

## March 10<sup>th</sup>, 2014 – AGENDA SESSION

President Baxter called the meeting to order at 6:30 p.m. and read the Open Public Meetings Statement:

The notice requirements provided for in the “Open Public Meetings Act” have been satisfied. Notice of this meeting was properly given in a notice which was transmitted to the Times of Trenton and the Trentonian, filed with the Clerk of the Township of Ewing and posted in the Ewing Township Municipal Complex, all on the 6<sup>th</sup> day of January, 2014.

**THE PUBLIC WILL HAVE AN OPPORTUNITY TO ADDRESS THE COUNCIL DURING THE “STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC” SEGMENT OF THE MEETING. MEMBERS OF THE PUBLIC ARE REQUESTED TO SIGN IN ON THE SHEET PROVIDED IN THE FRONT OF THE ROOM. ALL QUESTIONS AND COMMENTS FROM THE PUBLIC WILL BE DIRECTED TO THE COUNCIL PRESIDENT, WHEN ADDRESSING THE COUNCIL, PLEASE GIVE YOUR NAME AND YOUR ADDRESS.**

**THE COUNCIL INVITES AND ENCOURAGES PARTICIPATION BY THE PUBLIC IN ITS MEETINGS, HOWEVER A MEMBER OF THE PUBLIC MAY UTILIZE FIVE MINUTES OF TIME FOR REMARKS AND QUESTIONS, UNLESS OTHERWISE ENGAGED IN A DIALOGUE WITH A MEMBER OF THE COUNCIL, ANY FURTHER REMARKS OR QUESTIONS BEYOND THE TIME LIMIT MUST BE AUTHORIZED BY THE PRESIDENT OF THE COUNCIL.**

### ROLL CALL

- |                               |                                |
|-------------------------------|--------------------------------|
| ▪ Ms. Keyes-Maloney - Present | Maeve Cannon, Attorney         |
| ▪ Mr. Schroth – Present       | Joanna Mustafa, CFO            |
| ▪ Ms. Steward – Present       | Kim Macellaro, Municipal Clerk |
| ▪ Ms. Wollert - Present       |                                |
| ▪ President Baxter - Present  |                                |

### DISCUSSION

1. AN ORDINANCE FOR THE CALENDAR YEAR 2014 TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)

President Baxter stated that Agenda Items One and Three are being pulled from the Agenda at the request of the CFO.

The CFO explained that the State will be releasing new pension numbers and we would like the chance to review and then submit with accurate numbers.

Councilwoman Wollert asked the CFO when these numbers will be released.

The CFO responded that we should have PERS this week, and PFRS next week.

President Baxter asked the CFO if she anticipated that this will cause a significant difference which is why you want to pull these items instead of just amending the budget.

The CFO responded – yes.

There were no further questions or comments from Council.

**2. A RESOLUTION ESTABLISHING THE SEWER RATES AND CHARGES FOR EWING TOWNSHIP FOR CALENDAR YEAR 2014**

President Baxter stated that this Resolution sets our annual sewer rates; there is no increase.

The Mayor responded that that is correct and explained that even though the Township's obligation to ELSA increased, the increase was offset by an increased rate of payments. The Mayor stated that since we moved everything into a dedicated trust, it has leveled off and we have a good idea of where we are.

President Baxter stated that he appreciated the Administration setting up the dedicated trust.

There were no questions or comments from Council.

**3. A RESOLUTION INTRODUCING AND APPROVING THE MUNICIPAL BUDGET OF THE TOWNSHIP OF EWING, COUNTY OF MERCER FOR THE CALENDAR YEAR 2014**

(Pulled as stated above under Discussion Item #1)

**4. A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR A EWING TOWNSHIP DISASTER RELIEF TRUST FUND REQUIRED BY N.J.S.A. 40A:4-39**

President Baxter explained that this trust fund is being set up to receive monetary gifts in light of the South Fork tragedy.

The Mayor stated that the trust fund is not being administered by Ewing and emphasized that the Township will not be involved in the distribution of these funds.

The Mayor stated that he has appointed professionals who have done this before.

The Mayor then said that there will be a "resource" forum this Saturday to help the impacted residents of South Fork.

The Mayor then spoke about the outpouring of help that has been coming in from other governmental agencies, the Red Cross, companies and individuals.

Council and the Mayor then had a general discussion about the upcoming forum and the help that the Township has received.

There were no further questions or comments from Council.

**5. A RESOLUTION PURUSANT TO N.J.S.A. 40A:11-4.3 AUTHORIZING THE USE OF COMPETITIVE CONTRACTING FOR THE PROCUREMENT OF REVALUATION SERVICES**

The Attorney explained that competitive contracting is an evaluative process as opposed to competitive bidding which is a lowest bid process and then explained that competitive contracting may be used for certain circumstances or if approval is granted by the Division of Local Government Services. The Attorney further explained that the first time that competitive contracting is used for a particular good or service, a resolution has to be passed authorizing its use.

Councilman Schroth asked if, state-wide, competitive contracting is commonly used for revaluation services.

The Attorney responded – yes.

President Baxter asked who will set up the criteria that will be used.

The Attorney responded that there are guidelines in the DCA regulations as to what the criteria should be. The Attorney then read the criteria the Township proposes to use for this and then explained that the criteria, but not its weighting, is listed in the RFP.

Councilwoman Wollert asked if we develop the RFP ourselves, or is there a standardized RFP for revaluation services.

The Attorney replied that we develop the criteria ourselves, but follow a RFP that has been used by other municipalities.

**Councilman Schroth asked if the scoring criteria is flexible so that you can still choose between the top few bidders.**

**The Attorney responded that it is the bidder with the highest score and is responsive that wins the proposal.**

**There were no additional questions or comments from Council.**

**6. A RESOLUTION AUTHORIZING MUTUAL AID AGREEMENTS WITH ALL MUNICIPALITIES OF MERCER COUNTY, NEW JERSEY, THE MORRISVILLE BOROUGH, BUCKS COUNTY, PENNSYLVANIA, AND THE JOINT FIRE DEPARTMENT BETWEEN THE YARDLEY BOROUGH, BUCKS COUNTY, PENNSYLVANIA AND THE TOWNSHIP OF LOWER MAKEFIELD, BUCKS COUNTY, PENNSYLVANIA**

**The Attorney stated that basically this is just memorializing a relationship that already exists between all the municipalities in the County and the towns along the river in Pennsylvania. The Attorney explained that the State has asked municipalities to memorialize such relationships. The Attorney then briefly discussed the agreements and stated that the terms of each individual agreement are the same.**

**President Baxter asked if this is helping us toward our shared service points.**

**The Mayor replied that it is not a shared service, it is mutual aid; we may, however, get shared services credit with Trenton as Trenton has a paid fire department.**

**The Mayor stated that he wants to take this opportunity to thank the first responders from all the fire departments for their help the day of the gas explosion.**

**President Baxter said that he, on behalf of Council, also wants to thank the first responders for their aid that day.**

**President Baxter also thanked the Mayor for his leadership.**

**There were no further questions or comments from Council.**

**7. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 252 PARKS AND PLAYGROUNDS TO CREATE A COMMUNITY GARDENING PROGRAM**

**The Attorney stated that Ewing already has a community garden over on Whitehead Road Extension but the program has never been codified; this Ordinance will set it up as a formal program. The Attorney then described the program and then stated that this Ordinance also creates a license agreement which allows people to garden for a year.**

**The Attorney said that the Ewing Community Gardening Association will oversee the program.**

**President Baxter asked how long has this Community Gardening Association been around and how were they appointed.**

**Councilwoman Keyes-Maloney responded that the Association has been in existence for about a year and that the need to establish a Community Gardening Association came out of the Green Team but that the gardeners elect their own leadership.**

**President Baxter asked if all those who had garden plots were noticed about the Association and the election of the leadership.**

**Councilwoman Keyes-Maloney replied – yes.**

**The Attorney added that the gardeners are presumed to be members of the Association; there is no fee to join and a person can opt out of being a member.**

**Councilwoman Keyes-Maloney added that as members of the body, they have a right of redress concerning the guidelines if they do not agree with it.**

**President Baxter asked if these garden plots are for residents and/or non-residents.**

**The Attorney replied that residency is only mentioned in the fee schedule which lists the fee for both residents and non-residents as \$5 per plot.**

The Attorney, President Baxter and Councilwoman Keyes-Maloney then discussed if there should be a residency requirement or not and also discussed whether or not the fee should be changed.

Councilman Schroth asked if it is known, in terms of usage or demand, if non-residents are allowed to garden, will residents who want to garden be turned away. Councilwoman Keyes-Maloney replied that, especially given the fact that we increased the number of garden plots that are available, there is plenty of room this year.

The Mayor then mentioned that there is a lot of water consumption at the garden site and because of this when we look at this again in the fall, we will be raising the fee and the fee will be different for residents versus non-residents.

Councilwoman Wollert expressed concern with the rules of conduct and asked what it is that the Association empowered to do.

Councilwoman Keyes-Maloney replied that mainly the Association will alert the Township if there are any issues. The Association will also coordinate clean-up days, and facilitate information sharing.

Councilwoman Wollert asked if the Association has any authority over individual gardeners.

Councilwoman Keyes-Maloney replied – no authority.

The Attorney said that she will ask the Clerk to put the guidelines, the by-laws and the licensing agreement in the drop box.

The Mayor mentioned that there are some areas that need to be weed free – i.e. the perimeter fencing, the paths into the gardens – and Township workers should not have to do this weeding.

Councilwoman Keyes-Maloney mentioned that there has been discussion regarding an appeals process if a gardener has had their license revoked.

President Baxter asked about the dates when existing and new gardeners can come in to get licensed.

The Attorney confirmed the dates and added that we can add an appeal process.

President Baxter then asked if we should discuss if non-residents should be allowed to have a garden plot now.

Councilwoman Keyes-Maloney replied that it will have to be next year, because notices have already been sent out.

Councilman Schroth asked if we know the current breakdown between residents and non-residents.

Councilwoman Keyes-Maloney responded that she understood that there was one gardener who was a non-resident out of a total of about thirty gardeners.

There were no further questions or comments from Council.

All items except one and three were approved for action.

## **CONSENT AGENDA**

Council President Baxter presented the Consent Agenda for review.

1. A Resolution Authorizing the Chief Financial Officer to Pay Bills in the Amount of \$825,746.88 and to Pay Supplemental Bills per Resolution #14R-44 in the Amount of \$10,329.15
2. A Resolution Authorizing the Conduct of a Bingo Sponsored by Ewing High School Project Graduation on April 25<sup>th</sup>, 2014
3. A Resolution Authorizing the Conduct of a Calendar Raffle Sponsored by Rotary Club Trenton Every Thursday from May 15, 2014 to July 3, 2014
4. A Resolution Authorizing the Conduct of an On Premise 50-50 Cash Raffle Sponsored by Trenton Community Music School Inc. on April 24, 2014
5. A Resolution Authorizing the Conduct of a Tricky Tray sponsored by West Trenton Volunteer Fire Company on March 29, 2014.

6. **A Resolution Authorizing the Conduct of a Bingo sponsored by West Trenton Volunteer Fire Company on March 29, 2014.**
7. **A Resolution Authorizing a Performance Guarantee Release for Phase II Improvements (Building No. 5) Princeton South Corporate Center (Church and Dwight) (Block 225.04/Lot 1.01) – Ewing Engineers Remington & Vernick and Affiliates #1102 I 019)**

**Councilwoman Steward asked what is the difference between the Supplemental Bills List and the Bills List.**

**The CFO responded that the Supplemental Bills List are those items that we passed a Resolution to pay those bills prior to the Bills List.**

**There were no further questions or comments from Council, and the Consent Agenda was approved for action.**

#### **ORDINANCE(S) FOR FIRST READING AND INTRODUCTION**

**(None for this meeting)**

#### **ORDINANCE(S) FOR SECOND READING, PUBLIC HEARING AND FINAL ADOPTION**

**(None for this meeting)**

#### **NEW BUSINESS**

1. **A RESOLUTION GRANTING JOHN COLEMAN PERMISSION TO RECEIVE HIS SERVICE FIREARM (GLOCK 21, .45 CAL. SEMI-AUTOMATIC PISTOL SERIAL NUMBER RYA901) UPON HIS RETIREMENT FROM THE EWING TOWNSHIP POLICE DEPARTMENT MAY 1, 2014**

**President Baxter stated that these resolutions are routine and that we have done this in the past. President Baxter explained that we have three retiring police officers, each with twenty-five years of service or more, and the Officer-in-Charge has verified that they are retiring in good standing.**

**There were no questions or comments from Council on these three resolutions.**

2. **A RESOLUTION GRANTING TIMOTHY COPELAND PERMISSION TO RECEIVE HIS SERVICE FIREARM (GLOCK 21, .45 CAL. SEMI-AUTOMATIC PISTOL SERIAL NUMBER RYA924) UPON HIS RETIREMENT FROM THE EWING TOWNSHIP POLICE DEPARTMENT MARCH 1, 2014**
3. **A RESOLUTION GRANTING AMERICO ROSENA PERMISSION TO RECEIVE HIS SERVICE FIREARM (GLOCK 21, .45 CAL. SEMI-AUTOMATIC PISTOL SERIAL NUMBER RYA934) UPON HIS RETIREMENT FROM THE EWING TOWNSHIP POLICE DEPARTMENT APRIL 1, 2014**

#### **STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC**

**Charles Green (979 Bear Tavern Road) expressed a number of concerns about the administration of the garden plots, in particular, that the Gardening Association is trying to use social pressure to get gardeners to conform to what only a few want. Mr. Green stated that at the Association meeting during the summer only twelve out of about fifty gardeners voted because many of the long time gardeners did not want to be involved with a social adventure, they just wanted to garden. Mr. Green then stated that it is very confusing as to what are rules and regulations and what are just guidelines.**

Mr. Green said that rules and regulations should be set by and enforced by the Township, not enforced through another entity such as the Gardening Association. Mr. Green said that he is particularly disturbed that the gardening license can be revoked for no cause at all. Mr. Green then asked what other license granted by the Township has no appeal process.

Mr. Green asked Council to delineate his responsibilities, as a garden plot owner, to the Township and to this social group as far as their guidelines are concerned.

The Attorney clarified what a license agreement is - a license agreement is "revocable at will" and is different from a lease arrangement. The license is between the resident and the Town, not between the resident and the Gardening Association, and its purpose is to preserve the rights of the Township. The Attorney then stated that it is not to create an overly restrictive environment, but to have loose guidelines set by a self-governing group; to have structure but not to be overly restrictive. The Attorney then said that an appeal process can be added.

Councilwoman Wollert asked the Attorney for clarification in that the license agreement is between the Town and the gardener; nobody else is involved with the license; nobody else has the authority to make any determination on the suitability of someone being able to continue gardening.

The Attorney responded that, that is correct, but the license agreement does reference the guidelines set by the Gardening Association and that gardeners are expected to follow these guidelines along with Township ordinances.

Councilwoman Wollert said that that is her question, because the Community Gardeners Association has an oversight role, does the Association have a role in revoking the license of a gardener.

The Attorney replied that only the Township can revoke a gardening license but the Attorney then said that she suspects that the Township would rely on the advice of the Gardening Association.

Councilwoman Wollert said she thought that it was because the Town has a durable interest in the land, that that would be the rationale for revoking a license, not something else. It would be because we have a use for the land, not because we do not like the way someone is gardening.

The Attorney replied that if someone is abusing their license, it would be grounds to revoke the license.

Councilwoman Wollert then asked who determines what "abuse" of a license is, and is that in the by-laws of this organization.

The Attorney responded no, but there are guidelines established under the license agreement that have been set by the gardeners themselves through this Association and all gardeners are presumed to be members of the Association.

Councilwoman Keyes-Maloney added that ample notice was provided to everyone who gardened in the 2013 season about the opportunity to vote in the election of the Gardening Association and if they chose not to vote, it was their choice. The guidelines were developed by the Association members themselves.

President Baxter stated that the garden plots have been in existence for a number of years, and asked why is it that an Association is now needed.

Councilwoman Keyes-Maloney stated that it came out of the Sustainable Jersey program and also from the sense that there was both good and bad behavior at the garden regarding the maintenance of garden plots; it is an attempt to try to have better maintenance of the garden plots, along with better communication, in general, among the gardeners and, specifically, better communication regarding the clean-up.

Mr. Green said that of the people involved with gardening for a long time, many said and made it known at that meeting during the summer that they did not want to be involved with an Association and with the social aspects of an Association; these gardeners just want to be left alone to garden.

The Attorney said that the guidelines are supposed to come from the gardeners who are presumed to be members of the Association and if they chose, they do not have to participate.

Mr. Green then mentioned that in the meeting during the summer it was stated that the guidelines were not going to be in effect until, we as a group of gardeners, vote on it. We cannot vote on it until March when we know who the members are.

The Attorney stated that if they want to meet and to amend the guidelines, then they can.

**Councilwoman Keyes-Maloney said that the idea behind that guidelines was to be flexible to meet the needs of the Association itself, and, if the Association wants to make changes, then, as a collective, they can make the changes. Councilwoman Keyes-Maloney also stated that it is better for guidelines to come from the Association and not rules and regulations from the Township; the guidelines are along the lines of good neighbor stuff.**

**The Mayor stated that Administration was involved regarding two issues: 1) perimeter fencing 2) theft.**

**The Mayor explained that he did not want to put up a fence and that he finally relented and put it up with the following criteria: that the fence line be kept clear of weeds. that there be no fences around individual garden plots and that each gardener does not encroach on the space of another.**

**The Mayor then stated that the Administration is not going to dictate what is grown; except that it is legal.**

**Mr. Green asked who is responsible for keeping the paths and the fence line clear.**

**Councilwoman Keyes-Maloney said that it is the Community that cleans up the fence line periodically, but no gardener is forced to participate in the clean-up.**

**Councilman Schroth asked who does the clean-up of the paths and then made the point that who actually does the clean-up should be delineated.**

**The Attorney responded that the entire group does the clean-up.**

**Councilwoman Keyes-Maloney stated that she will take it back to the Association, to see if clean-up is a problem and if so, see that it is addressed in the Association guidelines.**

**There were no further questions or comments from Council or the Public.**

#### **CLOSED SESSION**

**(None for this Meeting)**

#### **ADJOURNMENT**

**There being no further business, President Baxter asked for a motion to adjourn. Ms. Wollert so moved, seconded by Ms. Steward. The meeting was adjourned at 7:43 p.m.**

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**Jennifer Keyes-Maloney, President**

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**Kim J. Macellaro, Municipal Clerk**