

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

CALL TO ORDER

At 7:04 p.m. Council President Hall 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, Mrs. Kingsley and Mr. Hall answered present. Mayor Bruno was absent. Also present was Township Attorney Joseph Sordillo and Acting Township Clerk Ana Minkoff.

**EXECUTIVE SESSION – Contractual Negotiations – Little Flower Church
Attorney-Client Privilege/Litigation – Berkeley Heights v. Committee
of Petitioners
Contract Negotiations – YMCA Land Lease**

Moved by Mr. Hall to go into Executive Session, seconded by Mr. Woodruff and upon roll call vote:
(7:04 p.m.)

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

Moved by Mr. Hall to go out of Executive Session, seconded by Mr. Woodruff and upon roll call vote:
(8:10 p.m.)

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

FLAG SALUTE

Council President Hall asked everyone present to stand as he led the Flag Salute.

APPROVAL OF MINUTES

Moved by Mrs. Kingsley to approve the following Township Council minutes, seconded by Mr. Pastore and upon roll call vote:

Public Meeting – September 18, 2012

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

TOWNSHIP COUNCIL REPORTS

Mr. Delia spoke about the discussions on having a gate installed at the Township garage. He said he did not receive a direct answer. He asked if we can proceed to have Chief Mathis look into pricing for the gate.

Mr. Hall said we will be having a budget meeting on 3/27/13 and we will review the capital items then. He added this gate would be under the engineering products and engineering should be responsible for getting the pricing for the gate.

A lengthy discussion continued. Mr. Hall recommended that the Mayor and the CFO should sit down together to get prices and to order these products.

Mr. Delia reported he attended a meeting on the Passaic River and it was a very informative meeting. He said the Passaic River Coalition is still trying to get state funds to clean-up the river to clear the debris.

Mr. Pastore said he reviewed the bill list and he is going to review the parts a little more. Mr. Pastore also said we should discuss the sick time issue with the Sewer Department operator and he has asked Mike Marceau to look into this further.

There was a discussion on the bill list and the parts used for Township vehicles.

Mr. Pirone asked to have a comparison done of the surrounding towns to find out what the cost is of the parts for their fleet maintenance and what is the size of their fleets.

Mr. Woodruff spoke about the BAC litigation and said we are constricted about discussing the litigation. Mr. Woodruff spoke about a letter that was received regarding BAC. Mr. Woodruff gave some history and background information on this litigation. He wanted to make the residents aware of the fact that what the Township Council did was right and within the law and this special election will cost the residents approximately \$25,000. He said the people will go to the polls and decide what they want.

Mrs. Kingsley reported on the Beautification Committee and said they are working with the flag company and designs for the Berkeley Heights flags in the downtown area. Mrs. Kingsley also said we are going to kick off the American flag campaign at the Mayor's breakfast on Friday.

Mr. Hall had nothing to report.

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

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

HEARING ON AGENDA ITEMS ONLY

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

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

Carol Matula of 5 Hastings Road asked where will the money for the special election come from?

Michel Marceau, CFO responded from the operating budget.

Mrs. Matula asked how much time was spent on each Executive Session item.

Ana Minkoff responded to Mrs. Matula's questions.

Mrs. Matula commented on the vacation time carryover. She said there should be no carry over allowed. It would have to be an extraordinary situation.

Mr. Hall responded all of the vacation time being carried over cannot be monetized. It would have to be an extraordinary situation and be approved specifically by the Township Council in order for anyone with legacy vacation time to monetize it at some future point. They would have to use the time we would not pay them for it. There are very few employees that have any meaningful vacation time carried over. Going forward they will not be able to carry any vacation time over.

A discussion continued on the vacation time carry over. Joseph Sordillo, Township Attorney clarified Mrs. Matula's questions regarding the vacation carry over.

Tom Foregger of 14 Dorsett Road also asked questions regarding the vacation carry over ordinance. Mr. Foregger went over his questions by section in the ordinance.

Mr. Sordillo responded to Mr. Foregger's questions.

A discussion continued in length.

Stephen Yellin of 130 Dogwood Lane asked if the special election costs of \$25,000 is within the 2% cap.

Mr. Woodruff responded it is within the 2% cap but we are going to need to find the money someplace.

A discussion continued on the special election costs.

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Maureen Sincaglia of 42 Robbins Avenue and representative from the League of Women Voters said they will be having a forum at Governor Livingston High School. They will ask both parties to present their case regarding the referendum on May 7th.

John Sincaglia of 42 Robbins Avenue referred to resolution #7 for single stream recycling. He asked how this compares to the previous recycling. This is about half the price of the previous recycling.

Bob Bocchino, Director of Public Works explained this will be easier to recycle and cheaper as well.

Mr. Sincaglia also asked questions on the BAC. He would like to understand what the judge means.

Mr. Woodruff feels the judge can see the complexity of this. This is an extremely difficult subject and there probably is not settled law on what we are doing. Mr. Woodruff went on to explain further in more detail.

A discussion continued with Mr. Sincaglia asking questions regarding the special election and Mr. Woodruff responded to his questions.

Joseph Sordillo, Township Attorney also explained the BAC case.

Matthew Caffrey of 140 Emerson Lane referred to the Sewer referendum asked if there will be an explanatory sentence or comment from town to the ballot question.

Joseph Sordillo, Township Attorney responded the resolution contains the referendum question which includes the Interpretive Statement as well.

Mr. Caffrey asked if the town will have an open session or explanatory session for the public to explain the upcoming election.

Mr. Hall responded the Township Council has not discussed that yet but they will be more than happy to have a session if the residents felt it was important.

Mr. Woodruff added if we cannot have a separate meeting we can allocate time during a regular meeting and advertise it accordingly. A block of time specific for this subject at a regular meeting.

A discussion continued on having a public session regarding the special election.

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:

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

NEW BUSINESS- RESOLUTIONS

OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

RESOLUTIONS

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Mr. Delia introduced the following resolution:

1. Resolution approving Bill List dated March 19, 2013 in the amount of \$782,623.03.

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

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

Mrs. Kingsley introduced the following resolution:

2. Resolution authorizing a transfer within the 2012 Municipal Budget in the amount of \$174,500.00.

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

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

Mr. Pirone introduced the following resolution:

3. Resolution authorizing the Township Tax Attorney to file a tax appeal of the 2013 property tax assessment of the Connell Property for an increased assessment to reflect the true value of the property.

Moved by Mr. Pirone to approve resolution #3, seconded by Mrs. Kingsley and carried.

Mr. Hall explained this is an existing appeal that the town has opened and we are extending that appeal to include 2013.

Upon roll call vote:

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

Mr. Woodruff introduced the following resolution:

4. Resolution authorizing the approval of the Stipulation of Settlement of tax appeal with Mack-B-Co, c/o Mack-Cali Realty, Block 3602, Lot 1.

Moved by Mr. Woodruff to approve resolution #4, seconded by Mrs. Kingsley and carried.

Mr. Hall explained the settlement in not monetary but they will receive credits against future tax liability. For 2010, 2011 and 2012 the total credit is \$6,901.39 and on an ongoing basis the tax relief they will receive \$2,170.00 per year.

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Upon roll call vote:

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

Mr. Pastore introduced the following resolution:

5. Resolution awarding a 1 year contract to Miracle Chemical Company, 1151B Highway #33, Farmingdale, NJ 07727 to provide Sodium Bisulfite Supply in an amount not to exceed \$7,344.00.

Moved by Mr. Pastore to approve resolution #5, seconded by Mrs. Kingsley and carried.

Mr. Pastore said he wants to make sure this award is the lowest bidder.

Joseph Sordillo, Township Attorney explained that competitive quotes were used for this service and you are not required to use the lowest bidder in that case.

Upon roll call vote:

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

Mrs. Kingsley introduced the following resolution:

6. Resolution awarding a 1 year contract to Miracle Chemical Company, 1151B Highway #33, Farmingdale, NJ 07727 to provide Sodium Hypochlorite Supply in an amount not to exceed \$11,224.00.

Moved by Mrs. Kingsley to approve resolution #6, seconded by Mr. Woodruff and upon roll call vote:

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

Mr. Pirone introduced the following resolution:

7. Resolution awarding a three year contract to Giordano Company, 141-156 Frelinghuysen Avenue, Newark, NJ 07201 for “Single Stream” Curbside Recycling in an amount not to exceed \$155,988.00.

Moved by Mr. Pirone to approve resolution #7, seconded by Mrs. Kingsley and upon roll call vote:

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

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:

(8)

- a. Resolution authorizing the Tax Collector to refund the following 2013 tax overpayments:

1. Dora Pagano	174 Snyder Avenue	\$2,922.02
2. Y. Zheng & W. Li	280 Hamilton Avenue	\$780.16
3. Michael & Nicole Manganelli	6 Whitney Drive	\$2,569.75
4. Robert & Mary Clare Vogt	130 Roland Road, MH	\$3,660.88
5. Jeffrey & Janice Gold	15 Overhill Way	\$3,703.33

- b. Resolution authorizing the release of cash bond in the amount of \$700.00 to Arcadis, 8 South River Road, Cranbury, NJ 08512 in connection with street opening at Summit Avenue.

- c. Resolution appointing Mike Lipere, 222 Snyder Avenue, Berkeley Heights to the active roster of the Berkeley Heights Volunteer Fire Department effective March 19, 2013.

Moved by Mr. Pastore to approve Consent Agenda resolutions #8a-c, seconded by Mr. Woodruff and upon roll call vote:

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

ADDITION:

Mr. Woodruff introduced the following resolution:

- 9. Resolution authorizing a Special Election to be held on May 7, 2013 to submit a public question regarding an amendment to the Sewer Use Agreement with the Warren Township Sewerage Authority and the Township of Berkeley Heights.

Moved by Mr. Woodruff to approve additional resolution #9, seconded by Mr. Pastore and carried.

Mr. Hall said he will speak to the Mayor about having a special meeting for the residents and there will be notice of that meeting.

A discussion continued.

Upon roll call vote:

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

ORDINANCES

INTRODUCTION OF ORDINANCE

Public Hearing and Final Adoption scheduled for April 9, 2013:

The Clerk presented and read:

“AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, AMENDING, REVISING AND SUPPLEMENTING SECTION 2.128.110 ENTITLED “VACATIONS” OF CHAPTER 2.128 ENTITLED “PERSONNEL SYSTEM” OF TITLE 2 ENTITLED “ADMINISTRATION AND PERSONNEL” OF THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS” (Explanation: This ordinance amends the terms of the accumulation of vacation for Township employees to have same based on the pro-rata employment for each year.)

Moved by Mrs. Kingsley that the ordinance as read by the Township Clerk is offered on first reading and the date of 4/9/13 is set as the date for public hearing and the Township Clerk is directed to advertise it in the Courier News, seconded by Mr. Pastore and carried.

Mr. Woodruff said on language with respect to paragraph c on page 2 of the document we need to re-enforce how strongly we believe this is something that should seldom occur. He suggested where the word “emergency” has been crossed out that we insert the word “extraordinary”. On paragraph d “any vacation time to be taken by any employee shall be reported to the Administrator’s Office by the employee with the department approval prior to taking the vacation time”. There should be a requirement that they put the request in ahead of time.

A discussion continued in length that there should be adequate notice from an employee before taking vacation.

After a lengthy discussion among the Township Council the time constraint that was decided on was 30 days notice.

Mr. Woodruff asked who records the vacation time. The ordinance needs to be more specific.

Joseph Sordillo, Township Attorney will draft the amendments. Mr. Sordillo also explained the changes that were done to the ordinance previously.

Moved by Mr. Woodruff to amend the Introduction of this ordinance as discussed, seconded by Mr. Pastore and upon roll call vote:

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

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Moved by Mrs. Kingsley to reintroduce the ordinance as amended, seconded by Mr. Pastore and upon roll call vote:

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

CITIZENS HEARING

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

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

Mrs. Matula had questions on the vacation request notice for the Police Department.

Mr. Woodruff explained.

Chief Mathis feels that 30 days notice should be more like six weeks because he feels it isn't sufficient enough.

Mr. Foregger made comments about the amendments that were made to the ordinance and he feels copies of the amended ordinance should be handed out to the public.

A discussion continued on amending ordinances or resolutions.

Mr. Foregger also pointed out as discussed at the last meeting the court attendant is not listed in our ordinance and he is also not listed on the shared court agreement.

A discussion continued.

Sergi Kent said there is no Township organizational chart and as a resident if you have a problem you don't know where to go. Mr. Kent spoke about a situation in town hall. Mr. Kent feels Lt. Fortunato and Barbara Russo should be fired. He wanted it on the record. He said what was said about him was a lie. Lt. Fortunato said it publicly.

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

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

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ADJOURNMENT

Moved by Mr. Woodruff to adjourn, seconded by Mr. Pastore and upon roll call vote:
(9:26 p.m.)

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

Approved: June 25, 2013

**Ana Minkoff
Township Clerk**