

Index

Upper Darby Township Council Meeting

April 15th, 2015

Call of the meeting	89
Roll call	89
Mayor Thomas N. Micozzie	
<i>Mayor Micozzie presented the Mayor's Award of Excellence to members of the Upper Darby SWAT Team and Crozer Keystone Paramedics</i>	89, 90
Approval of the March 2015 Minutes	90
Public Forum	90, 91
<i>Appointment of Kate Sweeney Smith as Township Council-at-Large</i>	91, 92
<i>Mayor Micozzie presented a Proclamation in honor of Vaisakhi Day</i>	92, 93
Committee Reports	
Finance and Appropriations Committee Thomas P. Wagner, Chairman	
Resolution No. 09-15, a Resolution of Upper Darby Township, Delaware County, Pennsylvania relating to the establishment of Regulations for purchasing, bidding and awarding of contracts	93-97 103-106
Adoption of Resolution No. 09-15	97
Resolution No. 10-15, a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the settlement of Business privilege and mercantile tax litigation pending in the Delaware County Court of Common Pleas at Docket No. 2014-004294	97- 98 107-112
Adoption of Resolution No. 10-15	98

Public Safety Committee
John Rankin, Chairman

Motion to authorize the Administration to write to Penndot to request that a study be conducted for the feasibility of installing a traffic control device at the intersection of State Road and Merion Avenue 99

Appointments 99, 100

The re-appointment of John M. Bergin to serve on the Upper Darby Township Historic Commission for a three year term expiring 12/31/17

The appointment of Lee Jackson to serve on the Upper Darby Township Historic Commission for a three year term expiring 12/31/17

The appointment of Meaghan R. Wagner, Tamara Crump and Sherri Eyer to the Police Athletic League (PAL) Board with a term expiring 12/31/17

The appointment of Lisa Logiurato, Domenic Roth, Gerry McElaney to the Upper Darby Sellers Library Board with the term expiring 12/31/17

The re-appointment of Coleman Sellers to the Upper Darby Sellers Library Board with the term expiring 12/31/17

Approval of Appointments 102

Announcements 102

*“Coffee With A Cop” at the McDonald’s Restaurant
At 5008 Township Line Road in Drexel Hill*

*Restaurant Week in Upper Darby Township
April 11th through April 19th*

Solicitor 102

Adjournment 102

A regular meeting of Upper Darby Township Council was held on Wednesday evening, April 15th, 2015 at 7:30 p.m. in the Council Meeting Room #202 of the Municipal Building, 100 Garrett Road, Upper Darby, Pennsylvania.

The meeting was called to order by Council President Donald P. Bonnett with the Pledge of Allegiance to the flag of the United States of America.

Roll Call

Donald P. Bonnett, Thomas P. Wagner, John Rankin, Ed Monaghan, Jacob A. Bierling Jr., Mary Ann Crawford, Sekela Coles, Robert Gwin, Barbarann Keffer

Marah Manners, excused

Present at the Meeting

Thomas N. Micozzie, Mayor
Thomas J. Judge Jr., CAO
Adam Matlawski, Esq., Solicitor
Chris Cursey, Esq., Solicitor
Richard G. Nolan, Chief Municipal Clerk

Mr. Bonnett: Ladies and Gentlemen, we are going to depart from our regular Agenda for a few moments and I'm going to turn the meeting over to our Mayor, the Honorable Thomas N. Micozzie.

The Honorable Thomas N. Micozzie, Mayor

Mayor Micozzie: Thank you. On Wednesday, November 5th, 2014 at 6:00AM, members of the Upper Darby Police Department SWAT Team responded to a request to assist the Region 1 SWAT Team with serving a search and arrest warrant at 104 Lafayette Avenue, Collingdale, PA. This home was the residence of a subject wanted in connection with a shooting in Philadelphia, PA that occurred on October 27, 2014. The male, identified as Lamar Ronald James, was alleged to be a potentially dangerous felon.

The Upper Darby Police Department SWAT Team was divided into two segments. One group of Officers was assigned to cover the rear of the residence. The other group covered the front entrance and included the Crozer Keystone Paramedics.

While attempting to gain entry through the front door, officers were met with gunfire. At least four shots were fired at police. Police returned fire. The male, later identified as Lamar Ronald James, attempted to escape through the rear door. When he saw the SWAT members, he returned inside the residence. The SWAT Team removed other occupants of this home and eventually the suspect surrendered and was arrested. He was charged with attempted homicide

and numerous other charges. Police were able to locate the handgun the suspect used to fire at police. One officer sustained minor injuries to his hand during this incident.

The expertly planned and executed response of the Upper Darby Police SWAT Team and Crozer Keystone Paramedics brings credit to the entire law enforcement community.

Mayor Micozzie presented the Mayor's Award of Excellence to the following:

*Captain Anthony Paparo
Lieutenant Thomas Sharp
Sergeant Stephen Oreskovich
Officer Anthony Capodanno
Officer Francis Devine
Officer Michael Dockery
Officer Kevin Donohue
Officer John Millison*

*Officer Steven Russo
Officer Michael Scott
Officer Samuel Sproull
Officer Samuel Ziviello
Paramedic Douglas Campbell
Paramedic Timothy Kelly
Paramedic Thomas Vogelgesang*

Audience Applause

Approval of the Minutes

Mr. Bonnett: A motion would be in order for the approval of the minutes for the Regular Meeting of March 18th, 2015.

Mr. Wagner: So moved.

Mrs. Crawford: Seconded.

Mr. Bonnett: It has been moved and seconded. All those in favor signify by saying aye. Opposed? The ayes have it.

Public Forum

Mr. Bonnett: This is the time set aside for the public to speak. When you hear your name come forward to the podium and state your name and address for the records. Comments are limited to five minutes.

Alfred Achtert, 7228 Radbourne Road
Res. 09-15 & other procedures

Robert Cassidy, 3854 Garrett Road
Removing Planned Parenthood

James Santora
Events, Sikhs

Their comments are filed on tape.

Mr. Rankin: That concludes the speakers for this evening.

Appointment of Kate Sweeney Smith to Upper Darby Township Council

Mr. Bonnett: Thank you John. Ladies and Gentlemen, we have the distinct pleasure this evening to vote to fill a vacant seat on Township Council. As a matter of fact, it is the seat that was vacated by State Representative Jamie Santora who just spoke. Just a quick run-down on the events that have occurred since then; Jamie Santora resigned his Council seat on March 18, 2015 at last month's Council meeting. I was at that meeting and was fortunate enough to have some advance notice from Jamie that he was going to do that so we were prepared that evening to follow with procedure that is required under the Home Rule Charter to fill that vacancy. That evening, I appointed Councilman Wagner, Councilman Monaghan and Councilwoman Manners to sit on a Committee to interview interested residents of Upper Darby Township qualified to be considered to fill the vacant seat. A Public Notice was placed in the Daily Times on March 20, 2015 requiring that those who were interested to submit a letter of interest and a resume to the Council office no later than noon on March 31, 2015. We received five resumes from five residents. It is a requirement that we act within 45 days of the resignation to fill the seat. We are well within that time frame by acting this evening. The Committee has in fact met on April 8th and I will ask Councilman Wagner who chaired that Committee to give us a brief on those results.

Mr. Wagner: Thank you, Mr. President. I was privileged to serve as Chair of that Committee along with Councilman Monaghan and Councilwoman Manners. We had 5 resumes and applications as you said. We interviewed all 5 of those people and asked them a series of questions. Our procedure included the requirement that we ask the same questions of each of the 5 candidates in order to keep the procedures as uniform as possible. Having asked the questions of all 5 of those candidates, we then met privately and discussed them all. We then took a vote and voted 2-1 in favor of recommending a particular candidate to Council and that candidate was Kate Smith.

Mr. Bonnett: Thank you Tom. I have issued a memo to all of the members of Council advising them of the actions of that Committee, of the vote that was taken of the person who was put before us for a vote this evening. With that recommendation being to vote for the replacement of Jamie Santora's seat with Kate Sweeney Smith who resides in Drexel Hill on Cedar Lane. With that, Councilman, I would ask that you offer a motion to appoint Kate Smith.

Mr. Wagner: If this is the right time to do that, I would be very pleased to do that and it's my privilege to move that Council approve the appointment of Kate Sweeney Smith as a member of this Council.

Mr. Bonnett: Is there a second?

Mrs. Crawford: Seconded.

Mr. Bonnett: I ask for a for a roll call vote on that, Mr. Secretary.

In favor of appointing Kate Sweeney Smith	Opposed to appointing Kate Sweeney Smith	Excused	Abstained
Bonnett			
Wagner			
Rankin			
Monaghan			
Bierling			
Crawford			
		Manners	
Coles			
Gwin			
Keffer			
9	0	1	

Mr. Bonnett: We have a unanimous vote this evening.

Audience applause.

Mr. Bonnett: With that, I would like to invite Kate Smith and any member of her family who wishes to come up and Mayor Micozzie will conduct the swearing in.

Mayor Micozzie conducted the swearing in of Kate Sweeney Smith for Township Council.

Audience applause.

Mayor Micozzie presented a Proclamation in honor of Vaisakhi Day.

PROCLAMATION

Vaisakhi is a holiday observed by Sikhs throughout the world, celebrating the spring harvest and commemorating the 1699 gathering of Anandpur Sahib in Punjab, India, when the founding of the Sikh family of soldier saints known as Khalsa Panth occurred; and

The Sikh faith, which was established in the Punjab region of India in the 1400's persevered and expanded with Guru Gobind Singh founding the Khalsa Panth, a new order of Sikhism in 1699; and

The Sikh people, who now number in the tens of millions worldwide, including approximately 500 thousand in the United States; and the Sikh people mark Vaisakhi with parades, dancing, singing and other festivities; and

The Sikh community of Upper Darby Township is also part of the rich cultural fabric of this Commonwealth, makes many valuable contributions as its members work in a variety of professions and businesses and contribute to our local communities;

Therefore I, Thomas N. Micozzie, Mayor of Upper Darby Township, along with the Township Council proclaim today, April 15th, 2015 as

VAISAKHI DAY

in Upper Darby Township. I urge the citizens of this Township to join us in honoring VAISAKHI Day and our Sikh friends and neighbors in the observance of this historic day

Thomas N. Micozzie, Mayor
Thomas N. Micozzie, Mayor
Upper Darby Township
Delaware County, Pennsylvania

Mayor Micozzie: That's all I have.

Mr. Bonnett: Thank you, Mayor. At this time we will go into the Committee Reports starting with the Finance and Appropriations Committee, Mr. Wagner please.

Committee Reports

Finance and Appropriations Committee
Thomas P. Wagner, Chairman

Resolution No. 09-15, "A Resolution of Upper Darby Township, Delaware County, Pennsylvania relating to the establishment of regulations for purchasing, bidding and awarding of contracts"

Mr. Wagner: Thank you, Mr. Bonnett. I will ask the Solicitor to give us a brief on Resolution No. 09-15.

Solicitor: Certainly. Resolution No. 09-15, "A Resolution of Upper Darby Township, Delaware County, Pennsylvania relating to the establishment of regulations for purchasing, bidding and awarding of contracts".

Mr. Wagner: Mr. President, before we go any further with this, I notice that the Mayor has now re-joined us and I think he had other items that he was going to...

Mayor Micozzie: No, go ahead and finish.

Mr. Wagner: Thank you. I move for the adoption of Resolution No. 09-15.

Mrs. Crawford: Seconded.

Ms. Keffer: I'd like to comment.

Mr. Bonnett: After -----, you may make a comment. Moved and seconded. All those in favor, signify by saying aye. Opposed? The ayes have it. Is there a comment on the floor?

Ms. Keffer: Yes, I just wanted to say that this Resolution cleans up the previous Resolutions to the original bid and what it changes is the bid threshold, it increases it but it doesn't change any of the other content of the previous Resolutions. I was advocating for an additional way to advertise the bids and contracts and it's not in here and I spoke to Councilman Bonnett and Councilman Wagner today and I look forward to working with them and members of the Finance Committee to have the bids better advertised. They should be advertised either on our Township website or through a service like Penn Bid which is free to municipalities. I support this effort but with the reservation that I feel like we are locked in 1976 by just advertising one time in the newspaper.

Mr. Bonnett: Well, that's not quite true, I don't believe, because Penn Bid is one of probably dozens of outlets for advertising for construction bids or bids for contracts. Whether they bring something different than the others to the table, I do not know, and I advised you in my opinion today when we were speaking that we can find ways of accommodating that without putting it into a Resolution or an Ordinance of any type. The purchasing process is under the Home Rule Charter and is a function of the Administration very clearly stated. I think the Administration does a very good job of procuring contracts, materials and supplies for Upper Darby Township and has always done so. But, I think the most important aspect of our purchasing system is that it is done in concert with the requirements of the Commonwealth of Pennsylvania laws. We cannot act outside of those laws and there aren't many contracts of substance that this Township does in fact bid out. We have the good fortune of being able to do a good deal of the work. The construction work, which many communities would contract for, is done with our in-house personnel. We have the technology and the technique and the workers who can do that at a significant savings to our taxpayers as a matter of fact. So, with regard to this Resolution I am going to ask for approval of Council on this Resolution tonight and in fact I will ask for a roll

call vote on it since we deliberated this for quite some time. I do believe outside of the Resolution itself, we can deal with many of these issues that you are concerned about and I've offered to sit down with you as well as the Administration because again our function is to develop and establish a budget and policies. It is the Administration's function to execute them. So, I am more than willing to participate with you and the Administration to have a discussion about that. So, any other comments?

Mr. Wagner: Mr. President, I'm not sure if Mr. Judge has a comment here or not.

Mr. Judge: I do not.

Mr. Wagner: Very good. I just thought I would invite that if he wanted to.

Mr. Bonnett: The motion has been made and seconded.....Sekela?

Ms. Coles: I just want to thank Mr. President for making this a roll call vote so that we have Council people who do have reservations can officially exercise if they choose not to vote along with it. Also, I would just like to see the typo in the 3rd paragraph for bidding corrected.

Mr. Judge: If you pass it that is an insignificant item.

Mr. Bonnett: I gather that. It's just a typo.

Mayor Micozzie: I know we talked this morning. I guess the question is and I'm wrestling with that because I understand it so we might as well talk while everybody is here. What is the purpose of the Internet? What is the ----- because we would spend, it would have to go up. The ones that do it, you've got to put it up. I did some studying and you go on websites and the bid is up, the bid is down September 15th. You go to September 30th then the bids are advertised or the list----. It stays there a long time on the server unless you delete it but some are inconsistent, some are there so who does all that? It was my conversation today.

Mr. Bonnett: I had a similar conversation with Barbarann in that regard and I expressed that we do not have the staff to maintain that level of information on our current website. We would require, in all reality, to hire an IT person to do that and in regard to that I expressed to Councilwoman Keffer that this is an issue that as far as Council is concerned should be dealt with under the budget process in terms of establishing whether or not we want to fund a person that has the technical capability to maintain our website. We put up the essentials right now and we do it with the staff that we have but going beyond that it takes considerably more effort. That considerably more effort would involve hiring somebody to do it which is a position that needs to be funded and it is currently not a position that we have identified.

Mr. Judge: The Contractor Responsibility Ordinance, we do have to put the information up on the bid that is going to be awarded and it stays up there for 21 days for a challenge.

Mayor Micozzie: For a challenge.

Mr. Bonnett: That's after the receipt.

Mr. Judge: That's after they're receipted, reviewed and offered to the lowest bidder. Then, we put it up there to make sure they meet the requirements.

Mayor Micozzie: But, that's pretty much all of Public Work's big jobs.

Mr. Judge: Yes. There are only about 3 or 4 jobs per year that are bid out.

Mayor Micozzie: Right.

Mr. Bonnett: Before we take a roll call vote, I just want to say on behalf of Kate that we would expect that you have the prerogative of abstaining on these votes this evening.

Mr. Gwin: I have something to say. Some minor things. I know we talked before about the historical aspect and I think that comma that's in there-----

Mr. Bonnett: Where are you Bob?

Mr. Gwin: Section 6H "for the restoration of historically, significant, municipally-owned properties". I think the comma should be removed.

Mr. Bonnett: Between historically and the word significant?

Mr. Gwin: Yes.

Mr. Bierling: What's the reasoning for it?

Mr. Gwin: What was the reasoning for it to be there?

Mr. Bonnett: If it's a grammatical issue, we will deal with it.

Mr. Gwin: There were some others but I can't remember. We can always change this and at some point do another Resolution.

Mr. Bonnett: We have the prerogative of amending and correcting any Resolution or Ordinance of this Township.

Mr. Wagner: No, it should be there. It clearly belongs there.

Mr. Bonnett: OK with that.....

Mr. Bierling: Mr. Bonnett, can I just mention one thing? We had a taxpayer come up here and say that the Council gets changes a day or two ahead of time. I got this email today from a Councilperson at 11:57 and if my math is right that is 8 hours and 33 minutes ago and I got the one from the Township last week so on the one hand we're saying that the Township isn't doing something right but on the other hand we have Council people who are sending me an email 8 hours ahead of time before I'm going to vote on something. So, I would like that noted for the record.

Mr. Bonnett: I also received one today with some suggested amendments to the Resolution. So, again, we had discussed this over a series of months and it's not appropriate to wait until the last minute but again we are going to proceed with this vote. Mr. Secretary, please call the roll on that vote.

In favor of Resolution No. 09-15	Opposed to Resolution No. 09-15	Excused	Abstained
Bonnett			
Wagner			
Rankin			
Monaghan			
Bierling			
Crawford			
		Manners	
			Sweeney Smith
Coles			
Gwin			
Keffer			
9	0	1	1

Mr. Rankin: That's nine in favor, one excused and one abstained.

Mr. Bonnett: Resolution 09-15 has passed unanimously this evening. Councilman Wagner, back to you.

Mr. Wagner: Will the Solicitor please give us a brief on Resolution No. 10-15?

Resolution No. 10-15, a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the settlement of business privilege and mercantile tax litigation pending in the Delaware County Court of Common Pleas at Docket No. 2014-004294

Solicitor: Hello. For the record my name is Chris Cursey from the law office of Flamm Walton.

Mr. Wagner: My apologies.

Solicitor: That's ok. Resolution No. 10-15 is a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the settlement of business privilege and mercantile tax litigation pending in the Delaware County Court of Common Pleas at Docket No. 2014-004294. The litigation involves an assessment of delinquent mercantile taxes for tax years 2006 through 2012. During the course of litigation, the Township further totaled that the taxpayer owes \$42, 160.48 to bring them to the current day owed in tax, penalties and interest. There was an offer in negotiation and it is being recommended that the Township settle that amount for \$36, 231.59 payable in five installments as detailed in a proposed settlement agreement.

Mr. Wagner: With that Mr. President, I hereby move for the adoption of Resolution No. 10-15.

Mrs. Crawford: Seconded.

Mr. Bonnett: Moved and seconded. Mr. Secretary, will you call the roll for that vote as well?

Mr. Rankin: Yes.

In favor of Resolution No.10-15	Opposed to Resolution No. 10-15	Excused	Abstained
Bonnett			
Wagner			
Rankin			
Monaghan			
Bierling			
Crawford			
		Manners	
			Sweeney Smith
Coles			
Gwin			
Keffer			
9	0	1	1

Mr. Rankin: That's nine in favor, one excused and one abstained.

Mr. Bonnett: Resolution 10-15 has passed unanimously this evening.

Mr. Wagner: Thank you, Mr. President. That completes the report of the Finance and Appropriations Committee.

Mr. Bonnett: Thank you Tom. The next Committee is the Public Safety Committee, Mr. Rankin please.

Public Safety Committee

John B. Rankin, Jr., Chairman

Motion to authorize the Administration to write to Penndot to request that a study be conducted for the feasibility of installing a traffic control device at the intersection of State Road and Merion Avenue

Mr. Rankin: I would like to propose a motion to authorize the Administration to write to Penndot to request that a study be conducted for the feasibility of installing a traffic control device at the intersection of State Road and Merion Avenue

Mr. Bonnett: Is there a second?

Mrs. Crawford: Seconded

Mr. Bonnett: Moved and seconded. All those in favor signify by saying aye. Opposed? Kate, you are going to abstain? Please note one abstention for Kate Smith. The ayes have it and the motion passes. Mr. Mayor, do you have other business?

Mayor Micozzie: Yes I do. I would like to submit to Council for their approval, the following appointments.

Appointments

The re-appointment of John M. Bergin to serve on the Upper Darby Township Historic Commission for a three year term expiring 12/31/17

The appointment of Lee Jackson to serve on the Upper Darby Township Historic Commission for a three year term expiring 12/31/17

The appointment of Meaghan R. Wagner, Tamara Crump and Sherri Eyer to the Police Athletic League (PAL) Board with a term expiring 12/31/17

The appointment of Lisa Logiurato, Domenic Roth, Gerry McElaney to the Upper Darby Sellers Library Board with the term expiring 12/31/17

The re-appointment of Coleman Sellers to the Upper Darby Sellers Library Board with the term expiring 12/31/17

Mr. Bonnett: Thank you. A motion would be in order for adjournment.

Mr. Wagner: With that Mr. President, I would move for the adoption of all of the Appointments that the Mayor just read to us.

Mrs. Crawford: Seconded.

Mr. Bonnett: Moved and seconded. Any comments?

Ms. Keffer: Can we have a roll call vote please?

Mr. Bonnett: Sure. At your request, we shall. Mr. Secretary, please conduct a roll call vote.

Mr. Rankin: Yes, it is going to take me a minute because I am going to write down these two things.

In favor of Appointments	Opposed to Appointments	Excused	Abstained
Bonnett			
Wagner			
Rankin			
Monaghan			
Bierling			
Crawford			
		Manners	
			Sweeney Smith
Coles*			
Gwin			
	Keffer**		
8	1	1	1

Mr. Rankin: That's eight in favor, one opposed, one excused and one abstained.

Mr. Bonnett: Thank you. The motion has passed.

**Ms. Coles voted yes with the request that the Administration at times consult with the Council members in regards to recommendations for the various Boards*

Mayor Micozzie: OK, I will explain it to you. I think what you have to understand is that this is my policy making Boards. So, there are Boards----- and when I talked about the

Administration to take to you. So, I reach out and these are the people that I recommend. If you look at any form of government, I don't think that Mayor Nutter goes to Council and asks who his cabinets of people are.

Ms. Coles: Well, maybe informing Council before the meeting so we know we're approving the appointments.

Mayor Micozzie: That's fair.

Ms. Coles: Thank you.

*** Ms. Keffer: I'm going to vote no because we are just getting the notice now in our folder. Councilman Bonnett sent out a memo yesterday concerning an appointment that we voted on today and I appreciated that.*

Mayor Micozzie: That's a Council appointment.

Ms. Keffer: Well, we're voting on this.

Mayor Micozzie: I will take your suggestions but I just want to make clear that there is a Council function of this government and there is an Administration function. If you don't want to vote, that's fine. These are people that I take to Council and this is a place where I don't communicate to Council. I communicate to the Administration. I want to respectfully do it but I don't want to get into the habit. You have a Council, a legislative body and I will send it to you but I don't know what that does.....

Ms. Keffer: Just a little bit of notice.

Mayor Micozzie: One of the things you get when you're a Mayor is that you have Boards and you get Appointments. It doesn't hurt me to send it out to you but some of these Boards have been difficult to get and I wanted to make sure that I put the right people in there because some of the Board people were not showing up. I met with the Board presidents and these are basically coming through them and some of the Committees----- So, that's what I did for the last three months. Some of these vacancies should have been done in January. I just don't want to find names and throw them out there and people just don't show up for Boards and then I have to hear from the Presidents. So, I get what you're saying and I'd be more than happy to do it but if I have something that has impending Administration timelines that I have to get done otherwise I have to wait. A lot of these just got finalized in the past 24 hours.

Mr. Gwin: These are volunteer position, right?

Mayor Micozzie: That's correct.

Mr. Gwin: They are giving their time and effort to help us.

Mr. Bierling: Mr. Bonnett, one thing, as a former Chairman to the Historical Commission, I would like to reiterate the remarks that the Mayor made. We had a number of times a hard time trying to find people who would come out and that's only 4 times a year. But, you're not paying them anything and they've got to put a lot of time in and there are other events that they had to attend. So, it can be difficult trying to get people who really want to do it.

Mr. Wagner: Mr. President, before we adjourn, did we complete the vote?

Mr. Bonnett: No we haven't and we're about to do that.

Mr. Bonnett: All right, members of Council, the roll call was taken and the motion carries.

Mr. Wagner: So with that, all of those people are appointed.

Mr. Bonnett: Yes, they are in fact appointed.

Audience applause.

Mayor Micozzie: I have a couple other announcements. On Tuesday, April 21st from 10am till 11:30am the Upper Darby Police Department invites you to "Coffee With A Cop" at the McDonald's Restaurant at 5008 Township Line Road in Drexel Hill. On April 11th and 19th, we are having, along with Margo Davidson who has done a great job with this, Restaurant Week in Upper Darby Township and we encourage all residents to eat at Restaurant Week. So, that concludes my report.

Mr. Bonnett: Thank you Mayor. Does the Solicitor have any business for the Council this evening?

Solicitor: No, I do not.

Mr. Bonnett: OK, a motion would be in order for adjournment

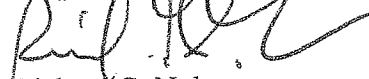
Mr. Wagner: So moved.

Adjournment

Mrs. Crawford: Seconded.....

Mr. Bonnett: This meeting stands adjourned.

Respectfully submitted,



Richard G. Nolan

Chief Municipal Clerk

RGN/akc

UPPER DARBY TOWNSHIP**Resolution No. 09-15****A RESOLUTION OF UPPER DARBY TOWNSHIP,
DELAWARE COUNTY, PENNSYLVANIA RELATING TO
THE ESTABLISHMENT OF REGULATIONS FOR
PURCHASING, BIDDING AND AWARDING OF CONTRACTS.**

WHEREAS, Upper Darby Township by virtue of its Home Rule Charter is no longer governed by the First Class Township Code; and

WHEREAS, an integral part of the First Class Township Code is provisions relating to establishing regulations for contracts and the receiving of bids; and

WHEREAS, the Upper Darby Township Council deems it essential that regulations be established regulating the bidding and awarding of contracts.

NOW, THEREFORE, BE IT RESOLVED that:

Section One: DEFINITIONS – the definitions of certain words or phrases used in this Resolution shall be as follows:

- (a) "Charter" – Home Rule Charter of Upper Darby Township
- (b) "Home Rule Charter" – Home Rule Charter of Upper Darby Township

Section Two: The Township may make contracts for any lawful purpose as may be necessary for carrying into execution the provisions of the Home Rule Charter and the laws of the Commonwealth of Pennsylvania.

Section Three: All contracts or purchases made by the Township, involving the expenditure of over **nineteen thousand four hundred dollars (\$19,400.00)**, subject to **annual adjustments published by the Pennsylvania Department of Labor and Industry based on the Consumer Price Index as set forth in the First Class Township Code (53 P.S. 56802(a.2))** [amended April 17, 1985, Resolution #23-85], except those hereinafter mentioned, shall be in writing, and shall be made only after notice by the Chief Administrative Officer of the Township, or such other township officer as may be designated by the Mayor, is published at least once in one newspaper of general circulation that is purchased or circulated in Delaware County. The advertisement shall be published not less than ten (10) days prior to the date fixed for opening of bids. All plans

and specifications shall be on file at least ten (10) days in advance of opening bids. The amount of the contract shall in cases, whether or straight sale price, conditional sale, bailment lease, or otherwise, be the entire amount which the Township pays to the successful bidder or his assigns in order to obtain the services or property, or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain. [Amended May 2, 1990, Resolution #28-90]

Section Four: In every instance in which any contract for any public work, construction, materials, supplies, or other matters or things for the Township shall be awarded upon competitive bids, it shall be the duty of the authorities authorizing the same to award such contract to the lowest responsible bidder. Any published notice for bids shall contain full plans and specifications, or refer to the places where copies thereof can be obtained and give the time and place, where and when bids shall be publicly opened and read but the contract not awarded. If, for some reason, the bid will not be publicly opened and read at such time and place, notice of the same kind shall be repeated once at least six days before the meeting of the subsequent time and place fixed, and the foregoing provisions as to bids shall apply. Within twenty days after the receiving and opening of bids as hereinabove set forth the Chief Administrative Officer, or such other Township officials or employees as may be designated by the Mayor, shall tabulate the bids received and determine the lowest responsible bidder who complied with all specifications. Thereafter the Chief Administrative Officer, or such other Township officials or employees designated by the Mayor, shall submit a form of contract approved by the solicitor or legal officer of the Township to the successful bidder or execution with instructions that the contract must be executed by the bidder in the manner and form prescribed in the specifications and this Resolution and in conformity with the laws of the Commonwealth of Pennsylvania and returned to the Township within twenty (20) days together with such bonds or other matter as may be required. Thereafter, the Chief Administrative Officer shall obtain a certification from the solicitor or legal officer of the Township as to the legality of the form and content of the contract and shall then submit the contract to the Mayor along with his certification that the terms of this Resolution and the laws of the Commonwealth have been complied with for execution pursuant to Section 403(H) of the Charter. Any contract made in violation of the provisions of this Resolution shall be void.

Section Five: The successful bidder, when advertising is required herein, shall be required to furnish bond with suitable reasonable requirements guaranteeing the performance of the contract, with sufficient surety, in the amount of one hundred per cent of the amount of liability under the contract at such time as the contract is executed by him/her and returned to the Township as set forth in Section Three hereof, unless the specifications shall prescribe a shorter period for the furnishing of bond provided however that such shorter period shall not be less than ten (10) days. Upon failure to furnish such bond in accordance with all the provisions of the Resolution, the bid shall be void.

Deliveries, accomplishment and guarantees may be required in all contracts including exceptions herein.

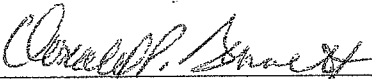
Section Six: The contracts or purchases made by the Township involving an expenditure of over **nineteen thousand four hundred dollars (\$19,400.00) subject to annual adjustments published by the Pennsylvania Department of Labor and Industry based on the Consumer Price Index as set forth in the First Class Township Code (53 P.S. 56802(a.2))**, [amended April 17, 1985, Resolution #23-85] or a sale price over twenty-five thousand dollars (\$25,000.00) [amended June 1, 1988, Resolution 34-88] which shall not require advertising or bidding, as hereinbefore provided, are as follows:

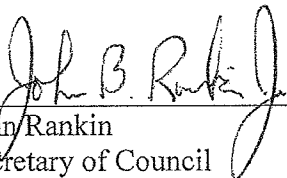
- (a) Those for maintenance, repairs or replacements for water, electric light, or other public works of the Township, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment but a bond may be required as in other cases of work done;
- (b) Those made for improvements, repairs and maintenance of any kind made or provided by the Township, through its own employees: Provided, however, that all materials used for street improvement, maintenance, and/or construction in excess of **nineteen thousand four hundred dollars (\$19,400.00)** [amended April 17, 1985, Resolution #23-85] **subject to annual adjustments published by the Pennsylvania Department of Labor and Industry based on the Consumer Price Index as set forth in the First Class Township Code (53 P.S. 56802(a.2))** be subject to the advertising requirements as contained herein.
- (c) Those where particular types, models or pieces of new equipment, articles, appliances, vehicles or parts thereof are desired which are patented and manufactured products.
- (d) Those involving any policies of insurance or surety company bonds; those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission; those made with another political subdivision or a county; the Commonwealth of Pennsylvania; the federal government or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth, or federal government or their agencies, the price thereof shall not be in excess of that fixed by the Commonwealth, the federal government or their agencies
- (e) Those involving personal or professional services.
- (f) Those involving data, word processing and communications products, including but not limited to, computer hardware and software, radio transmission, receiving and telephone equipment, including service and maintenance contracts on all the foregoing products. [Amended August 20, 1986, Resolution #41-86]
- (g) Those for the sale of personal property of the Township valued at less than twenty-five thousand dollars (\$25,000.00). [Amended June 1, 1988, Resolution #34-88)

- (h) Those contracts for the restoration of historically, significant, municipally-owned properties and improvements erected thereon. {Amended August 3, 1988, Resolution #51-88}
- (i) Those contracts for equipment or services used in connection with the Township's recycling program. [Amended June 20, 1990, Resolution #35-90]

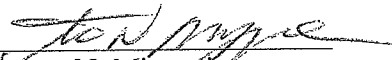
RESOLVED, this 15th day of April 2015.

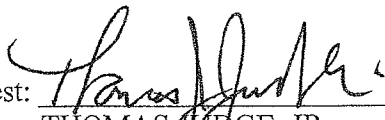
TOWNSHIP OF UPPER DARBY

By: 
 DONALD P. BONNETT
 President of Council

Attest: 
 John Rankin
 Secretary of Council

Resolution 09-15 above is hereby approved this 15th day of April, 2015

APPROVED: 
 Thomas N. Micozzie
 Mayor

Attest: 
 THOMAS JUDGE, JR.
 Chief Administrative Officer

UPPER DARBY TOWNSHIP**Resolution No. 10-15****A RESOLUTION OF UPPER DARBY TOWNSHIP,
DELAWARE COUNTY, PENNSYLVANIA
APPROVING THE SETTLEMENT OF BUSINESS
PRIVILEGE AND MERCANTILE TAX LITIGATION
PENDING IN THE DELAWARE COUNTY COURT OF
COMMON PLEAS AT DOCKET NO. 2014-004294**

WHEREAS, in 2012 the Township assessed certain delinquent Mercantile Taxes, Emergency and Municipal Services Taxes, and Local Services Taxes against Chriskoll, Inc. dba Burger King #9468 (“**Taxpayer**”) for tax years 2006 through 2012, in the total amount of \$34,253.13; and


WHEREAS, Taxpayer disputed the Assessment and on May 12, 2014, the Township filed a civil complaint in the Court of Common Pleas, Delaware County, Pennsylvania, docket number 2014-004294, seeking to collect the Assessment; and

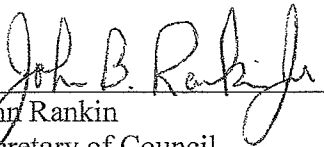
WHEREAS, in order to avoid the additional costs of litigation, the parties have agreed to resolve both the Assessment and the Township’s claim for certain subsequent business taxes that have accrued since the issuance of the Assessment, which totals \$42,160.48 (together the “**Business Tax Claims**”), for the sum of \$36,231.59, payable in five installments, as detailed in the proposed settlement agreement; and

WHEREAS, the Council of Upper Darby Township deems it in the Township’s best interests to resolve the Business Tax Claims for the proposed sum of \$36,231.59;

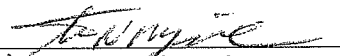
NOW THEREFORE, BE IT RESOLVED, that the Township Administrator is authorized to enter into an agreement to settle the Business Tax Claims for the sum of \$36,231.59, paid in five installments. The Agreement shall be in a form acceptable to the Township’s Solicitor.


TOWNSHIP OF UPPER DARBY

By: 
DONALD P. BONNETT
President of Council

Attest: 
John Rankin
Secretary of Council

Resolution 10-15 above is hereby approved this 15th day of April, 2015

APPROVED: 
Thomas N. Micozzie
Mayor

Attest: 
THOMAS J. DOFFE, JR.
Chief Administrative Officer

**INSTALLMENT AGREEMENT
WITH CONFESSION OF JUDGMENT**

THIS INSTALLMENT AGREEMENT WITH CONFESSION OF JUDGMENT (the “**Agreement**”) is entered into as of the _____ of April, 2015, by and between Chriskoll, Inc. d/b/a Burger King #9468, a corporation operating from 73 Chestnut Road, Paoli, PA 19301 (“**Taxpayer**”) and **Upper Darby Township**, a Pennsylvania political subdivision with offices at 100 Garrett Rd., Upper Darby, PA 19082 (“**Township**”).

BACKGROUND

WHEREAS, on December 6, 2012, Township issued an assessment of delinquent taxes, penalties, and interest for: Mercantile tax years ending March 31, 2007, 2008, 2009, 2010, 2011, and 2012; Emergency Municipal Services tax years 2006 and 2007; and Local Services tax years 2008, 2009, 2010, 2011 and 2012 (the “**Assessment**”); and

WHEREAS, on May 12, 2014, Township filed a Complaint in the Court of Common Pleas, Delaware County, Pennsylvania, Civil Action No. 2014-004294, against Taxpayer for failure to pay the Assessment; and

WHEREAS, Taxpayer has not paid any amounts owed under the Assessment; and

WHEREAS, Taxpayer has not filed or paid its owed taxes, penalties, and interest for: Mercantile tax years ending March 31, 2013, and March 31, 2014; and Local Services tax year 2013; and

WHEREAS, the Township and Taxpayer agree that the aggregate amount of taxes, penalties, and interest owed by Taxpayer totals **\$42,160.48**, which consists of: Mercantile tax years ending March 31, 2007, 2008, 2009, 2010, 2011, 2012, 2013, and 2014; Emergency Municipal Services tax years 2006 and 2007; and Local Services tax years 2008, 2009, 2010, 2011, 2012, and 2013.

WHEREAS, in order to avoid additional collection and litigation costs, the Township and Taxpayer have agreed to this Installment Agreement with Confession of Judgment.

NOW THEREFORE, Upper Darby Township and Taxpayer, through their authorized representatives, hereby agree as follows:

1. Taxpayer will pay Township a total amount of **\$36,231.59**.
2. Payments shall be remitted to the Township as follows:
 - a. \$9,231.59 on or before April 30, 2015.
 - b. \$6,750.00 on or before May 31, 2015.
 - c. \$6,750.00 on or before June 30, 2015.
 - d. \$6,750.00 on or before July 31, 2015.
 - e. \$6,750.00 on or before August 31, 2015.

3. Payments shall be made payable by good check to "Upper Darby Township" and forwarded to:

Christopher M. Curci, Esq.
Flamm Walton PC
794 Penllyn Pike
Blue Bell, PA 19422

4. Taxpayer shall timely file and pay all returns that become due to the Township during the period of this Agreement.
5. So long as Taxpayer makes the payments as stated in paragraph 2 of this Agreement, Taxpayer may claim a Mercantile tax credit in the amount of \$1,645.91 on Taxpayer's Mercantile tax return for tax year ending March 31, 2015, which must be filed and paid no later than June 15, 2015.
6. So long as payments and filings are made by Taxpayer as and when required herein, Township will refrain from collection against Taxpayer. Upon receipt of this Agreement signed by Taxpayer, and the \$9,231.59 payment due on or before April 30, 2015, Township will withdraw the Complaint against Taxpayer in Civil Acton No. 2014-004294.
7. The Township may terminate this Agreement, unilaterally, at its sole discretion and without notice to Taxpayer, if any payment is not timely made, or if the Township has concern that its interests may be compromised by the financial condition or other circumstances of Taxpayer.
8. Upon execution of this Agreement and fulfillment of all payments and filing obligations required under this Agreement, Taxpayer shall be completely and unconditionally released by Township of and from any and all further liability with respect to any taxes, penalties, interest, attorney's fees, and/or other amounts owed for Mercantile tax years ending March 31, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, and 2014; Emergency Services taxes for tax years 2006 and 2007; and Local Services taxes for tax years 2008, 2009, 2010, 2011, 2012, and 2013. Upon execution of this Agreement, Township shall be completely and unconditionally released by Taxpayer of and from any and all claims relating to the collection of taxes, penalties, and interest contained in this Agreement, or refund any amounts paid hereunder or any portion hereof.
9. Taxpayer acknowledges that it enters into this Agreement knowingly and voluntarily, with a complete understanding of the terms and conditions of this Agreement, and that it has had the opportunity to seek advice from counsel, Scott A. Petri, Esq. of the law firm of Begley, Carlin & Mandio, LLP. Taxpayer further represents that the person whose signature appears below for Taxpayer is a representative for Taxpayer who has been duly authorized to enter into this Agreement.


10.


11. CHRISKOLL, INC. D/B/A BURGER KING #9468 AGREES THAT IF FOR ANY REASON ANY PAYMENT IS NOT MADE TO TOWNSHIP AS AND WHEN REQUIRED BY THIS AGREEMENT, CHRISKOLL, INC. D/B/A BURGER KING #9468 HEREBY EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR CHRISKOLL, INC. D/B/A BURGER KING #9468 IN ANY AND ALL ACTIONS WHICH MAY BE BROUGHT FOR THE COLLECTION THE ASSESSMENT, TO ENTER AN APPEARANCE ON BEHALF OF CHRISKOLL, INC. D/B/A BURGER KING #9468., AND TO CONFESS JUDGMENT AGAINST CHRISKOLL, INC. D/B/A BURGER KING #9468 AND CONFESS JUDGMENT IN THE AMOUNT OF \$42,160.48, MINUS ANY PAYMENTS MADE BY TAXPAYER UNDER THIS AGREEMENT, PLUS ACCRUED INTEREST AT THE RATE OF .05% PER MONTH OR PART OF A MONTH, PLUS A REASONABLE ATTORNEY FEE IN THE AMOUNT OF 10% OF THE AMOUNT DUE, PLUS COSTS INCURRED BY THE TOWNSHIP IN COLLECTING ANY AMOUNTS DUE UNDER THIS AGREEMENT.
12. This Agreement may be executed in counterparts by the parties hereto, each of which shall be deemed to be an original and all of which shall be one and the same document. Facsimile or electronically scanned signatures shall be acceptable by both parties.
13. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof.
14. This Agreement consists of a total of four (4) typewritten pages, the last of which is a signed Corporate and Confession of Judgment Acknowledgment.
15. Settlement of this matter was approved by the Upper Darby Township Council at its meeting on April 15, 2015.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of April 16, 2015.

UPPER DARBY TOWNSHIP

CHRISKOLL, INC.
d/b/a BURGER KING
#9468

By: 
Thomas J. Judge, Jr.
Chief Administrative Officer

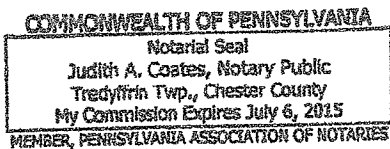
By: 
Christopher Nawn
President

Corporate and Confession of Judgment Acknowledgment

Commonwealth of Pennsylvania)
)
County of Delaware) ss.

BE IT REMEMBERED, that on this 28 day of April, 2015, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Christopher Nawn, an officer of Chriskoll, Inc. d/b/a Burger King #9468, who is personally known to me (or satisfactorily proven) to be the person who executed the foregoing Installment Agreement with Confession of Judgment and he acknowledged to me that he signed the same as his voluntary act and deed on behalf of Chriskoll, Inc. d/b/a Burger King #9468, for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.



Judith A. Coates
Notary Public

(SEAL)

My Commission Expires:

July 6, 2015