

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD AUGUST 20, 2019**

CALL TO ORDER

At 7:06 p.m. Mr. Medeiros 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. Couto
Mrs. Kingsley
Mr. Medeiros
Mrs. Poage
Mr. Yellin
Mayor Devanney (via SKYPE)

The following Council members were absent:

Mr. Bavoso

Also present were:

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

FLAG SALUTE

Mr. Medeiros asked everyone present to stand for the Flag Salute.

EXECUTIVE SESSION

1. Attorney-Client Privilege- Contract Negotiations- Mast Construction
2. Attorney-Client Privilege- Contract Negotiations- Arcari & Iovino
3. Attorney-Client Privilege- Contract Negotiations – JCP&L/ YMCA

Move to go into Executive Session

(7:09 p.m.)

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

Move to come out of Executive Session

(8:05 p.m.)

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

PROCLAMATION

Mr. Medeiros noted that the Proclamation has been postponed.

CONFERENCE SESSION

Winter Walk Presentation

Ms. Pertesis and Ms. Froehlich spoke on behalf of the 5th Annual Winter Walk. They presented the date of the event as December 7th and asked for Council's support. Council was in favor.

Mast Construction Update

Mr. Edmunds of Mast Construction spoke about the progress which has taken place since he last presented. He also explained the delays that have happened and noted that a full review of the plan would be done.

Mayor Devanney expressed the frustration that she and her colleagues feel over the constant delays. She spoke about the efforts they have gone through to move the project along to no avail. Mayor Devanney stated that the Township needs a solid plan to get back on budget and until then, resolution #2 must be pulled. Mr. Edmunds acknowledged the Mayor's request.

Mr. Yellin asked about Resolution #3. There was a brief discussion and it was agreed that both Resolutions #2 and #3 were being pulled from tonight's agenda.

Arcari and Iovino

Mr. Frangiosa and Mr. Iovino were present to represent the Municipal Complex architecture firm, Arcari and Iovino. Ms. Viana asked that they speak to the current change order as well as their role in the daily operations of the project.

Mr. Iovino explained their role on the project, providing specific examples throughout the process. Mr. Medeiros asked that they speak to the change order #7 which was pulled from the agenda.

Mr. Frangiosa explained, in detail, the building related changes in this change order. He spoke about the cause of the changes and the ripple effect. There was a brief discussion that followed.

Mayor Devanney requested that in the future EPIC appear in person before Council to justify any change orders.

TOWNSHIP COUNCIL REPORTS

Mrs. Kingsley reported on the following topics:

- Restaurant Week

Mr. Yellin reported on the following topics:

- Communications Committee

Mr. Couto reported on the following topics:

- Restaurant Week
- Sustainable BH

Mrs. Poage reported on the following topics:

- Grants Committee
- Planning Board

Mrs. Poage also spoke about an upcoming event that she plans to attend.

Mr. Medeiros reported on the following topics:

- Environmental Commission
- Mayor's Recycling Taskforce

ADMINISTRATION REPORTS

Mayor Devanney discussed the following topics:

- Library Construction Bond Act

Ms. Viana provided updates from the following departments:

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

Approval of Township Council and Administration Reports

Mover: Mrs. Kingsley

Seconder: Mr. Yellin

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

Nays: None

Abstain: None

Absent: Mr. Bavoso

Result: Approved

Public Hearing and Final Adoption of Ordinance Introduced on July 23, 2019.

The Clerk presented and read:

“An Ordinance of the Township of Berkeley Heights, County of Union, New Jersey Authorizing the Creation of a Length of Service Award Program and Providing for a Public Question Concerning the Length of Service Award

Program to be Placed upon the Ballot of the Next General Election.”

(EXPLANATORY STATEMENT: This Ordinance establishes a Length of Service Award Program for members of the Township of Berkeley Heights Volunteer Rescue Squad.)

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

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

No voices were heard.

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

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

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

Result: Adopted

Public Hearing and Final Adoption of Ordinance Introduced on July 23, 2019.

The Clerk presented and read:

**“BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF
EQUIPMENT AND THE INSTALLATION OF A SUPERVISORY CONTROL
AND DATA ACQUISITION SYSTEM IN CONNECTION WITH THE SEWER
SYSTEM IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE
COUNTY OF UNION, NEW JERSEY, APPROPRIATING \$1,540,000
THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,540,000 BONDS OR
NOTES OF THE TOWNSHIP TO FINANCE THE COST THEREOF.”**

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

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

Abstain: None
Absent: Mr. Bavoso

No voices were heard.

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

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

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

Result: Adopted

Public Hearing and Final Adoption of Ordinance Introduced on July 23, 2019.

The Clerk presented and read:

“ BOND ORDINANCE PROVIDING FOR VARIOUS SEWER IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY, APPROPRIATING \$150,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$142,500 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.”

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

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

No voices were heard.

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

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

Nays: None
Abstain: None
Absent: Mr. Bavoso

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

Result: Adopted

APPROVAL OF MINUTES

Approval of Minutes - **Public Meeting – July 9, 2019**

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

Result: Approved

Approval of Minutes - **Public Meeting – July 23, 2019**

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

Result: Approved

HEARING ON AGENDA ITEMS ONLY

Opening of the Hearing on Agenda Items Only

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

Mr. Foregger of 14 Dorset Road asked if there is a project list for the Municipal Complex project which allows the Council to determine the percentage completed. Mr. Medeiros and Mr. Edmunds responded

and there was a brief discussion on the topic. Mr. Edmunds agreed to bring specific task/completion lists for the project to the next meeting.

Mr. Quinlan of 86 Orion Road spoke about the culvert being in bad shape and needing repairs. He provided details on the communications he has had with the Township on the subject over the years. He closed by asking if the Township will repair the culvert and if so, when. Ms. Viana responded.

Mrs. Quinlan of 86 Orion Road also spoke about the deterioration of the culvert and the effect of storms on the area. She described the state of the area and explained that it is safety issue for children that play there. Mrs. Quinlan provided Council with pictures which she took to document the disrepair. Council and Ms. Viana responded.

Closing of the Hearing on Agenda Items Only

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

APPROVAL OF RESOLUTIONS

1. Resolution approving Bill List dated August 20, 2019 in the amount of \$778,418.72.

Approval of Resolution

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

Result: Approved

2. Resolution authorizing Amendments to contracts with Melick-Tully and Associates Arcari Iovino Architects PC, and Mast Construction Services, Inc. in connection with the with the Municipal Complex Redevelopment project.
(PULLED)
3. Resolution authorizing changes to the scope of the Municipal Complex Redevelopment project.
(PULLED)
4. Resolution approving the acquisition of a 2019 Ford F-150 Responder XL 4WD Supercrew 5.5' Box in the amount of \$42,333.65 with Beyer Ford, 170 Ridgedale Ave., Morristown, NJ 07936.

Approval of Resolution

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

Abstain: None
Absent: Mr. Bavoso

Result: Approved

5. Resolution authorizing the Greening Union County grant in the amount of \$6,000.00, which the Township will match \$3,000.00, for the purchase and installation of ten (10) trees within the Township's right of way.

Approval of Resolution

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

Result: Approved

6. Resolution authorizing the application to the Preserve Union County Grant program to assist in the reconstructing and stabilizing the foundation of the Littel Lord farmhouse.

Mr. Couto and Mrs. Kingsley asked about the availability of the matching funds and the balance in the trust account. Mrs. Poulos responded.

Mr. Couto asked about the purpose of the grant. Mrs. Poage responded.

Mrs. Kingsley raised concern over committing so much of the funds without Council having seen the overall plan for the restoration. Mrs. Poage responded. Mrs. Kingsley requested that the team spearheading the effort come before Council to share their plan. Council continued to discuss the topic briefly.

Approval of Resolution

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

Result: Approved

7. Resolution authorizing the contract with Smith – Soudy, 150 Anderson A, 07507, Wallington, N.J., for the provision of Improvements to Sawmill Drive and Cornell Avenue in the amount not to exceed \$265,721.50.

Approval of Resolution

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

Abstain: None
Absent: Mr. Bavoso

Result: Approved

8. Resolution authorizing the sale of surplus property on the State – approved online auction website of Municibid.

Approval of Resolution

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

Result: Approved

9. Resolution authorizing the Township to enter into an license agreement with JCP&L regarding utility services to the property identified as Block 2201, Lot 19, located along Locust Avenue in the Township of Berkeley Heights – property currently leased to the Berkeley Heights YMCA, LLC.

Mr. Yellin asked Mr. Dowd to speak to this resolution. Mr. Dowd briefly explained its purpose and history.

Approval of Resolution

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

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.

10. Consent Agenda Resolutions (a-j)

- a. Resolution authorizing the release of a cash and escrow bond to Berkeley Development Co. L.P. in the amount of \$6,434.78 for work performed at Lone Pine Drive (Homewood Suites – Phase 1).
- b. Resolution authorizing a block party on Crest Drive on September 7, 2019, from 3:00 – 7:00 p.m. (with a rain date of September 14, 2019).

- c. Resolution authorizing a block party on Ridge Drive on September 14, 2019 (with a rain date of September 21, 2019) from 12:00 – 8:00 p.m.
- d. Resolution removing Matt Ward, from the active duty roster of the Berkeley Heights Volunteer Fire Department.
- e. Resolution removing Harrison Kelly, from the active duty roster of the Berkeley Heights Volunteer Fire Department.
- f. Resolution removing Anthony Delia, from the active duty roster of the Berkeley Heights Volunteer Fire Department.
- g. Resolution removing Cole Wolfram, from the active duty roster of the Berkeley Heights Volunteer Fire Department.
- h. Resolution authorizing a tax refund overpayment in the amount of \$2,615.18, to David & Annmarie Stumpf, 34 Briarwood Drive East, Berkeley Heights.
- i. Resolution authorizing a tax refund overpayment in the amount of \$3,096.75 to Christian and Teresa K. Procaccini, 273 Timber Drive, Berkeley Heights.
- j. Resolution authorizing a tax refund in the amount of \$2,443.78, for the property located at 41 Twin Falls Road.

Approval of Consent Agenda Resolutions #10 a-j

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

Result: Approved

INTRODUCTION OF ORDINANCES:

Public Hearing and Final Adoption scheduled for September 10, 2019.

The Clerk presented and read:

“An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Authorizing the Lease with Our Lady of Mount Carmel Society”. EXPLANATORY STATEMENT: This ordinance authorizes the lease agreement with Our Lady of Mount Carmel Society for the use of its Hall by the Senior Citizens Club of Berkeley Heights for the 2019-2020 term

That the Ordinance as read by the Township Clerk be offered on first reading, that September 10, 2019 be set as the date for public hearing and that the Township Clerk is directed to advertise same in the Courier News

Mr. Couto recused himself.

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

Result: Approved

Public Hearing and Final Adoption scheduled for September 10, 2019.

The Clerk presented and read:

“An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Authorizing the Conveyance and Execution of a Deed of Easement for Utility Purposes to Jersey Central Power & Light Company in and Along Premises Owned by the Township of Berkeley Heights, identified as Block 2201, Lot 19 on the Berkeley Heights Township Tax Map.”

That the Ordinance as read by the Township Clerk be offered on first reading, that September 10, 2019 be set as the date for public hearing and that the Township Clerk is directed to advertise same in the Courier News

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

Result: Approved

CITIZENS HEARING

Opening of the Citizens Hearing

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

Mr. Bochner of 29 Cinnamon Tree Lane spoke about the issue of dark money in contributions for political campaigns. He spoke about the topic and his concerns about it. He proposed that Councilmembers refuse to take money from corporations, corporate PACs and dark money groups. He also encouraged Council to adopt reforms to the Pay-to-Play ordinance and to support the reforms to OPRA and OPMA.

Closing of the Citizens Hearing

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

EXECUTIVE SESSION

1. Attorney-Client Privilege- Contract Negotiations –Police Dispatch
2. Attorney-Client Privilege- Litigation -Gian Cacioppo v Township of Berkeley Heights

Move to go into Executive Session

(9:16 p.m.)

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

Move to come out of Executive Session

(10:18 p.m.)

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

* Mr. Yellin voted YES to item #2, but ABSTAINED from item #1.

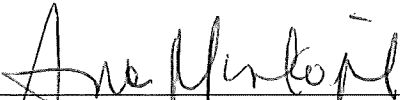
Mr. Medeiros reminded all that they would be coming out of Executive Session, only to adjourn.

ADJOURNMENT

Moved by Mr. Couto to adjourn and all were in favor.

(10:20 p.m.)

Approved: September 10, 2019



Ana Minkoff
Township Clerk