

September 12, 2017 – AGENDA SESSION

President Steward called the meeting to order at 6:31 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 4th day of January, 2017.

THE PUBLIC WILL HAVE AN OPPORTUNITY TO ADDRESS THE COUNCIL DURING THE “STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC” SEGMENT OF THE MEETING. MEMBERS OF THE PUBLIC ARE REQUESTED TO SIGN IN ON THE SHEET PROVIDED IN THE FRONT OF THE ROOM. ALL QUESTIONS AND COMMENTS FROM THE PUBLIC WILL BE DIRECTED TO THE COUNCIL PRESIDENT, WHEN ADDRESSING THE COUNCIL, PLEASE GIVE YOUR NAME AND YOUR ADDRESS.

THE COUNCIL INVITES AND ENCOURAGES PARTICIPATION BY THE PUBLIC IN ITS MEETINGS, HOWEVER A MEMBER OF THE PUBLIC MAY UTILIZE FIVE MINUTES OF TIME FOR REMARKS AND QUESTIONS, UNLESS OTHERWISE ENGAGED IN A DIALOGUE WITH A MEMBER OF THE COUNCIL. ANY FURTHER REMARKS OR QUESTIONS BEYOND THE TIME LIMIT MUST BE AUTHORIZED BY THE PRESIDENT OF THE COUNCIL.

ROLL CALL

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

DISCUSSION

1. **AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 225 SECTION 70, SCHEDULE XXIII: SPEED LIMITS, REDUCING THE SPEED LIMIT ON BUTTONWOOD DRIVE FROM 40 MILES PER HOUR TO 25 MILES PER HOUR**

President Steward explained that this would reduce the speed limit on Buttonwood Drive from forty miles per hour to twenty-five miles per hour at the recommendation of the Township Engineer. Some parts of Buttonwood are twenty-five miles per hour; others are not. It is a very residential area. This will make the speed limit the same as the surrounding streets.

There were no questions or comments from Council or the Public.

2. **A RESOLUTION AUTHORIZING THE TOWNSHIP TO REJECT ALL BIDS RECEIVED IN RESPONSE TO A REQUEST FOR PROPOSAL FOR A MOBILE COMMAND VEHICLE UP-FIT AND AUTHORIZING THE TOWNSHIP TO ORDER A RE-BID**

The Attorney explained that three bids were received. The two lowest bids were not compliant with the specifications. One failed to submit a consent of surety and the other failed to provide a financial disclosure form. The third bid, the highest, proposed an option, a decal, that was not provided for in the specification so the Town cannot accept that offer. The Township does like that decal proposal so it will be considered in future pricing. The bid amount also exceeded the budget estimate so the recommendation is to reject all bids. The specifications will be revised to include a decal option.

Councilman Baxter asked the Administrator if the Police are still going to give Recreation the old command vehicle to Recreation for use as a shed to store football gear.

The Administrator replied – yes and said that as it is on wheels, some adjustment will need to be made.

There were no additional questions or comments from Council. There were no questions or comments from the Public.

3. A RESOLUTION REJECTING ALL PROPOSALS IN RESPONSE TO THE REQUEST FOR PROPOSALS FOR THE OPERATION OF THE EWING ANIMAL SHELTER AND AUTHORIZING THE TOWNSHIP TO NEGOTIATE A CONTRACT FOR THE OPERATION OF THE EWING ANIMAL SHELTER

The Attorney said that this is the second go-around. Once again, only one bid was received from the current vendor. The proposal submitted was not compliant with the specifications and, in addition, the amount submitted was in excess of the budgetary estimate. The recommendation is that the bid be rejected and that the Township be authorized to negotiate the contract.

Vice President Wollert asked what was the budgetary estimate allocated for this contract.

The Administrator replied that the budget estimate was \$84,000.00. The bidder asked for \$185,000.00. Assuming Council rejects this tonight, tomorrow morning he and the Attorney will meet with two representatives of EASEL to begin negotiating the contract. The contract amount will be more than \$84,000.00 and less than \$185,000.00.

Vice President Wollert said that the point she wants to make is that the Township had one bid each time; there are no other “takers.” It is time to be realistic on what needs to be done and then urged the Administration to do that.

Councilwoman Keyes-Maloney asked the Administration, for the benefit of the Public, to explain the negotiation process.

The Attorney explained that the Administration will meet with the only interested bidder. The contract amount cannot exceed the lowest bid received so the ceiling for the negotiation is the \$185,000.00 number and, in addition, the specifications need to be negotiated.

Vice President Wollert stated that this contract is past due and then asked what is being done to fund the Animal Shelter at this point in time.

The Administrator replied that we agreed on a month-to-month. The Administrator mentioned some of the structural work done to the Shelter itself. We will start to work on the details tomorrow. The goal is for a long-term contract so they can operate as a non-profit to raise funds. There is no other interested group out there. We have saved a large number of cats and dogs. The Shelter is due for the annual County animal inspection; it will be done in the next couple weeks.

Vice President Wollert then explained why the Township became involved in the animal shelter business. Years ago, animals were being euthanized after seven days. The expenditure was high since they were brought to a private vet. The thought was that we would not only be doing animal rights work by having a no kill shelter; but we also would be saving some money. Most people were not happy with the previous situation.

Councilwoman Keyes-Maloney said that she is very happy to see that the Administration is moving forward and trying to resolve this through negotiation. It is a unique relationship that has had its challenges which we have worked through.

The Attorney stated that her goal is to have a Resolution drafted for the next Council meeting.

There were no additional questions or comments from Council. There were no questions or comments from the Public.

4. A RESOLUTION AWARDING GROFF TRACTOR NEW JERSEY, LLC A CONTRACT TO PROVIDE THE TOWNSHIP OF EWING A NEW 2017 FOUR-WHEEL DRIVE ARTICULATED WHEEL LOADER

The Attorney explained that this was publicly bid. Three bids were non-compliant, having proposed non-compliant equipment. Public Works reviewed all the bids. The Groff Tractor bid was at \$96,800.00 and it met all the requirements. The Attorney then listed all the other bid amounts. The recommendation is to award the contract to Groff Tractor New Jersey, LLC.

Councilwoman Keyes-Maloney asked what exactly is a four-wheel drive articulated wheel loader.

The Administrator replied that it is front-end loader.

There were no additional questions or comments from Council. There were no questions or comments from the Public.

- 5. A RESOLUTION AUTHORIZING THE PURCHASE OF DELL-LENOVO COMPUTERS TO BE USED BY VARIOUS DEPARTMENTS FOR THE TOWNSHIP OF EWING FROM SHI INTERNATIONAL CORP. THROUGH NASPO VALUEPOINT MNWNC-117 expires (12/31/2020)**

The Council President stated that this is for the purchase of forty computers to be used throughout the Township. It is included in this year's Capital Budget.

Councilman Baxter asked if the total number is forty.

The Council President replied – yes.

Vice President Wollert said that she thought that the Township was moving towards the Apple technology.

The Administrator replied that cellphones and iPads are Apple; desktops are Dell.

There were no additional questions or comments from Council. There were no questions or comments from the Public.

- 6. A RESOLUTION DONATING TWENTY NEW AND UNUSED CELLPHONES TO WOMANSPACE, INC.**

President Steward stated these are excess cellphones that the Township does not have a need for any longer. Womanspace reconditions the cellphones and gives them to domestic violence victims.

There were no questions or comments from Council or the Public.

- 7. A RESOLUTION APPROVING CHANGE ORDER NO. 3 FINAL INCREASE TO RICHARD T. BARRETT PAVING CO. FOR 2015 ROAD IMPROVEMENT PROGRAM**

President Steward said that this final change order increases the contract by \$450.00.

There were no questions or comments from Council or the Public.

- 8. A RESOLUTION AUTHORIZING THE RELEASE OF A PERFORMANCE BOND AND THE ACCEPTANCE OF A TWO-YEAR MAINTENANCE BOND FOR THE 2015 ROAD IMPROVEMENT PROGRAM TO RICHARD T. BARRETT PAVING COMPANY – EWING ENGINEERS REMINGTON, VERNICK & ARANGO RV&A #1102-T-028**

The Council President said that this is for the release of the performance bond for the Road Improvement Program that Council just discussed.

There were no questions or comments from Council or the Public.

The Council President announced that there is a walk-on item this evening.

- 9. A RESOLUTION COMMENORATING THE 35TH ANNIVERSARY OF THE NEW JERSEY BLACK ISSUES CONVENTION LEADERSHIP CONFERENCE**

President Steward said that Councilman Baxter asked that Council consider this Resolution.

Councilman Baxter explained that the County Chairwoman asked Council to recognize this anniversary. This group helps, not only with issues that effect everyone; but in particular, with issues that effect the Black and Hispanic communities. Black elected officials are expected to be knowledgeable about and answer questions concerning these issues as well as to bring these policy issues to the forefront. This is their thirty-fifth anniversary; they have been doing the work for a long time and it has actually spun-off to the Black Elected Officials.

Councilman Baxter thanked Council for putting this Resolution on the Agenda. Councilwoman Keyes-Maloney asked where will the anniversary be held. Councilman Baxter replied that the anniversary will be held in Newark, sometime, he believes, in October. There will be a summit on September 23 and 24 at Thomas Edison College in Trenton and at the Masonic Temple. Everyone is welcome to attend this summit. Councilman Baxter asked if anyone is interested in attending to contact him for additional information.

There were no additional questions or comments from Council. There were no questions or comments from the Public.

All items were approved for action.

BILLS LIST

1. A Resolution Authorizing the Chief Financial Officer to Pay Bills in the Amount of \$15,524,276.33 and to Pay Supplemental Bills per Resolution #17R-14 in the Amount of \$996,590.44

Councilwoman Keyes-Maloney thanked the CFO for providing easily understood descriptions.

There were no additional questions or comments from Council. There were no questions or comments from the Public.

The Bills List was approved for action.

CONSENT AGENDA

Council President Steward presented the Consent Agenda for review.

1. Approval of Agenda Session Minutes for May 9, 2017, May 23, 2017, June 13, 2017; Approval of Regular Session Minutes for May 9, 2017, May 23, 2017, June 13, 2017
2. A Resolution Authorizing a Refund, as Recommended by the Director of EMS for Overpayment in the amount of \$50.00 for overpayment of transport service on March 21, 2017 for patient Albert Moscioni to Albert Moscioni, 11 McVickers Lane, Mendham, New Jersey 07945.
3. A Resolution Authorizing a Refund, as Recommended by the Director of EMS for Overpayment in the amount of \$61.50 for overpayment of transport service on March 24, 2017 for patient Michael Keys to Horizon Mercy Horizon NJ Health, Claims Processing, P.O. Box 24078, Newark, New Jersey 07101-0406.
4. A Resolution Authorizing a Refund, as Recommended by the Director of EMS for Overpayment in the amount of \$58.00 for overpayment of transport service on December 29, 2016 for patient Michael Keys to Horizon Mercy Horizon NJ Health, Claims Processing, P.O. Box 24078, Newark, New Jersey 07101-0406.
5. A Resolution Authorizing a Refund, as Recommended by the Municipal Clerk for Overpayment in the amount of \$40.00 for overpayment of monies paid for a Bingo Night to Ewing HS Project Graduation, 1666 Pennington Road, Ewing, NJ 08618.
6. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$445.19 for August 1st, 2017 3rd Qtr Tax Bill to Veenstra Ralph, 2420 Columbia Ave, Ewing, NJ 08638, for property owner Veenstra Ralph, for Block: 45 Lot: 333 also known as 2420 Columbia Ave.
7. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1179.64 for August 1st, 2017 3rd Qtr Tax Bill to Bulanowski, Thomas R., 11 Dawes Ave.; Ewing, NJ 08638, for property owner Bulanowski, Thomas R.; for Block: 95 Lot: 239 also known as 11 Dawes Ave.

8. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1306.50 for August 1st, 2017 3rd Qtr Tax Bill to Central Title Group, LLC, 3379 Route 206, Bordentown, NJ 08505, File 888 10289, for property owner Vreeland, Jason A & Danielle, for Block: 129 Lot: 455 also known as 10 Devon Ave.**
9. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$201.10 for October 1, 2017 2nd Half Sewer to Ceruti, Stacy L., 2 Essex Lane, Ewing, NJ 08628, for property owner Ceruti, Stacy L. for Block: 588 Lot: 152 also known as 2 Essex Lane.**
10. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$217.65 for August 1st, 2017 3rd Qtr Tax Bill to Gibson, Lexis, 1750 Fifth St, Ewing, NJ 08638, for property owner Gibson, Lexis, for Block: 53 Lot: 130 also known as 1750 Fifth St.**
11. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$508.80 for August 1st, 2017 3rd Qtr Tax Bill to Herbert, Timothy J & Kerry, 37 Glen Stewart Dr, Ewing, NJ 08618, for property owner Herbert, Timothy J & Kerry, for Block: 474 Lot: 42 also known as 37 Glen Stewart Dr.**
12. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1383.25 for May 1st, 2017 2nd Qtr Tax Bill to Ravenel Harry J & Kathleen M, 10 Heather Dr, Ewing, NJ 08638, for property owner Ravenel Harry J & Kathleen M, for Block: 214.13 Lot: 21 also known as 10 Heather Dr.**
13. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$120.00 for October 1, 2017 2nd Half Sewer to Hutchinson, Jr., Walter & Kathryn, 22 Hilltop Rd, Ewing, NJ 08638, for property owner Hutchinson, Jr., Walter & Kathryn for Block: 227 Lot: 12 also known as 22 Hilltop Rd.**
14. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment REFUND in the amount of \$1584.52 for August 1st, 2017 3rd Qtr Tax Bill to Lore, Teresa, 4 Holiday Ct, Ewing, NJ 08638, for property owner Lore, Teresa, for Block: 214 Lot: 44.27 also known as 52 Holiday Ct.**
15. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$657.31 for August 1st, 2017 3rd Qtr Tax Bill to Pokorny, Lazzlo, 12 Linwood Ave, Ewing, NJ 08638, for property owner Pokorny, Lazzlo, for Block: 215 Lot: 84 also known as 12 Linwood Ave.**
16. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector Due to County Tax Appeal Granted in Favor to the Property Owner in the amount of \$183.35 for August 1, 2017 3rd Qtr Tax Bill to Patel, Naresh R, 27 Woodfield Ct, Princeton NJ, 08540 for property owner Patel, Naresh R for Block: 156 Lot: 10 also known as 98 Louisiana Ave.**
17. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$233.43 for August 1st, 2017 3rd Qtr Tax Bill to Ricketts, Ricardo & Jessica, 518 Maple Ave, Ewing, NJ 08618, for property owner Ricketts, Ricardo & Jessica, for Block: 292 Lot: 17 also known as 518 Maple Ave.**
18. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1566.71 for August 1st, 2017 3rd Qtr Tax Bill to Action Title Research, 611 Rte 46 West, Suite 103, Hasbrouck Heights, NJ 07604, File CN1361, for property owner Ocwen Loan Servicing, LLC, for Block: 225.02 Lot: 56 Qual: c0518 also known as 518 Masterson Ct.**
19. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1573.55 for August 1st, 2017 3rd Qtr Tax Bill to Corelogic - Refund, PO Box 9202, Coppell, TX 75019-9978, for property owner Stokes, Charles L.; for Block: 143 Lot: 30 also known as 40 Oak Lane.**

20. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$465.69 for August 1st and November 1st 2017 3rd and 4th Qtr Tax to Marchamos, LLC, PO BOX 5371, Trenton, NJ 08638, for property owner Marchamos, LLC for Block: 142 Lot: 3 also known as 1620 Pennington Rd.
21. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1487.63 for August 1st, 2017 3rd Qtr Tax Bill to Ruiz, Maria, 28 Pennroad Ave, Ewing, NJ 08638, for property owner Ruiz, Maria for Block: 120 Lot: 63 also known as 28 Pennroad Ave.
22. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$174.74 for August 1st, 2017 3rd Qtr Tax Bill to Johnson, Zacry & Cox, Anthony, 1236 Prospect St, Ewing, NJ 08638, for property owner Johnson, Zacry & Cox, Anthony, for Block: 32 Lot: 22 also known as 1236 Prospect St.
23. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1640.66 for August 1st, 2017 3rd Qtr Tax Bill to Trident Lane Transfer Co., 3 Executive Campus, Suite 100, Cherry Hill, NJ 08002, File #17NJ01461 for property owner Stein, Matthew, for Block: 419 Lot: 85 also known as 32 Rebecca Ct.
24. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$98.98 for August 1st, 2017 3rd Qtr Tax Bill to Lacovara, Joseph, Jr., 12 Ronit Dr, Ewing, NJ 08628, for property owner Locovara, Joseph Jr., for Block: 587 Lot: 6 also known as 12 Ronit Dr.
25. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$198.52 for October 1st, 2017 2nd Half Sewer Bill to Yabeta Holding LLC, 5014 16th Ave, Suite 305, Brooklyn, NY 11204, for property owner Yabeta Holding LLC, for Block: 6 Lot: 6 also known as 1011 Southard St.
26. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$758.70 for August 1st, 2017 3rd Qtr Tax Bill to Mayer, Matthew J & Solanger O, 3 Star Dr, Ewing, NJ 08628, for property owner Mayer, Matthew J & Solanger O, for Block: 532 Lot: 2 also known as 3 Star Dr.
27. A Resolution Authorizing A Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1654.26 for February 1, 2017 1st Qtr Tax to McLerlean, Patrick, 810 Belmar Plaza, Belmar, NJ 07719, for property owner McLerlean, Patrick for Block: 465 Lot: 76 also known as 106 Stratford Avenue.
28. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$2093.97 for August 1st 3rd Qtr Tax Bill to Title Evolution, LLC, 230 Farnsworth Ave, Bordentown, NJ 08505, File #TE12683 for property owner Vogel, Peter & Vagnozzi, Monica, for Block: 411 Lot: 33 also known as 477 Walker Ave.
29. A Resolution Authorizing a Refund, as Recommended b the Tax Collector for Overpayment in the amount of \$338.98 for 2017 3rd Qtr Tax Bill to Kamich Mark & Jessica, 36 Wardman Ave., Ewing, NJ 08638, for property owner Kamich Mark & Jessica for Block: 103 Lot: 17 also known as 36 Wardman Ave.

There were no questions or comments from Council or the Public.

The Consent Agenda was approved for action.

ORDINANCE(S) FOR FIRST READING AND INTRODUCTION

(None for this Meeting)

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

1. ORDINANCE OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, AMENDING ZONING OF SOLAR ENERGY RESOURCES WITHIN THE TOWNSHIP

President Steward stated that Council has been working on this Ordinance for awhile. The Council President gave credit to Councilwoman Keyes-Maloney, the Township Planner, interested members of the Community and the Planning Board who all worked on trying to give some guidance as to how the Township wants to see solar developed in our Community and at the same time be responsive to residents' concerns about where it ought to belong.

Councilwoman Keyes-Maloney added that it is an attempt to balance the beneficial use of solar with the unique land patterns that exist throughout the Township. Councilwoman Keyes-Maloney stated that she is happy to see the de minimis changes that the Planning Board incorporated into the proposal. President Steward stated that this is coming back from the Planning Board for the second time. Council benefits from their insight yet again.

There were no additional questions or comments from Council.

Dave Lyons (530 Washington Avenue) said he sent an email the other day and asked if everyone had received it. A lot of hard work has been put into this and it is generally a reasonable attempt. But, when he compares the present Ordinance against the new Ordinance what he sees is that in the present Ordinance you need a variance for solar, you need a variance for lot area if you want to use more than 200 square feet and you need a variance for use in a side yard. In the new Ordinance, in a residential area, if you get a variance for solar you have five hundred square feet regardless of your lot size. In Ewing, there are 5,000 square foot lots. These solar arrays are not small. One array could interfere with multiple neighbors' enjoyment of their yard. This is the reason why he suggested instead of a blanket five hundred square feet that we start at two hundred square feet and if a larger yard is involved, then it goes up to two percent of the lot area. Mr. Lyons stated that he listened to the Planning Board meeting and said that it did not discuss this idea. People were asking if the two hundred feet would effect the size someone could put on their roof. This only effects solar arrays on the ground. Mr. Lyons then suggested a simple tweak to make it more amenable to adjusting to the size of the property. If someone needs 500 square feet, they can still apply for a variance just as they need a variance for solar anyway or to put it in a side yard. Another way of doing this is to say that you need a certain setback. The precedent, if you can call it that, in Ewing is Our Lady of Good Counsel, Villa Victoria or the Lutheran Church on Pennington Road. The setback is fifty feet or more from any house and there is some kind of buffering. Make fifty feet the required setback; a variance would be needed for anything less. Without that, people will put these arrays five feet from the property line. Mr. Lyons next discussed the siting preferences section of the new Ordinance which encourages rooftop mounted arrays and discourages ground mounted arrays and then asked how would Council expect the Zoning Board to act with regards to these siting preferences.

Councilwoman Keyes-Maloney responded that solar is viewed as a beneficial use. It would be problematic for the Township to outright preclude solar. So you come up with language to encourage in one instance and discourage in another. The Zoning Board asked for guidance on this matter.

Councilman Schroth commented that the notion that the Township would encourage one thing and discourage another strikes him as being toothless fluff because saying that we encourage something is just saying that we encourage something; saying that we discourage something is just saying that we discourage something. But nothing else.

The Council President added that it is clear on where solar is permitted or not. This is just guidance when someone is seeking a variance. The Zoning Board is seeking guidance when someone is seeking a variance. Ground mounted arrays are not permitted in residential zones.

If someone applies for it in a residential zone, this just provides guidance for the Zoning Board to make a decision on the application for a variance.

Councilman Schroth replied that he understood that.

Councilwoman Keyes-Maloney added that because solar is viewed as an inherently beneficial use, to outright ban it would be problematic under existing Land Use Law. That is why you encourage or discourage.

Councilman Schroth responded that Mr. Lyons is not suggesting that the Township prohibit anything; he is only suggesting that the Township create a slightly smaller scale that would be more proportional to lot size. If a larger scale is needed, the applicant can seek a variance.

President Steward added that a variance is needed to put in a solar ground array in a residential area.

Councilwoman Keyes-Maloney replied that she is separating out the issue as Mr. Lyons is asking a specific question about the language within the existing Land Use. Mr. Lyons said that there are a number of inherently beneficial uses. Mr. Lyons added that he has seen Court decisions on this and, just as in real estate, it is location, location, location. It needs to fit into the area.

Councilwoman Wollert added that because this entire issue is one in which the Zoning Board has to make a decision and it is not able to be done unless you have a variance whether it is 200 square feet, or 500 or a thousand; the size becomes immaterial. Because no matter what the size, if it is a ground mounted system it has to go before the Zoning Board and it is the Zoning Board's independent judgement. They have the authority, by law, to make those decisions. Council can put this in play, as Councilwoman Keyes-Maloney said, by making the language: this is great; it is all inherently beneficial; roof-top installations are encouraged and Council does not really think that ground installations for residential use are the greatest thing in the world. But, people still have the ability to go to the Zoning Board. If it is put in there that you are only allowed to do 200 square feet, it still has to go to the Zoning Board. The number of feet is irrelevant. The Zoning Board will decide on each individual case to grant a variance or not. They will include the square footage that that individual is allowed to put in place. Councilwoman Wollert said that she understands Mr. Lyon's issue and sympathizes with it as she would not want a yard full of solar panels on the ground next to her. But, it is still within the jurisdiction of the Zoning Board; Council has to be very thoughtful of that. Council cannot impinge on their authority. Councilwoman Wollert added that is the way she is reading it and asked the Attorney or the Township Planner to let her know if she is misunderstanding it.

Mr. Lyons responded that the present law says that if it is residential use, then the definition of a residential use is 500 square feet of lot area for use of ground mounted solar. When someone comes in to get a variance, if they are good with 500 square feet, then they are done. If they need say 1,000 square feet, they would need a variance. Since 500 square feet is already a part of the definition, it can be peeled back to 200 square feet and also made proportional to the lot size. In any case, an additional variance is needed.

Mr. Latini (Township Planner) said that he understands the impetus behind Mr. Lyon's suggestion and then said that Councilwoman Wollert is right. The onerous will be on the Zoning Board to determine if a ground mounted system, which is not permitted in any residential zone size or not, is going to be something that they should entertain. They have to judge that based upon all the facts and evidence before them. 500 square feet of surface area for a ground mounted system was used as a measure based on research Mr. Latini conducted concerning what the typical home needs to power itself with one of these arrays. Mr. Latini said that he kept seeing numbers from 350 to 400 square feet and figured that 500 was a good definition for a residentially scaled array. If somebody were to come before the Zoning Board, regardless of the size, they would still need a variance for the amount of area because once it is on the ground, it would be considered an accessory structure. The definition of residentially scaled, remains appropriate. Neighborhoods are still adequately protected because we do not permit it there. It is a conditional use in other zones. By now making it a conditional use in other zones, it does, in fact, strengthen the argument against putting the arrays on the ground in residential zones. Case law has shaped these discussions. Mr. Latini stated that he is comfortable with the Ordinance as written.

Someone seeking a variance would have a huge burden to prove that they should have one and have one of that size. Setback variances would be required as well.

Councilwoman Keyes-Maloney stated that she knows that the language is not perfect regarding what is encouraged and what is not; but, it is the best that can be done given the confines of the law. The Zoning Board has to make a judgement call, but now they have a guidepost to use. The guidepost is constrained by what other communities have done, what research has shown is consistent with the technology itself and, as the Planner indicated, we are creating an ever increasingly more aggressive hurdle, not an impossible hurdle, in those residential zones. Councilwoman Keyes-Maloney stated that she understands Mr. Lyons' concerns. The hope is that we have come up with something that balances the equity between what we can and cannot do underneath the law while permitting us to make a reasoned answer in case of the Zoning Board if it is something that comes before them that is a question. This gives them a guidepost without precluding them in an inappropriate way.

Mr. Lyons stated that perhaps he misunderstood the purpose of the 500 square feet. If a person gets a variance for residential solar, they do not get 500 square feet as given in the definition; they get 200 square feet.

The Township Planner replied that we have not changed the definition of accessory structure.

Councilwoman Keyes-Maloney added that it only defines what a typical solar system is in most instances.

Mr. Latini added that right now the technology requires a certain amount of kilowatts. The definition itself is not the only thing the applicant will be asking for. They will need to ask for accessory use, and setbacks. Other pieces of the Ordinance will come into play such as screening.

Mr. Lyons mentioned tonight's Ordinance concerning the reduction of the speed limit on Buttonwood Avenue and how after it becomes law, the Police will write tickets – when you speed, there will be a penalty. Mr. Lyons then said that he found that the Zoning Board approved variances greater than ninety-five percent of the time; it is a rubber stamp. If the Traffic Code operated like the Zoning Board, it would be said that the Traffic Code is in a shambles.

President Steward added that there might be a little selection bias in there and said that she did not want to discredit the hard work of those on the Zoning Board.

Councilwoman Keyes-Maloney added that there is a Site Review process that allows for that deliberation up front if there is a less than close call. Items that come before the Zoning Board are questioned because there may be equitable questions on both sides.

President Steward stated that the idea of an Ordinance like this is to give clear guidance so people may be dissuaded.

Councilwoman Keyes-Maloney added that the Site Review process tries to resolve things before the application gets to the Zoning Board.

The Township Planner stated that when people come to him, if it is something really egregious, he tells them up front not to waste their money coming to the Board. That may be why you see a higher rate of approval. However, each case is decided on its own merits.

President Steward added that the goal is not to have fifty-fifty – the goal is to have fair decisions.

Mr. Lyons responded that even if “applications” are previously vetted before they come before the Board, ninety-five percent approval is still a very high rate.

Councilwoman Keyes-Maloney said that it also evokes a number of unique things such as the notice to neighbors which allows people to be involved in the process.

Mr. Lyons responded that it was only by the grace of God that it did not get passed. Even though it was more than 500 square feet and even though it was in a side yard when a rear yard was required and even though it was solar which had never been done before; the discussion revolved around buffering – let's put in bushes and Mr. Lyons will be okay.

Councilwoman Keyes-Maloney replied that it does set clear rules of engagement. This Ordinance can be reviewed in the future.

Mr. Lyons thanked Council.

The Council President said that this Ordinance has gotten better.

There were no additional questions or comments from the Public.

COMMISSION & COMMITTEE REPORTS FROM MEMBERS OF COUNCIL

The Council President stated that she has nothing to report as the Planning Board meeting was cancelled.

Councilwoman Keyes-Maloney said that the Arts Commission met and discussed their Fall schedule including a mural wall at Town Hall. Sketches will be worked out in the coming weeks with the Patriotic Committee and the Administration. The mural is a joint project with the High School. It is meant to display scenes from Ewing – past, present and future. The Artist of the Month will continue. The Fall Student Arts Show is tentatively scheduled for January 28th at the Elks.

Councilman Baxter said that the next Recreation Advisory Board meeting is scheduled for September 18th.

Vice President Wollert said that she had no report yet.

Councilman Schroth said that there are a couple of events coming up for the Green Team. Their Garden Gate Tour is September 16th and 17th; information can be found on the Green Team website. The Community Bike Ride is being held the same weekend as Community Fest. It will begin at 8:30 a.m. at Campus Town. Proceeds are going to the American Cancer Society and, in particular, prostate cancer. Joseph Mirabella is giving a presentation about what every environmentalist needs to know at 6:30 p.m. on September 27th. Community Fest is September 23rd at the College of New Jersey.

The Administrator thanked the Clerk for her hard work on Community Fest. Through her efforts, the money has been raised to cover expenses, the bike ride and hopefully have some left over for next year.

The Clerk thanked the Administrator.

Councilman Baxter stated that he did attend a Green Team meeting where they were working on the “Welcome to Ewing” booklet. Those meetings are held every other Thursday at 7 p.m. at the ESCC if anyone is interested in attending to give their input as to what should be in this booklet.

There were no additional Commission and Committee Reports from members of Council.

NEW BUSINESS

(None for this Meeting)

STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC

Jeff Lenarski (Captain, Career Firefighters) thanked the Township for continuing to have a 9/11 ceremony and for recognizing the work of First Responders. Captain Lenarski announced that currently Career Firefighter, Eric Rowlands, is deployed to Florida. He was called up at the last minute. The Township has been very supportive. Captain Lenarski thanked Mr. Rowlands for his service and stated that it is a credit to the Township that we are willing to help others.

There were no additional questions or comments from the Public.

CLOSED SESSION – The Attorney read (Resolution #17R-176) A Resolution to Enter into Closed Executive Session for the Purpose of 1) Advice of Counsel Regarding Potential Litigation

At 7:25 p.m., the Attorney read the Resolution to enter into a Closed Executive Session pursuant to the Open Public Meetings Act as permitted by Section 10:4-12 which permits Council to go into Closed Session to discuss any matter involving the potential purchase or acquisition of real property with public funds or the setting of banking rates or the investment of public funds which would adversely affect the Public’s interest if such matters were disclosed and to take the advice of Counsel to discuss pending anticipated litigation or contract negotiation. Minutes will be made available, if and when appropriate, after the subject matter is concluded.

At 7:26 p.m., Ms. Keyes-Maloney made a motion to enter into Closed Executive Session, seconded by Mr. Baxter. It was agreed by unanimous voice vote.

At 9:14 p.m., Mr. Baxter made a motion to close the Closed Executive Session, seconded by Mr. Schroth. It was agreed by unanimous voice vote.

At 9:15 p.m., Ms. Wollert made a motion to enter back into Open Session, seconded by Mr. Schroth. It was agreed by unanimous voice vote.

ADJOURNMENT

There being no further business, President Steward asked for a motion to adjourn. Ms. Keyes-Maloney so moved seconded by Mr. Baxter. The meeting was adjourned at 9:15 p.m.

Kathleen Wollert, President

Kim J. Macellaro, Municipal Clerk