

## September 25, 2018 – AGENDA SESSION

President Wollert called the meeting to order at 6:35 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 3<sup>rd</sup> day of January 2018.

**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

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

### DISCUSSION

The Council President announced that Agenda Item Number One “An Ordinance Amending the Revised General Ordinances of the Township of Ewing in the County of Mercer to Add Number 215-39; Titled: Medical Marijuana Alternative Treatment Centers” will be discussed after the Township Planner gets here; he has been delayed because of the weather.

#### **2. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND § 110: BRUSH, GRASS AND WEEDS, AND § 407: NUISANCES, PUBLIC HEALTH**

The Attorney said that the two sections of the Township’s Ordinances which deal with grass, brush and weeds are not exactly the same. The purpose of this Ordinance is to make both sections the same, to bring the length of all weeds to a uniform six inches and to reduce the time frame, after notice, from five days to three before a citation is issued.

President Wollert asked whose responsibility is it to clear the gutters and to cut weeds that grow in the curb.

The Attorney responded that that can be clarified in the future.

Councilwoman Keyes-Maloney asked if it is known what surrounding communities use for the notice requirement.

The Administrator replied that in one town it is five days. We just know that ten days has been too long.

Councilwoman Keyes-Maloney then asked if the Health Department and Code Enforcement were asked about these changes – what is workable for them.

The Administrator replied that both he and the Mayor met with Mr. Daniels, but not with Health, as Code has taken the lead on this.

The entire enforcement process was then explained for the benefit of the Public.

Vice President Baxter said that he saw ten days mentioned in parts of the Ordinance. The Attorney explained that the entire Ordinance, not just the section that is being amended, was provided to Council. The ten day time frame was for a different provision.

Vice President Baxter mentioned those residents who like to have their properties go to its natural state.

The Administrator responded that that is fine until a neighbor complains and then they have to comply.

Vice President Baxter then asked about the paper streets.

The Administrator replied that someone owns the property. If it is the Township, the Administrator has the grass cut every couple of weeks.

The Attorney added that there is a provision in the Ordinance to have a property registered with the Health Department if an owner wants to return the property to its natural state.

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

This Item was approved for Action.

3. **AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND SECTION 225-59, SCHEDULE XII: STOP INTERSECTIONS, CONVERTING THE INTERSECTION OF GREENLAND AND DOUGLAS AVENUES TO FOUR-WAY STOP-CONTROLLED INTERSECTION BY INSTALLING NEW STOP SIGNS AND STOP BARS ON GREENLAND AND DOUGLAS AVENUES**

The Attorney said that when the Engineer issued his opinion about stop signs last month, this particular intersection was missed.

The Administrator added that this is being done instead of putting in speed humps. We will see how it works.

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

This Item was approved for Action.

4. **A RESOLUTION OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, STATE OF NEW JERSEY, APPROVING A CORRECTIVE ACTION PLAN FOR CY2017 AUDIT**

The Administrator said that there was one minor item. When the Public Defender has someone cover for him, the fees go against that account. The account was about \$50.00 short. The corrective action is that the CFO will watch the account on a regular basis when the Township pays anyone who is not the appointed officer.

President Wollert added that the money was in there – it just needed to be in a specific account.

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

This Item was approved for Action.

5. **A RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87**

The Administrator said that this is the annual “Click It or Ticket” grant. The Police will set up random seatbelt checks.

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

This Item was approved for Action.

6. **A RESOLUTION OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, STATE OF NEW JERSEY AUTHORIZING THE TOWNSHIP TO RENEW MEMBERSHIP IN THE GARDEN STATE MUNICIPAL JOINT INSURANCE FUND AND TO EXECUTE AN INDEMNITY AND TRUST AGREEMENT WITH SAID FUND**

President Wollert said that this is something that the Township has participated in for a number of years now.

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

**This Item was approved for Action.**

- 7. A RESOLUTION TO APPLY TO NEW JERSEY TRANSIT CORPORATION FOR THE PURCHASE AND INSTALLATION OF A BUS SHELTER ALONG PARKWAY AVENUE (CR 634) SOUTHBOUND BETWEEN SILVIA STREET AND WALTER STREET (IN FRONT OF WAWA)**

**Council President Wollert said that this is self-explanatory. It is for a bus shelter on Parkway Avenue at the Wawa.**

**The Administrator added that the Township will maintain it once it is in place.**

**Councilwoman Steward asked if this will be in that cutout.**

**The Administrator replied – yes. The shelter currently in front of the Credit Union is being moved down the street.**

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

**This Item was approved for Action.**

- 8. A RESOLUTION DECLARING SURPLUS AND SELLING A SURPLUS RADAR UNIT FROM THE TOWNSHIP OF EWING POLICE DEPARTMENT TO THE CITY OF TRENTON POLICE DEPARTMENT FOR ONE DOLLAR**

**President Wollert said that this is routine. The Township is selling it to a nearby Town for a minimal amount of money.**

**Vice President Baxter added that this is an older unit that the Police Department no longer has use for.**

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

**This Item was approved for Action.**

#### **BILLS LIST**

- 1. A Resolution Authorizing the Chief Financial Officer to Pay Bills in the Amount of \$6,020,045.72 and to Pay Supplemental Bills per Resolution #18R-15 in the Amount of \$27,483.28**

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

**This Item was approved for Action.**

#### **CONSENT AGENDA**

**Council President Wollert presented the Consent Agenda for review.**

- 1. Approval of Agenda Session Minutes for July 10, 2018; Approval of Regular Session Minutes for July 10, 2018**
- 2. A Resolution Authorizing a Refund, as Recommended by the Chief Financial Officer for Overpayment of Retail Food Establishment License Fees in the amount of \$150.00 for the overpayment of \$75.00 per year for a Retail Food Establishment License in both 2017 and 2018 for River Horse Brewing Company, 2 Graphics Drive, Ewing 08628.**
- 3. A Resolution Authorizing a Refund, as Recommended by the Township Construction Official in the amount of \$125.00 to Anne Marie-Tustin, 16 Millbrook Lane, Lawrenceville, NJ 08648 for a permit at 631 Concord Circle, Ewing, NJ 08638. The buyer decided not to buy the property.**
- 4. A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$100.00 for overpayment of October 1, 2018 2<sup>nd</sup> Half Sewer to Phyllis Farquharson, 99 Chelsea Avenue, Ewing, NJ 08638, for property owner Phyllis Farquharson for Block: 61 Lot: 24 also known as 99 Chelsea Avenue.**

5. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$32.18 for overpayment of October 1, 2018 2<sup>nd</sup> Half Sewer to Marianne Dimola, 11 Montague Avenue, Ewing, NJ 08628, for property owner Marianne Dimola for Block: 434 Lot: 10 also known as 11 Montague Avenue.**
6. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$40.44 for overpayment of October 1, 2018 2<sup>nd</sup> Half Sewer to Christian & Suzanne Brodbeck, 945 Terrace Blvd., Ewing, NJ 08638, for property owner Christian & Suzanne Brodeck for Block: 485 Lot: 185 also known as 945 Terrace Blvd.**
7. **A Resolution Authorizing a Refund, as Recommended by the Tax Collector for Overpayment in the amount of \$198.07 for overpayment of October 1, 2018 2<sup>nd</sup> Half Sewer to 1562 12<sup>th</sup> LLC, 36-42 Newark Street Suite 303, Newark, NJ 07030, for property owner 1562 12<sup>th</sup> LLC for Block: 87 Lot: 523 also known as 1562 Twelfth Street.**
8. **A Resolution Authorizing the Miller, Nelson, and Logan Families to Hold a Block Party/Road Closing (Family Reunion) on September 29, 2018**

**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. **AN ORDINANCE RE-APPROPRIATING \$150,000 FROM UNUSED DEBT AUTHORIZATIONS NOT NEEDED FOR THEIR ORIGINAL PURPOSE IN ORDER TO PROVIDE FOR STORM DRAIN AND SEWER REPAIRS IN AND BY THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, NEW JERSEY**

**The Administrator explained that this will be used for repairs on Hawthorne and across from Lore School. These repairs will cost more than \$150,000.00. The remainder of the funds will come from the Township budget.**

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

**This Item was approved for Action.**

2. **AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND SECTION 225-59, SCHEDULE XII: STOP INTERSECTIONS, CONVERTING THE INTERSECTIONS OF HOMECREST AND CHELSEA AVENUES AND HOMECREST AND DOUGLAS AVENUES TO FOUR-WAY STOP-CONTROLLED INTERSECTION BY INSTALLING NEW STOP SIGNS ON HOMECREST AND STOP BARS ON BOTH ROADWAYS**

**President Wollert said that this is the original Ordinance that is on for Second Reading. There is a follow-up Ordinance on for First Reading tonight which includes an additional Douglas Avenue intersection.**

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

3. **AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 225-48 SCHEDULE I: NO PARKING ANYTIME, TO PROHIBIT PARKING ON EITHER SIDE OF THE CURVE AT THE INTERSECTION OF DIXMONT AND ALBANS AVENUES**

**President Wollert said that there will be a Public Hearing on this at the Regular Meeting.**

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

**This Item was approved for Action.**

**4. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 4, ARTICLE X: DEPARTMENT OF PUBLIC SAFETY TO ADD NEW SECTION 4-56: ESSENTIAL PERSONNEL IN EVENT OF DECLARED EMERGENCY**

The Attorney explained that there is no State statute that delineates who the essential personnel are in the event of a declared emergency. It is left to the local municipality. The Attorney listed the job titles defined as essential personnel in this Ordinance. Some job titles are essential dependent on the nature of the emergency.

Councilwoman Steward asked who determines which job titles are essential depending on the emergency.

The Attorney responded – the Mayor, the Administrator and the Emergency Management Coordinator.

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

**This Item was approved for Action.**

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

Councilwoman Keyes-Maloney said that the EDAA returned after its summer break. It did participate in National Night Out, but does not typically meet in July and August. They are looking forward to participating in Community Fest this Saturday and have a couple events scheduled at the College of New Jersey.

Vice President Baxter said that he had a conflict and was unable to make the Recreation Advisory Board meeting last Monday.

Councilwoman Steward said that the Green Team will also be at Community Fest this weekend. Their annual bike tour will also be held that day. Registration is still open on the Green Team website. The Green Team meets tomorrow night, 6:30 p.m., at the ESCC. Also this Saturday, the County is holding its last hazardous waste collection for the fall. Trunk or Treat will be in October. The Green Team will again be holding their (made from trash) Scarecrow contest.

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

The Council President announced that Council will be appointing a new member – Mr. Mohamed Idrissi Hassani - to the Environmental Commission at tonight's Regular meeting. President Wollert thanked him for his willingness to serve.

President Wollert announced that as Mr. Latini, the Township Planner, has arrived; Council will now discuss Discussion Item Number One:

**1. AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER TO ADD § 215-39; TITLED: MEDICAL MARIJUANA ALTERNATIVE TREATMENT CENTERS**

Chuck Latini (Township Planner) thanked Council for entertaining this topic. The reason to discuss this now, at this early stage, is quality. The best companies are positioning themselves to practice medical marijuana at a pharmaceutical level. They do not want to just make money with recreational marijuana but aspire to be the next big pharma. Ewing is in a unique position, when you look at a map of the six existing dispensaries, as not only being outside of these current service areas but also being able to service populations that may be underserved. Close to a dozen applicants claimed Ewing as a potential address for their businesses. Some two dozen entities also met with the Administration to explain their operation. That and information learned from colleagues in Colorado and Washington State helped craft this Ordinance. This Ordinance attempts to control medicinal marijuana only. Recreational use will have to be discussed carefully in the future. The Ordinance outlines all of the definitions, some of which are within the current Compassionate Use Medical Marijuana Act and some the Township added, such as the definition of an Alternative Treatment Center (ATC). The State views ATCs as one entity that has

a license controlling from seed to sale. But, for purposes of Zoning, Mr. Latini believes that an ATC is the public interface with this entity. It is where people go to get treatment. The laws have started to evolve and are beginning to look at cultivation and manufacturing as a separate use. The Township has jumped ahead of that and is treating cultivation and manufacturing far different than the dispensary. One dispensary per every 12,000 residents will be allowed. Given the population, it will pretty much be capped at three - four if the population is pushed but that will be another 8,000 people and Mr. Latini said that he does not see that happening for another fifty to one hundred years. The Ordinance regulates how close they can be from one another – at least 1,500 feet – which is similar to the alcohol ordinance. ATCs also, as per State regulation, must be 1,000 feet from drug-free school zones, churches, parks and other stuff. Cultivation and manufacturing, if it is in an industrial area and tucked back, may be near a school. An example is the old Public Works yard which is 1,000 feet from Notre Dame High School. Township zoning will allow for it. Mr. Latini described how these cultivation and manufacturing facilities are being operated in Pennsylvania. The buildings are nondescript with no signage. There is the highest level of on-site security which is regulated by the State. The Public is not allowed and, most likely, they will not even know that it is there. Dispensaries will be allowed in the following Zones: the Redevelopment Area – Subareas One, Two, Three (Spruce Street only), Five (Olden Avenue only) and Six (Olden Avenue only); TC and Professional Office. Cultivation and Manufacturing will be allowed in the IP1 Zone and the Redevelopment Area – Subareas Two, Three, Four, Five and Six. Unless accompanied by a dispensary, these sites can not be on a major frontage. Mr. Latini stated that the Ordinance also deals with a number of items spelled out in State regulations. Other requirements include: no outdoor cultivation, paraphernalia can be sold if it is in-line with what is necessary for medical purposes, professional signage, no exterior advertisement and parking is akin to Professional Office. Security and reporting is consistent with State regulations. Products cannot be visible from public spaces. Mr. Latini said that there is a provision which will allow, once there is Site Plan approval, the Planning Board to impose reasonable conditions to advance public health, safety and welfare.

President Wollert said that this is related strictly to medical marijuana as permitted by the State since 2010. Currently, there are six dispensaries.

The Township Planner, the Attorney and the Council President discussed future State plans.

President Wollert asked how was it decided to have one Alternative Treatment Center per 12,000 people and added that it seems a little much to her.

The Township Planner responded. Looking purely at a zoning analysis, there are only a half-dozen sites that make sense. The 12,000 number looks at the service area of a dispensary in a full grown market.

Councilwoman Keyes-Maloney added that right now, the only permitted licenses are vertically integrated – from seed to sale. This Ordinance is forward looking and takes into account when the focus becomes non-vertical integration and allows for a stand-alone dispensary.

Councilwoman Steward asked if the current vertical integration requires everything to happen at the same site.

The Township Planner responded – no.

Councilwoman Keyes-Maloney added that the licenses (and applications) are carefully vetted. She and the Township Planner then discussed who is involved in the robust review process.

The Attorney stated that there are a number of edits to the printed version of the Ordinance that Council has seen. The Attorney then read each one.

Vice President Baxter asked if the State is imposing the security regulations.

The Township Planner replied – yes.

Vice President Baxter asked if the idea is for these places to be in busier areas, with more lights and more eyes on it.

Mr. Latini replied that that is the intention.

Vice President Baxter asked about the storefronts along Bear Tavern Road and West Upper Ferry – are any of those being considered.

Mr. Latini responded that the PRO Zone does encompass part of West Trenton, but the BH zone, which includes that corner, could be added.

Vice President Baxter said that if it comes down to two or three companies, it is a matter of whichever gets the application in first as opposed to quality.

Mr. Latini replied that it will be about timing but presumably it would be about quality at that point as the companies have already been vetted by the State.

Councilwoman Keyes-Maloney added that the State serves as the reviewer. It could create a challenge if the Township puts additional requirements on “not first in time.”

Mr. Latini responded to Vice President Baxter and explained what local health offices would do.

Councilwoman Steward asked if this would be something new for the Health Department to inspect just like with body art.

The Health Officer responded that local health offices are still waiting on a determination from the State.

The Attorney added that the Township is just going to have to wait for guidance from the State. There will be things that the Health Department will have to inspect.

Mr. Latini added that right now the State is doing the testing on the actual product. Eventually, companies will have to do that as the State will not be able to keep up with the amount of testing that will be necessary.

Ms. Steward asked if a fee could be assessed and added that she is curious as to the impact on the Health Department.

The Attorney reiterated that at this point, there is just not enough guidance from the State.

Vice President Baxter asked for clarification as to where retail would be located for stand-alone cultivation sites; would the retail space be allowed next door.

Mr. Latini replied that there are a few sites big enough to have a retail frontage with enough warehouse space in the back that could be used for cultivation. The Township does not want cultivation only buildings as that would create a dead space in the Township's retail zones.

Councilwoman Keyes-Maloney thanked Mr. Latini and said that it is a really good draft Ordinance to review. Councilwoman Keyes-Maloney mentioned disposal considerations.

Mr. Latini responded that currently, there are strict protocols similar to medical waste. At some point, the State may relax those rules and local entities will have to deal with it.

Councilwoman Keyes-Maloney suggested that the Township may want to preclude drive-in or walk-up dispensaries. Also, in the future, more may need to be done regarding signage – to make sure that it is discreet.

The Township Planner added that when this goes recreational, towns that did not do anything or chose to say no to everything are going to be stuck; hit with discriminatory zoning practices or freedom of speech issues.

Councilwoman Keyes-Maloney said that she is curious as to how the public will view this but it is a good start. It is essential to take that affirmative step and figure out where these should be located in the Town; this Ordinance does that.

Mr. Latini said that he cannot imagine that the State would grant two new licenses in Central Jersey and both would be in Ewing. He envisions one in either Trenton or Ewing and the other across the State in perhaps Asbury Park.

The Attorney responded to Councilwoman Steward's process question. After approval tonight, it will then go to the Planning Board for their input and Master Plan consistency review.

There were no additional questions or comments from Council.

## NEW BUSINESS

(None for this Meeting)

The Council President asked for Statements and Comments from Members of the Public including any questions or comments on Mr. Latini's presentation.

## STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC

Joshua Rafferty (40 Brophy Drive) said that he is sixteen years old and attends Princeton Day School and that he is here tonight to speak to Council about the role of government. Mr. Rafferty read from the Declaration of Independence and then asked Council to examine the word "life" and what it means to each of them. For him, life means having clean air to breathe and clean water to drink along with the basic needs of each man. The role of government is to protect these basic human rights to life, liberty and the pursuit of happiness. Mr. Rafferty then mentioned the issues that Trenton Water Works has been having and asked that Council consider examining the Township's contract with Trenton Water in order to ensure the protection of its citizens and to also consider a partial reimbursement to the taxpayer. Mr. Rafferty also asked Council to consider the role of government; a government entity has violated his rights and he is asking his government for help with this problem.

Council President Wollert thanked Mr. Rafferty for his comments. There have been and will continue to be meetings between the Township and Trenton Water Works to improve service. New management is in the process of hiring new employees. As far as reimbursing

taxpayers, the bill is paid to Trenton Water Works. Part of the payment is for the purpose of maintaining the infrastructure. The Town can reiterate that to Trenton Water Works management.

The Administrator thanked Mr. Rafferty for coming tonight and provided additional information concerning the situation and the Township's response to it. The Administrator then told Mr. Rafferty that if he came across any additional information that he feels should be brought to the Township's attention, he is welcome to come forward with it.

Councilman Schroth asked the Administrator about the \$5 million the City of Trenton received to rebuild the infrastructure.

The Administrator said that this money is also to be used to rebuild the reservoir and for Ewing residents, to provide long term loans - \$1,000.00 - to fix any pipes that need to be fixed. Trenton Water will come out and tell you if your pipes need to be replaced.

Councilman Schroth added that, in the past, sometimes people without the proper qualifications were put in positions that maybe they should not have been. The new Mayor is making an effort to bring in top tier people..

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 Wollert asked for a motion to adjourn. Ms. Keyes-Maloney so moved seconded by Mr. Baxter. It was agreed by unanimous voice vote. The meeting was adjourned at 7:54 p.m.

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Kathleen Wollert, President

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Kim J. Macellaro, Municipal Clerk