

APPROVED: August 15, 2011

WEST WINDSOR TOWNSHIP COUNCIL  
BUSINESS SESSION  
July 11, 2011

CALL TO ORDER: President Khanna called the meeting to order at 7:00 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 June 28, 2011.

ATTENDEES:

ATTENDEES: President: Khanna; Vice President: Ciccone; Council: Borek, Geevers, Morgan; Mayor: Hsueh (arrived at 7:20 p.m. and left at 11:10 p.m.); Business Administrator: Hary; Township Attorney: Herbert; Planning Board Attorney: Muller (arrived at 7:20 p.m. and left at 11:10 p.m.); Affordable Housing Consultant: Piazza (arrived at 7:20 p.m. and left at 11:10 p.m.); Township Clerk: Young

SALUTE TO THE FLAG

Ms. Young led the salute to the flag.

President Khanna noted that public comment on the InterCap Settlement Agreement will be taken at the time the matter is discussed.

PUBLIC COMMENT

Mr. Pete Weale, 144 Fisher Place, addressed several issues that he had with topics listed on the agenda.

MAYOR/ADMINISTRATOR COMMENTS

Mayor Hsueh spoke about the InterCap litigation and provided a history of how the lawsuit was generated.

Mr. Hary provided Council with an update on the following:

- Dog and Cat Census
- National Night Out
- Consumption Liquor License that is for sale
- Township's electronic marquee
- ISS Litigation

CONSENT AGENDA

RESOLUTIONS

2011-R142 Granting the Request from JP Property Development for the Release of a Performance Bond Posted for Street Opening Permit No. 2010-07A- at 209 South Mill Road

MINUTES

May 16, 2011 - Business Session

May 31, 2011 - Business Session - as amended

June 13, 2011 - Business Session

June 13, 2011 - Closed Session - as amended

BILLS & CLAIMS

Motion to approve consent agenda: Borek

Second: Ciccone

RCV: aye Borek\*

aye Ciccone

aye Geevers

aye Morgan\*\*

aye Khanna

\*Mr. Borek abstained from May 31, 2011 minutes as he was not in attendance

\*\*Mr. Morgan abstained from May 16, 2011 minutes as he was not in attendance

RECOMMENDATIONS FROM ADMINISTRATION

Motion to defer 2011-R133 until the other resolutions have been discussed, and to add a resolution to the agenda for Sustainable Jersey Grant funded by Wal-Mart: Morgan

Second: Ciccone

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

2011-R144 Authorizing the Township Engineer to Execute a Treatment Works Approval Application for the Second Phase of the Duck Pond Run Sewer Interceptor Project

2011-R145 Authorizing the Mayor and Clerk to Execute a Professional Services Agreement with Van Cleef Engineering Associates for the Village Road West Reconstruction /Construction Observation Project - \$14,441

Motion to approve 2011-R144 and 2011-R145: Borek

Second: Ciccone

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

2011-R143 Denying a Request from Edgewood Properties for the Release of Performance Guarantees Associated with the Project known as WWM Properties, LLC

Mr. Hary explained that the request was denied because of outstanding landscape and architectural issues.

Motion to approve: Geevers

Second: Ciccone

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

2011-R146 Authorizing the Grant Application for Sustainable Jersey funded by Wal-Mart

Ms. Ciccone spoke about West Windsor Township receiving their silver designation for Sustainable Jersey. She advised that the deadline for receipt of the application is July 22, 2011.

Motion to approve: Geevers

Second: Ciccone

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

2011-R133 Authorizing the Mayor and Clerk to Execute an Amendment to the Settlement and Redeveloper's Agreement with InterCap Inc.

Mayor Hsueh spoke about the history of the litigation and the need for the settlement.

Mr. Herbert explained the basis for the litigation and outlined the recent negotiations. He spoke about the Settlement Agreement brought forward in November of 2010 and the need for Judge Feinberg to review and ensure the proper number of affordable housing units has been incorporated into the agreement. Mr. Herbert reviewed the amendments to date and the removal from the agreement of the \$900,000 from the Township's Affordable Housing Trust Fund that was to be used.

Mr. Muller spoke about the two ordinances that will need to be adopted should the Settlement Agreement be approved. He reviewed the contents of the agreement and spoke of the need for each ordinance. Mr. Muller commented on the for-sale-units and the rental units that will be available for marketing purposes.

Mr. Herbert noted that the affordable housing units will all be rentals.

President Khanna read into the record the letter received in support of the Settlement Agreement from Mr. Robert Prunetti, President of the Mercer Regional Chamber of Commerce.

Adam Gordon, Esq., representing the Fair Share Housing Center, supports the Settlement Agreement and the use of rentals for the affordable housing. He noted that there is an incredible demand for apartments to meet the housing needs.

Mr. John Church, 11 Princeton Place, spoke about Judge Feinberg's hearings and the inability of Council to attend the closed session discussion. He advised that he does not support the agreement.

Ms. Jean Jacobsohn, 13 Benford Drive, spoke about the Affordable Housing Committee unanimously supporting the Settlement Agreement.

Mr. Herb Levine, representing the Mercer Alliance to End Homelessness, explained statistics about those individuals who rent, along with their average income. He noted the need for low income rentals.

Mr. Mike Baxter, 6 Landing Lane, addressed his four main concerns with the Transit Village. He elaborated on the potential for the Transit Village to increase property taxes.

Ms. Chris Bator, 6 Wheatston Court, spoke about keeping the wording in the ordinance which requires a fiscal impact study for the project. She noted that she is in favor of having a vibrant downtown for West Windsor as long as the project is fiscally sustainable.

Mr. Peter Kasabach, Executive Director of New Jersey Future, spoke about the importance of how West Windsor handles this project because it sets an example for the rest of the State. He noted his support for the agreement.

Ms. Alison Miller, 41 Windsor Drive, outlined elements of the agreement that she approves and noted three areas of concerns. She recommended some language amendments.

Mr. Marshall Lerner, 3 Sapphire Drive, spoke about being on the Mayor's Redevelopment Committee in 2006, and noted his concerns of not having an economic analysis. He outlined several other outstanding issues. Mr. Lerner advised that he is not in favor of the agreement.

Mr. Bryan Maher, 135 Penn Lyle Road, asked how Council can vote for or against the agreement without having a fiscal analysis for the project.

Ms. Jen-Ping Wang, 9 Scott Avenue, spoke about the affordable housing units on the site.

Ms. Sara Spengler Campanella, 16 Canoe Brook, inquired about what will happen to the rental units after the 35-year housing restriction expires.

Mr. Pete Weale, 144 Fisher Place, spoke in support of having a fiscal impact study done for the Transit Village. He noted that he does not support the Settlement Agreement.

Mr. Frank Piazza, Affordable Housing Consultant for West Windsor, commented on the State restrictions that are in place for qualifying for an affordable home. He reviewed the restrictions.

Ms. Geevers noted concerns about the rentals versus the for-sale-units at the Transit Village. She addressed several questions to Mr. Piazza.

Mr. Piazza answered Ms. Geevers' questions and other Council Members' concerns.

Mr. Morgan asked if amendments can be made to the Settlement Agreement tonight, and addressed several changes to the language in the agreement.

Mr. Herbert advised that changes in the Settlement Agreement cannot be made and urged Council to vote on the agreement this evening.

Richard Hoff, Esq., of Bisgaier Hoff, Attorney for InterCap, advised that InterCap made substantial concessions to allow the project to move forward.

Mr. Morgan addressed questions to Mr. Muller and Mr. Herbert pertaining to parking, the affordable housing component and the percentage dispersed through the project, the need for a developer's agreement, the definition of a "bedroom" and having this definition defined in the ordinances, along with other amendments to the language in the ordinances.

Ms. Ciccone spoke about the leasing of an affordable housing unit with the option to buy and asked if this could be included in the Settlement Agreement.

Mr. Piazza addressed concerns with Ms. Ciccone's suggestion.

Mr. Hoff also advised that he was against Ms. Ciccone's suggestion because it created a level of uncertainty for the developer.

Mr. Gordon noted that lease to own programs are difficult to facilitate and offered suggestions to utilize the Affordable Housing Trust Fund to assist with programs for home ownership.

President Khanna called for a five minute break at 9:55 p.m.

Council agreed to allow Public Comment for one individual who arrived late to the meeting.

Mr. David Kohn, 11201 Harcross Court, spoke about the revolving door of rental units at the Mews located in the Estates at Princeton Junction. He noted that there are a lot of Police calls to the area deterring renters and residents from the area.

Mr. Borek explained that Council must weigh all the information to make an educated vote. He noted that there is a need for a variety of housing in the community to keep residents living in the Township.

Ms. Geevers commented on the process and why Council should not be pressed for a vote this evening. She spoke about the Township policy as it relates to affordable housing and the use of the Affordable Housing Trust Fund. Ms. Geevers outlined her concerns with the Settlement Agreement.

Mr. Morgan noted that it is difficult to make a decision without all the information and the answers to his questions. He explained why he voted against the original Redevelopment Plan and the first Settlement Agreement. Mr. Morgan advised that Council has a lot of unfinished homework and the outcome of the Settlement Agreement will determine how much control Council wants for the future of West Windsor.

Ms. Ciccone advised that she is in favor of the concept of a Transit Village and voted in favor of the first Settlement Agreement. She noted that this is an opportunity for West Windsor to continue to provide a standard for affordable housing. Ms. Ciccone was in favor of eliminating from the agreement the \$900,000 from the Affordable Housing Trust Fund. She spoke about having an option to purchase some of the rental units and discussed ways to make this an opportunity.

Mr. Gordon was receptive to Ms. Ciccone's suggestion and offered alternatives to further this potential opportunity.

Mr. Herbert offered language amendments to incorporate the potential of having some for-sale affordable housing units in the plan.

Mr. Hoff suggested having eighty rentals and eighteen for-sale units for moderate income. He advised that he would need to contact Mr. Goldin to discuss and approve the amendment.

Mr. Morgan noted that the meeting was out of order.

President Khanna commented that this Settlement Agreement would provide the best scenario based on the officials, the consultants, and the residents' suggestions over the last six years. He spoke of the enormous progress that has been made including the amendment to the affordable housing unit component. President Khanna noted that a vote in favor will get the resident a tax positive town center.

Mr. Morgan asked to have some of his suggestions considered for inclusion into the Settlement Agreement.

Mr. Hoff agreed to add one of Mr. Morgan's language amendments.

Motion to approve: Khanna  
Second: Ciccone  
RCV: aye Borek  
aye Ciccone  
NAY Geevers  
NAY Morgan  
aye Khanna

Motion to extend the clock 30 minutes until 11:30 p.m.: Morgan  
Second: Ciccone  
RCV: aye Borek  
aye Ciccone  
aye Geevers  
aye Morgan  
aye Khanna

#### INTRODUCTION OF ORDINANCES

2011-12 AN ORDINANCE AUTHORIZING THE ACQUISITION OF A SIDEWALK EASEMENT AND A TEMPORARY CONSTRUCTION EASEMENT FROM SCHLUMBERGER TECHNOLOGY CORPORATION LOCATED AT BLOCK 6.20, LOT 20 - Wallace Road

Ms. Geevers inquired about Schlumberger donating the land to the Township.

Mr. Hary noted that it was not an option negotiated by the Tax Assessor.

Motion to introduce: Ciccone

Second: Borek

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

Ms. Young advised that the Public Hearing for Ordinance 2011-12 will be held at the August 1, 2011 Business Session.

2011-13     AN ORDINANCE AUTHORIZING THE ACQUISTION OF RIGHT-OF-WAY AND A SLOPE EASEMENT FROM TRUSTEES OF PRINCETON UNIVERSITY LOCATED ON BLOCK 4, LOT 6 - Alexander Road

Motion to introduce: Ciccone

Second: Borek

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

Ms. Young advised that the Public Hearing for Ordinance 2011-13 will be held at the August 1, 2011 Business Session.

#### COUNCIL REPORTS

Mr. Borek noted that the Affordable Housing Committee discussed the InterCap Settlement Agreement at their last meeting

Ms. Ciccone advised that the Environmental Commission will meet next week to work on the grant application from Wal-Mart which was approved this evening.

#### ADDITIONAL PUBLIC COMMENT

Mr. John Church, 11 Princeton Place, noted his disappointment with the process this evening as it relates to the InterCap Settlement Agreement.

Ms. Alison Miller, 41 Windsor Drive, commented on the marquee at the Arboretum. She offered suggestions to enhance the background of the marquee.

Mr. Pete Weale, 144 Fisher Place, addressed several questions and concerns.

ADJOURNMENT

Motion to adjourn: Ciccone

Second: Borek

RCV: aye Borek

aye Ciccone

aye Geevers

aye Morgan

aye Khanna

The meeting was adjourned at 11:25 p.m.

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Sharon L. Young  
Township Clerk  
West Windsor Township