

INDEX
Upper Darby Township Committee Meeting
April 6, 2022

Pledge of Allegiance to the flag of the United States of America 1
Moment of Silence

Opening of Meeting 1

Roll Call 1

Rules for Meeting Decorum 1

Guest Speaker: Former POW, Ralph Galati

Public Forum

The Honorable Mayor Barbarann Keffer

Presentation of the 2020 Audit by Chris Herr of Maille, LLP
Presentation by Donna Stilwell of Brinker Simpson & Co.

President of Council, Brian K. Burke

COMMITTEE REPORTS

Finance and Appropriations Committee

Chair: Laura A. Wentz

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

Resolution No. 14-22, a Resolution of Upper Darby Township, Delaware County, Pennsylvania authorizing the submission of the application for funding from the Statewide Local Share Account Grant of \$1,000,000 for the Upper Darby Community Center's sustainable exterior envelope

Approval of Resolution No. 14-22

Introduction of Ordinance No. 3111, 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; repealing inconsistent Ordinances or parts thereof; providing for a severability clause and providing for an effective date

Motion to introduce and advertise Ordinance No. 3111 FAILS

Planning, Zoning and Building Code Committee

Chair: Laura A. Wentz,

Members: Lisa Faraglia, Meaghan R. Wagner, Andrew Hayman

Resolution No. 15-22, a Resolution granting conditional preliminary and final land development approval for applicant, Yellow Cab Holdings, LLC for the proposed Wendy's at 5321 Baltimore Pike in Upper Darby Township

Approval of Resolution No. 15-22

Public Safety Committee

Chair: Lisa Faraglia

Members: Andrew Hayman, Danyelle Blackwell, Meaghan R. Wagner

Public Hearing for Ordinance No. 3114, an Ordinance of the Township of Upper Darby, Delaware County, Pennsylvania, amending the Upper Darby Code of Ordinances to add a new article to Chapter 570 "Vehicles and Traffic" titled "Residential Parking Permits" to establish permit parking regulations on certain Township residential streets; providing a severability clause; repealing all inconsistent Ordinances; and providing an effective date

Adoption of Ordinance No. 3114

Public Hearing for Ordinance No. 3117, an Ordinance of the Township of Upper Darby, Delaware County, Pennsylvania, amending Ordinance No. 1589 to provide a definition for trucks and sight hazards; to permit the Director of Parking Enforcement to limit parking in certain areas of the Township designated as a sight hazard; providing a severability clause; repealing all inconsistent Ordinances; and providing an effective date

Motion to TABLE Ordinance No. 3114

**LF made a Motion to adjourn the meeting as it was nearly 11 p.m.
Moved and seconded.**

The Meeting was adjourned at 10:54 p.m. without completing the Agenda

MINUTES
Committee Meeting
April 6, 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
Chief Municipal Clerk, Alexis Cicchitti
Solicitor Sean Kilkenny
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”

Guest Speaker: Former Vietnam POW, Ralph Galati, asked for support regarding the POW/MIA flag

Public Forum

Melissa Harris, frustrated about division on Council. Also, concerned about rental properties on her block.
Marion Minick, 1204 Wilde Avenue, ARPA funding needs to be appropriated before it is lost
Charles Priscopo, 734 Primos Avenue, former thrift store is a junkyard
Tim Tunstra, 610 Foss Avenue, feels that everyone needs to work together
John Vizzari, 353 Kirks Lane, asked where \$6 million was for a period of time, problem on his street with a neighbor operating an illegal rental car business
Phyllis Fields, 740 Edmonds Avenue, wants ARPA funds released before they are lost
Bonnie Hallam, 4719 Woodland Avenue, allocate ARPA funds, inconsistency regarding Rules of Decorum
Jim Tiedeman, 452 Kenwood Road, neighbor installed illegal carport on the front lawn, repairs needed at UDHS
Olivia Taylor, 204 Kent Road, upset that the flag was not lowered for the two slain state troopers,
Paulann Sabatino, 3726 Garrett Road, upset about racial divide, wants explanation about the \$6 million in ARPA funds

Tina Hamilton, 4715 Woodland Avenue, upset about the no-shows at the last meeting and is happy about the investigation.

Motion to extend Public Forum: HT/AH

A roll call vote was taken.

Lee Jordan, 90 Pilgrim Lane, wants to know the cost of the new website & questioning the need for it. She feels it needs to be more user friendly

Anthony Walsh, 207 Hiawatha, wants ARPA funds released & the politics to stop

Desiree LaMarr Murphy, 7115 Delaware Avenue, want ARPA funds released

Ed Brown, 7111 Pennsylvania Avenue, offered advice, hope

Kyle McIntyre, 1040 Drexel Avenue, stated that if ARPA funds were not released, the Federal Government would take them back

George Badey, 236 Wilde Avenue, release ARPA funds

Myron McNeely, 7116 Hilltop Road, release ARPA funds, wants Council to respect each other

The Honorable Mayor Barbarann Keffer

Mayor's Message

April 6, 2022

Good Evening.

Our representative, Donna Stilwell, from Brinker-Simpson is here as well to offer a presentation on how their firm is reshaping our Finance Department. Their feedback has been incredibly helpful.

Presentation by Donna Stilwell of Brinker Simpson & Co.

***SEE ATTACHED**

Chris Herr from Maillie, LLP is here to present the completed Upper Darby Township 2020 audit. We are excited to have their findings presented publicly.

Presentation of the 2020 Audit by Chris Herr of Maillie, LLP

Mr. Herr explained the role of Maillie, LLP for the audit. He referenced the many documents that Maillie requested from the Township so that Maillie could make sure that everything was reported properly at the end of the year. They do substantive testing and substantive analytics on revenues and expenses.

Mr. Herr stated that this was their second year doing the audit, so they were able to compare month to month expenses to the prior year as well as other information.

Mr. Herr's Presentation can be viewed in its entirety on youtube.com/upperdarby.org

Mayor Keffer thanked both of the presenters and read her further updates.

Yard waste disposal began this Monday April 4th. Yard Waste is collected on your regular recycling pick-up day. Yard waste is leaves, weeds, shrubbery and tree trimmings and similar material. Grass clippings are NOT considered yard waste. Materials should be placed in biodegradable paper bags or loosely in trash cans without bags. Our yard waste is processed into compost by a local company. Diverting yard waste out of the regular trash stream will help lower our tipping fee expenses and bring down the cost of removing and processing trash. Your participation is greatly appreciated! Yard Waste collections will continue weekly through November.

The Recreation Committee is holding park clean-ups several weekends in April. This coming Saturday there will be a clean-up and community meeting at the Observatory at 9am and in Scullion Park at 11am. Next weekend there will be a cleanup at Seller's Rec Area on April 16th at 10am. Our goal with these is to share exciting updates about our green spaces with the community and hear feedback from our residents.

Summer Stage tuition fee waiver applications are still open to all Upper Darby kids between the ages of 10 and 18. The Township is committed to help our residents' children go free to this nationally recognized program. Application forms can be found on our website homepage, upperdarby.org under the "latest news" heading.

Tomorrow I will visit Seller's Library and present a proclamation in honor of National Library Week, which runs from April 3-9 and aims to celebrate our nation's libraries, library workers and promote library use and support.

We are in the process of applying for a \$1 million Statewide Local Share Account Grant to fund the new Upper Darby Community Center's sustainable exterior aspects. Constructing a community center that is both beneficial to the community and our local environment was a crucial part of this plan for my administration and myself. We have worked hard to secure grants in order to create the best possible quality center for Upper Darby. I urge Council for the sake of our residents to approve Resolution No.14-22 for this grant funding.

Thank you.

President of Council, Brian K. Burke

Council President Burke was appreciative of the website information being presented to the public. He also thanked resident, Phyllis Fields, for her comments and stated that he would reflect on them.

COMMITTEE REPORTS

Finance and Appropriations Committee

Chair: Laura A. Wentz

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

Resolution No. 14-22, a Resolution of Upper Darby Township, Delaware County, Pennsylvania authorizing the submission of the application for funding from the Statewide Local Share Account Grant of \$1,000,000 for the Upper Darby Community Center's sustainable exterior envelope

Solicitor Richardson gave a brief on Resolution No. 14-22

LW asked if this was a matching grant, and if so, wanted to know the percentage.
Mike Galante stated that there is no match.

Motion to approve: MB/DB

Moved and seconded: 11 in favor.
Resolution No. 14-22 is approved.

Introduction of Ordinance No. 3111, 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; repealing for an effective date

Solicitor Kilkenny gave a brief on Ordinance No. 3111

MW stated that she knows that the allocation changed based on the discovery that the funds could be used towards the Community Center, so she would like to know where the money was taken from, where it was originally allocated and then moved to the Community Center.

CAO Rongione stated that the money was for flood mitigation and sewer upgrades.

BA asked if there were lower quotes received than were anticipated and what the basis was for taking it out of that.

CAO Rongione replied that the extraordinarily large scope of the deferred maintenance and disinvestment in our infrastructure over the last fifty years leaves us in the situation where even the \$6 million allocation would not come close to scratching the surface of the repairs that are required. So, it is just a question of how much make up work are we able to do given the terrible hole that we have inherited in our infrastructure. In addition, there are multiple sources for investment in the flood and sewer system, so the Capital Improvement Budget could pay for some of it.

Mayor Keffer added that some CDGB funds are allocated for sewer repairs and re-lining.

BA asked if it would be possible to see what projects are listed for the Capital Budget and where the money is coming out of.

The CAO stated that the approved Capital Budget, the first \$10 million of the five-year \$30 million plan, went through Council and was voted on. Updates can be provided to Council. The second and third tranches of money (the second and third \$10 million) have not yet been approved, so those projects have not yet been delineated or voted on by Council.

MS asked which interceptors would be repaired with the \$3.5 million, and which have been prioritized and which have been deprioritized.

The CAO replied that they are the same interceptors and it is just a question of the scope of the work that they are able to complete. Fernwood and Cobbs Creek remain the top priorities.

MS asked if the Naylor's Park stabilization had been moved somewhere else.

CAO Rongione stated that stream bank stabilization at Naylor's Run is still an important priority for the Administration.

Mike Galante, Township Engineer, stated that CAO Rongione talked to him about the sewer improvements and Cobbs Creek interceptor is still scheduled, as that is a critical piece of infrastructure that is going to be lined. In Fernwood, the new equipment TV lines were used and it was determined that the entire section of Fernwood Cemetery does not have to be relined. The critical deep section will be lined and the shallower sections are still structurally sound and do not have to be done at this time. Mr. Galante added, *"in essence, we are able to reduce the scope but still achieve the goal that we're trying to achieve to eliminate those major excavations. That project is scheduled to be advertised and bid so that the numbers can come back. In addition, as part of the lining projects, there are sections that have already been bid as part of the Capital program that are still getting lined and we are working on scheduling that now."*

LW asked about the progress of negotiations with Township Unions regarding the ARPA funds.

CAO Rongione stated that they are ongoing and productive, especially on vaccine incentives and they are still working on the structure for bonus pay for all four units.

LW asked if it is certain that the \$2.5 million, that is part of the COVID Relief and negative economic impact, would be where the funds for the essential workers would come out of.

CAO Rongione stated that this is the first half of the allocation from the Federal Government, so part of the conversation with the bargaining units and previously with LW is that the other half of the money is coming. Therefore, if an agreement was reached but could not be paid fully out of this allocation, there is another \$20 million.

In response to LW's question about having the essential workers wait for their money, the CAO stated that all four units have asked for the bonuses to be one from *each* tranche.

LW asked for clarification as she thought it to be a one-time payment and not a split payment. She also inquired of the cost to purchase the Thompson Tract and St. Eugene.

Solicitor Kilkenny stated that St. Eugene's has stalled and when he spoke to John McBlain, the attorney for St. Eugene's, with the new Archbishop Cardinal, they have changed the whole policy as far as acquisition or sale of real property in the Archdiocese. Mr. McBlain stated that the Archdiocese is still interested but is looking for a refreshed appraisal of the property. Solicitor Kilkenny requested something in writing because if this were not going to happen, they would start to look at other opportunities where the grants could be re-allocated in other parts of the Township.

In response to LF's question, Solicitor Kilkenny stated that Mayor Keffer asked him to reach out to Mr. McBlain to make sure that the Archdiocese wanted to do this before she asked Mike Zabel for an extension.

Councilwoman Faraglia could still not be heard, as her microphone was not turned on.

Solicitor Kilkenny stated that nothing further has been done with the Thompson Tract other than looking for an appraisal.

LW stated that in an earlier meeting, there had been a reference regarding using some of the ARPA funds to purchase the Thompson Tract and possibly St. Eugene's as well.

Mayor Keffer stated that the grants that are designated for St. Eugene require that the Township put the money up first, as they are reimbursement grants. The \$600,000 from the ARPA grant could be used and then the Township could be reimbursed. Then, the \$600,000 that was used from the ARPA funds could then be used for something else, possibly open spaces.

HT stated that the funds should be allocated before they are possibly lost. He does not believe that this is an impartial investigation as not everyone has been included. The funds should be released as the investigation continues.

AH agreed that the funds need to be approved tonight.

MW stated that every Council member has been invited to speak with the Solicitor for the investigation, Mr. Boggs, to ask questions. She reminded everyone that Mr. Boggs stated that the investigation would take approximately one month if subpoenas were answered and complied with. As of today, the only subpoena that has been complied with is one outside of Upper Darby Township. MW added that once the investigation is completed, she would vote to approve the allocation of the ARPA funds.

BA stated that he originally was in favor of allocating the funds but after Treasurer Haman stated that certain money was not there that used to be there, and later received a document stating that the money was there, he feels that not all of the facts are known. He believes it to be fiscally irresponsible and does not feel that this should be approved at this time.

MS stated that the investigator is willing to speak to all of Council and that Council is aware of the cost of the investigation. However, Council does not know what the cost will be for Markam LLP, nor has Council seen an engagement letter.

In response to a comment made by MS, MB stated that certain Council members **do** care about what happens with the Township and it was not fair for him to make that allegation. She added that Mr. Boggs is a criminal attorney, not a tax attorney and that the \$7500 was a retainer only.

Council President Burke stated that Mr. Boggs said that he would refund the unused portion of the retainer.

HT reiterated that he does not believe that this is an impartial investigation.

AH stated that there is a false narrative and a predetermined outcome for some of the Council members. In fact, Vice President Wentz offered the job of the CAO to an individual on February 10, 2022. He believes that the funds are being held hostage for political gain.

LW asked for clarification for a comment made by Mayor Keffer. LW stated that the Mayor said that the Markam investigation was wrapping up and she thought Markam was doing a forensic audit.

Mayor Keffer stated that part of the forensic audit is that they are questioning people. She added that CAO Rongione mentioned at the last meeting that he gave a list of people and their contact information.

Solicitor Kilkenny added that part of a forensic audit is an investigation.

CAO Rongione stated that Markam also charges by the hour, so there is no set cost for their work product. He added that a number of people have stated that it is impossible and imprudent to put a price tag on giving the public confidence that the money has been handled correctly. The CAO stated that there is \$41 million in the ARPA allocation and if the Markam audit ends up costing .1% of that money, \$50-75 thousand, that is probably in the area of what it would end up costing.

LW asked for the range of the rates.

The CAO stated that he believes the rates to be from \$150-\$450 per hour.

LW stated that the Finance Committee and probably all of Council would like to see the engagement letter from Markam, actually all three companies that have been hired in the past few months.

Motion to introduce and advertise: AH/HT

Moved and seconded. A roll call vote was taken, 5 in favor. 6 opposed (BA, LF, MS, BB, MW, LW).

Motion to introduce and advertise FAILS

HT requested a brief from the Finance Committee regarding the last two meetings that they had with Solicitor Boggs so everyone is in the loop with the status of the investigation.

Council President Wentz confirmed that HT was requesting an Executive Session.

Planning, Zoning and Building Code Committee

Chair: Laura A. Wentz,

Members: Lisa Faraglia, Meaghan R. Wagner, Andrew Hayman

Resolution No. 15-22, a Resolution granting conditional preliminary and final land development approval for applicant, Yellow Cab Holdings, LLC for the proposed Wendy's at 5321 Baltimore Pike in Upper Darby Township

Solicitor Kilkenny gave a brief on Resolution No. 15-22.

Motion to approve Resolution No. 15-22: LW/MW

Moved and seconded. All in favor. Resolution No. 15-22 is approved.

Public Safety Committee

Chair: Lisa Faraglia

Members: Andrew Hayman, Danyelle Blackwell, Meaghan R. Wagner

Public Hearing for Ordinance No. 3114, an Ordinance of the Township of Upper Darby, Delaware County, Pennsylvania, amending the Upper Darby Code of Ordinances to add a new permit parking regulations on certain Township residential streets; providing a severability clause; repealing all inconsistent Ordinances; and providing an effective date

Solicitor Richardson gave a brief on Ordinance No. 3114

Council President Burke convened a Public Hearing

Speakers:

Joanne Nammavong, 133 N. Pennock Avenue, concerned with prohibitive cost of permit, guest permits
BB asked the CAO if the resident could set up a meeting with Sekela Coles, Director of Parking Enforcement.
He also added that this is a pilot program.

Olivia Taylor, 204 Kent Road, stated that this would not work on the 200 block of Kent Road because of residents who own multiple vehicles.

Becky Duggan, 129 N. Pennock Avenue, asked if there was a time for this permit parking and BB replied that it would be 24 hours per day

Joanne Nammavong, 133 N. Pennock Avenue, stated that other municipalities have this for the overnight hours and not 24 hours per day

Solicitor Richardson explained how the guest permits would work

Tim Tunstra, 610 Foss Avenue, suggested postponing this until residents have town halls to discuss their concerns. LF replied that Dr. Coles spoke to residents and they were in favor of this.

Bonnie Hallam, 4719 Woodland Avenue, suggested the possibility of tabling this tonight to get more feedback from residents

Becky Duggan, 129 N. Pennock Avenue, asked how residents could weigh in on future streets being added

Lee Jordan, 90 Pilgrim Lane, asked what happens to people who park without a permit. Solicitor Richardson stated that they would receive a ticket.

Council President Burke closed the Public Hearing

LW clarified that the \$35 fee is only a processing fee. The Township does not make money from this.

Motion to adopt: AH/HT

DB asked if there were any other residents who live in the 4th District who disagreed with this Ordinance.

**Moved and seconded. A roll call vote was taken. 10 in favor, 1 opposed (DB)
Ordinance No. 3114 is adopted.**

Public Hearing for Ordinance No. 3117, an Ordinance of the Township of Upper Darby, Delaware County, Pennsylvania, amending Ordinance No. 1589 to provide a definition for trucks and sight hazards; to permit the Director of Parking Enforcement to limit parking in certain areas of the Township designated as a sight hazard; providing a severability clause; repealing all inconsistent Ordinances; and providing an effective date

Solicitor Richardson gave a brief on Ordinance No. 3117

Council President Burke convened a Public Hearing

Speakers:

Dolores Lombardi, 29 S. Kirklyn Ave, opposed to a blanket rule to allow trucks to park everywhere

Alvin Wong, 225 Windsor Ave, states his street is too narrow to have trucks parking on it and feels that the current restriction is not enforced. He would like Council to reconsider this new definition of trucks.

Gail Grant, 224 Windsor Ave, states that her street is too narrow for trucks to park and is against the proposed Ordinance.

Council President Burke stated that in Section 2, it states that the Director of Parking enforcement, after conferring with the Township Engineer, has the right to limit the parking of certain vehicles based on height and size in areas of the Township where they would be considered sight hazards.

Lee Jordan, 90 Pilgrim Lane, feels that trucks will obstruct vision and will make traveling down narrow streets difficult

Motion to TABLE: LF/MW

A roll call vote was taken. 10 in favor, 1 opposed (HT). Motion to TABLE is approved.

LF made a Motion to adjourn the meeting as it was nearly 11 p.m. AH seconded the Motion and then asked to retract his Motion. MW seconded the Motion.

A roll call vote was taken. 7 in favor, 4 opposed (AH, MS, HT, LW)

MOTION TO ADJOURN THE MEETING IS APPROVED.

THE MEETING WAS ADJOURNED WITHOUT COMPLETING THE AGENDA AT 10:54 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. 14-22

A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AUTHORIZING THE SUBMISSION OF THE APPLICATION FOR FUNDING FROM THE STATEWIDE LOCAL SHARE ACCOUNT GRANT OF \$1,000,000 FOR THE UPPER DARBY COMMUNITY CENTER'S SUSTAINABLE EXTERIOR ENVELOPE

WHEREAS, the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S.A. § 1101 *et seq.*, provides for the distribution of funds from gaming revenues through the Commonwealth Financing Authority ("CFA") to support projects in the public interest within the Commonwealth of Pennsylvania; and

WHEREAS, Upper Darby Township ("Township") is an eligible applicant to and desires to apply for the Statewide Local Share Account funding from the CFA; and

WHEREAS, the Township is in the process of constructing a community center and is desirous of using funding from the CFA to provide the Community Center with an Sustainable Exterior Envelope which will promote sustainability through design and will assist with obtaining LEED Silver Certification; and

WHEREAS, Township Council ("Council") believes it to be in the interest of the Township to apply for the Statewide Local Share Account funding from the CFA and utilize the funding for the Upper Darby Community Center's Sustainable Exterior Envelope.

WHEREAS, Upper Darby Township is desirous of obtaining funds from the CFA in the amount of \$1,000,000 for Upper Darby Community Center's Sustainable Exterior Envelope; and

NOW, THEREFORE, be it, and it is hereby **RESOLVED** by the Upper Darby Township Council, and it is hereby **ADOPTED** and **RESOLVED** by authority of same as follows:

1. Upper Darby Township of Delaware County hereby requests a Statewide Local Share Assessment grant of \$1,000,000 from the Commonwealth Financing Authority to be used for the Upper Darby Community Center's Sustainable Exterior Envelope.
2. Upper Darby Township of Delaware County does hereby designate Barbarann Keffer, Mayor, and Vincent Rongione, Esq., Chief Administrative Officer, as the officials to

execute all documents and agreements between Upper Darby Township and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

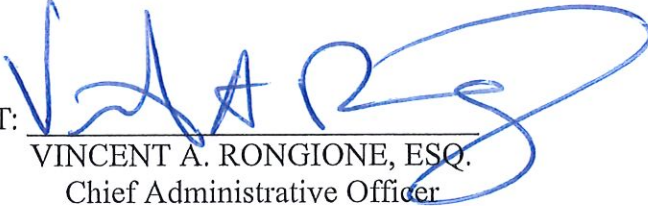
ADOPTED and RESOLVED this 6th day of April 2022

BY: 
BRIAN K. BURKE
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

Resolution No. 14-22 is hereby approved this 6th day of April 2022

BY: 
BARBARANN KEFFER
Mayor

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

**UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

RESOLUTION NO. 15-22

A RESOLUTION GRANTING CONDITIONAL PRELIMINARY AND FINAL LAND DEVELOPMENT APPROVAL FOR APPLICANT, YELLOW CAB HOLDINGS, LLC FOR THE PROPOSED WENDY'S AT 5321 WEST BALTIMORE PIKE IN UPPER DARBY TOWNSHIP

WHEREAS, Yellow Cab Holdings, LLC (“Applicant”) submitted a land development application on November 24, 2021 to renovate/convert an existing “Boston Market” into a “Wendy’s”. On the applicant’s behalf, Langan Engineering and Environmental Services, Inc. submitted a waiver request for Upper Darby Township’s Subdivision and Land Development Ordinance (the “Waiver Request”) on March 10, 2022, attached hereto as **Exhibit “A”** and incorporated herein by reference; and

WHEREAS, Applicant has submitted the following in support of the proposed land development: Preliminary and Final Land Development Plan to renovate/convert an existing “Boston Market” into a “Wendy’s”, prepared by Langan Engineering and Environmental Services, Inc., 1818 Market Street, Suite 3300, Philadelphia, PA 19103, dated February 23, 2022, consisting of thirteen (13) sheets; and

WHEREAS, Applicant proposes to renovate/convert an existing “Boston Market” into a “Wendy’s”, with site work that will include the removal of a front circulation drive to create an outdoor seating area, relocation of dumpster enclosure and construction of 359 S.F. Walk-In box (the “Property”); and

WHEREAS, the Township Engineer has reviewed Applicant’s application and Waiver Request and offers comments for consideration as indicated in the Township Engineer’s review letter dated March 20, 2022, which letter includes and references the Traffic Engineering Review dated March 22, 2022, and the December 17, 2021 letter from the Delaware County Planning Commission, collectively attached hereto as **Exhibit “B”** and incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED, by the Upper Darby Township Council that Preliminary and Final Land Development for the Project is approved subject to the satisfaction of the following conditions:

1. Except as modified herein, Applicant shall comply with all other applicable Township ordinances, County, State and Federal rules, regulations, ordinances and statutes, and obtain all applicable permits and approvals. Applicant shall obtain a building permit prior to construction and shall ensure that all proposed improvements comply with Pennsylvania Act 45, the Uniform Construction Code, including but not limited to the Accessibility provisions.
2. Unless specifically granted a waiver below or modified herein, Applicant shall comply with all comments and requirements set forth in the review letter issued by the Township

Engineer, Michael Galante, P.E., MG Engineering Associates, LLC. which letter includes and references the Traffic Engineering Review dated March 22, 2022, and the December 17, 2021 letter from the Delaware County Planning Commission, collectively attached hereto as **Exhibit "B,"** and any subsequent review letters from Michael Galante, P.E.

3. Applicant shall enter into a development and financial security agreement and post financial security for the project, in an amount determined to be required by the Township Engineer and Solicitor in the form of cash escrow or a letter of credit, to be prepared by the Township Solicitor and executed prior to the issuance of any building permits and start of construction.
4. Compliance with the Decision and Order of the Upper Darby Zoning Hearing Board, based on the hearing held regarding the premises the subject of this land development application, including all conditions and representations made to the Zoning Hearing Board, which are hereby incorporated by reference as conditions of this approval.
5. The following waivers are hereby granted from the Delaware County Subdivision and Land Development Ordinance:
 - a. Section 300(I) of the Subdivision and Land Development Ordinance; a waiver from the requirements of the Ordinance to request Township Council to consider Preliminary and Final at the same time.
 - b. Section 806(C)(7) of the Subdivision and Land Development Ordinance requiring no less than a five (5) foot radius of curvature be permitted for all curb lines in parking areas and specifically requesting some radii be two (2) feet.
6. Applicant shall pay all Township fees and costs, including but not limited to legal, engineering and administrative fees, for all Township reviews associated with the Project (the "Review Fees") and, at the Township's request, shall establish an escrow account to guarantee payment of the Review Fees; and Applicant shall further satisfy any and all existing municipal liens against the Property and shall address any and all outstanding code violations at the Property, if any, prior to receipt of any permits or recordings.
7. Applicant shall provide the Township Chief Administrative Officer and Township Engineer at least 72 hours' notice prior to the initiation of any construction, demolition, grading or ground clearing so that the Township may determine that the foregoing conditions have been met by the Applicant and that all necessary erosion and sedimentation controls have been correctly installed, if needed.
8. There shall be no idling of trucks at the loading docks or waiting to enter a loading dock door. Trucks shall not idle overnight on the property.

9. Applicant agrees to add all mutually agreeable conditions to the final plans.

10. This Conditional Approval of Land Development Application does not and shall not authorize the construction of improvements or buildings exceeding those shown on the Plans. Furthermore, this Conditional Approval of Land Development Application shall be rescinded automatically upon Applicant's or Applicant's agent's failure to accept, in writing, all conditions herein imposed within seven (7) days of receipt of this Resolution, such acceptance to be evidenced by Applicant's or Applicant's agent's signature below.

11. By accepting this Resolution, Applicant is signifying acceptance of the conditions contained herein.

DULY PRESENTED AND ADOPTED by the Council of Upper Darby Township, Delaware County, Pennsylvania, in a public meeting held this 6th day of April, 2022.

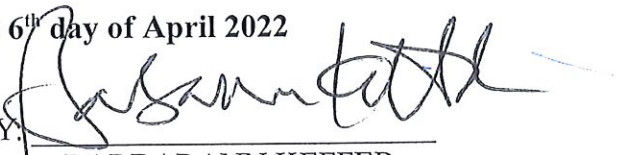
UPPER DARBY TOWNSHIP COUNCIL:

ADOPTED and RESOLVED this 6th day of April 2022

BY: 
BRIAN K. BURKE
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

Resolution No. 15-22 is hereby approved this 6th day of April 2022

BY: 
BARBARANN KEFFER
Mayor

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

In the event that the executed Resolution is not delivered to the Township within seven (7) days of receipt, it shall be deemed that the Applicant does not accept these conditions, and approvals conditioned upon its acceptance are revoked, and the application is considered denied for the reasons set forth above.

ATTEST:

ACCEPTED BY:

YELLOW CAB HOLDINGS, LLC

By:

Name:

Title:

Date: _____

**UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 3114

AN ORDINANCE OF THE TOWNSHIP OF UPPER DARBY, DELAWARE COUNTY, PENNSYLVANIA, AMENDING THE UPPER DARBY CODE OF ORDINANCES TO ADD A NEW ARTICLE TO CHAPTER 570 "VEHICLES AND TRAFFIC" TITLED "RESIDENTIAL PARKING PERMITS" TO ESTABLISH PERMIT PARKING REGULATIONS ON CERTAIN TOWNSHIP RESIDENTIAL STREETS; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Upper Darby Township Council ("Council") acknowledges that there are certain areas within the Township, such as the 69th street transportation center, around schools, college partnership sites, Delaware County Memorial Hospital, *inter alia* that attract commuters seeking parking in nearby areas which are predominantly residential in nature; and

WHEREAS, the increased demand for parking in residential areas creates a strain on residents of these areas because it often creates a severe shortage of on-street parking for residents; and

WHEREAS, Council desires to create a Residential Parking Program to reduce the parking strain in these areas; and

NOW THEREFORE, be it **ENACTED AND ORDAINED** by the Council of Upper Darby Township, County of Delaware, Commonwealth of Pennsylvania and it is hereby **ENACTED AND ORDAINED** by the authority of the same:

SECTION 1. Amending Chapter 570 of the Upper Darby Township Code of Ordinances to include an Article titled, "Residential Parking Permits."

570- 1. Intent.

It is the intent of Upper Darby Township Council to assist residents of areas of the Township who suffer adverse effects from limited amounts of curbside parking, from vehicular congestion due to such limited amounts of curbside parking and from the competition by nonresidents with residents for such limited curbside parking. It is also the legislative purpose of Upper Darby Township Council to assist residents who suffer adverse effects from parking regulations designed to control traffic flow or enhance the residential character of Township neighborhoods which result in an unnecessary hardship on the residents who reside in such areas. These adverse conditions include, but are not limited to, degradation of the common shared driveways, hazardous traffic conditions; air pollution; excessive noise and refuse; burdens in gaining reasonable access to residences;

reduced pedestrian safety for children, handicapped individuals and the elderly; reduced access for fire and emergency vehicles; and general degradation in the quality of life.

570- 2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

Guest Permit- a temporary parking permit issued by the Department for use on vehicles under the legal control of guests, customers and/or clients during periods when persons operating said vehicles are actually visiting or engaged in business at the permittee's address not to exceed fourteen (14) consecutive days

Department- Upper Darby Township Parking Enforcement Department

Director- Director of Upper Darby Township Parking Enforcement Department

Permit Parking Area — A contiguous length of curbside parking on public highways upon where on-street parking is available to permitted vehicles only, as established pursuant to this Article, and as such highway, or parts thereof, as the same may be amended or supplemented.

Permit Parking Program- the process of designation, administration and enforcement of all township parking permit areas and regulations established by the Parking Enforcement Department.

Vehicle — An automobile, motorcycle, van, jeep or truck which is less than 3/4 ton in size. A "vehicle" under this article does not include a trailer, motorhome, motorhouse, housecar, or camper.

Resident – for the purposes of this article only, a person who resides in the township parking permit area on a regular basis

Residential Parking Permit — a parking permit for residents as authorized by this article.

570- 3. Designation of parking permit areas.

(A) Council has designated residential parking permit areas along public highways in certain residential districts and may be amended from time to time by Ordinance. Before designating a residential parking permit area, Council shall determine that residents of the proposed residential permit parking area are adversely affected by curbside parking by nonresidents in vehicles or by parking regulations which are designed to control curbside parking but present a hardship on area residents. In making its determination, the Council shall consider the advice of the Department; the difficulty experienced by the residents of the proposed residential permit parking area in obtaining curbside parking reasonably accessible to their residences for themselves and their guests; the desire of the residents

for the institution of residential permit parking in the area; the willingness of those residents to bear the costs associated with such residential parking as authorized by this article; and the availability of off-street parking facilities to the residents.

Unit Blocks of N Keystone, Merwood, Hampden, Copley, Glendale, Kent,
Chatham, Overhill, and Springton.
200 Blocks of Bayard, Wembly, and LeCarra.
300 Blocks of Bayard and Wembly.
500 Block of Argyle.

(B) Streets may be added or removed to the Permit Area by recommendation of the Parking Enforcement Department then approved by Ordinance.

570-4. Issuance and renewal of parking permits.

A. Issuance

1. No person shall park a motor vehicle in or along the side of any Township street set forth in the residential permit parking areas designated in this Article, as amended, unless there appears on the motor vehicle in a location designated by the Township from time to time a parking sticker as provided hereinafter permitting such vehicle to park within the specific permitted area or unless there appears in a visible location on the front dashboard of said vehicle a valid guest card, special business card or special card as provided hereinafter in this Article which authorizes parking within the specific residential permit parking areas.
2. Residents, and their guests, who desire a residential parking permit for their vehicle and reside in a Permit Parking Area as defined by this Article may apply for and receive a residential parking permit from the Department. Residents shall complete the application as specified by the Department and shall pay the required fee as set forth in § 570-5. The application shall include a requirement of proof of residency.
3. The permit issued shall be non-transferrable and effective only for the specific permitted area for which it was issued.
4. Not more than two (2) residential parking permits shall be issued to residents at one postal address.
5. An application for a residential parking permit for a replacement vehicle shall be treated as a renewal of a residential parking permit if the applicant presents

reasonable physical evidence that the previously issued permit has been removed and present it to the Director, or his/her designee.

6. A residential parking guest permit shall be limited to the specific address for which it was issued and shall be limited in use and validity to the block in which the property is located and a two-block area contiguous to the specific address for which the guest permit is issued. A residential parking guest permit may be utilized for a guest's vehicle for up to, but not in excess of, a 14 day consecutive period.
 - a. Each single-family home and apartment unit in a permit area is eligible to be issued up to two (2) guest permit cards.

B. Renewal

1. Permits shall be valid until the last day of the month one year from the date of issuance.
2. Permits may be renewed by applying to the Department on or before the expiration date of the permit.

570-5. Permit Terms & Fees

The residential parking permit shall be valid for one year from the date of issuance. The permit fee shall be \$35.00.

- A. Initial Residential Parking Permit Application Fee. The initial application fee for a residential parking permit shall be \$35.00 per calendar year.
- B. Renewal Residential Parking Permit Fee. The renewal fee for a residential parking permit shall be \$35.00.
- C. There is no application Fee for a Residential Parking Guest Permit.
- D. Amendment. The annual application fees for residential parking permits and guest parking permits may be amended by Township Council via the Township's Fee Ordinance.

§ 570-6. Parking permit privileges.

- A. The operator of a vehicle with a valid residential parking permit shall be excused from the observance of limited-time parking restrictions in the area for which the residential parking permit was issued.

- B. The operator of a vehicle with a residential parking permit shall not be excused from the observance of limited-time parking restrictions in areas other than the residential parking permit area for which the residential parking permit was issued.
- C. The operator of a vehicle with a valid residential parking permit shall observe all traffic, parking, stopping and standing regulations except as specified in this section.

§ 570-7. Posting of signs.

Upon designation by the Department of a residential parking permit area, the Department of Public Works shall erect signs below those which indicate the limited-time parking restrictions which shall be of such a character as to inform an ordinarily observant person of the specific residential parking permit area and its restrictions.

§ 570-8. Rules and regulations.

The Department of Licenses & Inspection, Department of Parking Enforcement, and Department of Public Works shall promulgate rules and regulations necessary implement and enforce the provisions of this article.

570-9. Enforcement

- A. An owner or operator of a motor vehicle parked in violation of any provision of this Article shall be issued a notice of violation and be ordered to pay a fine of \$25 payable to the Department within fourteen (14) days of issuance of such notice.
- B. Failure to respond to the notice of violation by payment of the fine, as aforesaid, which payment must be made to Department within fourteen (14) days of issuance of such notice, shall result in the issuance of a citation to the defendant. If found liable, the Defendant shall pay a fine of \$25, for each violation together with the costs of prosecution.
- C. Any person who shall knowingly provide false information on an application for a residential parking permit or who shall provide a falsified operator's license, motor vehicle registration or proof of financial responsibility, shall be subject to revocation of his or her residential parking permit, and upon summary conviction thereof shall be fined \$100 for each violation together with the costs of prosecution.

D. Any person who shall falsify a residential parking permit shall, upon summary conviction thereof, be fined \$100 for each violation together with the costs of prosecution.

SECTION II: SEVERABILITY

In the event that any section, sentence, clause, or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this Ordinance.

SECTION III: REPEALER

All ordinances or resolutions or parts thereof inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specially repealed.

SECTION IV: EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its approval as required by the law.

ENACTED and ORDAINED this 6th day of April, 2022.

BY: 
BRIAN K. BURKE
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

APPROVED this 6th day of April, 2022

BY: 
BARBARANN KEFFER
Mayor

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

TOWNSHIP OF UPPER DARBY

Summary of 2020 Audit Findings,
Recommendations and Responses

Firm Relationships Build Success. **Partner With Us.**

REPORT TO UPPER DARBY TOWNSHIP

Meeting: March 15, 2022

Summary of Maillie SAS 115 Findings and Brinker Simpson (BSCO) Responses

Finding 2020-01 Financial Reporting

Issue Summary: The Township records transactions on a cash basis using Harris Accounting software. The conversion to the accrual basis of accounting at period end is largely dependent on manual adjustments and the audit process. The auditor identified several significant adjustments in 2020. Many of these adjustments related to payables and receivables incorrectly booked or not identified as part of this conversion process.

Auditor Recommendation Summary: The Township should implement a formal management review process of financial information, specifically of individual financial statement line items and related footnote disclosures, to ensure that financial statements and financial information provided to the auditor are materially accurate and complete. Additionally, procedures and review processes should be implemented to review financial transactions when processed through the year to ensure they are captured in the appropriate period.

BSCO Action Items:

- (1) BSCO will assist Township management with the preparation of financial statement supporting schedules and the identification of manual adjustments required for preparation of the 2021 audit materials and financial statements, specifically focused on those accounts impacted by the cash to accrual conversion including payables, receivables and prepaids. To this effect, BSCO will perform a review of cash receipt and cash disbursement transactions after the financial statement date, focused on high dollar values, to identify transactions relating to the 2021 fiscal year and to identify significant items requiring adjustment for cutoff.
- (2) BSCO will assist the Township with a review of valuation related accounts such as allowance for doubtful accounts and deferred revenue.
- (3) BSCO will work with the Township to document the financial statement review process and valuation methodology for 2021 audit preparation (although timeliness will be an issue for 2021).
- (4) BSCO recommends that a close timeline be implemented to ensure that reviews and adjustments are performed timely after period close.

Finding 2020-02 Internal Control Policies and Procedures

Issue Summary: The Township has not documented and does not maintain formal internal controls policies and procedures to standardize the treatment and processing of transactions and to ensure proper management review of transactions.

Auditor Recommendation Summary: Management should perform a thorough review of current internal control policies and procedures and document those policies. Additionally, management should evaluate the need for changes to enhance the effectiveness and efficiency of current operations. Specifically, management should prioritize controls around the approval and maintenance of supporting documentation around cash receipts and disbursements.

BSCO Action Items:

- (1) BSCO has begun to meet with Township personnel to understand and document current state processes and procedures. Where controls can be implemented to enhance effectiveness and efficiency in the current process, BSCO will work with process owners to document and implement these controls. BSCO will work to create a current state policy, procedures and controls document to be approved by process owners. This approval will be documented.

Finding 2020-03 Recordkeeping

Issue Summary: The Township did not maintain appropriate supporting documentation and records throughout the year to support financial statement line items. Schedules were created untimely after year end for the auditor (specifically the capital asset rollforward) and supporting documentation for daily transactions was not maintained and presented to Finance Management (specifically cash receipts).

Auditor Recommendation Summary: Management should perform a thorough review of current internal control policies and procedures and document those policies. Additionally, management should evaluate the need for changes to enhance the effectiveness and efficiency of current operations. Specifically, management should prioritize controls around the approval and maintenance of supporting documentation around cash receipts and disbursements.

BSCO Action Items:

- (1) BSCO recommends that a monthly close timeline be implemented to ensure that financial schedules are updated and created timely throughout the year. Monthly monitoring reviews should be performed by Finance Management to ensure complete and accurate financial information is recorded in the GL and on supporting schedules.
- (2) BSCO will meet with Finance Management to document a master list of important financial schedules to be updated and reviewed throughout the year.
- (3) BSCO has begun to meet with Township personnel to understand and document processes and procedures around the cash receipt and cash disbursement process. BSCO will make recommendations regarding the documentation to be maintained and reviewed by Finance when performing these daily procedures. BSCO will review with Township staff the appropriate dating of transactions using the supporting documentation.
- (4) BSCO will work with Township Management to ensure a process is in place to review census data annually and check the data against the Township's internal records to ensure that the data is accurate and complete, prior to submission to the actuaries. This procedure and review will be documented.

Finding 2020-04 Grant Management

Issue Summary: The Township does not have a system in place to perform comprehensive tracking and reporting for grants in accordance with Generally Accepted Accounting Principles (GAAP) and the Uniform Grant Guidance (UGG), which require that all grant revenues and expenses be presented in separate accounts clearly identified as dedicated for specific grants and that reciprocating revenues be recognized as expenses are incurred, recording deferred revenue or receivables as needed. The lack of grant management has caused delays in the performance of Single Audits and required filings with the Federal Clearinghouse.

Auditor Recommendation Summary: Management should update its grant tracking and management process including updating general ledger accounts and policies for recording grant revenues and expenses/expenditures to ensure that amounts are recorded separately, as required. All current grants in process should be analyzed to compare the original grant award to expenses by year to determine that revenues, receivables and deferred revenues are appropriately captured.

BSCO Action Items:

- (1) BSCO will work with Township management and staff to obtain a comprehensive list of in process grants. BSCO will work to review expenses and cash receipts associated with these grants to implement appropriate accounting.
- (2) BSCO will work with Township management and staff to obtain the documentation requested by the auditor as it relates to the 2019 Single Audit.
- (3) BSCO will work with Township management and staff to create and review a Schedule of Expenditures of Federal Awards (SEFA) for 2020 so that the auditor can begin the 2020 Single Audit.

Finding 2020-05 Information Technology/Software

Issue Summary: The accounting software used by the Township is inadequate for its needs and requires several manual processes for recording transactions and reporting. Inadequate controls are in place over the manual journal entry process.

Auditor Recommendation Summary: Management should evaluate new accounting software packages that would meet the needs of the Township and automate processes where possible.

BSCO Action Items:

- (1) BSCO will work with Township management and staff to formalize and document a review process of manual journal entries in the current state.

Finding 2020-06 Transfers Between Funds

Issue Summary: A transfer from the Highway Aid Fund to the General Fund in the amount of \$683,064 was identified in 2020. The transfer was not budgeted and supporting documentation for this transfer was not maintained. As a result, the auditor could not conclude on the nature or appropriateness of this transfer.

Auditor Recommendation Summary: Transfers between funds should be approved by governance as part of the budget. Any transfers during the year should be properly supported with documentation around the nature of the cost. Transfers should be subject to approval.

BSCO Action Items:

- (1) BSCO will work with Township management and staff to formalize and document a review process and best practice of maintenance of supporting documentation around transfers.
- (2) BSCO will work with Township management during the 2023 budget process to ensure that transfers are budgeted and presented to governance for approval as part of the budget process.

Additional Finding Upper Darby Weed and Seed, Inc. Reporting

Issue Summary: The auditor was unable to determine if reporting requirements for Upper Darby Weed and Seed Inc. were met.

Auditor Recommendation Summary: Township management should review this organization and ensure they are meeting any reporting requirements.

BSCO Action Items:

- (1) BSCO will work with Township management to understand and document the relationship with Upper Darby Weed and Seed, Inc. As part of this process, tax and financial reporting requirements will be considered and documented.

General BSCO Notes

BSCO expects findings to repeat in 2021 as the firm was not engaged by the Township until March 2022. Progress on remediation efforts expected in mid to late 2022.

The above responses represent the actions to be implemented by BSCO to currently address the auditor findings. The Township is in the process of an accounting system conversion (to OpenGov) as a comprehensive action to address the system limitations identified in audit findings and in overall operational performance. This conversion is expected to be effective in January 2023. BSCO is actively partnering with Township management to identify best practices and internal controls to be effective in the new system, including updating the chart of accounts to be comprehensive and in line with GASB reporting requirements, automating the purchase order process, and documenting consistent processes, policies, internal controls and recordkeeping guidelines across all departments within the new system.

BSCO's primary focus will be on the transition to the new system, and the documentation and implementation of controls to address effectiveness and efficiency in the future state new system. However, where process and control improvements can be made in the current state, these will be addressed.