

## AGENDA SESSION 2-9-16

President Schroth 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 4<sup>th</sup> day of January, 2016.

**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 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

- |                               |                              |
|-------------------------------|------------------------------|
| ▪ Mr. Baxter – present        | Administrator, Jim McManimon |
| ▪ Ms. Keyes-Maloney – present | CFO, Joanna Mustafa          |
| ▪ Ms. Steward – present       | Attorney, Maeve Cannon       |
| ▪ Ms. Wollert – present       | Clerk, Kim Macellaro         |
| ▪ President Schroth - present |                              |

### CLOSED EXECUTIVE SESSION

1. The Attorney read this resolution into the minutes (Resolution #16R-29) A RESOLUTION EXCLUDING THE PUBLIC FROM A PUBLIC MEETING

At 6:32 p.m. Attorney Cannon explained that this is a resolution to exclude the public from closed session and it is pursuant to the Open Public Meetings Act to discuss contract negotiations, specifically the SOA (Superior Officers Association) and to take advice of Counsel. Minutes will be made available, if appropriate, when the matter is concluded.

Ms. Keyes-Maloney made a motion to enter into closed session, seconded by Ms. Wollert. It was agreed by a unanimous voice vote. At 7:15 p.m. Council reconvened and Ms. Keyes-Maloney made a motion to close closed session, seconded by Mr. Baxter. It was agreed by a unanimous voice vote. President Schroth asked for a motion to enter back into regular session. Ms. Steward made a motion to move back into open session, seconded by Ms. Wollert. It was agreed by a unanimous voice vote.

### DISCUSSION

1. CONSIDERATION OF AN APPLICATION FOR A WAIVER FROM THE PROHIBITION OF TWO LICENSEES BEING WITHIN 1,000 FT. OF ONE ANOTHER

President Schroth stated that this is an application requesting a waiver. We have an Ordinance in place that restricts alcohol businesses from being within 1,000 feet of one another however there is a provision for a waiver upon application to Council. Attorney Cannon explained that there is some criteria in the Ordinance that Council will want to consider. She further commented that the presumption is the prohibition of two licensees being within 1,000 feet of one another and they are seeking a waiver of the

prohibition. Ms. Keyes-Maloney said that she had a chance to listen to the recording, as she was not at the last meeting when it was discussed. She asked Counsel to go over the criteria that they would need to consider while contemplating consideration of this waiver and she articulated them. Attorney Cannon stated that the applicant has given Council a letter that they believe satisfies the various criteria outlined in the Ordinance. President Schroth asked the representatives from KKDP, Inc. if they want to be heard. They said they would be happy to answer questions. President Schroth asked if anyone had any questions for the applicant. John Vasallo, Esq., Jr. (representing KKDP, Inc.) wanted to clarify that the distance is measured how the pedestrian normally walks. He said he didn't realize that it is as far as it is. He said it is probably pretty close to the 1,000 feet. He further stated that Metro Grill is in favor of them being in there and that they are primarily going to be a package goods store. President Schroth asked what the anticipated hours will be. Attorney Vasallo replied what normal liquor stores are open, 10:00 a.m. to 10:00 p.m. President Schroth asked what the closest liquor store would be to this establishment. The applicant's potential landlord explained. Attorney Vasallo said that there are no other liquor stores that are close that sell package goods. There were no other questions from Council or the public. President Schroth stated that there are two resolutions on the table tonight for consideration. One is to approve the waiver and one is to deny. He asked Council what their preference would be tonight going forward. Ms. Keyes-Maloney stated that it would be her preference to move forward with the waiver as they have articulated what it would mean to actually successfully obtain an exception underneath the Ordinance but she said she would certainly be open to other Council's views on this matter. It was agreed to be carried over to the regular session and would have to be voted to be walked on.

**2. A RESOLUTION APPROVING A PLACE-TO-PLACE TRANSFER (EXPANSION OF PREMISES) FOR H.K. LIQUORS, 1784 N. OLDEN AVENUE, EWING, NJ 08638 (LICENSE NO. 1102-33-012-006)**

Ms. Keyes-Maloney had a question as to what is there presently. She hoped that the applicant is there to explain. Mr. Harry Patel (owner of H.K. Liquor) explained that they are just using the store next to the liquor store for storage purposes only. There will be a door going into the next building to access their storage. Ms. Steward asked if there is currently a small bar inside. Mr. Patel responded yes. Ms. Steward asked if this extension will change the existing business. He asked if he planned to extend the business into that area at some point. He said right now, no but in the future maybe. Attorney Cannon stated for clarification purposes, that he can only use this area as storage and if he plans to use it as a liquor store or bar, he would have to come back before Council for that approval. Attorney Vasallo said that he didn't want the Council to be misled. He stated that he is also the attorney for Mr. Patel with regard to this extension. He stated that technically if the license is expanded he can do anything that is allowed by law with that license. He said that Mr. Patel has agreed not to do anything with the license without the approval of Council. Administrator McManimon said that in no way would Administration support using this facility for anything other than a storage facility. Attorney Cannon suggested that Council put a condition on the license stating that it can only be used for storage purposes. It was agreed by all of Council. That condition will have to be renewed every year with the resolution. President Schroth stated that subject to the condition, the matter should be moved to the regular agenda. The Clerk so noted. Administrator McManimon asked a clarification question about signs. He said he knows that they responded to the Zoning Officer for removal of all excess signs and complying with the Ordinance. He wanted to make sure that the applicant knows that by moving into another building, you still need to keep within the same percentage of signs or he would be in violation. He further stated that we are enforcing that all over town. Attorney Cannon stated that that cannot be a condition on the license but can be enforced by Code Enforcement. President Schroth thanked Mr. Patel for coming.

**3. A RESOLUTION APPROVING A TITLE VI PROGRAM FOR THE TOWNSHIP OF EWING**

Attorney Cannon said that this is a requirement of New Jersey Transit with respect to a Rec program for the Recreation Department. New Jersey Transit requires the township to adopt and approve Title VI, anti-discrimination based policy. New Jersey Transit approved the "draft" of the policy that is attached. This ensures that the program is being financed by the grant and accessible to all in the township and not discriminating in any way against individuals who might want to use the services provided. Administrator McManimon said that they have filed for a grant from New Jersey Transit for a new bus. He further said that our old van has some miles on it. Ms.

Keyes-Maloney said that it is a wonderful program to have in place. President Schroth asked for this item to be moved to the regular meeting for action.

**4. A RESOLUTION AWARDED CONTRACT FOR PROSPECT HEIGHTS FIRE COMPANY EMERGENCY GENERATOR TO BAUER GEN SYSTEMS LLC IN THE AMOUNT OF \$97,300.00**

Administrator McManimon explained that this was in the Capital Budget for 2014 and this was the lowest bidder. He further said that they have a forty year old generator currently which is struggling to run. He also said that this will be replacing the old one so they can operate in emergencies. He asked Deputy Chief Brower if he had anything to add. Deputy Chief Brower said that this has been a long process. The generator is forty plus years old and is in the back of the firehouse in an enclosed separate compartment, which by code we cannot do anymore. He said they will place it outside and tap into their existing diesel fuel system to run it. He also said that right now if the power goes out, there is a good chance that the doors will not power up. He said it will also supply all of the auxiliary systems. He thanked Council very much and said that the Township Engineer was very helpful with this. He was happy that someone from the Township won the bid and are right around the corner to be able to service us. He also thanked Administration. There were no questions from Council or the public. President Schroth asked for this item to be moved to the regular meeting for action.

**5. A RESOLUTION APPROVING CHANGE ORDER NO. 1 FINAL TO MTB, LLC FOR THE ESCC PHASE 3 ROOF REPLACEMENT**

Administrator McManimon started by saying that this is a decrease in the contract by \$10,000+ dollars and this will finish the roof over at the Senior Center and then they will move forward with the Hollowbrook Center. There were no questions from Council or the public.

**6. A RESOLUTION AUTHORIZING THE APPLICATION FOR "PARTNERING FOR THE RESTORATION OF THE COMMUNITY FOREST: THE 3P PLAN, PARTNERSHIPS-PLAN-PLANTING," A SUSTAINABLE JERSEY GRANT BY THE EWING TOWNSHIP SUSTAINABLE GREEN TEAM**

President Schroth said that he knows that Councilwoman Steward has been involved in this process and asked if she would like to expand on this. Ms. Steward said that she would also like to defer to some of the guests who are much more knowledgeable than her. She explained that as many of you know Ewing Township participates in the Sustainable Jersey Program where we seek certification for our sustainable activities in the Township and we had previously sought and received a grant from Sustainable Jersey and this is in pursuit of a grant this year. Our co-chairs of Green Team, Joanne Mallowney (20 Alexander Drive, Ewing) and Dan Burke are prepared to tell us a little about the grant we are seeking this year. Ms. Mallowney explained the grant. She talked about the emerald ash borer, an invasive species killing the ash trees and there doesn't seem to be much of a solution for them. She said that it has come to the forefront. She said that she met with Bill Brash, a forester with whom Ewing has done business with in the past, and he thought that the best way to obtain a Sustainable Jersey Grant would be to work on a project that has to do with the Emerald Ash problem. Ms. Keyes-Maloney said that it is going to be a huge issue. Ms. Mallowney said that a study came out suggesting a 1.1 to 1.4 million dollar price tag for dealing with this. She further went on to say that Mercer County and Ewing can't do it all along, so the idea of developing partnerships to mediate the problem would certainly be in our interest. Mr. Dan Burke said that it is a matter of when the trees will die. The cost problem is how we take care of getting rid of the trees as they die and the best thing to do is to phase out the fatalities of trees in the manageable incremental way so that it is not millions of dollars all at once to take them all out. President Schroth and Vice President Steward thanked them both for coming. President Schroth asked the Clerk to move 5 and 6 moved to the regular agenda for action.

**BILLS LIST**

The bills list was presented for review.

**1. A Resolution Authorizing the Chief Financial Officer to Pay Bills in the Amount of \$5,712,384.34 and to Pay Supplemental Bills per Resolution #16R-13 in the Amount of \$86,115.01**

Ms. Wollert asked a question about a bill on the construction account. She said it was the UCC badges/tech cards for almost \$1800.00. CFO Mustafa responded that she thought they were there business cards for new hires. She said she could give Ms. Wollert a proper answer tomorrow. There were no other question and the bills list was approved for action at the regular meeting.

## **CONSENT AGENDA**

The Council President reviewed the Consent Agenda.

1. Approval of Agenda Session Minutes for April 28, 2015, June 9, 2015, June 23, 2015; Approval of Regular Session Minutes for April 28, 2015, June 9, 2015, June 23, 2015
2. A Resolution Authorizing Tiburon Endurance Sports, Inc. to Hold a River Horse 6K on April 16, 2016
3. A Resolution to Cancel and Void the Tax Sale Certificate 15-509; Block 320 Lot 14 CA-5; Address 795 Parkway Ave #5; Certificate Amount to Cancel \$2,176.12
4. A Resolution to Cancel and Void the Tax Sale Certificate 15-157; Block 126 Lot 538; Address 102 Groveland Ave.; Refund Amount \$998.14; Payable to: US Bank Cust/PC6, LLC, Sterling Ntl, Tax Lien Services Group, 50 South 16<sup>th</sup> Street, Suite 2050, Philadelphia PA 19102

There were no questions from Council or the public and the Consent Agenda was approved for action.

## **ORDINANCE(S) FOR FIRST READING AND INTRODUCTION**

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

1. AN ORDINANCE AUTHORIZING THE EXECUTION OF A RIGHTS OF WAY AND DRAINAGE EASEMENT AGREEMENT, AMENDING AN EXISTING DRAINAGE EASEMENT AND ACCEPTING A DRAINAGE AND RIGHT-OF-WAY EASEMENT

Attorney Cannon explained this Ordinance. She said that this is new construction for Way of the Cross Church that is being constructed. After they started construction, they had a drainage system laid out, they were advised by the D&R Canal that they had to change their existing drainage and it would cause an encroachment on the existing right of way of the township. She further said that this easement and modification was negotiated with them and it does provide that the township is not responsible for the drainage structures and facilities that they put in. There were no questions from Council or the public.

2. AN ORDINANCE AMENDING THE REVISED GENERAL MUNICIPAL ORDINANCES OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, TO PROVIDE FOR A STREET OPENING MORATORIUM AND TO OTHERWISE REGULATE AND RESTRICT STREET OPENINGS IN THE TOWNSHIP

Attorney Cannon said that this comes about largely because of certain utilities that open the township streets to do work and then do a lousy job afterwards in terms of closing the street. This Ordinance will require them to get a permit if the street has been paved within the last five years. If the permit is granted, they have to restore the street back end to end back to its original state. A bond is required to be put up for this and if it is not restored to its original state, the township will keep the bond. She also said that penalties will be given to those not in compliance and she also said that a fee is attached to the permit. There were no questions from Council or the public.

**NEW BUSINESS**

None

**COMMISSION & COMMITTEE REPORTS FROM MEMBERS OF COUNCIL**

Ms. Keyes-Maloney said that she had an opportunity to meet with the Historic Commission and they are in the process of developing a guide for individuals who seek to obtain Historic Status in the township. It is kind of a How-to-Guide. She also said that the Arts Commission also had an opportunity to meet. They were doing a fall out of the art show that they had over the week-end. She said they showcased over 200 pieces of art from our school system –grades kindergarten through twelfth and the best items were brought to the township building and the Senior Center to be showcased as well.

Ms. Wollert said that the Senior’s will be having their monthly luncheon on February 19<sup>th</sup> at noon and it is \$5 for all seniors.

Ms. Steward said that there are two events for the Green Team. One on the 24<sup>th</sup>, local resident Joe Mirabella on “what is means to be an environmentalist or everything you wanted to know about sustainability but were afraid to ask” at 6:30 at the senior center. Also on the 16<sup>th</sup> at 6:30 at the Township Council Chambers the environmental commission is having a presentation about all of the implications of emerald ash.

Mr. Baxter said that due to the storm, the Rec Advisory Board rescheduled their meeting for this past Monday and he couldn’t attend due to a conflict with another meeting.

**STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC**

There were none for this meeting.

**CLOSED SESSION**

**ADJOURNMENT**

There being no further business, President Schroth asked for a motion to adjourn. Ms. Keyes-Maloney so moved seconded by Mr. Baxter. The meeting was adjourned at 7:57 p.m.

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David Schroth, President

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Kim J. Macellaro, Municipal Clerk