

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD MAY 5, 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, Mrs. Kingsley, Mr. Pastore, Mr. Pirone and Mayor Woodruff answered present. Also present was Township Attorney Joseph Sordillo, Township Administrator John Bussicula and Township Clerk Ana Minkoff.

FLAG SALUTE

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

EXECUTIVE SESSION -

- 1. Attorney/Client Privilege– Litigation–Tax Appeals- Connell Co. & Alcatel-Lucent**
- 2. Attorney/Client Privilege – Potential Litigation – DPW**

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

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

Moved by Mr. Pastore to go out of Executive Session, seconded by Mr. Hall and upon roll call vote:
(7:53 p.m.)

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

Meeting CD did not start recording until 7:56 p.m.

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CONFERENCE SESSION – Discussion on Tax Appeals and Revaluation

Martin Allen introduced himself as the Special Tax Counsel to the municipality. He discussed these topics: 1) a complete revaluation of the municipality hadn't occurred in years; 2) the state constitution requires uniformity of taxation; 3) the effect of a long period between revaluations; 4) New Jersey aims to have properties be valued at their worth; 5) the ratio of assessed true value; 6) coefficient deviation; 7) uniformity of taxation; 8) a revaluation could cost \$250,000 to \$350,000; 9) there is a more recent trend to move from "every 10 year revaluations" to maintain assessments on a yearly basis. With an annual maintenance schedule, there are a) less tax appeals, b) cost of attorney, tax professional and appraiser fees lessen, and c) a better share of the County revenue can be achieved; 11) past assessment and tax appeal practices; 12) the reaction of tax payers and property owners with an assessment; 13) the first year after a revaluation (i.e., expect litigation costs); 14) in addition to revaluation and tax appeal expenses, another expense to expect are the "re-do" of municipal maps (ours have not been updated since 1971;) 15) these big expenses will achieve a good result: uniformity; 16) urged the public and the governing body to maintain the revaluation if they choose to do a revaluation, i.e., conduct annual re-assessments; 17) how the revaluation will affect the tax payers. The best answer is that it depends on the market at the time of the revaluation as well as the length that a taxpayer has lived in her/his home; 18) the market today is in a good state.

Mr. Edgar spoke about the importance of getting the maps "done" before the revaluation begins. Mr. Edgar experienced something similar in Kinnelon and the maps "re-do" took 18 months. Mr. Allen spoke about the process of getting the maps done, working with an Engineering firm and then going to the County (Division of Taxation) with the new maps.

Discussion ensued about the costs being conducted over a period of time; having the County ordering the revaluation; the cost of "re-doing" the maps; assessed value, value taxation, pro rata share, taxpayers paying their fair share; the effects of refunds; the negative impacts of not conducting a revaluation; the tax environment in Union County; the benefits of a revaluation (i.e., paying your fair share; tax claim; County tax share will stabilize and possibly going down;) proposed legislation to ask County and Board of Education to share refunds; review of the some of the proposed costs: revaluation (\$350,000), maps (\$120,000) and annual maintenance costs (cost of a part-time to a full-time employee); foreclosure issue; and the effect of solicitors in today's environment.

The Mayor stated that we were a bit out of order due to the presence of the Tax Assessment professionals. He asked if anyone had any questions.

Mr. Foregger asked what was the difference between a reassessment and a revaluation. Mr. Allen provided definitions for both. Mr. Allen stated that we are proposing a revaluation with an annual reassessment. A resident named John asked if the taxpayers had a say. Mr. Allen responded that taxpayers do have a say on whether a revaluation gets done (and gave an example from Monroe, New Jersey.) In regards to whether a revaluation can be stopped, Mr. Allen said that taxpayers could try, but further discussed a) whether the town qualifies for a reevaluation, b) the County Board ordering a revaluation and c) the State Division of Taxation ordering a town to do a revaluation. A resident asked about updating the maps. Mr. Allen responded that the maps had to be updated in order to do a revaluation (and the timing of contacting the County.) The same resident asked about his home being surrounded by more expensive homes. Mr. Allen responded. Discussion ensued about the location of a home and its assessed value. Further discussion ensued about a home's value relative to the reassessed town. A question was asked by a resident regarding the maps and how prior revaluations were able to be done. More discussion ensued including conversation about distressed property sales. A resident

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suggested contacting the former Mayor Cohen regarding 1999 actions (and why the tax maps weren't updated.)

The Mayor stated that there was another issue in the Conference Session which was extremely important – the Affordable Housing situation. He spoke about the Committee members (himself, Mr. Faecher and 3 or 4 other individuals.) The Mayor suggested everyone pay strict attention to this issue because of the potential ramifications.

Mr. Faecher discussed the Affordable Housing issue and specifically spoke about 1) the March Supreme Court decision regarding affordable housing; 2) the law arises from the New Jersey State Constitution regarding affordable housing; 3) there have been 40 years of litigation; 4) what we need to do to get ourselves prepared in the near term to respond; 5) the Court's decision in March whereby municipalities will have to develop a plan and get their plan validated by the Court; 6) notice to interested parties; 7) what an interested party is (gave examples;); 8) Fair Share Housing Center's analysis of Berkeley Heights' fair share affordable housing compliance/obligation; 9) an April letter from the New Jersey Builder's Association with an attachment from the Fair Share Housing Center; 10) Builders typically will build affordable housing units and market rate units (usually a 1 to 4 ratio;); 11) we are charged with developing a plan moving forward that makes sense and complies with the law and fulfills our obligations; 12) July 8th (the decision suggests we enter a plan to court by this day;); 13) the hope that our plan will make sense and be validated by the Court; 14) the importance of getting our plan validated by the Court (i.e., can be insulated by Builder attacks, that is builder remedy suits.)

The Mayor stated that to the extent we can, we need to get ahead of "this." The two main date deadlines are July 8th and November 5th. He spoke about immunity. The Mayor spoke about 1) the future process which could involve a Judge, the Fair Share Housing group, discovery, experts, hearings; 2) this situation can't be ignored and 3) making decisions without knowing what the ultimate court decision will be; 4) we will do our best to keep all updated.

Mr. Delia asked about whether the school system is taking into account the possible doubling of our population. Mr. Faecher mentioned that the constitutional right to affordable housing doesn't look at the schools. Discussion ensued about the COAH environment, New Jersey, judges assigned to this issue, the Supreme Court, the legislature. The Mayor stated that we have to follow what the Courts have set up as a road map.

TOWNSHIP COUNCIL REPORTS

Mr. Delia - Mr. Delia spoke about the previous night's meeting with Congressman Leonard Lance (Town Hall meeting.) Mr. Delia felt the meeting was very bi-partisan, personal and that the Congressman did a great job. Mr. Delia also asked about the Memorial Park and whether there was any progress.

Mr. Faecher – Mr. Faecher stated that other than his prior discussion, he had nothing to report.

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

Mr. Pirone – Mr. Pirone had nothing to report.

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Mr. Pastore – Mr. Pastore spoke about the Memorial Park Committee having met, and his meeting regarding the planting plan (with various people including Mr. Bocko and Mr. Bussiculo;) the electrical plan, the sprinkler plan and the maintenance plan. Mr. Pastore has asked that the Committee contact the Recreation Department regarding holiday plans. Mr. Pastore does support the Memorial Park as a memorial area. The Mayor asked if fundraising could still occur and Mr. Pastore answered it could. Further discussion ensued regarding the website name (we have to get it;) a budget for each plan; and an account to be set up for maintenance.

Mrs. Kingsley – Mrs. Kingsley had nothing to report.

ADMINISTRATION REPORTS

Mayor Woodruff – The Mayor reported that he also went to the Congressman Lance meeting and agreed with Mr. Delia that the meeting was informative – the Congressman spoke about both national and foreign policy issues. The Mayor furthered that there were 50 to 60 people at the meeting and the Congressman’s remarks that his constituency is well-educated.

Mr. Bussiculo – Mr. Bussiculo reported: 1) an update from FIOS regarding equipment for Town Hall; 2) the new Assistant Superintendent of DPW started this past Monday, Joseph Niosi; 3) the GL Parking signs are in; 4) the Roll Down door in the Finance Department is now installed. The phone lines are next for installation; 5) a meeting occurred with Giordano Recycling; 6) the Glenside Road pavement schedule; 7) that 8 tons of Pothole material have been put down since the last meeting; 8) an update of the Chipping Program; 9) we received a grant award for Clean Communities of \$27,000. Discussion ensued on what this money could be used for.

Mr. Faecher reported that he checked his phone and learned that the website for the Memorial Park is www.bhmemorialpark.com

The Mayor also reported about the Chamber of Commerce breakfast held with Mayor and Council last Friday. He learned that the turnout was the largest attendance in recent years. He also reported that the Mae property is going to be fenced as well as other work to be completed there in preparation for CVS arrival and the road change.

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

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

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APPROVAL OF MINUTES

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

**Public Meeting – February 24, 2015
March 10, 2015**

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

HEARING ON AGENDA ITEMS ONLY

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

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

Mr. Foregger, 14 Dorsett Road, asked a question regarding the Bill List (specifically about GRA Architects and Mai Day.) Discussion ensued. There wasn't a Bill List to review at the meeting so the Mayor asked that we respond the next day.

Ms. Carol Matula asked about the Executive Session Tax Appeal topic. Discussion ensued, including a discussion about the revaluation with regards to the Executive Session Tax Appeal parties. Ms. Matula also asked for a brief overview regarding DPW potential litigation but Council was not able to respond.

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

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

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**X. PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCE INTRODUCED ON
FEBRUARY 24, 2015.**

The Clerk presented and read:

**“AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY
OF UNION, STATE OF NEW JERSEY, FOR THE CALENDAR YEAR 2015, TO
EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO
ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45, 14)”**

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

Hearing no voices, moved by Mrs. Kingsley 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, Mrs. Kingsley, Mr. Pastore and Mr. Pirone.
Nays: None
Abstain: None
Absent: None

Moved by Mrs. Kingsley 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. Pastore and carried.

Mr. Delia asked that we fix the document to show that the ordinance read 2015, not 2014.

Upon roll call vote:

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

RESOLUTIONS

Mr. Delia introduced the following resolution:

1. Resolution approving Bill List dated May 5, 2015 in the amount of \$517,104.21.

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

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

Mr. Pirone introduced the following resolution:

2. Resolution authorizing Our Lady of Mt. Carmel Society to hold their annual Carnival and Parade from July 12th – July 16th.

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

Ayes: Mr. Delia, Mr. Faecher, Mr. Hall, Mrs. Kingsley, Mr. Pastore, and Mr. Pirone
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 resolution:

(3)

- a. Resolution authorizing the Tax Collector to refund the following 2014 tax overpayments:
 1. Tonny & Kathy Moy 7 Paula Way. \$2,093.06
- b. Resolution authorizing a partial cash and performance bond release for Primrose School & Retail Building, 240-264 Springfield Avenue. The cash portion is for the amount of \$55,264.05.
- c. Resolution authorizing a partial performance and cash bond release for Alcatel-Lucent USA. 600 Mountain Avenue. The cash portion is for the amount of \$174,160.36.
- d. Resolution authorizing a release of cash bond to Menza & Beisel in the amount of \$2,500.00, for work done at 121& 129 Hamilton Avenue. Permit# 2953.

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- e. Resolution authorizing a release of cash bond to Menza & Beisel in the amount of \$700.00, for work done at 121& 129 Hamilton Avenue. Permit# 2953.
- f. Resolution authorizing a release of cash bond to Menza & Beisel in the amount of \$700.00, for work done at 121 Hamilton Avenue. Permit# 2952.
- g. Resolution authorizing a release of cash bond to Menza & Beisel in the amount of \$700.00, for work done at 121 Hamilton Avenue. Permit# 2985.
- h. Resolution authorizing a release of cash bond to Menza & Beisel in the amount of \$700.00, for work done at 129 Hamilton Avenue. Permit# 2967.
- i. Resolution authorizing a release of a cash bond to Mr. M. Murphy, in the amount of \$700.00 For work done at 7 Allen Terrace.
- j. Resolution authorizing a release of a cash bond to AT&T Mobility, for a property located at Locust Avenue in the amount of \$6,475.00.
- k. Resolution authorizing the YMCA to hold their 14th Annual “Mother’s Day 5K Run, on Sunday May 10, 2015.
- l. Resolution authorizing Garden State Fireworks to hold a short fireworks display for PAL and Governor Livingston High School at Snyder Avenue Field on May 19, 2015 between 8:00 – 8:30 p.m.

Moved by Mr. Pastore to approve Consent Agenda resolution #3a-1, seconded by Mrs. Kingsley and upon roll call vote:

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

INTRODUCTION OF ORDINANCES:

Public Hearing and Final Adoption scheduled for May19, 2015:

The Clerk presented and read:

**“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.”**

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Moved by Mr. Pastore that the ordinance as read by the Township Clerk be offered on the first reading, that May 19, 2015 be set as the date for public hearing and that the Township Clerk is directed to advertise same in the Courier News, seconded by Mrs. Kingsley and carried.

Mr. Delia stated that he would vote no because he just received specific ordinance information tonight.

Upon roll call vote:

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

CITIZENS HEARING

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

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

Mr. John Bonnacci of 156 Gallinson Drive stated that he has experience with the budget and made comments regarding: the library (state mandated line;) page 11; exclusions; 2010 insurance change; and page 14 line item increase for insurance. The Mayor said that Mr. Marceau could provide needed information. Discussion ensued regarding insurance agents, salaries, contractual salary increases, capital budget, benefits costs, pension and the 5.4% figure. The Mayor noted that we only spend 16 to 17 cents of each tax dollar. Mr. Bonnacci believes that a lot of “stuff” could be cut.

Mr. Foregger noted that he was at the Budget meetings. He spoke about 1) \$125 on Senior parties (doesn't agree;) 2) there is a lot of money in the Communications Committee; 3) his disagreement with the Township producing videos (we are subsidizing certain local businesses.)

Mr. John Sincaglia asked about affordable housing and whether this housing would force us to build on park land, green acres property or commercial property. Mr. Faecher stated that there is litigation with this issue but “the long and short of it” is that we will look at things like available land in doing an assessment of what an appropriate number should be. Mr. Sordillo commented that Green Acres-protected property can't be forcibly used for affordable housing. Mr. Sincaglia asked if inactive commercial property could be used for affordable housing. Mr. Sordillo further commented on that scenario. Builder's Remedy scenarios were discussed. Further discussion occurred regarding number of senior housing units. Finally, discussion ensued regarding whether you could still sell.

Mr. Foregger asked whether the words affordable housing appear in the New Jersey State Constitution. Discussion ensued regarding a hypothetical situation with a large tower, submitting a viable plan, Builder's Remedy lawsuits, and the Hills in Basking Ridge.

Mr. Bill Machado of 67 Berkshire Drive, asked whether there was an ordinance prohibiting the building of fast food restaurants. Discussion ensued regarding the ordinance and drive-through restaurants. He

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commented that we are being manipulated by a handful of families who own some big pieces of property in this town. Discussion ensued regarding types of zoning classifications. Mr. Machado referenced development in New Providence and said that here it is a hodge podge, a mish mash (no uniformity to our down town area.) Mr. Machado stated that his concern was that our hands are tied by landowners and questioned the need for another super huge drugstore. He speculated regarding what would happen with the Kings property. Discussion ensued regarding zoning and businesses being built by investors.

Mr. Gerald Kuzmik of Eaton Court asked whether any decision had occurred relating to Little Flower (Council responded no.) He spoke about 1) (in 1962 and earlier,) Bell Labs and the forefathers of Little Flower built Berkeley Heights and 2) this area near the train station was built as the focal point of Berkeley Heights. Mr. Kuzmik stated that as Lucent downsizes, it is reducing the ratable that Berkeley Heights is able to collect and that Berkeley Heights is looking for rateables. He spoke about a sign which sat on everyone's desk (which said Think) during the early 1950s and 1960s. Mr. Kuzmik stated 1) he doesn't believe that we are thinking about the future in regards to rateables and the acquisition of the Little Flower property and the Berkeley Heights current residence; 2) the cost of moving is not a wise move; 3) we go "up" a level, update electricity; update the Police Department; rather than relocate. 4) that we think about the costs of relocation to the Little Flower structure; 5) we aren't addressing rateables or the current facility property rateables; 5) we should let Little Flower sell the property; we will then get a ratable (Council responded "not necessarily.") Discussion ensued regarding the reverter clause and whether the Town benefits by controlling the property (the Mayor.)

Mr. Foregger stated that he is "all for" CVS coming in and stated that let the free market work its will.

Ms. Camille Aragona of 56 Chaucer Drive stated that she understands that we are in a "situation" (as every town is). She asked about affordable housing units and current existing multiple development buildings and whether they would be reassessed. Discussion ensued 1) regarding current developments with current affordable housing units, i.e., the apartments adjacent to Kings; 2) Builder's remedy lawsuits and 3) whether what is deemed affordable stays affordable (check the deed restriction.)

Ray from Timber Drive. He asked about a property (question was hard to hear.) Discussion ensued regarding 100 Locust, Berkeley Developers, the Will Family, and Dr. Fan. Council responded that there have been no formal plans presented to the Township for Kings or 100 Locust.

Mr. Mark Dunn of 58 Runnymede Road commended the Mayor for getting in front of things and the Council for getting in front of the Pipeline issue. However, he wanted to bring to everyone's attention that as of May 1st, the Pilgrim spokesman said that the PSE&G decision hasn't delayed the project. Instead record snowfall and below average temperatures have delayed the process. Mr. Dunn suggested that Berkeley Heights adopt an ordinance prohibiting unregulated Pipeline in any zoning district. Madison and Chatham have filed similar ordinances.

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

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

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EXECUTIVE SESSION –

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

Moved by Mrs. Kingsley to go into Executive Session, seconded by Mr. Hall and carried.

Mr. Sordillo noted that there is no anticipated official Council action to take place except for coming out of Executive Session to adjourn the meeting.

Upon roll call vote:

(9:50 p.m.)

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

Moved by Mrs. Kingsley to go out of Executive Session, seconded by Mr. Hall and upon roll call vote:
(11:09 p.m.)

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

ADJOURNMENT

Moved by Mr. Faecher to adjourn, seconded by Mrs. Kingsley and upon roll call vote
(11:10 p.m.)

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

Approved: July 7, 2015