

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD MARCH 22, 2016**

CALL TO ORDER

At 7:04 p.m. Mayor Woodruff called the meeting to order and stated 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 this meeting, all in accordance with the Open Public Meetings Act.

ROLL CALL

Mr. D'Aquila, Mr. Delia, Mr. Faecher, Mrs. Kingsley, Mr. Pastore, Mr. Pirone and Mayor Woodruff answered present. Also present were Township Attorney Joseph Sordillo, Township Administrator John Bussiculo and Township Clerk Ana Minkoff.

FLAG SALUTE

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

CONFERENCE SESSION –

Mr. D'Aquila, Mr. Delia and Mr. Pirone stated that they had nothing for Conference Session

Mr. Faecher – Relative to Affordable Housing, Mr. Faecher stated that there was another significant Litigation update. Mr. Faecher cautioned that we need to be temperate in our comments as it is subject to litigation. Mr. Faecher spoke about previous meeting reports regarding immunity as well as the recent Friday and April 4th deadlines. Mr. Faecher spoke about a Case Management Conference which occurred with both Judges (who are handling the Union County cases.) The Judges decided to move away from the interim immunity applications process. He elaborated further on that Conference. Mr. Faecher spoke about the Judges' decision to select one Union County town to determine affordable housing units and methodology, i.e., the "test case." Mr. Faecher spoke about this proposed development. Mr. Faecher also stated that during this process, Berkeley Heights will still be charged to mediate with previously-discussed Developers.

If a town picked was a size 9 Boot, and Berkeley Heights was a glass slipper, Mr. Pirone asked whether we would have to follow the rules for that very different town. Mr. Faecher responded. Discussion ensued (the Mayor, Mr. Pirone, Mr. Bussiculo and Mr. Faecher.)

The Mayor asked if Mr. Faecher wanted to discuss the fact that some towns have been offered --- Mr. Faecher interrupted the Mayor and stated he didn't think we could or should discuss that.

Mr. Pastore, Mrs. Kingsley, and the Mayor stated that they had nothing for Conference Session.

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TOWNSHIP COUNCIL REPORTS

Mr. D'Aquila – Mr. D'Aquila spoke about attending the recent Chamber of Conference meeting and elaborated.

Mr. Delia – Mr. Delia spoke about attending the recent Suburban Chamber of Commerce Awards Dinner and elaborated.

Mr. Faecher – Mr. Faecher spoke about participating in the March Meals on Wheels and elaborated.

Mr. Pirone – Mr. Pirone stated that he had nothing to report.

Mr. Pastore – Mr. Pastore stated that he had nothing to report.

Mrs. Kingsley – Having participated with Meals on Wheels on St. Patrick's Day, Mrs. Kingsley stated that she echoed Mr. Faecher's comments and elaborated.

Mayor Woodruff – Following Mr. Faecher and Mrs. Kingsley, the Mayor stated that he would be participating in Meals on Wheels the next day. The Mayor spoke about his attendance 1) at the Summit Chamber event and elaborated; and 2) at the Mayor's Meeting and elaborated.

Mr. Bussiculo – Mr. Bussiculo reported on the following: 1) Public Works Week is May 15th to the 21st and elaborated. 2) Storm Drain Blockage on Timber and Exeter; 3) Cross Training occurred on the Vacuum Truck; 4) Street Brining on streets in preparation for Friday's forecasted snow storm occurred; 5) DPW Candidate Interviews are being conducted; 6) Welcome to Berkeley Heights Sign update; 7) A Street Fair Meeting was held. It is scheduled for June 26th; 8) a Union County Infrastructure Grant was submitted on February 26th; 9) A meeting was held with the Morris County Co-Op regarding curb repairs; a meeting was also held with Tilcon to get roads started; a tentative list of roads has been created – Mr. Bussiculo read the list of roads; 10) Spring Chipping will begin in Section 3 on April 4th and will end in Section 2 on June 10th; Tin Claw will be used; 11) Bulk Pickup bids to be received on March 23rd - expected Program start date is May 9th for Section 4 and ends in Section 3 on June 13th; 12) Recycling bids expected on April 12th; 13) Passaic River De-Snag update; 14) Construction Department update on applications received, permits issued, plans reviewed and fees collected; 15) Recreation's Winter Session will end this week and Spring Session begins next week; 16) a meeting was held with New Jersey Water regarding a new 12 inch main from Berkeley Plaza through to New Providence (installation to occur from April to August/September;) 17) a Waste Water Treatment Plant employee was hired; 18) Trickling Filter update; 19) Disinfection alternate solution is being explored; 20) Jet-Vac is out of service; and 21) Website Template expected on Monday and Website deadlines.

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

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

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APPROVAL OF MINUTES

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

Public Meeting – February 23, 2016

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

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

Public Meeting – March 8, 2016

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

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

Executive Session – January 23, 2014; February 25, 2014; and March 11, 2014

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

HEARING ON AGENDA ITEMS ONLY

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

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

In regards to page 10 of the Bill List, Mr. Tom Foregger of 14 Dorsett Road asked about the Halls Home and Garden Center charge for \$85, “Baby Congrats Maxwell.” Mr. Bussiculo responded. Mr. Foregger stated that he thought it was an inappropriate expenditure of tax payer funds. Mr. Bussiculo responded.

In regards to the acid which was spoken about, Ms. Carol Matula of 5 Hastings Road asked for its name. Mr. Bussiculo responded. She asked if it would be a complete replacement. Mr. Bussiculo responded. In regards to the Budget Cap resolution, Ms. Matula asked how much the budget cap would be increased. Mayor Woodruff responded. Ms. Matula asked if this was the only increase. The Mayor and Mr. Marceau

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responded. For people in the audience, Mr. Pirone stated that it might be helpful to know the complete list of things that are outside the Cap. Mr. Marceau responded. The Mayor spoke about the analysis of the 2016 tax levies (i.e., Township levy, School levy, County levy.)

Mr. Rob Zwillich, owner of the Sub Zone, asked about procedures to follow regarding getting 2 hour parking. The Mayor and Mrs. Kingsley responded.

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. D'Aquila, Mr. Delia, Mr. Faecher, Mrs. Kingsley, Mr. Pastore and Mr. Pirone
Nays: None
Abstain: None
Absent: None

PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCES INTRODUCED ON March 8, 2016.

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 2.100.100 to be entitled “Outside Employment of Off-Duty Police Officers” of Chapter 2.100 entitled “Police Division” of Title 2 entitled “Administration and Personnel” of *The Code of the Township of Berkeley Heights* to revise same.” (EXPLANATORY STATEMENT: This Ordinance amends and revises the fees for the services of off- duty police officers of the Township of Berkeley Heights.)

Moved by Mrs. Kingsley to open the public hearing on the ordinance as read by the Township Clerk, seconded by Mr. D'Aquila and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher, 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. Pastore and upon roll call vote:

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

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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 upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher, 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 March 22, 2016 in the amount of \$558,895.40

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

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

Mr. D'Aquila introduced the following resolution:

2. Resolution authorizing the Township to sell the surplus property on the State approved online auction website of (www.GovDeals.Com).

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

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

Mrs. Kingsley introduced the following resolution:

3. Resolution requesting that the County of Union adopt an ordinance, resolution or other appropriate instrument to impose parking regulations on a portion of Springfield Avenue.

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

Mrs. Kingsley stated that for the record, this was to put parking restrictions, Monday through Friday, 8 a.m. to 6 p.m., with a 2 hour limit, and stated the streets it encompassed. Discussion ensued. Mr. Faecher stated that this is a municipal resolution to ask the County to take action. Further discussion ensued regarding the paint. Mr. Delia noted that Station Court should be replaced with Station Street.

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Upon roll call vote:

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

Mr. Faecher introduced the following resolution:

4. Resolution authorizing an agreement with Econsult Solutions Inc.

Moved by Mr. Faecher to approve resolution #4, seconded by Mr. Pastore and carried.

Mr. Delia asked if everyone could be filled in on what they do. Mr. Faecher responded.

Upon roll call vote:

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

Mr. Pirone introduced the following resolution:

5. Resolution authorizing a transfer within the 2015 Municipal Budget and Reserves.

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

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher, 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 resolutions:

(6)

- a. Resolution authorizing the release of a cash bond to Mr. & Mrs. Oliveira, 43 Shadow Lane, for a street opening permit, in the amount of \$700.00.
- b. Resolution authorizing the release of a cash bond to Mr. Paul Vikan, 84 Berkshire Drive, for a street opening permit, in the amount of \$700.00.

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- c. Resolution authorizing the release of a cash bond to Tokash Enterprise, Inc., 292 Washington Street, for a street opening permit, in the amount of \$700.00.
- d. Resolution removing Bill Masullo, 1613 Springfield Avenue, New Providence, from the active roster of the Berkeley Heights Volunteer Fire Department.

Moved by Mr. Pastore to approve Consent Agenda Resolutions #6 a through d, seconded by Mr. Pirone and upon roll call vote:

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

INTRODUCTION OF ORDINANCES

Public Hearing and Final Adoption scheduled for April 5, 2016:

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 that the ordinance as read by the Township Clerk be offered on the first reading, that April 5, 2016 be set as the date for public hearing and that the Township Clerk is directed to advertise same in the Courier News, seconded by Mr. Pastore and upon roll call vote:

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

INTRODUCTION OF 2016 MUNICIPAL BUDGET

Approval of 2016 Municipal Budget for introduction and establishing April 19, 2016 as date of public hearing and final adoption.

The Mayor read a statement regarding the Municipal Budget.

Mr. Sordillo clarified that this was just for the Introduction of the Budget and that the adoption will be after the public hearing.

Moved by Mayor Woodruff to approve the Introduction of the 2016 Municipal Budget and establishing April 19, 2016 as the date of the public hearing and final adoption, seconded by Mr. Pastore and carried.

Mr. Delia stated that on January 1st, he questioned why there were only two budget meetings. Mr. Delia stated that the response he received was that there will probably be more. Mr. Delia stated that he had no

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knowledge that the budget process changed and elaborated. Mr. Delia stated that he would not be voting on it for the fact that he had zero input and elaborated. Many times, Mr. Delia furthered, the Capital Plan is a wish list and not a needs list, and elaborated. He stated that he was shocked the way the Budget was done this year.

Mr. D'Aquila stated that he would comment on the opposite of that. As a new councilperson, he spoke about spending an hour with the Administrator and Mr. Marceau to walk through the details of the Budget and elaborated. Mr. D'Aquila stated that the Garbage truck was discussed at the Budget Meeting as well as the needs of the DPW and elaborated. Mr. D'Aquila stated that he thought the budget process was very efficient and elaborated. Mr. Delia stated that he had zero knowledge from anyone in any way, shape or form. Mr. Faecher stated that to echo what Mr. D'Aquila said, we each get Budget work books and elaborated. Mr. Faecher spoke about going through it during two meetings and the Capital component. Mr. Faecher stated that he also sat with Mr. Bussiculo and Mr. Marceau to discuss his questions and further elaborated. Mr. Faecher spoke about our form of government and the mechanism for questioning and elaborated. Mr. Delia stated that everything should be done at a public meeting. Discussion ensued (Mr. Faecher, Mr. Delia.) Mrs. Kingsley stated that Mr. Delia missed one of the Budget meetings. Mr. Delia disagreed. The Mayor stated that the public was invited and elaborated. Mr. Pastore stated there was plenty of opportunity to ask any questions and elaborated. Discussion ensued (Mr. Delia, Mr. Pastore.) Mr. Delia stated that he was never told this was all the meetings. The Mayor responded. Mr. Delia spoke again about the meeting number question and subsequent response which occurred on January 1st. Mr. Faecher spoke about Mr. Delia's assertion that everything is done by the Administration, elaborating that the Administration does everything each year. Mr. Delia responded. Discussion ensued (Mrs. Kingsley, the Mayor.)

Upon roll call vote:

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

The Mayor read a Budget and Tax Resolution Approval Notice Statement which included the date for a hearing on April 19, 2016 at 7:00 p.m.

CITIZENS HEARING

Moved by Mr. Pastore to open the Citizens Hearing, seconded by Mr. D'Aquila and upon roll call vote:

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

In regards to the Budget process, Mr. Tom Foregger of 14 Dorsett Road, stated that if you are going to make a change, then all members should be informed of what the new process is going into it and elaborated. He stated that he was the only person at the Citizen hearings. He further stated that it was a defective process in that you don't give out your Budget work book and elaborated. Mr. Foregger stated that the private meetings with the Administrator and the CFO could be very helpful to the public to

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understanding what is in the Budget as well as to observe as whether you are really on top of your job and elaborated. He apologized for being so negative.

Mr. Sordillo stated that he wanted to clarify the required legal process. He stated that the municipality has no obligation to hold public meetings to discuss the Budget and elaborated. Mr. Sordillo stated that the law requires 1) the Budget is formulated; 2) Introduced; and 3) a Public Hearing is held which the Public can provide input. Mr. Sordillo stated that this Council has historically gone above and beyond that and held public meetings to discuss the Budget. Mr. Sordillo stated that the Council is doing more than it is required to do and has not violated any Budget process.

The Mayor thanked Mr. Sordillo and stated that he was repeating that April 19th at 7:00 p.m. is the time and in this place, to discuss said Budget and Tax Resolution via 2016 and tax payers and interested persons may come forward.

Mr. Stephen Yellin of 130 Dogwood Lane stated 1) he was at the second Budget meeting and 2) he found Mr. D'Aquila's questions to be informative and appreciated that he brought those questions up. Mr. Yellin stated that it was true that in the past we did have a whole series of Budget meetings almost on a weekly basis. He spoke about the tradeoff between efficiency and full transparency. Mr. Yellin suggested that the details of the meetings be released to the Public through Minutes. Ms. Minkoff stated that you could get the CD. The Mayor elaborated on getting a CD and the difficulty of preparing Minutes from a Budget meeting. Mr. Yellin responded.

Mr. Pirone stated that his first Budget process occurred in 2007. Mr. Pirone stated that having a full-time CFO has made the process so much easier, and every year, with a full-time CFO, the process has gotten easier, shorter and better. A question arose in what sense. Mr. Pirone responded. Mrs. Kingsley spoke about zero based budgeting and today's process being much more efficient. Mr. Pirone spoke about the rules when engaging with Department Heads and elaborated. The Mayor spoke about Mr. Marceau's work in being able to look back at prior years and elaborated that this wasn't available before. Mr. Pirone spoke again about his experience in 2007 in getting Budget answers, elaborated and stated that in many different ways, this is so much better than it was back then. Mr. Bussiculo spoke about a meeting with two Department Heads and requested equipment. In regards to when you place people in positions of responsibility, the Mayor spoke about letting them do their job.

In regards to a recent newspaper article in which the County indicated their budget increase was 3.4%, Mr. Nelson Stauber of 125 Park Avenue asked if the County was held to the Cap. Mrs. Kingsley and Mr. Pastore responded no. Mr. Stauber asked if all counties in the State (were not held to the Cap.) The Mayor responded.

In light of some of the Council meetings with the Administrator and having decided that the Budget is appropriate, Ms. Carol Matula of 5 Hastings Road asked what opportunities do citizens have to change anything. Mr. Pirone responded. Ms. Matula stated that she has been at the Budget meetings before and you have the numbers and we do not have any numbers and elaborated. Mr. Marceau responded. Discussion ensued (Ms. Matula, the Mayor, Mr. Sordillo.) Ms. Matula stated that while your process may be completely lawful, you still can make a comment at that time, but you know you can't. The Mayor responded.

Mr. Tom Foregger stated that you have reviewed this budget, I haven't, and asked how much was in Finance Salaries and Wages and Finance OE. Discussion ensued (Mr. Pirone, the Mayor, Mr. Foregger.)

Mr. Ken Merin of 21 Middle Way stated that they had questions about a water issue. Ms. Merin stated that they lived on Middle Way and elaborated on the elevation and the surrounding neighborhood. She

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asked to consider installing one storm water drain to help alleviate the drainage problems on Middle Way. She elaborated on the flooding in her neighborhood. Ms. Merin stated that she had photographs. Mr. Pastore asked for clarification. Ms. Merin elaborated on the issue. Mr. Bocchino responded. Further discussion ensued.

Ms. Ann Bunyaner of 33 Middle Way spoke about the underground spring popping up in front of her property, a constant flow of water which comes down her side of the road, no drain, and further elaborated. She stated there were multiple drain issues and asked that when you go out and look, you look there.

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

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

EXECUTIVE SESSION – Attorney/Client Privilege- Litigation-Affordable Housing

Moved by Mrs. Kingsley to go into Executive Session, seconded by Mr. Pastore and upon roll call vote:
(8:14 p.m.)

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

The Mayor reminded all that they would be coming out of Executive Session, only to adjourn.

Moved by Mrs. Kingsley to go out of Executive Session, seconded by Mr. Pastore and upon roll call vote:
(8:39 p.m.)

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

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ADJOURNMENT

Moved by Mr. Delia to adjourn, seconded by Mr. D'Aquila, and upon roll call vote:
(8:40 p.m.)

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

Approved: April 5, 2016