

AGENDA SESSION 9-23-2013

President Hyser called the meeting to order at 6:30 p.m. 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 2nd day of January, 2013.

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

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| ▪ Mr. Baxter – Present | Jim McManimon, Administrator |
| ▪ Ms. Keyes-Maloney – Present | Joanna Brewster, CFO |
| ▪ Mr. Schroth – Present | Maeve Cannon, Attorney |
| ▪ Ms. Wollert – Present | Kim Macellaro, Municipal Clerk |
| ▪ President Hyser - Present | |

DISCUSSION

1. **A PROCLAMATION DECLARING THE MONTH OF SEPTEMBER 2013 AS ADULT LITERACY MONTH IN THE TOWNSHIP OF EWING.**

President Hyser asked the Mayor if he will be presenting the Proclamation tomorrow evening.

Mayor Steinmann responded – yes.

President Hyser then asked the Clerk if she had confirmation that someone will be here tomorrow evening to receive it.

The Clerk replied that she did not have confirmation.

President Hyser explained that it is a Proclamation urging all residents to recognize the value and need for literacy volunteers.

2. **DISCUSSION OF BEST PRACTICES WORKSHEET FOR THE CY 2013/SFY 2014 – NO ACTION REQUIRED.**

President Hyser stated that this is for discussion only and that no action is required. The CFO explained that this is the 2013 Best Practices Checklist issued by the State. Municipalities answer questions based on their performance - are they doing what is best for their town. The CFO stated that once again the Township came in with a good score and will not lose any State Aid.

President Hyser asked if we are going to receive 100% of State Aid based on our score.

The CFO responded – yes.

President Hyser asked if Council had any questions about the answers to the worksheet questions.

Council did not have any questions.

President Hyser stated that she had a question about Item 50 - participation in FEMA's National Flood Insurance Program Community Rating System. President Hyser asked why is the Township not participating in that program.

The Administrator responded that we are eligible. At the time he and the CFO went through the worksheet, they did not have the updated FEMA maps. The Administrator stated that without the new maps, he could not answer 100% - yes - the Municipality is covered.

The CFO added that it is not applicable at this time, but it is something we can look into.

President Hyser asked if Administration had received any information as to when these maps will be updated.

The Administrator responded that he believes the maps are completed and under review, but are not yet available.

President Hyser asked if the maps were part of the County's Flood Mitigation Program.

The Administrator responded that the County participated in updating the maps; the maps were found to be wrong during the review for that program.

President Hyser stated that she would like to see the Township participate in this program as flood insurance is so expensive.

The Administrator mentioned the difficulties some residents had after Hurricane Irene.

Councilwoman Keyes-Maloney asked if this "best practices" document is updated every year.

The Administrator replied that it is done every year.

The CFO added that some questions stay the same.

The Administrator stated that it is almost as if they make it difficult for you to qualify.

Councilwoman Keyes-Maloney then asked if they give you points for perspective.

The CFO responded – yes.

President Hyser stated that our final aggregate score is forty-four which puts us in 100% of the aid disbursed and in the top range of forty-one to fifty.

The CFO added – yes.

There were no additional questions from Council.

3. A RESOLUTION OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, STATE OF NEW JERSEY, APPROVING A CORRECTIVE ACTION PLAN FOR CY2012 AUDIT.

President Hyser stated that at our last meeting we heard from the Mercadian Group. There was one notable deficit found during that audit.

The CFO stated that this is the Corrective Action Plan the Township is doing to correct that finding in the 2012 Audit. It will be filed with the State and we should not have this finding again.

President Hyser asked the CFO that, prior to filing this, she had already made corrections as soon as she found the error.

The CFO replied – correct.

President Hyser then asked if we were waiting to see the summer receipts to see how we are doing within the Recreation Trust.

The CFO replied – so far so good.

There were no additional questions from Council.

4. A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION COMPUTER EQUIPMENT AND ACCESSORIES UNDER STATE CONTRACT T-0106.

The Administrator explained that this is to install updated computers in the new police Interceptors. It is being paid for from money Sprint pays the Township for the cell phone tower and the equipment on it and JAG grants from 2010 and 2011.

President Hyser asked why, if the Sprint police equipment grant is truly a grant, the funds are diverted to the Police Department, instead of going into the general treasury of the Township.

The Attorney explained that Sprint built the tower, gave it to the Town and reserved the right to use it. Sprint pays the Town rental and pays the Police Department annually for use of the radio equipment. It is called a grant because it is not part of the rental payments. Sprint provides \$14,400 worth of equipment to the Police Department that started in 2003 and increased by three percent per year.

President Hyser asked how much do we receive in lease payments.

The Attorney replied that she does not know the current number. The original number was \$14,400 plus three percent per year.

The CFO stated that she will provide an accurate number tomorrow.

President Hyser then asked if this is for perpetuity.

The Attorney replied that it is for five year renewal terms.

President Hyser asked if we should then be renewing it this year.

The Attorney replied – last year. It is Sprint's option to renew as Sprint constructed the Tower.

Councilwoman Wollert said that she recalled that the cell phone tower was put up mainly for the benefit of the Police Department and that there could be other occupants on the tower.

The Attorney stated that other sections of the tower can be leased out with the Township's approval. The Attorney stated that she is not aware of that happening.

The Mayor added that there are no other occupants on that tower. The Mayor further explained that we cannot put any new occupants on that tower now because it needs to be to be upgraded to allow for County-wide communications without interference.

The Administrator added that it also needs better encryption.

There were no additional questions from Council.

5. A RESOLUTION AUTHORIZING THE PROCUREMENT OF WALK-IN BUILDING SUPPLIES & PRODUCTS AS PER STATE CONTRACT M-8001.

The CFO explained that the State has just authorized Home Depot and Lowes under State Contract for walk-in building supplies. This Resolution does not authorize a specific purchase; just the method of procurement through a State Contract.

President Hyser asked if purchase orders are still needed.

The CFO replied – absolutely, that has not changed.

Councilwoman Wollert asked if this precludes the Township from purchasing from local vendors.

The CFO replied - no - we can still go out to bid or use the State Contract.

6. A RESOLUTION AUTHORIZING THE PURCHASE OF ONE (1) FORD F250 PICK UP TRUCK FOR USE IN THE DEPARTMENT OF PUBLIC WORKS BY THE RECYCLING COORDINATOR FROM DFFLM, LLC PER STATE CONTRACT T2100.

The CFO explained that this authorizes the purchase of a truck via State Contract through the Clean Communities Grant for the Recycling Coordinator. The Grant specifically allows up to twenty-five percent of your annual allocation to be used for equipment related to collection and enforcement.

President Hyser asked if this is for an additional vehicle or a replacement.

The Administrator replied that it is a replacement. The current vehicle cannot be used. It is only good for parts and then will be put on the auction block. The Recycling Coordinator is now using another vehicle that leaves someone without a truck. In the past, the Recycling Coordinator had his own truck.

President Hyser asked the Administrator to give the job description of the Recycling Coordinator.

The Administrator responded that we work in concert with the MCIA's programs; part of Mr. Elder's job is to pick up brush or leaves, or if there is a clean-up day at the parks.

The CFO added, as a point of clarification, that this is being purchased through the Clean Communities Grant; Mr. Elder is also the Clean Communities Coordinator and as such he is involved with graffiti, litter abatement – that kind of thing.

Vice President Baxter asked where does the other seventy-five percent go. The CFO answered that it goes to promotional items, leaf bags, trash receptacles for public properties, adopt a highway or if a Cub Scout Troop wants to do a cleanup day, they can get a \$500 grant.

Councilwoman Keyes-Maloney asked if this allows for another vehicle for snowplow purposes.

The CFO responded – no and explained that the title originally said “ with snow-plow” but she removed it. State Contract does allow an option for a snowplow; but we did not choose that option for this vehicle.

President Hyser stated that she believed the Clean Communities Grant precluded snow removal.

The CFO responded that she does not know if the Grant specifically says that, but snow removal would not be something that would be covered under the Clean Communities program.

The Administrator added that Mr. Elder drives a front-end loader for snow removal not a truck.

Vice President Baxter asked if the Township’s snow pick-up fleet is adequate. The Administrator answered that at this point – yes. The Administrator then described the snow pick-up fleet and added that we are ahead of where we were three years ago in terms of equipment.

President Hyser asked if this vehicle is just for the sole use of the Recycling Coordinator.

The Administrator responded – yes.

The Attorney added that it is tied to the position.

There were no additional questions from Council.

7. A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF RADIO COMMUNICATION EQUIPMENT AS PER STATE CONTRACT T-0109.

The CFO explained that this is using radio funds we did in our 2012 capital bond.

The Administrator stated that this will help mitigate broad band radio interference and be used to add two additional towers in opposite parts of town that will eliminate dead zones. It will also help the County along the river. The Administrator added that the original cost estimate was \$300,000 – the Mayor sent them back to the table.

There were no questions from Council.

8. A RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87.

The CFO explained that this Resolution is to include in our 2013 Budget two grants the Township received. The first is New Jersey Manufactures Safe Sports Equipment and Scholarships - \$2,000 dedicated purely for safety equipment through recreation programs. If there is any money left over it is used for scholarships for needy children. The second grant is money that Sprint gave us for radio equipment.

Councilwoman Keyes-Maloney asked what are the specific safety items that will be purchased under this grant.

The Administrator responded that Councilman Baxter put in a lot of time on this.

Vice President Baxter stated this will be used for helmets to prevent concussion.

Councilwoman Keyes-Maloney added that this is a big focus in the State Legislature – to protect kids.

The CFO added that by establishing it as a grant the money will be dedicated for this purpose and will not get “lost”.

There were no additional questions from Council.

9. A RESOLUTION TO CANCEL CERTAIN GRANT BALANCES.

The CFO explained that a recurring issue in audits is to make sure that with grant balances the money is still there to be received, if not, you cancel it. This Resolution does that. It is an accounting clean-up.

Vice President Baxter asked if this is money that will go back to the General Fund or is it money that we never had.

The CFO responded that it is money that we received that was never spent – it goes back to the Current Fund.

Vice President Baxter then asked that once it is reallocated to the Current Fund we no longer have to worry about the requirements attached to those grants.

The CFO answered no, it will be closed.

There were no additional questions from Council.

10. A RESOLUTION AUTHORIZING THE TOWNSHIP OF EWING TO ENTER INTO AN AGREEMENT WITH THE EWING-LAWRENCE SEWERAGE AUTHORITY, TIMOTHY AND MARION DOHERTY AND THE TOWNSHIP OF HOPEWELL FOR THE PROVISION OF SEWER SERVICES AT 20 BRANDON ROAD.

The Administrator responded that this Resolution just accepts what ELSA and the Township of Hopewell have already put in place as Ewing only gets the revenue.

There were no questions from Council.

11. A RESOLUTION URGING THE RESIDENTS OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, STATE OF NEW JERSEY, TO VOTE YES ON BALLOT QUESTION #2 TO RAISE NEW JERSEY'S MINIMUM WAGE.

President Hyser explained that this would be an increase in the minimum wage from \$7.25 to \$8.25 an hour adjusted annually based on the consumer price index.

There were no questions from Council.

12. AN ORDINANCE REGULATING AND PROHIBITING NUISANCES PERTAINING TO NOISE WITHIN THE TOWNSHIP OF EWING.

The Attorney explained that this Ordinance is part of an on-going effort to combat noisy parties and other events in the Township. A year or two ago the Township passed a decibel based ordinance that required monitoring; it is difficult to monitor when there is fleeting noise. The DEP has advised us that the Township can adopt a companion ordinance based on a clearly audible standard fifty feet from the property line that will be read in conjunction with the decibel ordinance. This falls under the nuisance code; how noise impacts the quality of life.

Councilwoman Keyes-Maloney asked what is the origin for the text of this Ordinance.

The Attorney replied that while doing research she came across a paper written by someone at the DEP discussing the audible standard under nuisance. This person was contacted.

Councilwoman Keyes-Maloney stated that this covers a parameter of time within which things are permissible or not.

The Attorney responded that the timeframes are in sync with our existing ordinance.

President Hyser stated for the benefit of the public that from Sunday through Thursday noise is prohibited between the hours of 10 p.m. and 7 a.m. and on Friday and Saturday it is prohibited 11 p.m. to 7 a.m. for this nuisance ordinance and the other noise ordinance as well.

Vice President Baxter asked if these times are standard – 7 a.m. He stated he thought it was not before 8 a.m. or 9 a.m.

The Attorney said it meshes with timeframes that already exist in the existing noise ordinance.

Councilwoman Wollert asked about dumpsters being emptied in an industrial area that borders a residential area at 6 or 6:30 a.m.; it is not permissible.

The Attorney responded – that is correct. They will have to wait until the timeframe begins.

Vice President Baxter asked about the fee structure.

The Attorney replied that it ties in with existing fines. As with a lot of our fines, there is a range. It is left to the discretion of the Municipal Judge.

President Hyser stated that she appreciates the effort of the Administration to provide the various departments another tool to combat the complaints we hear from residents about noise. President Hyser asked if those who are involved with enforcement were included in this process. She does not want this Body to pass another ordinance that is not giving the enforcement folks the tools they need.

The Attorney stated that she spoke with Lt. Lunetta today and he seemed pleased with the Ordinance.

President Hyser asked what is being done so that the rank and file are aware of all the tools available to them.

The Attorney said that last time we had trainings with the rank and file to explain all the tools they have to deal with quality of life issues.

President Hyser suggested to Administration that we hold training sessions.

Vice President Baxter suggested that we keep copies of these ordinances in the Code Enforcement office for landlords or new buyers, and even reach out to realtors.

The Attorney said that she is aware of a packet that the Police Department disseminates.

President Hyser stated that she is still waiting to hear from Administration if that packet was distributed this year as the Officer-in-Charge is not sure if it was disseminated this year.

The Mayor responded that you will have that answer tomorrow.

The Administrator stated that Code Enforcement does give out the ordinances to landlords but not necessarily does the landlord hand it out to their tenants.

President Hyser asked if this would trigger the "animal house" bond.

The Attorney replied – yes.

President Hyser then asked if the Police Department is still giving reports to Code Enforcement for tracking.

The Attorney – yes.

There were no additional questions from Council.

13. AN ORDINANCE PROVIDING FOR THE REGULATION AND LICENSING OF BODY ART ESTABLISHMENTS WITHIN THE TOWNSHIP OF EWING.

The Attorney explained that this Ordinance comes at the request of the Health Department now that there is one tattoo parlor in Town. Tattoo parlors are strictly and extensively regulated by the State. This Ordinance allows our Health Department to inspect and license these facilities. It incorporates State regulation by reference so Council does not constantly have to update the Ordinance every time State law changes.

Councilwoman Wollert asked if there is any variation between State statute and this Ordinance. Why do we need an Ordinance if State law is sufficient.

The Attorney responded that this incorporates State law in the Township as the Township is going to inspect and license these establishments.

Councilwoman Wollert then asked if we keep all the revenue.

The Attorney replied no revenue is given to the State. We are not changing any State standard.

There were no additional questions from Council.

14. AN ORDINANCE ACCEPTING THE DEDICATION OF STORM DRAIN EASEMENT AS DEPICTED ON FINAL PLAN OF LOTS OF OLD REED PROPERTY, MAP NO. 2822.

The Attorney explained that this comes out of a long line of litigation between homeowners involving water drainage on easements laid out on the original plat map. As part of a settlement the Township entered into, the Town agreed that if certain things occurred with regard to the lawsuit, the Town would accept the easement as a public improvement and enforce it going forward.

The Township will accept this dedication of the surface storm water drainage easement and will maintain through enforcement the efficacy of the easement. The homeowners will continue to own their property, maintain the grass and their property.

President Hyser stated that there are other easements in Town accepted by the Township.

There were no questions by Council.

The Clerk moved all items under Discussion except for item number two.

CONSENT AGENDA

Council President Hyser presented the Consent Agenda for review.

- 1. Authorization for the Chief Financial Officer to pay Township bills in the amount of \$5,550,826.25.**
- 2. Approval of minutes of the meeting of August 12, 2013 (Agenda) August 13, 2013 (Regular).**
- 3. A Resolution authorizing a Refund, as recommended by the Tax Collector in the amount of \$13.77 for August 1, 2013 tax quarter to Glonek, Damien & Cocchiara, Jennifer, 109 Hazelhurst Ave., Ewing, NJ, 08638, for property owner Glonek, Damien & Cocchiara, Jennifer, for Block: 75 Lot: 250 also known as 109 Hazelhurst Ave. overpayment due to 2013 Tax Appeal granted.**
- 4. A Resolution authorizing the conduct of an off premise 50/50 cash raffle sponsored by Mercer County Bar Foundation, Inc. on October 4, 2013.**
- 5. A Resolution authorizing the conduct of an off premise 50/50 cash raffle sponsored by Healing Hands of Christ Foundation, Inc. on November 9, 2013.**
- 6. A Resolution authorizing the conduct of a casino night sponsored by Healing Hands of Christ Foundation, Inc. on November 9, 2013.**

There were no questions, 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

- 1. AN ORDINANCE AMENDING THE EWING TOWNSHIP SALARY ORDINANCE ESTABLISHING COMPENSATION OF OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF EWING (2013)**

President Hyser explained that this is a bit of housekeeping as the original figures within the Ordinance were incorrect.

There were no questions from Council.

2. **AN ORDINANCE AMENDING EWING TOWNSHIP CODE SECTION 4-19 TO ESTABLISH MINIMUM QUALIFICATIONS FOR REAPPOINTMENT TO THE POSITION OF DEPUTY MUNICIPAL CLERK OF THE TOWNSHIP OF EWING (2013)**

President Hyser explained that this Ordinance establishes minimum qualifications for reappointment to the position of Deputy Municipal Clerk which includes successfully passing the required classes to obtain a Municipal Clerk certificate.

There were no questions from Council.

Both Ordinances were approved for action.

NEW BUSINESS

(None for this meeting)

STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC

Peter Ringel (94 Carlton Avenue) asked when is he allowed to have access to a proposed ordinance – in this case – the ordinance concerning the easement.

President Hyser explained that as Council has approved this Ordinance for action, he is now allowed access.

Mr. Ringel then referenced and read part of the settlement concerning the easement. He then stated that he wanted Council to understand that there is single easement that exists for three properties. The judgment said the Township must accept dedication of the entire easement. He stated that two of these properties have existing documented violations that have been brought to the attention of the Township on multiple occasions; there is no evidence the Township is requiring the other two property owners to address the violations. Mr. Ringel asked that the Ordinance include language that will state that the Township will actively enforce and require the other two property owners to bring these properties into the limitation of use of the easement; he is concerned that once the easement is accepted with these known violations, the Township will lose all authority to require these violations to be addressed.

The Attorney responded that the Township has not accepted the easement at this point. After the easement is accepted, if there is a finding that modifications have been made or the efficacy of the easement has been impaired, the Township will enforce the terms of the easement and direct its restoration.

Mr. Ringel asked if that will be stipulated in this Ordinance.

The Attorney replied - no, that is not the purpose of the Ordinance.

President Hyser said that the purpose of the Ordinance is for the Town to accept the easement.

The Attorney responded to Mr. Ringel by reading part of the Ordinance.

Mr. Ringel then stated that he does not have any confidence that once the Township accepts the easement, the other property owners will have to comply.

The Attorney responded that this Ordinance will make it a public easement. The Township will be charged with making sure that water drains to Lower Ferry Road. If there is something in the easement that is preventing that from occurring, the Township will take action.

President Hyser then asked the Mayor about his discussion with the Township Engineer.

The Mayor said that Mr. Mannix indicated that it has been restored to the 1986 one percent grade that was required by the Judge. The Mayor then discussed the tree issue.

Mr. Ringel said that the Township should go back and read the basis of the lawsuit. Mr. Ringel then summarized the basis for the lawsuit -- the placement of anything other than grass in the easement was a violation of the easement. There is no mention of the impediment of the flow of water.

Mr. Ringel stated that if he is required to remove trees, the other two property owners should be required to remove them as well.

Mr. Ringel then brought up another point regarding the map number on the Ordinance; it does not match the map number in the Judgment.

The Attorney responded – indicating there are two maps.

President Hyser said that what Mr. Ringel read is in this Ordinance.

Claire Ringel (94 Carlton Avenue) asked if the noise problem is only from 11 p.m., to 7 a.m. President Hyser said that is when we are enforcing the noise ordinance.

Ms. Ringel then asked if a log splitter is being run during the day then there is nothing that can be done.

The Attorney responded that if it exceeds the decibel level any time during the day, then something can be done.

Ms. Ringel then mentioned the trees in the easement. Ms. Ringel stated that she would never have planted trees in the easement if not for the fact that there were already trees in the easement on the other two properties.

There were no additional comments from the Public.

CLOSED SESSION – A Resolution to Enter Into Closed Executive Session

At 7:27 p.m., Mr. Baxter made a motion to enter into Closed Executive Session, seconded by Ms. Wollert. It was agreed by unanimous voice vote.

The Attorney then read the Resolution to Enter into Closed Executive Session.

At 8:14 p.m., Mr. Schroth made a motion to close the Closed Executive Session, seconded by Ms. Wollert. It was agreed by unanimous voice vote.

At 8:14 p.m., Mr. Baxter made a motion to move back to Open Session, seconded by Ms. Wollert.

It was agreed by unanimous voice vote.

ADJOURNMENT

There being no further business, President Hyser asked for a motion to adjourn. Mr. Baxter so moved seconded by Ms. Keyes-Maloney. It was agreed by unanimous voice vote. The meeting was adjourned at 8:15 p.m.

Kevin Baxter, President

Kim J. Macellaro, Municipal Clerk