merion Township Zoning Code, Chapter 165, to:

- 1) Permit the Use of "Hospital" in the King of Prussia Mixed Use (KPMU), Heavy Industrial (HI), and Light Industrial (LI) Zoning Districts.
- 2) Amend the tract size requirement for multi-family & rowhouse uses in the R-3A District.

Mr. John Walko adjourned the meeting again to open the hearing and submitted (5) Board exhibits why they are proposing to amend the Ordinance.

Public Comment: None

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Jenaway, all voting "Aye" to amend Chapter 165 of the Zoning Code for use of a Hospital. None opposed. Motion passed 5-0.

Mr. Walko adjourned the hearing and reopened the public meeting.

CONSENT AGENDA:

1. Resolution 2022-48 – Establishing the fixed dollar amount to be excluded from taxation for each Homestead Property in Upper Merion Township for calendar Year 2023.
2. Budget Transfer from Account 01-430-3170 (Snow/Ice Control) to 01-430-3190 (Other Professional Services) in the amount of \$18,000.00 to cover the service fees for the PA One Call markings.
3. Budget Transfer from Account 08-421-3610 (Utilities-Electrical) to 08-422-2250 (Lab/Testing Expenses) in the amount of \$15,000.00 to conduct a treatment plant headworks analysis for NPDES Permit.
4. Authorization of 2022 Supplemental Budget Appropriations – Park & Recreation and Public Works. Authorization of the following 2022 Supplemental Budget Appropriations due to unanticipated expenditures/revenues as follows:
 1. 01-367-0110 Swimming Pool Membership (revenue) - \$14,730.00
 2. 01-450-1811 Sal/Wages P/T Pool (expense) - \$14,730.00
 3. 01-367-0111 Swimming Pool Daily Fees (revenue) - \$4,946.00
 4. 01-450-1811 Sal/Wages P/T Pool (expense) - \$4,946.00
 5. 01-367-0112 Swimming Pool Programs (revenue) - \$13,358.00
 6. 01-450-1811 Sal/Wages P/T Pool (expense) - \$13,358.00
 7. 01-367-0113 Swimming Pool Rentals (revenue) - \$9,860.00
 8. 01-450-1811 Sal/Wages P/T Pool (expense) - \$9,860.00
 9. 01-367-0491 Comm Center Memberships (revenue) - \$73,920.00

10. 01-450-4593 Programs-Inst. Classes (expense) - \$73,920.00
11. 01-367-0492 Comm Center Programs (revenue) - \$65,760.00
12. 01-450-4593 Programs-Inst. Classes (expense) - \$65,760.00
13. 01-367-0493 Comm Center Miscellaneous (revenue) - \$20,400.00
14. 01-450-4593 Programs-Inst. Classes (expense) - \$20,400.00
15. 01-367-0493 CC Miscellaneous (revenue) - \$5,000.00
16. 01-450-3185 Debris/Waste Removal (expense) - \$5,000.00
17. 01-367-0490 CC Facility Rental (revenue) - \$13,800.00
18. 01-450-3900 Bank Charges Fees (expense) - \$13,800.00
19. 08-364-0600 Sewer Misc. (revenue) - \$20,000.00
20. 08-421-2250 Lab/Testing Expenses (expense) - \$20,000.00

5. Linear Park Project Phase 2 Contract Payment No. 1 - Road-Con, Inc. Approval of Payment Certificate No. 1 for Phase 2 of the First Avenue Linear Park Phase II Project to Road-Con, Inc. in the amount of \$481,191.88 for work to date on the Project.
6. Linear Park Project Phase 2 Contract Extension – Road-Con, Inc. Approval of a request from Road-Con, Inc. for an extension of time on the Linear Park Project Phase 2 Contract to April 30, 2023 due to material delays.
7. Intermunicipal Recycling Grant Submission agreement with Lower Merion Township. Approval of an intermunicipal agreement with Lower Merion Township for the joint submission an annual Recycling Program Performance Grant to the PA Department of Environmental Protection.
8. Authorization to Advertise Wastewater Treatment Chemical Contracts Bid.
9. Financial Escrow Security Release No. 1 (Final), Henderson Road Investors, LLC, Land Development – 243 S. Henderson Road (Taco Bell/Mavis) – approval of Escrow Release No. 1 (Final) to Henderson Road Investors, LLC, in the amount of \$923,765.15 for the completion of required site improvements to date as recommended by the Township Engineer.
10. Authorization to prepare and advertise a proposed ordinance amending Article XXXVII, Sexually Oriented Businesses, of the Township Zoning Code.

Public Comment: None

Board Action:

It was moved by Supervisor Philips, seconded by Vice Chair Garzillo, all voting "Aye" on the Consent Agenda. None opposed. Motion passed 5-0.

FINAL LAND DEVELOPMENT PLAN – JP ORLEANS, MANCILL MILL ROAD, Consideration of a final land development plan for JP Orleans, Mancill Mill Road, prepared by Edward B. Walsh & Associates, Inc., dated August 9, 2019, last revised May 23, 2022 for the construction of a 119-unit townhouse development and associated site improvements, including waivers as outlined in said resolution. 14.4 acres, SM-1 Zoning District. Resolution 2022-47

Supervisor Waks recused himself from participating on this Development for the same reasons previous stated when this project was originally presented.

Mr. Walko explained the (3) three waivers the applicant is asking for 1) to put money into escrow in lieu of a sidewalk, 2) they want to change the species of trees and plants but are keeping the amount of foliage and 3) changing the placement of the plants.

Supervisor Jenaway stated that the escrow payment for the sidewalk waiver should not go into the general fund in case the BID doesn't complete the path for the linear park then they will have to complete the sidewalk.

Chairperson Kenney asked about a light at the intersection and Mr. Walko explained PennDOT will be doing a traffic study and it also depend on the number of houses that will be built. Then Mr. Larry Dugan said they are waiting for some easement to come through with the neighboring properties and they would like to complete this project as soon as possible once it finally starts hopefully on March 1,2023.

Public Comment: None

Board Action:

It was moved by Supervisor Jenaway, seconded by Vice Chair Garzillo, all voting "Aye" to approve Resolution 2022-47. None opposed. Motion passed 4-0-1.

PRELIMINARY/FINAL DEVELOPMENT PLAN – 450 W. BEIDLER ROAD – Consideration of a preliminary/final Land Development Plan for 450 W. Beidler Road, prepared by Trans-pacific Engineering Corp., dated November 11, 2020, last revised October 12, 2022 for the construction of 9 townhouses and associated site improvements on the 2.73-acre tract. Zoned R-3A. Resolution 2022-50

Mr. Hamaday said that this developer reduced the number of homes they were proposing to build from 12 to 9 on a 2.7-acre plot and are asking for (2) two waivers, 1) not to widen the rode to 32-foot cartway width, leaving it at a 16-foot cartway width claiming this will eliminate speeding.

Supervisor Jenaway asked about the cartway waiver and if the Township ever received the final resolution from PennDOT for the opening. The applicant's attorney, Ms. Jamie Jun stated that PennDOT had a preliminary review and didn't have any issues with the opening but the applicant has not received the HOP permit from PennDOT. Mr. Walko explained that the project is contingent on the receipt of the HOP permit.

Supervisor Jenaway asked if PennDOT was contacted about the stormwater pipe and inlet, the applicant's Engineer, Mr. Jun Pak said PennDOT has not been contacted. Mr. Pak explained that they will install an inlet to accept the water run off from the road which should stop the erosion. This will be a large pipe which the water would run through and dumped into a large ditch behind the properties. Mr. Jenaway asked if there will be fencing installed so no one could fall into this ditch, he also asked if decreasing the houses to only (9) nine being built instead of (12) twelve solved the deep slope concerns? Mr. Pak said they are installing a fence only at the sidewalk but can extend the fencing if project is approved also the deep slope was address by decreasing the amount of homes being built.

Public Comment: None

Board Action:

It was reluctantly moved by Supervisor Waks, seconded by Supervisor Philips, only two voting "Aye" to approve Resolution 2022-50. Three opposed. Motion denied 3-2.

PRELIMINARY/FINAL DEVELOPMENT PLAN – 346 E. CHURCH ROAD – Consideration of a preliminary/final Land Development Plan for 346 E. Church Road, prepared by Chester Valley Engineers, dated April 29, 2022, last revised October 26, 2022 for the construction of a 4,000 sq. ft. building addition and associated site improvements on the .98-acre tract. Resolution 2022-51

Mr. Hamaday introduced one of the applicant's attorney Mr. Joseph Baldassari who works along with his partner Mike Fury, which was unavailable for tonight's meeting. Mr. Baldassari introduced the client's engineer, Mr. Mike Joyce from Chester Valley Engineers who addressed Board of Supervisors.

Chairperson Kenney said she will not approve a waiver for the sidewalk due to the Township wanting all new projects to include sidewalks. Mr. Joyce mentioned instead of a concrete sidewalk they would have a pedestrian right of way which would be painted asphalt due to cost. Supervisor Philips said if the Board did grant the waiver he would want the asphalt to be stamped with a pattern to resemble a sidewalk instead of just painted.

Supervisor Philips also asked about the waiver for trees, Mr. Joyce and Mr. Baldassari said instead of trees they would be replaced with other greenery due to trees blocking the security cameras. Chairperson Kenney asked how many trees will be replaced with shrubbery and doesn't feel comfortable granting a waiver without knowing the exact number of trees. Supervisor Waks asked if the applicant prefers to make a pedestrian path instead of a sidewalk he would like to have bollards separating the path from the parking, this could be some kind of shrubbery which would also help with the greenery waiver and feels that the applicant should still pay a fee in lieu for trees. Supervisors Jenaway and Kenney concurred

Vice-chair Garzillo suggest the applicant comes back in January to a Board of Supervisors Workshop with new plans and also to go over all the other waivers the applicant is asking for.

Board Action:

It was moved by Supervisor Philips, seconded by Vice Chair Garzillo, all voting "Aye" to extend Resolution 2022-51 to the end of January. None opposed. Motion passed 5-0.

After this vote Supervisor Philips left the meeting.

PRELIMINARY/FINAL DEVELOPMENT PLAN – EXETER – 555 FLINTHILL ROAD – Consideration of a preliminary/final Land Development Plan for Exeter 555 Flinthill, LLC, prepared by Kimley Horn & Assoc., dated June 1, 2022, last revised October 26, 2022 for the construction of a proposed 112,500 sq. ft. warehouse and associated site improvements of the 6.72-acre tract. Zoned LI Limited Industrial. Resolution 2022-52

Mr. Hamaday explained that the applicant was asked at the November meeting to address the Boards concerns about truck traffic route and environmental issues. The applicant's attorney Ms. Debra Shulski from Riley Riper Hollin & Colagreca stated that the applicant's team has meant all the environmental requirements that were asked of them at the last meeting. As for the traffic flow she said they looked at the Boards suggestions then introduced Mr. Paul Hughes, project manager to go over the changes.

Mr. Hughes gave an overview of the plans with the suggested mitigation measure that were discussed with Township staff and said there would be a post traffic study following the completion of this development. He explained that most traffic is due to the bridge closure detour and that this project wouldn't be up and running until the bridge was completed. He also mentioned a possible address change to Hertzog Boulevard instead of Flinthill Road which should help relieve some traffic once they workout logistics with Google Maps and Ways. In addition, signage "No Right Turn" to be installed at Flinthill Road site driveway.

Mr. Hughes also said his client agrees to instruct all tenants using this property as a warehouse or distribution center to direct 53' and larger tractor trailer to access property from Route 202 to Henderson Road to Church Road shown on Truck Route Sheet per Municipalities Planning Code. He also mentioned about reporting Wrong Directions in Google Maps, petitioning KOP Industrial District and PennDOT for additional signage as well as signage on Renaissance Boulevard "Trucks" "No Right Turn". These are all ideas that they talked about and will work with the Township and PennDOT to implement.

Chairperson Kenney asked if the applicant looked into renting this facility for a Life Science Company instead of a Warehouse. Mr. Tom Allman from Exeter said that they are willing to have a life science user and are not focusing on any certain tenant. This is a flex shell which is capable of accommodating different types of businesses and that they don't have a pacific client in mine.

Supervisor Jenaway asked about the environmental issues of contaminants in the water table. Mr. Jonathon Spergle, environmental council for Exeter said that the original Vertec Report was read wrong stating that Act II White House standard for non-residential Benzene chemical couldn't exceed a certain amount but was fine if under that amount. When they reviewed the data closer they realized they were looking at the lower number not the higher number, so there are not any exceedances for soil at the site.

Public Comment:

Resident Mr. Mark McKee asked for clarification on the truck route stating that what Exeter proposed only addressed trucks coming off the Turnpike. Mr. Allman explained that they trying to direct all trucks with signage and GPS to avoid the historic district and to stay off of route 320 which is a State Road. By using Township roads that runs with the land allows the Township to enforce the Ordinance.

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Jenaway , all voting "Aye" to approve Resolution 2022-52. None opposed. Motion passed 4-0.

PRELIMINARY/FINAL DEVELOPMENT PLAN – 320 W. DeKALB PIKE – POPEYE'S RESTAURANT. Consideration of a preliminary/final Land Development Plan for 320 DeKalb Partners, LLC, 340 DeKalb Partners, LLC, prepared by Showalter Assoc., dated December 3, 2021, last revised November 16, 2022 for the construction of a proposed one-story 2.454 sq. ft. drive-thru restaurant (Popeyes) and associated site improvements on the 15.5-acre DeKalb Plaza tract. Zoned SC Shopping Center. Resolution 2022-53

Mr. Hamaday said the applicant's lawyer Ms. Farrell is at tonight's meeting and if there are any questions for her she can address them later, then he explained that the applicant has already presented to the Board at a previous meeting. Mr. Hamaday went on to say the applicant has meant most the Boards requirements but they are asking for a waiver on the Landscaping Islands to match the existing islands and not to place a landscaping island over the new detention basin. They are also asking for a Stormwater waiver for peak flow attenuation and water quality requirements only for the develop portions of the property rather than the whole track because the property slops in the rear so they are physically unable to capture that water flow. However, they're capturing everything else that is impervious as well as some from the watershed that's on an adjacent property. Finally, the applicant is also paying for a transportation impact fee of \$148,558.00 and would like to break ground in Spring of 2023.

Public Comment: None

Board Action:

It was moved by Supervisor Jenaway, seconded by Vice Chair Garzillo, all voting "Aye" to approve Resolution 2022-53. None opposed. Motion passed 4-0.

PRELIMINARY/FINAL DEVELOPMENT PLAN – NICK ABBONIZIO, 316 W. CHURCH ROAD. Consideration of a preliminary/final Land Development Plan for Nick Abbonizio, 316 W. Church Road, prepared by JMR Engineering, LLC, dated September 2, 2022 for the proposed construction of a 4-story warehouse and parking facilities on the 1.66-acre LI/R2 zoned property. Resolution 2022-55

Mr. John Walko explained this applicant remitted their plans to the Board in September 2022 and after the Townships professional engineers and traffic engineers timely reviewed along with Public Works review letters were sent early October to the applicant. As to date they have not resubmitted new plans after receiving those comments by letter. The plan reviews show significant deficiencies on their plans which do not meet code required by Upper Merion's Codes. Also, there was no representative for the applicant at the meeting to answer questions.

Public Comment: None

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Jenaway, all voting "Aye" to deny Resolution 2022-55. None opposed. Motion denied 4-0

RESOLUTION 2022-54 re: Approval of the 2023 Fire Fighter Stipend Program in the amount of \$302,000.00 and authorization to include in the 2023 Township General Fund Operating Budget

Supervisor Jenaway recused himself from voting on this since he is involved with the fire program. Mr. Hamaday explained by doing this Supervisor Jenaway will be able to vote on the rest of the Budget presented tonight.

Public Comment: None

Board Action:

It was moved by Supervisor Waks, seconded by Vice Chair Garzillo, all voting "Aye" to approve Resolution 2022-54. None opposed. Motion passed 3-0-1.

HEARING AND ADOPTION OF 2023 BUDGET:

- 1) Resolution 2022-49 re: Adoption of 2023 Township General Operating Budget.
- 2) Adoption of Sewer Revenue Fund Budget.

Mr. Hamaday explained that the General Fund has increased about 8.9% and the Capital Budget increased about 200% which will increase the Real Estate tax bill by 14.6%, averaging about \$24.00 increase mainly due to hiring more Police and EMS personnel and to replace some civilian employees that were furloughed. As for the Sewer Revenue Fund there was an 8% decrease so the Sewer bill will be staying the same for 2023 year.

Supervisor Waks stated that built into the 2023 budget is a \$15.00 minimum wage for new employees to match the surrounding townships.

Public Comment: None

Board Action:

It was moved by Supervisor Waks, seconded by Supervisor Jenaway, all voting "Aye" to approve 2023 Budget. None opposed. Motion passed 4-0.

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, November 3, 2022 through, November 30, 2022 and Payrolls dated November 10th and 25th of 2022 for a total of \$4,120,327.78. None opposed. Motion approved 4-0.

ADDITIONAL BUSINESS:

Supervisors Waks, Garzillo and Jenaway all wish everyone a happy and safe holiday throughout this season.

In addition, Mr. Jenaway showed a postcard that was mailed to the residents advertising that the Township is recruiting volunteer and paid fire fighters, fire police, EMS technicians and fire administration personnel, so please check your mail. He also wanted to remind that extension cords are temporary and not to over load them, keep open flames (candles) 3' away from combustibles and to test your smoke detectors monthly.

Chairperson Kenney thanked everyone who attended the Holiday Village and gave Kudos to all the employees involved. Mrs. Kenney also mentioned that she spoke to several Representatives about the US Postal Service delays, US postal service are experiencing a shortage in staff, in addition mail being stolen, so please be aware when mailing something. Finally, she mentioned about getting your Covid shot and busters.

PUBLIC COMMENTS:

Mr. James Schofield from 1071 Radnor Road brought up his flooding problem due to Crow Creek which he has been dealing with for many years, he stated how dissatisfied he is with the Board of Supervisors for not resolving this problem yet.

Mr. Paul Wyman from 580 S. Goddard Blvd. who belongs to the National Assoc. of Letter Carriers said the problem started from having a 9-member board down to zero and Mr. Lee Moak is the person to contact for postal service issues.

Mr. Daryl Bacchi asked the Board to consider raising the Volunteer Firefighters stipend to match the \$15.00 hr. minimum wage that will take effect in January. This will still be cheaper then hiring full time firefighters.

Mr. Andrew Sicalla from 751 Vandenberg Road introduced himself to the Board as the new President Elect for King of Prussia Station on Allendale, replacing Supervisor Bill Jenaway.

ADJOURNMENT:

There being no further business to come before the Board, it was moved by Supervisor Waks, seconded by Vice-chair Garzillo, all voting "Aye" to adjourn the meeting at 10:07 PM. None opposed. Motion approved 4-0.



ANTHONY HAMADAY
TOWNSHIP MANAGER

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Minutes Approved:

Minutes Entered:

