

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD MARCH 10, 2015**

CALL TO ORDER

At 7:00 p.m., Mayor Woodruff 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. Faecher, Mr. Hall, Mr. Pastore, Mr. Pirone and Mayor Woodruff answered present. Mrs. Kingsley was absent. Also present was Township Attorney Joseph Sordillo, Township Administrator John Bussiculo and Township Clerk Ana Minkoff.

EXECUTIVE SESSION -

- 1. Potential Litigation - affordable housing compliance**
- 2. Contract Negotiations/Land Acquisition-Little Flower Church**

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

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

Moved by Mr. Pastore to go out of Executive Session, seconded by Mr. Hall and upon roll call vote:
(7:40 p.m.)

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

FLAG SALUTE

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

CONFERENCE SESSION –

Mr. Hall spoke about a gravel parking lot proposal at Littell Lord: 1)The Environmental Commission is looking for a Township garden and the Lord Littell spot is the “path of least resistance;” 2) which would support the current Historical Society activities on the site and limit street parking; 3) the parking lot would support and help with the safety at the annual fishing event; 4) It is estimated that the parking lot would cost between \$10,000 and \$12,000; 5) the proposed cost should be included in the budget. The lot would support current activities and future activities.

Mr. Pirone stated his support for the gravel parking lot. Mr. Faecher stated that he had no problem supporting the gravel parking lot but including it in the budget would be a matter of priorities (like everything else.) Discussion ensued about the location of the lot, number of cars which the lot would hold, size of the lot, utilizing and preserving Lord Littell and considering this subject for next Council meeting.

TOWNSHIP COUNCIL REPORTS

Mr. Delia – Mr. Delia had nothing to report.

Mr. Faecher – Mr. Faecher stated that he is scheduled to work with Meals on Wheels later that week. He continued that it is a great way to meet people who need meals delivered and he encouraged all to participate with Sage.

Mr. Pirone – Mr. Pirone reported on his attendance at the GOP convention the previous night.

Mr. Pastore – Mr. Pastore had nothing to report.

Mrs. Kingsley – Mrs. Kingsley was absent.

Mr. Hall – Mr. Hall had nothing to report.

ADMINISTRATION REPORTS

Mr. Bussiculo – Mr. Bussiculo reported on the following: 1) we have had problems with salt (shortage) this year. As of February 7, Morton Salt still owes us 750 tons; Many calls have been made to rectify this situation with Morton and nearby municipalities; we will have this problem next year unless we build a salt dome; we have reached out to other municipalities and the County for shared storage space; 2) Pothole update; 3) DPW Office has been signed off “on;” 4) Property Piloting, a possible replacement for SDL, has been reviewed; 5) Tom Bocko cited TD Bank and Walgreens today for lights not working; 6) Outreach has been made to Acting Chief DiPasquale regarding patrol officers reporting lights not working; citations will then be issued by Mr. Bocko; 7) Pinnacle came to the Township to present regarding a DPW radio which could communicate with the Police; The damaged radio can be replaced for \$2,064; 8) A uniform procurement procedure has been established for DPW and the Water Treatment plant; 9) In regards to the cameras, a representative from Chatham came to the Township and provided software and camera vendor contact information; further update was provided regarding building wiring, Comcast visit, number of cameras needed, expected cost (\$12,000 – but preliminary;) 10) In regards to the questions regarding Comcast, we can control the stations; we need some additional equipment; our equipment must be working; we could do real time broadcasting of meetings; the Comcast

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Meeting is set for the week of May 16th; 11) There was a meeting held with the Suburban Chamber of Commerce regarding this year's Street Fair; and 12) Our Building Department inspectors are now filling out time cards per inspection and we are installing a time clock for casual workers.

The Mayor asked for clarification on the salt pricing and the County Contract Agreement with Morton Salt.

Mayor Woodruff – The Mayor reported 1) Bobbie Peer posted the anticipated road work “on line.” 2) we can all go “on line” and find out a street's rating. The Mayor continued that this report doesn't include recent pothole developments; 3) to call us if a street needs more immediate attention than indicated by the report.

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

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

HEARING ON AGENDA ITEMS ONLY

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

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

The Mayor announced that Mr. Pastore would time everyone (for 3 minutes) as “the box” wasn't working and furthered that he would raise his hand indicating when a speaker has 30 seconds left (to speak.)

Carol Matula, 5 Hastings Road. Ms. Matula asked for the additional cost above the contract price for the salt. Mr. Bussicula said that he did not have that answer yet. Ms. Matula also asked about the obligations (and a Committee question) associated with resolutions 3 and 4. The Mayor responded that Mr. Sordillo would address these questions shortly.

Steven Yellin, 130 Dogwood Lane. Mr. Yellin spoke about Resolution No. 6 (i.e., the Task Force Committee that is being implemented.) He continued that this type of action is something that Mr. Yellin has been pushing for a long time. Mr. Yellin asked to be considered for the position of Citizen Committee person.

Sue Johnson, 29 Chestnut Hill Drive. She thanked the Council for listening to the residents of Chestnut Hill Drive as their street has been removed from the Parking Ordinance. She expressed her appreciation for listening.

Gerald Kuzmik, Eaton Court. Mr. Kuzmik asked whether the Governor Livingston parking situation had been resolved. Discussion ensued as to whether the Governor Livingston had done anything, and what the

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Council was planning on doing (based on our Planner, our Police Department, and Mr. Faecher.) The Mayor stated that there would be a vote tonight on this matter. Mr. Kuzmik stated that driving is a privilege and suggested that if the students couldn't park at the High School, they could take a bus (paid for by our taxes.)

Michael Burke, 51 Sussex Road. Mr. Burke thanked the Council for considering their input to the process. Mr. Burke supports the proposal as outlined.

Noel Genco, 31 Sussex Road. Mr. Genco expressed his support for the proposal. It reflects what they have been asking for the last three years.

Cindy Reiss, 17 Crest Drive. She would like to echo her neighbors' sentiments, and thanked the Council and expressed her appreciation.

John Carlini, Eaton Court. He expressed his empathy for the citizens (affected by the GL parking.) He agreed that this issue takes a lot of (Council) time and that the school should be in command of the situation.

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

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

**PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCES
INTRODUCED ON February 24, 2015:**

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."**

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

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

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

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

Moved by Mr. Pastore 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. Hall and upon roll call vote:

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

RESOLUTIONS

Mr. Delia introduced the following resolution:

1. Resolution approving Bill List dated March 10, 2015 in the amount of \$172,148.78.

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

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

Mr. Faecher introduced the following resolution:

2. Resolution awarding bid for improvements to Glenside Road, to Top Line Construction, 22 Fifth Street, Somerville, NJ 08876 in the amount of \$402,629.36.

Discussion ensued regarding start date of the improvements and other Township road improvement due dates.

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

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

The Mayor asked Mr. Sordillo to present an explanation of COAH (affordable housing) before the Council votes on Resolution Numbers 3 and 4. The Mayor stated that we have obligations and he thinks the Township needs to know what we are looking at with respect to obligations.

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Mr. Sordillo spoke on the following: 1) He spoke to our special affordable housing counsel this afternoon and he requested that the original resolution number 3 be pulled for adoption this evening (as it will be changed to reflect the changes in the law;) 2) the original Mount Laurel doctrine essentially said that every municipality has a constitutional obligation to provide for affordable housing within its boundaries; 3) Out of the Mount Laurel decisions, COAH was created (the Council on Affordable Housing.) COAH was an administrative agency that helped municipalities with their affordable housing obligations. COAH guidelines, certifications and Fair Share plans were explained. Compliance with a Fair Share plan protected municipalities from Building Revenue Lawsuits (i.e., suing towns for not meeting a constitutional obligation to provide for affordable housing -- the builder could then erect housing pursuant to their density plan, in a manner they want, which is then directed by a court.) Historically these lawsuits result in the builders winning and “getting all that they wanted;” 4) Berkeley Heights did comply with Round 1 and Round 2 of COAH; 5) in 2008, Berkeley Heights began its Round 3 of certification with a Fair Share Housing plan. The COAH regulations were then appealed in 2008; 6) The Court then ruled that new requirements be met. More litigation followed; 7) The Supreme Court ruled this morning that COAH is suspended. It directed all affordable housing decisions to be with the courts. This means that municipalities who want protections from builder remedies lawsuits have to file applications with the Court. It is expected that interested parties can join such lawsuits. This means all will be pursued through the Courts instead of COAH; 8) The Supreme Court did say that if COAH does decide to comply with the New Jersey constitution and the Fair Share Housing Act, it can become a viable actor. Until then, all is vested with the courts; 9) As mentioned, Berkeley Heights filed a plan in 2008. It had been sitting with COAH. Berkeley Heights had tried its best to comply. We need now to re-examine (thus the resolutions tonight) its Fair Share Housing plan and housing element of the Township’s Master Plan to determine what is a valid and viable plan for the Township to meet its obligations; 10) Under the Court’s decision (this morning,) future decisions by the Court will be utilize the prior round regulations’ calculations and mechanisms (as set forth in the first and second round regulations;) 11) All of the third regulations are invalid; “everything” goes back to the first and second round regulations; 12) The Municipality controls its fate as long as it meets its constitutional mandate and must be able to prove that with the court; 13) While there is no longer a specific number (as there was with COAH,) the municipality must evaluate itself in compliance with the first and second round to determine its own number and has to prove that to the Court; 14) The Court gave municipalities 120 days to do this (and thus keep protection from the builder remedy lawsuits;) 15) the consequences of not filing promptly; 16) Now Berkeley Heights must look at the Township for viable building options, i.e., new construction or existing construction; 17) This is a new obligation which will require building of affordable housing units; 18) We have to address this issue now; 18) Resolution 3 on the Agenda should be pulled as this was drafted before the court ruling of that morning (i.e., we now have direction from the Supreme Court.) We can proceed with Resolution 4 – which establishes a Committee with Town Professionals and certain representatives to look a) at mechanisms and the legal requirements of “filing;” b) what needs to be addressed in light of prior rounds; c) what is our obligation number; and d) the planning and legal end of where we need to go and how to get there.

Discussion ensued 1) about whether potential developers could join in the Township’s filing; 2) the possible consequences of having a builder oppose our filing; 3) the risks of not having a good plan (or we lose our filing;) and we must be proactive (the Court wants a viable plan;) and 4) Resolution Number 3 being pulled.

Mr. Pastore introduced the following resolution:

4. Resolution creating a Mount Laurel Committee to assist the Township in addressing affordable housing issue.

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

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

Mr. Pirone introduced the following resolution:

5. Resolution authorizing the third Annual Berkeley Heights Street Fair on Sunday, June 28, 2015.

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

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

Mr. Delia introduced the following resolution:

6. Resolution authorizing a Task Force to carry out review and analysis of the Township's future growth and development, and provide advice and recommendations to the Mayor and Council.

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

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

Mr. Hall introduced the following resolution:

7. Resolution authorizing the Township to enter into a Developer's Agreement with New Jersey CVS Pharmacy, LLC, for the property identified as Block 701, Lots 2 and 3, 410 Springfield Avenue.

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

Ayes: Mr. Faecher, Mr. Hall, Mr. Pastore and Mr. Pirone
Nays: Mr. Delia
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. Pirone introduced the following resolutions:

(8)

- a. Resolution removing Joe Loaiza, 1011 Mountain Avenue, from the Active Roster of the Berkeley Heights Fire Department.

Moved by Mr. Pirone to approve Consent Agenda resolutions #8a, seconded by Mr. Hall, and upon roll call vote:

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

INTRODUCTION OF ORDINANCES

Public Hearing and Final Adoption scheduled for March 24, 2015

The Clerk presented and read:

- (1) **“AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, AMMENDING, REVISING AND SUPPLEMENING CHAPTER 10.36 ENTITLED “PARKING RESTRICTIONS” OF TITLE 10 ENTITLED “VEHICLES AND TRAFFIC” OF THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS TO ESTABLISH AND AMEND THE PARKING REGULATIONS ON A PORTION OF VARIOUS ROADWAYS.”**(Explanation: This ordinance establishes and amends the parking regulations on portions of various roadways near the Governor Livingston High School.)

Moved by Mr. Faecher that the ordinance as read by the Township Clerk is offered on first reading and the date of March 24, 2015 is set as the date for public hearing and that the Township Clerk is directed to advertise it in the Courier News, and seconded by Mr. Pirone.

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Mr. Hall stated that Mrs. Kingsley could not attend the Council Meeting and asked that Mr. Hall read a statement from her. Her statement: 1) expressed appreciation to Lieutenant Deitch and Mr. Mistretta for their efforts in developing the parking regulation; 2) both the Council and she have spent significant time in understanding the issues and working towards a solution which balances public safety and quality of life; 3) she was unable to vote as she was in Ireland but would like to go on record as fully supporting the ordinance as drafted.

Mr. Faecher thanked everyone for coming “out” tonight. Mr. Faecher received letters on this issue and tried to answer all of the letters. Some of the letters conveyed concern about the painting and striping as referenced in the Traffic Report. Mr. Faecher stated that the ordinance does not include this painting and striping (he confirmed this with Council and the Business Administrator.) He reiterated Mrs. Kingsley’s statement, i.e., appreciation of patience and belief that the ordinance struck a balance of different issues.

Mr. Delia spoke about the traffic painting and striping concerns. Mr. Delia concurred with almost everything Mr. Faecher said and is hopeful that the ordinance can be passed.

Mr. Pastore stated that he would vote against the ordinance as he doesn’t feel this matter should be in “our lap.” He stated that the School Board should have taken responsibility and we are being forced to accept a law that is going to affect a lot of neighbors in a negative way (not just Sussex;) He acknowledged that Sussex is a terrible situation. He believed the School Board should have made a lot of changes to the high school parking.

Mr. Hall thanked the residents for their patience and support. This has been a complex issue; it balances fairness/safety issues. Mr. Hall applauded the professionals’ assistance. Mr. Hall believes the ordinance is balanced and supports it.

Upon roll call vote:

Ayes: Mr. Delia, Mr. Faecher, Mr. Hall, and Mr. Pirone

Nays: Mr. Pastore

Abstain: None

Absent: Mrs. Kingsley

The Mayor noted that for the better part of the past two years, as a Councilman, he was “all over the place,” about what was appropriate. He continued: 1) Sussex had to be remedied; 2) he shared Mr. Pastore’s concern that this had to be “moved” elsewhere; 3) there is an extremely important party that has chosen to absent themselves from these discussions; 4) residents have conveyed to him that the School Board doesn’t listen to them; 5) driving a motor vehicle is a privilege, not a right; 6) this issue is about leadership. It is about saying we do respect our neighbors and driving is a privilege; 7) he doesn’t want to be critical; a lot of time and treasure has been spent in the last two years on this issue; 8) at some time, the parties who could have the greatest impact on this are going to have to get involved; 9) the only way as citizens to get to that point is to go to meetings and hopefully, there will be a reaction.

CITIZENS HEARING

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

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

Gerald Kuzmick of Eaton Court. He asked for a response or feedback regarding the street sweeper acquisition. Mr. Bussiculo responded that it hasn't been delivered yet. Discussion ensued about its delivery date, whether we could use the old one, and how the gravel is bad for motorcyclists. Mr. Kuzmick suggested using a former tennis practice paved site for parking (near the Township Building.) Discussion ensued as to whether this could be used for train parking. Mr. Kuzmick asked if there was any dialogue relating to the river cleanup. Mr. Bussiculo said there was no update. Mr. Kuzmick asked if there was any feedback regarding the New York Market. Discussion ensued that the land owner is exploring other options (but nothing formal has occurred.)

Mr. Stephen, Pastor of the Church on Springfield Avenue, requested help from the Mayor and Council. The Mayor thanked the Pastor and the parishioners for their attendance. The Mayor said that he had spoken to a church representative, Mr. Bussiculo has spoken with the Church representative and the Council had been apprised. The Mayor confirmed with the pastor 1) that their Church came to town about 18 months to 24 months ago; 2) took residence in the Church which had formerly been the Assembly of God; 3) The Church had been a guest of other properties in Union County; 4) The Church is a 5013c; 5) The Church wrote various government entities regarding their tax status. 6) The Church did not write the County for their tax status; 7) A church would normally be exempted property tax; 8) Because certain things were not done, the Church is facing approximately \$20,000 tax fees for 2014 as well as some payments for 2015 thus far; 9) Because we pay about 60 cents of every dollar to the Board of Education and 25 cents of every dollar to the County, that money has been sent over to the County for 2014; we can't retrieve that money; 10) The Mayor asked if they have retained Counsel to assist in making their property tax exempt. Mr. Sordillo stated that the tax exempt forms were filed after November 1st. He continued that this tax matter is out of the municipality's "hands." The deadline for filing a tax appeal is April 1st. Discussion ensued regarding 2015 and 2016 tax status and different government authorities. Mr. Sordillo said the problem occurs with the 2014 tax issue (as it has already been "entered," the deadline for filing the appeal is well beyond, and the Township still owes the taxes, whether they have been paid or not.) He continued that the Township doesn't have the authority to change anything or waive on behalf of the Church. Mr. Sordillo, again reiterated, that without giving legal advice, they should consult an attorney about 2015 taxes and that unfortunately, the Township can't vote and say we are waiving 2014 taxes because we don't have the authority to do so. The Mayor wished "they could wave a wand," but we cannot.

Donna Glenn of 100 Chestnut Hill Drive wanted to comment about her misfortune of getting a flat tire during the previous week. Ms. Glenn reached out to the Police Department. The Police Department responded very quickly and were able to give assistance ('provided a flashing car as her car was repaired.) She expressed her appreciation.

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Sue Johnson of Chestnut Hill Drive. She wanted to clarify about the roads during the last storm and running out of salt. Mr. Bussiculo spoke about the neighboring municipalities and their salt and road struggles. Ms. Johnson asked about paving for Chestnut Hill Drive and why the street was delayed with the pavement schedule. Ms. Johnson acknowledged that the parking issue has been contentious but she was troubled by one body denigrating another body. Ms. Johnson feels like “we should all be in this together.” Ms. Johnson doesn’t like to feel like there is animosity between two important parts of the Township.

Steven Yellin of 130 Dogwood Lane. Mr. Yellin asked that the website be updated with new budget meeting times.

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

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

ADJOURNMENT

Moved by Mr. Delia to adjourn, seconded by Mr. Hall and upon roll call vote
(9:09 p.m.)

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

Approved: May 5, 2015