

**Township of Berkeley Heights
Union County, New Jersey
October 18, 2016**

XX

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, Star Ledger at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act. This meeting was contained on a list of meetings set by resolution dated January 1, 2016. This meeting will not substantially go past 10:30 p.m.

COUNCIL MEMBERS:

- Michael D'Aquila
- Edward Delia
- Marc Faecher
- Jeanne Kingsley- President
- Craig Pastore - Vice President
- Thomas Pirone
- Robert Woodruff- Mayor

AGENDA FOR PUBLIC MEETING

- I. CALL TO ORDER - 7:00 PM**

- II. ROLL CALL**

- III. FLAG SALUTE**

- IV. PROCLAMATION- Charlie Pratt**

- IV. CONFERENCE SESSION –**
 - Best Practices Presentation**
 - Presentation regarding Peppertown Park**
 - Beautification Committee – Future fund raising**

- V. REGULAR AGENDA**

- VI. TOWNSHIP COUNCIL REPORTS**
 - A. Michael D'Aquila**
 - B. Edward Delia**
 - C. Marc Faecher**
 - D. Jeanne Kingsley**
 - E. Craig Pastore**
 - F. Thomas Pirone**

VII. ADMINISTRATION REPORTS

Mayor Woodruff

VIII. APPROVAL OF MINUTES –

Public Meeting –October 4, 2016

Executive Session – November 10, 2015,

IX. HEARING ON AGENDA ITEMS ONLY – 3 minutes per resident

Comments are welcome during the public comment period during this meeting on any agenda item. However, if an ordinance is listed for its own public hearing on the agenda, please hold your comments for that particular public hearing. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The (Mayor/Council President) will keep time. Please promptly yield on the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

IX. NEW BUSINESS- RESOLUTIONS

OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

A. RESOLUTIONS

1. Resolution approving Bill List dated October 18, 2016 in the amount of \$259,073.61.
2. Resolution authorizing the contract with Emergency transfer Controls, Inc., for the WPCP Electric Controls Upgrade Project in the amount not to exceed \$110,412.00.
3. Resolution authorizing a partial release of a Performance Guarantee bond, to Paone Realty Assoc. for the property located at 308-312 Springfield Avenue in the amount of \$93,741.60.
4. **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.
 - a. Resolution removing John Joyce the active roster of the Berkeley Heights Fire Department.
 - b. Resolution authorizing Garden State Fireworks to hold a fireworks display at Snyder Avenue Park on October 28, 2016 from 9:30 to 9:45 p.m.
 - c. Resolution authorizing Garden State Fireworks to hold a fireworks display at Peppertown Park on December 3, 2016 from 6:30 to 7:30 p.m.
 - d. Resolution Proclaiming November 13, 2016 as Band Appreciation Week.
 - e. Resolution authorizing a block party at Beech Avenue, on October 31, 2016 between the hours of 3:30 p.m. and 5:30 p.m.

X. INTRODUCTION OF ORDINANCES:

Public Hearing and Final Adoption scheduled for November 1, 2016:

“An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Authorizing the Lease with Our Lady of Mount Carmel Society.”

XI. CITIZENS HEARING - 3 minutes per resident

Comments are welcome during the public comment period during this meeting on any matter over which the Township has jurisdiction. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The Mayor and/or Council will keep time. Please promptly yield the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

XII. EXECUTIVE SESSION –

XIII. ADJOURNMENT

**Ana Minkoff
Township Clerk**

Agenda Item # |

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, authorizes and directs the Township Treasurer to make payment of vouchers listed on the Bill List dated 10/18/16, in the amount of \$259,073.61 such vouchers having been received by the Township Council, having been satisfied that appropriate procedure has been followed in the processing of said vouchers.

APPROVED this 18th day of October, 2016.

ATTEST:

Ana Minkoff
Township Clerk

Agenda Item # 2

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

WHEREAS, the Township accepted bids on September 29, 2016, for WPCP Electric Controls Upgrade Project; and

WHEREAS, by letters dated October 5, 2016, the Township Engineer has recommended that the contract be awarded to Emergency Transfer Controls Inc., 251 Nuthatch Court, Three Bridges, New Jersey, 08887, NJ 07110-1209, in the amount of \$110,412.00 be accepted and the Township Council concurs.

NOW, THEREFORE BE IT RESOLVED by the Township Council, of the Township of Berkeley Heights, County of Union that the appropriate municipal officials are authorized to execute a contract with Emergency Transfer Controls, Inc., and the Treasurer is authorized to pay properly completed vouchers for the provision of the WPCP Electric Controls Upgrade Project in the amount not to exceed \$110,412.00 for such work.

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized to advertise the award of this contract in accordance with law.

BE IT FURTHER RESOLVED that the Township Clerk shall forward a copy of this Resolution to Emergency Transfer Controls Inc.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 18th day of October, 2016.

ATTEST:

Ana Minkoff
Township Clerk

#3

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Paone Realty Associates was required to post a Performance Guarantee in the amount of \$133,608.00, in connection with work being performed at 308-312 Springfield Avenue and the Township Engineer in a letter dated October 12, 2016 recommends reducing the performance guarantee to \$39,866.40.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, hereby authorizes the Township Treasurer to release and return a partial amount of the Performance Guarantee posted by Paone Realty Assoc., in the amount of \$93,741.60, together with any applicable interest thereby reducing the cash bond.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to Township Treasurer and Township Engineer.

APPROVED this 18th day of October, 2016.

ATTEST:

Ana Minkoff
Township Clerk

Agenda Item#

4a

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, Union County, New Jersey, that the following firefighter be removed from the Active Roster of the Berkeley Heights Fire Department;

John Joyce, 23 Horseshoe Road, Berkeley Heights

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to John Joyce and the Fire Chief.

APPROVED this 18th day of October, 2016.

ATTEST:

Ana Minkoff
Township Clerk

4b

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Garden State Fireworks has requested permission to hold a short fireworks display for PAL & the High School at Snyder Avenue Field, on October 28, 2016 between 9:30 – 9:45 p.m. In the event of rain this resolution will be extended for 10 days; and

WHEREAS, the Township Council believes that it is appropriate to grant permission for such display under the normal terms and conditions.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that permission is granted to Garden State Fireworks to hold a fireworks display on October 28, 2016, at Snyder Avenue Field between 9:30-9:45 p.m., provided that it satisfies all comments and concerns, if any, of the Rescue Squad, Fire Department and Police Department raised prior to, or on the night of the display including any raised as a result of the weather conditions at the time of the display.

Copies of this resolution are to be forwarded to Garden State Fireworks, Police Department, Rescue Squad, and Fire Department.

APPROVED this 18th day of October, 2016.

ATTEST:

**Ana Minkoff
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Garden State Fireworks has requested permission to hold a fireworks display at Peppertown Park for tree lighting ceremony, on December 3, 2016 between 6:00 – 7:30 p.m. In the event of rain this resolution will be extended for 10 days; and

WHEREAS, the Township Council believes that it is appropriate to grant permission for such display under the normal terms and conditions.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that permission is granted to Garden State Fireworks to hold a fireworks display on December 3, 2016, at Peppertown Park Field between 6:00-7:30 p.m., provided that it satisfies all comments and concerns, if any, of the Rescue Squad, Fire Department and Police Department raised prior to, or on the night of the display including any raised as a result of the weather conditions at the time of the display.

Copies of this resolution are to be forwarded to Garden State Fireworks, Police Department, Rescue Squad, and Fire Department.

APPROVED this 18th day of October, 2016.

ATTEST:

**Ana Minkoff
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, that the Mayor and Township Council are hereby authorized to make the following Proclamation:

The Mayor and Council of the Township of Berkeley Heights, hereby publicly proclaim the week beginning November 13, 2016 as

“BAND APPRECIATION WEEK”

in recognition of **GOVERNOR LIVINGSTON HIGH SCHOOL.**

BE IT FURTHER RESOLVED that copies of this resolution are to be forwarded to the Governor Livingston Band Parents Organization.

APPROVED this 18th day of October, 2016.

ATTEST:

Ana Minkoff
Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, by letter dated October 11, 2016 a request was made by Nancy Miller requesting permission from the Township Council to hold a neighborhood parade and block party on Beech Avenue, which would involve erecting barricades on a public street; and

WHEREAS, the Township Council wishes to support the request for a neighborhood block party subject, however, to the special requirements of the appropriate local Township Officials.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that it does hereby approve of a neighborhood block party for Beech Avenue on Monday, October 31, 2016 from 3:30 to 5:30 p.m.

BE IT FURTHER RESOLVED that said approval is subject and contingent upon the approval of the Berkeley Heights Police Department, Fire Department and other appropriate officials; and

BE IT FURTHER RESOLVED that a copy of this Resolution is to be forwarded to Nancy Miller, Chief of Police, Fire Chief, and the Director of Public Works.

APPROVED this 18th day of October, 2016.

ATTEST:

Ana Minkoff
Township Clerk

EXPLANATORY STATEMENT: This ordinance authorizes the lease agreement with Our Lady of Mount Carmel Society for the use of its Hall by the Senior Citizens Club of Berkeley Heights for the 2016-2017 term.

TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY

ORDINANCE No. _____

An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Authorizing the Lease with Our Lady of Mount Carmel Society.

WHEREAS, the Township of Berkeley Heights desires to lease from the Our Lady of Mount Carmel Society (“Mount Carmel”), a portion of the property known as Mount Carmel Hall located at 56 River Road in Berkeley Heights, New Jersey (“Property”) from 9:30 a.m. to 3 p.m. on Tuesdays and Wednesdays from September 1, 2016, to August 31, 2017, except for July 2017; and

WHEREAS, the Township intends to use the Property for meetings of the Senior Citizens Club of Berkeley Heights (the “Senior Citizens Club”); and

WHEREAS, the Township and the Society have negotiated the terms of the lease attached hereto, which terms are acceptable to the Township, for the total lease amount of \$16,676.00 for the period from September 1, 2016, to August 31, 2017, except for July 2017; and

WHEREAS, pursuant to N.J.S.A. 40A:12-4 and -5 of the Local Lands and Buildings Law, N.J.S.A. 40A:12-1, et seq., the Township is authorized to acquire real estate or an interest in land, such as a lease, by ordinance; and

WHEREAS, the Lease Agreement, in the form attached hereto, has been reviewed and approved by the Township Attorney, along with representatives of Mount Carmel; and

WHEREAS, the Mayor and Township Council of the Township of Berkeley Heights find it in the best interest of the Township to authorize the Lease Agreement with Mount Carmel for the use of the Property by the Senior Citizens Club.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Township hereby authorizes the entering into a lease with Our Lady of Mount Carmel Society ("Mount Carmel"), a portion of the property known as Mount Carmel Hall located at 56 River Road in Berkeley Heights, New Jersey ("Property") from 9:30 a.m. to 3 p.m. on Tuesdays and Wednesdays from September 1, 2016, to August 31, 2017, except for July 2017 pursuant to the terms and conditions set forth in the License Agreement.
2. The Mayor and Township Clerk of the Township of Berkeley Heights are hereby authorized and directed to sign and execute the Lease Agreement in the form attached hereto, along with any other documents required to effectuate the lease.
3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.
4. This Ordinance shall take effect immediately upon final passage and publication according to law.

INTRODUCED the _____ day of _____, 2016.

ADOPTED the _____ day of _____, 2016.

Robert B. Woodruff, Mayor

ATTEST:

Ana Minkoff, Township Clerk

**NOTICE OF
INTRODUCTION**

Ordinance -2016

An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Authorizing the Lease with Our Lady of Mount Carmel Society.“

I, Ana Minkoff, Township Clerk of the Township of Berkeley Heights , do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on **October 18, 2016** and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on **November 1, 2016** at **7:00** p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

**Ana Minkoff
Township Clerk**

LEASE AGREEMENT

This lease is made on this ____ day of _____, 2016, between the tenant, **TOWNSHIP OF BERKELEY HEIGHTS**, a Municipal Corporation of the State of New Jersey, whose address is 29 Park Avenue, Berkeley Heights, New Jersey (referred to as the "Tenant") and the landlord, **OUR LADY OF MOUNT CARMEL SOCIETY**, whose address is 56 River Road, Berkeley Heights, New Jersey (referred to as the "Landlord").

1. **PROPERTY**: The Tenant agrees to rent from the Landlord, and the Landlord agrees to lease to the Tenant the property known as Mount Carmel Hall, 56 River Road, Berkeley Heights, New Jersey (referred to as the "Property") for use by the Senior Citizens Club of Berkeley Heights.
2. **TERM**: The term of this Lease is for one (1) year commencing September 1, 2016, and ending August 31, 2017 (the "Term"). In the event the Tenant secures a substitute location for the Senior Citizen Club, the Lease may be cancelled by Tenant on thirty (30) days written notice to Landlord.
3. **RENT**: The Tenant agrees to pay Sixteen Thousand Six Hundred Seventy Six Dollars (\$16,676) as rent for the Term of the Lease, to be paid as follows: One Thousand Five Hundred Sixteen and 00/100 (\$1,516.00) Dollars per month for the Term, except for the month of July 2017.
4. **USE OF PROPERTY**: The Tenant may use the Property only for the following purposes: a meeting place for the Senior Citizens Club of Berkeley Heights to be utilized every Tuesday and Wednesday, except during the month of July.
5. **HOURS**: The Landlord shall make the premises available between the hours of 9:30 a.m. and 3:00 p.m. every Tuesday and Wednesday except during the month of July 2017.
6. **HEATING/COOLING**: The Landlord shall turn the Heating/Cooling system on a minimum of one (1) hour before the Senior Citizens Club meeting to the temperature of 70 degrees Fahrenheit.
7. **CHAIRS/TABLES**: Landlord agrees to make available chairs, tables, or other items within Landlord's control, available to the Tenant that may be needed to conduct meetings. Landlord agrees to set up and breakdown the chairs, tables and other items in the Landlord's control prior to and at the conclusion of each Tuesday and Wednesday meeting of the Senior Citizens Organization.
8. **EMERGENT USE**: In the event that a member of Our Lady of Mount Carmel Society has an emergent need for use of the premises on a Tuesday or Wednesday, the Tenant and Landlord will cooperate in attempting to accommodate such need. In the event a meeting is cancelled for such a reason, the rent shall be abated for such day.

9. **AVAILABILITY OF FUNDS:** This lease is subject to the appropriation of funds by the Tenant, including the receipt of grant funding from the County of Union, and shall not be effective until such funds have been received and appropriated.
10. **MAINTENANCE:** The Landlord shall be responsible for all maintenance of the Property, including the removal of snow and ice to permit reasonable access to the Property and parking for use by the Senior Citizens Organization for its Tuesday and Wednesday meetings. The parties acknowledge that Tenant no longer will be responsible for the salting of the parking lot, driveways and walkways for the Property in connection with this Lease.
11. **INDEMNIFICATION:** The Landlord shall indemnify, hold harmless and defend the Tenant from and against any and all claims, demands, damages, judgments, fines, penalties, losses, costs and expenses, including reasonable attorneys' fees, incurred by the Tenant as a result of: (a) any accident occurring within the Property; (b) the negligent or willful acts or omissions of the Landlord, its agents, contractors and employees; or (c) a breach of the provisions of this Lease by the Landlord, its agents, contractors or employees. The Landlord shall obtain a commercial general liability insurance policy of not less than two million dollars (\$2,000,000) naming the Tenant as an additional insured. Within ten days of the date first stated above, the Landlord shall provide proof of such insurance to the Tenant.

ATTEST:

TOWNSHIP OF BERKELEY HEIGHTS

Ana Minkoff, Township Clerk

By: Robert B. Woodruff, Mayor

ATTEST:

OUR LADY OF MOUNT CARMEL SOCIETY

By: