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Upper Darby Township Council
January 15th, 2020

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Minutes for Upper Darby Township Council Meeting on January 15, 2020

A regular meeting of Upper Darby Township Council was held on Wednesday evening, January 15th, 2020 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 Laura A. Wentz.

Present the Colors-Archer-Epler VFW Post 979: Pledge of Allegiance to the flag of the United States of America; Moment of Silence; Retire the Colors

Roll Call

Robert S. Gwin Jr., Brian K. Burke, Danyelle Blackwell, Michelle Billups, Sheikh Siddique, Lisa Faraglia, Matt Silva, Donald P. Bonnett, Thomas P. Wagner, Laura A. Wentz

Present at the Meeting

Barbarann Keffer, Mayor
Vincent A. Rongione Esq., CAO
Sean P. Kilkenny, Esquire
Courtney N. Richardson, Esquire
Alexis Cicchitti, Acting Chief Municipal Clerk

Approval of the Minutes

Motion to approve the Minutes for the Regular Meeting of December 4, 2019

Ms. Faraglia: Moved.

Mr. Gwin: Second.

Minutes approved; 10 in favor

Motion to approve the Minutes for the Committee Meeting of December 11th, 2019

Ms. Faraglia: Moved.

Minutes approved; 10 in favor

Motion to approve the Minutes for the Regular Meeting of December 18th, 2019

Ms. Faraglia: Moved.

Mr. Gwin: Second.

Minutes approved; 10 in favor

Rules for Meeting Decorum

Public Forum

Council President Wentz: 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.

Gerald Harrison, 29 S. Kirklyn Avenue
Sanitation

Kyle McIntyre, 1040 Drexel Avenue
MLK Day

Sadasivan Sukumaran, 57 S. Kirklyn Avenue
Permit

Gary Ford, 778 Garrett Road
Rental license fee

William Brown, 101 Owen Avenue
Rental license fee

Bonnie Hallam, 4719 Woodland Avenue
Rain garden

Alfred Achtert, 7228 Radbourne Road
Police/Community relations

Richard Blye, 274 Kent Road
Recognition of Juneteenth

Lee Stivale, attorney from Springfield
Representing landlords from UDT

Their comments are filed on tape.

President of Council, Laura A. Wentz

Council President Wentz announced that a Public Notice will be in the Daily Times on Thursday, January 16, 2020 announcing the acceptance of resumes or a letter of intent for the appointment of a 7th District Council person and a Treasurer. Send resumes or letter to President of Council Laura Wentz, 100 Garrett Road, Room 107, Upper Darby, PA 19082. They can also be emailed to council@upperdarby.org. All resumes and letters

must be received no later than 6pm on January 24th, 2020. After review, Council members will give their top three choices to the President of Council and interviews will be scheduled for January 27-31, 2020.

There will be a Special Meeting on Wednesday, February 5th, 2020 following the Committee Meeting to appoint the qualified candidate for the 7th District Council seat and the Treasurer.

There was an Executive Session at 6:30 p.m. to discuss personnel issues that arose during the process of transition.

The Honorable Mayor Barbarann Keffer

Mayor Keffer announced the possibility of the first snow event of 2020 for the upcoming weekend. The Mayor and CAO are looking forward to a successful plan should the storm arrive.

MLK Day Events

On January 20, 2020, for the celebration of Dr. Martin Luther King Day, there will be a Unity breakfast at Drexelbrook hosted by the YMCA.

DHMS is creating Dream Boxes at 9:45 am to fill with toiletries & non-perishable food for Upper Darby Food Cupboard

UDHS is hosting a clean-up at 9am

3rd Annual Dr. Martin Luther King Jr., Celebration Brunch-Hosted by State Rep. Davidson and Upper Darby Mayor Keffer on Monday, January 20th, 2020 at 11am-1pm at Upper Darby American Legion Post 214 at 6914 Chestnut Street, Upper Darby, PA 19082.

Weather permitting, there will be a clean-up at Sellers Hall at Walnut Street & Hampden Road from 2-3:30pm. This event is hosted by Mayor Barbarann Keffer and Friends of Sellers Hall.

Mayor Keffer has authorized the Solicitor to appeal the application from the November Zoning Hearing Board Meeting. This is Application 11-11 to put up a billboard at 1600 Garrett Road. The Zoning Board granted 2 variances for this billboard. One variance allows the billboard to be erected in a residential zone which goes against the Code and the other variance was to allow the same billboard to be closer than 35 feet from a street right-of-way. Billboards should be in zone C-2 and C-4 districts but this billboard is supposed to go up near Naylor's Run Park.

Mayor Keffer, Council President Wentz and Vice President Gwin all attended the Zoning Hearing Board Meeting to testify against granting these variances.

Committee Reports

Public Safety Committee

Brian K. Burke, Chairman

Motion to authorize the Administration to write to PennDOT to request the installation of a flashing school sign on Garrett Road at Beverly Hills Middle School

Moved: Mr. Burke

Second: Mr. Gwin

Approval of Motion; 10 in favor

Motion to authorize the Administration to write to PennDOT to request the installation of a handicap ramp at the corner of Market Street and Powell Lane to allow handicap accessibility.

Moved: Mr. Burke

Second: Mr. Gwin

A question arose requesting clarification about the kind of handicap ramp it would be and it was determined that it would be the same as the handicap ramps that are made in the sidewalk at the corner with grooving for more handicap accessibility.

Motion for clarification: Mr. Burke

Second: Mr. Gwin

Moved and seconded: 10 in favor

Motion to waive any conflict of interest that may exist in connection with the Township Solicitor acting as Counsel for both the Township and the Borough of Millbourne in connection with the intermunicipal agreement for Upper Darby to provide Fire Protection services to Millbourne for a fee

The Solicitor offered a detailed explanation of the Motion and stated that there will be a similar Motion in the Borough of Millbourne. A separate Solicitor will handle the Motion from Millbourne. If it becomes contentious in any way or if the CAO has any issues, Sean Kilkenny, Esquire will immediately recommend outside Counsel.

There was previous confirmation that this is a waivable conflict and that the Mayor and the CAO have recommended this waiver.

Moved: Mr. Burke

Second: Ms. Billups

Moved and seconded. 10 in favor

Municipal Services, Licensing & Public Works Committee

Brian K. Burke, Chairman

Public Hearing for Ordinance No. 3064, an Ordinance of the Township of Upper Darby, Delaware County, Pennsylvania restricting parking in certain designated areas of the Township for the purpose of facilitating street cleaning operation in the area; and setting forth fines and penalties for the violation of said restriction

Council President Wentz convened a Public Hearing for Ordinance No. 3064

SPEAKERS

Alfred Achtert, 7228 Radbourne Road
Kyle McIntyre, 1040 Drexel Avenue
Bonnie Hallam, 4715 Woodland Avenue
Kiera Raphaelidis, 309 Windermere Avenue

Mr. Achtert: Alfred Achtert, 7228 Radbourne Road. First of all, I would say that I support the idea of cleaning streets. Eight years ago, Ms. Manners was elected a Democratic member of this Council for the first time and that was one of her big issues too. It went nowhere at that time because she was totally ignored. This I think needs to be reconsidered though because I can see some major issues in it. What she was talking about and I helped her with drafting and all, so I'm very familiar with what she was talking about, was the idea of restricting parking on one side of the street on a particular day when the street sweeper was going to come down there and then on the other side of the street on another day when the street sweeper was going to come down that way. It would involve figuring out routes to run the street sweeper in a reasonable amount of time and that sort of thing. And, of course, parking restrictions require parking signs to be posted. I can't figure out how you could post "No Parking on every other Monday" of the month or whatever day. Nobody would know, is this the week or is this the other week where we can park there? And, we were talking about doing a general Ordinance saying that the Township has the right to do this anywhere upon adopting a Resolution as we do for parking regulations and so forth and speed limits on streets and so forth where there is an overall Ordinance and then a Resolution that fits into that to make those specific locations and times that might apply on that. Now theoretically, as I understand it now, this is an improvement over what is there because in this whole area where the street sweeper is supposed to work in one day, you're not allowed to park anywhere, which is totally ridiculous! What do you do with the cars? Do they go to work early and stay there late? I think we need to pull this back and reconsider how we're going to actually do this. I heard you mention Norristown up there. I work in Norristown. You're probably familiar with, that's where the idea of one side of the street now and the other side of the street at a different time came from. They have routes that the street sweeper covers. It covers a particular side of one block on one day and the other side of the block on a different day and it's a 4-hour period from beginning in the morning till noon and then from noon until the end of the day when you can't park on there. I think we need to consider that and take this back and re-think it. Thank you.

Ms. Wentz: Thank you for your comments. I believe it's specified to specific streets as more of a pilot program to see if it works and it does specify between 7:30 am to 12 pm so it's not for the entire day. It's just 4 hours in the morning until noon. It was meant to be a pilot program to see if it worked in an area that, at the time, it was brought up by 7th District Councilwoman Sekela Coles as something that was requested by the residents on those streets and a great concern to them of the trash that's been on the streets that the street sweeper could not get to because of all the cars on the street. So, it was, I believe, our Public Safety Committee had met and discussed it and that's where this Ordinance came from originally, just for a little more clarification. I do appreciate your concerns on doing one side of the street at a time. The concern is if it is something that becomes a much larger program, our Township is I believe way too big for the street sweeper to do one side of the street and then come back another day to do the other side of the street for the entire Township. Ultimately, I believe it's meant to become a larger program than just 3 specific streets for a certain number of blocks. Do you want to add anything?

Mayor Keffer: No, but thank you for your comments. We're going to see how it works. This is the plan that the Municipal Services Committee came up with so we don't know if it's going to work because we haven't done it before. So, we'll monitor it and if there needs to be adjustments, then we'll make them. We'll take your comments into consideration. Maybe you'll have to come up with Plan B!

Mr. Achtert: OK.

Mr. Wagner: Thank you. I think the record should note a clarification. The times, as I understand them, are 7:30 am to 12 noon.

Ms. Wentz: Yes. That's what I was trying to clarify as well. Councilman Siddique?

Mr. Siddique: I'd like to....

Ms. Wentz: I'm sorry. I just realized that we, as Council, are commenting during the Public Comment section. We should probably wait for further comments until the Public is finished speaking.

Mr. Siddique: All right.

Ms. Wentz: Does anyone else from the Public wish to speak on this Ordinance?

Mr. McIntyre: I'll make it really quick. Kyle McIntyre, 1040 Drexel Avenue. So, I was just looking at the Ordinance and you know how we've been talking about sanitation as like downtown Upper Darby. I think this is the perfect example of what a lot of the community is looking for so hopefully this pilot program works and then you guys can just copy, paste add Market and 69th Street to that and we'd be good to go. I just wanted to point out that I think that is exactly what a lot of people are looking for. So, good job!

Ms. Wentz: Thank you. Anyone else from the Public?

Ms. Hallam: Bonnie Hallam, 4719 Woodland Avenue, Drexel Hill, PA. I just want to concur with Al that I do think that there are going to be some kinks in the way that you have it set up right now. New York City, way bigger than Upper Darby Township has street signs that say a big circle with a P that is crossed out and it says "8am until 11am Tuesdays." So, they do one side of the street, the signs are on one side of the street and the other side of the street says Monday. They do it on different days and they were able in a big city like that to work it out so I think we can handle it as well. I think it would get confusing if we said every other Monday or Tuesday because as Al pointed out, you don't know whether this is the every other one and you have to keep track of that and that is putting a burden on people to have to do that. I like Al's suggestions. I hope the pilot works out the way you are thinking about it but I think we should be ready with Plan B.

Ms. Billups: I have a question. I'm trying to picture it in my head because I'm a visual person. So, when you're cleaning on one side of the street, you just do one side and then you come back around 5 days later and do the other side, right?

Ms. Hallam: Or maybe the next day. In New York City, that's what they do. So, one side of the street is Tuesday and the other side of the street is Mondays. So, you actually have another place to park your car.

Ms. Billups: So, what happens if you only park on one side?

Ms. Hallam: Well, that's what I'm saying. Potentially, people would have a parking spot on the other side of the street where they could park their car on the day when their street is being cleaned. In New York City, obviously, they park their car double-parked. They have a lot of issues as far as parking because they have parking issues period in New York City. But, I think that we can figure this out. Either way, if you do it on both sides of the street, it's going to be an issue for parking as well.

Ms. Billups: I agree. I was just trying to visualize it in my head of what it would look like. I appreciate it. Thank you.

Ms. Wentz: Are there any other speakers on this Ordinance?

Ms. Raphaelidis: Kiera Raphaelidis, 309 Windermere Avenue. I just have a question. You said this is a pilot program? So obviously, working out the kinks. Are the residents of those streets going to have to pay the full fine?

Mayor Keffer: From what I remember of Councilwoman Coles talking about this, there is going to be a large outreach portion and it'll be graduated. It's not like we're waiting to get people. We want compliance ultimately but I think there might be warnings in the beginning and then when we're up and running full-fledged, you're getting a parking ticket.

Ms. Raphaelidis: I guess that would be my concern, that it would really get off on the wrong foot if the initial publicity of it was that everybody is getting a parking ticket because I think there has been a lot of lack of enforcement. So, even if there have been parking Ordinances, people have tended to ignore them and so if all of a sudden they're getting tickets, that could kind of kill the pilot program right out the door.

Mayor Keffer: We'll be working it out. Councilwoman Coles is now running the parking department so she'll be having a lot of direct input toward the implementation of this program.

Ms. Raphaelidis: OK. Thank you.

Ms. Wentz: Are there any other speakers on this Ordinance? Questions or concerns? Seeing none, the Public Hearing for Ordinance No. 3064 is now closed. Councilman Siddique, you had a question?

Mr. Siddique: I would like to say that the timeframe is 5 hours. To me, that's almost half a day. In the pilot program, can we make it 3 hours?

Ms. Wentz: You're saying to make it less hours? I think the intent is to have enough time for the street sweeper to make it through and also to deal with the cars that had not moved. I don't know if there is a desire to change the time frame.

Ms. Faraglia: Why do you feel the need to change the time frame?

Mr. Siddique: Any way we could the first time it will be hard for us to -----this one. So, if somebody is not moving, we can give them a request, not warning even, request to move the car and -----the sign. I feel if it's a half a day the person has to leave the car somewhere else from his residence and it's too much of a problem.

Ms. Wentz: Well, I believe that part of the reason for this time frame is that the thought process is that most people would be going to work and that, at that point of time, not in every neighborhood, but in that point in time, there would be less cars on the street at that time in any case to utilize the fact that that's the time window that most people would be leaving for work.

Mr. Siddique: Anywhere they have that street cleaning sign, I've seen 3 hours, 2 ½ hours, someplace even 2 hours. So, that's my concern, nothing else.

Ms. Wentz: I think because it's a pilot program, we need to start with a larger window to see if it'll work and then if it's being done very quickly and it's able to be done in a much shorter time, then it can be shortened down. But, I think it's fair to give that window of time for us to try it out.

Mr. Siddique: OK. Also, how many streets are having the pilot program?

Ms. Wentz: It's 3 streets and certain blocks within the street. It's listed in Section 1, zone A-1 parking. If you look on the Ordinance, the exact streets and blocks are clarified.

Mr. Siddique: It's all in the 7th District?

Ms. Wentz: Yes. The idea originated in the 7th District from then Councilwoman Sekela Coles.

Mr. Siddique: So, we cannot spread out like 3 streets in 3 different Districts since it's a pilot project? Is it possible to have different locations?

Ms. Wentz: It's in 3 different locations.

Mr. Siddique: In 3 different districts.

Ms. Wentz: It's for 3 different streets within the 7th District.

Mr. Siddique: I was talking about 3 different Districts.

Ms. Wentz: That's a whole new Ordinance and Councilwoman Faraglia is correct that if we do that as a starting point, then it would take a lot longer for that duration of time for the street sweeper to move from District 7 to District 6 to District 2 to try a street in each District. That's why Councilwoman Coles picked these particular streets within her community. It was decided that these were the streets that the residents were requesting it and they were prepared to make these adjustments for them.

Mr. Siddique: Thank you.

Ms. Wentz: Any other questions?

Mr. Gwin: Will the signage be marked like temporary signs like we sometimes do when a street is closed?

Ms. Wentz: There will be signs put up. I believe they will create signs that will spell out what it is and that was the intent from the discussions in previous meetings. It will be a clear sign that spells it out and if by change this does not work, then the signs can easily be removed. So, that is not really a concern. Councilman Bonnett?

Mr. Bonnett: Madam President, I agree with a number of the comments that were made about every other Monday. I think that leads to confusion. Is this coming Monday one of those Mondays you're going to sweep or is it the other Monday that you're going to sweep? I think perhaps, I'm all in favor of a pilot program but maybe it might be best if the Administration puts out some notices that these specific Mondays, by date, for the near term are the dates that every other Mondays will provide street sweeping and the cars must be removed. Second to that, what is the plan for the cars that are not removed?

Mayor Keffer: I thought it was ticketing.

Mr. Bonnett: But, that's not going to solve the problem. I think you'll have a number of cars that are not removed. That would be my guess. Then again, the pilot program will prove that one way or the other.

Ms. Wentz: Right, and I believe that since former Councilwoman Sekela Coles is now the head of Parking Enforcement she would most likely instruct the ticket writers to try and find a way to give warnings before actually ticketing. I think that was her intent when she originally brought it to Council.

Mr. Bonnett: Because there is such density in that community, as there is throughout Upper Darby Township, and the number of cars per household that exist, there is just not enough parking to go around. If we were to expand this beyond these 3 blocks that are mentioned here, I think it's going to be a major hardship on people; albeit we do have to clean the streets and we can't do it with the cars there. It's a catch-22 situation. It's almost unresolvable. But again, I'm all in favor of a trial. It'll prove one way or the other whether it's feasible or not. I will certainly vote for this on that basis but I strongly recommend that the Administration maybe take 2-3 months with date certain and put a notice out.

Ms. Wentz: I appreciate your concern and I actually have a concern that so many residents and Council members are sharing similar concerns so I have a question for the Solicitor. If we were going to make some slight adjustments to this Ordinance, then we would have to re-advertise, re-create and that maybe we should instead of bringing this Ordinance to a vote, maybe tabling this Ordinance at this point in time would be more appropriate to be able to maybe look at it based on suggestions of residents and Council members to maybe do the one side of the street at a time perspective and look at it in that way. Maybe that would be a better way of approaching it? It's just a question for Council if that is something that you would prefer. I agree with you Councilman Bonnett, and all of the other Council members that have spoken as well as residents that the parking issue is intense and that taking out the entire street is a big concern that people may not have a place to park. Or, if your street, I know that on my street you can't park on one side of the street so taking away the parking altogether might be a difficulty and a hardship for the residents.

Mr. Kilkenny: I think my recommendation would be that in deference to the previous Council's action and the 7th District Councilman's initiative and in recognition of the District Council member's knowledge of their own neighborhoods and her desire to see this program go forward, that it's a good idea for the pilot program to proceed and to allow us to work out the kinks in practice. So, obviously the decision is of course up to Council and if you decide not to move forward at this time, then that would be the decision of this Council. But, my thought and recommendation from the Administration perspective would be that this originated with the 7th District Councilwoman and we want to show that kind of deference to the District Council people in their neighborhoods and with their knowledge. The previous Council did move this forward.

Ms. Wentz: Actually we didn't; well, yes they did move to create it as an Ordinance and then there was the reading at the December meeting. This is our first opportunity as a Council to actually discuss the Ordinance itself outside of it being brought up at a Committee meeting. But at the time, the Ordinance hadn't been written so we didn't have as much detail as far as how the Ordinance would be installed.

Mr. Kilkenny: Understood.

Mr. Silva: Excuse me, Council President, could the language perhaps be amended where instead of saying "every other Monday" maybe we could say the "first and third Monday" or the "second and fourth Monday" of each month and that would probably alleviate some of the ambiguity as to which Monday it is.

Ms. Wentz: The concern is that any change to the Ordinance other than how it is written....

Mr. Kilkenny: Sure it would be but again, this is a pilot program too. The Code officials that are implementing the pilot program will, of course, get direction from the CAO and understand that this is only a pilot program and they'll have discretion as far as warnings and ticketing and various stuff. I think the CAO hears that loud and clear. I think the Administration was just asking to move forward as a pilot program and we may be back to you soon.

Mr. Silva: Well then, instead of amending the Ordinance, perhaps we can amend the signage and that's not directly, I don't think it's necessary to change the Ordinance language to change the language that's on the signage. So, the signage could be clearer but perhaps the Ordinance is still somewhat ambiguous or what have you. My only other concern is that there are a lot of businesses near 700 Shelbourne and potentially even if the residents are well aware of the parking situation, there is a laundromat there, a grocery store, a beer distributor, what have you.

Ms. Wentz: That's on Garrett.

Mr. Silva: But it's close. That's right by 700 Shelbourne. Perhaps if there's a way too that we could also include signage at those locations so people don't overflow and park.

Ms. Wentz: You mean so that residents don't park in businesses' parking spots for their customers?

Mr. Silva: Well, then I guess that brings up another issue, so yes.

Ms. Wentz: Councilwoman Billups?

Ms. Billups: I have a question. So, the Ordinance as is and the parking people have their discretion so they can print up signage and say "every other Monday" or "this Monday", they can do that with the Ordinance as is?

Mr. Kilkenny: Upper Darby is a very old Township. There are hundreds, if not thousands, of laws on the books. Not all of them are enforced equally or in the same way. This is obviously a pilot program. I believe the CAO will be monitoring this closely in conjunction with Ms. Coles and adjust that and will take direction from the Mayor and input from Council on this.

Ms. Billups: So, do you have a time frame for the pilot program? Do you want to see what it looks like after 6 months? Or, do you want to see what it looks like after 90 days?

Mr. Kilkenny: So, 30 days after enactment, it becomes law. There will have to be signage prepared to deal with this. There will have to be community education so I think something like 6 months would be an appropriate time to come back and ask Council how it was working and suggest tweaks.

Ms. Billups: So, everyone in this area will be provided with information either by mail, email or any other way because some people might not have email. So, it would be different ways?

Mr. Rongione: I think the best way to provide notice is actually on the street where people are parking. I think there will be signs placed on the street in advance and at the time. It's important to remember and I hear your concerns loud and clear and the goal of the program is certainly not to ticket or tow cars. The goal, as Councilman Bonnett alluded to, it's a catch-22. It's a very difficult problem. We've got an intense parking situation and streets that need to be cleaned and so, in an effort to address that, we want to take the first steps toward, OK, this is the program, is it going to work? Do we need to tweak it? So, we recognize that it's difficult. Now, ultimately when we finalize the program and settle on what works and we've done comprehensive education, folks are going to get tickets. Some folks are probably going to get towed. But, we are more than 6 months away from that kind of finalization and enforcement. Again, our goal here is to ultimately help the residents. They don't want dirty streets and dirty neighborhoods. Obviously, parking is an issue in the Township but I do hear the concerns loud and clear and we will do everything we can to work with the residents and the enforcement side. We're not trying to write tickets and tow people.

Ms. Billups: I understand. I just wanted to know what the next step is.

Mr. Rongione: I do think it is a fair question and as Mr. Kilkenny said, it takes 30 days and then we'll have to work with Parking Enforcement to come up with the signage and get it out on the street and we'll establish a timeline. Maybe we will have Ms. Coles come to the next Committee Meeting to talk about the Parking Department's progress in that regard so you'll be fully informed. I think that's how we will proceed.

Ms. Wentz: Councilman Bonnett, you have a comment?

Mr. Bonnett: Yes. I think that we should move this ahead tonight. That would be my opinion; with doing local education on the program and also, I like Councilman Silva's idea about the signs saying "the 1st and 3rd or 2nd and 4th Mondays" on the months. I think that is specific and gives much better guidance to the community.

Ms. Wentz: And it keeps in place and specifies what "the every other" is. Councilwoman Blackwell, you had a question?

Ms. Blackwell: Bearing in mind that there is a cost to everything, will the signage be disseminated in English only or will it be based on the community in which each area is in for the pilot program? I'm just curious.

Ms. Wentz: I believe it will be in English but that the information that is on the educational side of the program probably has the opportunity to be in multiple languages or the means to have access to different languages. I may be speaking out of turn. I'm sorry.

Mr. Rongione: I'm not certain that the issue has been contemplated and I think it is an important issue, especially if the government is talking about imposing any kind of penalty. We want everyone to have access to the information. I think certainly initially the signs will be produced in English and we would evaluate the need

with the pilot program; obviously if it expands to the entire Township, those needs could become different and we would make that information available in some form or fashion, even if we weren't able to produce signs in all of the languages that are spoken in Upper Darby Township, which obviously would be cost prohibitive. But, there are certain concentrations where we do hear the concern and would want to address it.

Ms. Wentz: Are there any other concerns or questions from Council members? Seeing none, can I get a Motion?

Moved: Mr. Gwin
Second: Ms. Faraglia

Moved and seconded.

A roll call vote was taken.

<u>Approval of Ord. 3064</u>	<u>Opposed</u>	<u>Excused</u>	<u>Abstain</u>
Gwin			
Burke			
Blackwell			
Billups			
Siddique			
Faraglia			
Silva			
Bonnett			
Wagner			
Wentz			
10	0	0	0

Approval of Ordinance No. 3064; 10 in favor

Ordinance No. 3064 is adopted.

Finance and Appropriations Committee
Robert S. Gwin, Chairman

Resolution No. 01-2020, a Resolution of Upper Darby Township, Delaware County, Pennsylvania to engage the services of E-Collect for the collection, administration and enforcement of the Business Privilege, Mercantile and Local Service Tax on a current and delinquent basis

Courtney Richardson, Assistant Township Solicitor, gave a detailed explanation of the agreement in Resolution No. 01-2020.

Moved: Mr. Gwin
Second: Ms. Faraglia

Moved and seconded. 10 in favor.

Resolution No. 01-2020 is adopted.

Planning, Zoning & Building Code Committee

Robert S. Gwin Jr., Chairman

Motion to approve a request for a proposal for a geotechnical survey for the Whalen Tract

Moved: Mr. Gwin

Second: Ms. Faraglia

Councilwoman Faraglia has been working with the resident whose property is involved in this issue. They met with the Solicitor and the Mayor the previous week as the resident had to go to court the prior Tuesday. There is a new Solicitor working with the resident on this matter.

Sean Kilkenny met with the Mayor and was brought up to speed on this issue. He stated that there has been an effort for the developer to address the issues but it has not been to the satisfaction of the taxpayers/residents affected. The Mayor called in Ms. Lee, P.E. to see if she could write a solution to this problem. Although she is a very accomplished engineer, she felt that she is not a geotechnical engineer and wasn't equipped to find a solution. She put together an RFP to give a recommendation on what would be a "fix" for these residents. Engineering firms can bid on this and then the Township would know what a proposed solution would be.

Moved and seconded. 10 in favor

Motion approved

Old Business

Agenda Request Forms were updated and placed in Council folders

New Business

The Upcoming Events List will be updated

Solicitor

Nothing to report

Adjournment

Motion to adjourn: Councilman Gwin; Second: Councilwoman Faraglia

Motion approved: 10 in favor

Council President Wentz adjourned the meeting.

Respectfully submitted,

Alexis Cicchitti

Alexis Cicchitti
Acting Chief Municipal Clerk

UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

Ordinance No. 3064

AN ORDINANCE OF THE TOWNSHIP OF UPPER DARBY, DELAWARE COUNTY,
PENNSYLVANIA RESTRICTING PARKING IN CERTAIN DESIGNATED AREAS OF THE
TOWNSHIP FOR THE PURPOSE OF FACILITATING STREET CLEANING OPERATION
IN THE AREA; AND SETTING FORTH FINES AND PENALTIES FOR THE VIOLATION
OF SAID RESTRICTION.

BE IT ENACTED AND ORDAINED by the Council of Upper Darby Township, County of Delaware, Commonwealth of Pennsylvania and it is hereby enacted and ordained by the authority of the same:

SECTION 1 The parking of motor vehicles on the following listed streets and highways of certain hereinafter designated area of Upper Darby Township shall be prohibited on the days and times set forth herein;

- (a) Zone A-1 parking is hereby prohibited between the hours of 7:30 AM and 12:00 pm (Noon) on every other Monday as noted in the Upper Darby Township Recycling and Sanitation calendar. Zone A-1 is identified as the 200 and 300 blocks of Huntley both side of the street and the 700 block of Shelbourne both sides of the street.


SECTION 2. All persons violating this ordinance shall be subject to the same fines and penalties applicable to the illegal parking violation as set forth in the Upper Darby Township Ordinances covering parking violations.

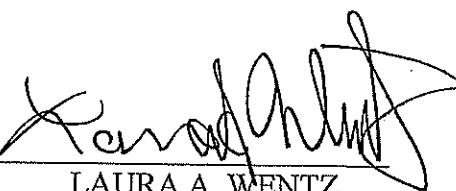
SECTION 2. **Repealer.** Any ordinance or part of an ordinance to the extent that it is inconsistent herewith is hereby repealed.

SECTION 3. **Severability.** The provisions of this Ordinance are severable and if any section, sentence, clause, part, or provision hereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

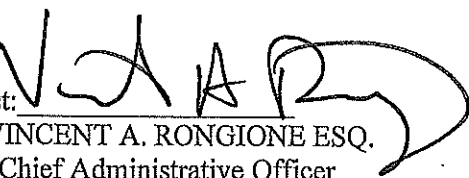
SECTION 4. Effective Date. This Ordinance shall become effective thirty (30) days following final adoption by the Township Council and publication as required by law.


ENACTED and ORDAINED this 15TH day of January, A.D. 2020.

Attest: 
MICHELLE BILLUPS
Secretary of Council

By: 
LAURA A. WENTZ
President of Council

Ordinance No. 3064 above is hereby approved this 15th day of January A.D., 2020

Attest: 
VINCENT A. RONGIONE ESQ.
Chief Administrative Officer

Approved: 
BARBARANN KEFFER
Mayor

AGREEMENT

THIS AGREEMENT made this 15th day of Jan., 2020, by and between the parties: Township of Upper Darby, 100 Garrett Road, Upper Darby, Pennsylvania 19082 (hereinafter referred to as "Upper Darby"); and, E-Collect PA, LLC, 804 Fayette Street, Conshohocken, Pennsylvania 19428 (hereinafter referred to as "E-Collect").

WHEREAS, Upper Darby has a Code of Ordinances in place which impose taxes for persons, firms, companies and corporations engaging in business within Upper Darby;

WHEREAS, it is necessary for Upper Darby to provide for the collection, administration and enforcement of the provisions of the Code of Ordinances;

WHEREAS, Upper Darby wishes to appoint E-Collect for the purpose of collecting delinquent Mercantile, Business Privilege, and Local Service Taxes;

WHEREAS, one method of ascertaining the delinquent tax liability of businesses for Mercantile and Business Privilege Taxes is to conduct audits of the books and records of the taxpayer;

WHEREAS, Upper Darby wishes to appoint E-Collect to audit taxpayers to ascertain whether Mercantile and Business Privilege, and Local Service Taxes, and to collect the liabilities discovered as a result of the audits conducted; and,

WHEREAS, E-Collect desires to accept such appointments pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, the parties, intending to be legally bound, do hereby agree as follows:

I. Term of this Agreement.

A. The term of this Agreement shall be for a period of two (2) years, commencing January 8, 2020, with the option to renew for an additional two (2) year term under the same terms and conditions. Either party may terminate this Agreement at the expiration of the renewal term by giving to the other written notice of its intention to do so at least thirty (30) days prior to the actual ending date of the term of appointment;. If the Agreement expires or is terminated for any reason pursuant to Section V hereof, E-Collect has the right to complete the collection of any outstanding assessment notices under the terms of the Agreement as long as the notices were sent before either the expiration or termination of the Agreement.

B. Work

1. E-Collect shall, consistent with the Code of Ordinances and the Local Tax Enabling Act of Dec. 31, 1965, P.L. 1257, No. 511 ("Act 511"), at its sole expense, perform all of the work and labor and furnish all of the necessary supervision, equipment, facilities, supplies, materials, forms, notices, postage, and the records necessary to collect delinquent Mercantile, Business Privilege and Local Service Taxes and to audit taxpayers to ascertain Mercantile, Business Privilege, and Local Service Tax liabilities.
2. E-Collect shall collect and receive the taxes, fines, interest and penalties due, and maintain a record showing the amount received by it from each person, business, taxpayer or employer paying the same and the date of such collection and receipt.
3. E-Collect shall provide Upper Darby with monthly reports each calendar month identifying separately, all tax monies, interest, penalties and fines collected under

and pursuant to this agreement with Upper Darby during the preceding calendar month.

4. E-Collect will promptly deposit all funds received into its escrow account, and those funds shall be delivered to Upper Darby's general fund account, net of any fees or costs owed to E-Collect, on a bi-weekly basis.
5. E-Collect shall provide a balance report with every disbursement made to Upper Darby
6. E-Collect shall provide to Upper Darby read-only access to taxpayer's name, address and payment files through its software and other information as agreed to by the parties
7. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors and assigns. This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania.

II. Fee Structure

- A. In consideration for E-Collect managing the collection of delinquent mercantile and business privilege taxes, Upper Darby agrees to the following fee structure: (a.) 20% of the amount collected; (b.) 25% of the amount collected after the 90-day appeal period has expired. The delinquent Local Service Tax commission rate is 0% to the Township and all costs of collection shall be assessed to the delinquent taxpayer.
- B. The waiver or abatement of any penalty or interest, shall be in the sole discretion of Upper Darby Borough. If it is determined that in order to avoid litigation and there is

a required reduction of principal, Upper Darby Borough shall notify E-Collect within ten days of the proposed settlement.

- C. If it is determined that Upper Darby is required to refund taxes to a taxpayer that E-Collect assessed and collected taxes on behalf of Upper Darby, E-Collect will be required to reimburse Upper Darby commissions relative to the refund.
- D. E-Collect is required to receive written authorization from Upper Darby prior to the commencement of any legal action being filed against Upper Darby's taxpayers. E-Collect will present the recommended cases for legal action to Upper Darby's Solicitor for review and written approval. Upper Darby will be responsible for all legal fees.
- E. E-collect shall be entitled to its commissions, as outlined in Sections A, B, and C, above, for taxes collected by either Upper Darby or any agent of Upper Darby if the tax was first identified through E-Collect's audit discovery process.

III. Indemnification

- A. To the extent allowed by law, Upper Darby shall defend and hold E-Collect harmless from any lawsuit or other legal proceeding, challenging the constitutionality or validity of the Code of Ordinances, in which E-Collect is a named defendant.
- B. However, notwithstanding the foregoing, and in all cases, E-Collect shall be solely responsible for its own negligence and shall indemnify and hold Upper Darby harmless of and from any and all demands, actions, and any other thing, whatsoever, against the customer arising out of the negligence of E-Collect and/or E-Collect's failure to comply with this Agreement, Act 511 or all other applicable regulations.

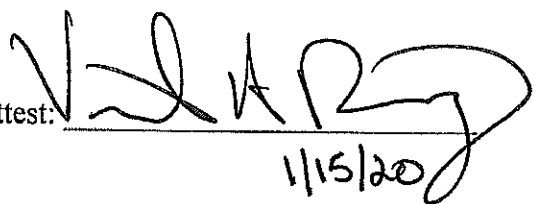
IV. Termination.

- A. Either party may terminate this Agreement in the event of a breach of the terms of this Agreement or in the performance of its obligations hereunder, upon thirty (30) days written notice to the alleged defaulting party. In the event of any material default hereunder, the non-defaulting party shall provide specific written notice of said default to the alleged defaulting party. The alleged defaulting party shall have thirty (30) days to cure said default. If the cause for such material default reasonably requires a period longer than thirty (30) days to cure, the alleged defaulting party may request additional time to cure the alleged default. The non-defaulting party shall not unreasonably withhold consent to provide additional time to cure, specifically where the alleged defaulting party has commenced the cure of said default within the initial thirty (30) day period.
- B. If said default is cured within thirty (30) days or within such additional time as provided pursuant to Section (a) above, this Agreement shall continue to remain in full force and effect. Otherwise, this Agreement may be terminated by the aggrieved party by written notice to the defaulting party.

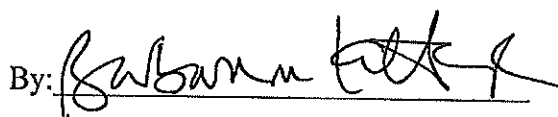
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

Township of Upper Darby

Attest:


1/15/20

By:


Barbarann Keffer, Mayor

By: V. Rongione

1/15/20

Vince Rongione, Chief Administrative Officer

E-Collect PA, LLC

Attest: [Signature]

By: M. J. [Signature]