

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD JANUARY 15, 2019**

CALL TO ORDER

At 7:01 p.m. the Mayor called the meeting to order.

The Township Clerk stated that adequate notice of this meeting has been provided by posting the same on the bulletin board of Town Hall and forwarding a copy to the Courier News and Star Ledger at least forty-eight hours prior to this meeting, all in accordance with the Open Public Meetings Act.

ROLL CALL

The following Council members were present:

Mr. Bavoso
Mr. Couto
Mrs. Kingsley
Mr. Medeiros
Mrs. Poage
Mr. Yellin
Mayor Devanney

Also present were:

Township Attorney: Kraig Dowd
Township Administrator: Liza Viana
Township Clerk: Ana Minkoff

FLAG SALUTE

Mayor Devanney asked everyone present to stand for the Flag Salute.

CONFERENCE SESSION

YMCA Discussion

Mayor Devanney stated that in response to recent announcement that the Community Pool would not be open for this summer, she asked the YMCA to speak on that topic.

Mr. Paul Kieltyka, President and CEO of the Summit Area YMCA, spoke about the project. He detailed the timeframe of the project, noting what led to the recent decision to not open the pool for the 2019 season. He did point out that they are on track to open January 2020 and expect to be fully operational for the 2020 season.

Mrs. Kingsley asked if the YMCA has been in touch with other pools in the area as a workaround for the 2019 season. Mr. Kieltyka responded and discussed their contingency plans.

Mr. Medeiros asked Mr. Kieltyka if he is confident that the pool will be open for the 2020 Season. Mr. Kieltyka responded and confirmed that he is and he ran through the construction timeline.

Mr. Bavoso asked Mr. Kietyka to confirm that the pool will be open in May of 2020 and he did.

Mr. Yellin stated that he heard from a number of residents that there had been a firm guarantee that the pool would be open for the 2019 season and asked Mr. Kietyka if there had been a firm guarantee. Mr. Kietyka noted that he can only speak for himself, but stated that no promises were made and he elaborated.

New Municipal Complex

Mayor Devanney announced that there has been an addition to the agenda and MAST construction will be presenting during Conference Session. She also noted that they will be coming to Council Meetings on a more regular basis to provide a project status.

Mr. Edmunds of MAST Construction provided an in depth update on the building of the new municipal complex. A detailed discussion followed between Mr. Edmunds and Council regarding the schedule, the soil and the brine.

Mayor Devanney announced that there will be a construction meeting on January 22nd.

TOWNSHIP COUNCIL REPORTS

Mr. Bavoso reported on the following topics:

- Date of the Reorganization Meeting

Mr. Bavoso raised concerns with the Shared Services for DPW Director and read a statement.

Mr. Couto reported on the following topics:

- PBA Fundraiser - Casino Night
- Diversity Council – Martin Luther King Day of Service

Mrs. Kingsley reported on the following topics:

- Fireman's Installation Dinner

Mrs. Kingsley raised concerns with the Shared Services for DPW Director. A discussion continued on the topic with Mr. Dowd and Council. Mayor Devanney asked Mr. Dowd to look into the conflict of interest concerns.

Mr. Medeiros reported on the following topics:

- Environmental Commission – Community Garden
- Government shutdown

Mrs. Poage reported on the following topics:

- Fireman's Installation Dinner
- Lunar New Year

- Diversity Council – Martin Luther King Day of Service
- Planning Board
- Board of Health

Mr. Yellin reported on the following topics:

- New Jersey League of Municipalities Training
- Fireman’s Installation Dinner
- PBA Fundraiser - Casino Night

Mr. Yellin spoke about the importance of the Township Clerk, acknowledging Ms. Minkoff.

ADMINISTRATION REPORTS

Mayor Devanney discussed the following topics:

- Township Transition Report
- Transition meetings held with various staff, professionals and committees
- Fireman’s Installation Dinner
- Library Board Meeting
- Administering Oath of Office for Planning Board members
- Board of Health
- Clean Communities Grant
- Administering Oath of Office for Rescue Squad members
- PBA Fundraiser - Casino Night
- Her First Wedding Ceremony

Ms. Viana provided updates on recent work completed in the following departments:

- Public Works
- Recreation
- Engineering
- Construction
- Wastewater Treatment
- Zoning

Ms. Viana noted that they are looking for applicants for the Union County Transportation Advisory Board.

Ms. Viana also reported on the development projects in town and the Township’s new website. A discussion with Council and the Mayor followed on the topic.

Ms. Viana spoke about the new recycling schedule. Mr. Bavoso asked about the issues and noted that it seemed to go smoothly. Ms. Viana responded and the discussion continued with Ms. Viana, Mr. Bavoso and Mrs. Kingsley.

Approval of Township Council and Administration Reports

Mover: Mr. Bavoso

Seconder: Mr. Couto

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None
Abstain: None
Absent: None

Result: Approved

HEARING ON AGENDA ITEMS ONLY

Opening of the Hearing on Agenda Items Only

Mover: Mr. Couto
Seconder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Mr. Raaymakers of 180 Timber Drive spoke about the new YMCA and community pool project. He asked who made the decision not to open, who from the Township was informed, and when the decision was made. He added that they had no intension to build the pool in the timeframe that they promised.

Mr. Ronner of 49 Debbie Place referenced Agenda item #3 and asked if Harbor is still the Planner for the projects in progress and listed these projects specifically. The Mayor confirmed and Mr. Ronner strongly suggested that these projects be included as a list in that resolution.

Mr. Ronner referenced the \$50,000 Not to Exceed amount in the resolution and asked who came up with the amount. Mayor Devanney responded and a discussion continued on the topic.

Mr. Sincaglia of 22 Robbins Avenue referenced Agenda item #5, stating that he is pleased that we are keeping McManimon, Scotland & Bauman, LLC. He asked if the intent it to have them handle new projects that may come up, as well as those already in progress. Mayor Devanney responded and a brief discussion continued.

Mr. Sincaglia asked if they would continue to represent the Township in the dealings with the Warren redevelopment project. Mayor Devanney responded.

Mr. Sincaglia referenced Agenda item #2 and asked how much we spend on Real Estate Appraisal services annually. Mr. Marceau responded. Mr. Sincaglia asked why we did not retain the firm we had previously used. Mayor noted that they had not submitted a response to our Request for Qualifications. Mr. Sincaglia asked if this is considered professional service. Mr. Dowd responded.

Mr. Maciejewski of 40 Ralph Place asked if the new Planner will oversee the current Planner. The Mayor responded. Mr. Maciejewski asked if there was an end date and the Mayor explained that professional appointments are all annual appointments.

Mr. D'Aquila of 85 Whitney Drive referenced Agenda item #3 and asked if the \$50,000 includes or excludes the municipal complex project work. Mayor Devanney and Mr. Marceau replied that it is excluded and elaborated. Mr. D'Aquila asked what triggers that \$50,000. The Mayor responded.

Mrs. Varnerin of 20 Wardle Avenue asked why she did not see a \$50,000 Not to Exceed limit for the new Township Planner. Mayor and Council confirmed that there was the same limit for the new Planner.

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Mr. Ronner asked for confirmation that the Harbor work on the municipal complex is excluded from the \$50,000 Not to Exceed. Mr. Marceau responded. Mr. Ronner asked if Mr. Dowd had an update from the prior meeting at which he said he would review the contract. Mr. Dowd and Mayor Devanney responded and a discussion followed on the impact of the \$50,000 on any of the projects.

Mr. Ronner asked that the specific list of projects be included in the resolution. The Mayor agreed. The discussion continued with the Mayor, Council and Mr. Dowd on how to proceed with this resolution.

Mr. Scorzafava of 356 Timber Drive raised conflict of interest issues with the DPW Shared Service agreement. Mayor and Council reminded him that this is the Hearing on Agenda Items only and those comments should be made during the Citizens Hearing at the end of the meeting.

Mr. Scorzafava expressed his concerns with the \$50,000 threshold noting that it may slow down the process.

Closing of the Hearing on Agenda Items Only

Mover: Mr. Couto
Seconded: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

APPROVAL OF RESOLUTIONS

1. Resolution approving Bill List dated January 15, 2019 in the amount of \$1,023,264.50.

Mrs. Kingsley noted that this Bill List includes a number of bills for the Winter Walk, however the Township acts as a pass-thru and no taxpayer funds are used for the event.

Approval of Resolution

Mover: Mrs. Kingsley
Seconded: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

2. Resolution appointing Appraisal Associates, Inc. as Real Estate Appraisal & Consulting Services for the Township of Berkeley Heights in an amount not to exceed \$10,000.00.

Approval of Resolution

Mover: Mr. Medeiros
Seconded: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None

Absent: None

Result: Approved

3. Resolution appointing Harbor Consultant as Township Planner for the Township of Berkeley Heights in an amount not to exceed \$50,000.00.

Mr. Dowd read the amended resolution.

Mr. Bavoso commented that he understands the \$50,000 but noted that he has concerns that this could hold up the process. Ms. Viana explained the trigger process and Council discussed the process.

Approval of *Amended* Resolution

Mover: Mrs. Poage

Second: Mrs. Kingsley

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None

Abstain: None

Absent: None

Result: Approved (as amended)

4. Resolution appointing Jeffrey Surenian and Associates as Affordable Housing Attorney Services for the Township of Berkeley Heights in an amount not to exceed \$50,000.00.

Approval of Resolution

Mover: Mr. Yellin

Second: Mrs. Kingsley

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None

Abstain: None

Absent: None

Result: Approved

5. Resolution appointing McManimon, Scotland & Bauman LLC as Redevelopment Counsel for the Township of Berkeley Heights in an amount not to exceed \$50,000.00.

Mr. Bavoso expressed his approval of the Township retaining Mr. Jessup.

Approval of Resolution

Mover: Mr. Bavoso

Second: Mr. Medeiros

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None

Abstain: None

Absent: None

Result: Approved

6. Resolution authorizing the submission of a strategic plan for the Berkeley Heights Municipal Alliance grant for fiscal year July 1, 2019 -June 30, 2020.

Approval of Resolution

Mover: Mr. Couto
Seconded: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

7. Resolution authorizing appropriations to cover the period from January 1, 2019 to December 31, 2019 in an amount of \$2,399,113.73.

Mr. Medeiros confirmed the intent of this resolution.

Approval of Resolution

Mover: Mrs. Kingsley
Seconded: Mr. Couto
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

8. Resolution authorizing 26.25% of the total appropriations in the 2018 budget in the amount of \$4,522,885.53.

Mr. Yellin asked if we had ever provided the detailed amount in previous years. Mrs. Kingsley explained that we had.

Approval of Resolution

Mover: Mr. Medeiros
Seconded: Mr. Couto
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

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9. Resolution appointing Stephen Yellin to the Memorial Park Renewal Committee for a term to expire on 12/31/2019.

Approval of Resolution

Mover: Mrs. Poage
Seconder: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

10. Resolution appointing Dr. Gary Pien to the Board of Health for a term to expire on 12/31/2021.

Approval of Resolution

Mover: Mr. Yellin
Seconder: Mr. Couto
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

11. Resolution appointing Stephen Yellin to the Communications Committee for a term to expire on 12/31/2019.

Approval of Resolution

Mover: Mr. Bavoso
Seconder: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

12. Resolution appointing Sheila Buthe to the Berkeley Heights Public Library for a term to expire on 12/31/2023.

Approval of Resolution

Mover: Mr. Couto
Seconder: Mr. Bavoso
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

13. Resolution appointing Ilene Weber to the Board of Health for a term to expire on 12/31/2021.

Approval of Resolution

Mover: Mrs. Kingsley
Second: Mr. Couto
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

14. Resolution appointing Donald Bogosian as the Municipal Court Judge for a term to expire on 12/31/2021.

Approval of Resolution

Mover: Mr. Medeiros
Second: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

15. Resolution appointing Barbara Russo and Ana Minkoff as representatives to the Community Development Revenue Sharing Committee.

Approval of Resolution

Mover: Mrs. Poage
Second: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

16. Resolution appointing James Hopkins as Fire Official.

Approval of Resolution

Mover: Mr. Yellin
Second: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None
Abstain: None
Absent: None

Result: Approved

17. Resolution appointing the 2019 Fire Inspectors.

Approval of Resolution

Mover: Mr. Bavoso
Seconder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

CONSENT AGENDA

All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

18. Consent Agenda Resolutions (a-b)

a. Resolution authorizing the Tax Collector to refund the following 2018 tax overpayment:

1. Vladimir & Svetlana Shapiro	15 Surrey Lane	\$105.47
2. Hui Liu	27 Castle Drive	\$373.78
3. Angela Sun	71 Greenbriar Drive	\$100.15
4. Stephen & Cecilia Chiang	151 Baker Avenue	\$1,520.20
5. Yan Donglei	38 Wilson Drive	\$2,409.22
6. Peter P. & Marion Caggiano	132 Sutton Drive	\$803.62

b. Resolution authorizing unclaimed bail funds in the amount of \$26.00 be deposited as miscellaneous revenue.

Approval of Consent Agenda Resolutions #18 a-b

Mover: Mr. Medeiros
Seconder: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

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19. Resolution appointing Peter Bavoso to the Communications Committee for a term to expire on 12/31/2019.

Approval of Resolution

Mover: Mr. Couto
Seconder: Mrs. Poage
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

20. Resolution appointing Alvaro Medeiros to the Board of Health for a term to expire on 12/31/2019.

Mr. Yellin and Mayor Devanney provided clarification as to the need for the Additions to the Agenda.

Approval of Resolution

Mover: Mrs. Kingsley
Seconder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

21. Resolution appointing Manuel Couto to the Peppertown Park Renewal Committee for a term to expire on 12/31/2019.

Approval of Resolution

Mover: Mr. Medeiros
Seconder: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

22. Resolution appointing Manuel Couto and Jeanne Kingsley to the Downtown Beautification Committee for a term to expire on 12/31/2019.

Approval of Resolution

Mover: Mrs. Poage
Seconder: Mr. Bavoso

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

CITIZENS HEARING

Opening of the Citizens Hearing

Mover: Mr. Yellin
Seconder: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Mrs. Cohen of 182 Dogwood asked Mr. Yellin if he was hired by Mr. Graziano. Mr. Yellin responded. Mrs. Cohen asked if Mr. Yellin had gone to the state local government ethics board and Mr. Yellin responded. Mrs. Cohen asked Mr. Yellin if he had worked with Mr. Dowd on this matter and he confirmed. She then asked if that took place prior to January 1st. Mr. Yellin responded.

After confirming that Mr. Yellin had consulted with Mr. Dowd on the matter, Mrs. Cohen questioned Mr. Yellin if Mr. Dowd was working for him personally, not for Berkeley Heights, since he was not yet appointed as Township Attorney. Mr. Yellin responded and a longer discussion continued on the topic.

Mrs. Cohen asked Mr. Yellin if he would now be willing to go to the state local government ethics board so we could have assurances that there is not a conflict of interest. Mr. Yellin responded and Mrs. Cohen explained her request citing the risk to the Township and the cost associated with that risk, even if Mr. Yellin is right. Mr. Yellin responded and there was a discussion about which legal counsel Mr. Yellin would consult.

Mr. Joseph of 205 Gallinson Drive announced that the Diversity Council will be holding a Martin Luther King Day of Service at Autumn Lakes from 2:30 pm until 4:30 pm and he encouraged the Mayor and Council to join. He also noted that on February 2nd, Lunar New Year, they have an event with the YMCA from 4:30 pm until 6:30 pm. Council asked about the events and a brief discussion followed.

Mr. Joseph spoke about the difficulty of bagging leaves and suggested that the town introduce a system which would eliminate the need to bag. He referenced the system used in New Providence where a permit can be purchased for residents who choose to pay for the service.

Mr. Maciejewski of 40 Ralph Place referenced the advertising with the electronic board on a truck and asked who initiated the legal review of that. A brief discussion followed. Mr. Maciejewski spoke to the legal bills associated with this and expressed his issue with the use of town funds on the matter.

Mr. Maciejewski asked the Mayor if the communications consultant position is officially closed. Mayor Devanney replied.

Mrs. Cohen asked Mr. Dowd whether or not he had a discussion with Mr. Yellin prior to January 1st. Mr. Dowd confirmed.

Mr. Brown of 156 Briarwood Dr. E. noted that at the last meeting a resolution was introduced by a Councilmember that ultimately voted against that resolution. He proposed that the resolutions be introduced by Council that supports the resolution. Council responded and a discussion followed about the process and feasibility of Mr. Brown's request.

Mr. Scorzafava spoke about the \$50,000 Not to Exceed amount. He asked the Mayor if she discussed that amount with Council or if she just came up with the number. Mayor Devanney responded and a brief discussion followed.

Mr. Scorzafava addressed Mr. Yellin. He noted that Linked In still shows him working for the County DPW and asked when he transferred to the Finance department. Mr. Yellin responded. Mr. Scorzafava asked the specific date when Mr. Yellin spoke with personal counsel and Mr. Yellin responded.

Mr. Scorzafava asked that Mr. Yellin reconsider going to the state ethics board noting the importance of the issue and adding that there is a moral component and that the decision should not be Mr. Yellin's alone. Mr. Scorzafava asked Mr. Yellin if he spoke with any attorney other than Mr. Dowd. Mr. Yellin replied.

Closing of the Citizens Hearing

Mover: Mr. Yellin
Secunder: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

EXECUTIVE SESSION

1. Attorney-Client Privilege - Personnel – DPW

Move to go into Executive Session

(8:56 p.m.)

Mover: Mr. Medeiros
Secunder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

The Mayor reminded all that they would be coming out of Executive Session, only to adjourn.

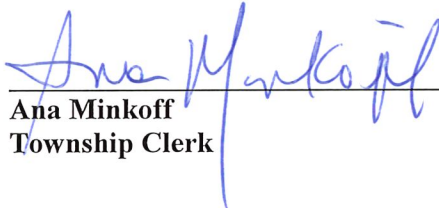
ADJOURNMENT

Moved by Mrs. Poage to adjourn and all were in favor.

(10:23 p.m.)

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Approved: May 29, 2019



**Ana Minkoff
Township Clerk**