

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD FEBRUARY 19, 2013**

CALL TO ORDER

At 7:03 p.m. Mayor Bruno called the meeting to order and stated that adequate notice of this meeting has been provided by posting the same on the bulletin board of Town Hall and forwarding a copy to the Courier News and Star Ledger at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act. This meeting will not go substantially past 10:30 p.m.

ROLL CALL

Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mr. Hall and Mayor Bruno answered present. Mrs. Kingsley was absent. Also present was Township Attorney Joseph Sordillo and Acting Township Clerk Ana Minkoff.

EXECUTIVE SESSION – Attorney/Client Privilege - Passaic River Litigation

Moved by Mr. Hall to go into Executive Session, seconded by Mr. Woodruff and upon roll call vote:
(7:05 p.m.)

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Moved by Mr. Hall to go out of Executive Session, seconded by Mr. Woodruff and upon roll call vote:
(7:22 p.m.)

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

FLAG SALUTE

Mayor Bruno asked everyone present to stand as he led the Flag Salute.

CONFERENCE SESSION

Chamber of Commerce/Berkeley Heights Street Fair

Joe & Pam Steiner and Cece Gianella from the Suburban Chamber of Commerce gave an overview of a Street Fair for Berkeley Heights.

Mr. Steiner spoke about having the Street Fair on June 30th on Springfield Avenue and talked about what this would involve.

**Township Council Minutes
Public Meeting – February 19, 2013**

Cece Gianella is from JC Promotions and said they have done 5-6 of these types of events in the area. They will ask the local merchants first to see if they want to get involved. She said she will coordinate the event from start to finish.

The Mayor and Township Council asked questions regarding the Street Fair.

Cell Phone Policy – Anthony Padovano

Fire Chief Padovano spoke about the cell phone policy as it relates to the needs of the Fire Department. He asked that (six) phones be added to the policy for the Fire Department.

There was no objection from the Township Council for these phones.

Personnel Manual – Discussion

Mayor Bruno said there is a draft of the proposed Personnel Manual and feels that a few chapters can be reviewed at a time at the meetings for any amendments before it is adopted. He asked if there is any discussion on the chapters for tonight.

There was discussion among the Mayor and Township Council on employee evaluations and suggestions were made for amendments.

Holdback pay – Discussion

Michel Marceau spoke about his findings on the policy for holdback pay that was enacted in 1992. He said when the person leaves or retires they receive the current rate of pay not the pay that they were hired at.

There was discussion among the Mayor and Township Council on amending the holdback pay. There was discussion on this being a violation of the law. This will be researched by the Township Attorney and amended as it should be.

Sewer Superintendant Salary – Discussion

There was discussion on the Sewer Superintendant Salary. Mayor Bruno asked that this salary as listed on the books be increased to \$91,000.00 to be able to fill the position with a person with a S4 license.

Mr. Pirone, Mr. Woodruff, Mr. Delia and Mr. Hall support the change.

The salary ordinance will be amended to reflect this change.

APPROVAL OF MINUTES

Moved by Mr. Pirone to approve the following minutes, seconded by Mr. Pastore and upon roll call vote:

**Work Meeting – July 10, 2012
Public Meeting – August 21, 2012
Work Meeting – September 11, 2012**

**Township Council Minutes
Public Meeting – February 19, 2013**

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

TOWNSHIP COUNCIL REPORTS

Mr. Delia said a few months ago we had talked about doing an inventory list from every department on everything that the Township owns. He asked if this has been done yet. Mr. Delia feels this is necessary.

There was a lengthy discussion among the Mayor and Township Council regarding departmental inventory lists.

Mr. Pastore had nothing to report.

Mr. Pirone had nothing to report.

Mr. Woodruff had nothing to report.

Mr. Hall had nothing to report.

Mayor Bruno reported he attended the Valentine's Day party at the senior citizens meeting. It was well attended and they honored seniors that are 90 and over. Mayor Bruno also attended a pizza party at Lyons Hospital with the veterans. Mayor Bruno also reported he attended a legislative day in Trenton with the Governor as guest speaker and he spoke about shared services. Mayor Bruno went on to talk about all of the shared services used in Berkeley Heights.

Moved by Mr. Pirone to accept and approve the Township Council Reports, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

HEARING ON AGENDA ITEMS ONLY

Moved by Mr. Pastore to open the Hearing on the Agenda Items Only, seconded by Mr. Hall and upon roll call vote:

Ayes: Mr. Delia, Mr. Pirone, Mr. Woodruff, Mr. Pastore and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Township Council Minutes
Public Meeting – February 19, 2013

Tom Foregger of 14 Dorsett Road referred to resolutions #4 & 5 and the terms of the contract and asked if any money has been expended on these contracts.

Mayor Bruno said to his knowledge no money has been expended on these contracts.

Joseph Sordillo, Township Attorney said he related these contracts back to January 1st to keep them simple and clear for the ease of the town and also if we need to extend them at the beginning of the new year.

Mr. Foregger continued to ask questions regarding the land swap. He also asked who came up with the land swap idea.

Mr. Hall said this was a proposal from Little Flower Church.

Carol Matula of 5 Hastings Road had questions regarding resolution #8. This seems very sudden. Can we get any insight as to the reason for the removal of the Administrator.

Mayor Bruno responded the resolution reads she is being removed from office without cause.

Mr. Woodruff said the policy of the Council, at this point in time since it is a personnel matter, is to not speak about it unless or until our Counsel advises that it is appropriate to do so.

Mrs. Matula continued to ask questions regarding resolution #8.

Mayor Bruno responded to Mrs. Matula's questions.

Stephen Yellin of Dogwood Lane had additional questions on resolution #8. The resolution says that not only three months by law has to be given also it refers to unpaid balance (couldn't understand the rest of his question). He said is that a legal term or an actual amount.

Mayor Bruno responded it is for accrued vacation time, personal time and the two week hold back pay, plus the 90 days of severance.

Stephen Yellin just as a question, I guess I could look it up in the budget. What is the Administrator's salary as of this year?

Mayor Bruno responded \$121,000.00 and change, I believe.

Stephen Yellin said I don't know the reasons why she was removed, but I am saddened by this. He continued with his remarks regarding the removal of Mrs. Upchurch.

Mayor Bruno said the official reason is what is stated in the resolution.

Hearing no voices, moved by Mr. Pastore to close the Hearing on the Agenda Items Only, seconded by Mr. Woodruff and upon roll call vote:

**Township Council Minutes
Public Meeting – February 19, 2013**

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

**PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCES
INTRODUCED ON FEBRUARY 5, 2013:**

The Clerk presented and read:

(1)“AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, AUTHORIZING THE LEASE WITH OUR LADY OF MOUNT CARMEL SOCIETY FOR THE 2012-2013 TERM. (Explanation: This ordinance authorizes the lease agreement with Our Lady of Mount Carmel Society for the use of its Hall by the Senior Citizens Organization of Berkeley Heights for the 2012-2013 term.)

Moved by Mr. Hall to open the public hearing on the ordinance as read by the Township Clerk, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Hearing no voices, moved by Mr. Hall to close the public hearing on the ordinance as read by the Township Clerk, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Moved by Mr. Hall that the ordinance as read by the Township Clerk and hearing held is adopted on final passage and the Township Clerk is directed to advertise it in the Courier News, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

**NEW BUSINESS- RESOLUTIONS
OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:**

RESOLUTIONS

Mr. Delia introduced the following resolution:

1. Resolution approving Bill List dated February 19, 2013 in the amount of \$277,782.78.

**Township Council Minutes
Public Meeting – February 19, 2013**

Moved by Mr. Delia to approve resolution #1, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Mr. Pirone introduced the following resolution:

2. Resolution authorizing the Planning Board to undertake preliminary investigation to determine whether the Township's municipal complex is a redevelopment area.

Moved by Mr. Pirone to approve resolution #2, seconded by Mr. Pastore and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Mr. Pastore introduced the following resolution:

3. Resolution awarding contract to AC Schultes, Inc., 664 S. Evergreen Avenue for a (1) year contract for Pump Repair Services.

Moved by Mr. Pastore to approve resolution #3, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Mr. Woodruff introduced the following resolution:

4. Resolution authorizing the execution of a professional architectural services with James J. Ramentol, AIA, of GRA Architects, Inc.

Moved by Mr. Woodruff to approve resolution #4, seconded by Mr. Pastore and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Mr. Hall introduced the following resolution:

5. Resolution authorizing the execution of a professional planning service with Harbor Consultants in connection with the Township's potential redevelopment of the existing municipal complex.

Moved by Mr. Hall to approve resolution #5, seconded by Mr. Woodruff and upon roll call vote:

**Township Council Minutes
Public Meeting – February 19, 2013**

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Mr. Delia introduced the following resolution:

6. Resolution authorizing the professional services agreement with Patmat Environmental Consultants LLC for on-call licensed operator (S-4) services from March 1, 2013 to ~~August 31, 2013.~~ **December 31, 2013.**

Moved by Mr. Delia to approve resolution #6, seconded by Mr. Pastore and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

CONSENT AGENDA

All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Mr. Pastore introduced the following resolutions:

- (7)
 - a. Resolution removing Josh Speyer from the active Volunteer Fire Dept. roster.
 - b. Resolution appointing Joe Koczot to the Berkeley Heights Fire Department Junior Division.
 - c. Resolution appointing Lenny Franchino to the Berkeley Heights Fire Department active roster.
 - d. Resolution authorizing the Tax Collector to refund the following 2012 tax overpayments:
 1. Xinyang Shen & Haitao Huang 240 McMane Avenue \$1,930.93
 - e. Resolution authorizing a blue light permit for Narkiss Sternberg, Berkeley Heights Rescue Squad.
 - f. Resolution authorizing the release of cash bond in the amount of \$21,512.40 to Parisi Builders & Developers LLC.
 - g. Resolution authorizing the release of the cash bond in the amount of \$700.00 to Richmond Coring & Sawing, Corp.

Moved by Mr. Pastore to approve Consent Agenda resolutions #7a-g, seconded by Mr. Woodruff and upon roll call vote:

**Township Council Minutes
Public Meeting – February 19, 2013**

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

**ADDITIONS:
RESOLUTIONS**

Mr. Hall introduced the following resolution:

8. Resolution authorizing the removal of Amey Upchurch from the office of Township Administrator, effective immediately.

Moved by Mr. Hall to approve resolution #8, seconded by Mr. Woodruff and carried.

Mayor Bruno said six and a half years ago we had a similar resolution when he was a Councilman, he voted no for that resolution. It was a similar resolution without cause which cost the town \$27,000.00 to pay. Although he is not a Councilman any longer, he does not get to vote, he cannot agree with this resolution for the same reason. Additional cost in excess of \$30,000.00. Mayor Bruno said he does not agree, this is a decision of the Council, which he respects the Council's right to do. He just cannot support it.

Mr. Woodruff said in response to the Mayor Bruno while certainly fiscal issues are concerns at all times for Council and Mayor, he does believe at times there are other issues that supersede fiscal issues and to the integrity of the town they must be investigated and acted upon.

Upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Mr. Pastore introduced the following resolution:

9. Resolution appointing Linda Santillo as Registrar of Vital Statistics for a (3) year period commencing February 20, 2013 to February 20, 2016.

Moved by Mr. Pastore to approve resolution #9, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

ORDINANCES

INTRODUCTION OF ORDINANCE

Public Hearing and Final Adoption scheduled for March 5, 2013:

**Township Council Minutes
Public Meeting – February 19, 2013**

The Clerk presented and read:

(1) “AN ORDINANCE AMENDING THE MINIMUM AND MAXIMUM RATE OF SALARY AND COMPENSATION OF ELECTED AND APPOINTED TOWNSHIP OFFICIALS, AND NON-UNION EMPLOYEES IN THE VARIOUS MUNICIPAL DEPARTMENTS OF THE TOWNSHIP OF BERKELEY HEIGHTS” (Explanation: This Ordinance amends the Township’s current Salary Ordinance (Ordinance #1-09, as amended by Ordinance Nos. 10-2011, 4-2011, 6-2011, and 11-2012) to update the salary ranges for the various positions.)

Moved by Mr. Pastore that the ordinance as read by the Township Clerk is offered on first reading and the date of 3/5/13 is set as the date of public hearing and the Township Clerk is directed to advertise it in the Courier News, seconded by Mr. Hall and carried.

Joseph Sordillo, Township Attorney said this introduction of ordinance is with the amended as discussed during Conference Session increasing the salary of the Superintendent of Wastewater Management.

Upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

The Clerk presented and read:

(2) “AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF UNION, STATE OF NEW JERSEY, AMENDING, REVISING AND SUPPLEMENTING SECTION 2.72.070 ENTITLED “EMERGENCY MANAGEMENT COUNCIL” OF CHAPTER 2.72 ENTITLED “NONDEPARTMENTAL BOARDS AND COMMISSIONS GENERALLY” OF TITLE 2 ENTITLED “ADMINISTRATION AND PERSONNEL” TO CREATE AND ESTABLISH THE POSITION OF ASSISTANT EMERGENCY MANAGEMENT COORDINATOR”. (Explanation: This Ordinance amends and updates Chapter 2.72 of The Code of the Township of Berkeley Heights to establish the position of Assistant Emergency Management Coordinator.)

Moved by Mr. Pirone that the ordinance as read by the Township Clerk is offered on first reading and the date of 3/5/13 is set as the date for public hearing and the Township Clerk is directed to advertise it in the Courier News, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

**Township Council Minutes
Public Meeting – February 19, 2013**

CITIZENS HEARING

Moved by Mr. Pirone to open the Citizens Hearing, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Stephen Yellin of Dogwood Lane said he has to agree with the Mayor on the removal of Amey Upchurch as Township Administrator and he spoke in length about it. Mr. Yellin also spoke about the circumstances when Mr. Louman was removed as Administrator. He spoke about what happened at that particular meeting when he was removed. Mr. Yellin also spoke about the cost to the public with removing Mrs. Upchurch. He also feels the public have a right to know what happened and why this decision was made. Mr. Yellin continued with his remarks in length.

Mr. Woodruff pointed out the public official, Mrs. Upchurch chose to have this matter discussed in Executive Session, that was Ms. Upchurch's choice. She could have opted to do it publicly, which others have done and their choices were respected. In this instance, Ms. Upchurch's choice is respected. If she wished it in the public, it would have been in public.

Mr. Yellin said his question is if he recalls Mr. Louman in 2008 was not given an opportunity to have it addressed in public or private.

Mr. Woodruff responded he cannot speak about Mr. Louman and what occurred back in 2008. He can only speak to what happened in this instance and the procedures were followed and Ms. Upchurch has an opportunity to choose one or the other. She chose Executive Session, which is not an unusual choice and he feels it should be respected, that was her choice.

Chief Mathis spoke about a test call he received about a report of ACLU. He pointed out that this was just a test and his department was one of the few departments that handled this call properly.

Hearing no voices, moved by Mr. Pirone to close the Citizens Hearing, seconded by Mr. Woodruff and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Mayor Bruno read a letter that was received from Mrs. Upchurch and he said she asked that he reads this letter to the public.

**Township Council Minutes
Public Meeting – February 19, 2013**

ADJOURNMENT

Moved by Mr. Woodruff to adjourn, seconded by Mr. Pirone and upon roll call vote:
(8:23 p.m.)

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff and Mr. Hall
Nays: None
Abstain: None
Absent: Mrs. Kingsley

Approved: June 25, 2013

**Ana Minkoff
Township Clerk**