

UPPER MERION TOWNSHIP BOARD OF SUPERVISORS
MARCH 31, 2016

The Board of Supervisors of Upper Merion Township met for a Business Meeting on Thursday, March 31, 2016, in Freedom Hall, in the Township Building in King of Prussia. The meeting was called to order at 7:32 p.m., followed by a pledge to the flag.

ROLL CALL:

Supervisors present were: Greg Waks, Bill Jenaway, and Carole Kenney. Also present were: David Kraynik, Township Manager; Sally Slook, Assistant Township Manager; Joe McGrory, Township Solicitor; Rob Loeper, Township Planner; Tom Beach, Township Engineer; and Angela Caramenico, Assistant to the Township Manager. Supervisor Spott and Supervisor Philips were absent.

MEETING MINUTES:

It was moved by Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve the February 11, 2016 Zoning Workshop Meeting Minutes; February 11, 2016 Workshop Meeting Minutes; February 18, 2016 Business Meeting Minutes and March 3, 2016 Workshop Meeting Minutes as submitted. None opposed. Motion approved 3-0.

CHAIRMAN'S COMMENTS:

Chairman Jenaway stated prior to this meeting an Executive Session was held regarding litigation matters.

NEW BUSINESS

CONSENT AGENDA RE:

1. Resolution 2016-9 re: Authorization to Sign PennDOT Form 160, Application for Traffic Signal Upgrades to Improve Pedestrian Access at DeKalb Pike and Kings Circle
2. Resolution 2016-10 re: Authorization to Sign PennDOT Form 160, Application for Traffic Signal Upgrades to Improve Pedestrian Access at DeKalb Pike and Town Center Road
3. Resolution 2016-13 – Authorization to Sign PennDOT Form 160, Application for Signal Permit, 611 DeKalb Pike
4. Professional Services Agreement re: ARRO Consulting, Inc. – Electrical Substation Upgrade – Matsunk Water Pollution Control Center - \$29,960.00
5. Professional Services Agreement re: ARRO Consulting, Inc. – 2016 Painting Project – Matsunk & Trout Run Water Pollution Control Centers - \$12,615.00
6. Approve Contract for Concession Stand Services at Upper Merion Swim Club re: Jonathan Humay
7. Approve Contract for Concession Stand Services at the Community Center re: Modern Health Vending, LLC
8. Resolution 2016-11 re: Creation of Community Center Complex Advisory Board

9. Resolution 2016-12 Approving Amended Stormwater Declaration re: Realen Valley Forge Associates

10. Resignation of Judy Vicchio from the Upper Merion Township Foundation

11. Citizen Board Appointments re:
 - a. Upper Merion Township Foundation – Laurel Dasher
 - b. Environmental Advisory Council – James Laughlin

12. Approve Extension Letters re:
 - a. Losty Subdivision Plan, 231 Matsonford Road until April 30, 2016
 - b. Renaissance Land Associates, LP, 2901 Renaissance Boulevard until May 5, 2016

13. Capital Replacement of 2001 Pumper (King of Prussia Engine 47-1) in the amount of \$535,565.00

14. Fire & Rescue Services Board request to purchase 30 alpha pagers with amplified charging units - \$5,000.00, from Town Communications (Costars Vendor)

15. Approve Agreement with OMEGA Commercial Real Estate, Inc. to list leasing space at the Community Center

Board Comment:

Regarding Item #8, Mr. Waks commented the Community Center Complex Advisory Board will obtain feedback from members and provide residents with information about the programs and offerings at the center. He said all seven members of the advisory board must be members of the community center and residents of Upper Merion Township. One member of the advisory board must currently serve on the Park and Recreation Board and one member must serve as a representative of the Senior Service Center.

Regarding Item #13, Mrs. Kenney noted the replacement of the 2001 Pumper was budgeted at \$550,000 and she pointed out the savings that were realized on this equipment by taking advantage of the prepayment discount bringing the cost down to \$535,000.

Board Action:

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

PUBLIC HEARING AND POTENTIAL RESOLUTION 2016-15 RE: REQUEST BY BOTTLENECK K.O.P., LLC d/b/a POUR HOUSE FOR APPROVAL OF TRANSFER OF A RESTAURANT LIQUOR LICENSE (VILLAGE OF VALLEY FORGE)

Mr. Joseph McGrory, Township Solicitor, opened the hearing and introduced into the Record Board Exhibit #1 Request for Liquor License Transfer received on February 1, 2016; Board Exhibit #2 Notice of Hearing; Board Exhibit #3 Proof of Publication in the *Times Herald* on March 10, 2016 and March 17, 2016; and Board Exhibit #4, the proposed Resolution.

Mark E. Kozar, Esq., Flaherty & O’Hara, stated he is representing the applicant, Bottleneck K.O.P. LLC. He introduced Mike Jettner, Operations Manager at Bottleneck. Mr. Kozar indicated the applicant is requesting approval

of a resolution permitting the inter-county transfer of a liquor license from the City of Philadelphia to within Upper Merion Township pursuant to the revised Liquor Code, Title 47, Section 461, subsection (b.4) for use by Bottleneck for its restaurant to be located in the King of Prussia Town Center.

As you probably know Section 461 (b.4) of the Liquor Code permits the Pennsylvania Liquor Control Board to approve the transfer of the liquor license from the City of Philadelphia to a qualified mixed-use town center development in Montgomery County so long as the receiving municipality in this case Upper Merion Township issues a resolution permitting the transfer and recognizing the King of Prussia Town Center is a mixed use town center pursuant Section 102 of the Liquor Code.

Mr. Kozar provided background information on Bottleneck K.O.P. LLC, an Illinois limited liability company owned by Bottleneck Management Inc. which owns and operates nine restaurants under the concepts of Old Town Pour House Sweetwater, Boundary, South Branch, Howells & Hood and City Works.

Mr. Kozar stated when the applicant first contacted the municipality regarding the transfer of the liquor license, Bottleneck was planning on opening an old country Pour House. They have since decided to open their latest concept City Works. It was noted there is very little difference between the concepts. The City Works concept was created to dispel the notion that the Pour House was simply a bar. The City Works name was created to emphasize Bottleneck's culinary program. Like the Pour House, City Works will be an inviting restaurant featuring earth tones with copper and wood accents. Open for lunch and dinner, the menu consists of American classics with modern and unexpected twists made from scratch. The lunch menu will feature build your own salads and flatbreads. Dinner entrees include short ribs, pork chops, salmon, and filet mignon. There will be no take out beer at City Works. The hours of operation will be Monday through Thursday 11 a.m. to midnight, Friday and Saturday from 11 a.m. to 1 a.m. and Sunday 11 a.m. to midnight.

This restaurant will have seating for approximately 195 indoors and 84 on the outside patio. It is proposed the restaurant will occupy approximately 8,000 square feet and will employ approximately 75 full and part-time employees.

Mr. Kozar noted alcohol is served as a complement to the food at City Works and not as the main attraction. All persons who serve alcohol will first undergo Responsible Alcohol Management Program (RAMP) training Bottleneck is a responsible owner making a significant investment in Upper Merion that will be protected by responsible management and well trained employees.

For the aforementioned reasons, Mr. Kozar asked that the Board of Supervisors issue a resolution approving the inter-county transfer of a restaurant liquor license into Upper Merion for use by Bottleneck K.O.P. LLC.

In view of the name change Mr. Kozar referenced in his presentation, Mr. Jenaway wanted to make sure the resolution reflected the correct name reference. Mr. Kozar responded in the affirmative.

On behalf of some interested residents, Mr. Waks asked for clarification about the number of beers that will be on tap. Mr. Kozar responded there will be at least 80 beers on tap.

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 Mr. Waks, seconded by Mrs. Kenney, all voting "Aye" to approve Resolution 2016-15 as presented. None opposed. Motion approved 3-0.

Board Comment:

Mr. Jenaway asked when the restaurant opening is anticipated and he was informed mid-September.

PUBLIC HEARING AND POTENTIAL RESOLUTION 2016-16 RE: REQUEST BY FETTESCHWEIN, LLC C/O SBRAGA DINING, INC. FOR APPROVAL OF AN INTERMUNICIPAL TRANSFER OF A RESTAURANT LIQUOR LICENSE (KING OF PRUSSIA MALL)

Mr. McGrory opened the hearing and introduced into the Record Board Exhibit #1, a request for the transfer hearing received March 8, 2016; Board Exhibit #2, the Legal Notice for the hearing, Board Exhibit #3, Proof of Publication showing advertisements in the *Times Herald* on March 10, 2016 and March 17, 2016; and Board Exhibit #4, the proposed resolution.

Jonathan A. Jordan, Riley Riper Hollin & Colagreco, representing Sbraga Dining Group and Fetteschwein LLC, stated the applicant is requesting an intermunicipal transfer of a liquor license from Montgomery Mall to the King of Prussia Mall for a Fat Ham restaurant to be located in the connection between the Court and the Plaza. He introduced Ben Fileccia, Director of Operations for Sbraga Dining Group.

Mr. Jordan distributed informational packets about restaurant floor plans and menus to the supervisors and asked that it be marked as Exhibit A1. He noted celebrated Chef Kevin Sbraga is owner of The Fat Ham and winner of Bravo TV's "Top Chef: Season 7." Chef Sbraga has two restaurants in Philadelphia that are very popular and successful with good reputations and a history of responsible alcohol service.

Mr. Jordan stated the hours of operation will coincide with the mall hours. Currently the mall is open from 10 a.m. to 9 p.m. Monday through Saturday and Sunday from 11 a.m. to 6 p.m. these hours change seasonally.

The manager of the restaurant and all of the servers will receive Responsible Alcohol Management Program (RAMP) training from the Pennsylvania Liquor Control Board.

It is proposed the restaurant will occupy 1,400 square feet with approximately 60 seats and 12 full-time employees. There will be no dancing or live entertainment.

Mr. Jordan asked Mr. Fileccia if the testimony he provided is a fair description of the restaurant. Mr. Fileccia responded (off microphone) in the affirmative.

Mr. Jordan asked that the Board of Supervisors approve the municipal transfer for the reasons previously stated.

Mr. Waks commented for a long time there was vague talk of having celebrity chef dining concepts in the King of Prussia connector now under construction. He said it is very good to see a restaurant like Fat Ham coming into Upper Merion Township.

Mrs. Kenney asked for clarification about the name of the Montgomeryville Mall restaurant which currently owns the license. Mr. Jordan responded the license is currently owned by Salsa's Montgomeryville, Inc.

Mrs. Kenney asked if that is one of Fetteschwein's restaurants. Mr. Jordan responded in the negative. He said Salsa's closed down when the mall expanded.

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.

Mr. Jenaway stated Resolution 2016-16 provides for a transfer of Restaurant License R-6531 (LID No. 61062) into Upper Merion Township from Montgomery Township.

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Waks, all voting "Aye" to approve Resolution 2016-16 as stated. None opposed. Motion approved 3-0.

PUBLIC HEARING RE: AN ORDINANCE AMENDING TOWNSHIP ZONING ORDINANCE 2015-837 TO PROVIDE ADDITIONAL RETAIL USES WHERE THE GROSS FLOOR AREA IS LIMITED TO 20,000 SQUARE FEET AND AMENDING REAR YARD DIMENSIONAL REQUIREMENTS IN THE COMMERCIAL DISTRICTS

Mr. McGrory opened the hearing and introduced into the Record Board Exhibit #1, the ordinance itself; Board Exhibit #2, the Legal Notice; Board Exhibit #3, the Proof of Publication in the *Times Herald* showing advertisements on March 9, 2016 and March 16, 2016; Board Exhibit #4, Submission to the Montgomery County Law Library on March 2, 2016; Board Exhibit #5, the submission to the Upper Merion Planning Commission on February 26, 2016 and Board Exhibit #6, Submission to the Montgomery County Planning Commission on February 26, 2016. Mr. McGrory stated the Board of Supervisors is familiar with this ordinance since it was discussed in prior meetings, but for the benefit of the audience, He asked Mr. Loeper to provide a brief summary.

Mr. Rob Loeper, Township Planner, stated this ordinance is a correction of the commercial ordinance adopted last year which omitted several uses that were not listed as permitted uses within the Limited Commercial District. These uses include a home center, building supplies and materials, furniture, home furnishings, appliances, and supermarkets or grocery stores. Because the Limited Commercial (LC) District is primarily located in areas where lots tend to be smaller primarily the area across the street from the Court, there are some LC properties in the area of Henderson and US 202 and also at the King Manor Station. Because of these limited areas it was determined that it made sense to limit the permitted floor area for these uses to 20,000 square feet. The other ordinance correction concerns the rear yard setback which has been corrected to reflect "minimum" rather than maximum rear yard setback.

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 ordinance in a position for consideration by the Board of Supervisors.

Board Action:

It was moved by Mr. Waks, seconded by Mrs. Waks, all voting "Aye" to approve Ordinance 2016-845 as presented. None opposed. Motion approved 3-0. Ordinance 2016-845 was adopted and will be filed in Ordinance Book #18.

ACCOUNTS PAYABLE & PAYROLL:

Board Action:

It was moved by Mrs. Kenney, seconded by Mr. Waks, all voting "Aye" to approve the Accounts Payable for invoices processed from February 18, 2016 to March 23, 2016 in the amount of \$2,057,546.67 and the Payroll for February 12, 2016, February 29, 2016, March 11, 2016 and March 25, 2016 in the amount of \$2,799,264.41 for a total of \$4,856,811.08. None opposed. Motion passed 3-0.

ADDITIONAL BUSINESS

UPPER MERION TOWNSHIP AWARDS

Mr. Jenaway noted Upper Merion Township received two awards at the recent Business Improvement District luncheon. The first award was a special achievement award that was presented to Chief Tom Nolan on behalf of Upper Merion Township Police Department for their excellent efforts in managing crime in Upper Merion Township. The second award was to Upper Merion Township for its adaptive traffic signal system to move traffic faster through the Township.

AGGRESSIVE DRIVING ENFORCEMENT

Mr. Jenaway announced the Aggressive Driving Enforcement activities as part of a state-wide program from March 28 to May 1, 2016. Motorists displaying aggressive driving behaviors will be targeted.

SEPTA NORRISTOWN HIGH SPEED LINE EXTENSION PUBLIC MEETINGS

Mr. Jenaway discussed the SEPTA public workshops and at the request of the Board of Supervisors a fourth workshop was held for the residents of Valley Forge Homes regarding the King of Prussia Rail Concept proposal. Over 600 total attendees took part in these meetings. The Board of Supervisors had at least one representative at each of the sessions. The Board of Supervisors are doing fact finding and due diligence on this project. This is a SEPTA initiative – not a township initiative. No plan has been submitted to the township for consideration. The Board of Supervisors has advised SEPTA not to approach the township with any proposals without first meeting with all residents and business owners potentially impacted by their proposed route and not until a comprehensive impact analysis has been completed. It was noted the supervisors have been asked if this could be placed on the ballot as a referendum. Contact was made with the Montgomery County Election Board who oversees such requests and they have advised it does not qualify for placement on a ballot. Residents were advised the most important thing they could do is visit SEPTA's website and reply to their inquiries about the rail project.

Mrs. Kenney suggested residents contact SEPTA and have their names placed on SEPTA's mailing list since there will be additional public meetings later in the year.

BOY SCOUT TROOP 481 EVENT

Mrs. Kenney noted Boy Scout Troop 481 will hold their 32nd annual spaghetti dinner at MDP school gym on Saturday, April 9th.

From the public:

Mr. Dan Taus discussed police department budget issues.

Mr. Dan Kohl mentioned the abduction of a baby at the King of Prussia Mall and Mr. Waks provided details of the Amber Alert.

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 8:33 p.m.

DAVID G. KRAYNIK
SECRETARY-TREASURER
TOWNSHIP MANAGER

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Minutes Approved:
Minutes Entered