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December 21, 2022

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**MINUTES
Council Meeting
December 21, 2022**

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

Opening of Meeting

Roll Call

Andrew Hayman (AH), Danyelle Blackwell (DB), Brian Andruszko (BA) via Zoom, Sheikh M. Siddique, (SS), Lisa Faraglia (LF), Matt Silva (MS), Brian K. Burke (BB), Michelle Billups (MB), Meaghan Wagner (MW), Hafiz Tunis Jr., (HT), via Zoom, Laura Wentz (LW)

Present at the Meeting

Barbarann Keffer, Mayor
Chief Municipal Clerk, Alexis Cicchitti
Solicitor Sean Kilkenny
Solicitor Colleen Marsini
David Haman, Treasurer, via Zoom
Mike Galante, Township Engineer
Sergeant of Arms, Officer Bateman

Guests

Jack Reagan, Managing Director of UHY
Donna Stilwell, Brinker Simpson

Rules for Meeting Decorum

“Upper Darby residents have the opportunity to speak for three (3) minutes. Residents are prohibited from making threats, using profanity, or acting in a manner that would impede or prevent the conduct of the business of the meeting.” Public Forum should not exceed thirty (30) minutes.”

Presentation of Awards for Bangladesh Heritage Month: Councilors Billups and Siddique
Award Recipients are Abu Amin Rahman and Fatima Ahmed

Approval of the Minutes

Approval of the Minutes from the Committee Meeting of November 2, 2022
Approval of the Minutes from the Budget Hearing of November 2, 2022
Approval of the Minutes from the Council Meeting of November 17, 2022
Approval of the Minutes from the Budget Hearing of November 17, 2022

Motion to approve: LW/LF

Moved and seconded. All in favor. The November Minutes were approved.

Public Forum

Steve Lockard, 427 Spruce Street, spoke of Gillespie Park, thankful that trails and parks are being revitalized
Joanne Nommavong, 133 N. Pennock Avenue, rats at 4100 block Garrett Road, asked if the audit was finished yet. Donna Stilwell stated that it is being worked on.

Bonnie Hallam, 4719 Woodland Avenue, congratulated the Mayor & Administration for the Homeless Shelter. She is hopeful that the Budget will be passed tonight.

Myron McNeely, 7116 Hilltop Rd, thanked Mayor Keffer for doing such a good job & referred to a “power grab on Council”

Brian Taylor, 7258 Lamport Road, founder of Taylor Made Vets. He spoke of his work with veterans and inquired about the status of the police contract.

Rich Blye, 7258 Lamport Road, spoke of what he believes was a “bogus” investigation on him for harassment where he was innocent.

Colleen Kennedy, 8723 West Chester Pike, spoke of a Town Hall Meeting on Thursday, January 12, 2023 at the Keystone Wellness Center and Opportunity Center in Chester at 6:30 p.m.

Olivia Taylor, 204 Kent Road, spoke of an upcoming Code Blue and is concerned that the new facility only has 17 beds to bring in people from the cold. She asked why there was no plan in place. Ms. Taylor also expressed her displeasure with UD housing Yeadon’s prisoners and that the COVID pay was taxed.

The Honorable Mayor Barbarann Keffer

Mayor’s Message

Good evening everyone and Happy Winter Solstice,

The trash and recycling schedule will be altered for the next two weeks to accommodate our winter holidays. There will be no trash or recycling collected next week on Monday, December 26th as we observe Christmas Day. In addition, there will be no trash or recycling collected on Monday, January 2nd in observance of the New Year. Please visit www.upperdarby.org/trash to see how your pick up will be affected by the holiday schedule. The website has an excellent translation option for our neighbors to get township information in their preferred language. You can also sign up for Delco alerts to receive updates on changes to the trash schedule by visiting www.delcopa.gov

On the agenda tonight is a resolution to reappoint three members of the Zoning Hearing Board: Erin McPherson, Marguerite (Peggy) Wilson and Bob Gwin. All three have been serving on the Zoning Hearing Board and during their time there, they have excelled in their roles serving our Upper Darby community. I am asking for a motion to reappoint Erin, Peggy and Bob to the Zoning Hearing Board.

Also on the agenda tonight is my final proposed budget. The proposal has gone through two public hearings in November after multiple meetings between Finance Department staff, department heads and members of the council Finance Committee. After the public hearings on the budget closed and just prior to the December 7 council meeting, the council finance committee demanded \$1.7 million in budget cuts. In an effort to work with the finance committee, Deputy CAO Dobbins, Donna Stillwell, and Controller Diane Scutti met with councilors

Hayman and Andruszko the following Sunday evening and agreed to \$1.1 million in cuts. My proposed budget incorporates them.

This budget proposes a .35 millage increase and the use of \$2.5 million in ARPA revenue replacement funds. As Acting Finance Director Donna Stillwell has stated on record, in 2020 alone the township suffered over an \$8 million revenue shortfall. I would also like to add that on the agenda tonight is a public hearing on the \$2.5 million revenue replacement funds and that this is the sixth time that some form of a revenue replacement ordinance has been on council meeting agendas this year.

As members of council have voiced concerns over the township's lack of a robust fund balance and possible lack of funds for police back pay when the contract comes out of arbitration, I believe my proposal addresses these concerns, uses a small amount of eligible ARPA revenue replacement funds and has the lowest tax increase to our residents while preserving critical municipal public safety and public health services.

We have not raised taxes the last two years. The tax increase with my proposed budget is estimated to be 2.7%. Again, this is the first tax increase over the last three budget cycles, which would average out to less than 1% a year. Before I ask for a motion for my budget resolution, I would like to ask Jack Reagan of UHY to come to the podium and explain the purpose of ARPA revenue replacement funds for the record. Donna Stillwell, our Acting Finance Director, is also here to address any questions that council may have.

That concludes my message, thank you.

Resolution No. 53-22, the re-appointment of Erin McPherson and Marguerite (Peggy) Wilson to the Zoning Hearing Board

Solicitor Kilkenny gave a brief on Resolution No. 53-22

Motion to approve Resolution No. 53-22: AH/SS

Motion to separate the names on the Resolution: LF/MW

Solicitor Kilkenny clarified that if there was a name that would come off the Resolution, then the name should be removed and the Motion and the second could be amended to reflect that.

There was discussion amongst Council members regarding the proposed removal of Marguerite Wilson from the Resolution.

Solicitor Kilkenny explained that per the Pennsylvania Municipalities Planning Code, any appointment to the Zoning Hearing Board must be made by Resolution. He added that it is necessary to have a standing Zoning Hearing Board and when applications are received within 90 days, action needs to be taken. If there is not a sitting Zoning Hearing Board, anyone putting an application would be deemed approved. Solicitor Kilkenny wanted to caution Council to be aware of that.

Council President Burke stated that it is odd that there are three people up for an appointment and apparently, someone missed an appointment last year as the term expired in December 2021.

Solicitor Kilkenny confirmed that the particular person who was not re-appointed when they should have been is not actually on the Zoning Hearing Board.

Council President Burke asked why a person who is not actually on the Board would be "re-appointed." After Solicitor Kilkenny stated that another name could replace Ms. Wilson's name, Council President Burke asked if

he would be violating any Sunshine Laws by doing so. Solicitor Kilkenny stated that no Sunshine Laws would be violated as the appointments to the Zoning Hearing Board were on the Agenda.

AH stated that after consultation with the Mayor and President Burke, he is willing to amend his Motion to replace Ms. Wilson with Bob Gwin, with the replacement of an alternate at a later date.

Solicitor Kilkenny stated that Bob Gwin would be for the term that will expire on December 31, 2023.

Motion to approve the AMENDED version of Resolution No. 53-22: AH/LW

Moved and seconded. All in favor. Resolution No. 53-23 is approved.

MAYOR KEFFER

Mayor Keffer stated that her final proposed Budget is on the Agenda tonight following two Public Hearings in November and multiple meetings between the Finance staff, Department Heads and members of Council. She stated that after the Public Hearings closed, and prior to the December 7th Council Meeting, the Council Finance Committee requested \$1.7 million in Budget cuts. In an effort to work with the Finance Committee, Deputy CAO Dobbins, Donna Stilwell and Controller Diane Scutti, met with Councilors Hayman and Andruszko the following Sunday evening and agreed to \$1.1 million in cuts. The Mayor's proposed Budget incorporates these cuts. The Budget proposes a 3.5 millage increase and the use of \$2.5 million in ARPA Revenue Replacement funds. As Acting Finance Director, Donna Stilwell, has stated on record, in 2020 alone, the Township suffered an over \$8 million revenue shortfall caused by the pandemic.

Mayor Keffer added that the Public Hearing for the \$2.5 million Revenue Replacement Funds is on the Agenda tonight and that this is the 6th time that some form of a Revenue Replacement Ordinance has been on Council Meeting Agendas this year. As members of Council have voiced concerns over the Township's lack of a robust fund balance and possible lack of funds for police back pay when the contract comes out of arbitration, the Mayor believes that her proposal addresses these concerns, uses a small amount of the eligible ARPA Revenue Replacement Funds and has the lowest tax increase to our residents, while preserving critical municipal public safety and public health services. Taxes have not been raised in the last two years and a tax increase with the Mayor's proposed budget is estimated to be 2.7%. The Mayor reiterated that this is the first tax increase over the last two budget cycles, which would average out to less than 1% per year.

Mayor Keffer asked Jack Reagan of UHY to come to the podium to explain the purpose of ARPA Revenue Replacement Funds for the record. Donna Stilwell, Acting Finance Director is present to address any questions that Council may have.

Council President Burke asked if this was the Mayor's Budget or Council's Budget.

Mayor Keffer clarified that according to the Home Rule Charter, the Mayor proposes a Budget and Council passes a Budget.

Jack Reagan, Managing Director of UHY spoke about ARPA funding and allowable uses.

Mr. Reagan answered various questions from Council members.

THE CONVERSATION CAN BE VIEWED IN ITS ENTIRETY ON YOUTUBE

Mayor Keffer thanked Council members for all of their questions regarding Revenue Replacement Funds and reiterated what her proposed Budget included.

Resolution No. 54-22, to approve the 2023 Budget

Motion to approve: HT/AH

LW stated that she would like to table this Resolution in order to review it further as she has some concerns about clarity and the Resolution was only received the day before.

Motion to TABLE: LW/MW

HT stated that none of this was new and a compromise was made to get to this point and that a vote should take place at this meeting.

Council President Burke brought Donna Stilwell to the podium and wanted to clarify that Resolution No. 49-22 was the original Resolution that everyone was working on.

Donna Stilwell clarified that the Mayor wanted to put forth a Budget that only had a 2.7% increase (.35 mills) using \$2.5 million of the Revenue Replacement.

To address LW's concerns, Ms. Stilwell clarified that there is only one difference between the Budget from the Finance Committee and the Budget from the Mayor, and that is that the millage from Council is .66, using no ARPA funds. The millage increase from the Mayor's Budget is .35 using ARPA Funds.

Moved and seconded. A roll call vote was taken.

6 in favor (BA, LF, MS, BB, MW, LW), 5 opposed (AH, DB, SS, MB, HT)

Motion to TABLE carries.

Mayor Keffer wished everyone a Happy Holiday.

President of Council, Brian K. Burke

Council President Burke wished everyone a Happy Holiday.

In response to a question from HT, Solicitor Kilkenny stated that he had a very good conversation with Council President Burke and Mayor Keffer on the Agenda call. They discussed rules and protocol for Council. They also agreed that Council members have been talking over each other so those concerns should go directly to President Burke and he can direct that and allow other Council members to finish before moving on rather than interrupting making for a much better flow. Solicitor Kilkenny added that censure is a statement by Council of Upper Darby, or anywhere else, saying that you are in violation or that you acted in bad faith toward the rules of Upper Darby or another municipality. In his firm's experience, it has been used twice; once in Folcroft Borough and the other one in the municipality of Norristown. He advised President Burke that it was a slap on the wrist and really only has ceremonial ability and most places choose not to use it.

Council President Burke reiterated that everyone received the email, not just Councilman Hayman.

AH stated that he does not believe that anti-Semitism was the intention of any censure attempt and believes that there are other reasons.

COMMITTEE REPORTS

Finance and Appropriations Committee

Chair: Laura A. Wentz

Members: Matt Silva, Meghan R. Wagner, Brian Andruszko

Resolution No. 49-22, to approve the 2023 Budget

Motion to TABLE: LF/MW Ten in favor, one opposed (HT). Motion carries.

Moved and seconded.

Public Hearing for Ordinance No. 3129, an Ordinance approving the appointment of Solicitor, interest assessment and attorney fees, and collection fees added to the amount collected as part of unpaid Real Estate taxes and Municipal Claims for delinquent accounts

Solicitor Kilkenny gave a brief on Ordinance No. 3129

Council President Burke convened a Public Hearing.

Speakers:

Olivia Taylor, 204 Kent, asked if this was about Solicitor's fees

Council President Burke closed the Public Hearing.

Motion to adopt: LW/MW

Moved and seconded. A roll call vote was taken. Ten in favor, one excused (AH).

Ordinance No. 3129 is adopted.

Public Hearing for Ordinance No. 3130, an Ordinance of Upper Darby Township, Delaware County, Pennsylvania, authorizing that part of certain unencumbered appropriations allocated by the 2022 Operating Budget be transferred from various department and agencies to other departments and agencies within the Township and repealing all Ordinances and Resolutions inconsistent herewith

Solicitor Kilkenny gave a brief on Ordinance No. 3130

Council President Burke convened a Public Hearing.

Speakers:

Joanne Nom mavong, 133 N. Pennock Ave, asked for clarification of parts of the Ordinance

Council President Burke closed the Public Hearing.

LW made a Motion to amend Ordinance No. 3130 to \$50,000, as she believes that there are still some questions on some of the Solicitor funds. There was no second to the Motion.

**LW changed her Motion to amend Ordinance No. 3130 by removing the Solicitor's fee, \$101,434:
LW/MW**

AH asked if LW would be willing to rescind her Motion, as he is willing to approve half of it tonight by "re-amending" the Motion.

Council President Burke stated that there was a Motion with a first and second on the floor at this time.

BA asked the Mayor if there were any updates on the discussion that they had the previous week regarding Solicitor's bills.

Mayor Keffer stated that there was. There were questions as to whether or not the Administration had submitted these claims to the Insurance companies related to the fees. Solicitor Marsini has a timeline for the submission of claims to the Insurance Company regarding the various legal matters that they are dealing with and Mayor Keffer has a response.

Solicitor Marsini stated that the information was emailed to Council and all of the legal costs associated with these cases were properly submitted to insurance. There are copies that were submitted to Council of all the

insurance and of the declined coverage. There was no insurance coverage for any of the legal costs associated with any of these actions.

Council President Burke confirmed that all of the actions were denied by the Insurance carrier.

Solicitor Marsini stated that the claims were denied by two insurance carriers, Travelers and Arch.

Council President Burke asked Solicitor Kilkenny for his opinion regarding the Administration giving the go-ahead after the insurance companies denied the claims two times and those invoices were paid by taxpayer's dollars. He further asked if the Solicitor was notified the previous week or three months ago about the insurance denial.

Solicitor Kilkenny stated that they had no knowledge of it until he and Solicitor Marsini spoke to Deputy CAO Alison Dobbins earlier this week, as they had been conflicted out and had no knowledge of what went on.

Solicitor Kilkenny stated that he has never spoken with the Muncie Fitzpatrick Firm or the Malloy Firm. He further stated that if Mr. Rongione asked him about the lawsuit, Solicitor Kilkenny advised him to speak to conflict counsel.

Council President Burke asked how conflict counsel was hired under the Home Rule Charter and the Administrative Code and why it did not come before Council. He stated that the lawsuit was for the resident, Vincent Rongione, and not the CAO.

Solicitor Kilkenny stated that he has recused himself from this matter and has not been involved since day one.

MW stated that they are just looking for a more detailed understanding of what the Fitzpatrick Firm actually charged and added that the Fitzpatrick Firm and their engagement letter was not brought before Council.

BA also requested clarification on Mr. Malloy's invoice.

Mayor Keffer stated that Bob Scott was originally retained for professional services for a Zoning Hearing Board matter. However, when Solicitor Kilkenny recused himself of this conflict regarding the CAO, they just went back to Bob Scott.

Council President Burke asked if Bob Scott is resident Vince Rongione's Conflict Counsel.

Mayor Keffer stated that he is the Administration's Conflict Counsel.

Motion to call the question: HT/MB

Moved and seconded. A roll call vote was taken.

7 in favor (BA, LF, MS, BB, MW, HT, LW) 4 opposed (AH, DB, SS, MB)

Motion to call the question carries.

A vote was taken for the amended version of Ordinance No. 3130 with the removal of the Solicitors fee of \$101,434.00

Moved and seconded. A roll call vote was taken.

6 in favor (BA, LF, MS, BB, MW, LW) 5 opposed (AH, DB, SS, MB, HT)

Ordinance No. 3130 is adopted.

Public Hearing for Ordinance No. 3131, an Ordinance of Upper Darby Township, Delaware County, providing for supplemental appropriations for the 2022 Budget appropriating the funds provided by the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Fund for Revenue Replacement; repealing inconsistent Ordinances or parts thereof; providing for a severability clause and providing for an effective date

Solicitor Kilkenny gave a brief on Ordinance No. 3131

Council President Burke convened a Public Hearing.

Speakers:

Joanne Nommavong, 133 N. Pennock Ave, asked why the first "whereas" clause referred to 2022

Olivia Taylor, 204 Kent Road, asked the amount of tax dollars used for CAO Rongione's lawsuit

Council President Burke closed the Public Hearing.

AH stated that this revenue is supposed to be used to replace revenue that was lost due to COVID. He stated that the funds should be used for their intended purpose as many people are struggling.

MW confirmed that the difference between the two budgets tonight is that one contains the ARPA funds and one does not. She believes that it is not appropriate to move forward on this Ordinance tonight as the two Budget Resolutions are on the Agenda next week and asked to table the Ordinance.

Motion to table Ordinance 3131 until January 4, 2023: MW/LF

Solicitor Kilkenny confirmed that if this is tabled, it could not be enacted this year.

There was discussion about the timeline for advertising. Options were discussed amongst Council members.

Mayor Keffer stated that this is the sixth time that Revenue Replacement has been on the Agenda this year and it looks like it is going to be shot down. She added that when you table this, you have effectively shot down the Mayor's proposed Budget.

Motion to call the question to stop the discussion of Ordinance No 3131: LW/MW

6 in favor (BA, LF, MS, BB, MW, LW) 5 opposed (AH, DB, SS, MB, HT)

Motion to call the question carries.

A vote was then taken on TABLING Ordinance No. 3131

Moved and seconded to TABLE. A roll call vote was taken.

5 in favor (BA, LF, BB, MW, LW) 6 opposed (AH, DB, SS, MS, MB, HT)

Motion to table FAILS.

Discussion continued regarding this Ordinance relating to the Budget.

AH asked MS if he would be open to seconding a Motion to approve Ordinance No. 3131 amending it to note \$2.2 million in replacement instead of the \$2.5 million that is currently listed.

MS asked Solicitor Kilkenny for clarification.

Solicitor Kilkenny stated that a balanced budget is supposed to pass and the millage rate is supposed to line up with the Resolution that is ultimately passed by Council in the Budget. So, if Resolution No. 54-22 is something that Council wants to pass, then that contemplates the Revenue Replacement being approved by the end of the year. Solicitor Kilkenny reiterated that the Budget, per State law, should be balanced to the best ability.

AH made a Motion to approve Ordinance No. 3131

DB seconded the Motion

Council President Burke stated that there already was a previous Motion.

Moved and seconded. A roll call vote was taken.

6 in favor (AH, DB, SS, MS, MB, HT) 5 opposed (BA, LF, BB, MW, LW)

Ordinance No. 3131 is adopted.

Solicitor

Council President Burke asked about new lawsuits.

Solicitor Kilkenny referred to a bid protest related to an injunction for the Community Center related to the Administration's allocation of the award to McManus. An injunction was filed in the Delaware County Court of Common Pleas. No date has been scheduled yet.

Solicitor Marsini submitted that claim to the insurance to see if they cover it.

Council President Burke stated that he received an email from Solicitor Kilkenny regarding 403, Section J and B. This refers to a conversation from two months ago regarding the Parking Department and parking tickets. BB asked for an update as to where the parking tickets are, conversations that were had in Council and conversations that BB had with the Kilkenny Law Firm.

Solicitor Kilkenny stated that Solicitor Marsini is prepared to give a report.

Solicitor Marsini suggested that this matter should be held in an Executive Session, if possible.

Council President Burke asked that Solicitor Kilkenny refer to Section J and B of the Home Rule Charter. He confirmed that these Sections refer to the "powers of the Mayor." BB asked Solicitor Kilkenny for his recommendation on what to do if the Mayor or Administration does not follow Section B. Solicitor Kilkenny stated that if Council believed that an Ordinance was not being followed, they should bring it to the attention of the Mayor and give her the opportunity to cure that. If that is not satisfied, then the recourse under law is a mandamus action in the Delaware County Court of Common Pleas requiring the Mayor to follow the Charter. Council President Burke stated that the Kilkenny Law Firm directed the Mayor to follow Ordinances and one particular Ordinance has not been followed. Solicitor Kilkenny reiterated that Solicitor Marsini suggested having an Executive Session.

Old Business

LW stated that per the Home Rule Charter and/or the Administrative Code, all MOU's and contracts negotiated with the collective bargaining units are to come before Council before they are enacted. Her understanding is that there are outstanding MOU's that were enacted without coming before Council. Nothing has been received regarding ARPA Funds negotiations or OPEIU unit clarification. Solicitor Kilkenny stated that Mr. McLaughlin is the Labor Counsel. Council President Burke stated that they would include this in the Executive Session.

New Business

AH stated that on Saturday, December 24, 2022, Men of Action/Brothers of Faith are having their Tenth Annual Family Holiday Giveaway at the Township Building from 12-2 p.m.

MS made a Motion to UNTABLE Resolution No. 54-22.

AH seconded the Motion.

A roll call vote was taken.

5 in favor (AH, DB, SS, MB, HT), 6 opposed (BA, LF, MS, BB, MW, LW)

Motion to UNTABLE Resolution No. 54-22 FAILS.

ADJOURNMENT

Motion to adjourn: LF/MW

Moved and seconded. The meeting adjourned at 10:07 p.m.

Respectfully submitted,

Alexis Cicchitti

Alexis Cicchitti

Chief Municipal Clerk

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

UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
RESOLUTION NO. 53-22

**A RESOLUTION OF THE TOWNSHIP OF UPPER DARBY, DELAWARE COUNTY,
APPOINTING TWO MEMBERS OF THE ZONING HEARING BOARD; AND
PROVIDING AN EFFECTIVE DATE**

WHEREAS, Upper Darby Township has enacted a Zoning Ordinance and established a Zoning Hearing Board in accordance with the requirements of the Pennsylvania Municipalities Planning Code ("MPC"); and

WHEREAS, Section 403 of the Home Rule Charter of Upper Darby Township ("Home Rule Charter") provides that the Mayor appoints, with the approval of Council, all members of authorities, boards, and commissions; and

WHEREAS, the Mayor desires to appoint two members of the Zoning Hearing Board; and

WHEREAS, Section 903 of the MPC provides that members of the Zoning Hearing Boards are to be appointed by resolution; and

NOW, THEREFORE, BE IT RESOLVED by the Upper Darby Township Council that the following people are approved as members of the Zoning Hearing Board of Upper Darby Township, Delaware County, Pennsylvania, with the terms of office expiring as set forth below:

Robert Gwin, is hereby appointed to a one-year term as member of the Upper Darby Township Zoning Hearing Board, effective December 2022. His term will expire on December 31, 2023.


Erin McPherson is hereby re-appointed to a three-year term as a member of the Upper Darby Township Zoning Hearing Board effective December 2022. Her term will expire December 31, 2025

This Resolution shall be effective immediately.

RESOLVED THIS 21st DAY OF DECEMBER, A.D., 2022

UPPER DARBY TOWNSHIP

BY: 
BRIAN K. BURKE
PRESIDENT OF COUNCIL

ATTEST: 
MICHELLE BILLUPS
SECRETARY OF COUNCIL

APPROVED THIS 21st DAY OF DECEMBER, A.D., 2022

BY: 
BARBARANN KEFFER, MAYOR

ATTEST: 
ALEXIS CICCETTI
CHIEF MUNICIPAL CLERK

UPPER DARBY TOWNSHIP

Ordinance No. 3129

**ORDINANCE APPROVING APPOINTMENT OF SOLICITOR,
INTEREST ASSESSMENT, AND ATTORNEY FEES AND
COLLECTION FEES ADDED TO THE AMOUNT
COLLECTED AS PART OF UNPAID REAL ESTATE TAXES
AND MUNICIPAL CLAIMS FOR DELINQUENT ACCOUNTS**

WHEREAS, to be fair to all taxpayers and other residents of Upper Darby Township (the "Township"), it is necessary for the Township to recover promptly unpaid, delinquent real estate tax accounts and unpaid, delinquent sewer, trash and abatement of nuisance accounts, if necessary, by legal proceedings; and

WHEREAS, the Municipal Claims and Tax Liens Act, 53 P.S. § 7101, *et seq.*, as amended (the "Act"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Act), provides a statutory framework for Municipalities to collect unpaid Tax Claims and Municipal Claims; and

WHEREAS, § 7101 of the Act authorizes a municipality levying Taxes, Tax Claims, Tax Liens, Municipal Claims and/or Municipal Liens that become delinquent (each, an "Unpaid Claim") to recover the Charges, Expenses, Commissions and Fees incurred in the collection of the Unpaid Claims (the "Collection Expenses") as Charges, Expenses and Fees included together with the applicable Unpaid Claim; *provided*, that such Collection Expenses are approved by Legislative Action of such municipality; and

WHEREAS, § 7106(a.1) of the Act requires that the applicable Municipality adopt by ordinance a schedule of Attorney Fees for any Attorney Fees incurred in connection with the filing, preservation and collection of any Delinquent Account, including any Unpaid Claim; and

WHEREAS, the Township has determined after due deliberation and investigation, that it is in the best interest of the Township to collect certain Unpaid Claims pursuant to the Act (such Unpaid Claims, "MCTLA Unpaid Claims") and, after careful review of the Attorney Fees and Collection Fees set forth in this Ordinance, to approve and adopt such Attorney Fees and Collection

Fees pursuant to this Legislative Action in accordance with the Act.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED, ENACTED AND ADOPTED BY THE TOWNSHIP COUNCIL OF UPPER DARBY TOWNSHIP AS FOLLOWS:

Section 1. Attorney Fees and Collection Fees to be added to the MCTLA Unpaid Claims. The Attorney Fees and Collection Fees set forth below are hereby adopted, approved and determined to be reasonable, including, without limitation, as contemplated by § 7106 of the Act. The Attorney Fees and Collection Fees set forth below shall be included and added to the applicable MCTLA Unpaid Claim in an amount equal to the amount set forth in this Section 1.

(a) Attorney Fees.

Initial review and sending first legal demand letter \$175.00

File Lien and prepare Satisfaction \$250.00

Prepare Writ of Scire Facias \$250.00

Prepare and mail letter under Pa. R.C.P. 237.1 \$ 50.00

Prepare Default Judgment \$175.00

Research, prepare and obtain re-issued Writ \$175.00

Prepare Praecipe to Amend \$100.00

Prepare Motion to Amend \$150.00

Prepare Motion for Alternate Service \$250.00

Prepare Motion to Consolidate Claims \$250.00

Amend claim to add United States as defendant \$250.00

Prepare Writ of Execution \$800.00

Preparation for sheriff's sale; review schedule
of distribution and resolve distribution issues \$400.00

Prepare Motion to Continue Sheriff's Sale \$ 50.00

Prepare Petition for Free and Clear Sale \$400.00

Preparation and service of Subpoena \$100.00

Presentation of Motion or Petition \$ 50.00

Services not covered above at an hourly rate between \$75.00-\$275.00 per hour (b)
Collection Fees.

Validation notice \$ 25.00 per notice

Notice of delinquent claim and fee shifting \$ 40.00 per notice, plus applicable
postage

Bookkeeping fee for payment plan of 3 months or less \$ 25.00

Bookkeeping fee for payment plan of more than 3 months \$ 50.00

Handling fee for returned check \$ 25.00

In addition to the Collection Fees set forth under Subsection 1(b) above, the amount of out of-pocket charges, costs, expenses, commissions and fees incurred in connection with the filing, preservation and collection of the MCTLA Unpaid Claims, including, but not limited to, prothonotary fees and charges, sheriff fees and charges, postage expenses, title search expenses, vehicle identification number (VIN) search expenses, skip tracing and/or other investigatory service expenses, and the costs, fees, charges and/or expenses arising out of any payment by any credit card, debit card or any other payment medium, are hereby approved and shall be included, upon incurrence, together with the applicable MCTLA Unpaid Claim.

Section 2. Interest. Interest will be assessed upon the Unpaid Claims at a rate of 10% per annum and added to the Unpaid Claims. The Township is permitted to waive any interest on any Unpaid Claim when the Township or any attorney and/or third party collector collecting the Unpaid Claim believes, in its discretion, that such amount is *de minimis* or that the cost or burden of continuing collection outweighs the benefit of collecting the interest.

Section 3. Appointment of Solicitor. The Township appoints Michelle R. Portnoff, Esquire, as Solicitor for the limited purpose of collecting the Unpaid Claims and hereby authorizes her, and all attorneys employed by Portnoff Law Associates, Ltd., to sign any and all documents, including municipal claims and liens, on behalf of the Township.

Section 4. Severability. Should any section, paragraph, clause or phrase of this Ordinance be declared unconstitutional or invalid by legislation or a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, and shall remain in full force and effect.


Section 5. Inconsistencies. All prior ordinances, resolutions and/or other official acts or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistencies.

Section 6. Effective Date. This Ordinance shall take effect on the earliest date permitted pursuant to applicable law.

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ENACTED and ORDAINED this 21st day of December, 2022

BY:


BRIAN K. BURKE
President of Council

ATTEST:


MICHELLE BILLUPS
Secretary of Council

APPROVED this 21st day of December, 2022

BY:


BARBARANN KEFFER
Mayor

ATTEST:


ALEXIS CICHITTI
Chief Municipal Clerk

**DULY ORDAINED, ENACTED AND ADOPTED BY THE TOWNSHIP COUNCIL
OF UPPER DARBY TOWNSHIP THIS 21st DAY OF DECEMBER, 2022.**

UPPER DARBY TOWNSHIP

By: Name: _____

Title: _____

Attest: Name: _____

Title: _____

[Seal]

**UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 3130

AN ORDINANCE OF THE TOWNSHIP OF UPPER DARBY, DELAWARE COUNTY, PENNSYLVANIA, AUTHORIZING THAT PART OF CERTAIN UNENCUMBERED APPROPRIATIONS ALLOCATED BY THE 2022 OPERATING BUDGET BE TRANSFERRED FROM VARIOUS DEPARTMENTS AND AGENCIES TO OTHER DEPARTMENTS AND AGENCIES WITHIN THE TOWNSHIP AND REPEALING ALL ORDINANCES AND RESOLUTIONS INCONSISTENT HEREWITH

WHEREAS, there exists a certain unencumbered appropriation allocated by the 2022 Operating budget; and

WHEREAS, pursuant to Section 909(D)(1) of the Home Rule Charter of Upper Darby Township, the Mayor has requested that parts of that certain unencumbered appropriations be transferred from various departments, offices and agencies to other departments, offices and agencies within the Township.

NOW, THEREFORE, be it **ORDAINED** by the Upper Darby Township Council as follows:

SECTION 1. A certain portion of the unencumbered appropriation allocated by the 2022 Operating Budget shall be transferred from various departments, offices and agencies to other departments, offices and agencies within the township as follows:

Department Appropriations Transferred From

Leisure Services \$ **348,257.50**

Information Technology \$ **229,057.50**

Human Resources \$ **66,180.50**

Parking Enforcement \$ **29,198.50**

Total \$ 672,694.00

Department Appropriations Transferred To

Public Works-Vehicle Maintenance \$ 371,730.00

Finance Department \$ 202,816.00

Administrative Services \$ 80,929.00


COVID related Expenses \$ 12,823.00

Human Services \$ 4,396.00

Total 672,694.00

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

ENACTED and ORDAINED this 21st day of December, 2022.

BY: 
BRIAN K. BURKE
President of Council

ATTEST: _____
MICHELLE BILLUPS
Secretary of Council

APPROVED this 21st day of December, 2022.

BY: _____
BARBARANN KEFFER
Mayor

ATTEST: 
ALEXIS CICCITTI
Chief Municipal Clerk

**ORDINANCE NO. 3131
UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

AN ORDINANCE OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PROVIDING FOR SUPPLEMENTAL APPROPRIATIONS FOR THE 2023 BUDGET APPROPRIATING THE FUNDS PROVIDED BY THE AMERICAN RESCUE PLAN ACT (ARPA) STATE AND LOCAL FISCAL RECOVERY FUND FOR REVENUE REPLACEMENT; REPEALING INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Upper Darby Township Council ("Council") adopted a budget for the calendar year 2022 on December 20, 2021; and

WHEREAS, pursuant to Section 909(A) of the Home Rule Charter of Upper Darby Township, if during the fiscal year the Chief Administrative Officer certified that there are available for appropriation revenues in excess of those estimated in the budget, Council by ordinance may make supplemental appropriations for the year up to the amount of such excess; and

WHEREAS, on March 11, 2021, President Biden signed into law the American Rescue Plan Act, providing \$350 billion in funding for state and local governments; and

WHEREAS, the U.S. Department of Treasury calculated Upper Darby Township's direct allocation from the Coronavirus State and Local Fiscal Recovery Fund at \$41.7 million to be provided to the Township in two (2) installments with one received in May 2021 and the second installment to be delivered on or about twelve (12) months later (collectively "ARPA funds" or "American Rescue Plan Allocation"); and,

WHEREAS, the Mayor submitted to Council a proposed spending structure, as prepared by Township staff in conformity with the Interim Final Rule released by the U.S. Department of Treasury, for the first \$20.8 million; and,

WHEREAS, the Mayor is requesting an allocation from the ARPA funds of \$2,500,000.00 for Revenue Replacement; and,

NOW, THEREFORE BE IT ORDAINED AS FOLLOWS, Upper Darby Township Council makes the following supplemental appropriations for Revenue Replacement from the American Rescue Plan:

SECTION 1. Allocation

Revenue Replacement		\$ 2,500,000.00
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- a.) The 3rd Party Company (herein referred to as the Compliance Officer) will make any needed adjustment to the ARPA allocations among Township departments to ensure compliance with ARPA guidelines established by the U.S. Department of the Treasury;
- b.) The Compliance Officer will bring any such adjustments to these allocations that are made to comply with ARPA guidelines to Mayor Keffer, Chief Administrative Officer and the Upper Darby Township Council, for approval by Council prior to authorizing a Township department to expend newly-allocated ARPA funds; and,
- c.) That the Acting Township Finance Director is authorized to establish the necessary accounts and accounting procedures to carry out the intent of this Ordinance.

SECTION 2. All Ordinances and parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 3. The terms, conditions and provisions of this ordinance are hereby declared to be severable, and should any portion, part or provision of this ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, Upper Darby Township Council hereby declares its intent that the ordinance shall have been enacted without regard to the invalid, unenforceable or unconstitutional portion, part or provision of this ordinance.

SECTION 4. This ordinance shall become effective immediately.

ENACTED and ORDAINED this 21st day of December, 2022.

BY:



BRIAN K. BURKE
President of Council

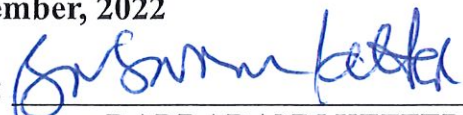
ATTEST:



MICHELLE BILLUPS
Secretary of Council

APPROVED this 21st day of December, 2022

BY:



BARBARANN KEFFER
Mayor

ATTEST:



ALEXIS CICHITTI
Chief Municipal Clerk