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March 23, 2022

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MINUTES
Upper Darby Township Council
Special Meeting
March 23, 2022 at 6pm

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

Opening of Meeting

Roll Call

Brian Andruszko (BA), Lisa Faraglia (LF), Matt Silva (MS), Brian K. Burke (BB)
Meaghan Wagner (MW), Laura Wentz (LW)

Danyelle Blackwell, Excused

Sheikh M. Siddique (SS), Unexcused
Hafiz Tunis Jr., (HT), Unexcused
Andrew Hayman (AH), Unexcused

Michelle Billups (MB), Unexcused at the time of roll call. President Burke soon received a text from Councilwoman Billups asking to be excused. MB is now excused from the meeting.

Present at the Meeting

Chief Municipal Clerk, Alexis Cicchitti, via Zoom
Solicitor Courtney Richardson
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”

Point of order by Councilwoman Wagner

MW stated that the reason they are here is that a vote was taken last week in the absence of two Council members to rescind a Motion that was already passed by a majority of Council. The Motion passed five to four. MW confirmed with the Solicitor that the Council is governed by Roberts Rules of Order and read an excerpt from Roberts Rules of Order clarifying the difference between a Motion to reconsider and a Motion to rescind. Councilwoman Wagner stated that the requirements to rescind were not met at last week’s meeting.

Solicitor Richardson stated that it was not a Motion to rescind. It was a Motion to stop and that is the difference.

MW stated that those two things are essentially the same and that is semantics. She added that she believes that the Solicitor's office has given Council bad advice on several different occasions and that the Council needs to look into that.

Solicitor Richardson stated that in terms of the Sunshine Law, their office was correct and unfortunately, they are typically conservative. She added that reasonable minds could differ about information that is passed out but can definitely assure that they are all on the same page in terms of their recommendations.

Public Comment

Public Comment should be limited to Special Meeting Agenda items only, not to be repetitive, and be no more than 3 minutes. Total Public Comment will be limited to **30** minutes.

Speakers:

Gerry Mascio, 310 Edmonds Avenue, bewildered how the Township is handling the issue regarding the ARPA funds. Angry that money has been paid for the investigation that is now stopped.

Gerald Harrison, 29 S. Kirklyn Avenue, supports the independent financial investigation regarding ARPA funds

Katherine Cowan, 12 Englewood Road, needs clarity and a definitive answer regarding the ARPA funds & wants the investigation to move forward

Paulann Sabatino, 3726 Garrett Road, wants the investigation to move forward and states that the money was moved from one account to another.

Laura Anderson, 2403 Bond Avenue, stated that having the investigation was a bi-partisan vote and that the money was mis-appropriated. The investigation needs to move forward.

Martine Bicard, 221 Madison Avenue, supports the investigation of the ARPA funds

Phyllis Fields, 740 Edmonds Avenue, stated that the Mayor is having a forensic investigation that will be in-depth and the extra expense of a "fake investigation" is unnecessary

John Vizzari, 353 Kirks Lane, supports the investigation and believes that the funds were mis-appropriated

Bonnie Hallam, 4719 Woodland Avenue, stated that the Treasurer has stated a number of times that money was not missing. She believes that the investigation is a waste of money as we are having a forensic audit. She added that the entire Council should be privy to findings, not just the Finance Committee

Tim Tunstra, 610 Foss Avenue, stated that it is dishonest to say that the money was missing. Federal law does not require a municipality to keep ARPA funds in a separate account.

Thomas Wagner, 1006 Childs Avenue, appalled that the Mayor, CAO and 5 members of the Council willfully chose not to attend this meeting. Spoke of the "appearance of impropriety" and how it causes the public not to trust their elected officials. Called on the Mayor, CAO and Council members who chose to ignore this meeting tonight to resign

Olivia Taylor, 204 Kent Road, asked if this would be the last time that this investigation would have to be re-instated

Jim Collins, 7218 Brent Road, asked how long this investigation is going to take
Tina Hamilton, 4715 Woodland Avenue, stated that there should be a criminal investigation and feels that the Mayor, CAO and Council members who did not show up should resign

President of Council, Brian K. Burke

Solicitor Richardson clarified the veto powers of the Mayor vis-a-vis the Home Rule Charter. In Section 404, “veto powers of the Mayor”, in the Home Rule Charter of Upper Darby Township, provides that every Ordinance and Resolution passed by Council shall be sent to and received by the Mayor within three (3) days from its adoption. The Mayor may approve such legislation by signing it within a period of ten (10) days after its passage by Council. The Mayor may disapprove (veto) such legislation by not signing it, but in such cases he/she shall return it to Council within ten (10) days after its adoption with a written statement of his/her objections. If the Mayor shall neither sign nor veto such legislation within the above specific time period, then it shall take effect in the same manner as if he/she had signed it on the last day of the said 10-day period. Following the veto by the Mayor, Council may reconsider the legislation and then shall take effect if it is approved by seven (7) members of Council notwithstanding the veto of the Mayor. That is the section of the Home Rule Charter that was asked about anytime that there is a Resolution or an Ordinance, the Mayor has the right to veto but does not have the right per the Home Rule Charter to veto a Motion. However, Council has the right to pass legislation or pass policy by Motion, Resolution or Ordinance.

COMMITTEE REPORTS

Finance and Appropriations Committee

Chair: Laura A. Wentz

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

Motion to reinstate the Upper Darby Home Rule Charter Section 314 Investigations into the Township’s handling and anything pertaining to the use of the American Rescue Plan ACT (“ARPA”) and Local Fiscal Recovery Funds.

Motion to re-instate the investigation: LW/MW

LW stated that this investigation is essential and wanted to clarify that it was \$6.3 million that was spent without Council’s approval.

MW thanked everyone who was at the meeting. She stated that she has never seen such resistance from people who say they have nothing to hide and it shows her that something is wrong. She added that the taxpayers are owed an explanation as to what happened to the funds.

BA stated that he wants to get rid of the in-fighting that is dividing the Council.

MS stated that if his fellow Council members were present, he would urge them to move forward with this investigation, as trust needs to be re-established.

Moved and seconded. A roll call vote was taken.

6 in favor (MS, BB, LF, MW, BA, LW) 2 excused (MB, DB), 3 UN-excused (HT, AH, SS)

The Motion to reinstate the investigation is approved.

Motion to reinstate Mark Much Law Firm as Special Solicitor under the Council's direction to investigate the Township's handling and anything pertaining to the use of the American Rescue Plan ACT ("ARPA") and Local Fiscal Recovery Funds.

Motion to approve: MW/LF

Moved and seconded. A roll call vote was taken.

6 in favor (MS, BB, LF, MW, BA, LW) 2 excused (MB, DB), 3 UN-excused (HT, AH, SS)

The Motion to reinstate the Law Firm of Mark Much is approved.

Adjournment

Motion to adjourn: MW/LF. All in favor. The Meeting was adjourned at 7:08 p.m.

Respectfully submitted,

Alexis Cicchitti

Alexis Cicchitti

Chief Municipal Clerk

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