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June 15, 2022

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*****A copy of the stenographic transcription for the Public Hearing of Ordinance No. 3116 is attached.***

MINUTES
Council Meeting
June 15, 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, via Zoom
Chief Municipal Clerk, Alexis Cicchitti
Solicitor Sean Kilkenny
Joshua Chast, Assistant Director of L&I, via Zoom
Timothy Bernhardt, Superintendent of UDPD, via Zoom
Maria O'Neill, Court Reporter
Sergeant of Arms, Officer Ryan Benner

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.”

Approval of the May Minutes

Approval of the Committee Meeting Minutes of May 4, 2022
Approval of the Council Meeting Minutes of May 25, 2022

Motion to approve: AH/DB
Moved and seconded. The May 2022 Minutes are approved.

Councilwoman Lisa Faraglia made a **Motion** to remove CAO Rongione from Zoom. Councilwoman Wagner seconded. 6 in favor (BA, LF, MS, BB, MW, LW) 5 opposed (AH, DB, SS, MB, HT) The Motion is approved.

Public Forum

Rick Beaver, 424 Littlecroft Road, 2nd Ward Playground under construction. No dog park. Problem with homeless people.

S. Long, Park between Guilford and Aberdeen is disgusting

Jim Smith, 5040 Fairway Road, former Director of Finance for UDT. He believes that the ARPA funds were misused.

Joelle Williams, 7060 Aberdeen Road, stated a neighbor left a dog out in the heat and it died. She feels that the response time from Animal Control was extremely slow when she called and was extremely upset about the statement made by the Animal Control Officer.

Rich Paparo, 5 Oakley Road, receiving tickets for parking his truck on the street

Brian Taylor, 7258 Lamport Road, elderly woman at 436 Grace Road had a telephone pole fall on her property but there is still debris. He is also very concerned about sex offenders in the 19082 area code. He asked when the POW/MIA flag would fly again above the Township building

Olivia Taylor, 204 Kent Road,

Marion Minick, 1204 Wilde Avenue, praised all of the good work that Mayor Keffer has accomplished. Upset that members of Council are holding up ARPA funds

Arlice White, 518 Glendale Road, requests supplies for neighborhood clean-ups

Terry Johnson, 7022 Ruskin Lane, asked about all of the costs of the multiple investigations

Raya Fagg, 7022 Ruskin Lane, extended invitation to the Welcome Center

Michelle Schofield, 519 Millbank Road, asked Council President Burke to handle the outbursts from the audience

Renee Warring, 562 Millbank Road, encouraged about the community meeting that took place

Cori (Rudy's Tavern), 7160 Marshall Road, asked what they can do to make things better for the tavern

Bonnie Hallam, 4719 Woodland Avenue, the Solicitor has only recused himself from the investigation, not from representing the Mayor, Administration and the Council. She also spoke of all that the Administration has accomplished.

Tim Tuinstra, 610 Foss Avenue, stated that all parks should be treated the same throughout the Township

Becky Duggan, 129 N. Pennock Avenue, concerned about speeders

Tina Hamilton, 4715 Woodland Avenue, thanked everyone who came to the event at Arlington Cemetery.

Upset that the CAO is still on Zoom at this meeting. She just wants answers to the money that was moved from the ARPA funds.

Council President Burke moved the Cultural Competency Committee up on the Agenda.

COMMITTEE REPORTS

Cultural Competency Committee

Chair: Michelle Billups

Members: Matt Silva, Danyelle Blackwell, Sheikh M. Siddique

Resolution No. 25-22, a Resolution of Upper Darby Township, Delaware County, Pennsylvania in celebration of "**JUNETEENTH INDEPENDENCE DAY**" which recognizes June 19, 1865, the date on which news of the end of slavery reached the enslaved people in the southwestern states

Solicitor Kilkenny gave a brief on Resolution No. 25-22

Motion to approve: DB/MB

LW wanted to amend the Resolution to remove CAO Rongione from the signing of this Resolution.

Mayor Keffer stated that it is her opinion that Council is not supposed to be directing the Administration. That is in the Home Rule Charter. She believes this to be unnecessary.
LW stated that under the Home Rule Charter, Council voted that he forfeited his position,
Mayor Keffer stated that she contests that and that Mr. Rongione continues to work for Upper Darby and that he is still the CAO.

Solicitor Kilkenny stated that his opinion is that until the Court of Common Pleas decides on the issue, Mr. Rongione is still the CAO. He acknowledged that the Council's opinion differs.

LF seconded LW's Motion.

MS requested that Mr. Richard Blye be added to the Resolution as he has done a lot to promote Juneteenth. Solicitor Kilkenny suggested adding an additional "whereas" clause acknowledging Mr. Blye's involvement with educating the community on this issue.

LW stated that she would rescind her Motion to remove CAO Rongione from signing this Resolution in order to be able to move this important Resolution forward.

She stated, "according to the Council, we believe that we removed him of his duties at the last meeting, declaring him forfeited of his position because he was unqualified."

Council President Burke stated that LW and MW have rescinded the Motion.

MS formally made a Motion to add Mr. Blye to the Resolution.
MW seconded the Motion.

Solicitor Kilkenny made a suggestion for efficiency. He stated that there was a Motion and a second to approve the Resolution and perhaps there could be an amendment to that Motion stating in the "whereas" clauses, Mr. Blye's contribution for bringing about awareness in Upper Darby Township for Juneteenth. That would eliminate the need for two separate Motions.

AH stated his support of Mr. Blye's contribution but wanted the Committee to have an opportunity to discuss the amendment before the vote.

MB stated that she is in favor of adding the "whereas" clause and polled the Committee regarding the amendment.

HT stated that Mr. Blye educated people regarding Juneteenth and supports the amendment.

SS stated that he is in favor of the additional "whereas" clause.

DB stated her support.

Moved and seconded as amended as Solicitor Kilkenny stated. All in favor. Resolution No. 26-22 is approved.

LW made a Point of Order and asked if the meeting was not being recorded prior to now. BB stated that the meeting was being recorded.

Council President Burke stated that the Planning, Zoning and Building Code Committee would be moved up on the Agenda, as there is a Public Hearing for Ordinance No. 3116 and a Court stenographer was present.

Planning, Zoning & Building Code Committee

Chair: Laura A. Wentz

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

Public Hearing for Ordinance No. 3116, an Ordinance amending Chapter 550, entitled "Zoning, "Article X, General Regulations, Section 550-39, "Fences" of the Upper Darby Township Code providing for a maximum height, placement, materials, maintenance, variances, and fees for fences; repealing all inconsistent Ordinances: and providing an effective date

Joshua Chast, Assistant Director of Licenses & Inspections will be prepared to discuss questions relating to Ordinance No. 3116

Solicitor Kilkenny gave a reading of Ordinance No. 3116.

Council President Burke convened a Public Hearing.

Speakers:

Joanne Nommvong, 133 N. Pennock Avenue, wanted to know what part of the Ordinance changed. Joshua Chast, Assistant Director of L&I described the changes.

Becky Duggan, 129 N. Pennock Avenue, asked if repairs to her fence would be affected and was informed that it would not.

Motion to adopt: AH/LF

Moved and seconded. A roll call vote was taken. 11 in favor. Ordinance No. 3116 was adopted.

Council President Burke closed the Public Hearing.

MW stated that a Motion was made at the beginning of the meeting that CAO Rongione should not be participating via Zoom and with all due respect to the Mayor, the majority of this Council feels that he is no longer the CAO. As a result, she made a Motion to adjourn the meeting.

Adjournment

MW/BA

Mayor Keffer stated that Donna Stilwell of Brinker Simpson was present at the meeting and has a presentation. She stated that she understands if the Council does not want her to give the Mayor's address, but respectfully asked if they would allow Donna Stilwell to present. She feels that the updates are important.

BA stated that he would rescind the Motion if Mr. Rongione would respect Council's original decision and leave the meeting. If not, his second will remain on the floor.

Council President Burke stated that all of the information would be online by tonight. He further stated that there was a Motion on the floor to adjourn the meeting and asked MB for a roll call.

**Moved and seconded. A roll call vote was taken. 6 in favor (BA, LS, MS, BB, MW, LW)
Five opposed (AH, DB, SS, MB, HT) Motion to adjourn was approved.**

Motion to adjourn at 9:05 pm.

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. 25-22

**A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA, IN CELEBRATION OF "JUNETEENTH INDEPENDENCE DAY,"
RECOGNIZING JUNE 19, 1865, THE DATE ON WHICH NEWS OF THE END OF
SLAVERY REACHED THE ENSLAVED PEOPLE IN THE SOUTHWESTERN STATES**

WHEREAS, our nation was conceived on July 4, 1776, with the Declaration of Independence, the classic statement being: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness"; and

WHEREAS, notwithstanding such "self-evident" truths, between 1525 and 1866, an estimated 12.5 million men, women and children were captured and forcibly transported in bondage from their African homelands to North America, the Caribbean, and South America, according to the Trans-Atlantic Slave Trade Database, many of whom did not survive; and

WHEREAS, the transatlantic slave trade represents one of the longest and most sustained assaults on the life, integrity, and dignity of human beings in history and is one of the greatest tragedies in the history of human kind; and

WHEREAS, at 2 p.m. on New Year's Day, January 1, 1863, using his war powers as President, Abraham Lincoln signed the Emancipation Proclamation, providing that all persons held as enslaved people within any rebel State, known as the Confederacy, "shall be then, thenceforward, and forever free"; and

WHEREAS, news or enforcement of the Emancipation Proclamation did not reach the frontier, in particular the State of Texas and the other southwestern states, until Union troops, commanded by Major General Gordon Granger, arrived in Galveston, Texas, on June 19, 1865, more than two years after President Lincoln issued his Emancipation Proclamation, announcing the end of the Civil War and issuing General Order No.3, which proclaimed all enslaved people to be free, including absolute equality in personal rights; and

WHEREAS, Slavery, as an institution, was officially abolished in all States with the ratification of the 13th Amendment to the United States Constitution on December 6, 1865; and

WHEREAS, on June 19, 2019, Pennsylvania Governor Tom Wolf signed into law HB 619 also recognizing June 19th as "Juneteenth Independence Day" in Pennsylvania in honor of the memory, resilience, courage, and determination of enslaved persons and of all Americans, living and dead, who embody Dr. King's quote: "None are free until all are free," and further recognizing that the abolition of slavery is part of the history and heritage of the Commonwealth, and encouraging the continued celebration and observance of "Juneteenth Independence Day" with appropriate ceremonies, activities and program; and

WHEREAS, on June 17, 2021, President Joe Biden signed the Juneteenth National Independence Day Act, making June 19 a legal public holiday. Juneteenth is the day that commemorates the emancipation of enslaved African Americans in the United States; and

WHEREAS, Township Council would like to specifically acknowledge the contributions of Mr. Richard Blye in bringing the knowledge of this holiday to the Township before the passage of both the Commonwealth and Federal laws; and

NOW, THEREFORE, be it, and it is hereby RESOLVED by Upper Darby Township Council proclaims its support for celebrating "Juneteenth Independence Day" on June 19, 2022, with its Federal observance on June 20, 2022, recognizing the historical significance of Juneteenth Independence Day and supporting the continued celebration of Juneteenth Independence Day to provide an opportunity for all people to learn more about the past and to understand better the experiences that have shaped our Nation, the Commonwealth, and our Township as well as the continuing journey and struggle for freedom and equality in the United States

ADOPTED and RESOLVED this 15th day of June, 2022

BY: 
BRIAN K. BURKE
PRESIDENT OF COUNCIL

ATTEST: 
MICHELLE BILLUPS
SECRETARY OF COUNCIL

Resolution No. 25-22 is hereby approved this 15th day of June, 2022

BY: 
BARBARANN KEFFER
MAYOR

ATTEST: 
VINCENT A. RONGIONE, ESQ.
CHIEF ADMINISTRATION OFFICER

**UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 3116

AN ORDINANCE AMENDING CHAPTER 550 ENTITLED "ZONING," ARTICLE X, GENERAL REGULATIONS, SECTION 550-39, "FENCES" OF THE UPPER DARBY TOWNSHIP CODE PROVIDING FOR A MAXIMUM HEIGHT, PLACEMENT, MATERIALS, MAINTENANCE, VARIANCES, AND FEES FOR FENCES; REPEALING ALL INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Home Rule Charter of Upper Darby Township ("Township") authorizes the Upper Darby Township Council ("Council") to make and adopt ordinances consistent with the Constitution and laws of this Commonwealth and with the Charter and to prescribe fines and penalties for the violation thereof;

WHEREAS, the Pennsylvania Municipalities Planning Code, 53 P.S. §10101, *et. seq.*, provides that municipalities are permitted to address the intensity of uses within a zoning district and provide for the promotion, protection and facilitation of public health, safety, morals, and the general welfare, and coordinate practical community development; and

WHEREAS, the Zoning Officer is responsible for zoning enforcement, to regulate the materials, location, height and maintenance of fences in order to prevent the creation of nuisances and preserve the visual character of the Township's neighborhoods and where necessary ensure that the operators of and/or participants in these activities obtain certain licenses and permits or be charged certain fees from Upper Darby Township.

NOW, THEREFORE, the Upper Darby Township Council hereby ordains and enacts as follows:

SECTION I. Section 550-39(A), Intent is amended as follows:

It is the intent of this section, pursuant to the provisions of the Upper Darby Township home Rule Charter, Administrative Code and various Ordinances, the Zoning Officer is responsible for zoning enforcement, to regulate the materials, location, height and maintenance of fences in order to prevent the creation of nuisances and preserve the visual character of Upper Darby's residential neighborhoods and where necessary that the operators of and/or participants in these activities obtain certain licenses and permits or be charged certain fees from Upper Darby Township.

SECTION II. Section 550-39(B), Placement of fences is amended as follows:

(1) Fences shall not be constructed, erected and/or maintained in the front yard of any lot, tract or parcel of land located in an R-C, R-C-1, R-1 or R-2 Residence District. However, if within an R-C, R-C-1, R-1 or R-2 Residence District the lot is a corner lot which abuts on more than one street, a fence, with a maximum height of 6', may be erected in any front yard which does not abut the street which is designated by the United States Postal Service as the address of the lot. The postal

address shall not be changed to circumvent this requirement. Only one side of a corner lot may be considered as the front yard. Such fence shall not extend beyond the front building wall of the structure facing the street of address.

(3) Fences shall not extend into the street right-of-way and shall be located at least 1.0' from the right-of-way line.

(5) Swimming pools, both public and private, shall be surrounded by a fence as regulated by the currently adopted version of the International Property Maintenance Code.

(6) Fences are prohibited from dividing a shared driveway.

(7) In the R-3 District, rear yard fences must be no closer than 3' from a shared driveway.

SECTION III. Section 550-39(C), Fence height is amended as follows:

(3) Front yard fences are prohibited from being located directly above retaining walls and must be setback no less than 6 inches.

(4) Retaining walls under 4' in height will require a fence permit and not a building permit. Retaining walls over 4' in height will require a building permit.

SECTION IV. Section 550-39(D)(3) is hereby stricken in its entirety.

~~“Owners who remove existing nonconforming fences which contain barbed wire, metal spikes, razor ribbon, or other dangerous materials may replace the fencing with a conforming fence that is up to two feet higher than the maximum height permitted in the zoning district in which it is located.”~~

SECTION V. Section 550-39(D), Fence materials is amended as follows:

(3) Nonresidential fences, landscape walls and decorative posts may be constructed of wood, stone, brick, concrete, wrought iron, chain-link and wire mesh.

(4) Residential fences, landscape walls and decorative posts may be constructed of wood, stone, brick, vinyl and wrought iron unless otherwise noted in this Chapter.

(5) Any fence erected which is made of a metal fabric or which is partially made of any metal fabric shall be galvanized or otherwise treated to prevent the formation of rust, and the metal used in the fabric shall be at least eleven gauge or heavier, unless it is subject to the provisions of section 09 regarding the gauge of metal fences around pools.

(6) Chain link fences are only allowed in rear and side yards with the exception of R3 and R4 zones.



(7) Front yard hedges must be maintained and should be set back no less than 1 foot from the pedestrian right-of-way. Corner lots are considered to have two front yards and therefore each Front yard hedge must be setback no less than 1 foot from the pedestrian right-of-way.

(8) Electrified Fencing is hereby prohibited.

(9) The finished side of the fence, or side without posts should be facing away from the dwelling or building.

SECTION VI. Section 550-39(E), Temporary fences is amended as follows

(1) Temporary fencing, including the use of wood or plastic snow fences for the purposes of limiting snow drifting between November 1 and April 1, protection of excavation and construction sites, and the protection of plants during grading and construction and during special events, is permitted for up to 60 consecutive days.

SECTION VII. Section 550-39(F), Nonconforming fences is amended as follows

(1) Nonconforming fences may be repaired or replaced as long as the degree of nonconformity is not increased.

SECTION VIII. Section 550-39(G), Maintenance is added

- (1) All fences shall be maintained in a sturdy and good condition. Fences which become loose, rusted or rotted, whether in whole or in part, shall be repaired, replaced or removed.
- (2) Good condition includes removal of deteriorating or rusting pieces, painting, removal of dangerous protrusions, and any other conditions deemed dangerous to the Zoning Officer.

SECTION IX. Section 550-39(I), Variances is added

- (1) Any property owner or tenant desiring to erect a fence or maintain a fence which does not conform to the provisions of this chapter may apply for a variance from the Zoning Hearing Board of the Borough.
- (2) All requests for a variance shall be according to the procedures and governing provisions of the Zoning Code and PA MPC.

SECTION X. Section 550-39(J), Fees is added

- (1) Intent. It is recognized that a certain increased expenditure of time and money by the Township is necessitated in carrying out the above duties and the Township desires to recover such costs by changing license and permit fees to applicants to recover administrative expenses only.
- (2) A Fence Permit is required for the erection and construction of any new fence as well as the replacement of an existing fence.

(3) Application fee is determined at twenty dollars (\$20.00) plus an additional (\$20.00) per each thousand dollars (\$1,000) cost of the work or fraction thereof.

SECTION XI. Section 550-39(K), Violations is added

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) for each offense. A separate offense shall be deemed committed each day that the violation continues.

SECTION XII. REPEALER. All Ordinances or parts of Ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent said inconsistencies or conflicts cannot be reconciled, are hereby repealed. Further, it is understood and intended that all other sections, parts, provisions, and ordinances that are not otherwise specifically in conflict or inconsistent with this Ordinance, shall remain in full force and effect, the same being reaffirmed hereby.

SECTION XIII. REVISIONS. The Township of Upper Darby does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

SECTION XIV. SEVERABILITY. In the event that any section, sentence, clause, phrase 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 enforcement of any of the remaining portions of this Ordinance.

SECTION XV. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its legal enactment.

SECTION XVI. FAILURE TO ENFORCE NOT A WAIVER. The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

ENACTED and ORDAINED this 15th day of June, 2022.

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

BY: 
BRIAN K. BURKE
President of Council

APPROVED this 15th day of June, 2022

BY: 
BARBARANN KEFFER
Mayor

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

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UPPER DARBY TOWNSHIP BOROUGH COUNCIL

- - -

re: Ordinance No. 3116

- - -

Wednesday, June 15, 2022
Commencing at 8:45 p.m.

- - -

Upper Darby Municipal Building
100 Garrett Road
Council Room
Upper Darby, Pennsylvania

- - -

Public Hearing recorded stenographically
and transcribed by Maria Lairdieson O'Neill,
Registered Professional Reporter and Notary
Public.

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COUNCIL MEMBERS:

- BRIAN K. BURKE, PRESIDENT
- LAURA A. WENTZ, VICE PRESIDENT
- MATT SILVA, COUNCIL-AT-LARGE
- MICHELLE BILLUPS, SECRETARY
- MEAGHAN R. WAGNER, 1ST DISTRICT
- LISA P. FARAGLIA, 2ND DISTRICT
- BRIAN ANDRUSZKO, 3RD DISTRICT
- DANYELLE BLACKWELL, 4TH DISTRICT
- ANDREW HAYMAN, 5TH DISTRICT
- SHEIKH SIDDIQUE, 6TH DISTRICT
- HAFIZ TUNIS, JR., 7TH DISTRICT

MARIA L. O'NEILL, INC.
610.357.2825
rio22rpr@comcast.net

1 COUNSEL APPEARED AS FOLLOWS:

2 Sean P. Kilkenny, Esquire

3

4 ALSO PRESENT:

5 Mayor Barbarann Keffer

6 Alexis Cicchitti,
7 Chief Municipal Clerk

8 Joshua Chast,
9 Assistant Director of Licenses & Inspections

10 PUBLIC COMMENT:

11 Joanne Nammavong

12 Becky Duggan

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I N D E X

TOWNSHIP'S EXHIBITS

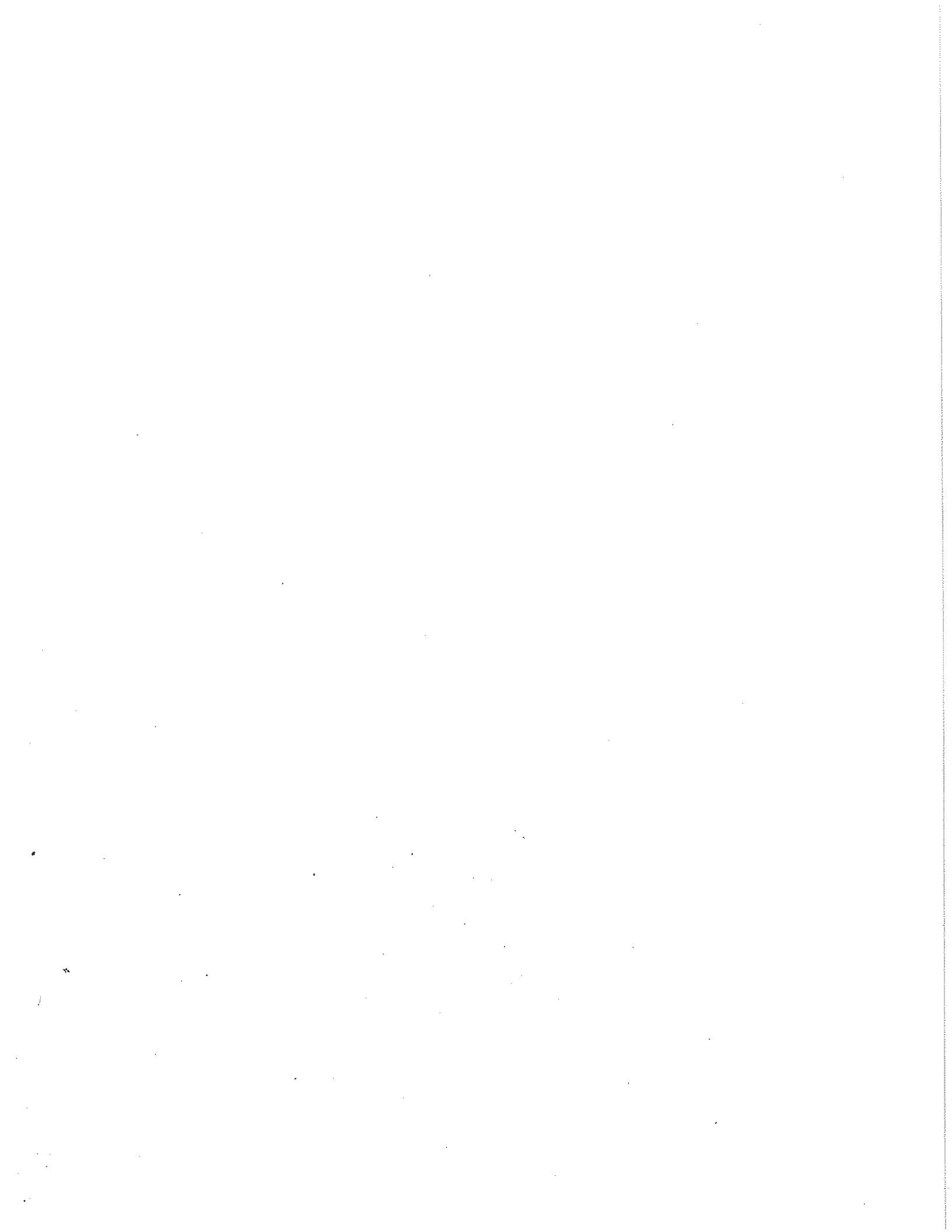
NO.	DESCRIPTION	PAGE
T-1	Advertisement	10
T-2	Recommendations, Delaware County Planning Department and Upper Darby Township Planning Commission	10

- - -

PUBLIC COMMENT

WITNESS	PAGE
JOANNE NAMMAVONG	10
BECKY DUGGAN	12

- - -



P R O C E E D I N G S

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MR. BURKE: We will take Ordinance 3116.

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Solicitor Kilkenny, can I get a reading.

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And this will be --

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MR. KILKENNY: Yes. So there will be a

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reading and then an opportunity for public hearing

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on this ordinance.

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I believe that Mr. Chast, Josh, is

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available as well, if there are additional

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questions.

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MR. BURKE: That's correct.

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MR. KILKENNY: Okay. Now, therefore,

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Upper Darby Township Council ordains and enacts as

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follows.

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It is the intent of this administration,

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pursuant to the provisions of Upper Darby Township

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Home Rule Charter, Administrative Code, and

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various Ordinances, the Zoning Officer is now

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responsible for zoning enforcement, to regulate

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the materials, location, height, and maintenance

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of fences in order to prevent the creation of

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nuisances and preserve the visual character of

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Upper Darby residential neighborhoods; and, where

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necessary, that the operators and/or participants

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in these activities obtain certain licenses and

1 permits or be charged certain fees from Upper
2 Darby Township.

3 Section II, Section 550-39(B), placement
4 of fences is amended as follows.

5 (1), fences shall not be constructed,
6 erected, and/or maintained in the front yard of
7 any lot, tract, or parcel of land located in an
8 RC, R-C-1, R-1, or R-2 Residence District.

9 However, if within an RC, R-C-1, R-1, or
10 R-2 Residence District a lot is a corner lot which
11 abuts on more than one street, a fence with a
12 maximum height of 6 feet may be erected in any
13 front yard which does not abut the street which is
14 designated by the United States Postal Service as
15 the address of the lot.

16 The postal address shall not be changed
17 to circumvent this requirement.

18 Only one side of a corner lot may be
19 considered as the front yard.

20 Such fence shall not extend beyond the
21 front building wall of the structure facing the
22 street of address.

23 (3), fencing shall not extend into the
24 street right-of-way; and shall be located at least
25 1 foot from the right-of-way line.

1 (5), swimming pools, both public and
2 private, shall be surrounded by a fence as
3 regulated by the currently adopted version of the
4 International Property Maintenance Code.

5 (6), fences are prohibited from dividing
6 a shared driveway.

7 (7), in the R-3 District rear yard
8 fences must be no closer than 3 feet from a shared
9 driveway.

10 Section III, Section 550-39(C), fence
11 height is amended as follows.

12 One, front yard fences are prohibited
13 from being located directly above retaining walls
14 and must be set back no less than 6 inches.

15 (4), retaining walls under 4 feet in
16 height shall require a fence permit and shall --
17 and not a building permit. Retaining walls over 4
18 feet in height shall require a building permit.

19 Section IV, Section 550-39(D)3 is hereby
20 stricken.

21 Section V, Section 550-39(D) fence
22 materials is amended as follows.

23 Nonresidential fences, landscape walls,
24 and decorative posts may be constructed of wood,
25 stone, brick, concrete, wrought iron, chain link

1 and wire mesh.

2 (4), residential fences, landscape
3 walls, and decorative posts may be constructed of
4 wood, stone, brick, vinyl, and wrought iron,
5 unless otherwise noted in this Chapter.

6 (5), any fence erected which is made of
7 a metal fabric or which is partially made of any
8 metal fabric shall be galvanized or otherwise
9 treated to prevent the formation of rust. And the
10 metal used in the fabric shall be at least 11
11 gauge or heavier, unless it is subject to the
12 provisions of Section 9 regarding the gauge of
13 metal fences and pools.

14 (6), chain link fences are only allowed
15 in the rear yards and side yards, with the
16 exception of R-3 and R-4 zones.

17 (7), front yard hedges may be maintained
18 and should be set back no less than 1 foot from
19 the pedestrian right-of-way. Corner lots are
20 considered to have two front yards; and,
21 therefore, each front yard hedge must be set back
22 no less than 1 foot from the pedestrian
23 right-of-way.

24 (8), electrified fencing is prohibited.

25 (9), the finished side of the fence or

1 side without posts should be facing way from
2 dwelling or building.

3 Section VI, Section 550-39(E), temporary
4 fences is amended as follows.

5 Temporary fencing, including the use of
6 wood or plastic snow fences for the purpose of
7 eliminating snow drifting between November 1st and
8 April 1st, protection of excavation and
9 construction sites, and the protection of plants
10 during grading and construction and during special
11 events is permitted for up to 60 consecutive days.

12 Section VII, Section 550-39(F),
13 nonconforming fences is amended as follows.

14 Nonconforming fences may be repaired or
15 replaced as long as the degree of nonconformity
16 does not increase.

17 Section VII, Section 550-39(G),
18 maintenance is added.

19 All fences shall be maintained in a
20 sturdy and good condition. Fences which become
21 loose, rotted -- rusted or rotted, whether in
22 whole or in part, shall be repaired, replaced, or
23 removed.

24 Good condition includes the removal of
25 deteriorating or rusting pieces, painting, removal

1 of dangerous protrusions, and other conditions
2 deemed dangerous by the Zoning Officer.

3 Section IX, Section 550-39(I), variances
4 is added.

5 Any property owner or tenant desiring to
6 erect a fence or maintain a fence which does not
7 conform with the provisions of this Chapter may
8 apply for a variance from the Zoning Hearing Board
9 of the Township.

10 (2), all requests for a variance shall
11 be according to the procedures and governing
12 provisions of the Zoning Code.

13 Section X, Section 550-39(J), fees is
14 added.

15 Intent, it is recognized that a certain
16 increased expenditure of time and money by the
17 Township is necessitated -- necessitated, I'm
18 sorry, in carrying out the above duties. And the
19 Township desires to recover such costs by changing
20 license and permit fees to applicants to recover
21 administrative expenses only.

22 (2), a Fence Permit is required for the
23 erection and construction of any new fence as well
24 as replacement of an existing fence.

25 There is a violation clause, a repealer

1 clause, a severability clause, an effective date.

2 Also too, I wanted to enter a couple
3 things into the record.

4 I will have marked as T-1 a copy of the
5 advertisement of this in our newspaper of general
6 circulation.

7 T-2, copies of the recommendation by
8 both the Delaware County Planning Department and
9 our own Planning Commission, and related to this
10 for this ordinance this evening, just so that is
11 in the record and it has been duly advertised.

12 Now I would like to turn it over to
13 President Burke to see if there are any comments
14 or questions.

15 MR. BURKE: Thank you, Solicitor.

16 We're going to go with anybody from the
17 public would like to speak about this ordinance,
18 please come up front.

19 MS. WENTZ: So you're opening the public
20 hearing officially?

21 MR. BURKE: Yes, I'm opening the public
22 hearing officially.

23 MS. WENTZ: Thank you.

24 JOANNE NAMMAVONG: Hello. Joanne
25 Nammavong, 133 North Pennock Avenue.

1 You just read four pages of an
2 ordinance. And I wanted to know which part of
3 what you read is a change from what we've already
4 had. Because I know we had ordinances about
5 fences before. So what's different?

6 MR. KILKENNY: I think Josh may be the
7 best -- in the best circumstance actually to
8 thoroughly explain this.

9 Josh, are you there?

10 MR. CHAST: Yes, I'm here.

11 MR. KILKENNY: Thank you.

12 MR. CHAST: There's -- there's a few
13 sections that were changed. I guess I'll start
14 with what was taken away.

15 Section 550-39(D)3, which is the
16 removing of nonconforming fences, anything that
17 has barbed wires, metal spikes, razor ribbons,
18 would allow someone to replace that fence that's
19 2 feet higher. So that was one of the things that
20 the Planning Commission identified as something
21 that we -- or something that they did not wish to
22 continue. So they had that removed.

23 Some of the other important things that
24 were added were the fence not extending into the
25 street right-of-way, being located at least 1 foot

1 from that line; the amendment about swimming
2 pools; and compliance with the International
3 Property Maintenance Code, found on Page 2; the
4 provision about fences not splitting a shared
5 driveway; and in the R-3, rear yard fences being
6 no closer than 3 feet from the shared driveway.

7 Also, there was language in there
8 regarding an amendment talking about fence and
9 wall height, because that was an issue we were
10 having in L & I before, is any wall under 4 feet
11 doesn't need a building permit. This way at least
12 we will get to view it as a fence permit.

13 And I'd say the biggest change of this
14 ordinance is the fact that we're instituting a
15 fence permit, instead of right now there is none.

16 JOANNE NAMMAVONG: Thank you.

17 MR. CHAST: Sorry. That was a brief
18 summary, but I hope that answers your question.

19 JOANNE NAMMAVONG: Thank you. Thank you
20 very much.

21 MR. BURKE: Anybody else that has any
22 questions, please come up.

23 BECKY DUGGAN: I have a question. I'm
24 going to shock everybody. I don't know if I'm an
25 R-3 or R-what residence. But it says here that

1 the R-3 District rear yard fences must be no
2 closer than 3 feet from a shared driveway.

3 My back yard abuts the back drive of the
4 street behind me. It's not my driveway. It's
5 their driveway. So my -- my fence is closer than
6 3 feet. Will that be a problem?

7 MR. BURKE: Grandfathered?

8 MR. CHAST: So any existing fences would
9 be considered existing nonconformities.

10 The -- I believe the intent of that was
11 mostly to stop fences from leaning into those
12 alleys that everyone uses, that our trash trucks
13 try to get through, things of that nature.

14 But any existing fences would be
15 considered existing as of this date.

16 BECKY DUGGAN: So if I need to repair my
17 fence, will I be allowed to repair it?

18 MR. CHAST: That's correct. You just
19 couldn't extend it further.

20 BECKY DUGGAN: I don't want to extend
21 further. And I'd be in someone else's driveway.

22 MR. KILKENNY: You can't increase the
23 nonconformity.

24 MR. CHAST: Right.

25 BECKY DUGGAN: Okay.

1 MR. BURKE: Anybody else from the
2 public?

3 All right. Seeing that we have nobody
4 else from the comment, I will close the public
5 comment.

6 And then we'll go to Council. Okay?
7 Councilwoman Wentz.

8 MS. WENTZ: So, Josh, just to kind of go
9 on what you just said about the -- what's already
10 existing for the fences, does that apply for any
11 bushes and so forth that are -- so my bushes, I
12 trim them back to get them off of the sidewalk, to
13 discover that they were planted right on the edge
14 of the sidewalk. So in order to comply to this
15 ordinance, I would have to completely remove them.

16 So because they're already planted, it's
17 grandfathered in, as long as I keep it trimmed
18 back?

19 MR. CHAST: Yes, to an extent; to an
20 extent that it complies with our other street
21 ordinances that say you can't block the
22 right-of-way.

23 MS. WENTZ: Okay. And then for any new
24 plantings of bushes along the front of someone's
25 yard, they have to plant it at least a foot back

1 from the sidewalk?

2 MR. CHAST: That's correct.

3 MS. WENTZ: Okay. Thank you.

4 MR. BURKE: Anybody else from Council?

5 MR. SILVA: I have one question about
6 the rule against electrified fences.

7 I know some pet owners use, I guess, a
8 device for -- yeah. It's like the invisible fence
9 or something. Does that qualify as an electric
10 fence?

11 MR. CHAST: I would say unless it, you
12 know, could hurt somebody, no. I wouldn't
13 consider it that.

14 But I could see where that could be, you
15 know, a point of contention or misleading.

16 MR. SILVA: Okay. So for the sake of
17 this, it's probably a no. You're talking about
18 like electrified chain link fence or something
19 like that.

20 MR. CHAST: Yes. That, I believe, is
21 the intent; or something you would use -- you
22 know, sometimes used to keep cows in. But not
23 the --

24 MR. SILVA: Yeah.

25 MR. CHAST: Not the kind with the dog

1 shock collar or something like that.

2 MR. SILVA: Okay. All right. Thank
3 you.

4 MR. BURKE: Thank you, Josh.
5 Thank you, Councilman Silva.
6 Councilman Hayman.

7 MR. HAYMAN: Can I make a motion to
8 approve Ordinance 3116.

9 MR. BURKE: We have a first. A second.
10 Okay. All in favor to --

11 MS. WENTZ: Ordinances need to --

12 MR. BURKE: Okay. So we're asking for a
13 roll call. Secretary Billups, can I get a roll
14 call on Ordinance 3116.

15 MS. BILLUPS: All right. Thank you.
16 So this is a roll call on Ordinance
17 3116.

18 Councilman Hayman.

19 MR. HAYMAN: Yes.

20 MS. BILLUPS: Councilwoman Blackwell.

21 MS. BLACKWELL: Yes.

22 MS. BILLUPS: Councilman Andruszko.

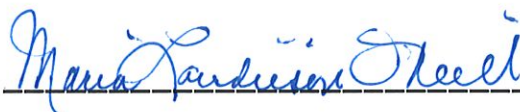
23 MR. ANDRUSZKO: Yes.

24 MS. BILLUPS: Councilman Siddique.

25 MR. SIDDIQUE: Yes.

1 MS. BILLUPS: Councilwoman Faraglia.
2 MS. FARAGLIA: Yes.
3 MS. BILLUPS: Councilman Silva.
4 MR. SILVA: Yes.
5 MS. BILLUPS: Council President Burke.
6 MR. BURKE: Yes.
7 MS. BILLUPS: Councilwoman Billups is a
8 yes.
9 Councilwoman Wagner.
10 MS. WAGNER: Yes.
11 MS. BILLUPS: Councilman Tunis.
12 MR. TUNIS: You said Tunis?
13 MS. BILLUPS: Yes.
14 MR. TUNIS: Yes.
15 I couldn't hear you. I'm sorry.
16 MS. BILLUPS: Council Vice President
17 Wentz.
18 MS. WENTZ: Yes.
19 MS. BILLUPS: 11 zero.
20 MR. BURKE: 11 zero.
21 Thank you, Josh.
22 MR. CHAST: Thank you, Council.
23 Thank you, President Burke.
24 (The hearing concluded at 8:50 p.m.)
25 - - -

1 I HEREBY CERTIFY that the
2 proceedings and evidence are contained fully and
3 accurately in the stenographic notes taken by me
4 upon the foregoing matter on Wednesday,
5 June 15, 2022, and that this is a correct
6 transcript of same.

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10 

11 Maria Lairdieson O'Neill

12 Registered Professional Reporter

13 Notary Public

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19 the same by any means, unless under the direct
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