



TOWNSHIP OF UPPER UWCHLAN  
BOARD OF SUPERVISORS  
REGULAR MEETING,  
PUBLIC HEARING – Vantage Point Retirement Living

December 17, 2018

7:00 p.m.

**Approved**

**In Attendance:**

**Board of Supervisors**

Jamie W. Goncharoff, Chair

Sandra M. D'Amico, Vice-Chair (7:30)

Guy A. Donatelli, Member

Kristin Camp, Esq., Township Solicitor  
Maria O'Neill, Court Reporter

**Township Administration**

Cary B. Vargo, Township Manager

Shanna Lodge, Assistant Township Manager

Gwen A. Jonik, Township Secretary

John DeMarco, Police Chief

Mike Heckman, Director of Public Works

Dave Leh, P.E., Township Engineer

Chris Williams, P.E., Township Traffic Engineer

Mr. Goncharoff called the meeting to order at 7:02 p.m., led the Pledge of Allegiance, offered a moment of silence, and asked if anyone intended to audio or video record the Meeting. There were no responses. Mr. Goncharoff announced that Mrs. D'Amico would be in attendance later.

**Approval of Minutes**

Mr. Donatelli moved, seconded by Mr. Goncharoff, to approve as presented the minutes of the November 13, 2018 Board of Supervisors / Draft 2019 Budget Workshop and the November 19, 2018 Board of Supervisors Meeting. The Motion carried unanimously.

**Approval of Payments**

Mr. Donatelli moved, seconded by Mr. Goncharoff, to pay all vendors as listed December 13, 2018. There were no questions or comments. The Motion carried unanimously.

**Treasurer's Report**

Cary Vargo reported on Jill Bukata's behalf. The Township's financial condition remains strong with year-to-date revenues at 91.4% of budget and expenses at 85% of budget. The Township just marketed a General Obligation Bond - Series of 2019 offering of \$10,750,000. We received an excellent rating from Moody, 3.85%.

**Supervisor's Report**

Mr. Goncharoff announced an Executive Session was held this evening regarding personnel. He read the published calendar and yard waste collection dates: December 25, 2018 Office closed – Christmas Day; January 1, 2019 Office closed – New Year's Day; January 7, 2019 7:00 p.m. Board of Supervisors Annual Organization Meeting; January 8, 2019 4:00 p.m. Elected Auditors Annual Organization Meeting; January 22, 2019 (Tuesday) 7:00 p.m. Board of Supervisors Meeting; Christmas tree and yard waste collections December 19, 2018, January 2, 2019 and January 16, 2019.

**Administration Reports**

**Township Engineer's Report**

Dave Leh reported a building addition / land development plan for Profound Technologies @ 125 Little Conestoga Road is being reviewed by the consultants; Windsor Baptist Church is proposing a new building for their Academy; and Gilmore & Associates has completed the land development

plan for the township building expansion. The Planning Commission and Board of Supervisors will see the Plan in January.

#### Building and Codes Department Report

Cary Vargo reported on Al Gaspari's behalf. The Department issued 45 building permits in November, totaling \$34,721 in fees; the Department has full schedules with permit reviews, inspections and implementation of Traisr, an asset management database.

#### Police Chief's Report

Chief DeMarco reported there were 1,211 calls last month, including 20 reported crimes, 7 arrests, and 127 traffic warnings issued. He reminded residents to be mindful of package deliveries sitting on porches/steps this time of year – look out for and help out your neighbors – afterward, break down the cardboard boxes so it's not easy for those passing by to see what you have. On December 4, the Department took part in a pipeline emergency drill, a practical exercise held at Spectra Energy. They simulated a fracture in the pipeline with fire. This tested the Township's Emergency Management Plan and it went well.

#### Public Works Department Report

Mike Heckman reported that over the last month the Department completed routine maintenance, received and completed 157 work orders, replaced a storm water pipe on Eagle Farms Road, prepared for the annual tree lighting at Upland Farms Park, salt/plow activity November 15, cleaned storm pipes and inlets throughout the township, roadside tree trimming, and Dan Zmuida has earned a degree through the Municipal Police Academy. The Hickory Park playground installation is complete; the pavilion is not. The Public Works pole barn should be constructed in January.

#### ADMINISTRATION

2019 Budget. Cary Vargo announced the following 2019 Budget, Totaling \$14,431,026 and Tax Millage Rate: General Fund \$6,203,132; Capital Reserve Fund \$5,940,756; Solid Waste Fund \$956,278; Water Resource Protection Program \$610,880; Liquid Fuels Fund \$354,000 Act 209 Traffic Impact Fund -0-; Sewer Fund \$365,980. The Tax Millage Rate remains 1.034 mils, which includes .784 mils for general purposes and .25 mils for emergency services. The hydrant fee of .087 mils is separate and not township-wide. As discussed at the October and November Supervisors Workshops, the 2019 Budget includes no tax increase, no increase in the annual trash/recycling fee (\$315), 3% salary increases, no increase in health insurance costs, the renovation/expansion of the township building, replacing a police car and a motorcycle, improvements at the Upland Farms barn and house, fencing at Hickory Park, and Park Road Trail (Hickory Park to Marsh Creek State Park) and road reconstruction (Moore Road to Marsh Creek State Park). Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Resolution #12-17-18-14, establishing the 2019 Budget at \$14,431,026 and 2019 Tax Millage at 1.034 mils. The Motion carried unanimously.

Pension Plan Contribution Resolutions. Cary Vargo noted that the Township annually affirms the employee's contribution rates to the Pension Plans. All employees will continue to contribute 5% of salary into the Pension Plans. Both Plans are well-funded, at 95%. Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Resolutions stating the 2019 Pension Plan contribution rate of 5% for Non-Uniformed Employees (#12-17-18-15) and Uniformed Employees (#12-17-18-16). The Motion carried unanimously.

2019 Fee Schedule. Gwen Jonik noted minimal changes to the Fee Schedule for 2019. Several consultants' and solicitors' fees have increased, Hickory Park Type 2 users' fees were reduced, Hickory Park "Season" hours were reduced and Fellowship Fields has decreased lighting costs. Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt the 2019 Fee Schedule via Resolution #12-17-18-17. The Motion carried unanimously.

2019 Emergency Services Providers. Cary Vargo advised that the Township annually designates the emergency services providers and advises the County of such. There are no changes in coverage, companies, or territories. Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Resolution #12-17-18-18 which designates Lionville Fire Department, Ludwig's Corner Fire Department, East Brandywine Fire Department, Glen Moore Fire Department, Uwchlan Ambulance Corps, Minquas Ambulance, and the Township Police Department as emergency services providers, and Byron Nickerson is the designated Emergency Management Coordinator for Upper Uwchlan Township in 2019. The Motion carried unanimously.

Ordinance to Amend the Intermunicipal Agreement with West Vincent Township, Upper Uwchlan Township and Upper Uwchlan Township Municipal Authority. Kristin Camp advised that this First Amendment to the Intermunicipal Agreement revises the ownership and operation of sanitary sewer facilities located within West Vincent Township, serving the Byers Station / Ewing Tract homes in West Vincent Township from West Vincent Township to Upper Uwchlan Township. Intergovernmental Agreements require approval via ordinance. Chris Frantz – the Authority's solicitor, Kristin Camp and West Vincent Township's solicitor(s) reviewed the Amendment, recommended it be approved, and West Vincent Township has approved the Agreement. Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Upper Uwchlan Township Ordinance #2018-11, which amends the Intermunicipal Sewer Service Agreement between Upper Uwchlan Township, Upper Uwchlan Township Municipal Authority and West Vincent Township as mentioned above. The Motion carried unanimously.

Amend Operation & Management Agreement (O&M) between Upper Uwchlan Township and Upper Uwchlan Township's Municipal Authority. Kristin Camp advised that this First Amendment to the O&M Agreement reflects the changes in the Upper Uwchlan Township ownership and operation of the Byers Station / Ewing Tract wastewater disposal facilities within West Vincent Township. The Township owns physical property and the Municipal Authority operates the facilities. The Amendment includes provisions that if Upper Uwchlan Township ever decides to dissolve its Municipal Authority, the Public Utilities Commission would have oversight of the facilities within West Vincent Township. Township Staff, Chris Frantz, and Kristin Camp have reviewed the Amendment and recommend approval. Mr. Donatelli moved, seconded by Mr. Goncharoff, to approve the First Amendment to the Operation & Management Agreement between Upper Uwchlan Township and the Upper Uwchlan Township Municipal Authority. The Motion carried unanimously.

Accept Dedication of Sanitary Sewer Facilities in Ewing Tract–West Vincent Township. Kristin Camp advised that Deeds have been prepared and reviewed offering dedication to Upper Uwchlan Township of sanitary sewer easements, lines, and disposal facilities from Toll - Ewing Group - Lennar in West Vincent Township. These facilities serve the Byers Station / Ewing Tract homes in West Vincent Township, which were built in phases. Alyson Zarro, Esq., provided the Deeds / Easements for the facilities, the maintenance security agreements, and 18-month Maintenance Bonds (15% of the construction costs of the public improvements per the MPC), which assures that the infrastructure was constructed properly. ARRO, Chris Frantz, and Kristin Camp have reviewed the documents which were found to be complete and in order. Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Resolution #12-17-18-19 which accepts the Deeds of Dedication and sanitary sewer easements granted for the sanitary sewer pipelines, pumping stations, storage lagoons, spray areas, control buildings, accessories and appurtenances for the Ewing Tract within West Vincent Township, including Phases 1/2A, 2A and 2. The Motion carried unanimously.

[Mrs. D'Amico present.]

### Open Session

Chad Kator, Lila Lane resident, expressed concern with overnight noise from the FedEx facility exceeding the 60 dba level – truck back-up beepers, loading noises, etc. He asked that a wall/barrier be built. Al Gaspari replied that a sound study would be conducted and landscaping could be installed – a wall might not be an effective barrier.

Agnes Canlas, Lila Lane resident, complained that the noise is unbearable, to the point they can't sleep. Something needs to be done. They did their due diligence before buying the house but didn't expect FedEx operated overnight.

John Fink and another Heather Hill resident complained of the back-up beeping and slamming noises, which can be heard throughout the Heather Hill subdivision – it's not just at Park Road.

Chad Kator commented that if a sound barrier wouldn't resolve the problem, FedEx should be made to cease operations overnight. The residents don't feel the Township is responding to their complaints made via email, through the website, calls to the Police. It's taking too long to resolve.

The Supervisors thanked the residents for attending tonight's meeting and expressing their concerns, which is a new issue to most of them. Mr. Goncharoff advised that the Township does want to assist in the resolution and the FedEx approval documents would be researched, for stated hours of operation, activities, and such.

Kristin Camp, Township Solicitor, noted that the Township Code contains noise regulations, which is a standalone Chapter. She's aware that Mr. Gaspari has issued citations, which have to go through a process in District Court. A FedEx attorney has contacted her and they'll schedule a meeting to work through the problem and find a remedy.

Further discussion included the following points: 1. the builder of the Townes at Chester Springs (Toll) should include this in their Disclosure; 2. the builder hasn't said they'd use any different building materials; 3. the noise has been slightly quieter over the last few days – perhaps they're working on the other side of the building; 4. the residents asked the Township to research the FedEx approvals and help mitigate the problem as swiftly as possible.

### Adjournment

Mr. Goncharoff adjourned the business meeting at 8:10 p.m. and advised a short recess would be taken prior to commencing the Public Hearing.

### Public Hearing: Vantage Point Retirement Living, Inc.

Mr. Goncharoff called the assembly to order at 8:29 p.m. and asked Kristin Camp, Esq., to conduct the Public Hearing. Maria O'Neill, Court Reporter, recorded the testimony and her transcript is the official Record of the proceedings.

In summary, Ms. Camp introduced the Application seeking approval to develop a senior living facility on the northeast corner of Graphite Mine Road and Byers Road, known as Byers Station Parcel 6C. The proposed facility is a 3-story, 36,236 SF building to be used as a senior living facility with associated driveways, parking, sidewalks and stormwater management facilities. Ms. Camp entered into the Record the following Board Exhibits:

- B-1 Application to amend Tentative Plan Approval for Parcel 6C
- B-2 Proof of publication of the Hearing in the Daily Local News
- B-3 Affidavit of Posting of the Hearing on the Property
- B-4 Tentative Plan Approval dated July 1999
- B-5 Letters from Alyson Zarro, Esq., granting extensions to hold the Hearing

- B-6 Planning Commission Meeting Minutes – September 13, 2018
- B-7 Township Engineer review letter dated May 3, 2018
- B-8 Township Engineer review letter dated September 6, 2018
- B-9 Township Engineer review letter dated December 14, 2018
- B-10 ARRO Consulting review letter dated December 14, 2018
- B-11 Brandywine Conservancy review letter dated December 17, 2018

Ms. Camp asked if any attendee was interested in becoming a Party to the Proceedings. Parties can cross examine witnesses, provide their own testimony and evidence, and appeal the Decision made by the Board. Kathleen Schweizer, 2753 Linaria Drive, advised she was in attendance on behalf of the Byers Station Homeowners Association. Milt Mash, 2855 Tansey Lane, expressed interest but Applicant's Counsel objected as he doesn't live close enough to Parcel 6C. Vivian McCardell and Jordan Staub were in attendance representing the Township's Historical Commission.

The Applicant's Counsel, Alyson Zarro, distributed the Applicant's Exhibits packets A-1 through A-9, which included the Agreement of Sale for the property, the conceptual site plan, and architectural elevations of the building. Ms. Zarro introduced witnesses Greg Stevens (Vantage Point Retirement Living), Joe Russella (D.L. Howell), Guy DiMartino (TPD), and proceeded to question Mr. Stevens until approximately 10:00 p.m.

Discussion was held off the Record to determine a Hearing continuation date.

On the Record, Mr. Goncharoff advised the Hearing is continued to Tuesday, February 12, 2019, 6:00 p.m. The next Hearing will include testimony by Mr. Russella and Mr. DiMartino.

Adjournment

Mr. Goncharoff adjourned the Hearing at 10:20 p.m.

Respectfully submitted,

Gwen A. Jonik  
Township Secretary