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A regular meeting of Upper Darby Township Council was held on Wednesday evening, April 17<sup>th</sup>, 2019 at 7:00 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, Jacob A. Bierling Jr., Sekela Coles, Robert S. Gwin Jr., Barbarann Keffer, Marc Manfre, Lisa Faraglia, Sheikh M. Siddique, Patrick Spellman, Laura Wentz

Thomas P. Wagner, excused

**Present at the Meeting**

Thomas N. Micozzie, Mayor  
Thomas J. Judge Jr., CAO  
Kelly C. Hayes, Esquire  
Scott C. Gottel, Esquire  
Richard G. Nolan, Chief Municipal Clerk

**Approval of the Minutes**

Motion to approve the Minutes for the Committee Meeting of March 6<sup>th</sup>, 2019

Mr. Spellman: So moved.

Ms. Wentz: Second.

**Minutes approved; 10 in favor, 1 excused**

Motion to approve the Minutes for the Council Meeting of March 20<sup>th</sup>, 2019

Mr. Bierling: So moved.

Mr. Spellman: Second.

**Minutes approved; 10 in favor, 1 excused**

**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 three minutes.

Kamruzzman Khan, 45 Elm Avenue  
Complain

Hazel Johnson, 66 Hartley Road  
Clinic

Gerald Harrison, 24 S. Kirklyn Ave  
Budget

Olivia Taylor, 204 Kent Road

Richard Blye, 274 Kent Road  
6<sup>th</sup> District

Lavonda Talford, 174 Sherbrook Blvd.  
Dumpster

Bonnie Hallam, 4719 Woodland Avenue  
Farmer's Market

Their comments are filed on tape.

### **Mayor Micozzie**

*Announced a presentation by the Economic Development Committee following the Council Meeting*

*Presentation of Proclamation for **Arbor Day**, April 26<sup>th</sup>, 2019*

*Presentation of Proclamation for the **Festival of Vaisakhi Day**, April 14<sup>th</sup>, 2019*

### **Committee Reports**

#### **Municipal Services, Licensing & Public Works Committee**

Patrick J. Spellman, Chairman

**Motion** for Council to authorize the Director of Licenses and Inspection to issue a Festival permit to Saint Eugene's Church to hold a Festival on Wednesday, June 12<sup>th</sup>, 2019 through Saturday, June 15<sup>th</sup>, 2019 from 6-10 pm subject to certain conditions including receipt of insurance certificate

Moved: Councilman Spellman  
Second: Councilman Bierling

**Motion approved. 10 in favor, 1 excused**

**Finance and Appropriations Committee**

Thomas P. Wagner, Chairman

**Resolution No. 23-19**, the tax appeal of Jason Scharr and Lauren D'Alesio,  
111 Ardmore Avenue, Upper Darby Township, Tax Folio No: 16-07-00032-00

Moved: Councilman Bierling  
Second: Councilman Gwin

**Resolution No. 23-19 is adopted. 10 in favor, 1 excused**

**Resolution No. 24-19**, a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the leasing of the part of the building and real property located at 6600 Baltimore Avenue, Lansdowne, PA 19050. The property is in Upper Darby Township and the intended use is for a police sub-station.

Moved: Councilman Bierling  
Second: Councilwoman Faraglia

**Resolution No. 24-19 is adopted. 10 in favor, 1 excused**

**Public Health & Environmental Affairs Committee**

Sekela Coles, Chairwoman

**Public Hearing for Ordinance No. 3056**, an Ordinance of Upper Darby Township, Delaware County, Pennsylvania providing regulations for Farmers' Markets

Moved: Councilwoman Coles  
Second: Councilman Spellman

**Council President Bonnett opened a Public Hearing**

**Speakers**

Marah Manners, 7132 Radbourne Road, Upper Darby, PA  
Bonnie Hallam, 4719 Woodland Avenue, Drexel Hill, PA

Ms. Manners: Hi Everybody, Marah Manners, 7132 Radbourne Road. Back in 2014 we held numerous meetings regarding the Farmers' Market and after Council considered the Market and before the end of my term, it was almost approved. So, I am asking Council to pass the Ordinance tonight. It's very important for my community. Thank you.

Mr. Bonnett: Does anyone else wish to address Council?

Ms. Hallam: Bonnie Hallam, 4719 Woodland Avenue, Drexel Hill, PA. I also am very much in favor of passing an Ordinance to have a Farmers' Market in Upper Darby Township. In previous employment I worked for the Food Trust which sponsors 32 Farmers' Markets over the Philadelphia region and I worked very closely with them as I was the Associate Director of Early Childhood Initiative and Farmers' Markets really promote healthy eating in communities. It brings communities together and has a lot of advantages that would really be wonderful to have in Upper Darby Township. I read through the Ordinance and I just wanted to bring up a couple of points and see if maybe we could change some of the things that are in this to actually help make it an even better experience for us. One of the things that I'd like to point out is the time. So the time in this Ordinance says "no earlier than 8am and cease no later than 4pm". I'm not sure why the 4pm time was put in there but a lot of Farmers' Markets in the Philadelphia area go to sometimes 7pm so they can hit a lot of different residents when they are able to come to the Market. So, I suggest that the time be looked at. I also wanted to mention that one of the kinds of Markets that people have in the Philadelphia area are called "night markets" and they run from 6pm to 10pm and they are really wonderful occasions for people to come out as a community. They have not only a Farmers' Market there but they have food trucks and music and are just a very festive kind of thing. But, they highlight the Farmers' Market so that people who might not be able to get there during the day can also buy fresh fruits and vegetables at the market. So, I wanted to suggest that we consider that in thinking about the Farmers' Market Ordinance. The other thing that I just mentioned is about the food trucks. I don't see that mentioned in the Ordinance and I don't know whether or not we are considering having some food trucks at the Farmers' Market once we develop it and whether or not we can somehow speak to that in the Ordinance so that we know that that is a possibility. And the one other thing is that I'm not sure but at a lot of Farmers' Markets they have some tables where people could do handicrafts and art in addition to the food products so local artisans can also highlight their wares and also local businesses. For instance, if we had a Farmers' Market in our area, would Five Points Coffee be able to sell coffee there and that sort of thing. So, this is some of the things that I saw that were missing from here and I wanted to ask for consideration for including some language for some of these ideas.

Mr. Bonnett: Ms. Hallam, if we were to consider that this evening, we would have to pull this off of the Agenda. They would not be insubstantial; they would be significant modifications to the Ordinance and we would have to re-advertise it. However, and I certainly invite Councilwoman Coles, the Chair of the Committee, to comment but it was deliberate that we chose 4pm to conclude the activities. However, what you're proposing

might actually fall into a different category and there is a process for permitting that under a different approach. The scope of the Farmers' Market is well-defined in our Ordinance and if you want to have food trucks and arts of any type on display, again, that falls more into a "festival" category and there is a separate process for permitting that.

Ms. Coles: I just want to clarify real quick; we had talked about that at one of our meetings and people like Five Points Coffee Shop or local artisans that wanted to sell handicrafts would be able to because it would be under the discretion of the Market manager. Councilwoman Wentz asked about that before the Council meeting and I gave her that same information. I just wanted to clarify that. Also, with the food trucks, I know that we have food trucks participate in our International Festival which goes into the evening time and is done with a special events permit but I don't see where it would bar a Market manager who has a permit for a Farmers' Market; I don't see where it would bar them to allow a food truck to participate in that. 4pm was selected; at first there was an earlier time and I asked for it to extend beyond that time that it was first proposed just because we were right now looking at weekend operations. We were also looking at the breakdown and clean-up time afterwards. The Township would not be running the Farmers' Market. The Market manager or managers who would be obtaining the permits would be overseeing and it would be at their discretion with businesses or community groups or farmers that they involve in the process and right now, because it is new, it is perceived that this will begin by being a Saturday event similar to our neighboring borough Lansdowne when they have their Farmers' Market on Saturdays. I believe it wraps up at 12 or 1 so this is why this is proposed in this format. I don't know if this answered all of your questions but definitely yes to local businesses like Five Points, I don't see where anybody would think they would be barred. The idea is to welcome.....

Mr. Judge: Sekela. I do want to make a suggestion. I do not believe this Ordinance would allow food trucks because they are not.....

Ms. Coles: Well, especially this permit that I know is obtained for the International Festival.....

Mr. Judge: This one is farm products so as it is written, it wouldn't allow food trucks.

Ms. Coles: So, if someone was interested, I don't see why the Market manager along with other individuals could not obtain a permit for the Farmers' Market as well as a permit for a special events permit to coordinate that and make it a bigger event. But, for right now, this Ordinance is only regulating Farmers' Markets. It is not regulating special events or festivals or celebrations. I don't know if that answered....

Ms. Hallam: Yes, I think that that's fine and I think that if those things could be done in combination that would be fine as long as we're not obstructing the ability to do other things in conjunction.

Ms. Coles: No, I don't see how.....right now we currently don't have any regulations for Farmers' Markets which to me is unfortunate but I don't see how now having a regulation for Farmers' Markets would restrict someone obtaining a special events permit to have a food truck or making it nice and having some other community event in conjunction with it on a particular Saturday in the spring or summer.

Ms. Hallam: OK, that's fine. I still sort of want to push back a little bit on the time because if in the end you decide that you didn't want.....whoever is going to manage the Market and figure out what's the best time when people would come and shop and you know, all that stuff and make it successful that restricting it to 4pm if you had it on a weekday and most of these that are open till 6 or 7 are done on weekdays because people get out of work and they can go to the Farmers' Market as well. So, I understand I don't want to hold up this Ordinance because I do want to have a Farmers' Market here. Is there an opportunity to amend an Ordinance?

Ms. Coles: There is definitely an opportunity to amend it. I would just say if the time gets pushed back to 6pm or 7pm, I would recommend in that Section the wording to maybe emphasize weekdays because we don't want to go beyond with paying staff then to go at 8pm on Saturday night to clean up. Definitely, I think that amendment, especially as we see applications for the permit come in. So today, obviously, there has been no applications because it doesn't exist yet. But, I think it would be a good thing to let a community group get their feet wet and have one on a Saturday to get their feet wet. It would be trial and error for them since it would be the first time that this would be done legally the right way. Based on the success and advertisement of that, I think it would be nice for the Public Health Committee to work with the Solicitor to have an amendment in time for the middle of the Summer to extend it. Hopefully, there would be community members interested in obtaining a permit on a weeknight so it won't be in vain.

Ms. Hallam: I just think it's very exciting. I don't know the process, like are their people interested or groups interested in putting permits in? Do you know yet? What would be the process?

Ms. Coles: Apart from you expressing something to me a couple of meetings ago after a meeting and also, I think former Councilwoman Marah Manners had worked with some group years ago, maybe 3 or 4 years ago, that had expressed interest. But, I think once it happened, I would hope that everybody who is in favor of us having Farmers' Markets would help get the word out there so that people would know that they could come in and put in for the permit. You don't necessarily have to be a non-profit organization. You can be a group of individuals that are willing to put in the work and organize it and take that responsibility.

Ms. Hallam: All right. Thank you.

Mr. Bonnett: OK. Thank you. Bob?



Mr. Gwin: Just one other point; We already do have means and we have craft shows and things like that for people to go. Many times we have them at the high school as well as flea markets.

Ms. Hallam: The only reason that I brought that up is sometimes they're a draw to the Farmers' Market and if it is conjunction with the fruits and vegetables, it sometimes is a bigger draw.

Mr. Bierling: This came up in 2014. I researched it pretty good. Besides rules and regulations of Upper Darby, there is an extensive from the government and that's where I got a lot of information and gave it to Marah. There are a lot of hoops to jump through with this. It's not just a matter of us just writing a Resolution. There are other health issues involved so it is quite extensive and probably what we don't cover is covered there.

Ms. Hallam: I understand that. As I said, I have experience from my previous employment and I know that there are a lot of hoops that people have to jump through in order to make it happen, but I think we're excited enough about it here that we are prepared to figure out how to jump through those hoops.

Mr. Bierling: One of the issues that came up in 2014 was one of the people who was interested in running a Farmers' Market was -----so he would run it and then he would recoup the money out of it. I believe at the time the proposed place that we talked about was on Long Lane. It's Township property which is public property so it's kind of tough for us to give property to run something to make a profit.

Ms. Hallam: Totally understandable. I'm happy I'm going to talk more with Marah and maybe together we can bring a number of community people together to start talking about this and get the show on the road. Thank you.

Ms. Coles: Thank you Bonnie for your input.

Mr. Bonnett: Thank you. Does anyone else wish to address Council on Ordinance No. 3056? Seeing no one else.....

Ms. Keffer: Excuse me, Councilman Bonnett. I just had a question. On page 3, Section 6E, the 2<sup>nd</sup> line says "exterior trash receptacles shall be provided for all outdoor Farmers' Markets." Is the Township providing those trash receptacles?

Mr. Bonnett: No. I believe that's up to the manager of the event itself.

Mr. Spellman: Yes, they are responsible. That is what we covered in the Committee meeting.

Mr. Bonnett: They have to do their own clean-up as well. Barbarann, does that answer your question?

Ms. Keffer: Yes, thank you.

Mr. Bonnett: We are not picking the trash up. That is my understanding. Seeing no one wishing to address Council, the Public Hearing for Ordinance No. 3056 is therefore closed and I turn the meeting back over to Councilwoman Coles.

Ms. Coles: I move for the adoption of Ordinance No. 3056.

Mr. Spellman: Second.

Mr. Bonnett: This will require a roll call vote. When your name is called, if you are in favor, signify by saying aye. If you are opposed, please say no. Mr. Secretary, please call the roll.

**A Roll Call vote was taken.**

**10 in favor, 1 excused. Ordinance No. 3056 was unanimously approved.**

**Public Safety Committee**

Jacob A. Bierling Jr., Chairman

**Resolution No. 25-19**, a Resolution to **REMOVE** "No Parking of Trucks or Commercial Vehicles" on the 200 block of N. Linden Avenue

Moved: Councilman Bierling

Second: Councilman Spellman

**Resolution No. 25-19 is adopted. 10 in favor, 1 excused**

**Solicitor**

Nothing to report

**Adjournment**

Motion to adjourn: Councilman Bierling; Second: Councilman Spellman

**Motion approved: 10 in favor, 1 excused.**

**Council President Bonnett adjourned the meeting.**

Cont'd

April 17, 2019 125

Respectfully submitted,

*Richard G. Nolan*

RGN/akc

Richard G. Nolan  
Chief Municipal Clerk

**UPPER DARBY TOWNSHIP  
RESOLUTION NO. 23-19**

**In Re: Appeal Of: Jason Scharr and Lauren D'Alesio**

**Owner: Jason Scharr and Lauren D'Alesio**

**Property Address: 111 Ardmore Avenue  
Upper Darby Township, PA 19082  
Tax Folio No.: 16-07-00032-00**

WHEREAS, this matter has been in litigation with an Appeal filed awaiting decision in the Court of Common Pleas of Delaware County under Docket No. 2018-007312;

WHEREAS, a proposed settlement agreement has been reached in this matter fixing the following tax assessment upon the above-named property;

<u>YEAR</u>	<u>ASSESSMENT</u>
2018(June 1, 2018 to June 30, 2018)	\$120,330.00 (Unchanged)
2018 (July 1, 2018 to December 31, 2018)	\$102,955.00
2019	\$ 97,900.00

WHEREAS, the Board of School Directors of the Upper Darby School District has approved the settlement of the above-listed tax assessment, and;

WHEREAS, the Solicitor recommends this settlement.

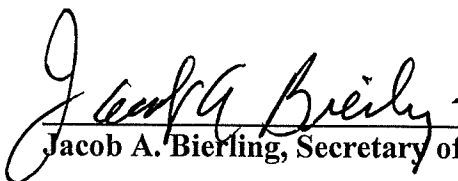
NOW THEREFORE, be it resolved that the above tax assessment be approved and the Solicitor is hereby authorized and directed to executed a Stipulation in the Court of Common Pleas of Delaware County agreeing to such assessed value for the property.

RESOLVED, this 17<sup>th</sup> day of April, 2019.

**UPPER DARBY TOWNSHIP**


**BY: Donald P. Bonnett  
Donald P. Bonnett, President of Council**

ATTEST:

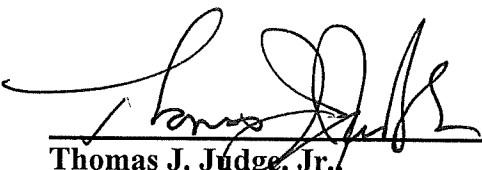
  
\_\_\_\_\_  
Jacob A. Bierling, Secretary of Council

Resolution No.23-19 above is hereby approved this 17th day of April, 2019.

BY:

  
\_\_\_\_\_  
Thomas N. Micozzie, Mayor

ATTEST:

  
\_\_\_\_\_  
Thomas J. Judge, Jr.  
Chief Administrative Officer

UPPER DARBY TOWNSHIP

Resolution No. 24-19

A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA APPROVING THE LEASING OF 6600 BALTIMORE AVENEUE, LANSDOWNE PA. 19050 UPPER DARBY TOWNSHIP FROM JMS REAL ESTATE INVESTMENTS LLC

Whereas, JMS Real Estate Investments LLC owns the property located at 6600 Baltimore Avenue Lansdowne PA 19050 in Upper Darby Township (the "Property"); and

Whereas, the Township will use the Property for a Police Sub-Station and store associated equipment at the location.

Whereas, this Council believes it to be in the best interest of the Township to do so on terms as set forth in the Lease Agreement attached hereto as Exhibit "A."

Now, therefore, be it resolved that:

- 1. The Township is hereby authorized to lease the Property, buildings and improvements located at 6600 Baltimore Avenue Lansdowne Pa. 19050 in Upper Darby Township upon the terms as set forth in the Lease Agreement attached hereto as Exhibit A, the form and substance of which is incorporated in this Resolution by reference hereto.
- 2. The Mayor, or his designee, is hereby empowered to take all actions and execute all documents which he deems necessary or convenient toward achieving the purpose of this Resolution.
- 3. All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency.

RESOLVED this 17<sup>th</sup> day of April 2019.

By: Donald P. Bonnett  
Donald P. Bonnett  
President of Council

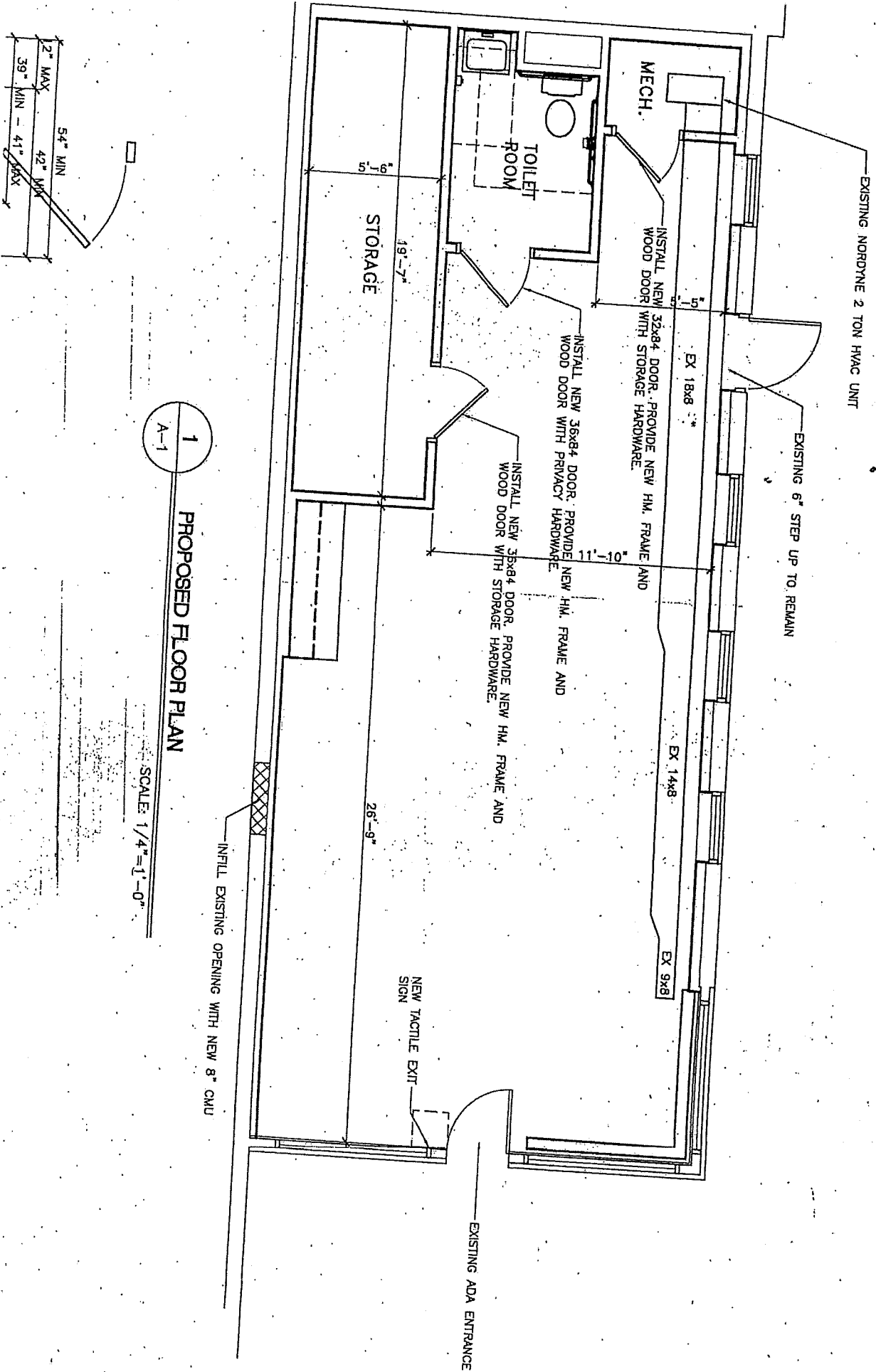
Attest: Jacob A. Bierling Jr.  
Jacob A. Bierling Jr.  
Secretary of Council

Resolution 24-19 above is hereby approved this 20th day of March 2019

APPROVED: Thomas N. Miozzie  
Thomas N. Miozzie  
Mayor

Attest: Thomas J. Judge Jr.  
Thomas J. Judge Jr.  
Chief Administrative Office

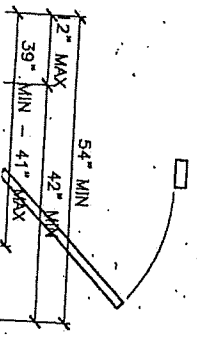
# Proposed Police Substation 660 BALTIMORE AVE.



1  
A-1

## PROPOSED FLOOR PLAN

SCALE 1/4" = 1'-0"



**LEASE AGREEMENT**

**THIS LEASE**, made as of the 17<sup>th</sup> day of April 2019, between JMS Real Estate Investment LLC, (hereinafter called the “Landlord”), and Upper Darby Township, a Pennsylvania home rule municipality (hereinafter called the “Tenant”).

**WITNESSETH**

**THAT**, the Landlord, in consideration of the rents and covenants hereinafter specified, to be paid and performed by the Tenant, hereby leases unto the Tenant, and Tenant hereby rents from Landlord, the premises hereinafter described, upon the terms and conditions herein set forth, intending to be legally bound.

**1. LEASE PREMISES.**

The lease premises consists of one-thousand square feet (1,000 s.f.) of interior office space located in the building at 6600 Baltimore Pike, Upper Darby Township, Delaware County, Pennsylvania, which Tenant may use for any lawful purpose. The lease premises shall further consist of one thousand two hundred sixty five square feet (1,265 s.f.) of paved parking area immediately adjacent to the building located at 6600 Baltimore Pike, Upper Darby Township. (collectively “the Property”).

**2. LEASE TERM AND USE.**

This lease which shall commence on the first day of June, 2019, shall be for a term of four (4) years and seven (7) months, expiring on December 31, 2023. Optional extension terms:



in the event that both parties agree, the lease may be extended for two (2) consecutive five (5) year renewal terms.

Landlord or Tenant may terminate this Lease at the end of the original term by providing written notice thereof sixty (60) days prior to the end of the term. If neither party provides said written notice, then this lease shall continue for an additional five years with the terms and conditions then in force.

Tenant intends to use the Property for a Police Substation.

3. **RENT.**

Tenant will pay a monthly rent in the amount of two hundred and seventy dollars (\$270.00) for the years 2019 and 2020. Commencing on January 1, 2022, the monthly rent shall escalate by three (3%) percent and be payable at the amount of \$278.10/monthly for the remaining months of the original lease term.

In the event that the lease is extended for either of the optional renewal terms, the monthly rent shall escalate by three (3%) percent commencing for each renewal terms. Thus the monthly rental amount for the first renewal terms shall be \$286.44 and the monthly rental amount for the second renewal term shall be \$295.03.

4. **UTILITIES.**

Tenant agrees to pay for all utilities, which it consumes during the term of the lease.

5. **REPAIRS/MAINTENANCE.**

Landlord shall be responsible for all maintenance and repairs that may be necessary to bring premises into compliance with all federal, state, and township laws, statutes, codes, and ordinances prior to Tenant's occupancy of the premises. Following occupancy, Tenant shall be

responsible for cleaning and normal interior maintenance while Landlord shall be responsible for repairs to all fixtures and appliances in existence at premises prior to start of Tenant's occupancy and to all interior and exterior structural parts of the premises. Landlord's responsibility shall include, but not be limited to, maintenance of the building's electrical, plumbing and HVAC systems and any residual in ground contamination.

It is expressly agreed and understood that Tenant shall be permitted to make any alterations it deems necessary or convenient for use of the lease premises, as long as such alterations do not create dangerous situation, damage or waste.

6. **LIABILITY OF LANDLORD AND TENANT:**

Landlord shall not be responsible for the loss of or damage to vehicles, property, or injury to persons, occurring on or about the Property. Tenant acknowledges that Tenant is leasing the Property at its sole risk. Tenant shall indemnify, defend and save harmless Landlord from suits, actions, damages, liabilities and expenses arising out of any occurrence on the Property, or the occupancy or use by Tenant, its agents, contractors, employees, servants, invitees or licensees, except in the event such claims, liability, defects or damages were caused by the gross negligence of Landlord or Landlord's agents, servants or employees.

7. **INSURANCE:**

Tenant shall maintain general commercial liability insurance, including public liability and property damage, with premises coverage on an occurrence basis with a minimum combined single limit of liability equal to \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate for property damage, bodily and personal injuries or deaths of persons occurring on or about the Property. The policy shall name the Landlord as an additional insured. On or before the

Commencement Date and upon each renewal of its insurance policies, Tenant shall give copies of certificates or policies of insurance to Landlord with proof of payment of premiums.

8. **DEFAULT BY TENANT:**

In the event Tenant fails to make any payment of rent when due under this Lease, or otherwise commits a material breach of this Lease, and such failure or breach continues for a period of ten (10) days following written notice from Landlord to Tenant, Landlord shall have the right, at its sole option and without further notice to Tenant, to terminate this Lease and all of Tenant's rights hereunder.

9. **NOTICE:**

All notices, requests and other communications under this Agreement shall be in writing and shall be deemed to have been properly given if personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or by private overnight express carrier, such as Federal Express, next day delivery, charges prepaid, addressed as follows:

Landlord:

JMS Real Estate Investment, LLC  
33 Williams Street  
Lansdowne Pa. 19050

Tenant:

Upper Darby Township  
Attn: Thomas J. Judge, CAO  
100 Garrett Road  
Upper Darby, PA 19082

tjudge@upperdarby.org

With a copy to:  
Kelly S. Sullivan, Esquire  
1223 N. Providence Road  
Media, PA 19063  
[ksullivan@mbmlawoffice.com](mailto:ksullivan@mbmlawoffice.com)

All such notices, requests and other communications shall be deemed to have been sufficiently given for all purposes on the date of delivery, if personally delivered, or the postmarked date of mailing, if sent by registered or certified mail, or the date of deposit if sent by private overnight express carrier.

10 **ASSIGNMENT:**

Tenant shall not assign, mortgage, pledge or encumber (collectively "Assignment") this Lease, in whole or in part, or sublet the whole or any part of the Property, or permit the use or occupancy of the whole or any part of the Property by others without the prior written consent of Landlord.

11. **SURRENDER:**

Tenant, upon expiration or earlier termination of this Lease, shall peaceably surrender to Landlord the Property in good repair, subject to reasonable wear and tear. Tenant shall remove all improvements installed by, or on behalf of, Tenant and shall repair any damage to the Property caused thereby.

12. **ENTIRE AGREEMENT: NON-WAIVER AND SEVERABILITY.**

This Lease contains the entire agreement and understanding between Tenant and Landlord. No other agreements or understandings shall be binding on the parties unless set forth in writing and signed by the parties. Any provision of this Lease which for any reason may be

held unenforceable by any court of competent jurisdiction shall, be ineffective to the extent of such unenforceability without invalidating the remaining provisions of this Lease.

13. GOVERNING LAW:

This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

14. MISCELLANEOUS:

(a) This Lease shall be binding on the parties hereto, their successors and assigns.

(b) This Lease represents the entire agreement between the parties to this Lease and supersedes all prior agreements between the parties, whether written or oral with respect to the subject matter hereof.

(c) This Lease may only be amended in writing signed by both parties.

(d) Tenant hereby represents and warrants that that the individual executing this Lease is duly authorized to execute and deliver this Lease on behalf of the Tenant in accordance with the duly adopted resolution of the Council of Upper Darby Township, and that this Lease is binding upon the Tenant in accordance with its terms.

(e) So long as Tenant shall pay the rents and other charges herein provided within the respective times provided therefor, and provided and so long as Tenant observes and performs all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Property for the Term(s) of this Lease without hindrance or interruption by Landlord or any other person or persons lawfully claiming by, through or under Landlord, subject, nevertheless, to the terms and conditions of this Lease.

IN WITNESS WHEREOF, intending to be legally bound, the said parties have set their hands and seals below the date and year above written.


JMS Real Estate Investment LLC

UPPER DARBY TOWNSHIP

By: \_\_\_\_\_

By:   
Thomas N. Micozzie, Mayor

Attest: \_\_\_\_\_

Attest: 

Thomas J. Judge Jr  
Chief Administrative Officer

**UPPER DARBY TOWNSHIP**

**ORDINANCE NO. 3056**

**AN ORDINANCE OF UPPER DARBY TOWNSHIP,  
DELAWARE COUNTY, PENNSYLVANIA PROVIDING  
REGULATIONS FOR FARMERS' MARKETS.**

WHEREAS, Upper Darby Township Council recognizes that Farmers' Markets promote healthy living through the sale of locally grown food and agriculturally related products; and

WHEREAS, Upper Darby Township Council finds it appropriate to establish reasonable guidelines and regulations to govern Farmers' Markets in Upper Darby Township;

WHEREAS, Upper Darby Township Council further finds that such regulations are needed in order to protect the health, safety and welfare.

NOW, THEREFORE, by Upper Darby Township, County of Delaware, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

SECTION 1. Short Title

This ordinance shall be known and may be cited as the Farmers Market Ordinance.

SECTION 2. Purpose and Intent.

The purpose of this document is to provide regulation for the management of Farmers' Markets in Upper Darby Township.

SECTION 3. Definitions.

(a) Farmers' Market An off-street retail sales use operated by a governmental agency, non-profit organization, or one or more Producers that primarily sells Farm Products and Value-added Farm Products directly to the public.

(b) Farm Products Items sold at a Farmers' Market from a Producer. Farm Products shall include, but are not limited to, agricultural products such as fruits, vegetables, herbs, nuts, eggs, honey or other bee products, flowers, nursery stock, livestock food products and seafood.

(c) Market Manager A person or organization that manages the operation of the Farmers' Market, assigns spaces to Producers and sellers, directs the maintenance of premises and records, and performs related duties as required. The Market Manager shall be the Applicant for the use permit and coordinate all other required permits.

(d) Producer The person or entity that (i) raises or produces the farm products on the land that the person or entity farms and owns, rents or leases; or (ii) a person or entity that creates (by cooking, canning, baking, preserving, roasting, etc.) Value-added Farm Products.

(e) Value-added Farm Products A product processed by a Producer from a Farm Product, including but not limited to, baked goods, jams, jellies, canned vegetables, dried fruits, syrups, salsas, salad dressings, flours, coffee and other beverages, smoked or canned meats or fish, sausages or prepared foods.

(f) Vendor Any person who exhibits, displays, offers for sale or sells any Farm Product or Value-added Farm Product from any stand in the Farmers' Market.

SECTION 4. Permits.

Any governmental entity, non-profit organization or one or more Producers who wishes to operate a Farmers' Market must first obtain all applicable permits from the Department of Licenses & Inspection when proposing to operate on private property and the Department of Leisure Services when proposing to operate on publicly owned property.

SECTION 5. Regulations and Requirements.

(a) Farmers' Markets must comply with all applicable requirements of the Upper Darby Township Zoning Code including but not limited to Section 1009 which regulates temporary off-street retail sales.

(b) Farmers Market Vendor's must comply with Upper Darby Township Ordinance 1912 (Health Code) and the Pennsylvania Department of Agriculture Act 106 of 2010 and Chapter 57, Title 3 (Food Protection).

(c) Hours of Operation. All outdoor display and sales of merchandise shall begin no earlier than 8:00 a.m. and cease no later than 4:00 p.m.

SECTION 6. Market Operations

(a) All Farmers' Markets shall have a Market Manager authorized to direct the operation of all vendors participating during all hours of operation.

(b) All Farmers' Markets shall have an established set of operating rules addressing the governance structure of the Farmers' Market, hours of operation, maintenance and security requirements and responsibilities, appointment of a Market Manager.

(c) There shall be no use of public address systems at Farmers' Markets.

(d) All temporary structures used for outdoor Farmers' Markets shall be removed on the same day of operation.



(e) All Farmers' Market permit applications shall include a plan for the cleanup of litter. Exterior trash receptacles shall be provided for all outdoor Farmers' Markets. All trash generated from Farmers' Markets shall be disposed of immediately following the closing of the operation.

(f) An outdoor Farmers' Market cannot obstruct a sidewalk or path that is part of a pedestrian or bicycle transportation system.

(g) All Farmers' Markets and their Vendors shall obtain and display on site all required operating and health permits and licenses from the Pennsylvania Department of Agriculture and/or Upper Darby Township Health Department. All required permits and licenses shall be in the possession of the Market Manager or Vendor during all hours of operation.

(h) A site plan shall be submitted with the permit application showing all existing improvements on the property, off-street parking areas and driveways and the specific area dimensions to be occupied by the Farmers' Market.

SECTION 7. Violations and Penalties.

Any person, firm or corporation violating any of the provisions of this Ordinance shall be subject to a fine of not more than One Thousand Dollars (\$1,000) per violation and upon default of the payment thereof, be sentenced to undergo imprisonment for a period not exceeding thirty (30) days.

SECTION 8. Severability.

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Upper Darby Township Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION 9. Effective Date.

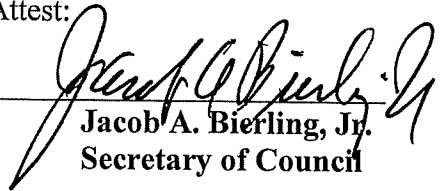
This ordinance shall become effective immediately after enactment according to law and shall remain in effect hereafter until revised, amended or revoked by action of the Upper Darby Township.


SECTION 10. Repealer.

Any ordinance or part of an ordinance to the extent that it is inconsistent herewith is hereby repealed.

ENACTED and ORDAINED this 17<sup>th</sup> day of April, A.D. 2019.

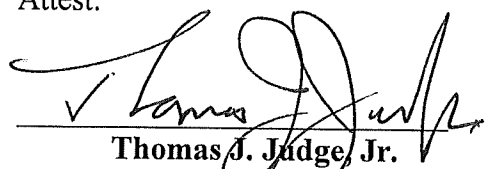
Attest:

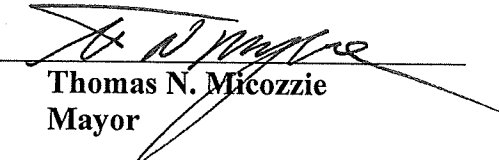
  
\_\_\_\_\_  
**Jacob A. Bierling, Jr.**  
**Secretary of Council**

By:   
\_\_\_\_\_  
**Donald P. Bonnett**  
**President of Council**

Ordinance No. 3056 above is hereby approved this 17<sup>th</sup> day of April, A.D., 2019.

Attest:

  
\_\_\_\_\_  
**Thomas J. Judge, Jr.**  
**Chief Administrative Officer**

Approved:   
\_\_\_\_\_  
**Thomas N. Micozzie**  
**Mayor**

**RESOLUTION NO. 25-19**

WHEREAS, ORDINANCE NO. 449 OF THE TOWNSHIP OF UPPER DARBY PROHIBITS PARKING OF VEHICLES ON CERTAIN HIGHWAYS AND REGULATES THE PARKING OF VEHICLES ON CERTAIN HIGHWAYS AND IMPOSES PENALTIES FOR THE VIOLATION THEREOF:

NOW, THEREFORE, BE IT RESOLVED;


THAT ORDINANCE NO. 449 BE AND THE SAME IS HEREBY AMENDED AS FOLLOWS:


**REMOVE "NO PARKING OF TRUCKS OR COMMERCIAL VEHICLES" RESTRICTION AT THE FOLLOWING LOCATION:**

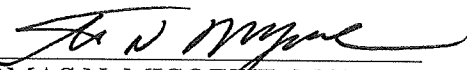
**ON THE 200 BLOCK OF N. LINDEN AVENUE**

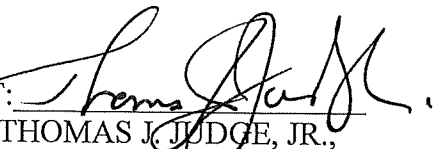
RESOLVED, THIS 17<sup>TH</sup> DAY OF APRIL, A.D., 2019.

UPPER DARBY TOWNSHIP

  
DONALD P. BONNETT  
PRESIDENT OF COUNCIL

ATTEST:   
JACOB A. BIERLING JR.  
SECRETARY OF COUNCIL

  
THOMAS N. MICOZZIE, MAYOR

ATTEST:   
THOMAS J. JUDGE, JR.,  
CHIEF ADMINISTRATIVE OFFICER