

April 10th, 2012 - REGULAR SESSION

President Wollert called the meeting to order at 7:00 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 13th day of March, 2012.

ROLL CALL

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

Presentation- Sunshine Foundation

President Wollert introduced Mayor Bert Steinmann. He started by saying that the police and firemen have an event every year that raises a substantial amount of money for the Sunshine Committee. Mr. Doug Brower thanked Council for allowing them to come to the meeting to present the Sunshine Foundation with a check. He thanked all the many sponsors for their generosity including the Regal Printing Company, Roma Bank, Ewing Board of Education, ETS, Ewing Fire Companies, Ewing Police Department, Lawrence Fire Companies (Slackwood, Lawrence Road and Lawrenceville) and West Windsor Police Department. He also thanked the Mercer County Fire Police who do a great job with the traffic at the High School and keeping everyone safe. He presented a check to President of the Mercer County Chapter, Cathy DiCostanzo and Dave Burns, Chairperson for the annual “DreamLift”. Cathy DiCastanzo thanked the Mayor and Council for allowing them to come. She commented that it is special people like the police and firemen who make it all possible. She wanted to invite everyone to the May 8th “Dreamlift”. She thanked Frank Giancarli for running a wrestling event at the ESCC and said the event raised over \$900.00. Mr. Dave Burns thanked everyone for their support. President Wollert stated that on behalf of Council, she thanked the police and fire for their dedication and participation in this very worthwhile event. She also thanked Cathy and Dave for their work with the Sunshine Foundation.

STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC FOR ITEMS NOT ON THE AGENDA

There were no comments.

CONSENT AGENDA

The Clerk presented the Consent Agenda for approval: (Resolution #12R-76)

1. Authorization for the Chief Financial Officer to pay Township bills in the amount of \$585,986.18.
2. A Resolution authorizing the conduct of an On Premise Merchandise Raffle sponsored by The Children’s Home Society on May 11, 2012
3. A Resolution authorizing the conduct of an On Premise 50/50 Cash Raffle sponsored by The Children’s Home Society on May 11, 2012
4. A Resolution authorizing the conduct of a Bingo Night sponsored by The Children’s Home Society on May 11, 2012

Mr. Murphy then moved the Consent Agenda, 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 #12-08**)**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 (2012)**

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Ewing that the Code of the Township of Ewing is hereby amended as follows:

Section 1.

A. Compliance Required. No person, firm or corporation shall place upon, deliver, deposit, throw upon, leave or abandon, or cause the delivery or deposit of any unsolicited newspaper, shopper, circular, leaflet, flyer, handbill or other like printed matter within or upon any private property, public way adjacent to private property or public place in the Township, except as hereinafter provided. For the purpose of this section, "unsolicited" shall mean the printed matter referred to herein has not been ordered, subscribed to or requested by the recipient.

B. Exceptions. The provisions of this section shall not be applicable to the delivery of:

1. Mail, parcels or packages by and in accordance with the rules of the United States Postal Service.

2. Parcels, packages and materials by and in accordance with the rules of the Railway Express Agency or other utility licensed or regulated for such purposes and those delivered by vendors where ordered by the owner or occupant of the recipient premises.

3. Newspapers and other publications and periodicals only if subscribed to by the owner or occupant of the recipient premises, provided that they are either placed firmly in a receptacle designed for such purpose or, if none, then tightly wrapped to prevent blowing or scattering upon the recipient premises or adjacent areas.

4. Laundry, dry cleaning and dairy, bakery and similar food products and commercial product sampling, by agreement with or invitation of the owner or occupant of the recipient premises.

5. Solicitation cards, brochures and flyers by duly authorized bona fide non-profit charitable organizations, including but not limited to United Fund, American Red Cross and religious, educational, medical and volunteer police, fire and ambulance organizations, provided that they are packaged and placed in such manner as not to blow or scatter upon the recipient premises or adjacent areas.

6. Non-commercial handbills of a political or other nature whose distribution is or may be protected by constitutional rights of free speech, provided that they are packaged and placed in such manner as not to blow and scatter upon the recipient premises or adjacent areas.

7. Unsolicited and unsubscribed newspapers, publications and other periodicals of a commercial nature, in whole or in part, provided that distribution and delivery of the same is in compliance with this section and further provided that they are packaged and placed in such manner as not to blow or scatter upon the recipient premises or adjacent areas.

8. The service of any summons, traffic ticket, legal notice or process which is permitted or required by law.

C. License for Delivery Required; Objection to Delivery; Method of Delivery. The delivery of unsolicited and unsubscribed newspapers, publications and other periodicals of a commercial nature, in whole or in part, shall qualify for the exception provided for in subsection (B)(7) hereof, subject to and contingent upon initial and continuing compliance with the following requirements:

1. License. The publisher or distributor shall, prior to any such delivery, apply to the Township Clerk for an annual license, to be effective from January 1 to the following December 31, or any portion thereof, on forms to be prescribed by the Township, requiring, in part, complete information about the publisher, the distributor, the publication concerned and the frequency of distribution and designating specific persons, with addresses and telephone numbers, responsible for compliance with this section. The fee for the license shall be five hundred dollars and zero cents (\$500.00) per year or any portion thereof, to cover costs of processing the applications and administering the requirements provided for herein.

2. Objection to Delivery. The owner or occupant of any property within the Township shall have the right, in writing, at any time, to transmit to the Township Clerk notice of objection to the continued delivery of any such unsolicited and unsubscribed publication by any licensee, and the Township Clerk shall prepare and maintain, at all times on a current basis, a list of the names and addresses of such objectors, which shall be sent to the Ewing Township Police Department and made available to licensees hereunder at all times during the business hours prescribed by law for the Township Clerk's office. Such notice of objection shall continue in effect until revoked, and it shall be deemed a violation of this section for any licensee to deliver or continue to deliver any such unsolicited and unsubscribed publication to any such objecting owner or occupant whose name appears on the list of objectors.

3. Method of Delivery. No publication licensed for delivery in accordance with this section shall be distributed or caused to be distributed by any person at any residence or other building unless such printed matter shall be delivered into the possession of some person there offering to receive same or be placed in a slot or receptacle provided on the premises for the receipt of same or be placed within five (5) feet of a door or entranceway of such residence or other building.

D. Prohibited Delivery.

1. There shall be no delivery whatsoever of any unsolicited printed matter, whether licensed or unlicensed to:

a. Any private premises which is clearly or conspicuously posted with a sign prohibiting trespassing, soliciting or advertising.

b. Any premises known to be vacant by the person distributing or causing to be distributed such printed matter.

2. No person shall place or cause to be placed any unsolicited newspaper or advertising material on any motor vehicle in the Township.

E. Suspension or Revocation of License. The Mayor and Council may, in addition to the penalties provided for herein for violations, either suspend, revoke or refuse to renew any such license where three (3) or more violations of this section by the licensee shall have occurred within any annual license period, provided that the licensee is first given ten (10) days advance written notice of any such action and a hearing.

F. Repeated Violations. Each violation of the provisions of this section, whether the same shall occur on the same day or on succeeding days, shall be deemed to be a separate violation hereof.

G. Violations and Penalties. Any person, firm or corporation violating any of the provisions of this section shall pay a fine not exceeding five hundred dollars and zero cents (\$500.00) or be subject to a term of imprisonment not exceeding ninety (90) days, or both.

Section 2. This Ordinance shall take effect as provided by law.

STATEMENT

This Ordinance amends the Revised General Municipal Ordinances of the Township of Ewing regarding the delivery of unsubscribed and unsolicited publications.

The public hearing was opened. Attorney Cannon explained that this is an Ordinance that will address flyers on windshields, in your driveway, or stuck in your door. From now on, the company or individual who will be soliciting this material will need to obtain a license from the Clerk's office. Rebecca Lynn, Charles Green and Abe Conesa asked questions to which Attorney Cannon responded. The public hearing was closed.

Mr. Baxter then moved the Ordinance, seconded by Mr. Murphy.

ROLL CALL

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

- 2. The Clerk read (Ordinance #12-09) 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 (2012)**

BE IT ORDAINED by the Township Council of the Township of Ewing that **Chapter 172, FEES, § 172-18. Planning and zoning** of the Code of the Township of Ewing is hereby amended as follows:

Section 1: **Chapter 172, FEES, § 172-18. Planning and zoning** of the Code of the Township of Ewing is hereby amended as follows:

§ 172-18. Planning and zoning.

A. Application and escrow fees.

- (1) Subdivisions. – No change.
- (2) Site plans.

Fee	Escrow
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Individual residential site review shall be at no cost for Township residents. For all other commercial and non-owner occupied residential site review: a minimum of \$2,500 shall be deposited. Calculation of escrow fee shall be as follows: \$100 per 1,000 square foot or part thereof of building construction. There escrow shall be replenished for every subsequent site review requested. The fee for site review shall be a credit toward subsequent preliminary site

plan filing fee.

Minor	\$300	\$1,000
Preliminary plan	\$500	A minimum of \$2,000 shall be deposited. Calculation of escrow fee shall be as follows: \$150 per acre or part thereof. In addition, for residential: \$10 per dwelling; for commercial: \$0.20 per square foot or part thereof of total proposed building area up to and including 20,000 square feet and \$0.14 per square foot for every additional square foot or part thereof over 20,000 square feet
Final plan	\$500	A minimum of \$750 shall be deposited. Calculation of escrow fee shall be as follows: \$70 per acre or part thereof. In addition, for residential: \$6 per dwelling; for commercial: \$0.10 per square foot or part thereof of total proposed building area up to and including 20,000 square feet and \$0.06 per square foot for every additional square foot or part thereof over 20,000 square feet
Concept plan	\$250	A minimum of \$1,000 shall be deposited. Calculation of escrow fee shall be as follows: \$50 per acre or part thereof. In addition, for residential: \$5 per dwelling; for commercial: \$0.10 per square foot or part thereof of total proposed building area up to and including 20,000 square feet and \$0.06 per square foot for every additional square foot or part thereof over 20,000 square feet
General development plan	\$500	Same as preliminary plan

Section 2. This Ordinance shall take effect after final passage and publication according to law.

STATEMENT

This Ordinance amends the Revised General Municipal Ordinances of the Township of Ewing to add fees for site review.

The public hearing was opened and Attorney Cannon gave a brief overview. The public hearing was closed.

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

Councilman Summiel asked for a discussion. He asked if other municipalities are charging with regard to these preliminary fees. Administrator McManimon stated that some towns do and some towns don't. Some of the investors/non-owner occupied people took advantage of using our professionals without compensating them or paying them. Attorney Cannon explained that the fee for site review shall be a credit toward subsequent preliminary site plan filing fees so that if it is a viable plan and they plan to go forward with it, they will get that back. President Wollert clarified that this is not for residents, it is for commercial and multi-family development.

ROLL CALL

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

3. The Clerk read (Ordinance #12-10) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING TO ESTABLISH RANGES FOR SEWER RATES AND CHARGES (2012)

WHEREAS, the Township may receive an increase in the annual sewer charges from the Ewing Lawrence Sewerage Authority (ELSA); and

WHEREAS, it is necessary to adjust the sewer rates and charges accordingly;

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Ewing that **Chapter 300, SEWERS, ARTICLE II, SEWER RATES AND CHARGES**, of the Code of the Township of Ewing is hereby amended as follows:

Section 1. **Chapter 300, SEWERS, ARTICLE II, SEWER RATES AND CHARGES, Section 300-8, Ewing Resident Rate**, of the Code of the Township of Ewing is hereby AMENDED as follows:

§ 300-8 Ewing Resident Rate

The “Ewing resident rate” shall consist of the sewer charges as set forth herein.

A. (1) Computation of proportionate flow sewer charges for Ewing residents commencing on January 1, ~~2011~~2012. The rate per 100 cubic feet based upon annual water consumption or sewer flow shall be set by the Township Council by resolution annually based upon actual billing from the ELSA within the following range:

ELSA and Ewing operations, maintenance and replacement charges Range: \$3.25 to \$5.00

B. Infiltration/inflow sewer use charge. Each user, in addition to the proportionate flow charges in Subsection A herein, shall pay an annual charge for his or her proportionate share of operation and maintenance for extraneous flows caused by infiltration and inflow. A separate charge shall be paid for each dwelling unit or each commercial, industrial or other facility receiving sewer service. Twenty percent of the flows to ELSA from its users are deemed caused by such extraneous flows. The infiltration/inflow charge shall be calculated by the Township based upon the number of dwelling units ~~or~~ and each commercial, industrial and other facilities receiving service. The infiltration/inflow sewer use charge commencing January 1, ~~2011~~2012, will be set by Township Council by resolution annually based upon actual billing from the ELSA within the following range: \$75.00 to \$135.00.

C. Rate charges for unmetered premises. Charges for sewer service for premises without metered sewer or water connections, based upon an estimated annual water consumption of 6,400 cubic feet. Applying the proportionate flow sewer charge in § 300-8A, the annual charge commencing January 1, ~~2011~~, 2012 will be set by Township Council by resolution annually based upon actual billing from the ELSA within the following ranges: as follows:

(1) Each family, dwelling or commercial facility with a complement of five or fewer fixtures shall pay annually: \$208.00 to \$265.00.

(2) For each additional fixture over the complement of five, the user shall pay an additional \$52.00 to \$65.00.

(3) Each user shall also pay, for each laundry tub or automatic washing machine in excess of two, an additional \$59.80

(4) When more than one family uses the same complement of fixtures, or where individual fixtures are used in common by more than one family, the charge will be determined by multiplying the aforesaid rates or charges by the number of families using the fixtures.

(5) Each family, dwelling or commercial facility shall also pay the annual infiltration/inflow sewer use charge.

D. Rate for new connections. [NO CHANGE]

E. Charges and rates to be amended by resolution. The charges and rates specified in this Chapter may be amended from time to time throughout the calendar year by resolution of the Township Council based on the actual charges and rates assessed by the Ewing Lawrence Sewerage Authority to the Township.

Section 2. If any section or part of this Ordinance shall be declared invalid by the judgment of any court or competent jurisdiction, such section or part shall be deemed to be severable from the remainder of this Ordinance.

Section 3. This Ordinance shall take effect upon final passage and publication according to law.

STATEMENT

An Ordinance to Amend the Township Sewer Rates and Charges.

The public hearing was opened. Attorney Cannon stated that right now our Ordinance is set up so that all our sewer fees are a fixed fee. However, we are billed by ELSA on a lump sum basis which is then divided up and allocated among the users based on water usage. It changes from year to year based on the total volume that ELSA processes. This Ordinance would allow Council some flexibility to be able to do an annual resolution, which would be the actual amount billed by ELSA as opposed to having to re-adopt an Ordinance every year. Rebecca Lynn wanted to know how it is determined who uses what amount of sewerage. Attorney Cannon answered that it is based on your water bill, unless you have a well. Charles Green (979 Bear Tavern Road) and Trish DeCello (10 Chelmsford Drive) also had comments.

Mr. Murphy then moved the Ordinance, seconded by Ms. Hyser. Mr. Summiel made a statement that he will speak in opposition to the Ordinance simply because it came to us at the eleventh hour, obviously not from the Administration, but from ELSA. He feels that the whole formula should be revamped.

ROLL CALL

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

4. The Clerk read **(Ordinance #12-11) AN 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 (2012)**

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$50,000, consisting of the \$2,500 down payment from the Capital Improvement Fund and \$47,500 of the

proceeds of obligations originally made available pursuant to bond ordinance #2006-35 of the Township of Ewing, in the County of Mercer, New Jersey (the "Township") finally adopted December 19, 2006, are no longer necessary for the purpose of providing matching funds for a Mercer at Play Grant for a Municipal Skate Park, for which the obligations previously were authorized.

Section The \$50,000 described in Section 1, \$47,500 of which is made available pursuant to N.J.S.A. 40A:2-39, is hereby re-appropriated to provide for the refurbishment of the Hockey Rink at Carlton Avenue Park, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures incidental thereto.

Section The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section This ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The public hearing was opened. Administrator McManimon said that we have an in-line hockey rink off of Carlton Avenue and it has been about 10 years since it was put in place with a lot of volunteer work. The township sees a need to upgrade this. A third of the in-line hockey rink is not safe to play on. The boards need to be replaced and the surface needs to be redone. This reallocation will be used for a recreational purpose as requested by many on Council. The \$50,000 was intended to build a skateboard park at one time. The public hearing was closed.

Mr. Murphy then moved the Ordinance, seconded by Mr. Baxter.

Mr. Summiel stated that he will speak in favor of this Ordinance. He stated that he thinks the driving point is the issue of safety. Based upon what Administration has given Council as a cost estimate for the repair of this facility, he will support it and vote yes. Mr. Murphy asked how many votes are needed to pass a Bond Ordinance. Attorney Cannon responded.

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-77) A RESOLUTION CONSENTING TO THE APPOINTMENT OF MARC S. WEINROTH TO THE RENT CONTROL BOARD**

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

President Wollert explained. Mr. Summiel asked a question to which Administrator McManimon responded.

ROLL CALL

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

2. The Clerk read **(Resolution #12R-78) A RESOLUTION CONSENTING TO THE APPOINTMENT OF ROCHELLE HARDIE TO THE RECREATION ADVISORY BOARD**

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

3. The Clerk read **(Resolution #12R-79) A RESOLUTION OF EMERGENCY TEMPORARY APPROPRIATION**

President Wollert explained that this is for a one month expenditure pending the adoption of the budget.

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

4. The Clerk read **(Resolution #12R-80) A RESOLUTION PROCLAIMING APRIL 2012 AS ALCOHOL AWARENESS MONTH**

Ms. 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

5. The Clerk read (Resolution #12R-81) A RESOLUTION AUTHORIZING THE TOWNSHIP OF EWING TO ENTER INTO AN AGREEMENT WITH THE EWING-LAWRENCE SEWERAGE AUTHORITY AND HAMPTONS AT HOPEWELL, LLC FOR THE PROVISION OF SEWER SERVICES

President Wollert then moved the Resolution, seconded by Mr. Baxter.

Rebecca Lynn (1008 River Road) asked for clarification on this Resolution. Attorney Cannon stated that it actually settles two lawsuits against the ELSA by two properties in Hopewell Township. They were close to the sewerage service area, however they were not given access to the sewer lines. This settles the lawsuit by allowing them to hook into the ELSA sewer lines. The fee is dependent on whether the referendum in Hopewell passes or not. Ms. Lynn asked why Ewing Township is involved if it is on Hopewell property. Attorney Cannon clarified that their sewerage runs through Ewing's lines.

ROLL CALL

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

6. The Clerk read (Resolution #12R-82) A RESOLUTION ESTABLISHING THE SEWER RATES AND CHARGES FOR EWING TOWNSHIP

Mr. Murphy then moved the Resolution, seconded by Ms. Hyser. President Wollert stated that this is establishing the rates for this year. Trish DeCello (10 Chelmsford Drive) asked what the increase to residents would be. CFO Mustafa responded.

ROLL CALL

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

7. The Clerk read (Resolution #12R-83) A RESOLUTION AUTHORIZING AN EXTENSION OF THE SEWER REMITTANCE DUE DATE AND SUBSEQUENT GRACE PERIOD FOR THE APRIL 1, 2012 SEWER BILL TO THE DATES OF JUNE 1ST AND 10TH, 2012 RESPECTIVELY

Mr. Murphy then moved the Resolution, seconded by Mr. Summiel. President Wollert clarified that this is extending the payment date of June 1st with a grace period of ten days.

ROLL CALL

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

8. The Clerk read (Resolution #12R-84) A RESOLUTION AMENDING RESOLUTION 12R-36

Mr. Murphy then moved the Resolution, seconded by President Wollert. Mr. Murphy asked that it be explained to the audience. Attorney Cannon stated that this is a resolution amending a previous resolution that Council did relating to the Gardens at Birmingham, which is the affordable housing rental project that will be behind the shopping center by Marazzo's and it provides for 48 affordable housing units. This amends the prior resolution, eliminating the specification as to the 5

special needs units being part of a 3 bedroom allocation. It just reallocates where the special needs units will be allocated. This resolution deals with the approval of the Pilot. Council asked some questions. Mr. Summiel commented that when this action came before this body several months ago, notwithstanding the amendments being presented today, his vote was cast against it, not because he is against affordable housing, but because the comprehensive plan of the redevelopment of that area, including the GM site and the Jet Propulsion site, he didn't think that the plan being presented at this point and time for this development, dovetailed well enough with that prospective plan of how we will develop those other two sites. That was the reason he cast his vote against it initially and he is preserving that position today for the same reason. There being no comment from the public, President Wollert called for roll call.

ROLL CALL

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

- The Clerk read **(Resolution #12R-85) AN AMENDMENT OF RESOLUTION #11R-209 TO ELIMINATE BEDROOM DISTRIBUTION FROM RESOLUTION OF NEED FOR 48 UNIT BIRMINGHAM GARDENS AFFORDABLE HOUSING PROJECT LOCATED AT 1460 PARKWAY AVENUE, EWING TOWNSHIP, NEW JERSEY**

Mr. Murphy then moved the Resolution, seconded by Ms. Hyser. Attorney Cannon explained that this is a Resolution of Need and needs to be submitted to HMFA in order for them to finance the project. The original resolution had the distribution of the bedrooms, largely set by HMFA regulation, but in that was the distribution of the special needs units and that has been removed from this because they will now be one bedroom units. Mr. Baxter asked Ms. Schor, Vice President of CIS, about the property maintenance, because they spoke of being involved for only three years. He asked that at the end of three years, who will be responsible for the maintenance. She responded by saying that their commitment to the project, once they get funded and construct the project, is ongoing for at least a 30 year period. As the property manager, they will be involved with the day to day operation and upkeep of the property. Mr. Summiel commented that he will vote in abstention in this regard and it just follows what he said in the previous action. Charles Green (979 Bear Tavern Road) asked about the 30 year commitment from CIS and if it is in writing. President Wollert deferred to Attorney Cannon who commented that it is a joint venture agreement with the other principal with Birmingham Gardens, LLC and if they don't get the funding in three years, they have the right to walk away. If they do get the funding, they are committed. Rebecca Lynn (1008 River Road) asked why the bedroom distribution is being removed from the resolution of need. Attorney Cannon responded.

ROLL CALL

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

- The Clerk read **(Resolution #12R-86) A RESOLUTION COMMITTING AFFORDABLE HOUSING TRUST FUNDS FOR BIRMINGHAM GARDENS AFFORDABLE HOUSING PROJECT**

Mr. Murphy then moved the Resolution, seconded by President Wollert.

Attorney Cannon stated that this is the third resolution related to this property. This resolution says that the town commits up to \$250,000 from its affordable housing trust fund for this particular project. Ms. Hyser asked the CFO if this resolution is approved tonight, would the \$250,000 be removed from the COAH trust and put into a separate account and held there. CFO responded that she would leave it in the COAH account. Mr. Baxter wanted to know how the amount is computed. Attorney Cannon stated that there is no specific formula regarding

affordable housing that specifically designates any particular amount of money to any project or creates a formula for that. In this case, the applicant requested significantly more than that but the Administration was willing to commit to this amount. There has been a commitment by the applicant that they are going to seek other COAH monies from other sources. This is what the applicant needed to make the project go forward. Charles Green (979 Bear Tavern Road) asked how much is left in the affordable housing trust fund. President Wollert responded. After much discussion, President Wollert called for roll call.

ROLL CALL

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

ADJOURNMENT

There being no further business President Wollert called for a motion to adjourn. Mr. Murphy so moved seconded by Ms. Hyser. The meeting was adjourned at 8:18 p.m.

Kathleen Wollert, President

Kim Macellaro, Clerk