

APPROVED: October 26, 2009

WEST WINDSOR TOWNSHIP COUNCIL
BUSINESS SESSION
August 31, 2009

President Borek called the meeting to order at 6:40 p.m.

STATEMENT OF ADEQUATE NOTICE

This is to advise that the notice requirement provided for in the "Open Public Meetings Act" has been satisfied. Notice of this meeting was properly given and transmitted to The Times and Princeton Packet; filed with the Clerk of the Municipality; and posted in the West Windsor Township Municipal Building at North Post and Clarksville Roads on July 14, 2009 and on August 21, 2009. Special notice for the closed session was given to the Princeton Packet and the Trenton Times and was scheduled for the purpose of discussing potential litigation.

ATTENDEES: President: Borek; Vice President: Geevers; Council: Ciccone, Khanna, Morgan (arrived 6:55 p.m.); Mayor: Hsueh; Acting Business Administrator: Hary; Township Attorney: Herbert; Planning Board Attorney: Muller; Township Engineer: Guzik; Manager Community Development: Surtees; Township Clerk: Young

CLOSED SESSION

Ms. Young read the closed session resolution into the record:

Whereas, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting, and

Whereas, the Township Council of West Windsor Township has deemed it necessary to go into closed session to discuss certain matters which are exempted from the public; and

Whereas, the regular meeting of this Township Council will reconvene; and

Whereas, the below stated subject matter shall be made available at such time as the issues discussed therein are resolved and its disclosure would not subvert any particular exception for convening a closed session.

Now, therefore, be it resolved that the Township Council of the Township of West Windsor will go into closed session for the

following reason(s) as outlined in N.J.S.A. 10:4-12: For the discussion of potential litigation.

Motion to go into closed session: Geevers

Second: Ciccone

RCV: aye Ciccone

aye Geevers

aye Khanna

Morgan (absent)

aye Borek

MEETING RECONVENED

Meeting reconvened at 7:05 p.m.

SALUTE TO THE FLAG

Ms. Young led the salute to the flag.

PUBLIC COMMENT

Mr. Saverio Greco, 18 Hathaway Drive, inquired about when his roadway will be resurfaced, requested that the name of his street be changed back to Hicks Lane from Hathaway Drive.

Mr. Hehru Brath, 76 Bear Brook Road, Walden Woods Homeowners' Association President, noted that their property deeds have printed on them a ten-year affordable housing restriction and would like to meet with Township Officials to resolve this issue.

Mr. Franc Gambatese, 3 Lanark Drive, voiced his support of Mr. Robert Hary for the position of Business Administrator for the Township.

Ms. Molly Fisch-Friedman, 16 Yeger Road, advised that she is working on her Silver Award for Girl Scouts and that her project is promoting awareness of not using cell phones while driving. She noted that she is working with the Township to place signs throughout the Township to make people aware of this law.

Ms. Maureen Boyle, 68 Bear Brook Road, voiced that her property deed also has printed on it a ten-year restriction and that she has owned her home for the past twelve years.

Ms. Evelyn Arrue, 80 Bear Brook Road, noted she is proud to be a resident in West Windsor and would like a date to meet and resolve the issue regarding the property deeds.

Ms. Laurie Randow, 66 Bear Brook Road, voiced her support of the project she helped build and noted that her property deed was sign with a ten year restriction. She wants the property deeds to be recognized by the Township.

Mr. Voytek Trela, 70 Bear Brook Road, advised that all the property deeds note a ten-year restriction on the properties. Mr. Trela noted that communication has been cut between the Township officials and homeowners, except through COAH. He advised that COAH has not rejected the homeowners of Walden Woods' objection under the appropriate guidelines and he feels the homeowners have the solution and would like to meet with the Township to discuss.

Ms. Gloria Orellana, 74 Bear Brook Road, noted her property deed has printed on it a ten-year restriction and requested help from the Township to resolve this matter.

Mr. Andrew Hersh, 5 Halstead Place, spoke in support of the residents that have voiced their concerns regarding the installation of cell towers within 1000 feet of a residential district. Mr. Hersh read comments from Ms. Lifset and Mr. Anderson. He noted that Council needs to support the residents of the Township.

CEREMONIAL MATTERS AND/OR TOPIC FOR PRIORITY CONSIDERATION

Presentation on the Township's Current Cell Tower Ordinance

Mr. Herbert reviewed the Township's previous litigation regarding cell towers and the Court decisions that evolved from it and how the Township's current ordinance was prepared.

Mr. Muller advised that staff has reviewed both the current Township ordinance and the ordinance submitted by residents, and developed the proposed ordinance before Council this evening. He noted that currently co-location is a permitted use on existing towers and tops of buildings. Mr. Muller reviewed the proposed changes within the ordinance. He suggested that this ordinance be reviewed by the Planning Board prior to Council action.

Discussion ensued among members of Council regarding the proposed ordinance to include: gaps in service, co-locations of antennas, towers within a 1000 feet of a residential area, balance to protect residents and the community, and whether to forward the ordinance to the Planning Board for review prior to Council action. During the discussion Council decided that co-locations should be maintained in the ordinance and that the ordinance should be reviewed by the Planning Board.

Mr. Bill Andersen, 22 Woodbury Court, voiced his concerns with the ordinance process. He noted that the homeowners are willing to forego most of the suggestions in their ordinance so that Council will forward the ordinance offered by them to the Planning Board with the thirty-five day timeframe as long as subsection "C" in the staff proposal has the following wording added "providing that the cell tower is 1000 feet away from any single family home" along with correcting two typos within the document.

Mr. Muller advised that almost every tower that is located in West Windsor Township is within 1000 feet of a residential area.

Mr. Herbert advised that the ordinance must be based on technical evidence so that it can be supported in Court if necessary. He advised that Council has requested that the

Planning Board, who has the technical expertise, review the proposed ordinance.

Discussion continued regarding the ordinance and how to proceed.

Mr. Marvin Gardner, Planning Board Chairman, disputed Mr. Andersen's comments and advised that the Planning Board will expedite the process as much as possible, but that they have to make sure the ordinance is legally correct.

Ms. Jane Lifset, 22 Woodbury Court, advised that she did speak with Mr. Gardner today and that her recollection of the conversation was that Mr. Gardner had advised it could take six to eight months to complete.

Mr. Gardner reviewed the process that an ordinance goes through before coming to Council from the Planning Board.

Ms. Amy Chanson, 2 Columbia Place, voiced her opinion on the proposed ordinance and noted that if the Township continues to allow the cell towers within residential areas then these areas will start to look like commercial areas. She voiced her concern about the residents wanting the ordinance amended as soon as possible.

Ms. Pam Bainbridge, 155 Penn Lyle Road, requested that their homes be protected and for Council to find an ordinance to protect the residents from having tower upon cell tower approved and installed.

Mr. Hari Nanjundamoorthy, 2 Cedar Court, voiced his concern about their quality of life and how it affects them in reference to the cell tower ordinance.

Mr. Muller advised that it is improper if members of the Planning Board discuss an application outside of the public hearing.

Ms. Samantha Pizzo, 14 Auburn Place, thanked everyone for moving the ordinance along and advised that co-location is fine, but no additional towers should be built in West Windsor in order to keep the quality of life.

Ms. Ciccone motioned that the Township Council charge the Planning Board to review the ordinance prepared by staff and the residents so that the ordinance is legally binding and protects the quality of life for residents forthwith.

Motion: Ciccone

Second: Khanna

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

MAYOR/ADMINISTRATOR COMMENTS

Mayor Hsueh announced that residents who are 65 years or older are entitled to request a Homestead Rebate if income is \$150,000 or less. He also noted that there is a Property Tax Freeze for residents who are 65 years or older and make less than \$60,000. Mayor Hsueh encouraged residents to contact the Township's Tax Collectors Office for more details.

Mr. Hary advised Council that the pedestrian crossing on Clarksville Road which is being constructed by Mercer County, should be completed within the next two weeks. He announced that he is very excited about receiving a free energy audit from PSE&G which will be conducted by an independent party. He reported that the Township can receive from the County of Mercer up to \$500,000 through the "Mercer at Play" Grant Program, which will help lower Township bonds for Duck Pond Park Improvements.

Mr. Hary announced that the Senior Center Grand Re-opening is scheduled to take place on September 30th at noon.

COUNCIL MEMBER COMMENTS

Mr. Morgan congratulated Ms. Fisch-Friedman on her cell phone awareness campaign for her Girl Scout Silver Award Project. He advised that the traffic calming installed on Clarksville Road near the Avalon Watch Development is working well and residents of that development are grateful. Mr. Morgan noted that he has spent time earlier this year with Mr. Trela with regard to Walden Woods and suggested that Mr. Trela review his suggestions given to Mr. Trela a few months back.

Ms. Ciccone thanked Ms. Fisch-Friedman for taking the initiative with her cell phone awareness campaign. Ms. Ciccone advised that as for the traffic calming on Clarksville Road this was an initiative between the West Windsor Bicycle and Pedestrian Alliance, County Officials and Township Officials. She noted that the Township is currently installing ADA curb cuts and signage in the area of Penn Lyle Road which was also a project brought forward by the West Windsor Bicycle and Pedestrian Alliance. Ms. Ciccone advised the New Jersey Association of Environmental Commissions is in support of the question on the November ballot and requested that Council pass a resolution in support at the September 14th Business Session.

Mr. Khanna advised that he has seen Ms. Fisch-Friedman's signs throughout the Township and commends her ambition. He inquired about information on energy conservation and asked what the status was.

Mr. Hary advised it would be part of the PSE&G free energy audit they are working on.

Ms. Geever's thanked Ms. Fisch-Friedman for a job well done and reminded everyone that school starts on, Wednesday, September 9th and to be aware of pedestrian traffic and speed limits especially along Harrison Road which is 25 mph. She advised that she has been working with Mr. Ron Slinn and Administration on replacing the gazebo near the Senior Center. She noted that in regard to the Bootstrap development (Walden Woods) issue residents are advised to provide any information for review to the Clerk's Office for distribution to Council members. Ms. Geever's inquired if it would be permissible for members of Council to meet with these residents.

Mr. Herbert advised that members of Council could meet with the residents, and that Administration is currently working with COAH on this issue.

Mayor Hsueh announced that the 9/11 Memorial Ceremony is scheduled to take place on Friday, September 11th at 7:00 p.m. at the Memorial Ponds.

CHAIR/CLERK COMMENTS

President Borek voiced his congratulations to Ms. Fisch-Friedman on her project and noted the tremendous amount of work that the Girl Scouts and Boy Scouts have done throughout the community. He noted that Council is here to mediate and remedy solutions with issues the community has. President Borek advised that members of Council have a very tough job to balance what is best for the community. He announced that the GroWW Festival is scheduled for Saturday, October 3rd, 2009 at the West Windsor Farmers Market.

Ms. Young thanked Ms. Fisch-Friedman. She announced that petitions for the Council Vacancy are due no later than 4:00 p.m. on September 10th.

CONSENT AGENDA

RESOLUTIONS

2009-R203 Authorizing Municipal Endorsement of the Application of Brian Doel for Membership in the New Jersey State Firemen's Association

2009-R204 Authorizing the Refund of Property Tax Overpayment

2009-R205 Consent to Reappointment of Drewe Schoenholtz as an Advisor on the Shade Tree Commission - Term to expire June 30, 2010

2009-R206 Authorizing the Mayor and Clerk to Execute an Easement Modification Agreement with Sanjay Kumar & Lynette DeSouza-Kumar - 7 Jewel Road

MINUTES

June 22, 2009 - Business Session, as amended
July 13, 2009 - Closed Session
July 20, 2009 - Closed Session
July 20, 2009 - Business Session, as amended

BILLS & CLAIMS

Ms. Geevers requested that the minutes for July 13th - Agenda Session be removed for further discussion.

Motion to approve consent agenda as amended: Ciccone

Second: Geevers

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

Items Removed from the Consent Agenda

Minutes - July 13, 2009 - Agenda Session, as amended

Discussion ensued about the wording of the amendments.

Mr. Herbert advised that he feels the wording is correct and that his opinion is reflected later in the minutes.

Motion to approve: Morgan

Second: Khanna

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

RECOMMENDATIONS FROM DEPARTMENT HEADS AND/OR DIVISION MANAGERS

COMMUNITY DEVELOPMENT

2009-R210 Authorizing the Transfer of Escrow Funds from Sprint Spectrum/Nextel Project PB00-12 to Sprint Spectrum/Nextel Projects PB99-09 and PB04-13 and Release of Remaining Escrow Funds to the Developer - Asset Management

- 2009-R211 Denying the Request by Edgewood Properties for the Reduction of Performance Guarantees Associated with the Project Known as WWM Properties, Retail Village Center (PB03-10)
- 2009-R212 Granting the Request by RexCorp for the Full Release of Performance Guarantees Associated with the Project Known as R.M. Square (University Square) (PB88-25AM)
- 2009-R213 Granting the Request by Mack-Cali Realty for the Full Release of Performance Guarantees Associated with the Project Known as Princeton Overlook II-Parking Lot (POPD-06)
- 2009-R214 Authorizing the Mayor and Clerk to Execute an Agreement with C.B. Structures d/b/a Doubletree Structures, for the West Windsor Community Park Pole Barn
- 2009-R215 Authorizing the Mayor and Clerk to Execute a Professional Services Agreement with ACT Engineers, Inc. for Preliminary Assessment of the West Windsor Township Municipal Garage
- 2009-R216 Authorizing the Mayor and Clerk to Execute a Professional Services Agreement with ACT Engineers, Inc. for Preliminary Assessment and Site Investigation of the West Windsor Township Compost Facility
- 2009-R217 Authorizing the Mayor and Clerk to Execute a Grant Acceptance Agreement with the New Jersey Economic Development Authority (NJEDA) for the West Windsor Township Municipal Garage
- 2009-R218 Authorizing the Mayor and Clerk to Execute a Grant Acceptance Agreement with the New Jersey Economic Development Authority (NJEDA) for the West Windsor Township Compost Facility

HUMAN SERVICES

2009-R219 Granting the Request by Karl Schott for the Full Release of Performance Guarantees Associated with the Aquatic Center Concession Stand Contract

2009-R220 Authorizing the Application to Mercer County for Funding Active Recreation Under the "Mercer At Play" Program

LAW

2009-R221 Authorizing the Issuance of New Plenary Retail Distribution Liquor License for a Minimum Bid of \$600,000

Motion to approve resolutions 2009-R210 through 2009-R221: Kamal
Second: Linda

RCV: aye Ciccone
aye Geevers
aye Khanna
aye Morgan
aye Borek

ITEMS REMOVED FOR FURTHER DISCUSSION

2009-R207 Authorizing the Reimbursement of Snow Removal Costs for Windsor Ponds Homeowners' Association for 2008

2009-R208 Authorizing the Reimbursement of Snow Removal Costs for Westwinds Homeowners' Association for 2002-2008

Ms. Ciccone inquired about the Kelly Bill reimbursements and whether this work can be done in-house to save costs.

Mr. Herbert went through the Kelly Bill legislation and advised that the Township could take on this work if the Township so desires. He reviewed the history of how reimbursements are calculated.

2009-R209 Consenting to the Appointment of Robert Hary as
Business Administrator, and Authorizing the Mayor and
Clerk to Execute a Contract with Robert Hary for a
Term to Expire June 30, 2013

Mr. Morgan advised that this is the first time he has heard about this appointment and inquired if a closed session was held to discuss the details of this appointment.

President Borek advised that a closed session was not conducted with regard to this subject and noted that Mayor Hsueh has presented Mr. Hary as his choice for Business Administrator.

Discussion ensued between the Mayor and Council regarding the process and whether additional candidates should be interviewed.

Mr. Morgan motioned to hire Mr. Hary at what Mr. Marion's salary rate was prior to his departure from West Windsor Township.

Discussion continued over whether to go into closed session to further discuss this resolution. It was decided to go into a closed session at the end of the meeting to further discuss this matter.

Motion to approve 2009-R207 & 2009-R208: Ciccone

Second: Khanna

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

RECOMMENDATIONS FROM COUNCIL AND/OR CLERK

2009-R222 Authorizing the Place to Place Transfer of the Plenary
Retail Consumption License Owned by Brinker New
Jersey, Inc.

2009-R223 Support for the West Windsor Volunteer Fire Company
No. 1's Grant (EMW-2009-FC-02869) Application to FEMA
Program for Expansion and Modernization of Facilities

Motion to approve resolutions 2009-R222 and 2009-R223: Morgan

Second: Ciccone

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

INTRODUCTION OF ORDINANCES

2009-17 BOND ORDINANCE AMENDING BOND ORDINANCE 2008-11 OF THE TOWNSHIP OF WEST WINDSOR, IN THE COUNTY OF MERCER, NEW JERSEY FINALLY ADOPTED JUNE 23, 2008 IN ORDER TO AMEND THE DESCRIPTION OF THE PROJECT

Mr. Hary advised that this action is necessary in order for the Township to receive up to \$500,000 in grant funds from the County of Mercer under the "Mercer at Play" Program.

Motion to introduce: Ciccone

Second: Khanna

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

Public Hearing for this ordinance will be held on September 14, 2009.

2009-18 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 168, "TRAFFIC AND PARKING," OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR - The Estates at Princeton Junction

Motion to introduce: Khanna

Second: Geevers

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

Public Hearing for this ordinance will be held on September 14, 2009.

2009-19 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 168, "TRAFFIC AND PARKING," OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST WINDSOR - Windsor Haven

Motion to introduce: Geevers

Second: Ciccone

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

Public Hearing for this ordinance will be held on September 14, 2009.

COUNCIL REPORTS/COMMENTS

Ms. Geevers reported she attended the Parking Authority meeting and advised that a segway has been purchased for the security guards. She noted that the Parking Authority is waiting to meet with representatives of the New Jersey Department of Transportation.

Ms. Ciccone reported that the Planning Board discussed the proposed land use ordinance for the Maneely property located on Bear Brook Road and Old Bear Brook Road and this discussion will continue at the Planning Board meeting of September 2nd, 2009.

Mr. Herbert advised that there was a mediation session between Intercap Associates, LLC and COAH and the Township's Fair Share Plan submitted earlier this year. He advised that no date has been scheduled for the next meeting. Mr. Herbert requested that Council add to the next meeting a resolution opposing the East Hampton case supporting additional Affordable Housing by developers than necessary.

President Borek thanked Administration and the Police for the reduction of construction traffic along Clarksville Road; he

requested the Police have more of a presence on Clarksville Road during the first week of school to include, if possible, scales to weigh truck traffic. He also requested Administration to contact New Jersey Transit to have the graffiti removed on the Dinky bridge over Route One.

Ms. Ciccone requested additional Police coverage at the intersection of Penn Lyle Road and Clarksville Road due to individuals running the red light especially during school opening and closing hours.

PRE-BUDGET DISCUSSION

President Borek noted that Council has to be cautious in its role under this form of government with regard to budget discussions.

Discussion ensued regarding how to move forward with the budget meeting and what topics should be discussed and to what extent direction should be given to Administration for the 2010 budget.

President Borek advised that Council needs to give instruction, set policy on how the budget is to proceed, and list topics for discussion at the meeting. He asked Council members to forward any additional topics to him by the end of this week.

Discussion ensued regarding showing different budget scenarios at zero, one cent, two cent, etc., setting goals and policies, and discussion on 501(c)3s.

ADDITIONAL PUBLIC COMMENT

Mr. Voytek Trela, 70 Bear Brook Road, thanked everyone for listening to the Walden Woods residents and would like to clarify a couple of items: first the deeds show a ten-year restriction. He noted the COAH credits the Township received are a separate issue and asked that he be more involved with the process.

Mr. Herbert advised that COAH has come to a decision that Walden Woods properties have a thirty-year restriction. He noted that

Township staff and professionals are trying to work with COAH to have them come up with a more lenient decision.

Ms. Karen Trela, 70 Bear Brook Road, advised that she is the primary person in communication with COAH and advised that COAH does not have the right to rule on the restrictions on the property deeds. She advised only the property deeds hold the restriction. Ms. Trela advised she would be happy to meet with Township Officials on this matter.

Mr. Andrew Hersh, 5 Halstead Place, commended Mayor Hsueh on his appointment of Mr. Hary as the Business Administrator. He noted that he agrees with Mr. Khanna regarding setting an objective for the budget process and suggested holding the 2010 budget to a zero increase. Mr. Hersh suggested Council set a zero percent gain resolution tonight.

CLOSED SESSION

Ms. Young read the Ms. Young read the closed session resolution into the record:

Whereas, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting, and

Whereas, the Township Council of West Windsor Township has deemed it necessary to go into closed session to discuss certain matters which are exempted from the public; and

Whereas, the regular meeting of this Township Council will reconvene; and

Whereas, the below stated subject matter shall be made available at such time as the issues discussed therein are resolved and its disclosure would not subvert any particular exception for convening a closed session.

Now, therefore, be it resolved that the Township Council of the Township of West Windsor will go into closed session for the following reason(s) as outlined in N.J.S.A. 10:4-12: For the discussion of personnel.

Motion to go into closed at 10:52 p.m.: Morgan

Second: Ciccone

RCV: aye Ciccone

aye Geevers

aye Khanna

aye Morgan

aye Borek

Meeting reconvened at 11:00 p.m.

Motion to extend the clock fifteen minutes to 11:15 p.m.: Morgan

Second: Ciccone

VV: All approved

Motion to go back into closed at 11:00 p.m.: Morgan

Second: Ciccone

VV: All approved

MEETING RECONVENED

Meeting reconvened at 11:15 p.m.

2009-R209 Consenting to the Appointment of Robert Hary as
Business Administrator, and Authorizing the Mayor and
Clerk to Execute a Contract with Robert Hary for a
Term to Expire June 30, 2013

Motion to approve: Khanna

Second: Geevers

RCV: aye Ciccone

aye Geevers

aye Khanna

NAY Morgan

aye Borek

ADJOURNMENT

Motion to adjourn: Geevers
Second: Ciccone
VV: All approved

The meeting was adjourned at 11:15 p.m.

Sharon L. Young
Township Clerk
West Windsor Township