

March 26th, 2012 AGENDA SESSION

Vice President Hyser called the meeting to order at 6:30 pm and read the Open Public Meeting 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 25th day of January, 2012.

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 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. ANY MEMBER OF THE PUBLIC CAN LEAVE THEIR QUESTION AND CONTACT INFORMATION WITH THE CLERK REGARDING MATTERS THAT NEED RESPONSE BY ADMINISTRATION.

ROLL CALL

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| ▪ Mr. Baxter – Present | Jim McManimon, Administrator |
| ▪ Ms. Hyser - Present | Maeve Cannon, Attorney |
| ▪ Mr. Murphy – Present | Joanna Mustafa, CFO |
| ▪ Mr. Summiel – Present | Kim Macellaro, Municipal Clerk |
| ▪ President Wollert –arrived 7:45 pm | |

DISCUSSION

1. ELSA Sewer Increase -Bob Filler ELSA Executive Director

Vice President Hyser introduced Mr. Bob Filler, Executive Director of ELSA for the past 15 years. She noted that he was here to talk about a 13% increase. Mr. Filler started by saying that ELSA is made up of a 17 acre treatment plant and treats 5 billion gallons of water each year. It includes 10 pump stations, 7 of which are located in Ewing. Their operating budget for 2012 is 3/10 of a percent more than 2011. 40% is the Lawrence flow and 60% is Ewing. Some of the 60% originates in Hopewell through a conveyance system. We use other income as a way of reducing the impact on the townships and we also have been using available unrestricted net assets which are a product of retained earnings. Councilman Baxter asked what part of Hopewell shares in the burden. Mr. Filler explained that ELSA services the Merrill Lynch Facility which is also part of Capital Health. They service Janssen, Pfizer, Brandon Farms, Bear Tavern School and Hopewell Town Center. Mr. Baxter asked if after things start growing in Ewing, will ELSA be back to give the residents a reduction. Mr. Filler responded by saying that he doesn't see that happening. They have been skinning it for the past 20 years. Mr. Murphy asked what the increase in usage will be per household. Administrator McManimon responded that it would be an average of \$40 increase per home. Mr. Summiel commended Mr. Filler for all he has done as Executive Director. He asked Mr. Filler if there is any option for bonding, in reference to the particular circumstance that is before us right now. Mr. Filler commented that you don't borrow for operating costs. Mr. Charles Geter, a member of ELSA, commented that ELSA is one of the most efficient authorities in the State of New Jersey and in the past Ewing was able to get money because the economy was booming and we had what is called “connection fees”. That has dried up in the last couple of years, creating an increase. On the flip, he continued by saying that Ewing Township has a new entity in Capital Health Systems that is sending their flow through Ewing, which will be a benefit. Vice President Hyser thanked both Mr. Filler and Mr. Geter for attending.

At this time, Ms. Hyser stated that in continuing with continuity, Council would now switch to item #6.

6. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING TO ESTABLISH RANGES FOR SEWER RATES AND CHARGES

Administrator McManimon stated that Administration is recommending a 2 ½% increase as a guide with a fixed increase from 90 to 120 to make up the \$570,000 deficit from the ELSA bill to what we have in the account. One of the recommendations is to have a guide so that in the future if we have to lower rates, which is possible, our increased rates will be done by resolution each year to adjust for rates versus doing it by Ordinance every year. It is a time management factor. Mr. Summiel asked our CFO that if there is an increase, what is the per residential cost, on the average. She responded by saying that it would be approximately \$40 per household per year based on the new rates. She also stated that the 2% Cap does not apply. Vice President Hyser stated that it is worth noting that the Township now has a dedicated fund for ELSA. Attorney Cannon pointed out to Council that this Ordinance sets up the structure for them to be able to adjust the fees on an annual basis by resolution within the range set up by the CFO. It was agreed to add this Ordinance to the Agenda for the Regular Session.

2. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, REGARDING THE DELIVERY OF UNSUBSCRIBED AND UNSOLICITED PUBLICATIONS

Attorney Cannon explained that this Ordinance came from the suggestion of Council as to the proliferation of flyers and mailers and papers strewn on cars, mailboxes and driveways, causing a litter problem in the town. She continued by saying that this Ordinance creates a licensing structure where if someone wants to distribute them, they would need to be licensed, and any resident who wants to opt out can do so. If the licensee doesn't adhere to the residents opt out, then they are penalized. Vice President Hyser clarified that licensee's will need to go to the Clerk's office, as well as residents that want to opt out. Mr. Summiel stated that he reviewed the Ordinance as it was proposed and it seems that it will create a headache on enforcement to the point where he doesn't think it will be worth it. He asked Administration who would be enforcing this Ordinance. Mr. McManimon explained that the enforcement would be done out of the Code Enforcement office. President Wollert asked the Clerk to put this Ordinance on for first reading.

3. A RESOLUTION AUTHORIZING THE TOWNSHIP OF EWING TO ENTER INTO A HEALTH EDUCATION SERVICES AGREEMENT WITH HEALTH EDUCATION SERVICES FOR THE PROVISION OF HEALTH EDUCATION SERVICES TO THE EWING TOWNSHIP HEALTH DEPARTMENT

Mr. McManimon gave a brief overview of this Resolution and after some discussion by Council, it was agreed to move this resolution to New Business.

4. A RESOLUTION AUTHORIZING THE TOWNSHIP OF EWING TO ENTER INTO A DIRECTOR OF PUBLIC HEALTH NURSING SERVICES AGREEMENT WITH SHAREN CLUGSTON, MSN, RN, BC FOR THE PROVISION OF PUBLIC HEALTH NURSING SERVICES TO THE EWING TOWNSHIP HEALTH DEPARTMENT

President Wollert stated that this is a long standing contract that is done annually. Administrator McManimon stated that Ms. Clugston is retired from Hamilton Township. Mr. Summiel asked why the contract is signed off by the Mayor and not Council. Attorney Cannon responded by saying that all contracts are signed by the Mayor and the Council authorizes him to do so. This Resolution was moved to New Business.

5. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, ADDING FEES IN CHAPTER 172, FEES, FOR INFORMAL CONCEPT SITE REVIEW

Administrator McManimon explained that a lot of applicants come before site review, using the township professional engineer and planner services and the township wants the ability to be able to charge the applicant for these services. Council asked for some definitions from the attorney to be

added to this Ordinance. Attorney Cannon responded. She stated that she will send the definitions from the Land Use Ordinance to Council but would not be able to put them in this Ordinance because it is specific to fees. Mr. Summiel asked for clarification on informal concept. Attorney Cannon explained that when people come to site review, they come with a concept of what they plan to develop. President Wollert asked the Clerk to put this Ordinance on for 1st reading.

- 7. ORDINANCE REAPPROPRIATING \$50,000 INCLUDING \$47,500 PROCEEDS OF OBLIGATIONS NOT NEEDED FOR THEIR ORIGINAL PURPOSE, IN ORDER TO PROVIDE FOR THE REFURBISHMENT OF THE HOCKEY RINK AT CARLTON AVENUE PARK, IN AND BY THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, NEW JERSEY**

President Wollert explained that this is bond money that has been in the fund for awhile and it was supposed to be used for another purpose but after some discussion it was decided to use it for its original purpose, which is recreational. Administrator McManimon explained that the money would be used to repair the hockey rink that is in great disrepair. It continues to be used by many in the township. Their proposal is to use the majority of the money to redo the surface and replace the wallboards and pave the roadway coming in off of Carlton Avenue which will allow for better parking management. Ms. Hyser asked what year the rink was constructed to which Mr. Ted Forst stated that it is about 10 years old. Mr. Forst explained that most of the upkeep has been by the groups who have used it. President Wollert commented that it is for safety purposes and needs to be repaired to continue to offer programs to our young people. Mr. Summiel asked about not putting in a skatepark at the ESCC because of insurance/liability problems and wanted to know if this problem was corrected. Mr. Forst stated that he does not see an insurance hurdle. Mr. Baxter wanted to know what the life expectancy is of the sealant that will be used to which Mr. McManimon responded five years. President Wollert asked the Clerk to put this Ordinance on for 1st reading.

- 8. A RESOLUTION AWARDDING 2011 ROAD IMPROVEMENT PROGRAM (PHASE II) PROJECT TO MECO, INC. AND AUTHORIZING THE TOWNSHIP TO ENTER INTO AN AGREEMENT REGARDING SAME**

Administrator McManimon briefly explained that this was a balance left in an allocation for road projects that was not spent, so it was re-bid out. This resolution was moved to New Business for action.

CONSENT AGENDA

President Wollert presented the consent agenda for review.

- 1. Authorization for the Chief Financial Officer to pay Township bills in the amount of \$4,545,921.09.**
- 2. A Resolution approving the meeting minutes of January 23, 2012 (Agenda), January 24th, 2012 (Regular), February 27th, 2012 (Agenda), February 28th, 2012 (Regular), March 12th, 2012 (Agenda) and March 13th, 2012 (Regular).**
- 3. A Resolution authorizing a Refund, as recommended by the Tax Collector in the amount of \$310.21 for May 1, 2012 tax quarter to Lamons, Sandra & Kenneth, 113 Albemarle Avenue, Ewing, NJ, 08638, for property owner Lamons, Sandra & Kenneth for Block: 78 Lot: 272 also known as 113 Albemarle Avenue for May 1, 2012 paid in error.**
- 4. A Resolution authorizing Incarnation St. James PTA to hold a Carnival on June 26 through June 30th, 2012.**
- 5. A Resolution authorizing the conduct of a Non-Draw Carnival Raffle sponsored by Incarnation St. James School PTA**
- 6. A Resolution authorizing the conduct of a Casino Night sponsored by EASEL (Ewing Animal Extension League) on April 27th, 2012.**
- 7. A Resolution to amend the meeting date of the Township Council for 2012.**

8. A Resolution approving David A. Dubuque as a Senior Member of the Pennington Road Volunteer Fire Company

There being no questions, the Consent Agenda was approved for action.

E. CY2012 TOWNSHIP BUDGET

Administrator McManimon explained that the CFO would be present the following evening for any questions from Council and the public. Mr. Summiel asked if the capital budget was inclusive as part of the budget to which Administration responded yes. He asked for a preliminary to which CFO Mustafa stated that it was included in the budget document that Council received. Mr. Summiel then asked if all department heads could be present to give an overview of their individual budgets. Administrator McManimon stated that he would ask them to come.

1. PUBLIC HEARING ON THE INTRODUCED CY2012
2. A RESOLUTION TO AMEND THE INTRODUCED CY2012 BUDGET

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

(None for this meeting)

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

1. AN ORDINANCE OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, STATE OF NEW JERSEY, AMENDING LIQUOR LICENSE REGULATIONS TO ALLOW FOR MINIMUM BID FOR HOTEL/MOTEL PLENARY RETAIL LICENSES (2012)

Attorney Cannon explained that this is an Ordinance that tracks a State Statute that permits the Township with a hotel of 100 or more rooms and applies for a liquor license, we can require a bid of not more than a minimum of \$25,000.00.

2. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER TO AMEND CHAPTER 267, PEDDLING AND SOLICITING AND CHAPTER 172, FEES, FOR PEDDLING, SOLICITING AND RELATED ACTIVITIES (2012)

Attorney Cannon explained that this is cleaning up an existing Ordinance that licenses peddlers and solicitors. The Ordinance was very confusing and cumbersome the way it was drafted so it was cleaned up to make more sense. Attorney Cannon then went over the individual fees that were increased.

3. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER TO AUTHORIZE THE PRIVATE SALE OF PERSONAL PROPERTY NO LONGER NEEDED FOR PUBLIC USE, SPECIFICALLY FIRE EQUIPMENT, TO THE 911 FUND, INC., A 501(c)(3) NON-PROFIT ORGANIZATION (2012)

President Wollert explained that this is self explanatory. It allows Prospect Heights to donate to the 911 Fund for \$1.

The Ordinances were approved for action.

NEW BUSINESS

President Wollert presented the New Business Agenda for review by Council.

**1. A RESOLUTION TO CANCEL CERTAIN UNEXPENDED CAPITAL ORDINANCE
\$54,518.95 BALANCES TO CAPITAL SURPLUS**

CFO Mustafa explained that in going over the books, there are some Ordinances where the appropriations have been spent for the original purpose and there are some balances left and this allows them to put it towards capital surplus to be used for future projects.

**2. A RESOLUTION APPROVING CHANGE ORDER No. 3 FOR THE EWING SENIOR &
COMMUNITY CENTER BOILER REPLACEMENT CONTRACT**

Mr. Ted Forst explained. Mr. Baxter asked if there was a way to cap a percentage not to exceed the original bid. He felt that change orders came frequently and it seems that it's a tactic for the bidder to get the price up. Mr. Forst stated that there is a 20% cap on change orders. President Wollert stated that we need to make sure the specs are tight.

There being no comment from Council, the items were approved for action.

President Wollert announced that there would be a hearing on the HUD project the following evening. It is an annual grant that has been applied for. President Wollert decided that it would be at the end of the regular council meeting.

Attorney Cannon asked Council to set a new date for the Club Nuvo hearing with regard to the ABC charges. It was agreed to continue the hearing until April 30th.

STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC

Ron Prykanowski (16 Thurston Avenue) offered further explanation of change orders with regard to the bid process. He always stated that there were some serious flaws in the specs for the trash bid. He stated that you cannot have a mandatory pre-bid meeting. Attorney Cannon responded. Also, specs did not contain mandatory documents. He stated that it was not put in a statewide newspaper, only local. Edward Lester (1035 Terrace Blvd) expressed his disappointment with the reappropriation of \$50,000. He stated that he is all for community activities but all \$50,000 should not go to just the hockey rink. He commented that there are 200 kids in the Ewing Little League and 180 kids in football and he feels it would have been better suited for those sports. Ms. Hyser asked Attorney Cannon if this money has to be used for a capital improvement type of project versus a maintenance type of project. Attorney Cannon stated that it is a capital appropriation. Mr. Summiel expressed to Mr. Lester that there is a recreation board and asked him if he had attended any of the meetings of that board. Mr. Lester stated that he had and that he expressed his ideas to the board.

There being no further business, President Wollert asked for a motion to adjourn. Ms. Hyser so moved seconded by Mr. Murphy. The meeting was adjourned at 8:56 pm.

Kathleen Wollert, Council President

Kim Macellaro, Municipal Clerk