

**TOWNSHIP OF BERKELEY HEIGHTS  
UNION COUNTY, NEW JERSEY  
COUNCIL MEETING HELD FEBRUARY 4, 2020**

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**CALL TO ORDER**

At 7:00 p.m. the Mayor called the meeting to order and the Township Clerk stated 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:

Gentiana Brahimaj  
Manuel Couto  
Jeanne Kingsley  
Alvaro Medeiros  
Susan Poage  
Stephen Yellin  
Angie D. Devanney, Mayor

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.

**TOWNSHIP COUNCIL REPORTS**

**Mrs. Brahimaj** reported on the following topics:

- Communications Committee
- Trex Plastic Bag Recycling Program

Mrs. Brahimaj read aloud a letter submitted by Mr. Bochner of 29 Cinnamon Tree Lane regarding the Shared Service Agreement with Union County for DPW Director. (A copy of this letter is attached to the permanent minutes.) Mayor Devanney responded.

**Mr. Couto** reported on the following topics:

- YMCA Opening

Mr. Couto also noted the events he recently attended.

**Mrs. Kingsley** reported on the following topics:

- Safe Routes to School
- Commuter Parking Taskforce

**Mr. Medeiros** reported on the following topics:

- PSE&G
- Stormwater
- Plastic Ban Ordinance

- Renewable Energy Aggregation Ordinance

Mr. Medeiros also noted the events he recently attended.

**Mrs. Poage** reported on the following topics:

- Grants Committee
- Planning Board
- Plastic Ban Ordinance
- Shared Services

**Mr. Yellin** reported on the following topics:

- Communications Committee
- Senior Advisory Board
- Plastic Ban Ordinance

Mr. Yellin also noted the events he recently attended.

#### **ADMINISTRATION REPORTS**

**Mayor Devanney** reported on the following topics:

- Senior Advisory Board
- Economic Development Committee
- New Municipal Complex
- Recycling
- Tri-Town 55+ Coalition
- Sewer Connection Ordinance

Mayor Devanney also highlighted the events she recently attended.

**Ms. Viana** reported on the following departments:

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

Approval of Township Council and Administration Reports

Mover: Mrs. Poage

Seconder: Mrs. Kingsley

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

Nays: None

Abstain: None

Absent: None

***Result: Approved***

#### **APPROVAL OF MINUTES**

Approval of Minutes: Public Meeting – November 4, 2019, November 18, 2019 and December 3, 2019

**Township Council Minutes  
Council Meeting – February 4, 2020**

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

***Result: Approved***

**Public Hearing and Final Adoption of Ordinance Introduced on January 21, 2020.**

The Clerk presented and read:

- 1. AN ORDINANCE TO AMEND CHAPTER 10.48 MUNICIPAL PARKING LOTS, SECTION 10.48.050 FEES AND PROCEDURES OF THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS.”**

Explanation: This Ordinance amends the fees for parking in the municipal parking lot.

Opening of the Public Hearing on Ordinance as read by the Township Clerk

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

*No voices were heard.*

Closing of the Public Hearing on Ordinance as read by the Township Clerk

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

Adoption on final passage of Ordinance as read by the Township Clerk and hearing held hereon and direction of the Township Clerk to advertise same in the Courier News

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

***Result: Adopted***

The Clerk presented and read:

- 2. “An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Amending and Supplementing Title 8 of The Code of the Township of Berkeley**

**Heights (“HEALTH AND SAFETY”) to include a new chapter, Chapter 8.62, entitled “DISPOSABLE PLASTICS.”**

EXPLANATORY STATEMENT: This Ordinance amends the Township Code to add provisions regulating the use of disposable plastics (single-use plastic bags, single-use plastic beverage straws, and expanded polystyrene containers) by retail establishments within the Township of Berkeley Heights.

Opening of the Public Hearing on Ordinance as read by the Township Clerk

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

Mrs. Diamond of the Environmental Committee spoke to clarify the ordinance and share her support. Council asked her some questions and there was a discussion.

Julie Piazza, Ava Klinck and Jasmine Mehta, all members of Berkeley Heights Girl Scout Troop 40178 spoke in support of the ordinance.

Three girls, introducing themselves as members of Berkeley Heights Girl Scout Troop 40254 spoke in support of the ordinance.

Mr. Chan of 6 Deep Dale Drive and a member of the Environmental Commission spoke in support of the ordinance.

Mr. Swansan of the Sierra Club shared his support for the ordinance.

Mr. Maciejewski of 40 Ralph Place asked questions regarding the businesses and the proposed ordinance. Council responded. Mr. Maciejewski expressed his reasons for not supporting the ordinance.

Ms. Illis of 102 Twin Falls Road spoke in support of the ordinance. She also responded to Mr. Maciejewski’s previous questions regarding local businesses.

Mr. Foregger of 14 Dorset Road raised his concerns and read a statement in opposition to the ordinance.

Ms. Levine of the Watershed Association spoke in favor of the ordinance.

Ms. Kaufman of 57 Holly Glen Lane spoke in support of the ordinance.

Mr. Parker, the owner of Goodman’s Deli in Berkeley Heights, spoke about the ordinance. He expressed his support for the issue, as well as the specific concerns he has with the feasibility and accessibility to the replacement items.

Ms. Mehta returned to the podium to speak of the founding fathers to express her support for the Plastic Ban Ordinance.

Mr. Matula of 5 Hastings Road responded to the previous speaker and spoke in depth about his concerns with the ordinance as it relates to the recent Corona virus.

**Township Council Minutes  
Council Meeting – February 4, 2020**

Ms. Ciesla of 29 Chaucer Drive and member of the Environmental Commission spoke in favor of the Plastic Ban Ordinance.

Mr. Scalera of 564 Mountain Avenue and member of the Environmental Commission responded to the issues raised by previous speakers and expressed his support for the ordinance.

Mr. Leo of 43 Forest Ave and a member of the Environmental Commission spoke in support of the Plastic Ban Ordinance.

Mr. Carrellas of 35 Sycamore Avenue spoke in depth of his opposition to the Plastics Ban Ordinance.

Mr. Foregger returned to the podium to respond to some of the points discussed. He again expressed his opposition to the Plastics Ban Ordinance.

Ms. Koubeck of 49 Hampton Drive spoke in depth to show her support for the Plastic ban Ordinance.

Mr. Maciejewski returned to the podium to speak in opposition for the Plastic Ban Ordinance.

Closing of the Public Hearing on Ordinance as read by the Township Clerk

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

Mr. Couto raised some proposed modifications to the ordinance based on the concerns raised. Council discussed the proposals and came to a consensus on accepted modifications. Mr. Dowd clarified the Amended version of the Ordinance.

Adoption on final passage of *Amended* Ordinance as read by the Township Clerk and hearing held hereon and direction of the Township Clerk to advertise same in the Courier News

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

***Result: Adopted (as Amended)***

**HEARING ON AGENDA ITEMS ONLY**

Opening of the Hearing on Agenda Items Only

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

**Township Council Minutes  
Council Meeting – February 4, 2020**

Mr. Foregger of 14 Dorset Road asked that the letter read aloud by Mrs. Brahimaj as well as the Mayor's response be included in the minutes.

Mr. Foregger asked for clarification on the Executive Session regarding the Wastewater Treatment. Mr. Dowd responded.

Mr. Kane of 46 Sycamore Avenue asked the Mayor about the clients of her company. Mayor Devanney responded.

Mr. Hall of 52 Bristol Court asked for clarification on the amendments proposed for the Plastic Ban Ordinance. He expressed his interest in the proposed future amendment regarding metrics.

Mrs. Varnerin of 20 Wardle Avenue complimented Mrs. Brahimaj on reading aloud the resident letter as per the request.

Ms. Diamond of 23 Heather Court addressed the items Mrs. Brahimaj raised on the Trex recycling program. Mrs. Brahimaj and Mr. Couto responded and a discussion followed.

**Closing of the Hearing on Agenda Items Only**

Mover: Mr. Yellin  
Secunder: Mrs. Kingsley  
Ayes: Mrs. Brahimaj, 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 February 4, 2020, in the amount of \$302,348.26.

**Approval of Resolution**

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

***Result: Approved***

2. Resolution authorizing as Shared Service Agreement with County Employee, Joseph Graziano, to provide Certified Public Works Manager services as the director of the Township's Department of Public Works.

Mr. Couto asked about the agreement. Mr. Dowd responded and discussion followed to clarify the language and intent.

Councilmembers Brahimaj, expressed their views on the agreement.

**Approval of Resolution**

**Township Council Minutes  
Council Meeting – February 4, 2020**

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

***Result: Approved***

3. Resolution authorizing a transfer of current fund Appropriations reserves.

Approval of Resolution

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

***Result: Approved***

4. Resolution appointing Ellen Guritzky to the Board of Health, for a term expiring on December 31, 2022.

Approval of Resolution

Mover: Mr. Yellin  
Second: Mrs. Poage  
Ayes: Mrs. Brahimaj, 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.

**5. Consent Agenda Resolutions (a-d)**

- a. Resolution removing Ellen Besjak, from the Active Roster of the Berkeley Heights Fire Department.
- b. Resolution removing Christopher Zheng from the Active roster of the Berkeley Heights Fire Department.

**Township Council Minutes  
Council Meeting – February 4, 2020**

- c. Resolution authorizing a release of a Performance bond in the Amount of \$2,000.00, to Mr. Nelson Neria, for work performed at 65 Park Avenue.
- d. Resolution authorizing a partial release of a Tree Performance bond, in the amount of \$3,600.00, to Thomas Mazzoni, for work performed at 80 Hillside Avenue.

Approval of Consent Agenda Resolutions # 5 a-d

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

***Result: Approved***

**INTRODUCTION OF ORDINANCES**

**Public Hearing and Final Adoption Scheduled for February 18, 2020.**

The Clerk presented and read:

**ORDINANCE AUTHORIZING THE ESTABLISHMENT OF A GOVERNMENT  
ENERGY AGGREGATION PROGRAM FOR THE TOWNSHIP OF BERKELEY  
HEIGHTS, COUNTY OF UNION, NEW JERSEY.**

Mrs. Kingsley expressed her reservations with the Ordinance. Mrs. Brahimaj and Mr. Couto noted their concerns.

Mr. Medeiros suggested that the Ordinance be tabled and there was a consensus.

That the Ordinance be Tabled

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

**CITIZENS HEARING**

Opening of the Citizens Hearing

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



**Township Council Minutes  
Council Meeting – February 4, 2020**

Mrs. Varnerin of 20 Wardle Avenue asked Mrs. Poage about the Union County Grant portal. Mrs. Poage responded and there was a brief discussion.

Mrs. Varnerin asked for additional information on the Planning Board report from Mrs. Poage, specifically regarding the building which is to house 8 apartments.

Mrs. Varnerin asked Mr. Yellin for clarification on his Communications Committee report. A discussion followed with Mr. Yellin, Mrs. Brahimaj and Mrs. Varnerin.

Mrs. Illis of 102 Twin Falls Road spoke about the importance of the Census and the need for Poll Workers.

Mr. Foregger of 14 Dorset Road commented on the procedures during voting and suggested that Council not further discuss items once the voting has started. Council responded.

Mr. Maciejewski of 40 Ralph Place reiterated what Mr. Foregger noted regarding the discussion during voting. He also asked about the possibility of holding a Citizen's Hearing at the beginning of the meetings noting how long the meetings can run.

Mr. Maciejewski asked about the current tax impact of the new municipal building. Mayor Devanney responded and a discussion followed. Mr. Maciejewski clarified that he is looking for the actual impact for the years 2019 and 2020. Mayor Devanney responded and a further discussion followed.

Mr. Foregger asked about the completion schedule for the New Municipal Complex. He asked about the timing as it relates to the Library move and the sale of the property to Toll Brothers. Mayor Devanney and Ms. Viana responded, and a discussion followed.

Mr. Mondelli of 243 Washington Street followed up on questions he raised at the last Council Meeting regarding scrap metal. He asked about the specific bid presented by his company. Mayor Devanney responded and there was a brief discussion.

Mr. Maciejewski asked about the status of the Toll Brothers contract, specifically he asked to confirm that there are no PILOTS associated with this. Ms. Viana, Mayor Devanney and Council responded.

Mr. Matula of 5 Hastings Road asked about specific comments made tonight with regards to the cost of Recycling and their ultimate goal of the Plastics Ban. He asked Council how much they are willing to spend to recycle and how far are they looking to go with the ban of plastics.

Mr. Foregger asked about the selection of Toll Brothers for the project. Mr. Couto clarified why Toll Brothers was selected.

Mr. Maciejewski asked about statements made previously on the redevelopment projects and the PILOTS

Mr. Maciejewski questioned the need to spend the large sum on recycling. He spoke about the state and county requirements.

**Closing of the Citizens Hearing**

Mover: Mrs. Brahimaj

Seconder: Mrs. Poage

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

Nays: None

**Township Council Minutes  
Council Meeting – February 4, 2020**

Abstain: None  
Absent: None

**EXECUTIVE SESSION –**

1. Attorney-Client Privilege – Contract Negotiations-Waste Water Treatment
2. Attorney-Client Privilege – Contract Negotiations- Connell
3. Attorney-Client Privilege – Contract Negotiations- Nokia
4. Attorney-Client Privilege – Contract Negotiations- Stratton House

Move to go into Executive Session

**(10:15 pm)**

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

Move to come out of Executive Session

**(10:54 pm)**

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

Mayor Devanney reminded all that they will be coming out of Executive Session only to adjourn.

**ADJOURNMENT**

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

**(10:55 p.m.)**

**Approved: May 12, 2020**

  
\_\_\_\_\_  
**Ana Minkoff**  
**Township Clerk**

Dear Township Council,

I am unable to attend tonight's meeting, but I would like to comment on Resolution #8 on tonight's agenda. I ask that my comment below please be read into the record at the meeting prior to the vote on Resolution #8, either during the public comment on agenda items section or during discussion on this resolution, as appropriate. I hope to catch at least a portion of the meeting on the live stream (thank you for continuing to support the live stream as an essential tool to engage with our municipal government).

Thank you,  
Josh Bochner

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Josh Bochner  
29 Cinnamon Tree Lane

Today, New Jersey's campaign finance regulator released the reported campaign activity from the last quarter of 2019. Generally, this means that all the campaign activity conducted in 2019 has now been disclosed. The Mayor's re-election campaign account disclosed that it paid Parktowne Associates \$3,686.66 for a mailer. This raises a huge problem in regards to Resolution #8, the Shared Service Agreement for a DPW Director. I also will add that this problem is not newly raised - I have brought it to the attention of the Council and the Mayor's campaign team numerous times in the past.

The Mayor sent a campaign mailer to each household in the Township in the middle of September. Due in part to unusual billing practices, the mailer was not paid for until December 10th. This means the vendor for the mailer was effectively masked until after the election. Who is this vendor? Parktowne Associates - and the Union County Manager, Ed Oatman, owns the firm. On its face, it is highly unethical for the Mayor's campaign, or the campaigns of current or potential members of the Council, to pay the County Manager to do any campaign activity given the official relationship between their two positions.

However, the timeline makes this only worse. For nearly three months between the commissioning of the mailer in September and the payment for the mailer in December, the Mayor's campaign owed money to the County Manager. The Mayor's campaign did not even have enough funds available to pay for it until early December, meaning for most of the 3 month period, the Mayor's campaign was effectively indebted to the County Manager. The Mayor's account received funds from the Berkeley Heights Democratic Committee shortly before paying for the mailer - an organization whose membership currently includes the Deputy County Manager and all Democratic Party members of the Council, and up until this past June included the County DPW Director.

The contract between the Township of Berkeley Heights and the County of Union will be signed by Mayor Devanney and County Manager Oatman, despite the clear conflict. This is the same problem that arose last year - when the Mayor also used Parktowne Associates for campaign activity. I am not saying that the Shared Services agreement is bad for our town - in fact I believe it is quite beneficial. If I lived in another Union County town, I would probably be furious because it seems like Berkeley Heights is getting a great deal at the expense of the rest of the County.

The problem is that we do not know how this deal was negotiated, and whether or not the process was tainted. Tonight, before the Council votes on the resolution, I ask that the Mayor clearly explain the process to negotiate this agreement, both last year and this year. Specifically, who from the Town and who from the County was involved in the negotiations each year? How was the price for the use of the DPW Director's time negotiated last year, and why did it remain the same this year despite the County DPW Director receiving a 2% raise from the County? When the Mayor drove to Elizabeth on November 27th, 2018 to talk about shared services (date from a posted Facebook video), with whom did she meet and what was discussed?

Again, the problem here is that **we do not know**. There is an overwhelming appearance of a conflict of interest, and I believe that it is in fact an actual conflict of interest. There is an incredibly easy way to get past this, and I have suggested it so many times already. **Do not use Parktowne Associates as a campaign vendor** - or any other vendors that would present similar conflicts. At this point, it is difficult for me to see the continued use of Parktowne Associates as anything but a deliberate choice to engage in this conflict of interest.

Thank you.