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Upper Darby Township Council Meeting
October 14, 2020

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COUNCIL MEETING MINUTES FOR OCTOBER 14, 2020

The video of this meeting can be viewed in its entirety on youtube.com/upperdarby.org

Pledge of Allegiance to the flag of the United States of America
Moment of Silence

Attendance of Council

Robert S. Gwin Jr. (RG), Brian K. Burke (BB), Matt Silva (MS), Danyelle Blackwell (DB), Michelle Billups (MB), Sheikh Siddique (SS), Lisa Faraglia (LF), Donald P. Bonnett (DPB), Thomas P. Wagner (TW), Laura A. Wentz (LW), Hafiz Tunis Jr. (HT)

Present at the Meeting

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

Rules for Meeting Decorum

“Upper Darby Township Council and Residents will maintain professional respect for each other. Council encourages free speech, however, civility is required which would prohibit threats, profanity, scandalous, impertinent and redundant comment or any comment the discernible purpose of which is to disrupt or prevent the conduct of the business of the meeting”

Public Comment

Gwen Gregory, 31 Overhill Road the exterior of rental homes are not being maintained

Olivia Taylor, 204 Kent Road, stated that the Mosque amplifies their religious services causing a disturbance. SS claims the speakers are located inside the Mosque, not outside of the Mosque.

The Honorable Mayor Barbarann Keffer

Mayor's Address, October 14, 2020

Good evening everyone, I am going to keep this as short as possible because we have the Budget Presentation tonight by our Director of Finance, Gary Merron, and, immediately following, we have a Capital Improvement Budget presentation by Melissa Hughes of PFM Financial Advisors, a firm that has worked with our township on a number of bond issues.

Just wanted to let you know about the status of several township projects:

1. *Cobbs Creek Interceptor Sanitary Sewer Rehabilitation Project has been awarded with a \$272,944 cost paid out from Community Development Block Grants, CDBG which is also sometimes referred to as HUD Grants. This consists of relining 584 LF of existing pipe.*
2. *Streetscape improvements to the 300 block of Edmonds Avenue at the Garrettford Firehouse, at a total of \$175,405, funded by a multi-modal grant and township liquid fuel funds. The work is slated to begin the week of October 26.*
3. *Fernwood Cemetery Stormwater Sewer Pipe Repair Project, with a total of \$602,750 of CDBG funds is also slated to begin at the end of this month.*
4. *A street resurfacing and ADA-compliant curb ramps project entailing over 6 miles of paving and over 300 curb ramps, to be funded by AQUA and PECO reimbursements, CDBG funds and capital improvement funds. And that project went out to bid on October 13*
5. *The Community Center Feasibility Study, for the site of the current Welcome Center on 7000 Walnut Street, is in its conceptual design phase. We anticipate eliciting public input on the center in early-to-mid 2021.*

Tomorrow at 2:30 pm, there will be a public hearing via Zoom on the CDBG Action Plan (for year 46). Please email requests or comments to: requests@upperdarby.org Interested parties may also comment in writing to the Township of Upper Darby, attention: Kathleen Oulahan, of Dunleavy Associates, her email address is: koulahan@yahoo.com. The plan has been advertised in the Delco Times and can be found on the township website from the home page, under "residents", in the drop down menu select "community development" and you can find the plan there.

That's it for tonight's updates. I'll turn the meeting over to our CAO Vincent Rongione.

DPB asked if the grant would cover the apron between the sidewalk and the doors to the firehouse apparatus base. The Mayor stated that she did not believe scope of the project did include the apron and deferred to the CAO who confirmed that the apron was a separate piece and he plans to meet with the fire department to discuss options for funding.

2021 Budget Presentation

Gary Merron, Upper Darby Township Finance Director, gave a PowerPoint presentation followed by discussion with Council members.

LW thanked Gary Merron for his presentation.

MS asked if the pandemic had any impact on the budget and BB asked if there is any reimbursement from the state or government for pandemic related expenses.

The Mayor stated that all department heads have been keeping track of COVID related expenses for submission for funding, but did not want to include this within the budget since there's no guarantee. Right now, these are only theoretical.

Mr. Merron pointed out that there are 4 separate grants; 2 at the Federal Level, 1 at the State Level and another, that's being debated, at the County Level.

DPB asked for the administration to submit to Council an accurate statement of savings during the pandemic and categorize them; in particular, the operational cost savings related to the furloughs.

The CAO noted the fact that furlough was not just based upon saving township expenses. It was also done as a safety precaution for the employees and the residents.

HT asked Mr. Merron how this budget affect the residents. Mr. Merron stated that at this particular time, he's not immediately worried the Township will run out of funds.

After discussion, DPB & Mr. Merron agreed to disagree about the placement of the \$2.6 million in the sinking fund as revenue and the relevancy of cash on hand.

DPB claims it was necessary to balance the budget. Mr. Merron replied that sinking funds should not be recognized as revenue or additional funds.

LW reiterated her disapproval of the budget from last year and stated that she voted against it. She further stated that according to her research, along with then Councilwoman Keffer, money was taken from our fund balance, which is basically our savings account to balance the budget and it was a bad idea to decrease our fund balance. We should have at least 2 months of reserves in the event of a catastrophic event.

DPB responded that taking from the fund balance/cash reserve would cause burden on the taxpayers and it is unfair to the taxpayer to have to pay that. A decision was made not to increase the cash reserves such that we would have to increase taxes substantially.

The Mayor confirmed that she also voted against last year's budget because she felt there was something wrong with it. We're moving on. It's a new administration and we are trying to reconcile things in a proper way.

TW stated that it was clearly and publicly announced that we did not want to raise taxes. The entire point is just to bash the last administration. He suggested doing what the Mayor said and "to move on".

CAO Rongione claims the budget that is being presented is balanced without raising taxes and that it is not a binary choice between raising taxes and draining the fund balance. There are other ways to generate revenue. MS proclaimed that he is in agreement to move on and focus on this budget without bringing up previous years.

Capital Budget Presentation

Presenters and guests from PFM Financial Advisors LLC:

Melissa Hughes
David Nasatir
David Payne
Pat Scott
Pauline Markey
Tim Care

DPB referred to the Line Item Capital Budget stating that as of the end of this calendar year, there is a \$22 million debt obligation that will increase to a \$62 million debt. There's a definite need to update equipment, but keep in mind that we are adding another \$40 million to the debt obligation.

MS wanted to know if it was possible to lock in interest rates for all the installment payments.

Ms. Hughes claimed that you may, but it would have a negative impact and she would not recommend because it's not a good tool to use.

LW asked for an explanation of the 2016-2017 debt ratio.

Mr. Nasitir replied that the Township may take advantage of the Bank Qualified Debt which is worth \$10 million

RG asked about the debt ratio rating and Ms. Hughes responded that they are A+.

Resolution No. 46-20, A Resolution to authorize proceeding with pursuing Bond financing for Capital Projects and to refund and refinance the 2016 and 2017 outstanding Bonds; repealing all inconsistent Resolutions or parts thereof; providing a severability clause; and providing an effective date

Solicitor Kilkenny gave a brief on **Resolution No. 46-20**

Motion to approve: **RG/DB. 11 in favor. Resolution No. 46-20 is approved.**

President of Council, Laura A. Wentz

LW thanked the firefighters for their assistance at the food distribution at 69th Street. She also stated that there was an Executive Session on Monday regarding the budget and an upcoming informational executive session this Saturday at the Highland Park Fire Station for Council.

COMMITTEE REPORTS

Public Safety Committee

Co-Chairs: Brian K. Burke & Danyelle Blackwell

Members: Matt Silva, Hafiz Tunis, Jr.

Resolution No. 42-20, a Resolution of Upper Darby Township, Delaware County, Pennsylvania to change parking meter #102, located behind 20 S. 69th Street, to a handicap parking meter.

Solicitor Richardson gave a brief on Resolution No. 42-20

Motion to approve: **DB/RG 11 in favor. Resolution No. 42-20 is approved.**

Finance and Appropriations Committee

Co-Chairs: Robert S. Gwin, Jr. & Matt Silva

Members: Danyelle Blackwell, Brian K. Burke

Resolution No. 43-20, a Resolution authorizing application to the 2020 PECO Green Region Open Space Program for the design of the Cardington-Newtown Trail Project in the amount of ten thousand dollars

Solicitor Richardson gave a brief on Resolution No. 43-20

Motion to approve: RG/MB

BB asked what area this covers or are we waiting for the approval of the grant prior to making the plan?

Mayor Keffer responded that the trail is from Pembroke to Marshall and extends from Ruskin to Long Lane.

This plan was put together with DVRCP. The Township is working with East Lansdowne which makes it more attractive when applying for matching grant money; we match the \$10,000 that is awarded to the Township.

She added that this is going to take 2-3 years.

RG claims it a segmental part of the circuit trails of the County.

Moved and seconded. **11 in favor. Resolution No. 43-20 is approved.**

President Council Laura A. Wentz opened the floor to MS & RG to read the Memo regarding the upcoming Budget Hearings for Year 2021

MS announced there will be Public Hearings on Wednesday, October 21, 2020 and Wednesday, November 18, 2020 to review the upcoming 2021 Budget. Residents may call in or email their comments on Tuesday, October 20th beginning at 12 noon and on Tuesday, November 17th at 12 noon. The deadline to submit comments is 7 P.M. the day of each of the scheduled Wednesday Meetings. Following CDC Guidelines, these meetings will be streamed live.

Resolution No. 44-20, a Resolution establishing escrow amounts for subdivision and land development plans in Upper Darby, Delaware County, Pennsylvania

Motion to approve: RG/MB
11 in favor. Resolution 44-20 is approved

Planning, Zoning and Building Code Committee
Co-Chairs: Robert S. Gwin, Jr. & Michelle Billups
Members: Hafiz Tunis, Jr., Donald P. Bonnett

Continuation of the Public Hearing for the Curative Amendment: 359 Owen Avenue

Solicitor Kilkenny read the terms of the agreement.

Motion to approve: SS

Seconded: MB

Before reading the Agreement. He stated that a compromise was worked out between Dr. DeBenedetto, Council, the Mayor and the Zoning Officer Chris McSween. This was in the best interest of the township by saving the cost of legal fees. Also, stated this will require a zoning change. The existing zoning appeal from 2018 pertaining to this property with great deference from the judge to work out a settlement. Therefore, this will be used to memorialize the terms of this agreement.

DPB believes this is a reasonable settlement. He expressed his reservations about accepting this agreement prior to informing the residents about it.

Solicitor Kilkenny was not aware of any issues.

LW stressed this change will have a positive impact with traffic calming on Owen Avenue.

TW agreed with approving this agreement, considering the only alternative is only litigation, which is very expensive. Regardless of disapproval from residents this agreement is necessary.

BB stated the only comments from residents came from 316 and 318 Owen Avenue. Neither one of them had an issue.

DPB asked Solicitor Kilkenny if the zoning map will be changed

Solicitor Kilkenny said it will be changed

LW expressed the "overlay" of zoning will be changed and Solicitor Kilkenny confirmed.

11 in favor. The Motion to accept the Agreement is approved.

Solicitor

Solicitor Kilkenny reported an update for St. Eugene's Sight Walk-Thru. The date range is between October 27th-30th.

LF stated she spoke to Father and he is working with council parish to confirm the date. She also asked to be extended an invite. LW & DPB also asked to be extended any invite once the meeting date and time is confirmed.

Solicitor Kilkenny deferred to the CAO to invite council members.

Old Business

DB announced reminders of the Census deadline extended to October 31st and the Job Fair on November 21st.

RG looking for the status of street cleaning project

Mayor claims we are somewhat behind due to COVID restrictions. However, going forward starting next month, the first and third Mondays of each month will be dedicated to this. Also, those on Huntley, Kingston and Shelbourne have been issued their final warning to move their vehicles or will be ticketed. The Mayor further explained that this project was created by former Councilwoman Coles, now Director of Parking Enforcement continues to assist with this project.

New Business

HT announced the clean-ups this weekend at 9 A.M. & 10 A.M. He extended an invitation to meet at Lamport & Ruskin

Mayor reiterated the Clean-Up/Pilot Program that was mentioned by HT and that there's also a cleanup this weekend with the assistance of the Darby Creek Valley Association. The areas include Bloomfield, Swedish Cabin, Kent Park from 9-12 PM.

DB announced there are paid data entry jobs for provisional ballots at three locations: Media, Chester and 69th Street. She provided the email for the contact in the county.

LW Trunk and Treat at Arlington Cemetery extended an invitation to the Mayor and Council to volunteer

MB announced there's a Trunk or Treat at the Christ Lutheran Church on October 30th and they are looking for volunteers.

Motion to adjourn (RG/SS) at 10:57 P.M.

Respectfully submitted,

Alexis Cicchitti

Alexis Cicchitti

AC/cmg

RESOLUTION NO. 46-20

UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

A RESOLUTION TO AUTHORIZE PROCEEDING WITH PURSUING BOND FINANCING FOR CAPITAL PROJECTS AND TO REFUND AND REFINANCE THE 2016 AND 2017 OUTSTANDING BONDS; REPEALING ALL INCONSISTENT RESOLUTIONS OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, a local governmental unit may only borrow money on bonds or notes, including tax anticipation notes, pursuant to the procedure provided in the Local Governmental Unit Debt Act, 53 Pa. C.S. § 8001 *et seq.*; and

WHEREAS, Upper Darby Township is considering a financing under the Local Governmental Unit Debt Act that may consist of the refunding of all or a portion of the Township's outstanding bonds and finance the acquisition of certain assets to benefit the Township; and

WHEREAS, that Upper Darby Township Council ("Council") desires that Township administration, along with appropriate finance and legal professionals, proceed with pursuing bond financing pending the final approval of the Council and adoption of an appropriate ordinance at a future meeting; and

WHEREAS, Council authorizes and directs Township Administration to do such things as may be necessary and appropriate to implement the intent and purposes of this Resolution.


NOW THEREFORE, BE IT RESOLVED that Upper Darby Township Council hereby authorizes the engagement of the following finance and legal professionals to consider the financing project: Obermayer Rebmann Maxwell & Hippel, LLP, as finance and bond counsel; PNC Capital Markets, LLC as underwriter; and PFM Financial Advisors, LLC as the Township's Financial Advisor.

REPEALER. All Resolutions or parts thereof inconsistent with the provisions of this Resolution are hereby repealed to the extent of the inconsistency.

SEVERABILITY. If any provision of this Resolution is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Resolution.

EFFECTIVE IMMEDIATELY. This Resolution shall become effective immediately following its legal enactment and shall remain in effect hereafter until revised, amended, or revoked by action of the Upper Darby Township Council.


ADOPTED and RESOLVED this 14th day of October, 2020.

BY: 
LAURA A. WENTZ
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

Resolution No. 46-20 is hereby approved this 14th day of October 2020

BY: 
BARBARANN KEFFER
Mayor

ATTEST: 
VINCENT A. RONGIONE, ESQ.
Chief Administrative Officer

RESOLUTION NO. 42-20

WHEREAS, ORDINANCE NO. 482 OF UPPER DARBY TOWNSHIP COMMONLY KNOWN AS "THE PARKING METER ORDINANCE" PROVIDES FOR THE INSTALLATION, OPERATION, MAINTENANCE, REGULATION AND CONTROL OF THE USE OF PARKING METERS AND IMPOSES PENALTIES FOR THE VIOLATION THEREOF:

NOW, THEREFORE, BE IT RESOLVED:


THE FOLLOWING METERED PARKING SPACES SHALL BE RESERVED FOR USE BY HANDICAPPED PERSONS AND DESIGNATED AS "HANDICAP ONLY" SPACES. THIS CHANGE WILL PERMIT ONLY THOSE WITH HANDICAP PLATES OR PLACARD TO USE THE METERED SPACES. A ONE-HOUR GRACE PERIOD WILL BE AFFORDED THOSE WHO LEGALLY USE THE SPACES BEFORE ANY METER VIOLATION IS ISSUED.

**LOCATION: BEHIND 20 S. 69th Street
PARKING METER # 102**

RESOLVED, THIS 14th DAY OF OCTOBER, A.D., 2020

UPPER DARBY TOWNSHIP

BY:



LAURA A. WENTZ
PRESIDENT OF COUNCIL

ATTEST:


MICHELLE BILLUPS
SECRETARY OF COUNCIL

APPROVED THIS 14th DAY OF OCTOBER, A.D., 2020

BY:


BARBARANN KEFFER
MAYOR

ATTEST:


VINCENT A. RONGIONE, ESQ.
CHIEF ADMINISTRATIVE OFFICER

RESOLUTION NO. 43-20

**UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

A RESOLUTION AUTHORIZING APPLICATION TO THE 2020 PECO GREEN REGION OPEN SPACE PROGRAM FOR THE DESIGN OF THE CARDINGTON-NEWTOWN TRAIL PROJECT

WHEREAS, Upper Darby Township developed The Naylor's Run Trail Feasibility Study ("Study") in 2011 to determine the best strategy for planning, building, and managing a segment between Manor Avenue to the north and Baltimore Pike to the south;

WHEREAS, the Cardington Branch was not included in the 2011 Study but is an abandoned rail bed spur in the Township connecting the Newtown Square Branch to Millbourne along Naylor's Run and could connect the Cobbs Creek Trail and the Forge to Refuge Trail, if developed;

WHEREAS, the PECO Green Region Open Space Program awards grants in Philadelphia, Bucks, Chester, Delaware, Montgomery and York counties ("Grant Area") for efforts to preserve, protect and improve open space in southeastern Pennsylvania;

WHEREAS, any township, borough, city, or regional recreational authority within the Grant Area can apply for the PECO Green Region Open Space Program;

WHEREAS, Upper Darby Township ("Township") desires to undertake the design of the Cardington-Newtown Trail Project;

WHEREAS, the Township desires to apply to the PECO Green Region Open Space Program for a grant for the purpose of carrying out this project;

WHEREAS, the Township has received and understands the 2020 PECO Green Region Open Space Program Guidelines;

NOW, THEREFORE, BE IT RESOLVED by the Upper Darby Township Council hereby approves this project and authorizes application to the PECO Green Region Open Space Program in the amount of \$10,000.

FURTHER RESOLVED, THAT, if the application is granted, the Township commits to the expenditure of matching funds in the amount of \$10,000 necessary for the project's success.

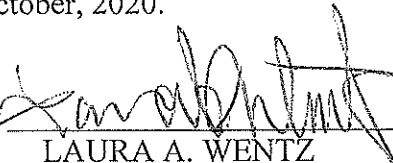
FURTHER RESOLVED, all resolutions or parts thereof inconsistent with this Resolution are hereby repealed to the extent of the inconsistency.

FURTHER RESOLVED, the provisions of this Resolution are declared to be severable. If any provision of this Resolution is declared by a court of competent jurisdiction to be invalid

or unconstitutional, such determination shall have no effect on the remaining provisions of this Resolution.

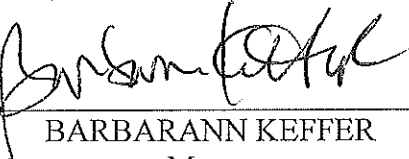
FURTHER RESOLVED, the Resolution shall become effective immediately upon its legal adoption.

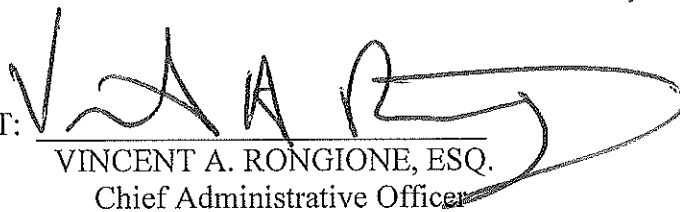
ADOPTED and **RESOLVED** this 14th day of October, 2020.

BY: 
LAURA A. WENTZ
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

Resolution No. 43-20 is hereby approved this 14th day of October 2020

BY: 
BARBARANN KEFFER
Mayor

ATTEST: 
VINCENT A. RONGIONE, ESQ.
Chief Administrative Officer

**UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

RESOLUTION NO. 44-20

A RESOLUTION ESTABLISHING ESCROW AMOUNTS FOR SUBDIVISION AND LAND DEVELOPMENT PLANS IN UPPER DARBY, DELAWARE COUNTY, PENNSYLVANIA REPEALING ALL INCONSISTENT RESOLUTIONS OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Section 503 of the Pennsylvania Municipalities Planning Code (“MPC”) provides that a Township may charge review fees including “reasonable and necessary charges by the municipality’s professional consultants or engineer for review and report thereon to the municipality”; and

WHEREAS, the Township’s professional consultants have advised the Township of their fees (“professional fees”) to be charged the Township for rendering services; and

WHEREAS, Upper Darby Township Council (“Township Council”) has deemed the professional fees to be reasonable and commensurate with similar services provided in the community; and

WHEREAS, Township Staff also recommends that Township Council establish Subdivision and/or Land Development Application Escrows to ensure Applicants pay all costs authorized by provisions of the MPC for such applications and to defray such costs from the Township taxpayers.

NOW THEREFORE, BE IT RESOLVED that Upper Darby Township Council hereby adopts the following Subdivision and/or Land Development Escrows:

1.	Major Land Development/Subdivision	\$4,000
2.	Minor Land Development/Subdivision	\$2,000
3.	Simple Residential Lot Line Change or a 2 Lot Residential Subdivision	\$500
4.	Township Professional Services Review	\$500

1. A minimum of (\$500) shall be charged to the Escrow Account to cover all Township administrative fees and professional fees associated with the initial opening of the account and reviews. Thereafter, one hundred percent (100%) of all costs authorized by the provisions of the MPC and incurred for the reviews or services shall be charged to the Escrow Account on a monthly basis.
2. The deductions from the Escrow accounts shall be the amounts charged by the professional consultants at their then-current municipal rates.
3. If the Township determines that the application is one for which such costs for review are likely to exceed the Escrow, the Applicant may be required to pay into the Escrow Account, in advance, an amount over and above the stated Escrow estimated to be sufficient to cover the expected

costs. No application(s) shall be processed prior to the required Escrow having been deposited with the Township.


4. For Major Subdivisions or Major Land Developments, if funds in the Escrow Account are depleted to fifty percent (50%) or less of the original balance, the Applicant shall make an additional Escrow deposit sufficient to cover any deficit and to reestablish the Escrow Account to its original balance or such greater amount as is determined by the Township to be reasonably necessary in order to cover anticipated remaining or future expenses. No further action shall be taken on an application until the Escrow Account has been reestablished to such appropriate level.
5. Any excess funds remaining in the Escrow Account after the application has been withdrawn or recorded shall be refunded to the Applicant without interest. If the balance of the expenses for the application for any reason exceeds the amount remaining in the Escrow Account, the Township shall send the Applicant a statement for such additional costs. The Township may take legal action to collect any unpaid costs.

REPEALER. All Resolutions or parts thereof inconsistent with the provisions of this Resolution are hereby repealed to the extent of the inconsistency.

SEVERABILITY. If any provision of this Resolution is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Resolution.

EFFECTIVE IMMEDIATELY. This Resolution shall become effective immediately following its legal enactment and shall remain in effect hereafter until revised, amended, or revoked by action of the Upper Darby Township Council.

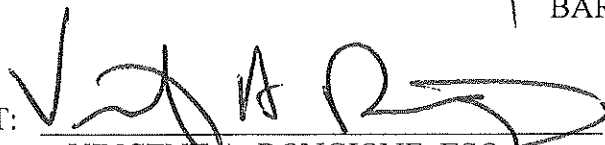
ADOPTED and RESOLVED this 14th day of October 2020.

BY: 
LAURA A. WENTZ
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

Resolution No. 44-20 is hereby approved this 14th day of October 2020

BY: 
BARBARANN KEFFER
Mayor

ATTEST: 
VINCENZA A. RONGIONE, ESQ.
Chief Administrative Officer

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY

BENEDETTO OWEN AVENUE, L.P.	:	
Appellant	:	
	:	
v.	:	
	:	
ZONING BOARD OF UPPER DARBY TOWNSHIP	:	NO. 2018-008606
Appellee	:	
	:	
and	:	
	:	
UPPER DARBY TOWNSHIP	:	
Intervenor	:	

SETTLEMENT AGREEMENT

This Settlement Agreement (“agreement”) is entered into and made this 14th day of October, 2020, by and among Upper Darby Township (the “Township”), a Pennsylvania Municipal Corporation, the Zoning Hearing Board of Upper Darby Township (the “Zoning Hearing Board”) and Benedetto Owen Avenue, L.P. (“Benedetto”).

WITNESSETH

WHEREAS, the Benedetto Owen Avenue, L.P. is the owner of 359 Owen Avenue in Upper Darby Township;

WHEREAS, Benedetto filed an application before the Zoning Hearing Board requesting a variance to allow it to expand the parking lot at 359 Owen Avenue and use such parking for the benefit of a medical practice located across the street from the subject property at 2221 Garrett Road;

WHEREAS, 359 Owen Avenue contains an existing residential duplex use;

WHEREAS, the Zoning Hearing Board denied the variance application resulting in the above captioned appeal;

WHEREAS, Benedetto subsequently filed a curative amendment application with the Township seeking to change the zoning to add 359 Owen Avenue to the Corridor Residential - Office Overlay District, with the intention to change the use of the property to a medical office use.

WHEREAS, there exists a series of enforcement actions and prior zoning appeals leading up to the above captioned appeal;

WHEREAS, the parties wish to make a full, complete, and final settlement of the issue;
and

WHEREAS, these recitals are expressly made a part of this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein,
the parties agree as follows:

1. The Township agrees that the Zoning Ordinance and zoning map shall be amended to include 359 Owen Avenue in the Corridor Residential - Office Overlay District.
2. The Township agrees and stipulates that the proposed medical office use presented in the curative amendment hearing satisfies the Special Exception standards of the Corridor Residential - Office Overlay District and no hearing before the Zoning Hearing Board shall be necessary to approve such use.
3. Benedetto Owen Avenue, L.P. agrees and stipulates that any plans for the renovation and/or development of 359 Owen Avenue as a medical office use must conform to all standards of the Township Ordinance and the Corridor Residential - Office Overlay District.
4. Benedetto will reconfigure the parking such that all ingress and egress for 359 Owen Avenue will be from Garrett Road. The driveway from Owen Ave will be demolished and restored to a landscaped state.
5. Benedetto will petition the United States Postal Service to change the address of 359 Owen Avenue to a Garrett Road address.
6. In the process of renovation, Benedetto will improve the exterior appearance of the property, including, without limitation, painting of the entire exterior, [OTHERS?].
7. Benedetto will post a sign in the parking lot advising people parking there to cross Garrett Road at the signalized intersection with Lansdowne Avenue and not midblock nor at the unprotected intersection with Owen Avenue.
8. During any time in which 359 Owen Avenue is used as offsite parking, Benedetto will advise all employees and patients that they should not be crossing Garrett Road midblock nor at the unprotected intersection with Owen Avenue.
9. Benedetto agrees to contribute \$2,500 towards the implementation of the planned traffic calming improvements on the 300 block of Owen Avenue.
10. Benedetto Owen Avenue, L.P., on behalf of itself, its heirs, executors, personal representatives, predecessors, successors, and its respective past, present, and future officers, directors, agents, employees, managers, representatives, assigns, and successors in interest, hereby fully, finally and forever release and discharge the Township and the Zoning Hearing Board, together with their respective predecessors, successors, past, present, and future officers,

directors, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns and successors in interest, and all persons acting by, through, under, or in concert with it (collectively, the "Township Released Parties"), from all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, of any nature whatsoever, known or unknown, which Benedetto Owen Avenue, L.P. has, or may have had, against any Released Township Parties, whether or not apparent or yet to be discovered, or which may hereafter develop, from the beginning of the world to the date of this Settlement Agreement, which arise from or with respect to the dispute referenced here. Township agrees to release any claims it has against Benedetto Owen Avenue, LP relating to parking on or use of the property at 359 Owen Avenue arising from or relating to conduct occurring prior to the date of this Settlement Agreement.

11. Upper Darby Township agrees that the following enforcement actions shall be terminated, with prejudice,

- A. 2/28/2018 Upper Darby Township Zoning Enforcement Notice, Folio #16-09-01237-00;
- B. Upper Darby Township, Department of Licenses & Inspections v. Benedetto Owen Avenue, LP, Docket No. MJ-32134-CV-0000057-2018

12. Benedetto agrees that the following appeals shall be marked settled, discontinued, and ended.

- A. In Re: Application of Benedetto Owen Avenue, L.P., No. 5-1 of 18, Before the Zoning Board of Upper Darby Township
- B. Benedetto Owen Avenue, LP v. Zoning Hearing Board of Upper Darby Township and Upper Darby Township (Intervenor), Court of Common Pleas of Delaware County, No. 2018-008606

13. Notwithstanding the above, this Release does not prohibit any Party from seeking to enforce this Settlement Agreement.

14. This Agreement, and its covenants and exhibits, constitutes the entire settlement agreement between the parties, and no party has entered into this Agreement based upon any promise, representation, warranty or covenant not included herein.

15. The Parties hereto expressly state and agree that they have consulted with their respective attorneys concerning this Agreement and have been fully advised by such attorneys with respect to their rights and obligations hereunder. The parties agree that this Agreement has been mutually prepared and, therefore, the terms of this Agreement shall not be construed or interpreted against any one party hereto.

16. This Agreement may be executed in counterparts, each of which shall constitute an original agreement. Faxed signatures shall be valid and enforceable.

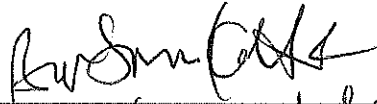
17. The Parties and their signatories represent and warrant that they have the authority to enter into this Agreement on behalf of the Parties to the Agreement.

18. Failure by a party to enforce any of its rights under this Agreement shall not be deemed a waiver of any right which that party has under this Agreement.

19. This Agreement shall be governed in all respects by the substantive laws of the Commonwealth of Pennsylvania, including its conflicts of laws principles. If any dispute arises regarding this agreement, that dispute shall be heard and resolved by a court of competent jurisdiction located in Delaware County, Pennsylvania.

IN WITNESS WHEREOF, the parties intending to be legally bound have executed this Settlement Agreement as of the day, month and year first above written.

Upper Darby Township

By: 
Name: Barbara M. Kelly
Title: Mayor

Upper Darby Township Zoning Hearing Board

By: 
Name: Vincent A. Rongione
Title: Chief Administrative officer

Benedetto Owen Avenue, LP

By: _____
Name:
Title:

Approved:

John J. Whelan, J.

M

BUDGET PRESENTATION – OCTOBER 14, 2020

TALKING POINTS

OPENING COMMENTS

Good evening everyone, I'm Gary Merron and it's my **pleasure** to participate in this process tonight. As you all know by now, I've been with Upper Darby for just about 6 weeks in the role of Finance Director, and have been working, during this time, to learn the policies, procedures, systems, and methods of Township record keeping. My role in **this**, the annual Budget process, is to **(1)** study the Township's financial **track** record, as reflected in our books & records, to **(2)** work with the Department Heads in capturing their assumptions for the coming year, and to **(3)** reflect the newly defined operating structure and polices of Mayor Keffer and CAO Rongione. In this role, I've been building Excel models that capture, analyze, and project financial activity for our payroll process and for our overall operating activities.

First, a few words about my process.

The books & records of Upper Darby Township contain significant detail, which poses quite a challenge in making a concise but accurate presentation. **In my opinion**, having reviewed prior year presentations in considerable detail, I find them to **(1)** tell an incomplete story, to **(2)** contain several errors and internal inconsistencies, and to **(3)** distract with statistics that may be interesting, but direct the audience away from the bottom line – all of which potentially leads viewers to draw erroneous conclusions.

To try and correct for this, parts of my presentation will provide greater detail than has been shown in prior years, and may take some **focus on your part** to absorb all of the information on certain slides.

My **method** in gathering and presenting this data is to look at a 5 year period – with actual financial activity for the years 2016 thru 2019, followed by the adopted budget for 2020, and then the 9-month actual results for the current year. In this context, 2021 should make more sense.

Now this will be a little dry, but I'll do my best to keep your attention.

SLIDE 1

The first slide shows revenues (by source) and expenses (by governmental function), combined across all Funds, to reflect the **aggregate** Surplus or Deficit for the Township. You'll see that 2016 & 2017 operated at a Surplus, 2018 at a Deficit, and 2019 at appreciably a break-even. The **2020 Budget** reflects a **\$4.2mm Deficit**, with year-to-date actuals showing a **significant Surplus**. There will be more on both of these items later in the presentation. For **2021**, we offer a proposed budget that anticipates slightly better than break-even performance. The **last 2 columns** present each budgeted line item, **1st** as a percentage of the total budgeted spend for 2021, and **2nd** as a percentage of the amount budgeted in 2020 for this same line item. This columnar format is used throughout the budget model at all levels of summary and detail, in the hope of easily addressing any questions you may have.

Now let's look at the 2021 Budget.

First, as currently proposed, this Budget contains no increase in Tax Revenue or Fees. To the extent that these line items show an increase over the 2020 Budget, that simply reflects our increased focus on collection activity. The **increase** in revenue from **Grants** reflects the Administration's intended efforts in pursuing Grant revenues that are available to us. The **decrease** in **Other Revenues** reflects significant **over-budgeting** of certain Revenues for **2020**, which again, I will further address a little later in the presentation.

As for **Expenses**, you'll note that only **License & Inspection** shows an increase, which reflects the Administration's focus on hiring Inspectors to further ensure code enforcement. Administrative Services, General Government, Debt Service, and Other reflect significant **decreases**, mostly due to common sense cost controls. Again, as I said earlier, this slide is rich with information as to what drives our Budgeting Process.

SLIDE 2

The 2nd slide is a pie chart of Township Revenues by Source. Clearly Upper Darby is powered **primarily** by Property Taxes, Trash Fees, and Sewer Fees. The next few slides take a closer look at each of these revenue streams.

SLIDE 3

This **next** slide takes a deeper dive into **Real Property Taxes**. The Millage, Aggregate Assessed Value, and Gross billing can be tracked across time, showing mostly moderate increases from year to year. Please note that the **2021 Assessed Value** has not yet been finalized, and that the **court-mandated** county assessment is designed to be **revenue-neutral** across the township. That said, it **will** have differing impacts on individual households. To the extent that Gross Billings for **2021** show a modest increase over **2020**, this is simply a function of houses that have sold – and thus reflect an increased value. More importantly, you will see an increase in Current and Delinquent Tax Collections, **again** pursuant to our increased focus on collections activity. The outlier, in reviewing prior year results, is the 2020 collection of delinquencies. This is the result of our Collection Agent's first year efforts.

SLIDE 4

The 4th Slide analyzes Trash Fees. This slide shows the # of Units Billed having remained virtually constant, with Fee Increases passed in **2016** and in **2019**, for effect in **2017 & 2020**, respectively. The only true variable has been **collection of Delinquent**

Fees which generally follow the same trend line as with **Real Estate Taxes** – emphasizing collections.

SLIDE 5

Slide #5 analyzes **Sewer Fees** in much the same way as with **Trash Fees**. The # of Units Billed remains fairly constant, with a Fee increase passed in **2019**, for effect in **2020**. The increase in collection activity is, once again, apparent. On **this** slide, however, you see the additional component of **Reimbursements from Neighboring Municipalities**. Specifically, East Lansdowne, Millbourne, Haverford, & Yeadon pay for the use of our pipes to transfer their waste water for treatment. These **reimbursements** help to defray our sewage costs.

SLIDE 6

Slide #6 is a pie chart of Township Expenses by **Government Function**. Clearly, the largest functions, by far, are **Public Safety** (made up of **Police & Fire**) and **Public Works** – with all other Government Functions making up less than a **quarter** of the total budget.

SLIDE 7

And the **next slide**, also a pie chart, shows those same expenses by **type of expense**; in **this** case with the largest pieces being **Personnel Costs** and **Contractual Services**. So herein lies the real message of the Township's cost structure – **the people we employ**.

SLIDE 8

And so with the **next two slides**, let's take a look at the various components of **Personnel Costs**. First, looking at the **total cost** of these components by **Government Function**. With a **full complement** of **133** full-time officers, plus **several** civilian employees, our Police Department is **rightly** the largest segment of

each Personnel Cost Component. Although **Police Overtime** remains quite significant, the **Administration** has worked closely with the **Superintendent of Police** to launch policies which have brought down overtime throughout the **course** of 2020, & for all of 2021. **Police Overtime** was **\$1.9mm** in 2019; **budgeted** for **\$2mm** in 2020; but will **finish** the year at **\$1.660mm**, with a **2021 budget** of **\$1.630mm**. **Fire Department Overtime** is a much tougher nut to crack. In **order** to meet contractually-based minimum staffing standards, we've had to incur **significant Overtime**. This line item has run **well** in excess of **\$1mm** annually in **every** year since 2017, and is now being addressed in our hiring initiative. As **every full day** of Overtime costs the Township **\$1,735** – the annual cost of **one Fire Fighter** paid out as Overtime equals **\$633,275**. Given an “all-in cost” of approximately **\$215,000** per **Fireman**, we could hire **3 full-time Firemen** for each **one** who is paid via **Overtime**. The **Mayor and CAO** are working together with our new **Fire Chief** to address this issue on a structural basis. The next large Personnel Cost Components are **Health Insurance** and **Pension Plans**. Re-visiting our Health Insurance program is a major initiative for this coming year. These numbers are **quite large, especially** in the Police & Fire Departments (as **well** as in Public Works), and the time has come to **re-assess** our self-insurance program. The **Pension Plans** are another area of real concern. The issue here relates to minimal funding over as many years as we can track. This is a **priority** for Mayor Keffer, and her **administration** is working to address it.

SLIDE 9

With the **next slide**, we'll take a closer look at **average costs per employee**, but organized by **Bargaining Unit**. **This** slide provides an estimate of all Personnel Cost Components, arrayed in accordance with the **previous** slide, but allows us to more closely examine certain contractual **aspects** of our Personnel Costs – as the Township works with 4 separate unions in managing our staff. Please note that with the exception

of a handful of **non-union management employees**, this slide reflects **fixed cost components** that are **driven by contract**.

SLIDE 10

This slide re-visits the cost and associated fees for Trash Collection. It's included in tonight's presentation in order to focus everyone on a pricing issue for **future years**, **NOT** to suggest a Fee Increase for 2021. The method that has been in place for pricing Trash Fees has been to examine only certain **direct** costs. These costs include salaries, overtime, clothing, supplies, disposal, recycling, and other lesser expenses. As you can see by comparing projected **Fees** with projected **Direct Costs** – the Fees appreciably cover **those** costs. That said, **by previous design**, all costs of Health Insurance, Life Insurance, Pensions, and Workers Compensation (OTHER than those of the Police & Fire Departments) have been lumped together into Miscellaneous Expenses within the General Fund. To **clean this up**, we are in the process of allocating these costs to the appropriate Governmental Functions. In **total** these costs are just over \$10mm, with **\$2.9mm** attributable to the employees who collect our trash. On this slide, these allocated Personnel Costs are shown as the 2nd line item under Trash Collection Costs. Furthermore, the maintenance of our **Trash Trucks** has been grouped with the maintenance of **other Township Vehicles** within an area of Public Works called **Vehicle Maintenance**. Currently Vehicle Maintenance cares for 258 vehicles, 26 of which are **Trash Trucks**, with the remainder comprised largely of **Police Cruisers**. It's important to note that 10 of the 26 Trash Trucks are **1991 vehicles** -- as compared to an average life span of 5-7 years for most other vehicles in our fleet. However, without a real mechanism at this time to **apportion** Vehicle Maintenance costs between **Trash Collection** and the **rest** of Township operations, I've chosen to overlook the relative size and age of our Trash Trucks in allocating these costs. Thus, I'm applying a straight ratio of vehicles, **clearly conservative**, allocating **only 10%** of Vehicle

Maintenance Costs to Trash Collection. When taken together, these costs suggest a **significant Fee shortfall** of \$3,244,850, or **\$121 per household**.

SLIDE 11

Having now covered the **essence** of our 2021 Budget, let's **frame** it properly by returning to the **Deficit** built into the 2020 Budget, and our performance **against** this Budget. The **top third** of this slide shows the Total of Revenues and Expenses in each Fund, as advertised in the Delco Times last year. This presentation suggested a break-even Budget at \$97.4mm **across all Funds**, in the aggregate. In the middle third of this slide, the Total of Revenues and Expenses for each Fund are shown as they appear in the **Township Records**. Clearly, **this** is a different story. The bottom third of this slide shows the differences between the top two thirds, with footnotes explaining the larger differences – which are highlighted in yellow. I would characterize these differences as follows:

Note 1: The **1st** note deals with the overbudgeting of General Fund Revenue by \$1,150,000. As published in the Delco Times, Budgeted Tax Receipts of \$58,203,569 was correct, Budgeted Grants Revenue was only overstated by \$40,000 (at \$3,115,000), and the remainder, which was characterized (perhaps a little too broadly) as Departmental Revenue was overstated by \$1,110,000 (at \$20,938,609). **Interestingly**, the true remaining Revenue of \$18,628,609 included \$1,200,000 that was a Budgeted Transfer from the Sewer Fund. This transfer was erroneously shown as an expense to the Sewer Fund and a Revenue to the General Fund. The net result was harmless, but it served to inflate both Revenues and Expenses as a function of questionable and confusing accounting practice.

Note 2: The **2nd** note deals with the overbudgeting of Sinking Fund Revenue by \$2,600,000. Consistent with my explanation for note #1, this entire \$2.6mm was a transfer from the General Fund, but in this case it was **not** so harmless. This sum was

shown as a Sinking Fund Revenue, but NOT as a General Fund expense, thus inflating total Revenues. As I don't support inter-fund transfers being shown as **Revenues & Expenses** (they properly belong on the Balance Sheet), it should be clear that the Sinking Fund **does not** generate outside Revenue. It's a Fund designed to manage cash, in the repayment of Bonds – and as such is only a cost center.

Note 3: The \$409,000 negative expense variance in the 3rd note is my most entertaining find. The Township records contain a **Bond Principal Budget line** of \$2,006,000 and a **Bond Interest Budget component** of \$1,003,041, totaling the \$3,009,041. What I find amusing is the prospect that Budgeted Principal repayment of “\$2 million six” was alternatively recorded as \$2,600,000 in one place, and \$2,006,000 in another.

So to **close** out this slide, I will simply say that in my six weeks of work on this Budget, I have found dozens of errors, both large and small. As we are saddled with those errors, I feel it important to report this to you.

SLIDE 12

The final 2 slides of the night delve a little further into the 2020 Budget and it's implications. Budgets, of course, are **ESTIMATES** that will always miss the mark for any number of reasons. Accordingly, quite a few line items differ from actual results by tens of thousands of dollars, one way or the other. This slide takes a look at 4 **Revenue line items** which are of particular interest.

The 1st is **Housing Licenses**, budgeted to be **larger** than the previous 4-year average by \$353,255.

The 2nd is **Cable Television Franchise**, budgeted to be **larger** than the previous 4-year average by \$348,252.

Then **Building Permits**, budgeted to be **larger** than the previous 4-year average by \$904,103.

And **finally**, **Trash Collection Fees**, budgeted to be **larger** than the previous 4-year average by \$2,337,023.

In each case, when you look at the previous 4-year history, the amount budgeted in 2020 truly stands out. In the aggregate, these four items **ALONE** represent an overly optimistic revenue budget of nearly \$4mm, **against which** our performance will be gauged. In the context of **actual 2020 revenues**, it's clear that these items were inflated to imagine a **Revenue stream** that was **never achievable**, but served to help sell the 2020 Budget.

SLIDE 13

So now let's **close the loop** concerning performance against the 2020 Budget. Per the **last slide**, I identified excessive revenue assumptions totaling more than \$3.9mm. And as I explained **2 slides ago**, the Township records – which include this overstated revenue assumption – nevertheless showed a deficit in excess of **\$4.2mm**. Thus, on **this slide** I show that the existing budget **presumes** an \$8.2mm shortfall. Now, back on the **1st** slide I showed that we have positive cash flow through September 30th of **\$16.7mm**. The reason for this Surplus is the front-end loading of annual revenues into the early part of the year, while expenses occur **throughout** the year, with certain **material costs** coming in the 4th quarter. As a **result**, I project a **negative** cash flow of **\$19.2mm** for the 4th quarter, bringing us to a **projected shortfall** for the year of **\$2.5mm**. As we **approach year-end**, and grapple with this projected shortfall, it's important to remember that, **had we performed to Plan**, our shortfall would have been **\$8.2mm**. Or to put it another way, with a **Projected Shortfall** of \$2.5mm, the Administration has performed nearly \$5.7mm **BETTER** than Plan. This amount is consistent with the aggregate impact of certain policies put into place concerning collection activity, increased fines, and assorted cost controls, as further impacted by the furlough that followed the Covid outbreak.

CLOSING COMMENTS

In closing, I'd like to remind you that this Budget exercise is an **ongoing work-in-progress**. There will **continue** to be changes to certain numbers as we **fine-tune** the product. Now clearly I don't expect any **material changes**, but you can see that certain amounts have already changed since you were given the 4-page Consolidation **last week**. Once you've had a chance to truly **internalize this** information, as well as all **subsequent** detail to follow, **please feel free** to reach out to the administration with any questions or comments. I have certainly tried to put forward a sound product, but in the context of last year's product, if I've made any errors in gathering or presenting data, I promise to address it promptly. With that, I'll open the floor to your questions.