

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD SEPTEMBER 20, 2016**

CALL TO ORDER

At 7:08 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, Mrs. Kingsley, Mr. Pastore, Mr. Pirone and Mayor Woodruff answered present. Mr. Faecher were absent. Also present were Township Attorney Joseph Sordillo, Township Administrator John Bussiculo and Deputy Clerk Patricia Donahue.

FLAG SALUTE

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

The Mayor announced that he would present a proclamation to Meals on Wheels, in conjunction with Sage Eldercare. The Mayor spoke about their 50th anniversary and elaborated on their work. The Mayor asked Ms. Kranz and Ms. Stuart to come forward to accept the Proclamations. The Mayor read aloud the Proclamation.

CONFERENCE SESSION –

The Mayor asked if the members of Council had a subject to discuss.

Mr. Delia asked a question regarding a \$100,000 Parks grant which was discussed at the last Council meeting. Mr. Bussiculo and Mr. Barton responded.

Mr. D'Aquila, Mr. Pirone, and Mr. Pastore had nothing to report for Conference.

Mrs. Kingsley spoke about the Introduction of the Recording Devices/Recording of Public Meetings Ordinance.

TOWNSHIP COUNCIL REPORTS

Mr. Delia – Mr. Delia wished Ms. Croneberger a happy birthday.

Mr. D'Aquila – Mr. D'Aquila congratulated the Police Department for winning the Second Annual Softball game and thanked everyone involved with the 9/11 Memorial event.

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

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

Mrs. Kingsley –Mrs. Kingsley thanked the Fire Department for their pasta dinner. She gave a website update and a Beautification Committee update. Mrs. Kingsley gave a “shout out” to Dr. Pat Smith for his work with the recent 5k race.

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Mayor Woodruff - The Mayor spoke about the recent 5k race and elaborated about Dr. Pat Smith, noting he was a tremendous volunteer in the community. The Mayor congratulated the Police (regarding the Softball game win.) The Mayor spoke about the long hours of the Memorial Park volunteers, including Ms. Vicendese, Ms. Hollowell and Mr. Romankow. The Mayor spoke about the 9/11 event and thanked the Police, Fire, DPW and Rescue Squad as well as our elected officials.

In regards to Affordable Housing, the Mayor spoke about a recent Supreme Court action, in which the Court took the case from the Appellate Division. The Mayor noted that this occurred about two days after the Township's settlement. The Mayor thanked Mr. Sordillo, Mr. Mistretta, Mr. Bussiculo and Mr. Faecher.

Mrs. Kingsley noted that the previously-referenced banners were 100% paid for by donations from the public.

Mr. Bussiculo – Mr. Bussiculo presented updates from these Township Departments: Engineering, Public Works, Sewer, and Building.

Mr. Bussiculo gave updates on Passaic River, the School Flashers, Guard Rails, New Jersey Transit's work with the Rail Crossing, meeting with the seniors, and the new Yard Waste and Leaf Pickup program. Mr. Bocchino elaborated on the Yard Waste and Leaf Pickup program.

The Mayor asked Mr. Bussiculo about the COAH fee number in his report. Mr. Bussiculo responded. Discussion ensued (The Mayor and Mr. Sordillo.)

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

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

APPROVAL OF MINUTES

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

Public Meeting – September 6, 2016

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

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

Executive Session – June 9, 2015, August 4, 2015, September 1, 2015.

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

Absent: Mr. Faecher

HEARING ON AGENDA ITEMS ONLY

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

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

The Mayor stated that Mrs. Kingsley would be the time keeper. The Mayor stated that Affordable Housing questions would be addressed during a public comment time at the Resolution reading.

Mr. Tom Foregger of 14 Dorsett Road asked how long the attorneys spent on drafting the Recording Ordinance. Mr. Sordillo responded. Mr. Foregger stated that he had a few comments about the Ordinance, noting that the Ordinance was unnecessary, and elaborated. Mr. Foregger recommended specific amendments and elaborated.

Ms. Carol Matula of 5 Hastings Road commented that the Ordinance was a completely unnecessary Ordinance and elaborated. She commented about two specific sections. Discussion ensued (the Mayor, Mr. Sordillo, Mrs. Kingsley, and Mrs. Matula.)

Mr. Richard Leister of 49 Summit Avenue asked for support regarding the Resolution pertaining to Sustain New Jersey and elaborated.

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

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

PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCE INTRODUCED ON AUGUST 9, 2016.

The Deputy Clerk presented and read:

“AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, ADOPTING A REDEVELOPMENT PLAN FOR THE PROPERTY IDENTIFIED AS BLOCK 1301, LOT 26, LOCATED AT 290 PLAINFIELD AVENUE, PUSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW.”

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

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

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

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

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 Mrs. Kingsley and upon roll call vote:

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

RESOLUTIONS

Mr. Delia introduced the following resolution:

1. Resolution approving Bill List dated September 20, 2016 in the amount of \$266,625.03.

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

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

The Mayor noted that we were responding to an Order rendered by Judge Kenney on September 7, 2016. As Mr. Faecher could not attend the Council Meeting, Mrs. Kingsley stated that she would read a statement from Mr. Faecher (a copy of which is attached to the permanent minutes.) The Mayor stated that 1) he would ask Mrs. Kingsley to read the Resolution and then 2) he would open up the meeting to inquiries and comments.

Mrs. Kingsley introduced the following resolution:

2. Resolution authorizing the Settlement Agreement with Fair Share Housing Center, which will ultimately result in approval of the Township’s Fair Share Plan which, in turn, will maintain the Township’s immunity from all Mount Laurel lawsuits for the ten-year period set forth in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to 329.

The Mayor asked for comments from the dais.

Mr. Delia stated that he always votes against anything with COAH and elaborated. He spoke about some of the reasons why he is against Mount Laurel. Mr. Pirone noted that many people in the audience and dais would agree with Mr. Delia’s statements, but stated that this vote was not whether we agreed with the law, COAH, but rather, it was a vote to accept a Settlement Agreement and not go to trial. Discussion ensued (the Mayor, Mr. Delia, Mrs. Kingsley, and Mr. Pirone.)

Carol Matula of 5 Hastings Road stated that she had two questions: 1) how much has the Township spent on Trial to date. Mr. Marceau responded; 2) why are we paying Fair Share Housing Center \$15,000. The Mayor responded. Ms. Matula asked for a summary of one bedroom, two bedroom and three bedroom units. Mr. Mistretta responded.

Mr. Stephen Yellin of 130 Dogwood Lane noted an address error on the first page. Mr. Yellin commented on the years-long process and stated that he wanted to give credit to Mr. Faecher and all those involved. Mr. Yellin spoke about a Township tax appeals suit with Lucent which occurred 30 years ago in Berkeley Heights.

Mr. Tom Foregger stated that he supported the Resolution. He suggested crafting a statement against this business and distributing it to our representatives. The Mayor responded. Mr. Foregger asked how they (the Fair Share Housing Center) got their funding. Mr. Sordillo responded.

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

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

Mr. Pirone introduced the following resolution:

3. Resolution authorizing the sale of surplus personal property on the State-approved online auction website of GovDeals.com.

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

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

Mr. Delia introduced the following resolution:

4. Resolution supporting the Green Team associated with the Environmental Commission in their efforts to renew the Township’s Silver Certification.

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

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

Mr. D’Aquila introduced the following resolution:

5. Resolution authorizing a shared services agreement with the Board of Education for the provision of repair and maintenance services for the Board of Education Vehicles.

Moved by Mr. D’Aquila to approve resolution #5, seconded by Mr. Pirone and carried. Mr. Delia ask how many vehicles would be “taken on.” Mr. Bussiculo responded. Discussion ensued (Mr. Delia, Mr. Sordillo, Mr. Bussiculo and Mrs. Kingsley.)

Upon roll call vote:

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

Mr. Delia introduced the following resolution:

6. Resolution authorizing the Hold Harmless Agreement for composting leaves with the County of Union.

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

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

(7)

- a. Resolution authorizing the Tax Collector to refund the following 2016 tax overpayment:
 - 1. Eric & Millie Dawson 51 Webster Drive \$3,963.07
 - 2. Stephen & Grace Lombardi 368 Timber Drive. \$108.57
 - 3. George & Erica Koufakis 100 Crest Drive \$452.45

- b. Resolution authorizing a renewal of a blue light permit for, Toni Ann Gestone, who is a member of the Berkeley Heights Rescue Squad.

- c. Resolution authorizing a renewal of a blue light permit for, Donna Foster, who is a member of the Berkeley Heights Rescue Squad.

- d. Resolution authorizing a renewal of a blue light permit for, Stephen Kirsch, who is a member of the Berkeley Heights Rescue Squad.

- e. Resolution requesting a block party on September 24, 2016 from 4:00 – 9:30 p.m. between 55 and 95 Wentworth Drive.

- f. Resolution authorizing the return of a Maintenance Bond in the amount of \$18,321.00 to Connell Solar Canopy, for work performed at 50 Connell Drive and 100 Connell Drive.

Moved by Mr. Pastore to approve Consent Agenda Resolution #7a through f, seconded by Mrs. Kingsley and upon roll call vote:

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

INTRODUCTION OF ORDINANCE:

Public Hearing and Final Adoption scheduled for October 4, 2016:

The Deputy 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.”

Moved by Mrs. Kingsley that the ordinance as read by the Township Clerk be offered on the first reading, that October 4, 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. D'Aquila and upon roll call vote:

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

Public Hearing and Final Adoption scheduled for October 4, 2016:

The Deputy Clerk presented and read:

“AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING VARIOUS SECTIONS OF TITLE 1 ENTITLED “GENERAL PROVISIONS” OF THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS TO CREATE NEW CHAPTER 1.06 TO BE ENTITLED “RECORDING OF PUBLIC MEETINGS” TO ESTABLISH GUIDELINES FOR THE RECORDING OF PUBLIC MEETINGS.”

Moved by Mr. Pastore that the ordinance as read by the Township Clerk be offered on the first reading, that October 4, 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. D'Aquila and carried. Mrs. Kingsley proposed a change to the Ordinance and elaborated. Mr. Sordillo responded.

Mr. Delia stated that he thought this was an “overkill” and complete waste of Township money and elaborated. He asked questions about the Ordinance, identifying specifically sections. Discussion occurred after each question. Mr. Delia asked about the number of towns with similar Ordinances. Mr. Sordillo responded. Mr. Delia asked about lawsuits associated with such towns.

The Mayor noted that his attitude towards laws is that we have too many of them and we don't enforce those that we have. The Mayor stated that he wasn't particularly happy with this and having to do this and elaborated.

Mr. Sordillo suggested that we move and second the Resolution as amended based upon Mrs. Kingsley's comments.

Moved by Mr. Pastore that the ordinance as read by the Township Clerk be offered on the first reading, and now amended, and that October 4, 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 Mrs. Kingsley and upon roll call vote:

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

CITIZENS HEARING

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

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

Mr. Charlie Pratt of 45 Park Avenue stated he wanted to thank a lot of people in town, specifically the volunteers. He elaborated about 1) Mr. Pastore’s work with the website; 2) the Communications Committee; 3) making the website compliant with the law ; 4) the zero budget associated with the website; and 5) volunteer work in different organizations in Town, naming specific individuals.

Ms. Carol Matula of 5 Hastings Road commented on the introduced Public Recording Ordinance, specifically suggesting that it be noted that no taping can begin until a meeting starts.

Mr. Stephen Yellin of 130 Dogwood Lane asked whether the new website would contain a streaming capacity. Discussion ensued (Mr. Bussiculo, Mrs. Kingsley and Mr. Yellin.) Mr. Yellin noted that Mr. Pratt was the person running the website free of charge and stated that he was one of the best volunteers in the Township.

In regards to the duplication of recordings and photographs, Mr. Tom Foregger asked why the Township would want a copy. The Mayor and Mrs. Kingsley responded. Discussion ensued regarding specific aspects of the Ordinance (Mr. Foregger, Mr. Sordillo, Mrs. Kingsley and the Mayor.)

Ms. Gay Hollowell of 21 Bristol Court stated her thanks for working to maintain a safe and secure environment for volunteers and elaborated. Ms. Hollowell spoke about two personal experiences in which she was watched and stalked and elaborated, and specifically thanked the Berkeley Heights and New Providence Police Departments. Ms. Hollowell further elaborated about the important steps being taken here.

Mr. Tom Maciejewski of 40 Ralph Place stated he was sick of the partisan politics played in the middle of this Town Council. Mr. Maciejewski noted that the devise was not unattended and elaborated.

Mr. Raaymakers of Timber noted that there have been 18 meetings, there are 8 recordings and that we are missing out on 10 and elaborated.

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

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

EXECUTIVE SESSION –

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1. Attorney – Client Privilege/ Contract Negotiations – Connell
2. Attorney-Client Privilege/Contract Negotiations – Berkeley Heights Developers, LLC
3. Attorney-Client Privilege / Litigation - Berkeley Developers (Locust Avenue)

Moved by Mrs. Kingsley to go into Executive Session, seconded by Mr. Pastore and upon roll call vote:
(8:47 p.m.)

Ayes: Mr. D’Aquila, Mr. Delia, Mrs. Kingsley, Mr. Pastore and Mr. Pirone
Nays: None
Abstain: None
Absent: 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:
(9:31 p.m.)

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

ADJOURNMENT

Moved by Mr. Delia to adjourn, seconded by Mr. Pirone, and upon roll call vote:
(9:32 p.m.)

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

Approved: October 4, 2016