

JUNE 25, 2013 – REGULAR SESSION

President Hyser called the meeting to order at 6:40 p.m. and read the Open Public Meetings Statement:

Almighty God who holds the fate of Man and Nation, we most humbly beseech thee to bless these deliberations, and these thy servants, that they may act with wisdom and understanding for the good of our community and thy greater glory. Amen.

Flag Salute

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.

ROLL CALL

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

President Hyser stated for the record that both Councilman Baxter and Councilwoman Keyes-Maloney are excused this evening.

CLOSED SESSION

President Hyser stated there are two items that require our attention in closed session. President Hyser called for a motion to enter into closed session. At 6:42 p.m. Ms. Wollert so moved, seconded by Mr. Schroth. It was agreed to by unanimous voice vote.

The Attorney read the Resolution to enter into Closed Executive Session to discuss two privileged items.

President Hyser asked for a motion to enter back into Regular Session. At 6:59 p.m. Mr. Schroth so moved, seconded by Ms. Wollert. It was agreed by unanimous voice vote. President Hyser stated that the two items discussed in Closed Session will be added to the New Business portion of the Agenda. President Hyser called for a motion to add these two resolutions to the Agenda. Ms. Wollert so moved, seconded by Mr. Schroth. It was agreed by unanimous voice vote.

The Clerk moved these two items to this evening’s agenda.

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

Claire Ringel (94 Carlton Avenue) read a Court decision from January 2012. There are two items outstanding – the survey and grass growing. Ms. Ringel described the steps she took in order to try to grow grass; it did not work. Ms. Ringel then described what other homeowners in the easement are doing which, she stated, affected her ability to grow grass.

President Hyser asked Ms. Ringel what kind of remedy she is looking for Council to provide as Council is a legislative, not a judicial, body.

Ms. Ringel responded that she wants Council to remove her neighbors' trees so she can satisfy the Township's request to grow grass.

President Hyser, the Attorney, and Ms. Ringel discussed the easement. The Attorney explained that the Township will not accept the easement until the conditions are satisfied.

Ron Prykanowski (16 Thurston Avenue) stated that he hoped the Township would one, take advantage of money offered by PSE&G for the A/C section of the bond ordinance and two, investigate other programs to help pay for the A/C upgrade.

President Hyser responded that the Administration has met with PSE&G.

Mr. Prykanowski then stated that when the Township embarked on a TNR program a few years ago, as part of that program, the Administration was supposed to report to Council. Mr. Prykanowski stated that he knows that the Animal Shelter is at capacity. Mr. Prykanowski further stated that he had not heard of a report being given and respectively asked that the Administration update Council.

President Hyser, the Administrator, and Mr. Prykanowski then discussed whether or not the Animal Shelter was at capacity.

Martha Glahn (Madison Avenue between Prospect and Seventh) asked why the area was selected for these other than desirable businesses.

President Hyser explained that prior to the Ordinance these businesses were allowed in all areas of town. The Ordinance is a mechanism to control the number of this type of business in the town as a whole; it allows us to put more restrictions and regulations on these businesses. In that area, the maximum permitted would be two.

CONSENT AGENDA

The Clerk read the Consent Agenda: (Resolution #13R- 112/)

1. Authorization for the Chief Financial Officer to pay Township bills in the amount of \$6,083,147.83.
2. A Resolution approving Matthew J. Depledge as a Senior member of the West Trenton Volunteer Fire Company.

Mr. Schroth then moved the Resolution, seconded by Ms. Wollert. There were no questions from Council or the Public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

ORDINANCE(S) FOR FIRST READING AND INTRODUCTION

1. The Clerk read (Ordinance #13-26) AN ORDINANCE AMENDING THE OLDEN AVENUE REDEVELOPMENT PLAN (2013)

Chuck Latini (Township & ETRA Planner) explained the various amendments included in this Ordinance.

President Hyser asked if the banner/sign requirements are now the same, as previously, the Construction Office and the Redevelopment Agency had different requirements.

Mr. Latini responded that when the sign ordinance was revised a few months back, it was put into the Land Development Ordinance. If Council decides to amend the sign ordinance, it will automatically be amended in the Redevelopment area.

President Hyser then asked if the shared service agreement has been ratified

by the Planning Board and the Redevelopment Agency.

The Mayor responded that this particular piece of the shared service agreement is in its final stages. It will be presented to ETRA and the Planning Board for a decision. The Mayor said that the other item added to the shared services agreement is any application brought before the Redevelopment Agency has a fee attached to it – the applicant has to put up an escrow for our professional to look at it.

Mr. Latini added that applicants will not be hit with escrow after escrow. Since both the Redevelopment Agency and the Planning Board have the same professional, comments will carry through. When it reaches the Planning Board stage, and escrow has to be posted, the professional will have to spend less time. As is the case with all escrows, applicants will get back what we do not spend.

There were no further questions from Council.

Mr. Schroth then moved the Ordinance, seconded by Ms. Wollert.

Joe Murphy (9 Malaga Drive) stated that as a member of ETRA he wanted to emphasize that we have real good consistency here.

There were no further questions from the Public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

The Attorney stated that the Council President should refer this back to the Planning Board for Master Plan consistency.

The Clerk moved that this Ordinance be referred back to the Planning Board.

2. The Clerk read (Ordinance #13-27) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, REVISING CHAPTER 187, FIRE PREVENTION (2013)

The Attorney explained that this ordinance will remove the Construction Official as the Fire Prevention Officer and the new Fire Prevention Officer shall be under the supervision and direction of the Business Administrator and not the Construction Official. It is being done at the direction of the State.

Ms. Wollert then moved the Ordinance, seconded by Mr. Schroth.

President Hyser asked if this was directed by the State as the Construction Official and the Fire Prevention Official cannot be the same. The Attorney replied correct; he cannot supervise himself.

President Hyser then asked about the Mayor being able to appoint other employees as deemed necessary for local enforcement agency purposes. The Attorney responded that if the Fire Prevention Officer was inadequate, the Mayor could appoint other officials.

There were no further questions from Council. There were no questions from the Public. President Hyser called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

3. The Clerk read (Ordinance #13-28) AN ORDINANCE OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, STATE OF NEW JERSEY AUTHORIZING EWING TOWNSHIP TO OFFER A VACANT LOT KNOWN AS LOT 6, BLOCK 385 ON RAILROAD AVENUE IN EWING TOWNSHIP TO THE CONTIGUOUS LANDOWNERS BY WAY OF A PRIVATE SALE (2013)

The Administrator explained that The Hughes have been maintaining it for twenty-five years. It is only contiguous to them. Administration came up with a nominal value of about \$1600.00 or \$85.00 in taxes. If Council approves it, Administration will meet with Mrs. Hughes to see if she wants to go through with it. It is worth between \$500.00 and \$1600.00.

The Attorney added that this is a non-billable property. It does not meet the lot size for development.

There was then some discussion of the size of the property.

The Administration then said that he spoke with the Tax Assessor and Tax Collector and both agreed it is worth between \$500.00 to \$1600.00. The Township will get another \$50.00 - \$80.00 in taxes that we are not getting now.

Mr. Schroth then moved the Ordinance, seconded by Ms. Wollert.

President Hyser asked that this Ordinance does not indicate that they have to purchase this property at \$1600, it is only a recommendation.

The Administrator replied – correct, if Council approves it, we will sit down with Mrs. Hughes and negotiate within the boundaries of \$500.00 to \$1600.00. If we do not come to an agreement, it dies.

There were no further questions from Council.

Ron Prykanowski (16 Thurston Avenue) commented that he does not have a problem with this and then suggested that the Township look at other similar properties throughout the Township.

The Administrator responded that we have been doing this and will continue to do so.

There were no additional comments from the Public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

4. The Clerk read (Ordinance #13-29) AN ORDINANCE OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, AMENDING THE REVISED ORDINANCES OF THE TOWNSHIP OF EWING, AMENDING SECTION 225-52, ENTITLED “SCHEDULE V: HANDICAPPED PARKING ON STREETS,” TO ADD A HANDICAPPED PARKING SIGN AT 32 STOUT AVENUE (2013)

President Hyser stated that the individual petitions the Police Department which verifies that the person is eligible to receive a handicapped parking sign. If the individual has a driveway, they are ineligible.

The Attorney added that the individual has to have a permanent

handicapped placard, not a temporary one.

Ms. Wollert then moved the Ordinance, seconded by Mr. Schroth.

There were no further comments from Council. There were no comments from the Public. President Hyser called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

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

1. The Clerk read (Ordinance #13-24) **A BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$2,400,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,280,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF (2013)**

President Hyser asked for a motion to open the public hearing. Mr. Schroth so moved, second by Ms. Wollert.

There were no comments from members of the public.

President Hyser asked for a motion to close the public hearing. Ms. Wollert so moved, second by Mr. Schroth.

President Hyser stated that while we have only three members present tonight it is perfectly correct for purposes of a quorum. A bond ordinance does require four votes for passage and because we don't have that opportunity for that to occur tonight, we will be carrying the vote on the bond ordinance to a special meeting which has been scheduled to occur on July 2nd, 2013 at 7 pm in this very room. For purposes of voting and potentially passing this bond ordinance that will be the only action to occur that evening.

President Hyser asked for a motion to carry the vote to the special meeting of July 2nd. Ms. Wollert made a motion, seconded by Mr. Schroth. It was approved by a unanimous voice vote.

2. The Clerk read (Ordinance #13-25) **AN ORDINANCE CONFIRMING ORDINANCE #58-23 RELEASING, EXTINGUISHING AND VACATING THE PUBLIC RIGHTS IN A CERTAIN UNNAMED ALLEY (2013)**

WHEREAS, the Township Committee of the Township of Ewing adopted an ordinance on August 7, 1958 which determined that the public interest was best served by abandoning, vacating, releasing and extinguishing the public rights and interest in a certain unnamed alley described as follows:

BEGINNING at a point in the southwesterly line of Columbia Avenue, distant 100 feet southeasterly from the intersection of the said line of Columbia Avenue with the southeasterly line of 9th Street, and running thence (1) Southwesterly, parallel with 9th Street, and passing along the northwesterly line of a 10 ft. wide alley, 525 feet to a point in the northeasterly line of Madison Avenue; thence (2) Southeasterly, along the said line of Madison Avenue, 10 feet to a point; thence (3) Northeasterly, parallel with the first course, and passing along the southeasterly line of said 10 ft. wide alley, 525 feet to a

point at the southwesterly line of Columbia Avenue; thence (4) Northwesterly, along the said line of Columbia Avenue, 10 feet to the point and place of BEGINNING, be and the same are hereby abandoned, vacated, released and extinguished.

WHEREAS, this Ordinance shall confirm that the public rights and interests in the unnamed alleyway, as more particularly described above was and continues to be abandoned, vacated, released and extinguished as set forth by Ordinance #58-23 adopted August 7, 1958.

NOW THEREFORE BE IT ORDAINED, by the Council of the Township of Ewing, in the County of Mercer, State of New Jersey, as follows:

Section 1: The vacation of all public interests and rights by Ordinance #58-23 adopted on August 7, 1958 in a certain unnamed alley more particularly described as:

BEGINNING at a point in the southwesterly line of Columbia Avenue, distant 100 feet southeasterly from the intersection of the said line of Columbia Avenue with the southeasterly line of 9th Street, and running thence (1) Southwesterly, parallel with 9th Street, and passing along the northwesterly line of a 10 ft. wide alley, 525 feet to a point in the northeasterly line of Madison Avenue; thence (2) Southeasterly, along the said line of Madison Avenue, 10 feet to a point; thence (3) Northeasterly, parallel with the first course, and passing along the southeasterly line of said 10 ft. wide alley, 525 feet to a point at the southwesterly line of Columbia Avenue; thence (4) Northwesterly, along the said line of Columbia Avenue, 10 feet to the point and place of BEGINNING, is hereby confirmed.

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

STATEMENT

This Ordinance confirms the previous vacation of all public interests and rights in a certain unnamed alley by Ordinance #58-23 adopted on August 7, 1958.

Ms. Wollert then made a motion to open the public hearing, seconded by Mr. Schroth. It was agreed by a unanimous voice vote.

There were no comments from the Public.

Mr. Schroth made a motion to close the public hearing, seconded by Ms. Wollert. It was agreed by a unanimous voice vote.

There were no questions from Council.

Ms. Wollert then moved the Ordinance, seconded by Mr. Schroth. President Hyser called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

NEW BUSINESS

1. The Clerk read (**Resolution #13R-113**) A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR UNIFORM FIRE SAFETY ACT PENALTY MONIES REQUIRED BY 40A:4-39

The Attorney explained that this is to segregate monies coming in from penalties for fire safety violations into a separate dedicated account to be used for fire safety education purposes throughout the Township.

The CFO added that monies collected can be used for operating expenses for our fire prevention bureau; monies collected for a second violation is dedicated to the fire departments for training and equipment.

President Hyser asked where that money is currently going.

The CFO responded that this money is currently going into the Fire Prevention Permits and Fines in the General Budget.

President Hyser then asked that this is separating it so it must only be used for training and equipment purposes. The CFO responded – correct.

Ms. Wollert then moved the Resolution, seconded by Mr. Schroth.

There were no additional questions from Council. There were no questions from the Public. President Hyser asked for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

2. The Clerk read (**Resolution #13R-114**) A RESOLUTION CONSENTING TO THE PROPOSED WATER QUALITY MANAGEMENT (WQM) PLAN AMENDMENT ENTITLED: PROPOSED AMENDMENT TO THE MERCER COUNTY WATER QUALITY MANAGEMENT PLAN

The Administrator explained that this plan review started in 2008. There was a public hearing on April 10th of this year; with input from all the towns in the Mercer County Solid Waste Plan to make sure that all the areas that we want to be in the sewer service area of Ewing is served appropriately by the Ewing Lawrence Sewerage Authority. The last forty-plus years it has been reviewed and the recommendation is for us to adopt it. The Mayor and I have looked at it and all the areas we want sewerred and served by the water quality plan, are; and it meets our needs.

President Hyser stated that Council should note that there is a letter from the Township Engineer on this item in our drop-box.

Ms. Wollert then moved the Resolution, seconded by Mr. Schroth.

There were no questions from Council or the Public. President Hyser asked for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

3. The Clerk read (Resolution #13R-115) A RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87

The CFO explained that this is grant money received that was not anticipated in the budget. It is the 2012 Alcoholic Beverage Control Cops in Shops program. It offsets overtime for officers that do stakeouts.

President Hyser asked if we applied for the grant this year.

The CFO replied that the grant is no longer available for 2013.

President Hyser commented that this is unfortunate as it was a successful program.

Mr. Schroth then moved the Resolution, seconded by Ms. Wollert.

Councilman Schroth asked if it is always overtime when officers work the Cops and Shops program.

The CFO responded that she believed it was always overtime.

There were no additional questions from Council. There were no questions from the public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

4. The Clerk read (Resolution #13R-116) A RESOLUTION GRANTING OFFICER RICHARD J. SMITH PERMISSION TO RECEIVE HIS SERVICE FIREARM (GLOCK 21, .45 CAL. SEMI-AUTOMATIC PISTOL SERIAL NUMBER RYA936) UPON HIS RETIREMENT FROM THE EWING TOWNSHIP POLICE DEPARTMENT ON MAY 1, 2013

Ms. Wollert then moved the Resolution, seconded by Mr. Schroth.

There were no questions from Council or the Public. President Hyser called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

5. The Clerk read (Resolution #13R-117) A RESOLUTION GRANTING OFFICER CARMEN GIOVACCHINI PERMISSION TO RECEIVE HIS SERVICE FIREARM (GLOCK 21, .45 CAL. SEMI-AUTOMATIC PISTOL SERIAL NUMBER RYA908) UPON HIS RETIREMENT FROM THE EWING TOWNSHIP POLICE DEPARTMENT ON JUNE 1, 2013

Mr. Schroth then moved the Resolution, seconded by Ms. Wollert.

There were no questions from Council or the Public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

At 7:44 p.m. President Hyser stated that at this portion of the agenda, before they put on their liquor control board hats, can we please add the items that were talked about in closed session to the agenda. She asked the Clerk to read them.

6. The Clerk read (Resolution #13R-117.1) A RESOLUTION AUTHORIZING THE TOWNSHIP OF EWING TO ENTER A SETTLEMENT IN THE MATTER OF LINDA SMITH, ADMINISTRATOR AD PROSEQUENDUM, FOR THE ESTATE OF FLORIAN SMITH V. EWING TOWNSHIP POLICE DEPARTMENT, et al.

The Attorney explained that the Township was sued after a car accident resulting in the death of a motorist; the police were in pursuit. The settlement is for \$40,000 which is below the deductible. The Attorney stated that in her estimate if it went to trial, with expert witnesses, it would cost the Township up to the township's \$100,000 deductible plus \$25,000 in fees.

Ms. Wollert then moved the Resolution, seconded by Mr. Schroth.

There were no questions from Council or the Public. President Hyser called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

7. The Clerk read (Resolution #13R-117.2) A RESOLUTION AUTHORIZING AND APPROVING A SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF EWING AND MERCER COUNTY FOR THE PROVISION OF A PUBLIC HEALTH OFFICER TO OVERSEE THE FUNCTIONS OF THE TOWNSHIP'S PUBLIC HEALTH OFFICE

The Attorney explained that this is a shared services agreement with Mercer County for the County Health Officer to serve as the Township's Health Officer for one day a week plus Council meetings as required and additional times as necessary. It is a six month contract that can be renewed every six months if both parties desire it.

Mr. Schroth moved the Resolution, seconded by Ms. Wollert.

There were no questions from Council or the Public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

8. The Clerk read (Resolution #13R-118) A RESOLUTION AUTHORIZING THE APPROVAL FOR RENEWAL OF 2013-2014 EWING MUNICIPAL LIQUOR LICENSES

The Attorney explained that the Council acts as the local Liquor Control Board. The Attorney then explained the various options available to the Liquor Control Board regarding the renewal of liquor licenses. President Hyser stated that the liquor licenses included in this Resolution are all to be renewed without condition.

Ms. Wollert then moved the Resolution, seconded by Mr. Schroth.

There were no questions from the Liquor Control Board or the Public. President Hyser asked for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

9. The Clerk read (Resolution #13R-119) A RESOLUTION AUTHORIZING THE APPROVAL FOR RENEWAL OF 2013-2014 EWING MUNICIPAL LIQUOR LICENSE FOR AMPHORA RESTAURANT, LLC t/a ERINI'S RESTAURANT WITH CONDITIONS

The Attorney read the conditions for this licensee.

Mr. Schroth then moved the Resolution, seconded by Ms. Wollert.

There were no questions from the Liquor Control Board or the Public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

10. The Clerk read (Resolution #13R-120) A RESOLUTION AUTHORIZING THE APPROVAL FOR RENEWAL OF 2013-2014 EWING MUNICIPAL LIQUOR LICENSE FOR AMERICAN LEGION POST 314 WITH CONDITIONS

The Attorney stated that this licensee had some fire safety issues. The condition on this is that these fire safety issues be addressed within sixty days; the Liquor Control Board reserves the right to reconsider if not done.

The Attorney, the Administrator and President Hyser briefly discussed these fire safety issues.

Ms. Wollert then moved the Resolution, seconded by Mr. Schroth.

There were no questions from the Liquor Control Board or the Public. President Hyser called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
President Hyser	YES

11. The Clerk read (Resolution #13R-121) A RESOLUTION AUTHORIZING THE APPROVAL FOR RENEWAL OF 2013-2014 EWING MUNICIPAL LIQUOR LICENSE FOR TRENTON ELKS LODGE 105 WITH CONDITIONS

The Attorney stated that this licensee had some fire safety issues. The condition on this is that these fire safety issues be addressed within sixty days; the Liquor Control Board reserves the right to reconsider if not done.

Mr. Schroth then moved the Resolution, seconded by Ms. Wollert.

There were no questions from the Liquor Control Board or the Public. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
President Hyser	YES

CLOSED SESSION

(None for this Meeting)

ADJOURNMENT

There being no further business President Hyser called for a motion to adjourn. Ms. Wollert so moved seconded by Mr. Schroth. The meeting was adjourned at 7:52 p.m.

Hilary Hyser, President

Kim Macellaro, Municipal Clerk