

OCTOBER 8, 2013 – REGULAR SESSION

President Hyser called the meeting to order at 7:00 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 – Present | Jim McManimon, Administrator |
| ▪ Ms. Keyes-Maloney – Present | Maeve Cannon, Attorney |
| ▪ Mr. Schroth – Present | Kim Macellaro, Clerk |
| ▪ Ms. Wollert - Present | |
| ▪ President Hyser - Present | |

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

There were no questions or comments.

CONSENT AGENDA

The Clerk presented the Consent Agenda (Resolution #13R-168/) for approval.

1. Authorization for the Chief Financial Officer to Pay Township Bills in the Amount of \$1,382,589.93.
2. A Resolution Authorizing the Conduct of an On Premise 50/50 Cash Raffle Sponsored by BPOE Trenton #105.
3. A Resolution Authorizing the Conduct of an Off Premise 50/50 Cash Raffle Sponsored by Boheme Opera Guild, Inc.

Ms. Wollert then moved the Resolution, seconded by Ms. Keyes-Maloney. There were no questions from Council or the Public. President Hyser asked for a roll call.

ROLL CALL

Ms. Keyes-Maloney	YES
Ms. Wollert	YES
Mr. Baxter	YES
Mr. Schroth	YES
President Hyser	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 #13-39**) AN ORDINANCE REGULATING AND PROHIBITING NUISANCES PERTAINING TO NOISE WITHIN THE TOWNSHIP OF EWING. (2013)

New Section

§408 - NUISANCES, NOISE

§408-1 Findings of Fact.

It is hereby found and declared that:

- a. The making and creation of loud, unnecessary or unusual noises within the limits of the Township is a condition which has existed for some time and the extent and volume of noises is increasing;
- b. Making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are detrimental to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the Township.
- c. The necessity in the public interests for the provisions and prohibitions hereinafter contained is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuant of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and peace and quiet of the Township and its inhabitants.

§408-2 Applicability.

The terms of this ordinance shall not be deemed and are not intended to impair the provisions and enforcement of Chapter 240 of this Code, which shall remain in full force and effect.

§408-3 Definitions.

As used in this section:

Sound amplifying equipment shall mean any machine or device for the amplification of the human voice, music, or any other sounds, but not be construed as including standard automobile radios when used and heard only by occupants of the vehicles in which they are installed, or warning devices on authorized emergency vehicles, or horns or other devices used only for traffic safety purposes.

Sound truck shall mean any motor vehicle, horse drawn vehicle or any other means of conveyance whatsoever, having mounted thereon, or attached hereto, any sound amplifying equipment.

§408-4 Noise Prohibited.

It shall be unlawful for any person to make, continue or use to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Township. Such noise is prohibited between the hours of 10:00 P.M. and 7:00 A.M., on Sunday, Monday, Tuesday, Wednesday and Thursday; and the hours of 11:00 P.M. and 7:00 A.M. on the days of Friday and Saturday, in a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which noise is emanating shall be prima face evidence of a violation of this section.

§408-5 Prohibited Acts.

The following acts are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of this section: The following acts are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of this section, and are prohibited between the hours of 10:00 P.M. and 7:00 A.M., on Sunday, Monday, Tuesday, Wednesday and Thursday; and the hours of 11:00 P.M. and 7:00 A.M. on the days of Friday and Saturday, in a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which noise is emanating shall be prima face evidence of a violation of this section.

- a. Radios; Televisions; Phonographs. The using, operating, or permitting to be played, used or operated, of any radio receiving set, television, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the machine or devices is operated and who are voluntary listeners.
- b. Loudspeakers; Amplifiers for Advertising. The using, operating, or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purposes of commercial advertising, or attracting the attention of the public to any building or structure.
- c. Yelling; Shouting. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 P.M. and 7:00 A.M., on Sunday, Monday, Tuesday, Wednesday and Thursday; and the hours of 11:00 P.M. and 7:00 A.M. on the days of Friday and Saturday, or at any other time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, apartment or other type of residence or of any persons in the vicinity.
- d. Animals; Birds. Notwithstanding the provisions of §240-8(G), the keeping of any animals or birds which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity, but nothing herein contained is intended to apply to a dog pound or kennel licensed in accordance with this Code.
- e. Horns; Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, bus, streetcar or other vehicle, except when required by law, or when necessary to give timely warning of the approach of the vehicle, or as a warning of impending danger to persons driving other vehicles, or of persons upon the street: the creation by means of any signaling device of any unreasonably loud or harsh sound, or for any unnecessary period of time; the use of any signaling device except one operated by hand or electrically; the use of any horn, whistle or other device operated by engine exhaust; and the use of any signaling device when traffic is held up for any reason.
- f. Steam Whistles. The blowing of any locomotive steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or as a signal or warning in connection with civil defense, fire or ambulance calls, or upon request of the proper municipal authorities.
- g. Exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- h. Defect in Vehicle or Load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- i. Schools; Courts; Churches; Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use, or adjacent to any hospital which unreasonably interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such street indicating that the same is a school, hospital or court street.

- j. Drums. The use of any drums or other instrument or device for the purpose of attracting attention by creation of noise of any performance, show or sale.
- k. Hawkers; Peddlers. The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.
- l. Pile Drivers; Hammers. The operation other than between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, of any pile driver, steam shovel, bulldozer or other earth moving machinery, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- m. *Miscellaneous Night Noises*. The "warming up" of diesel motors of motor vehicles; creation of loud or excessive noise in connection with loading or unloading of any vehicle; the repair, erection or demolition of any building, the operation of any lawn mower, weed cutting device or other lawn equipment or the creation of any other loud or raucous sound or noise between the hours of 9:00 p.m. and 7:00 a.m. in proximity of any dwelling, residence or other inhabited buildings.

The above enumeration is only intended to give typical illustrations of prohibited noise and shall not be construed as exclusive.

§408-6 Exceptions.

Nothing herein contained shall be construed to apply to:

- a. The use of bells, chimes or sound amplifiers by churches in church activities.
- b. Activities of the municipal departments in the performance of their duties, drills or public demonstrations.
- c. Publicly sponsored activities in the public parks, playgrounds or public buildings under the permission or authority of the municipal officials.
- d. The playing of a band or orchestra in a hall or building or in the open air during a publicly sponsored performance.
- e. Any public utility as defined in Title 48 of the New Jersey Statutes, or to any employees of a public utility when the public utility or its employees are engaged in performing work to prevent the threatened interruption of its services, or to terminate the interruption of its service rendered to its customers.
- f. Parades conducted in compliance with Chapter 246 of this Code.

§408-7 Violations and Penalties.

- a. Violation of any provision of this chapter shall be cause for a Municipal Court summons to be issued by the Police Department, Code Enforcement Official, Health Officer, or any member of the general public who is affected by excessive noise.
- b. Violation of the provisions of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty.

Mr. Baxter made a motion to open the public hearing, seconded by Mr. Schroth. It was agreed by unanimous voice vote. There were no questions from the Public. Mr. Baxter made a motion to close the public hearing, seconded by Ms. Wollert. It was agreed by unanimous voice vote.

The Attorney suggested that Council consider the two amendments that were discussed last night. The Attorney then explained these de minimis changes.

President Hyser then asked for a motion to amend this Ordinance. Ms. Keyes-Maloney so moved, seconded by Ms. Wollert. President Hyser then asked the Public if there were any questions or comments on the amended Ordinance – there were none. President Hyser asked for a motion to adopt. Mr. Schroth so moved, seconded by Ms. Wollert. President Hyser asked for a roll call.

ROLL CALL

Ms. Wollert **YES**
Mr. Schroth **YES**
Mr. Baxter **YES**
Ms. Keyes-Maloney **YES**
President Hyser **YES**

2. The Clerk read (Ordinance 13-40 [DEFEATED]) AN ORDINANCE PROVIDING FOR THE REGULATION AND LICENSING OF BODY ART ESTABLISHMENTS WITHIN THE TOWNSHIP OF EWING. (2013)

Chapter 172, fees is hereby amended to include a new fee for the licensing of body art establishments, as follows:

§ 172-32 Body Art Establishment Licenses.

Body Art Establishment annual license fee : \$600.00.

Chapter 388, Violations and Penalties is hereby amended to provide penalties with respect to the licensing and operation of body art establishments, as follows:

§ 388-16 Violations and Penalties:

D. Any person who directly or indirectly acting as agent or otherwise who violates any provision of Chapter 418 Body Art Facilities shall be liable for a penalty not less than \$50 nor more than \$1,000, or as otherwise authorized under N.J.S.A. 26:1A-10 and all other applicable law and/or injunctive action as provided by law or both.

The Health Code of the Township of Ewing is hereby amended to provide for a new section 418, Body Art Facilities, as follows:

Part III: Health Legislation:

Chapter 418 Body Art Facilities

§ 418-1 Establishment of Code.

A code regulating body art facilities establishments and fixing penalties is hereby established under the Township’s general jurisdiction under N.J.S.A. 26:3-64 to adopt health ordinances for the control of disease and improvement of health of its citizens. The Township hereby accepts and adopts the New Jersey Administrative Code, N.J.A.C. 8:27-1 et seq., as the standard governing all businesses that offer tattooing, permanent cosmetics and ear and body piercing to the public with the exception of a physician who is authorized by the State Board of Medical Examiners to practice medicine pursuant to N.J.S.A. 45:9-6 et seq.

§ 418-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated below.

Body art

The practice of physical body adornment in permitted establishments by operators utilizing, but not limited to, the following techniques: body piercing, tattooing; and permanent cosmetics. Body piercing includes piercing any portion of the ear with the exception of the ear lobe.

Body art establishment

Any place or premises, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.

Body art establishment license

A license issued to the owner of a body art establishment to operate a business under the provisions of this chapter.

Body piercing

Puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized or disinfected jewelry or other adornment thereto in the opening.

Branding

Scarification through the application of a heated material (usually metal) to the skin, creating a serious burn which eventually results in a scar.

Cutting

A design cut into the skin or other soft tissue using a sharp blade, leaving a scar. Often the design is immediately rubbed with ink leaving a colored scar.

Ear piercing

The puncturing of the ear lobe and the trailing edge of the ear using a pre-sterilized, single use stud and clasp ear piercing system following manufacturer's instructions.

Implant

Any object implanted fully under the skin.

Jewelry

Any personal ornament inserted into a newly pierced area, and may be made of surgical implant grade stainless steel, solid 14 karat or 18 karat white or yellow gold, niobium, titanium, platinum, glass or a dense, low-porosity plastic.

Operator

Includes the owner or the owner's designee having ownership, control or custody of any place of business or employment and who manages the day-to-day operations of the body art establishment.

Permanent cosmetics

The implanting of inert pigments, colors, and/or dyes intradermally which results in permanent alteration of tissue to gain a cosmetic effect.

Person

One or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons.

Practitioner

Any person that performs the act of tattooing, permanent cosmetics and/or ear and body piercing.

Single use

Products, instruments or items that are intended for one-time use and are disposed of after each use, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, needles, scalpel blades, stencils, ink cups and protective gloves.

Sterilization

A process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

Tattooing

Any method of placing ink or other inert pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of permanent cosmetics.

Temporary establishment

An establishment that has been issued a permit by the Board of Health to operate for the purpose of performing body art procedures for not more than 14 calendar days in conjunction with a single event.

§ 418-3 Conformance with Regulations Required.

No person shall engage in the business of body art and body piercing, whether for compensation or not, operate any establishment where body piercing or body art is performed, whether for compensation or not, or body pierce or body art any person whether for compensation or not, without complying with the requirements of this chapter, pursuant to local rules and regulations, as well as the regulations of the State of New Jersey, including the New Jersey Administrative Code at N.J.A.C. 8:27-1.1 et seq.

§ 418-4 License to Operate.

- A. No person shall display a sign or in any way advertise or purport to be a body art practitioner or be engaged in the business of body art without first applying for and obtaining an annual body art establishment license from the Ewing Township Board of Health.
- B. The annual license shall be issued on January 1 of each calendar year. All licenses issued during the course of a year shall expire on December 31, regardless of the date issued. At least 30 days prior to expiration of a license, the licensee shall make an application for renewal with the Board of Health. Failure to file a timely renewal shall cause the establishment to be closed until the appropriate inspection can be made.
- C. Upon issuance, the said license shall not be transferable. Any change in ownership shall require submission of a new application with payment of fees. The license shall be posted in a conspicuous place near the public entrance of the establishment where it may be readily observed by all patrons.

§ 418-5 Application for License.

Any person desiring to construct, expand, alter, or operate a permanent cosmetic, tattooing, or ear or body piercing establishment shall apply in writing to the Board of Health for review and approval before such construction, expansion, alteration or operation is begun. The application shall comply with the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27-2.1.

§ 418-6 License Fee.

Body Art Establishment Licenses shall be issued annually on January 1 upon payment of an annual license fee of \$600.00.

§ 418-7 Prohibitions.

- A. Implants under the skin shall not be performed in a body art establishment.
- B. Scarification such as branding and cutting shall not be performed in a body art establishment.
- C. No person shall perform any body piercing procedure upon a person under 18 years of age without the presence, written consent and proper identification of a parent or legal guardian.
- D. No person shall perform genital piercing upon a person under 18 years of age regardless of parental consent.
- E. No tattoo or permanent cosmetics shall be applied to any person under 18 years of age, without the presence, written consent, and proper identification of a parent or legal guardian.

- F. No person shall practice or attempt to practice body art in a non-licensed facility.
- G. All other prohibitions as provided under the New Jersey Administrative Code at N.J.A.C. 8:27-2.6.

§ 418-8 Physical Plant and Environment.

Each body art establishment shall comply with the physical plant and environment requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 3.

§ 418-9 Health Safety and Occupation Health.

Each body art establishment shall comply with the health, safety and occupation health requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 4.

§ 418-10 Sterilization and Disinfection.

Each body art establishment operator shall comply with the sterilization and disinfection requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 5.

§ 418-11 Body Piercing Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each body piercing practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 6.

§ 418-12 Tattooing Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each tattooing practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 7.

§ 418-13 Permanent Cosmetics Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each permanent cosmetics practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 8.

§ 418-14 Ear Piercing Qualifications.

With the initial application and any subsequent renewal applications for a license, the applicant shall furnish proof of each ear piercing practitioner as being qualified under the requirements of the New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 9.

§ 418-15 Temporary Establishments.

Temporary establishments shall be governed by all the rules of a permanent establishment as set forth in this chapter and shall satisfy all requirements as set forth in the New Jersey Administrative Code at New Jersey Administrative Code at N.J.A.C. 8:27, subchapter 10.

§ 418-16 Inspections; right of entry.

The Board of Health, its agents and employees shall have the right to conduct periodic inspections, with or without notice, of any establishment engaged in body art procedures that are governed by this chapter, or as otherwise provided under § 392-9, for the purpose of determining whether or not such establishment and the persons performing the art therein are in compliance with all applicable health provisions.

§ 418-17 Violations and Penalties.

Any person who directly or indirectly acting as agent or otherwise who violates any provision of this chapter shall be liable for a penalty not less than \$50 nor more than \$1,000, or as otherwise authorized under N.J.S.A. 26:1A-10 and all other applicable law and/or injunctive action as provided by law or both.

§ 418-18 Repealer.

All prior ordinances or parts of same inconsistent with any provisions of this chapter are hereby repealed to the extent of such inconsistency.

§ 418-19 Severability.

Should any section, clause, sentence, phrase or provision of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this chapter.

§ 418-20 When effective.

The provisions of this chapter shall take effect immediately upon final passage and publication in accordance with law. For purposes of licensing, this chapter shall become effective upon the next annual licensure deadline. Existing establishments shall become licensed in accordance with the timeframe set forth herein, but otherwise shall comply with all other requirements of this Chapter immediately upon its effective date.

The Attorney explained that Ewing now has a tattoo parlor. Local jurisdictions are charged with enforcing the state sanitary code. This Ordinance adopts the state regulations relating to the operation and licensing of tattoo parlors, sets up a licensing structure within the Township, as well as setting a fee for the inspection of those facilities.

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

Michael Clugston (7 Claude Road, Yardville, NJ) wanted to know the fee and what it is based on.

President Hyser stated that the annual fee is \$600.

The Attorney explained that it was based on a survey of other towns. We found a range between \$400 and \$1,000 and thought that this was middle of the road - to compensate the Township for doing these additional responsibilities, but not so high as what some other municipalities are charging.

Michael Clugston then stated that he has done some of his own research on four local municipalities.

The Attorney then read from Mr. Clugston's research: Trenton - \$300 per year, Lawrenceville \$250 per year, Bordentown \$100 per year and Hightstown \$250 per year.

Mr. Clugston stated that he thought Ewing's fees were a bit high. It is hard to open a new business. He stated that he could understand a little higher but more than double is not justified.

President Hyser then stated that these figures do not necessarily stipulate whether or not inspections are done - Bordentown is just a business license.

Mr. Clugston responded by describing the inspection process in each of the four towns.

President Hyser then asked the Attorney where she derived her figures.

The Attorney responded that we did a generalized survey but more state-wide. We did see a high of \$1,000. In consultation with the Administration, we looked at the range and considered that the fact that the low was really towns that did not do their own inspections. Since this is the first year for us, some of these may have been around a little longer and the fees might not have been adjusted recently. We thought that this was an appropriate measure at this point.

Councilwoman Wollert asked if we have a business license for this.

The Attorney responded - no.

Councilwoman Wollert stated that these other towns have a permit fee that include the inspection.

Councilwoman Wollert then asked if there was any thought given as to how much time would be expended to do these inspections.

The Mayor responded that it was taken under consideration, not only the time spent at the establishment, but time spent taking the application, driving out to the inspection site and writing the report afterwards.

Vice President Baxter asked the Attorney if she knew how long these surrounding towns have had this permit on the books or when they last adjusted their fees.

The Attorney responded that the Lawrence Ordinance is from December 2002 so the \$250 from Lawrence is a ten year old fee.

Councilwoman Keyes-Maloney stated that she concurs with what Councilman Baxter's indicated in his question and stated that she intends to do a bit more research on this before we move forward to make sure we are in line with what is going on.

President Hyser stated that she understood both the concerns of the other members of Council and also the concerns of the Administration in calculating the cost of doing an inspection.

President Hyser asked if the Administration had spoken with Sharon Kissel about this in her capacity as the County Health Officer.

The Mayor responded that we did speak with her but not about price. There is no other choice but for our health department to do these inspections or pay to outsource it. The Mayor then stated his reasoning as to why the \$600 is an appropriate amount to charge. The Mayor also stated that it can be revisited in the future.

Councilman Schroth asked, if the Township were to receive complaints during the year, will the health inspector go out to investigate.

The Mayor responded – absolutely, just as we do for any other complaint and there is no extra charge to go out to an establishment again.

President Hyser asked how does this compare to our other license fees. The Administrator responded that this is a first for Ewing. Every business has a different fee required based on the state code. We really do not know until we go out and do this again.

Michael Clugston (7 Claude Road – Yardville, NJ) stated that from what he saw, the license fee to register a food establishment is only \$50. It seems extreme to go from \$50 to \$600. He stated that he also understands the need to keep out undesirables. He asked Council to consider a decrease in the fee.

The Mayor responded that this Administration is considering raising the fees for all other areas. The current fee structure is not enough to cover the costs.

President Hyser stated that she will take direction from Council as to whether we amend at a later date or whether we do some more research before we act.

President Hyser, Councilwoman Wollert and the Attorney then discussed the amendment process, if needed, for this Ordinance.

Councilwoman Wollert stated that our entire fee structure is outdated and perhaps we should look at this all together and not in a piecemeal fashion.

The Mayor and Council then had a lengthy discussion concerning the best way to handle/update the township's fee structure.

President Hyser asked if we hold off on this ordinance, is there a health risk.

The Attorney responded that our health department is doing inspections. The Attorney added that the licensing fee is not going into force until January 1st.

Councilman Schroth asked if tattoo parlors have to pay State fees as well or is it purely local.

The Attorney stated that she is not aware of any state license fees other than they have to be certified and she was not sure if there were fees associated with that.

There were no further questions or comments from members of the Public on this Ordinance.

Ms. Wollert then made a motion to close the public hearing, seconded by Mr. Schroth. It was agreed by unanimous voice vote. Mr. Schroth then moved the Ordinance, seconded by President Hyser. President Hyser asked for a roll call.

ROLL CALL

President Hyser	YES
Mr. Schroth	YES
Mr. Baxter	NO
Ms. Keyes-Maloney	NO
Ms. Wollert	NO

The motion was defeated.

3. The Clerk read (Ordinance 13-41) AN ORDINANCE ACCEPTING THE DEDICATION OF STORM DRAIN EASEMENT AS DEPICTED ON FINAL PLAN OF LOTS OF OLD REED PROPERTY, MAP NO. 2822. (2013)

Lawsuit Background History

WHEREAS, various surface storm water drainage easements were created on a plat of land entitled “Final Plan of Lots Old Reed Property,” filed with the Office of the Mercer County Clerk in February 1987, as Map No. 2822 (“Subdivision Map”) including those located at 94 Carlton Avenue (all collectively referred to as the “Drainage Easement”).

WHEREAS, on February 26, 2008, Karl S. Kramer and Lynn A. Kramer (collectively the “Kramers”) filed a lawsuit entitled Kramer v. Township of Ewing, et al. in the New Jersey Superior Court, Law Division, under Docket No. MER-L-497-08 (the “Lawsuit”), alleging various causes of action relating to a dispute over the alteration, maintenance and enforcement of that portion of the Drainage Easement located at 94 Carlton Avenue (the “Carlton Drainage Easement”), a portion of which is adjacent to the lot owned by the Kramers at 92 Carlton Avenue, Ewing, New Jersey 08618.

Kramer and Township Settlement Terms

WHEREAS, as a result of the Lawsuit, on December 3, 2010, the Kramers and the Township entered into a Settlement and Release Agreement (“Settlement Agreement”) where the parties, among other things, stipulated that

- A. 94 Carlton Avenue is one of five lots subdivided from a larger parcel and shown as lot 4 on the Subdivision Map
- B. The Drainage Easement depicted on the Subdivision Map was created and intended to be dedicated to the Township upon the filing of the Subdivision Map with the Office of the Mercer County Clerk and acceptance thereof by the Township;
- C. Upon restoration of the Carlton Drainage Easement by the Property Owners, the Township shall accept by Ordinance the dedication of all the surface storm water drainage easements depicted on the Subdivision Map and, thereafter, shall be responsible for enforcing the terms and conditions of and maintaining the Drainage Easement as a public improvement.

The February 22, 2012 Court Order

WHEREAS, on February 22, 2012, the Trial Court entered an Order disposing of all of the Kramers’ claims and allegations raised in their Lawsuit. Specifically; in pertinent part, the Order:

- A. Barred the Owners of 94 Carlton Avenue from asserting that the Carlton Drainage Easement does not exist or is otherwise not enforceable and from seeking declaratory judgment seeking same;
- B. Found the Owners of 94 Carlton Avenue to have violated the terms of the Carlton Drainage Easement and in turn, the condition of land development approvals to which it relates;
- C. Enjoined Owners of 94 Carlton Avenue from engaging in activities which violate the terms of the Carlton Drainage Easement;
- D. Ordered the Owners of 94 Carlton Avenue to restore all portions of the Carlton Drainage Easement situated at 94 Carlton Avenue at their sole cost and expense to a condition that is in substantial compliance with the “Final Grading and Drainage of Lot 1, Section 230” plans prepared by Frederick A. Crucili, of Crucili-Dolci, Inc., dated October 23, 1986, revised through November 19, 1986, and subject to approval by the Township; and

The October 12, 2012 Court Order Enforcing Litigant’s Rights

WHEREAS, pursuant to the Settlement Agreement and the Court’s February 22, 2012 Order, the Court entered an Order enforcing litigant’s rights on October 12, 2012, which in pertinent part:

- A. Ordered the Owners of 94 Carlton Avenue to restore the Carlton Drainage Easement at their sole cost and expense to a condition that is in compliance with the “Final Grading and Drainage of Lot 1, Section 230” plans prepared by Frederick A. Crucili, of Crucili-Dolci, Inc., dated October 23, 1986, revised through November 19, 1986 and subject to approval by the Township;

- B. Ordered that upon restoration of the Carlton Drainage Easement, the Township shall accept by Ordinance the dedication of all the surface storm water drainage easements depicted on the Subdivision Map, as originally intended and, thereafter, shall be responsible for enforcing the terms and conditions of and maintaining the aforesaid surface storm water drainage easements as a public improvement.
- C. Ordered that the Township will accept the dedication of the Drainage Easement for purposes of maintaining the efficacy of the Drainage Easement for drainage purposes. The Township will ensure that nothing is constructed on or done to the Drainage Easement which will prevent it from fulfilling its purpose. The Drainage Easement land itself remains property of the property owners, who remain responsible for maintaining said land, including but not limited to the grass, etc. The property owners upon whom the easement is situated are prohibited from doing anything which interferes with drainage from the easement.

WHEREAS, it is the intention of the Township by adoption of this Ordinance to bring the Township into compliance with the terms of the December 3, 2010 Settlement and Release Agreement, the February 22, 2012 Court Order and the October 12, 2012 Court Order by accepting the dedication of all surface storm water drainage easements shown on “Final Plan of Lots Old Reed Property,” filed with the Office of the Mercer County Clerk in February 1987, as Map No. 2822

NOW, THEREFORE, BE IT ENACTED by the Ewing Township Council that:

- A. The Township hereby accepts the dedication of all the surface storm water drainage easements depicted on the Subdivision Map entitled “Final Plan of Lots Old Reed Property,” and filed with the Office of the Mercer County Clerk in February 1987, as Map No. 2822 , and, shall enforce the terms and conditions of and maintain the aforesaid surface storm water drainage easements as a public improvement; and
- B. The Township accepts the dedication of the Drainage Easement for purposes of maintaining the efficacy of the easement for drainage purposes. The Township will ensure that nothing is constructed on or done to the easements which will prevent them from fulfilling their intended purpose. However, all easement land remains property of the property owners within the subdivision, who shall remain responsible for maintaining said land, including but not limited to the grass, surface conditions, topography, etc. All property owners shall be prohibited from doing anything which interferes with drainage from the Drainage Easement.

The Attorney explained the de minimis changes that were discussed last evening – to remove the name of the individual property owners (except the name of the Plaintiff) and to clarify it to make specific reference to the subdivision map itself.

Ms. Keyes-Maloney made a motion to open the public hearing, seconded by Ms. Wollert. It was agreed by unanimous voice vote. There were no questions or comments from members of the Public. Ms. Wollert then made a motion to close the public hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. Mr. Baxter moved the Ordinance, seconded by Ms. Wollert. There were no questions from Council. President Hyser called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
President Hyser	YES

- 4. **The Clerk read (Ordinance 13-36) AN ORDINANCE OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, AMENDING THE CHAPTER 215, ARTICLE II, SECTION 215-57 OF THE TOWNSHIP CODE, LANDSCAPING, AND CHAPTER 215, ARTICLE II, SECTION 215-73**

STREETS AND ROADS OF THE TOWNSHIP CODE, ITEM (S) *STREET SHADE TREES* (2013).

"Interpretive Statement"

This ordinance will amend the Land Development Code, to better provide more distinct direction as to landscaping requirements for all development within the Township as well as align the amendments to the goals, objectives and recommendations of the Township Master Plan.

WHEREAS, the Mayor and Council of the Township of Ewing wish to adopt clearly defined standards for development within the Township; and

WHEREAS, the Mayor and Council of the Township of Ewing wish to enhance the character of Ewing Township by providing new and improved standards that work to revitalize the Township both aesthetically and economically.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Ewing, County of Mercer, State of New Jersey, that the following ordinances shall be amended as follows:

Chapter 215, Article II, Section 215-57 of the Township Code, Landscaping is amended as follows:

Design standards.

A. Landscape plans shall be prepared by a professional and/or a person with demonstrated knowledge in landscaping and shall identify existing and proposed trees, shrubs, bushes, plant material, ground cover and natural features. Such a plan shall be to scale. When existing natural growth is proposed to remain, the applicant shall include in the plans proposed methods to maintain and protect the existing trees and growth during and after construction. These shall include fences, berms, curbing, tree wells and similar devices.

To produce a more attractive and manageable built landscape with increased diversity of color, texture, fragrance and screening potential, the plant material schedule places more emphasis on non-invasive plant material that have proven resistance to pests and disease, serve as food source for native wildlife where appropriate, and better overall capability of the plant material to perform the tasks for which it was selected (i.e. More consistent buffering and screening, better floral and fall color display, etc.). Generally, the Township's design standards pertaining to landscaping serve to;

- 1) Enhance aesthetic appeal- Residential character and an attractive place to conduct business
- 2) Be functional- Improve environmental quality, reduce energy consumption, etc.
- 3) Support diversity- Benefit wildlife and strengthen ecological systems

A comprehensive landscaping plan shall be submitted in accordance this ordinance for review and approval by the appropriate review Board. The plan shall indicate common and botanical names of the species, spacing, height and/or caliper and quantity of each plant. The plan shall also show comprehensive details for tree plantings, such as plant pits, backfill mix, guying, etc. Every applicant for subdivision or site plan approval shall comply with the minimum standards as set forth in this section.

B. All land areas not covered with buildings, parking, or other impervious surfaces shall be landscaped with suitable materials. Landscaping shall consist of trees, shrubs, ground cover, lawn, perennials, and annuals, as well as other inanimate materials such as rocks, water, sculpture, art, walls, fences, and paving materials. As such, the following principles apply to all landscape plans:

- (1) Locate landscaping to provide for climate control. For example, shade trees on the south to shield the summer sun and evergreens on the north for windbreaks from prevailing winter winds, as well as snow storage;
- (2) Use landscaping to accent and complement buildings. For example, groupings of tall trees to break up long, low buildings; mixing foundation plantings with shrubs and trees to provide visual interest;
- (3) Landscaping shall also be provided in all public access points, around signage, and any recreational amenities that may be designed on site;
- (4) Vines and climbing plants should be considered for large expanses of walls;
- (5) Consider massing trees at critical points rather than in a straight line at predetermined intervals along streets;
- (6) Consider context when selecting trees species for all streets- new and existing;
- (7) Ground cover should be used to prevent erosion on slopes;
- (8) Provide for a variety and a diverse mixture of landscaping. The variety should consider susceptibility to disease, colors, season, textures, shapes, blossoms and foliage.
- (9) Local soil conditions and water availability should be considered in the choice of landscaping. All plants shall be tolerant of specific site conditions. Consider soil amenities and design solutions to improve the survival rate of plantings.
- (10) Consider the impact of any proposed landscaping plan at various time intervals and the need to be maintained to stay in compliance with approval. Ensure that both winter and summer conditions are considered.
- (11) All landscaping is required to be planted at a caliper in accordance with the Plant Species Schedule. However, the size of the material may change based upon the desired effect and timeline to establish - for example, buffering. All material should be delivered and installed in accordance with the standards as established by the latest publication of the American Association of Nurserymen.

- (13) Entrances to sites deserve special landscaping treatments.
- (14) Existing large trees shall be saved by not varying the grade around the trees. 90% of the fine roots of trees are in the upper 6-12" of the soil. No excavation or fill should be allowed under the drip line. In addition, so as to avoid compaction, no storage of any materials or machinery should be allowed under a tree to be saved. Maximum effort shall be made to save clumps of trees rather than individual ones - particularly when habitat continuity has the opportunity to be preserved. Please refer to the International Society of Arboriculture (ISA) for further information.
- (15) In parking lots, all landscaping shall be in accordance with the standards set forth below.
- (16) All landscaping in parking areas shall be carefully located so as not to obstruct vision. A variety of different types of trees should be grouped to break up the mass of cars.
- (17) All minimum planting standards shall be in accordance with the Plant Species Schedule per the material chosen.
- (18) Irrigation is recommended to ensure survival of new plantings. During the months of May through September, water bags shall be provided for all new tree plantings.
- (19) All landscaping placed upon any property approved for subdivision or site plan shall consist of 45% native plants and trees. Invasive species shall be restricted. A list of recommended species, both native, non-native, and invasive is provided herein;

C. Standards

- (1) Street trees- Street trees shall be installed on both sides of all streets in accordance with an approved landscape plan. Trees shall be single trunk and spaced evenly along the street between the curb and sidewalk. All minimum planting standards shall be in accordance with the Plant Species Schedule per the material chosen.
 - (a) Street trees shall be planted in accordance with proper streetscape design, or generally between the curb and sidewalk area. Where the distance between the curb and sidewalk is less than 5 feet, sidewalks should be placed in a public access easement to create a planting strip at least 5 feet wide to facilitate street tree growth. In commercial areas with wider sidewalks that extend to the curb, trees shall be placed in tree wells with root guard systems. Such tree wells shall have sufficient soil volume to support tree growth. At intersections, trees shall be located in a manner which will not violate the sight clearance triangle area. Where the area between sidewalk and curb proves insufficient, alternate solutions will be sought. All street trees however shall be maintained in perpetuity by the property owner.
 - (b) Spacing. When trees are planted at predetermined intervals along streets, spacing shall depend on tree size. Planting Interval (in feet) Trees may be planted closer together, in order to avoid interference with utilities, roadways, sidewalks, sight easements, and street lights. Tree Size at Maturity (Height in feet)
 - i. Large trees (50'+ tall) 40' OC Interval
 - ii. Medium-sized trees (35-50' tall) – 30' OC Interval
 - iii. Small & Intermediate trees (to 35' tall) 20' OC Interval

In the R-1, R-2 and R-3 Zones the following shall apply:

Zone	Interior Lots	Corner Lots
	(per conforming lot)	(per street frontage)
R-1	3 trees	3 trees
R-2	2 trees	2 trees
R-3	2 trees	2 trees

Street trees, where possible, shall not be planted opposite each other along a street but shall be planted in a staggered or alternate pattern of spacing.

(c) Street tree type. Tree type may vary depending on overall effect desired. As a general rule, all trees shall be large deciduous trees except as needed to achieve special effects. Tree selection shall be approved by the Board in consultation with the Environmental Commission. Alternate selections may be approved at the discretion of the Board. Final tree selection should accommodate existing/proposed overhead wires to avoid severe pruning, and be diverse so as to avoid monocultures and protect against disease.

Tree Size at Maturity (Height in feet)

- i. Large trees (50'+)
- ii. Medium-sized trees (35-50')
- iii. Small & Intermediate trees (to 35')

(d) Timing. The Board and Township Engineer shall arrange for the proper timing of shade tree planting per the species selected. Trees shall not be planted except when the soil is frost-free and friable. Dead or diseased trees shall be replaced by the developer during the next recommended planting season.

(e) Planting Details. All street trees shall be planted in accordance with the following requirements:

- i. Plant pits. Plant pits shall be two times (2x) the diameter of the root ball and the depth shall be that of the height of the root ball, and in all cases shall contain the minimum of fibrous roots of the tree.
- ii. Backfill mix. The backfill mix shall be composed of existing soil and can be augmented with clean top soil. Existing subsoil shall be fractured.
- iii. Staking and Guying. Please refer to the Planting Details Graphics Sections below. Further, all guys and stakes must be removed after one growing season, and is the responsibility of the contractor or installer.
- iv. Wrapping. Should only be used where snow-burn is likely. In all cases, wrapping must be removed after one growing season.
- vi. Pruning. Trees shall be pruned to preserve their natural character. Only broken, diseased, and crossing limbs should be pruned off.
- vii. Burlap shall be removed from the top 1/3 of the root ball prior to backfilling. All synthetic fabrics and wire gauges must be removed in their entirety.
- viii. Mulch. Should not exceed 3" and the "volcano effect" is to be avoided. And, as shown in the Planting Graphics Detail Section, mulch must not touch the stem or trunk of trees and shrubs.
- ix. Watering. During the months of May through September, water bags shall be provided for all new tree plantings.

(g) Maintenance of the trees in the public right-of-way are the adjacent property owners responsibility.

(2) Shade Tree Requirements- subdivisions of 2 lots or more shall require a minimum of 2 shade trees for every 10,000 SF of lot area in addition to the required street trees.

(3) Foundation Plantings – foundation plants shall be installed along all sides of commercial property that front a public street in accordance with an approved landscape plan by the appropriate Board. Such plantings shall include, but not be limited to, shrubs identified in the Plant Species Schedule, and should include a variety of species – flowering and evergreen. Such plant landscaping shall be clearly visible from the edge of the public right-of-way upon installation. A minimum of 60% for each frontage shall be required.

(4) Stormwater Detention / Retention- Naturalization of stormwater basins in order to attract wildlife and eventually reduce maintenance (once plants are established) is a desired effect. Designing detention basins into a vegetated water quality basin or an extended detention basin is a BMP designed to (1) maximize the flow path through the basin, (2) slow the flow of stormwater through the basin, (3) improve how plants use stormwater to increase absorption and evapotranspiration, (4) filter and trap common runoff pollutants, (5) promote soil saturation/groundwater recharge, and (6) increase evaporation of stormwater. Basin conversions generally involve removing concrete low-flow channels, modifying outlet structures so basins hold water from small storms, re-grading to modify flow path, and re-vegetating with native species.

Applicants are particularly encouraged to create a more natural environment for those design solutions that are located adjacent to woodlands and public open spaces. Materials utilized should consider low maintenance landscaping that thrive in the associated hydrologic conditions as well as consideration of leaf drop and the clogging of facilities subject to review and acceptance by the Township Engineer. Regardless of maintenance needs, all basins shall maintain a mowed edge. All design solutions should work in concert with other low-impact solutions, such as but not limited to, bioswale systems. Other features such as birdhouses, etc., are encouraged.

Taken from the NJ Stormwater Management Rules; in Section 7:8-5.3 of the Rules: *Nonstructural stormwater management strategies* are encouraged to be incorporated into the design of all stormwater facilities, particularly:

- Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - Maximize the protection of natural drainage features and vegetation;

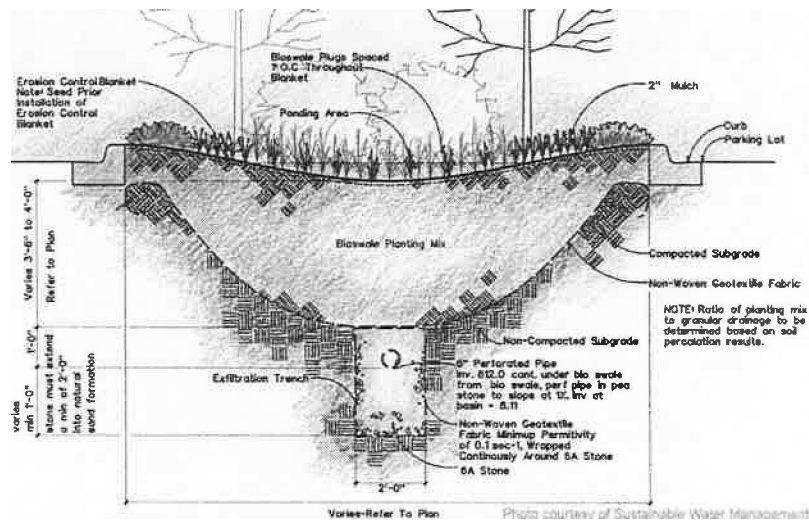
- Minimize land disturbance including clearing and grading;
- Minimize soil compaction;
- Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
- Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas; and
- Provide other source controls to prevent or minimize the use or exposure of pollutants at the site in order to prevent or minimize the release of those pollutants into stormwater runoff.

(a) Generally, industrial type grass seed mix which requires low maintenance and infrequent mowing should be utilized. For planting within the basin area, Recommended species for detention/retention basins include but are not limited to:

Common name	Scientific name	Type
Woody Plants		
Redbud	<i>Cercis canadensis</i>	Seed bank
Sycamore	<i>Platanus occidentalis</i>	Seed bank
Cottonwood	<i>Populus deltoides</i>	Seed bank
Black willow	<i>Salix nigra</i>	Seed bank
Elderberry	<i>Sambucus canadensis</i>	Sapling
Ferns		
Sensitive fern	<i>Onoclea sensibilis</i>	Rooted transplant
Rushes and sedges		
Frank's sedge	<i>Carex frankii</i>	Seed bank
Fox sedge	<i>Carex vulpinoidea</i>	Seed
Fox sedge	<i>Carex vulpinoidea</i>	Rooted transplant
Umbrella sedge	<i>Cyperus alternifolius</i>	Seed bank
Stickerush	<i>Eleocharis acicularis</i>	Seed bank
Common spikerush	<i>Eleocharis obtusa</i>	Seed bank
Squareside spikerush	<i>Eleocharis quadrangulata</i>	Rooted transplant
Soft rush	<i>Juncus effusus</i>	Seed
Rufous butrush	<i>Scirpus pendulus</i>	Seed bank
Smooth butrush	<i>Scirpus validus</i>	Rooted transplant
Grasses		
Big bluestem	<i>Andropogon gerardi</i>	Seed
Barnyard grass	<i>Echinochloa crusgalli</i>	Seed bank
Riverbank wild rice	<i>Elymus riparius</i>	Seed
Fowl mana grass	<i>Glyceria striata</i>	Seed
Rice cutgrass	<i>Leersia oryzoides</i>	Seed bank
Paspalum grass	<i>Paspalum sp.</i>	Seed bank
Eastern gama grass	<i>Tripsacum dactyloides</i>	Seed
Herbs		
Sweet flag	<i>Acorus americanus</i>	Rooted transplant
Water plantain	<i>Alisma subcordatum</i>	Rooted transplant
Swamp milkweed	<i>Asclepias incarnata</i>	Plug
Plains tickseed	<i>Coreopsis tinctoria</i>	Seed bank
Dog fennel	<i>Eupatorium capillifolium</i>	Seed bank
Late boneset	<i>Eupatorium serotinum</i>	Seed bank
Swamp rosemallow	<i>Hibiscus moscheutos</i>	Rooted transplant
Southern blueflag iris	<i>Iris virginica</i>	Plug
Marsh blazing star	<i>Liatris spicata</i>	Seed
Turk's cap lily	<i>Lilium superbum</i>	Plug
Cardinal flower	<i>Lobelia cardinalis</i>	Plug
Great lobelia	<i>Lobelia siphilitica</i>	Plug
Alternate-leaved seedbox	<i>Ludwigia alternifolia</i>	Seed bank
American bugleweed	<i>Lycopus americanus</i>	Seed bank
Monkey flower	<i>Mimulus dnogens</i>	Seed bank
Pennsylvania smartweed	<i>Polygonum pennsylvanicum</i>	Seed
Pickeralweed	<i>Pontederia cordata</i>	Rooted transplant
Heal all	<i>Prunella vulgaris</i>	Seed bank
Common arrowhead	<i>Sagittaria latifolia</i>	Rooted transplant
Lizard's tail	<i>Saururus cernuus</i>	Plug
Goatsbeard	<i>Tragopogon dubius</i>	Seed bank
Cattail	<i>Typha latifolia</i>	Seed bank
Ironweed	<i>Vernonia noveboracensis</i>	Seed

(5) Bioswales/ Raingardens bioswales and raingardens may be required and/or utilized with other aspects of the ordinance. Generally, bioswales shall be constructed as follows;

- Width - may vary but generally sufficient to hold the volumes the bioswale is designed for
- Planting mix- typically a 3'6" to 4'0" planting mix lined with nonwoven geotextile fabric.
- Exfiltration trench – below planting mix of sufficient depth and width filled with 6A stone, lined with nonwoven geotextile fabric, and 6" inch corrugated pipe designed to handle the intended volumes.
- Other design considerations. All bioswales shall be constructed to be located 2' two feet above Seasonal High Water Table.



(6) Buffering- Plantings shall include a variety of trees and shrubs (deciduous and evergreen), unless not practical or better screening would be provided with a single species, interwoven to create the desired visual screening of sufficient height to be an effective screen and give maximum protection and immediate visual screening. Buffers may also require hardscape and/or grading techniques to achieve the desired *effect*.

(7) Parking Facility Design Requirements-

(a) Parking facilities shall be suitably landscaped to minimize noise, glare, and other nuisance characteristics as well as to enhance the environment and ecology of the site and surrounding area. The parking areas shall have suitable drainage facilities as required by the Township Engineer.

(b) All parking facility landscaping shall consider, and coordinate with, the internal and external circulation and access by pedestrians and bicycles.

(c) All parking facilities along a public street shall have street trees planted in accordance with the Plant Species Schedule.

(d) Generally, One tree for every (8) eight parking spaces shall be required in accordance with the size of facility and standards in this section.

(e) All parking facilities of more than 18 spaces or 6,000 square feet in size shall be buffered along the perimeter of the road frontage with a combination of deciduous and evergreen plantings of suitable size to buffer the facility from view. Specifically;

- i. Ensure at least 5' five feet of public sidewalk along the public right of way, screening beds must be (7') seven wide.
- ii. Depending on the presence of the overhead wires, street trees may be contained and credited within such screening area. Otherwise, screening will be in addition to the required street trees.
- iii. Small trees will be provided (30' OC) thirty feet on-center and staggered within the streetscape design along parking facilities.
- iv. Evergreen shrubbery of suitable size to screen the facility from view will be provided and maintained at a height of (3-4') three to four feet tall.
- v. Optional decorative fence or wall maintained at a height of (3' to 4') three to four feet may also be incorporated into the landscaped parking facility screen. Should such fence be provided, landscape requirements are not relived but may be reduced upon approval by board.
- vi. Pedestrian breaks must be provided to coincide with pedestrian on-site circulation patterns.

(f) All parking facilities of more than 36 spaces or 12,000 square feet in size shall contain interior landscaped islands, including;

- i. All interior aisles shall be capped with islands at least (8') eight feet in width and (35') thirty five feet long and planted with (2) two canopy trees. Other aisle caps shall be the length of the parking stall.
- ii. Groundcover and Evergreen Shrubs (2-3 feet tall) shall be provided, but not within the site triangles at intersections.
- iii. No more than (18) eighteen contiguous spaces are permitted without a landscaped break.
- iv. For facilities of 350 spaces or 115,000 square feet in size, every-other parking aisle (or 4 rows of parking stalls) must include a landscaped island that meets the following requirements;
 - a. At least (8') eight feet in width with a (2') two feet overhang.
 - b. One deciduous canopy tree provided for every 8 parking spaces.
 - c. Pedestrian breaks must be provided to coincide with pedestrian site circulation planning for the site.
- v. Curb-stops are permitted only in-concert with stormwater retention cells designed for and within landscaped islands.

(g) The design of parking facilities shall consider environmental conditions such as snow removal and leaf collection.

(h) When and where appropriate as determined by the Board in consultation with its professionals, some of the tree requirement for parking facilities may be substituted in locations determined by the Board to be more suitable; such as along street frontages and natural areas.

(8) Planting details – planting details shall be provided on all landscape plans and in

accordance with the standards as established by the latest publication of the American Association of Nurserymen

Chuck Latini (Township Planner) stated that this is part of the Mayor's initiative to bring the Land Development Ordinances up to date with the current Master Plan and to bring the current code up to 21st century standards. This Ordinance is the landscaping section. It will give us a higher standard for developers and will give applicants a clearer understanding of what is expected of them. Mr. Latini explained that the Planning Board found that this Ordinance is in accordance with the Master Plan and that the Board offered minor comments for clarification purposes.

Ms. Keyes-Maloney made a motion to open the public hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. There were no questions or comments from members of the Public. Ms. Wollert then made a motion to close the public hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. Ms. Keyes-Maloney moved the Ordinance, seconded by Mr. Schroth.

President Hyser and Councilwoman Keyes-Maloney both thanked the Administration, the Planning Board and the Township Planner for all their work on this Ordinance. Mr. Latini then mentioned that it was not only the Planning Board that worked on this but others as well, including the Environmental Commission and in particular the landscape architecture professionals. President Hyser called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Keyes-Maloney	YES
Mr. Baxter	YES
Ms. Wollert	YES
President Hyser	YES

NEW BUSINESS

- 1. The Clerk read (Resolution #13R-169) A RESOLUTION APPROVING THE AWARD OF A CONTRACT FOR ELEVATOR INSPECTION SERVICES TO EIC INSPECTION AGENCY CORP. STARTING JANUARY 1, 2014.**

President Hyser stated that this is a contract we award annually; inspections are not done in-house.

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

ROLL CALL

Ms. Wollert	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
President Hyser	YES

- 2. The Clerk read (Resolution #13R-170) A RESOLUTION AFFIRMING THE FIRST AMENDMENT TO AGREEMENT FOR GPS TRACKING**

SERVICES FOR UP TO TWENTY-FIVE ADDITIONAL TOWNSHIP VEHICLES.

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

Councilwoman Keyes-Maloney stated that she thought yesterday's conversation was a very good one in learning about the technology. In the new year, Councilwoman Keyes-Maloney suggested that we shop this around to see if there are any better values out there along with looking at the scope of the project itself.

The Administrator responded that this is a two year contract. In the fall of 2014, we will see what the market bears.

President Hyser stated that the cost is \$45,000 which is about 1/5th of a tax penny and that it is a bargain to have GPS tracking in all our vehicles except two.

There were no additional questions from Council.

Mildred Russell (119 King Avenue) asked what are we tracking for \$45,000.

The Administrator explained that the Township currently has eighty vehicles. Many already have GPS. The Administrator then gave examples of the uses for the GPS tracking.

Mrs. Russell then asked if this was the first year to track vehicles.

The Administrator replied – yes, although our police vehicles have had it for awhile.

Mrs. Russell then discussed the fact that there is already a snowplow plan so why are we spending \$45,000 to track employees to make sure that they are doing their job.

The Administrator replied that it is his job to track employees.

Mrs. Russell emphasized that this a lot of money and it is sad that employees have to be watched – the employees should have enough sense to do their job.

President Hyser stated that she received an e-mail from a resident who wrote that last year was the first year his street was plowed efficiently without having to call the Township.

President Hyser then called for a roll call.

ROLL CALL

Mr. Schroth	YES
Ms. Wollert	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
President Hyser	YES

President Hyser stated there is no closed session this evening, but she would like to make several announcements.

President Hyser thanked the Clerk, the Administrator, and all the Township employees, residents and groups for making this year's Community Fest extremely successful.

The Administrator stated that this was the best weather we have had for five or six years and then described the Day.

President Hyser asked the Clerk about the next passport day that will be held at the Municipal Building.

The Clerk replied that it will be next Tuesday the 16th from 6:00 pm to 8:00 pm.

President Hyser said that our County Freeholders will be holding their meeting here on Thursday night at 6 p.m.

The Attorney reminded Council that, if they are going to attend, they are bound by the Open Public Meetings Act and should not sit together or make any appearance that they are a part of the meeting.

ADJOURNMENT

There being no further business President Hyser called for a motion to adjourn. Ms. Wollert so moved, seconded by Mr. Baxter. The meeting was adjourned at 7:56 p.m.

Kevin Baxter, President

Kim J. Macellaro, Municipal Clerk