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### Upper Darby Township Council Meeting

November 6<sup>th</sup>, 2019

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A regular meeting of Upper Darby Township Council was held on Wednesday evening, November 6<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, Thomas P. Wagner, Jacob A. Bierling Jr., Sekela Coles, Robert S. Gwin Jr., Barbarann Keffer, Marc Manfre, Lisa Faraglia, Sheikh Siddique, Patrick Spellman, Laura Wentz

### **Present at the Meeting**

Thomas N. Micozzie, Mayor  
Thomas J. Judge Jr., CAO  
Kelly Sullivan, Esquire  
Richard G. Nolan, Chief Municipal Clerk

### **Mayor Micozzie**

Nothing to report

### **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.

Troy Bennett, 222 Bayard Road  
Non-residents parking on street

Alfred Aichert Jr., 7228 Radbourne Road  
Reflection on governance

Dr. John Taylor, 7121 Guilford Road  
Dysfunctional community services

Olivia Taylor, 204 Kent Road  
Community

Joanne Nammavorg, 133 N. Pennock  
Parkview Road and crime

Becky Duggan, 129 N. Pennock  
Crime and speed restrictions

Jill Carey, 159 N. Madison Ave  
Alley way re-paving project

Yodit Tsegai, 338 Francis Street  
Fire siren

Brian Taylor, 7258 Lamport Rd

Bonita Carlton, 39 N. Keystone Avenue  
Trash, roads

Richard Blye, 274 Kent Road

Their comments are filed on tape.

## **Committee Reports**

### **Finance and Appropriations Committee** Thomas P. Wagner, Chairman

**Public Hearing for Ordinance No. 3061**, an Ordinance of Upper Darby Township, Delaware County, Pennsylvania amending Ordinance 2619, "The Upper Darby Township Police Pension Ordinance and Plan" to expand the definition of "Superannuation Age," as defined in the Plan and Ordinance, to permit a Superintendent of Police hired after January 1, 2001 to reach Superannuation Age upon attaining the age of seventy-seven and repealing all Ordinances, Resolutions and parts of Ordinances and Resolutions inconsistent herewith

**A Public Hearing was convened.**

### **Speakers**

Richard Blye, 274 Kent Road  
Bonnie Hallam, 4719 Woodland Avenue  
Joanne -----, 133 N. Pennock Avenue

Richard Blye, 274 Kent Road. Reading the Resolution just now and understanding the words, I'm not going to -----, Mr. Wagner. This is to basically help Chief of Police Chitwood? That's what I'm understanding. Or anybody else who has this position?

Mr. Judge: It's for anyone who gets into that position who was hired after a certain age period.

Mr. Blye: And that includes Superintendent Chitwood and anyone else in the future?

Mr. Judge: I think he would benefit from it but anybody else also would.

Mr. Blye: So, anyone else plus him.

Solicitor: This is specific to the Superintendent of Police if that person was hired at age 50 or older at the time that they were hired.

Mr. Blye: I think that having credibility and consistency in that department helps our Township so I hope that you approve that Ordinance.

Mr. Bonnett: Anyone else?

Ms. Hallam: Bonnie Hallam, 4719 Woodland Avenue, Drexel Hill. I just wanted to know more about this. So, at this point in time, I'm wondering why this came up and can you explain to us what it is and what the rules are now because I don't know anything about this so I just need more explanation. Thank you.

Mr. Bonnett: Mr. Judge, can you just give us a brief on that?

Mr. Judge: In years past, Superintendents of Police have come from within the ranks. They have not come from outside of the department. So, their pensions follow the state law's pensions and you hit at a certain age a magic 77 which is age plus 25 years of service and you would automatically fall into that word "superannuation age." So, if they fall into that category, that is how they would calculate their pension. So, when you hire outside of the ranks of the police officers, you are normally hiring someone who is retired from another police force or from somewhere else and they must go into the police pension because they are a police officer but they could never reach an age where they would get the pension because they would never reach 25 years of service if you hired someone beyond the age of 50. So, what this does is if you hire someone who is a retired police officer from somewhere else and they come here to work, when they reach their years of service plus their age and it equals 77, then they would be able to go into the normal pension plan calculation. As the world evolves around here, it came to light when you think about -----plan for the current police department and whether that would be from within the ranks or from outside of the ranks. When you look at that, and it really was the police pension board and the police officers and the members who sit on that board brought this to attention saying that you would not be able to get someone from the outside if you don't correct this calculation mix-up. And, it all was driven by if you go back to 1936, the Superintendents or Chiefs of Police have always come from within the ranks so it was never an issue. Superintendent Chitwood is the first one who came from outside of our ranks and that's when we start thinking, ok now we're going to replace him and we're going to replace him somewhere down the road, whether it's tomorrow or next year. So, the police pension board said

that it had to be fixed or we would not get a quality individual in the future. That is basically the short summary of it.

Mr. Bonnett: Thank you very much.

Mr. Gwin: Quick question. Is this something that exists in other police departments as well or are we one of the first to do that?

Mr. Judge: I have no idea. The police pension rules are set by the state and you base off of that but you look at the age and that's how, well I didn't come up with it, it was the police pension board who did the research and came up with it with the age of looking at that. Is there somebody else out there that does it? I don't know. I know there are plans out there that when they hire a police superintendent above a certain age that they are automatically vested in the police pension. We aren't. We require them to work for at least 12 years. So, they don't get vested until the twelfth year. But, there are smaller police departments than ours that when they hired the guy, part of the contract deal is that they are vested automatically. This prior Administration, along with Mayor Micozzie, who was on the Public Safety Committee did not do that when they hired the last one and I don't think it would be a good idea to do that for anybody going forward.

Mr. Wagner: It should also be pointed out of course this is not the first time we are discussing this. The Ordinance was previously introduced and discussed.

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

Joanne ?: Joanne ?, 133 N. Pennock Avenue. Is there a mandatory retirement age for the Police Chief currently?

Mr. Judge: Not for the Police Chief. There is for Police officers.

Joanne ?: What's that age?

Mr. Judge: It's 60.

Joanne ?: So, there's no plan to force him into retirement?

Mr. Judge: Oh God no.

Mr. Bonnett: Does anyone else wish to address Council? See no one else to address Council on Ordinance No. 3061, this Public Hearing is therefore closed. I turn this back to you, Councilman Wagner.

Mr. Wagner: Mr. President, I move for the adoption of Ordinance No. 3061 and ask for a roll call vote.

Mr. Bierling: Second.

Mr. Bonnett: Moved and seconded. This will be a roll call vote. When your name is called signify by saying aye. Opposed say no.

**A roll call vote was taken.**

<u>In favor of Ord 3061</u>	<u>Opposed to Ord 3061</u>	<u>Excused</u>	<u>Abstained</u>
Bonnett			
Wagner			
Bierling			
Coles			
Gwin			
Keffer			
Manfre			
Faraglia			
Spellman			
Siddique			
Wentz			
11	0	0	0

**Mr. Bonnett: That's 11 in favor. Ordinance No. 3061 is adopted.**

**Public Hearing for Ordinance No. 3062**, an Ordinance of Upper Darby Township, Delaware County, Pennsylvania authorizing the Township's acquisition via condemnation or a deed in lieu of condemnation of 6.6401 acres of property located at 200 Oak Lane, Upper Darby Township and further identified as a portion of the property identified as Delaware County Tax Folio Number 16-13-02573-00 from the Archdiocese of Philadelphia in exchange for just compensation in the amount of six hundred thousand dollars

**A Public Hearing was convened**

**Speakers**

David Neill, 432 Burmont Road.

Mr. Neill: David Neill, 432 Burmont Road. I just want to verify that the entire sum of money is grant money coming from outside of the Township.

Mr. Judge: It's not grant money.

Mr. Neill: Could you break down that money and also when would the sale actually go into effect and Upper Darby Township would take ownership of it? I was curious about that too.

Mr. Judge: Right now, we have \$225,000 in grant money towards the purchase price of \$600,000. We have another grant application out there for \$300,000. We're probably not going to get \$300,000. We'll probably get less than \$300,000 so we are looking at probably \$400,000, maybe \$425,000 or \$450,000. I'm saying round numbers because I'm still looking for some grant money to come in to purchase that property. We have in our Capital budget already assigned and committed to, we have \$600,000 and we'll probably have to use that because we are in our due diligence process right now and have to pay vendors for the due diligence and to do surveys and also ground testing. We have with the Archdiocese, an agreement of sale that we need to start to start the process by December 1<sup>st</sup>. When it closes, hopefully we close within 30 days or somewhere in that range, hopefully before the end of the year we would close. But, we have the money committed and hopefully we'll have money left over. But, it is committed and hopefully we can close before the end of the year.

Mr. Neill: I know the property is right next to Westbrook Park Elementary School.....

Mr. Bonnett: Primos Elementary.

Mr. Neill: I'm sorry, Primos Elementary. Has there been any discussion with the school district as far as any collaboration in developing that land?

Mayor Micozzie: The purpose is for open space. You can find it in the Ordinance.

Mr. Neill: OK. Thank you.

Mr. Bonnett: Does anyone else wish to address Council on Ordinance No. 3062? Seeing no one else to address Council on Ordinance No. 3062, this Public Hearing is therefore closed. I turn this back to you, Councilman Wagner.

Mr. Wagner: Mr. President, I move for the adoption of Ordinance No. 3062 and ask for a roll call vote.

Mr. Bierling: Second.

Mr. Bonnett: Moved and seconded. This will be a roll call vote. When your name is called signify by saying aye. Opposed say no.

**A roll call vote was taken.**

<u>In favor of Ord 3062</u>	<u>Opposed to Ord 3062</u>	<u>Excused</u>	<u>Abstained</u>
Bonnett			
Wagner			
Bierling			
Coles			
Gwin			
Keffer			
Manfre			
Faraglia			
Spellman			
Siddique			
Wentz			
11	0	0	0

**Mr. Bonnett: That's 11 in favor. Ordinance No. 3062 is adopted.**

Councilman Wagner gave an update on the 2020 Budget process.

**Solicitor**

Nothing to report

**Adjournment**

Motion to adjourn: Councilman Bierling; Second: Councilman Wagner

**Motion approved: 11 in favor**

**Council President Bonnett adjourned the meeting.**

Respectfully submitted,

*Richard G. Nolan*

Richard G. Nolan  
Chief Municipal Clerk

RGN/ake



UPPER DARBY TOWNSHIP

ORDINANCE NO. 3061

AN ORDINANCE OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AMENDING ORDINANCE 2619 THE UPPER DARBY TOWNSHIP POLICE PENSION ORDINANCE AND PLAN TO EXPAND THE DEFINITION OF "SUPERANNUATION AGE," AS DEFINED IN THE PLAN AND ORDINANCE, TO PERMIT A SUPERINTENDENT OF POLICE HIRED AFTER JANUARY 1, 2001 TO REACH SUPERANNUATION AGE UPON ATTAINING THE AGE OF SEVENTY-SEVEN AND REPEALING ALL ORDINANCES, RESOLUTIONS AND PARTS OF ORDINANCES OR RESOLUTIONS INCONSISTENT HEREWITH.

WHEREAS, the Township Council of Upper Darby Township adopted Ordinance 2619 which restated the provisions of the Upper Darby Police Pension Plan and repealed all prior ordinances on the subject; and

WHEREAS, the Upper Darby Township Police Pension Board of Trustees voted to revise the Police Pension Plan to permit members serving as the Superintendent of Police who are hired after January 1, 2001 and who, at the time of hiring, are over age fifty (50) to reach "superannuation age" upon attaining the age at which the sum of age and service equals or exceeds seventy-seven (77); and

WHEREAS, in order to effectuate the Police Pension Plan amendment approved by the Police Pension Board of Trustees, Upper Darby Township Council must enact an Ordinance to approve and adopt such amendment; and

NOW THEREFORE, Upper Darby Township Council does hereby ordain as follows:

ARTICLE I: Article I, Definitions, Section 1.25 of the Upper Darby Township Police Pension Plan is amended to read as follows:

"Superannuation Age" shall mean either (1) any age at which the sum of a Member's attained age and his/her years of service equals or exceeds seventy-seven (77), provided that the Member has attained at least the age 50 and has at least twenty (20) years of credited service, or (2) age 60, but only if the Township's establishment of such age as a discrimination laws, or (3) age seventy (70), provided that the Member serves in the position of superintendent of Police and was hired to such position after January 1, 2001 and was over the age of 50 at the time of such hiring and further provided that the Member has vested in the Pension Plan.

ARTICLE II: REPEALER


Except as specifically hereby amended, the General Laws of the Township of Upper Darby are hereby ratified and confirmed in their entirety. Any ordinance or part of ordinance to the extent that it is inconsistent herewith is hereby repealed.

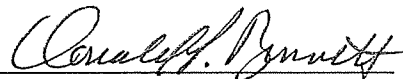
ARTICLE III: SEVERABILITY

If any provision or part of this Ordinance is held invalid, the remaining provisions or parts of this Ordinance shall not be affected thereby. If the application of this Ordinance or any of its provisions or parts to any persons, property or circumstances is held invalid, the application of this Ordinance to other persons, property or circumstances shall not be affected thereby.

ENACTED and ORDAINED this 6<sup>th</sup> day of November, A.D. 2019.


Attest:

  
\_\_\_\_\_  
Jacob Bierling  
Secretary of Council


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

Ordinance No. 3061 above is hereby approved this 6<sup>th</sup> day of November, A.D., 2019.

Attest:

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

Approved:

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

**UPPER DARBY TOWNSHIP  
ORDINANCE NO. 3062**

AN ORDINANCE OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AUTHORIZING THE TOWNSHIP'S ACQUISITION VIA CONDEMNATION OR A DEED IN LIEU OF CONDEMNATION OF 6.6401 ACRES OF PROPERTY LOCATED AT 200 OAK LANE, UPPER DARBY TOWNSHIP AND FURTHER IDENTIFIED AS A PORTION OF THE PROPERTY IDENTIFIED AS DELAWARE COUNTY TAX FOLIO NUMBER 16-13-02573-00 FROM THE ARCHDIOCESE OF PHILADELPHIA IN EXCHANGE FOR JUST COMPENSATION IN THE AMOUNT OF SIX HUNDRED THOUSAND DOLLARS.

**WHEREAS**, the Archdiocese of Philadelphia owns the property located at 200 Oak Lane, Clifton Heights, Upper Darby Township, 19018 and further identified as Delaware County Tax Folio Number 16-13-02573-00 (the "Premises"); and

**WHEREAS**, the Archdiocese of Philadelphia intends to subdivide the Premises into three lots approximately as set forth in the Sketch Plan for St. Eugene's Roman Catholic Church as prepared by H. Gilroy Damon Associates, Inc. dated January 30, 2018;

**WHEREAS**, the above referenced subdivision plan would create an approximate 6.6401 acre parcel identified as Parcel No. 2 on the Plan and the Township desires to purchase the identified 6.6401 acre Parcel No. 2; and

**WHEREAS**, the Council of Upper Darby Township authorized the Township to execute a conditional agreement of sale for the purchase of the aforementioned 6.6401 acre Parcel No. 2 via resolution 32-18, dated July 18, 2018; and

**WHEREAS**, the agreement of sale was conditioned, in part, upon the Township receiving the proceeds of a Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, Bureau of Recreation and Conservation grant for the purchase; and

**WHEREAS**, the Township has obtained approval from the Commonwealth for the aforementioned grant funding; and

**WHEREAS**, the agreement of sale was further conditioned, in part, upon the Township enacting an ordinance authorizing the condemnation of and/or acceptance of a deed in lieu of condemnation for Parcel 2; and

**WHEREAS**, Upper Darby Township has the power of condemnation;

**WHEREAS**, the Eminent Domain Code and Section 701(6) of the Upper Darby Township Home Rule Charter require that the Township enact an Ordinance authorizing the use

of the Township's power of condemnation prior to exercising that power and authorizing the purchase of fee simple title to property, respectively; and

**WHEREAS**, the Township desires to condemn the approximate 6.6401 acre Parcel No. 2 portion of the property located at 200 Oak Lane, Clifton Heights, Upper Darby Township, 19018 and further identified as Delaware County Tax Folio Number 16-13-02573-00 ("the Property"); and

**WHEREAS**, the Property lies within the Township's boundaries;

**NOW, THEREFORE, UPPER DARBY TOWNSHIP** hereby ordains as follows:

**SECTION 1:** Authorization to Condemn: Upper Darby Township is hereby authorized to condemn the approximate 6.6401 acre Parcel No. 2 portion of the property located at 200 Oak Lane, Clifton Heights, Upper Darby Township, 19018 and further identified as Delaware County Tax Folio Number 16-13-02573-00 and/or accept a deed in lieu of condemnation from the property owner and pay just compensation in the amount of Six Hundred Thousand Dollars (\$600,000.00) to the property owner.

**SECTION 2:** The Mayor, or his designee, is hereby empowered to take all actions and execute all documents he deems necessary or convenient toward achieving the purpose of this Ordinance, and all actions taken heretofore in that regard are hereby ratified.

**SECTION 3:** All Ordinances, Resolutions or parts of Ordinances or Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency.


ENACTED and ORDAINED this 6<sup>th</sup> day of November 2019.

  
DONALD BONNETT  
President of Council

  
JACK BIERLING  
Secretary of Council

Ordinance No. 3062 is hereby approved this 6<sup>th</sup> day of November 2019.

  
THOMAS N. MICCOLIE  
Mayor

  
THOMAS J. JUDGE, JR.  
Chief Administrative Officer