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Upper Darby Township Emergency Meeting
February 7, 2022

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Public Hearing for Ordinance No. 3112, an Emergency Ordinance of Upper Darby Township, Delaware County, pursuant to Section 703 of the Upper Darby Home Rule Charter; providing for the appropriation of \$6,000,000 American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Funds to prevent a Township shut down; repealing inconsistent Ordinances or parts thereof; providing for an automatic repeal, severability clause, and an effective date	3-4 6-8
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MINUTES
Emergency Meeting
February 7, 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), Sheikh M. Siddique, (SS), Lisa Faraglia (LF), Matt Silva (MS), Brian K. Burke (BB), Michelle Billups, (MB), Meaghan Wagner (MW), Hafiz Tunis Jr. (HT), Laura Wentz (LW)

Present at the Meeting

Barbarann Keffer, Mayor
Vincent A. Rongione, CAO
Alison Dobbins, Deputy CAO
Chief Municipal Clerk, Alexis Cicchitti
Solicitor Sean Kilkenny
Solicitor Courtney Richardson
Treasurer David Haman
Sergeant of Arms, Officer Anthony Bateman

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

Kristin Cuparra, 366 Upland Way, Budget and Municipal services
Gerald Harrison, 29 S. Kirklyn Ave, requests current status of trash cans along West Chester Pike
Tina Hamilton, 4715 Woodland Avenue, questions why there is an Emergency Meeting
Olivia Taylor, 204 Kent Road, wants to know what changes were made to the Home Rule Charter. Also wants to know why you must be an Upper Darby resident to speak at the Public Forum
Greg Fimple, 8505 Lansdowne Ave, concerned about the possibility of not being paid
Marion Minnick, 1204 Wilde Avenue, concerned that decisions are being made with personal political interests in mind rather than the resident’s wellbeing
Tim Tunstra, 610 Foss Avenue, upset that elected officials are fighting against each other and everyone is responsible for having to have an Emergency Meeting

The Honorable Mayor Barbarann Keffer

Mayor's Message

February 7, 2022

Good Evening.

The purpose of tonight's meeting is to set aside any doubts the public and council may have concerning the appropriation of the American Rescue Plan funds and to ensure that township employees continue to be paid and township services continue to be provided. That is why I want to start out this evening with two important facts: One, in every Councilors' folder is a letter from PLGIT (Pennsylvania Local Government Investment Trust) certifying that we have \$20.8 million dollars, the complete amount of ARPA funding, in a single, segregated bank account, and two, because we take the concerns of the public and Council seriously, we are engaging an independent, third-party forensic accountant to examine the township's financials over the last few months, and, in fact, the last few years.

It is essential for the credibility of this investigation that it be conducted by an independent, 3rd-party firm. I would like to reiterate that my administration has nothing to hide from the public or Council and we look forward to an independent review of the financial situation which we inherited as well as the situation over the last two years.

We hope the letter certifying the location of the ARPA funds and the forensic review of our books will help alleviate concerns, but the township remains critically low on operating funds without Council approval of the necessary \$6 million allocated for "lost revenue" coverage. "Lost revenue" is a federal calculation intended to measure the impact of the COVID-19 pandemic, which began in March of 2020, on municipal governments which is why the federal government gave the ARPA funds directly to all municipalities throughout the country. It is meant to cover revenue losses such as permit and parking fees, mercantile and business taxes, among other sources. To be clear, the current situation of operating funds is not new or uncommon for Upper Darby. Using ARPA funds to cover this regular cash flow need rather than pursuing a short term financing loan called a TRAN - Tax Revenue Anticipation Note - will save the taxpayers significant money in associated fees and interest costs that come with every loan.

We never believed we would be at this point in the process during the multitude of conversations, both public and private, that happened with Council members over the last 5 months. Multiple times, we have negotiated with Council members about the ARPA funding, only to have been met with demands for more documentation or, at the last two Council meetings, with surprise documents. At the January 19th meeting, Council Vice President Laura Wentz produced a wildly amended ARPA ordinance in the middle of the vote to advertise the original ARPA ordinance, Ordinance 3111, already before Council. It was only after I broke the tie that the original ARPA ordinance was advertised and put on the agenda for the February 2 Council meeting. At that meeting, Councilor Wentz distributed a Treasurer's report moments before the start of the meeting. That incomplete and inaccurate report was used by a coalition of council to vote to table the ARPA ordinance.

Councilors Siddique, Billups, Hayman, Blackwell and Tunis voted to authorize the release of the ARPA funds and keep employees paid and services provided.

Myself and members of Council were elected by the people of Upper Darby to serve the people of Upper Darby. Residents, businesses and our employees should not be used as pawns in a political chess game. There's plenty of time to score political points against me. Again, tonight I am asking Council to approve the \$6 million in ARPA "lost revenue" funds and do what's right for the people and keep the township running smoothly until our regular tax revenues arrive in March.

President of Council, Brian K. Burke

Council President Burke thanked everyone for their comments and agreed that everyone needs to work together. He stated that the Council has asked for things that they did receive, but the letter that was presented today was first received by a news reporter, and he feels that is not transparency. He questioned how it would be considered working together if Council has not been advised of who would be conducting the third party audit. He also stated his displeasure with six Council members being blamed for this current situation. Council President Burke further stated that he spoke to the CAO a month ago and told him that he had no plans to run for Mayor and that people should check facts before speaking.

COMMITTEE REPORTS

Finance and Appropriations Committee

Chair: Laura A. Wentz

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

Public Hearing for Ordinance No. 3112, an Emergency Ordinance of Upper Darby Township, Delaware County, pursuant to Section 703 of the Upper Darby Home Rule Charter; providing for the appropriation of \$6,000,000 American Rescue Plan Acct (ARPA) State and Local Fiscal Recovery Funds to prevent a Township shut down; repealing inconsistent Ordinances or parts thereof; providing for an automatic repeal, severability clause, and an effective date

Solicitor Richardson gave a brief on Ordinance No. 3112.

Council President Burke convened a Public Hearing.

Speakers:

Gary Merron, 1114 Wilde Avenue, former Finance Director, concerns regarding financial condition of UDT
William Norris, 7235 West Chester Pike, encourages Council and Administration to put differences aside and do what is right for the citizens of Upper Darby

Olivia Taylor, 204 Kent Road, concerned about \$20 million

Jennifer Hallam, 4719 Woodland Avenue, stated that Council needs to allocate the funds

Greg Talent, 108 Ardsley Road, feels that there is a \$6 million discrepancy in the funds, wants transparency

Tina Hamilton, 4715 Woodland Avenue, claims \$6 million is missing, feels that audits are needed

Gerald Harrison, 29 S. Kirklyn Avenue, wants everyone to have the budget numbers available

Sheera Alberts, 212 Glendale Road, wants to know what amount Council would agree to in order to allocate the funds

Colleen Kennedy, 8723 West Chester Pike, asked about the breakdown between the Treasurer & the Administration regarding the funding. Disappointed that funds have not been allocated yet.

Bonnie Hallam, 4719 Woodland Avenue, supports the allocation of at least \$6 million of the funds

Joanne Nammavong, 133 N. Pennock Ave, ARP funds

Kyle McIntyre, 1040 Drexel Ave, supports allocating the funds

Nathaniel Goodson, 231 Hampden Road, wants to make sure that Township workers are paid and not get distracted from the reason that the meeting was called

Michael ?, 1204 Childs Avenue, concerned about future payroll for Township employees

Jennifer Hallam, 4719 Woodland Avenue, tired of the back and forth and wants the money allocated

Colleen Kennedy, 8723 West Chester Pike, frustrated with all of the arguing and wants the money allocated

Kyle McIntyre, 1040 Drexel Hill, asking what plan is in place to guarantee the Township's operation if Council only allocates \$2 million

Olivia Taylor, 204 Kent Road, inquired about the 2020 audit

Tim Tunstra, 610 Foss Avenue, wants the allocation approved and thanked everyone for their hard work

Council President Burke closed the Public Hearing.

LW read a letter from the Finance Committee agreeing to cover the payroll for the period of January 25, 2022 through February 5, 2022 up to \$1.7 million for payroll and payroll-related expenses from the American Rescue Plan lost revenue components. Before any future American Rescue Plan Funds are allocated, the Committee requests statements for all bank accounts, the check registers and the General Ledger reflecting all Upper Darby Township transactions for January 2022 by 4 p.m. on February 11, 2022. They also need the February General Ledger and the check register reports reflecting all banking activities for the period of February 1, 2022 to February 10, 2022. Also, they need the complete Excel files for each of the three payrolls in December 2021, the two payrolls in January 2022 and the first payroll in February 2022. They need the American Rescue Plan mandated reports submitted to the Federal Government. LW stated that they felt that those documents were needed in order to find out what happened to the money and even though the money is here, she doesn't know where it came from.

Various Council members shared their thoughts regarding whether or not to pass the Ordinance.

AH made a Motion to adopt Ordinance No. 3112 and HT seconded the Motion.

Further discussion ensued.

MW stated that she is aware that there is a Motion on the floor, but wanted to make another Motion to invoke Home Rule Charter, Section 314, Council investigations. LF seconded the Motion.

Council President Burke asked for input from the Solicitors as to how to proceed.

Solicitor Richardson read Section 314 of the Home Rule Charter.

Council President Burke asked Secretary Billups to take a roll call for the adoption of Ordinance No. 3112.

Moved and seconded. 10 in favor, 1 opposed (BA). Ordinance No. 3112 is adopted.

Regarding Councilwoman Wagner's Motion, Solicitor Kilkenny suggested that it be put on the next Agenda so that there is no question that the public would have the ability to provide comments, if desired. He stated that approximately six months ago, the General Assembly changed the Sunshine Law to say that actions have to be on the Agenda and that any new Motion that is substantial must be on an Agenda.

Council President Burke wanted it on record that he asked that the Mayor allow the Finance Committee to be 100% involved during the selection of an independent body third party audit.

Mayor Keffer stated that her Administration has nothing to hide.

MW stated that she would like her Motion on the next Agenda.

AH asked that Council considered appropriating the funds at the next meeting for COVID bonuses for employees. LW asked that the Administration meet with Union leaders to gauge their needs.

Motion to adjourn: HT/SS The meeting was adjourned at 10:02 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

**ORDINANCE NO. 3112
UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

AN EMERGENCY ORDINANCE OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY PURSUANT TO SECTION 703 OF THE UPPER DARBY HOME RULE CHARTER; PROVIDING FOR THE APPROPRIATION OF \$6,000,000 AMERICAN RESCUE PLAN ACT (ARPA) STATE AND LOCAL FISCAL RECOVERY FUNDS TO PREVENT A TOWNSHIP SHUT DOWN; REPEALING INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR AN AUTOMATIC REPEAL, SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, on March 11, 2021, President Biden signed into law the American Rescue Plan Act (“ARPA”), providing \$350 billion in funding for state and local governments. The U.S. Department of Treasury calculated Upper Darby Township’s direct allocation from the Coronavirus State and Local Fiscal Recovery Fund at \$41.3 million to be provided to the Township in two (2) installments; and

WHEREAS, the Mayor submitted to Council the 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 \$20.5 million, including \$6,000,000 to compensate the Township for lost revenue (“lost revenue”); and

WHEREAS, the lost revenue allocation of the ARPA funds enabled the Township to avoid using Tax Revenue Anticipation Notes (“TRANS”), short term financing, to cover payroll and other expense until tax revenues were received; and

WHEREAS, in the normal course of business, Upper Darby Township has instituted Tax Anticipation Note “TRANS” for Fiscal Years 2020 and 2021 to provide for the same cash flow purposes as proposed in this Ordinance; and

WHEREAS, Tax Anticipation note “TRAN” funding takes approximately six to eight weeks and thus would not be available to prohibit a Township shut down; and

WHEREAS, without the allocation of the \$6,000,000 to the General Fund, the Township is in danger of shutting down creating a public emergency affecting life, health, property, or the public peace of the Township;

NOW, THEREFORE BE IT ORDAINED AS FOLLOWS, by Upper Darby Township Council and by the authority of the same:

SECTION 1. Allocation

\$6,000,000 of the American Rescue Plan Act State and Local Fiscal Recovery Funds is appropriated to the General Fund immediately to prevent a public emergency in the Township under Section 703 of the Upper Darby Home Rule Charter.


SECTION 2. All Ordinances and parts thereof inconsistent with the provisions of this Ordinance are hereby repealed. This Emergency Ordinance is automatically repealed as of the 61st day following the date of the Ordinance's adoption under Section 703 of the Upper Darby Home Rule Charter.

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 5. This Ordinance shall become effective immediately.

ENACTED and ORDAINED this 7th day of February, 2022.

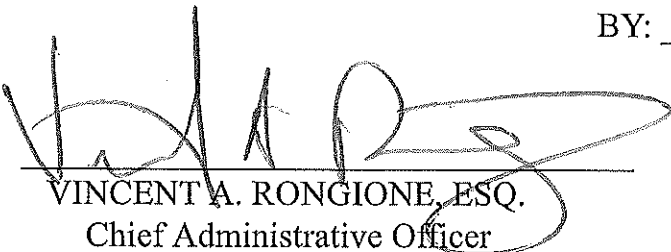
WITHOUT \$6,000,000 ALLOCATED TO THE GENERAL FUND, UPPER DARBY TOWNSHIP WILL HAVE TO SHUT DOWN, CREATING AN EMERGENCY AFFECTING LIFE, HEALTH, PROPERTY, OR THE PUBLIC PEACE OF THE TOWNSHIP

BY: 
BRIAN K. BURKE
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

APPROVED this 7th day of February, 2022

BY: 
BARBARANN KEFFER
Mayor

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