

September 26, 2017 – AGENDA SESSION

President Steward called the meeting to order at 6:32 p.m. and read the Open Public Meetings 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 REFLECT THE AUTHORITY FOR THE APPOINTMENT OF THE FIRE OFFICIAL PURSUANT TO THE NEW JERSEY CIVIL SERVICE ACT**

The Attorney explained that the Township had a routine field monitoring visit from the Department of Community Affairs, Division of Fire Safety. In their letter to the Township, they pointed out some deficiencies: one was that the Ordinance appointing the Township Fire Official did not make reference to the Civil Service Act. They directed the Township to amend it.

The Council President stated that this is not changing any of the Township’s practices.

The Attorney replied – no and explained that instead of being appointed by the Mayor, the Fire Prevention Officer will be appointed under the Civil Service Act and shall serve as the Chief Administrator of the Agency.

President Steward asked, for the benefit of the Public, who is the Township’s current Fire Official.

The Administrator responded – Jim Hall. He is part-time as he finishes up his career as a firefighter in Trenton.

Vice President Wollert said that, because the Township was not in compliance with the State statute, she is going to presume that it is a Civil Service title and then asked if it has to be posted.

The Administrator replied that it would have to be posted but as it is part-time position right now, it does not have to be. Mr. Hall is well qualified and has been working for the Town for some time.

Vice President Wollert replied that she has no issue with his qualifications and said that her question goes to the adherence to the Civil Service Act and if that process was followed whether it be full or part-time position.

The Administrator replied that the State did not say that the process was not followed. The State just said to correct it.

The Attorney added that the State did not find that the Town was not in compliance in terms of the appointee currently in this position. The State only said that the Ordinance was not in compliance.

Vice President Wollert responded that she understands that the Ordinance is not in compliance. The heart of the matter is – what was the process.

The Administrator replied that the Township advertised for this position.

The Vice President responded that her question is if the Township advertised properly per the Civil Service. Vice President Wollert said that for a mayoral appointment, the Township does not normally follow Civil Service regulations as generally those title are not considered Civil Service and gave an example of a director of a department. Vice President Wollert asked if the Township is now following the process.

The Attorney responded that the Town was already following the Civil Service process. The Ordinance was out of date.

At the request of Councilwoman Keyes-Maloney, the Attorney further explained what the Division of Fire Safety reviewed during their routine inspection and what the Division requested in their letter to the Township.

Councilwoman Keyes-Maloney asked that a copy of that letter be provided to Council and then stated that the entity that reached out to us was DCA. Civil Service did not raise any questions.

The Administrator responded – correct.

Councilwoman Keyes-Maloney and the Administrator then discussed whether Mr. Hall is acting or in the title; full or part-time.

Mr. Hall Jr. (Ewing Township) responded to Councilwoman Keyes-Maloney's question about qualifications for the position.

Councilman Baxter asked if, down the road, this position will become full-time and does someone have to have the credentials before they can apply.

The Administrator responded – yes.

The Administrator asked Mr. Hall how long does it take to be certified.

Mr. Hall responded – for the Fire Inspector - one semester and then another semester for the Fire Official.

Councilman Baxter asked Mr. Hall if any experience is necessary.

Mr. Hall replied that experience is not necessary; you only have to go through the class.

The Administrator responded to Councilman Schroth's question as to why the Township is moving from part-time to full-time.

Mr. Hall discussed what the current Fire Prevention staff does.

Councilman Baxter and the Administrator further discussed possible future staffing needs as well as the individuals who were in Fire Prevention in past years.

The Attorney discussed an on-going legal issue involving one staff member who had come on board after the law changed. He owns a home in New Jersey but does not want to make it his official residence as it is his summer home.

Councilman Baxter commented that if this Ordinance had already been on the books, Council would not be having this discussion.

Councilwoman Keyes-Maloney mentioned that because Construction is a difficult area in which to find qualified personnel, she hoped that the Administration would encourage existing employees to go for training.

The Administrator explained the training policy.

Councilwoman Keyes-Maloney added that the Township might want to make exceptions to this policy given how difficult it is to get qualified personnel to work in a construction office. It is a state-wide issue.

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

2. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO REPEAL ORDINANCE NO. 17-18 AMENDING THE REVISED GENERAL ORDINANCE OF THE TOWNSHIP OF EWING ADDING CHAPTER 225-10.6, TO PROHIBIT PARKING IN FRONT OF A PUBLIC OR PRIVATE DRIVEWAY

President Steward said that this is a request from the Administration to consider repealing the Ordinance banning parking in front of driveways. The Ordinance was born from residents' concerns about people parking in front of their driveways.

At the Administration's recommendation Council not only prohibited parking in front but also within five feet of either side of a driveway. The request before Council tonight is to remove the entirety of that section. The Council President asked the Administration to explain why this change is being requested.

The Administrator explained that the Administration had requests from people because there are two groups that sometimes block driveways – high school and college students. There is no disputing that you cannot block a driveway. However, the Ordinance went a little too far with the five feet. Fair, balanced enforcement became an issue. Blocking a driveway is a State law even without a municipal ordinance.

Vice President Wollert commented that Council adopted this not long ago at the recommendation of the Administration and said that it should be given a little more time to see if it obtains its goal of alleviating a dangerous situation. Vice President Wollert asked for input from the Police Department as to its feasibility and then stated that she does not want to see Council having to address it later down the road. Councilwoman Wollert added that she knows it is difficult to enforce but the Ordinance should stand for awhile and to see how it plays out.

Councilman Schroth added that the timing, in terms of assessing its effectiveness, is fortuitous as the school year has just started up again.

Councilman Baxter stated that he agrees with his colleagues and added that he wants input from the Police Department as to whether it is enforceable or not and stated that Council should have had that kind of input from the Police when the Ordinance was first being debated.

Councilwoman Keyes-Maloney said that she also agrees with her colleagues and added that for this and all future traffic related items, Council should have input from the Police Department. Councilwoman Keyes-Maloney also mentioned that Council cannot not just remove the five feet requirement as that would make the Ordinance very close to Title 39. The Judiciary would have some issues with it being equal to Title 39. There must be some difference between Title 39 and the Township Ordinances in order for things to stand.

The Administrator said that he respects everything that Council just mentioned and added that some of the feedback is that this Ordinance cannot be enforced evenly throughout the Town as there are some areas where driveways are so close together that people cannot park in front of their home without blocking their own driveway. Also, it does not give any consideration for someone blocking a driveway because they are doing some work in their yard.

The Council President asked if the State Statute gives any such consideration.

The Attorney responded that it does not and then described the steps necessary for a municipality to exempt a homeowner.

President Steward said that Council shares the goal of making sure homeowners have reasonable access to their driveways. However, more research is necessary to find out what the right solution is here.

The Administrator added that he did speak with the Police Chief about it.

The Council President announced that Council is going to hold off on this one. It will not be moved to the Regular Agenda.

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

3. A RESOLUTION AUTHORIZING THE TOWNSHIP TO RETROACTIVELY RATIFY AND ACCEPT THE TERMS AND CONDITIONS OF THE EMPLOYMENT AGREEMENT FOR JOHN P. STEMLER, III TO SERVE AS CHIEF OF POLICE FOR THE PERIOD OF OCTOBER 27, 2014 THROUGH DECEMBER 31, 2019

The Administrator stated that during a discussion a few weeks ago, Vice President Wollert picked up on this and asked why had this not been presented to Council.

The Attorney explained that this retroactively approves the contract for the Police Chief. It largely incorporates the terms of the union contract even though, as Chief, he is not part of the union. The union contract itself was retroactive. The Attorney then mentioned that she is not the Labor Attorney and said that she was unaware that this contract had been negotiated. It needed to come before Council for approval.

President Steward stated that she appreciates Vice President Wollert's due diligence and then asked a process question as to how does the Township keep this type of thing from happening again in the future.

The Attorney replied that she and the Labor Counsel have conferred regarding better communication. Two years ago their offices were next to each other but now that they are no longer at the same firm, she is not necessarily aware of what he is doing all the time.

Vice President Wollert asked that there was an initial contract which Council never approved and then an amended contract which she happened to see and asked if Council has to first approve the initial contract and then the amended contract as conditions in the contract were changed through the amendment.

The Attorney responded that approving the amended contract is sufficient.

The Attorney, Vice President Wollert and the Administrator then discussed this further.

The Administrator, responding to questions by Councilwoman Keyes-Maloney, stated that the original contract was drafted by the Labor Attorney sometime between 2014 and 2016 and the terms and conditions are consistent with the terms and conditions of the Superior Officer's Association.

The Attorney and Councilwoman Keyes-Maloney then discussed October 2016 when the union contracts were adopted and the timeline concerning the Police Chief's contract.

Councilwoman Keyes-Maloney suggested that the Labor Attorney come before Council to discuss this as she has a number of process questions to ask him.

Councilman Baxter commented that five years seems like a long time for a municipality to extend a contract to a police chief and thought that an administration would want to revisit this annually, or perhaps every three years, to be able to follow-up on the direction of the police force or to handle any issues that might arise.

The Council President announced that this will not be moved to the Regular Agenda.

President Steward stated for the record that this conversation has nothing to do with the qualifications of the Police Chief. Council only wants to make sure that proper procedures are in place.

There were no additional questions or comments from Council.

Ron Prykanowski (16 Thurston Avenue) said that, unless the Statute had been changed, a Police Chief is tenured after one year and can only be removed for cause. President Steward replied that that will be researched as well.

There were no additional questions or comments from members of the Public.

4. A RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN THE EWING TOWNSHIP PBA LOCAL NO. 111 AND THE TOWNSHIP OF EWING REGARDING THE MATTER DOCKETED AT THE STATE OF NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION, DOCKET NO. CO-2017-006 AND INCORPORATING THE TERMS INTO THE APPROVED COLLECTIVE BARGAINING AGREEMENT

At the request of the Administration, the Council President announced that this item is being pulled from the Agenda.

5. A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 INCREASE IN THE AMOUNT OF \$36,950.00 FOR UNFORESEEN CIRCUMSTANCES AND CONDITIONS (CODE COMPLIANCE) TO TSIVICOS ENTERPRISES, INC. FOR THE POOL RENOVATIONS AT THE HOLLOWBROOK COMMUNITY CENTER

The Administrator explained that slight changes were made to the pool in order to bring it up to the current Code. The main thing is for young children who might not be able to swim. They have to be able to grab on something within the pool; not just on top. These handholds were not in the original design. This change order also includes slight changes to the splash pad.

Councilman Baxter, the Administrator, the Council President and the Attorney briefly discussed the reasons why the diving board was eliminated and why the pool is going to be only one depth – five feet.

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

6. A RESOLUTION AMENDING RESOLUTION #17R-5 CONSENTING TO THE APPOINTMENT/REAPPOINTMENT OF INDIVIDUALS TO THE SENIOR CITIZEN ADVISORY COMMISSION

President Steward said that Council has the names.

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

7. A RESOLUTION APPROVING A CHANGE ORDER #2 REDUCING THE TOTAL CONTRACT AMOUNT BY \$9,837.41 TO EAST COAST HAZ MAT REMOVAL, INC. FOR ASBESTOS ABATEMENT AT THE HOLLOWBROOK COMMUNITY CENTER

President Steward commented that this is Council's favorite kind of change order.

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

Items one, five, six and seven are approved for action.

BILLS LIST

- 1. A Resolution Authorizing the Chief Financial Officer to Pay Bills in the Amount of \$1,136,737.99 and to Pay Supplemental Bills per Resolution #17R-14 in the Amount of \$24,835.93**

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

CONSENT AGENDA

President Steward presented the Consent Agenda for review.

- 1. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$1590.27 for overpayment of February 1st, 2017 1st Quarter Taxes due to payment in error by Lereta Tax Services to Lereta, 1123 Park View Dr., Covina, CA 91724 for property owner Kamich, Mark & Jessica, for Block: 103 Lot: 17 also known as 36 Wardman Ave.**
- 2. A Resolution Authorizing a Refund, as Recommended by the Tax Collector Due to County Tax Appeal Granted in Taxpayer's Favor in the amount of \$519.52 for August 1, 2017 3rd Quarter Tax Bill to Murray Kara & Kreszel, Thomas, 2240 Pennington Rd., Ewing, NJ, 08638 for property owner Murray Kara & Kreszel Thomas for Block: 225 Lot: 19 also known as 2 Woodfern Ave.**

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

ORDINANCE(S) FOR FIRST READING AND INTRODUCTION

(None for the Meeting)

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

- 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 said that Councilman Baxter brought this to Council after hearing concerns of some residents. This reduces the speed limit on Buttonwood Drive to be a consistent twenty-five miles per hour for its entire length.

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

COMMISSION & COMMITTEE REPORTS FROM MEMBERS OF COUNCIL

President Steward applauded the work of the Administrator and the Clerk on Community Fest. It is an excellent representation of our Town.

The Administrator said that a review meeting will be held. The Administrator also thanked the Clerk and Karen Paterson (TCNJ) for the tremendous amount of work they did. A brief discussion followed regarding possible logistical changes for future Fests.

President Steward said that the Planning Board did not meet so she does not have anything to report.

Councilwoman Keyes-Maloney said that EDA met the other night. The only upcoming event is TCNJ's 5K run benefiting Active Minds which is a mental health group that seeks to support mental health services for folks in need. It is scheduled for October 14th at 9 a.m.

Councilman Baxter said he was not able to attend the Rec Advisory Board meeting. However, he did attend last night's School Board meeting and reported that the School Board discussed the referendum that they are trying to have in 2018. Various improvements are needed for the schools. The School Board is asking residents for their input from now to the end of the year. The website is: epsreferendum@ewingboe.org. Next year, they will begin to shorten and prioritize the list. As they are "losing" a lot of debt this year, the School Board believes it is a good time for them to go out and "bond."

Councilman Schroth said that the Green Team is holding their meeting tomorrow. A special speaker, Joseph Mark-Mirabella, will give a speech on an "Introduction to Ecology and What it Means to Be an Ecologist." The Green Team just had a successful garden contest and upwards of sixty people participated in the Ewing Bike Ride held during Community Fest.

President Steward added that Shred Day is coming up in October.

Councilman Schroth then added that the MCIA has their hazardous waste collection and electronics recycling on October 7th at the Dempster Fire School.

Councilman Baxter added that the next Green Team meeting to discuss the "Welcome to Ewing" booklet will be October 5th at 7:00 p.m.

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

Ron Prykanowski (16 Thurston Avenue) asked what is the status of the title for the leaf drop-off.

The Attorney apologized and said that she will send it to him.

Mr. Prykanowski added that he had a couple of others things but said that he had to speak to the Administrator first to see if it is appropriate to bring before Council.

There were no additional questions or comments from members of the Public.

CLOSED SESSION

(None for this Meeting)

ADJOURNMENT

There being no further business, President Steward asked for a motion to adjourn. Mr. Schroth so moved seconded by Mr. Baxter. It was agreed by unanimous voice vote. The meeting was adjourned at 7:32 p.m.

