

**TOWNSHIP OF BERKELEY HEIGHTS  
UNION COUNTY, NEW JERSEY  
COUNCIL MEETING HELD APRIL 9, 2013**

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**CALL TO ORDER**

At 7:08 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. Pirone, Mr. Woodruff, Mrs. Kingsley, Mr. Hall and Mayor Bruno answered present. Mr. Pastore was absent. Also present was Township Attorney Joseph Sordillo and Acting Township Clerk Ana Minkoff.

**EXECUTIVE SESSION – Attorney-Client Privilege/Litigation – BAC v. Berkeley Heights  
Personnel – Anthony Padovano, Jr. - OEM**

The second item of Executive Session was added and it was a Personnel matter. Anthony Padovano was rice noticed by Joseph Sordillo, Township Attorney at the meeting and he elected to have his discussion done in Executive Session.

Moved by Mr. Hall to go into Executive Session, seconded by Mr. Woodruff and upon roll call vote:  
**(7:11 p.m.)**

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

Moved by Mr. Hall to go out of Executive Session, seconded by Mr. Woodruff and upon roll call vote:  
**(7:45 p.m.)**

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

**CONFERENCE SESSION**

Mr. Delia wanted to discuss the (5) vehicles being requested by the DPW through the capital budget. A lengthy conversation continued with Mr. Delia and Don Cochario of the DPW regarding the requested vehicles.

Mr. Hall spoke about an inventory that was done on the weekend of the township vehicles. He said the vehicles appear to be in very good shape. Mr. Hall wondered if we need (5) new

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vehicles. Don Cochario continued his conversation with Mr. Hall regarding the conditions of the DPW vehicles.

The discussion continued in length on the DPW vehicles and the need for these vehicles instead of purchasing equipment. The discussion also involved the vehicle maintenance budget.

Mayor Bruno said if we are not going to replace these vehicles then we should increase the maintenance budget to repair the older vehicles. Mayor Bruno said he recommends leaving this money in the capital plan for future use.

Mr. Hall recommended we leave the numbers in the capital as they are. At the recommendation of the CFO, we can allow a level of flexibility in the language when we craft the capital ordinance.

**FLAG SALUTE**

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

**TOWNSHIP COUNCIL REPORTS**

Mr. Delia suggested the DPW comply with our anti idling law. It will save a lot of fuel and help the environment. Mr. Delia said at the last meeting we spoke about surveillance cameras at the DPW and he asked for an update. Mr. Delia feels it is very important because we have so much money in equipment and lack of security leaves us open for opportunity.

Mr. Bocchino will look into the installation of surveillance cameras for the DPW garage.

A discussion continued on security for the DPW.

Mr. Delia reported there will be a pancake breakfast at Mt. Carmel Hall on Saturday from 8:00-1:00 p.m.

Mr. Pirone reported in 2010 Berkeley Heights lost their AAA credit rating. This was because of mismanagement. The Council of the last few years has been much more fiscally responsible. Mr. Pirone went on to explain in detail the factors that go into play in moving in the right direction. He feels we are now moving in the right direction.

Mr. Woodruff said some of the information that Mr. Pirone just explained may be very helpful when we discuss the secession issues.

A discussion continued on the bond ratings.

Mr. Woodruff had nothing to report.

Mrs. Kingsley reported the Beautification Committee has finalized two initiatives. The Raising the Flag project and the downtown clock project. They would like to line Springfield Avenue, Snyder Avenue and Plainfield Avenue with American Flags in honor of the Veterans and the

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Vietnam War. The faces of the clock will be sold to local corporations and other plaques will be sold to individuals. Everyone is encouraged to participate.

Mr. Hall reported the Mayor and Council have made it a priority to address the flooding issues in town as well as removal of dead trees from town right-of-ways. Mr. Hall spoke to Vicki Drake from the Open Space Recreation and Historic Preservation Fund with regard to cleaning up the river from a recreation point of view. He said she will look into this possibility of using these funds for this purpose.

Mayor Bruno reported he helped serve meal on wheels in Berkeley Heights to the residents last week. It was a very rewarding experience. Mayor Bruno reported on the breakfast with the Mayor and said 80 people showed up. Mayor Bruno also reported Kings is moving out of Berkeley Heights and New York Mart will be moving in. Mayor Bruno spoke in length about the developments in the downtown stores. Mayor Bruno spoke about the suspension of the bulk pick-up. He said it was not an easy decision. But it was decided to keep the full \$110,000 this year to clean-up the brooks and streams. It is our intention to go back to the clean-up next year again. Mayor Bruno spoke about other options for the residents. We didn't have the money this year to do both. Mayor Bruno also reported on April 17<sup>th</sup> we will be turning on the switch for our new Police dispatch.

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

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

**HEARING ON AGENDA ITEMS ONLY**

Moved by Mr. Delia 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, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: Mr. Pastore

Tom Foregger of 14 Dorsett Road said there is \$95,000 in the capital improvement fund and only \$58,000 is being used and he asked what the rest of the money will be used for.

Michel Marceau, CFO explained the capital budget for Mr. Foregger.

Mr. Foregger asked if any of the capital money would be used for the land swap.

Mayor Bruno responded no.

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Mr. Foregger also asked if any money is in the budget for a new position.

Mayor Bruno responded the DPW Assistant Director, a Sewer Department position and a new Police officer for a half year.

The discussion continued on the capital budget.

Jerry Kusmik of Eaton Court asked if there a problem with security because we are going to make an investment in security surveillance.

Mayor Bruno responded there is a potential security problem. We have a DPW yard where until recently had a gate that didn't lock. There is a gas pump in the yard and various equipment.

Mr. Kusmik asked if there is thievery going on that we should be aware of.

Mayor Bruno responded there is no thievery going on that we know of. The yard can be accessed by a lot of people. Residents even have access to the yard. We would rather be safe than sorry. The cost for a camera system is only around \$30,000.

The discussion continued on the DPW gate and the security.

Mr. Kusmik asked if Mr. Hall had spoken to Morris County with regard to efforts to clean up the river.

Mr. Hall responded he only spoke to Union County. We are trying to first determine if this type of project would fit within the confines of the Open Space Trust Fund. If we get confirmation of that, he can then go to Morris County to see if we can engage them also.

The discussion continued.

Mr. Kusmik asked if there has been any progress on obtaining a street sweeper.

Mr. Hall responded we are waiting to purchase the street sweeper next year.

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

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

**PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCES  
INTRODUCED ON MARCH 19, 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**

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**CHAPTER 2.128 ENTITLED “PERSONNEL SYSTEM” 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 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. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: Mr. Pastore

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

Moved by Mr. Hall that the ordinance as read by the Township Clerk and hearing held hereon 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. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: Mr. Pastore

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

**RESOLUTIONS**

**Mr. Delia introduced the following resolution:**

1. Resolution approving Bill List dated April 9, 2013 in the amount of \$288,109.25.

Moved by Mr. Delia to approve resolution #1, seconded by Mrs. Kingsley and carried.

Mr. Delia asked that the invoice for Greenbrook Pontiac in the amount of \$1,404.04 be pulled from the bill list. He said some amounts on this invoice are from 2011 and he would like an opportunity to review it with the CFO before it is paid.

Moved by Mr. Delia to approve resolution #1, removing the invoice for Greenbrook Pontiac in the amount of \$1,404.04, seconded by Mr. Woodruff and upon roll call vote:

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

**Mr. Pirone introduced the following resolution:**

2. Resolution authorizing a Change Order for additional engineering services for the Wastewater Management Plan to be performed by Omni for an amount not to exceed \$5,000.00 for a new contract amount of \$21,500.00.

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

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

**Mr. Woodruff introduced the following resolution:**

3. Resolution supporting pending legislation S-1896/A-1503, which requires fire districts, school districts, and county government to share in the burden of property assessment appeal refunds.

Moved by Mr. Woodruff to approve resolution #3, seconded by Mrs. Kingsley and upon roll call vote:

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

**Mrs. Kingsley introduced the following resolution:**

4. Resolution authorizing the Township to compute the Reserve for uncollected taxes pursuant to the provisions N.J.S.A. 40A:4-41c(2).

Moved by Mrs. Kingsley to approve resolution #4, seconded by Mr. Delia and upon roll call vote:

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

**Mr. Delia introduced the following resolution:**

5. Resolution authorizing the settlement of a tax appeal with Adi Zaimi and Ada Kerxhalli, Block 1607, Lot 32, 945 Mountain Avenue.

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

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

**Mr. Pirone introduced the following resolution:**

6. Resolution adopting the Union County Multi-Jurisdictional Hazard Mitigation Plan.

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

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

**Mr. Woodruff introduced the following resolution:**

7. Resolution supporting Sustainable State Funding for Preservation and Stewardship of Open Space, Parks, Farmland and Historic Sites in New Jersey.

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

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

**Mr. Hall introduced the following resolution:**

8. Resolution authorizing 3.0% increase of salaries effective January 1, 2013 to certain non-union employees and appointed officials and employees.

Moved by Mr. Hall to approve resolution #8, seconded by Mrs. Kingsley and upon roll call vote:

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

**Mrs. Kingsley introduced the following resolution:**

9. Resolution authorizing a settlement of tax appeal with Dorothy Vicendese, Block 3001, Lot 53, 617 Plainfield Avenue.

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

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

**Mr. Woodruff introduced the following resolution:**

10. Resolution appropriating \$15,000.00 to Bernstein & Hoffman for attorney's fees and litigation costs to defend the Board in the Stop & Shop Supermarket Company LLC v. Zoning Board of Adjustment.

Moved by Mr. Woodruff to approve resolution #10, seconded by Mr. Pirone and carried.

Mayor Bruno spoke about times when there are frivolous law suits filed. He also spoke about this lawsuit and the fact that we have ordinances on the books regarding shopping center parking.

Mr. Woodruff asked if our Attorneys have sent them a frivolous litigation letter. He said if not we can send a letter to them and have the case decided and then they could be responsible for all legal fees.

Mayor Bruno asked Township Attorney, Joseph Sordillo to look into this matter.

Upon roll call vote:

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

**Mr. Delia introduced the following resolution:**

11. Resolution granting authorization to hold an annual tax sale of prior year delinquencies on October 9, 2013.

Moved by Mr. Delia to approve resolution #11, seconded by Mrs. Kingsley and upon roll call vote:

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

**Mr. Pirone introduced the following resolution:**

12. Resolution authorizing a contract with Mary M. Moody, N.J.P.P.; with offices at 191 Stony Brook Road, Branchburg, NJ 08876 for professional planning services in connection with the Township's affordable housing rehabilitation program.

Moved by Mr. Pirone to approve resolution #12, seconded by Mr. Woodruff and upon roll call vote:

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

**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. Woodruff introduced the following resolutions:**

**(13)**

- a. Resolution authorizing the Tax Collector to refund the following 2013 tax overpayments:
  1. Robert R & Kathleen R Kirick 95 Park Avenue \$51.49
  2. Brian Bernstein & Dawn Gunter 115 Wentworth Drive \$3,338.54
  3. Michael A. Vespasiano Esq. 273 Snyder Avenue \$12,452.54
- b. Resolution authorizing the release of cash bond in the amount of \$10,000.00 to Lucent Technologies, 600 Mountain Avenue, Room 7C-312, Murray Hill, NJ 07974.
- c. Resolution appointing Armando Vargas, 311 Plainfield Avenue, Berkeley Heights to Junior Fire Division of the Berkeley Heights Volunteer Fire Department effective April 9, 2013.
- d. Resolution approving a Tax Sale Certificate #10-00014T for Vasyl or Maria Kavatsiuk, Block 3303, Lot 12, 449 Mountain Avenue for the amount of \$629.94.
- e. Resolution authorizing \$84.50 of unclaimed bail be deposited as miscellaneous revenue.

Moved by Mr. Woodruff to approve Consent Agenda resolutions #13a-e, seconded by Mrs. Kingsley and upon roll call vote:

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

**ORDINANCES**

**INTRODUCTION OF ORDINANCE**

**Public Hearing and Final Adoption scheduled for April 23, 2013:**

The Clerk presented and read:

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**“AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, FOR THE CALENDAR YEAR 2013, TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.S.S.A. 40A:4-45,14)”**

Moved by Mrs. Kingsley that the ordinance as read by the Township Clerk is offered on first reading and the date of 4/23/13 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. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: Mr. Pastore

**INTRODUCTION OF 2013 MUNICIPAL BUDGET**

**Mr. Hall introduced the following resolution:**

**Resolution to approve 2013 Municipal Budget for introduction and establishing May 8, 2013 as the date of public hearing and final adoption.**

Moved by Mr. Hall to approve the resolution to introduce the 2013 Municipal Budget with a public hearing and final adoption date of May 8, 2013, seconded by Mr. Woodruff and carried.

Mayor Bruno said the taxes will be increased \$54.00 per household.

Michel Marceau, CFO spoke about the budget process. Mr. Marceau gave out some information. He reviewed the 2013 budget in detail.

Mayor Bruno commended the governing body for their due diligence in this budget process because it is not an easy task. He also commended the CFO and department heads who were prepared to present their budgets. He said everyone has worked hard on the budget.

Upon roll call vote:

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

**CITIZENS HEARING**

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

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

Tom Foregger of 14 Dorsett Road referred to resolution #8 and asked if this increase will apply to the former Administrator.

Mayor Bruno responded she does not receive this 3% increase.

Stephen Yellin of 130 Dogwood Lane referred to the bulk pick-up that is usually done every year. He said there is a letter written to the editor regarding a dumpster that was used during Hurricane Sandy. He asked if this could be done on a regular basis.

Mayor Bruno said this will cost \$1,800 per dumpster and you would need more than one dumpster. We plan to bring back the bulk pick-up next year. We are looking into other options as well and he explained further.

A discussion continued in length on bulk pick-up.

Jerry Kuzmik of Eaton Court said we are looking for a problem without having the bulk pick-up. He said people will drop off garbage in walkways. He continued with his comments regarding dumpsters where people can drop their garbage off.

The discussion again continued on the bulk pick-up and dumpsters.

John Carlini of Eaton Court said he agrees with Mr. Kuzmik's comments. Mr. Carlini also spoke about the railroad turn style and he said it frequently malfunctions.

There was a discussion and NJ Transit will be contacted regarding this matter.

Mayor Bruno said he received a letter from a resident regarding the BAC pending litigation. He said this letter indicated that written on face book page was that Berkeley Heights taxes will increase 44% due to retro-fit back hook-up to our Sewer. Mayor Bruno said there was never any discussion of the back hook-up costs. He doesn't know where this posting is coming from. Mayor Bruno continued with his comments and said this posting did not come from town hall or any of the governing body. He wants to dispel any of the rumors.

Jerry Kuzmik asked if the stream clean-up has begun yet.

Mayor Bruno said the funds will not be available until the budget is approved.

A discussion continued on the stream clean-up.

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Hearing no voices, moved by Mrs. Kingsley to close the Citizens Hearing, seconded by Mr. Hall and upon roll call vote:

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

**ADJOURNMENT**

Moved by Mr. Pirone to adjourn, seconded by Mr. Hall and upon roll call vote:  
**(9:20 p.m.)**

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

**Approved: July 9, 2013**

**Ana Minkoff  
Township Clerk**