

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD AUGUST 23, 2016**

CALL TO ORDER

At 7:05p.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. Delia, Mrs. Kingsley, Mr. Pastore, Mr. Pirone and Mayor Woodruff answered present. Mr. D'Aquila and Mr. Faecher were absent. Also present were 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.

OATH OF OFFICE

Thomas Marshall Jr. - Police Patrolman
Robert Deitch – Captain

The Mayor stated that we would be swearing in two police officers: one to the rank of Captain and another as an incoming patrolman.

The Mayor asked Mr. Marshall and his family to come forward. The Mayor administered the Oath of Office of Police Patrolman to Thomas Marshall.

The Mayor asked Mr. Deitch to come forward. The Mayor administered the Oath of Office of Police Captain to Robert Deitch.

The Chief spoke about the background and accomplishments of Officer Thomas Marshall.

The Chief spoke about the background and accomplishments of Captain Robert Deitch.

EXECUTIVE SESSION - Attorney Client Privilege/Contract Negotiations- Lockhern Associates

Moved by Mrs. Kingsley to go into Executive Session, seconded by Mr. Pastore and upon roll call vote:
(7:13 p.m.)

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

Moved by Mr. Delia to go out of Executive Session, seconded by Mr. Kingsley and upon roll call vote:
(7:39 p.m.)

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

CONFERENCE SESSION – Winter Walk

The Mayor stated that we would open up with a Winter Walk discussion and asked Ms. Peer to come forward. Ms. Peer responded that Hilary Froehlich and Cherri Pertesis would join her. The group officially announced that the Winter Walk would occur again this year and the scheduled date was December 3rd. Discussion ensued on preparations for the event. The representatives asked for support from the Township Council, Mayor and residents. Mr. Pirone asked whether businesses from the Snyder Avenue area could be included. Discussion ensued. Further discussion ensued about improving the experience of last year's Winter Walk.

Mr. Bussiculo spoke about a letter he recently sent to New Jersey Transit regarding the train track gates. The Mayor elaborated on the Mondelli property donation to the Township.

Discussion ensued regarding a Winter Walk website, Santa availability and increasing food availability.

The Mayor speculated that citizens' biggest complaint with respect to the Downtown was the Movie Theatre. He noted that it was an eyesore. The Mayor stated that he believes this situation has been remedied. The Mayor noted that we would further discuss this when we reached the Resolutions. He spoke about the Redevelopment process and a vision for the Downtown. The Mayor thanked our Town Planner, Mr. Mistretta.

TOWNSHIP COUNCIL REPORTS

Mr. Delia – Mr. Delia stated that we received a \$25,000 grant for the Ash borer problem and elaborated. Mr. Delia thanked specific individuals for their work on the grant (Mr. Leister, Mr. Bussiculo, Mr. Bocko and Mr. Bocchino.)

Mr. Delia asked if anything was being addressed on Ghost Pony Road. Mr. Bocchino responded.

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

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

Mrs. Kingsley – Mrs. Kingsley provided a website update and noted that the launch date is still on target for October 1st. She noted the significant amount of time that Barbara Russo has spent on the website. Mrs. Kingsley thanked the Recreation Department for their work with the Playground Camp and elaborated.

Mrs. Kingsley noted that we all need to thank Mr. Faecher, the Mayor, Mr. Bussiculo and Mr. Sordillo for their work on the COAH issue and elaborated. Mrs. Kingsley spoke about the number of hours Mr. Faecher has given to this issue and encouraged residents to thank him.

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Mayor Woodruff –The Mayor spoke about recently returning to Berkeley Heights and witnessing a volunteer named MidgeVicendese watering the flowers near one of our signs. The Mayor noted that what makes a town a community is volunteers and elaborated. Mrs. Kingsley spoke about the Beautification Committee’s watering schedule to attend to the Halls-donated flowers at the signs.

Mr. Bussiculo – Mr. Bussiculo presented updates from these Township Departments: Recreation, Engineering, Public Works, Sewer, Building, and Zoning. Mr. Bussiculo gave updates on Peppertown Park, crosswalks, leaf collection, Passaic River de-snagging, and the School Flashers. Mr. Bussiculo spoke about the culvert and thanked the County for their efforts. Mr. Bussiculo noted the upcoming Town Clean Up Day.

The Mayor spoke about the upcoming 9/11 ceremony and thanked the DPW for their willingness to work on that day. He also spoke about the upcoming Police/Fire Softball game on September 10th and noted that the proceeds for this event would go to the Veterans’ Memorial.

Moved by Mr. Delia to approve the Township Council and Administration Reports, seconded by Mrs. Kingsley and upon roll call vote:

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

APPROVAL OF MINUTES

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

**Public Meeting –August 9, 2016
Executive Session – April 21, 2015**

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

HEARING ON AGENDA ITEMS ONLY

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

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

The Mayor stated that Mrs. Kingsley would be the timer and noted that the Hearing would be on Agenda items only.

Hearing no voices, moved by Mr. Pastore to close the Hearing on Agenda Items Only, seconded by Mr. Pirone and carried. A member of the audience asked if we were going to explain items 2 and 3. The Mayor responded.

Upon roll call vote:

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

RESOLUTIONS

Mr. Delia introduced the following resolution:

1. Resolution approving Bill List dated August 23, 2016 in the amount of \$809,887.18.

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

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

As Mr. Faecher could not attend the Council Meeting, Mrs. Kingsley noted that before she was going to read Resolution Number 2, she would read a statement from Mr. Faecher (A copy of which is attached to the permanent minutes.)

Mrs. Kingsley introduced the following resolution:

2. Resolution amending and replacing Resolution No. 153-2016 with the instant resolution to authorize the preliminary investigation of the Berkeley Heights Developers Property, the Lockhern Property, and the adjacent properties identified as Block 702, Lot 18, the Sherman Avenue Right-of-Way, the Lone Pine Drive Right-of-Way, the Sherman Avenue Easement/Right-of-Way (located on a portion of Block 702, Lots 13, 14, 15, and 17) (collectively, the "Study Area") as areas in need of redevelopment.

Moved by Mrs. Kingsley to approve resolution #2, seconded by Mr. Pirone and carried.

The Mayor spoke about proactively working with developers for various locations in the Township and elaborated. Mr. Mistretta then distributed handouts associated with Resolutions Number 2 and 3 and asked that they be returned after the meeting discussion. Mr. Mistretta stated that he would walk through the drawings and then answer questions. Mr. Mistretta presented information about the project which would replace the movie theatre and the Redevelopment Study Area map. He spoke about amending the Resolution to include Block 702, Lot 13 and elaborated. Mr. Mistretta spoke about the first exhibit which was an amended Redevelopment Study. He spoke about the critical role of the Right-of-Ways. Mr.

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Mistretta spoke about two of the developers' commitments to improve the Sherman Avenue area to make it a "second" Main Street and elaborated. Mr. Mistretta then spoke about a sketch called Concept North Elevation. Mr. Mistretta spoke about the original project plan which had been filed with the Township and noted that the Township rejected it and the issue still remains with the "Court." Mr. Mistretta spoke about negotiated settlements with Locust Avenue and then with Kings. He noted that the Township then started discussions with Connell. Mr. Mistretta noted that one of the key points of the presentation was that the Township was able to roll this property into Redevelopment on our terms. Mr. Mistretta spoke about building height requirements being met. Mr. Mistretta then discussed the remaining pages in the hand out. Mr. Mistretta elaborated further on the proposed concept including stating that there would be 4,000 square feet of retail space facing Sherman Avenue. Mr. Mistretta spoke about the importance of bringing this plan under Redevelopment. He spoke about the proposed accomplishments of the area.

Mr. Pirone stated that he had been involved with the Governing Body for the better part of 20 years, either on the Planning Board or the Township Council. He spoke about keeping three things in balance: 1) preventing the Township from becoming too dense; 2) meeting our Affordable Housing obligations; and 3) getting the down town property owners to reinvest. He spoke about the importance of a vibrant down town area. Mr. Pirone spoke about what the proposed project would accomplish. He stated that he was very happy with this project and was very much in favor of Resolution Numbers 2 and 3.

With the potential of this going into the Redevelopment Plan, Mrs. Kingsley asked Mr. Mistretta to explain what that means in regards to the Planning Board, the Zoning Board and other normal processes. Mr. Mistretta responded.

The Mayor asked if the Developer was an Intervenor in this action. Mr. Mistretta responded. Discussion ensued (Mr. Mistretta, the Mayor, Mr. Sordillo.)

Mr. Delia asked what the acreage was on this piece. Mr. Mistretta responded. Mr. Delia stated that there were several things he liked about it and several things he didn't like about it and elaborated. Discussion ensued (Mr. Bussiculo, Mr. Mistretta, Mr. Sordillo, Mr. Delia.)

Discussion ensued regarding Building setback (Mr. Pirone, Mr. Mistretta, and Mr. Delia.)

Ms. Matula asked if Sherman Avenue was going to be "re-done" and whether it was moving closer towards the railroad tracks. Mr. Mistretta responded. Ms. Matula asked whether it was going to be paved. The Mayor and Mr. Mistretta responded. Ms. Matula asked a question about Lone Pine Drive. Discussion ensued. Mr. Mistretta responded. Ms. Matula asked about the first floor of the building on the Theatre property. The Mayor and Mr. Mistretta responded.

Mr. Raaymakers asked for plan clarification. Discussion ensued (Mr. Mistretta, the Mayor, Mrs. Kingsley, Mr. Bussiculo, Mr. Sordillo.)

Ms. Aragona asked whether there were any plans for the hotel property. Mr. Mistretta responded. She asked whether there was any chance of Sherman Avenue being extended to Snyder Avenue. Mr. Mistretta responded.

Assuming that the Governing Body agrees with the Agreement, Mr. Yellin asked about the expected time table for this project. Mr. Mistretta responded. Mr. Yellin stated that about 25 years ago there was a plan to extend Sherman Avenue behind Stop & Shop. He asked whether that extension could take place and elaborated. Mr. Mistretta responded.

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Mr. Kuzmik of Eaton Court asked specific questions about the proposed 12 foot space from the curb for the proposed property on Springfield Avenue. Mr. Mistretta responded. Discussion ensued (Mr. Pirone, Mr. Kuzmik, Mrs. Kingsley, the Mayor, Mr. Mistretta, Mr. Delia.)

Ms. Froehlich asked for clarification regarding the parking. Mr. Mistretta responded.

Mr. Hall asked whether the neighboring properties to the theatre would be involved. Mr. Mistretta responded. Mr. Hall asked whether Sadal Liquor would be included. Discussion ensued (Mrs. Kingsley, the Mayor, Mr. Mistretta.)

Mr. John Sincaglia of 22 Robbins Avenue stated that if we did nothing, there could be 48 units there. He stated that if we did this, the number of units could be cut in half. Mr. Sincaglia spoke about making lemonade out of the lemons given and elaborated. Mr. Sordillo stated that this was actually and essentially a Settlement Agreement and elaborated.

Upon roll call vote:

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

Mr. Pastore introduced the following resolution:

3. Resolution authorizing the Memorandum of Understanding with Lockhern Associates, 450 Springfield Avenue, Block 702, Lot 13, to memorialize the agreed upon terms of the mixed-use development of the property, with an inclusionary affordable housing component.

Moved by Mr. Pastore to approve resolution #3, seconded by Mr. Pirone and upon roll call vote:

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

Mr. Pirone introduced the following resolution:

4. Resolution authorizing the Township Planner to prepare a redevelopment plan for 100 Locust Avenue, Block 1901, Lot 35.

Moved by Mr. Pirone to approve resolution #4, seconded by Mr. Pastore and carried. Mr. Sordillo clarified that the Resolution in effect designates the area as an area of Redevelopment and elaborated.

Upon roll call vote:

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

Absent: Mr. D'Aquila and Mr. Faecher

Mr. Delia introduced the following resolution:

5. Resolution authorizing a tax settlement with Brookside Partnership, L.P.,
261 Springfield Avenue, Block 301, Lot 25.

Moved by Mr. Delia to approve resolution #5, seconded by Mr. Pirone and carried. Mr. Delia asked what property this referred to. Mr. Bussiculo and the Mayor responded.

Upon roll call vote:

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

Mrs. Kingsley introduced the following resolution:

6. Resolution authorizing the online auction services of EMEX, LLC, for the purchase of
energy generation services (electricity).

Moved by Mrs. Kingsley to approve resolution #6, seconded by Mr. Pastore and carried. Mr. Delia asked if this was the same company we used previously. Mr. Bussiculo responded.

Upon roll call vote:

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

Mr. Pirone introduced the following resolution:

7. Resolution authorizing the application of the "Greening Union County" grant program in
the amount of \$16,500.00.

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

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

CONSENT AGENDA

All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Mr. Pastore introduced the following resolutions:

(8)

- a. Resolution authorizing the Tax Collector to refund the following 2016 tax overpayment:
22 Russo Assoc. 12 Russo Place \$22,778.91.
- b. Resolution authorizing a block party on Branko Road/North Road, on September 10, 2016 from 2:00 p.m.–8:00 p.m. with a rain date of September 11, 2016.

Moved by Mr. Pastore to approve Consent Agenda Resolution #8a through b, seconded by Mr. Pirone and upon roll call vote:

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

CITIZENS HEARING

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

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

Ms. Stephanie Bakos thanked the Freeholders for the \$7,250 Library grant.

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

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

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:
(9:13 p.m.)

Ayes: Mr. Delia, Mrs. Kingsley, Mr. Pastore and Mr. Pirone
Nays: None

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Abstain: None
Absent: Mr. D'Aquila and Mr. Faecher

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:
(9:36 p.m.)

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

ADJOURNMENT

Moved by Mr. Delia to adjourn, seconded by Mr. Pirone, and upon roll call vote:
(9:37 p.m.)

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

Approved: September 6, 2016