

January 10th, 2012 - REGULAR SESSION

Before Council President Wollert called the meeting to order she clarified the new format with regard to public comment. There is opportunity at the beginning of the meeting and after roll call for each particular item to have public comment on issues in general. If you have a particular issue that is something that Administration handles, there is a form that can be filled out and handed to the Clerk and she will pass that on to Administration for a response. It asks for your contact information and your question or your concern so that Administration can get the proper materials together in order to reach out to you as an individual and respond to the question or comment that you might have. When we go through the Agenda, we will, once a motion is made and seconded, the item will be up for questions and comments from members of this Council. Once that has been done, I will ask if any member of the public has a question about that particular item that we are considering and that would be your second time to comment so there is no lessening of opportunity for our constituents to speak to us or make their concerns known, it is just a different way of handling it. We would ask that you come forward when the new equipment is in place, so that everyone can very clearly hear what your question or comment is and we will be able to better hear you as well. She wanted to make it clear that it is a little bit different than what we have done in the past. There will be two opportunities to speak, just at a different time frame.

President Wollert called the meeting to order at 7:02 pm 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 3rd day of January, 2012.

ROLL CALL

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| ▪ Mr. Baxter – Present | Jim McManimon, Administrator |
| ▪ Ms. Hyser - Present | Joanna Mustafa, CFO |
| ▪ Mr. Murphy – Present | Megan McGeehin Schwartz, Attorney |
| ▪ Mr. Summiel - Present | Kim Macellaro, Clerk |
| ▪ President Wollert – Present | |

Mr. Summiel asked for point of order. He said that he didn't understand when President Wollert had her discussion on the order of business, as it relates to commentaries, that we were not in session, but since we are now in session he wanted to comment on that. He stated that the prior evening one member of the audience said, “What if a question arises during the deliberation stages of the conference, how does one then entertain an issue or a question that he/she may have that didn't evolve until during that discussion period?” President Wollert said “I believe I just answered that in that when the question, for instance, if there was an item on the consent agenda, for example, that a member of the public had a question about or concern about, we would first, as a Council, have a motion made and seconded, I would entertain questions and comments from the Council members and after that I would turn to the public and entertain their questions and comments about that specific item. And we would go through the process in that same way. Mr. Summiel said he doesn't agree with that order. He thinks that the better side of evaluating where we might stand on an issue will be when we hear all of the public's concern about a matter that is proposed before we get the point of our own disposition of this matter. President Wollert commented that the public also has an opportunity to be at our agenda meetings and hear what the agenda items are and certainly question anything that they might have an interest in at that point and time. She feels that every member of the public has every opportunity, after Council has their initial comments as to how we feel about an issue, to make a comment.

STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC

Mr. Gandhi (125 Petal Lane) asked about having his property taxes directly withdrawn from his bank account. Attorney Schwartz commented that other towns have this set up and for electronic payment. Administrator McManimon commented. Mr. Gandhi filled out a form for Administration and Mr. McManimon will respond to him with an answer. Ron Prykanowski (16 Thurston Avenue) suggested that with the new set of rules, that they be printed on the agenda. He also asked about Council having limited parking on Saratoga Avenue, across from the High School. The High School kids seem to think that this is their street. President Wollert passed it on to Administration and said we would look at the Ordinance.

CONSENT AGENDA

The Clerk presented the Consent Agenda for approval: (Resolution #12R-14)

1. Authorization for the Chief Financial Officer to pay Township bills in the amount of \$3,512,880.86.
2. Approval of minutes of the meeting of July 11th, 2011 (Agenda), July 12th, 2011 (Regular Meeting), October 11th, 2011 (Agenda) and October 11th, 2011 (Regular Meeting).
3. A Resolution authorizing a Maintenance Guarantee Release for Carolyn Stokes Day Nursery (Block13/Lot 5) 1 Princess Diana Way-Ewing Engineers Remington Vernick and Affiliates#1102 I 021
4. A Resolution authorizing a Maintenance Guarantee Release for Rely Properties (Block 105/Lot 26) 1015 Whitehead Road Ext.- Ewing Engineers Remington Vernick and Affiliates #1102 I 023
5. A Resolution authorizing a Performance Guarantee Release for SDB Realty/Senior Star (Block 40.01/Lot 16, 17 & 18) – Ewing Engineers Remington & Vernick and Affiliates #1102 I 002
6. A Resolution authorizing a Refund, as recommended by the Township Construction Official, for a permit overpayment.
7. A Resolution authorizing the conduct of an Off Premise 50/50 Cash raffle Sponsored by The West Trenton Volunteer Fire Company on March 24, 2012.
8. A Resolution authorizing the conduct of an Off Premise 50/50 Cash Raffle sponsored by The Children’s Home Society on May 5, 2012.

Mr. Murphy then moved the Resolution, seconded by Ms. Hyser.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

ORDINANCE(S) FOR FIRST READING AND INTRODUCTION

(None for this meeting)

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

1. The Clerk read (Ordinance #11-27) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AUTHORIZE THE USE OF A THIRD PARTY DISBURSEMENT SERVICE ORGANIZATION FOR PAYROLL AND PAYMENT OF PAYROLL TAXES

The public hearing was opened and there being no public comment, then closed. Mr. Summiel then moved the Ordinance, seconded by Ms. Hyser.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

2. The Clerk read (Ordinance #11-28) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO RESCIND CODE § 91-13 REGULATING OPEN CONTAINERS IN MOTOR VEHICLES

The public hearing was opened and there being no public comment, then closed. Ms. Hyser then moved the Ordinance, seconded by Mr. Summiel.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

3. The Clerk read (Ordinance #11-29) AN ORDINANCE AUTHORIZING THE EWING TOWNSHIP REDEVELOPMENT AGENCY TO ENTER INTO A PAYMENT IN LIEU OF TAXES (“PILOT”) AGREEMENT WITH SDB REALTY, LLC A/K/A SENIOR STAR ADULT MEDICAL DAY CARE FACILITY (“SDB”) IN WHICH SDB WILL PAY EWING TOWNSHIP, IN LIEU OF FULL PROPERTY TAXES, AN AMOUNT EQUAL TO A PERCENTAGE OF TAXES OTHERWISE DUE

The public hearing was opened. Rebecca Lynn (1008 River Road) asked if there are apartments as well as the adult daycare on that property. Attorney Schwartz commented. Ms. Lynn wanted to know if the improvements are on the entire building or just the daycare portion. Administrator McManimon stated that it is on the entire building. Ms. Hyser commented that it is also a daycare facility for children as well as an adult daycare center and there is also extended stay residences, which are somewhat assisted living facilities for those who need to stay overnight for an extended period of time. President Wollert said she doesn't believe they are intended to be rented for the purpose of establishing permanent residence. Mayor Steinmann commented that the apartments are for respite care. An example would be if you are caring for someone medically and the family wants to go away on vacation and you can't bring this individual with you, then you can leave that individual for a number of days and they would be taken care of medically. Mayor Steinmann also commented that because this particular property is in the Redevelopment Zone, by State Statue they have every right to ask for this abatement. Mr. Murphy then moved the Ordinance, seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

NEW BUSINESS

1. The Clerk read **(Resolution #12R-15) A RESOLUTION OF EMERGENCY TEMPORARY APPROPRIATIONS.**

Mr. Summiel then moved the Resolution, seconded by Ms. Hyser.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

2. The Clerk read **(Resolution #12R-16) RESOLUTION AUTHORIZING THE APPOINTMENT OF A BUSINESS ADMINISTRATOR.**

Mr. Murphy then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

3. The Clerk read **(Resolution #12R-17) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP ATTORNEY TO MAEVE CANNON, ESQ.**

Ms. Hyser then moved the Resolution seconded by Mr. Murphy. Rebecca Lynn (1008 River Road) asked what non-fair and open contract means. Attorney Schwartz stated that it means that the contract was not bid and under the Pay to Play Laws the awarding will certify that they have made no ineligible contributions under the Pay to Play rules. Mayor Steinmann also commented.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

4. The Clerk read **(Resolution #12R-18) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP ZONING BOARD ATTORNEY TO ALAN G. FRANK, JR., ESQ.**

Mr. Murphy then moved the Resolution seconded by Ms. Hyser.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

5. The Clerk read (Resolution #12R-19) A RESOLUTION AUTHORIZING THE AWARD OF NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP PLANNER TO CHARLES LATINI.

Ms. Hyser then moved the Resolution seconded by Mr. Murphy.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

6. The Clerk read (Resolution #12R-20) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP ENGINEER TO ROBERT MANNIX.

Ms. Hyser then moved the Resolution seconded by Mr. Murphy.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

7. The Clerk read (Resolution #12R-21) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP SPECIAL TAX APPEALS ATTORNEY TO HARRY Z. HAUSHALTER, ESQ.

Mr. Summiel then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

8. The Clerk read (Resolution #12R-22) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR RENT CONTROL ATTORNEY AND SPECIAL LITIGATION ATTORNEY TO EDWIN W. SCHMIERER, ESQ. OF MASON, GRIFFIN & PIERSON, PC

Mr. Murphy then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

9. The Clerk read (**Resolution #12R-23**) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP PUBLIC DEFENDER TO ANTONIO MARTINEZ, ESQ.

Ms. Hyser then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

10. The Clerk read (**Resolution #12R-24**) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP MUNICIPAL PROSECUTOR TO BERTHA SCOTT, ESQ.

Mr. Summiel then moved the Resolution seconded by Mr. Murphy.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

11. The Clerk read (**Resolution #12R-25**) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP PLANNING BOARD ATTORNEY TO MICHAEL W. HERBERT, ESQ.

Mr. Summiel then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

12. The Clerk read (**Resolution #12R-26**) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR A TOWNSHIP LABOR NEGOTIATOR TO ROCKY L. PETERSON, ESQ.

Mr. Murphy then moved the Resolution seconded by Ms. Hyser.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

13. The Clerk read (**Resolution #12R-27**) A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP CONFLICT PLANNER TO CHRISTINE COFONE.

Mr. Summiel then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

14. The Clerk read **(Resolution #12R-28)** A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR TOWNSHIP CONFLICT ENGINEER TO ALAIMO GROUP CONSULTING ENGINEERS

Mr. Murphy then moved the Resolution seconded by Ms. Hyser.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

15. The Clerk read **(Resolution #12R-29)** A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR SPECIAL LITIGATION ATTORNEY/CONDEMNATION BOARD TO CHARLES P. ALLEN, JR., ESQ.

Mr. Murphy then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

16. The Clerk read **(Resolution #12R-30)** A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR APPRAISAL SERVICES TO PETER E. SOCKLER.

Mr. Summiel then moved the Resolution seconded by Ms. Hyser.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

17. The Clerk read **(Resolution #12R-31)** A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR APPRAISAL SERVICES TO THOMAS A. DEMARTIN

Ms. Hyser then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

18. The Clerk read **(Resolution #12R-32)** A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR ATTORNEY TO THE CABLE TELEVISION CITIZEN ADVISORY BOARD TO CHARLES ALLEN, ESQ.

Mr. Murphy then moved the Resolution seconded by Mr. Baxter.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES

President Wollert YES

19. The Clerk read **(Resolution #12R-33)** A RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR BOND COUNSEL TO EDWARD MCMANIMON, III, ESQ. AND MCMANIMON & SCOTLAND, LLC

Mr. Murphy then moved the Resolution seconded by Mr. Summiel.

ROLL CALL

Mr. Baxter YES
Ms. Hyser YES
Mr. Murphy YES
Mr. Summiel YES
President Wollert YES

20. The Clerk read **(Resolution #12R-34)** A RESOLUTION CONSENTING TO APPOINTMENT OF EUGENE ELIAS AS THE MUNICIPAL AUDITOR AND AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR AUDITING SERVICES TO MERCADIAN, P.C.

Mr. Baxter then moved the Resolution seconded by Mr. Summiel. Ron Prykanowski (16 Thurston Avenue) suggested that the Auditor be rotated every 5-10 years. A change in Auditors picks up a lot. Mr. Summiel asked for clarification on the appointment and President Wollert stated that this is for the TY2011 year audit that ended December 31, 2011.

ROLL CALL

Mr. Baxter YES
Ms. Hyser YES
Mr. Murphy YES
Mr. Summiel YES
President Wollert YES

21. The Clerk read **(Resolution #12R-35)** A RESOLUTION APPROVING PARTICIPATION WITH THE STATE OF NEW JERSEY DIVISION OF ALCOHOLIC BEVERAGE CONTROL PROGRAM FOR THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP) STATE BLOCK GRANT PROGRAM ENFORCING THE UNDERAGE DRINKING LAWS.

Mr. Murphy then moved the Resolution seconded by Mr. Summiel.

ROLL CALL

Mr. Baxter YES
Ms. Hyser YES
Mr. Murphy YES
Mr. Summiel YES
President Wollert YES

22. A The Clerk read **(Resolution #12R-36)** A RESOLUTION APPROVING TAX ABATEMENT FOR THE GARDENS AT BIRMINGHAM, LIMITED LIABILITY COMPANY SPONSORED AFFORDABLE HOUSING PROJECT.

Mr. Murphy then moved the Resolution seconded by President Wollert. Mr. Summiel stated that he finds it a little dichotomous to talk about COAH and what it is supposed to do and what it does do. He thinks about the apartments already in Ewing and feels they are underutilized, in terms of filling them to capacity. He realizes that this is ownership and not rental, but he is just not certain that we are getting the bang for our buck. President Wollert commented that she came at it from a little bit of a different point of view. She commented that due to the economy, people can't afford market rate apartments and she feels there is a need for this affordable housing.

She commented that it will go to the Planning Board for review of the site and how the building is done. The preliminary drawings that Mr. Ranke presented were quite nice. She felt that personally she will be in favor of it. Ms. Hyser stated that the applicant in testimony has said that he plans to build according to the court order. Our redevelopment planner at the time, Charles Latini, stated he felt that this fits within the redevelopment area and fits within the definition of Smart Growth, meaning that it's a project that is near lines of Transit as well as shopping centers. Ron Prykanowski (16 Thurston Avenue) and George Steward (30 Gilmore Road) both commented on this Resolution. Mr. Baxter stated that he has been thinking about this project for a long time and thinks of it as an opportunity for people to have a new place to live, the access to markets, restaurants, railways and the airport. He would like people to get away from the notion that moderate income is only certain groups. He would like people to really think about the project and affording opportunity for new families to come and visit and understand and appreciate Ewing.

President Wollert then called for roll call:

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	NO
President Wollert	YES

23. The Clerk read (Resolution #12R-37) A RESOLUTION APPROVING FIRST AMENDMENT TO SETTLEMENT AGREEMENT REGARDING KRAMER v. TOWNSHIP OF EWING.

Mr. Murphy then moved the Resolution seconded by Mr. Baxter. Attorney Schwartz explained that this is a litigation that the township was involved in and settled out of and in this amendment to the settlement there are some parties that are still remaining in litigation and this first amendment attempts to contemplate what the township's involvement would be should these two other parties settle and the jyst of litigation is basically property dispute regarding drainage easement between two adjoining property owners. Mr. Summiel wanted clarification that the first amendment to the settlement would be that in the event that the two parties that are currently before the courts decide to settle, then our interest would have to be subsequent to that on their settlement we will pay \$3500 and are out of this picture. If the matter isn't settled by the parties than this action has no real meaning. Attorney Schwartz agreed. Ron Prykanowski (16 Thurston Avenue) asked other than the legal cost, what is the cost to the taxpayers. Attorney Schwartz commented that it can't be determined because the litigation is ongoing. If the judge decides one way then there will be certain ramifications and if the judge decides for the other party then there will be certain ramifications. What this addresses is that if these two parties settle, the cost to the township would be \$3500.

ROLL CALL

Mr. Baxter	YES
Ms. Hyser	YES
Mr. Murphy	YES
Mr. Summiel	YES
President Wollert	YES

ADJOURNMENT

There being no further business President Wollert called for a motion to adjourn. Mr. Baxter so moved seconded by Mr. Murphy. The meeting was adjourned at 8:05 p.m.

Kathleen Wollert, President

Kim Macellaro, Clerk