



Mayor and Common Council Borough of Flemington

September 26, 2016

Council Meeting Room

Work Session (7:00 PM)

1. Salvation Army local chapter update on community services: Salvation Army Lt. Adam Boynton discussed the success of the various programs offered by the Salvation Army. Mission Literacy is a reading program with a high tutor-student ratio. The Troops Program is a badge-based program that addresses life skills and paths for success. The Joyful Noise Music Academy provides music lessons and training in other art forms. Flemington Youth Ignite is a bi-weekly teen club to provide good examples of alternative fun and healthy conversation. It also provides emergency assistance and a community soup kitchen.

2. Streetscape Phase 2 discussion - whether to apply for an additional grant to extend the project further along Main Street. Engineer Robert Martucci talked about options for a second phase of streetscape work in the borough. Phase one covered Bloomfield Avenue to Mine Street. The second phase could cover from the veterans' monument to Bloomfield, or from Fulper to Mine Street. The work at the monument end, covering about 800 feet of street, would likely cost around \$825,000 for construction alone; the work at the Fulper end, about 700 to 750 feet, would likely cost around \$715,000.

Robert Shore, 47 Broad St., noted the work does not include building a network infrastructure to bring high-speed internet into the borough, something that could attract business. Councilwoman Liebowitz said if that's something that's important to the borough, the borough would have to bond to do the work.

Mr. Martucci recommended seeking a federal Transportation Alternatives Program grant for the maximum allowable. He and Councilwoman Liebowitz will meet with the Flemington Community Partnership to discuss ways of working together. A resolution is needed at the council's next meeting in order to meet the grant application deadline.

Regular Meeting (7:30 PM)

This meeting is being held in conformance with the Open Public Meetings Act.

Flag Salute

Attendee Name	Title	Status	Arrived
Alan P. Brewer	Councilman	Present	
John Gorman	Councilman	Present	
Marc Hain	Council Vice President	Present	
Brooke Liebowitz	Councilwoman	Present	
Brian Swingle	Council President	Present	
Michelle Oberst	Councilwoman	Absent	
Phil Greiner	Mayor	Present	

1. PUBLIC COMMENTS -- Session I (up to approximately 3 minutes each, for a maximum of approximately 30 minutes)

Lois Stewart, 26 Spring St., expressed concern about streetscape work being planned before redevelopment work begins, suggesting that heavy equipment could damage the renovations, and noting that the federal government should be informed of the redevelopment plans. She also asked about a consultant's report to the Raritan Township Municipal Utilities Authority about pollution from Flemington getting into the RTMUA plant. Mayor Greiner said it sounded like there were a number of issues with the wet weather facility, and referred her to Sewer Superintendent Ken Diehl.

Marcia Karrow, 62 Elwood Ave., noted that the borough newsletter sent out in June made no mention of Jack Cust Jr.'s redevelopment plan for the Union Hotel area, and said that's a good venue to keep everyone informed. She asked if there are any conversations with Mr. Cust about creating an improvement authority to put up a parking garage, and Mayor Greiner said no. Gary White of Old Tote Road, Mountainside, asked council to consider a resolution about spreading awareness of Fibrodysplasia Ossificans Progressiva, a genetic condition in which the body makes additional bone where it shouldn't.

Elizabeth Frank of Raritan Township noted an art show and activity at the Filling Station over the weekend was bringing in traffic, and urged more events to bring in traffic.

Councilman Brian Swingle said the Flemington Community Partnership is looking at data gathered from the summer's beer garden and Thursday Night Lights events, to consider which nights are most effective for activities.

Norma Shapoff of Prospect Hills said she grew up in Flemington, her grandfather was a deputy sheriff during the Lindbergh kidnapping trial, and she feels that history is being destroyed.

Tony Previte, 45 North Main St., supported bringing high-speed internet to the borough. He also asked if the autumn decorations recently put up be extended half a block toward the North Main Street end of town. He objected to a 3-minute limit on speakers, asking council to "do the elbow work" and not watch the time.

Robert Shore, 47 Broad St., asked how many meetings with Mr. Cust have been held in the last 30 days. Mayor Greiner answered there's been communication, but not necessarily any meetings. When Mr. Shore said he understood the newly expanded Development Committee would be meeting regularly, Mr. Greiner said that committee has been meeting, but not with Mr. Cust. Its focus is primarily to work on the redevelopment plan.

Marilyn Wanzer of Delaware Township asked why the hotel windows were boarded up.

Councilman Gorman said it was for security reasons, to keep people from getting in.

Councilwoman Liebowitz referenced a comment in the work session about how the planned redevelopment would damage work planned in the Streetscape renovations, saying, "We're not putting in a street and then ripping it up."

Rob Wall, 47 Capner St., commented on the negativity he sees on social media, saying it's childish and wrong, and social media doesn't give people a First Amendment right to bash others. He asked people to "stop the bashing and move forward with Main Street."

2. SPECIAL ATTORNEY'S REPORT

Attorney Barry Goodman noted that two lawsuits have been filed against the borough. Though officials hadn't yet been served, the media had been contacted. The lawsuits were filed by

Friends of Historic Flemington LLC. One, which also lists Lois Stewart and Gary Schotland as plaintiffs, says a meeting on 8/8/16 violated the Open Public Meetings Act because people couldn't fit in the meeting room and that actions taken during the meeting should be voided; that the 3-minute speaking rule was unevenly applied; that moving the 9/12/16 meeting to the historic courthouse on short notice to accommodate an expected crowd violated the 48-hour notice requirement; and that designation of the Union Hotel area as an area in need of redevelopment was invalid due to a technical glitch. It seeks an injunction that no further meetings be held in the Borough Council meeting room.

A second lawsuit was filed by Friends of Historic Flemington LLC against Rebecca Newman, saying she inadequately responded to an Open Public Records Act request. He said he's reviewing that case, but noted, "It was probably the most overburdening request I've ever seen."

Councilwoman Liebowitz asked how much the suits are likely to cost the borough, \$30,000 to \$40,000? Mr. Goodman said it could easily be that much. Ms. Liebowitz then asked if anyone knew how many members of the Friends of Historic Flemington LLC are from the borough. No membership lists were given.

3. MAYOR'S REPORT

- 9/24 - participated in fundraising walk for Kimi Goetz; raised over \$1,000 so far
- 9/21 - participated in ShopRite's "Help Bag Hunger" day, along with several other public officials
- 9/22 - met with the borough's COAH Steering Committee, planner Beth McManus, attorney Steve Firkser, and court-appointed Special Master Michael Bolan to review our status ahead of mediation talks with the Fair Share Housing Center. We are cautiously optimistic of reaching a workable settlement, but the process is still likely to go into 2017 to complete.
- Spoke with our real estate attorneys about the results of the LSRP's analysis of the gas station site (144 Main), which should clear the way for a final settlement agreement with the DEP. The attorneys will make a presentation to the council about this before any agreement is presented for approval.
- Redevelopment lawsuits: Since the 2/22 redevelopment presentation, we have had 13 meetings during which we heard 183 comments from 80 different speakers. At three minutes each, that is over nine hours of questions and comments. We have let everyone speak who wanted to speak. Out of 183 comments, a few went over three minutes. That is to be expected. One of them was Edna Pedrick, who spoke in favor of the project. But others, including Steve Tuccio and Robert Shore, also went over three minutes while speaking against the project or the council. There was no discrimination based on the opinion of the speaker. We are being sued because there was an overflow crowd at the 8/8 meeting; when we heard on 9/12 there could be another overflow that evening, we moved the meeting one block away to the courthouse, and we are being sued for that too. The lawsuit demands that we never hold another council meeting in this room. Building or renting larger space would be a burden on the Flemington taxpayers. At the 8/8 meeting, 55% of the speakers were from out of town. At the 9/12 meeting, 46% of the speakers were from out of town. If the out-of-town folks would have the courtesy to let Flemington run its own business, both crowds would have easily fit into our Borough Hall meeting room. How is our small town to handle speakers from all over the county and as far away as Clark?
We will do our best to minimize the cost of these lawsuits to our taxpayers. First, we will try to move all redevelopment-related meetings to a larger venue, subject to availability, or we will

cancel meetings that cannot accommodate the crowds. Second, we will re-vote all items on the 8/8 and 9/12 agendas to remove any possible taint from the alleged OPMA violations. Third, we will change the way we manage the three-minute time limit to be more rigid in its enforcement. I regret that we cannot apply some judgment, but that is what we must do until the lawsuits are resolved.

Turning to the Friends of Historic Flemington LLC, it would have been nice to see them hire an architect to develop a better plan. Instead they hired a lawyer to obstruct the plans on the table. They are an amorphous group whose leadership is unknown and offers no alternative plan. Negotiation is a healthy process, but you cannot negotiate with a group with no identified leaders, no one who is authorized to represent the group, and who offer no workable alternative plan.

4 COUNCIL MEMBERS' REPORTS

Councilman Brewer

Mr. Brewer noted Historic Preservation Commission discussion of work at several residences in the borough, and said Elaine Gorman updated the group on the pending Burger King plans, and redevelopment plans.

He noted the Administrative Committee interviewed 6 candidates for the part-time administrative assistant position in the office, and has recommended Allison Purcell for the position.

Regarding the recently filed lawsuits, he said it's discouraging to go back to 2013 when the borough is trying to move forward.

Councilman Gorman

Mr. Gorman described his attendance at recent events and meetings, and noted that there's a problem with banners over Main Street blowing in the wind, and moving poles in front of the Union Hotel that hold the banners.

He noted an upcoming meeting with Raritan Township over antennas on the water tower.

Council Vice President Hain

The Parks and Recreation Committee met Sept. 13 for the first time since June, and reviewed the summer recreation program, the fireworks display and park maintenance issues. The next meeting is Oct. 11.

The Environmental Commission met Sept. 19, and is working on access to the Sustainable Jersey website to start the renewal process. Next meeting Oct. 17.

Planning Board: Next meeting is Oct. 3. Subcommittee to review COAH requirements met Sept. 22 to work on new requirements that taken into consideration Fair Share Housing numbers, Affordable Housing Plan numbers, Rental numbers, and Senior Housing numbers.

Police: the internal Police Department interview committee has started the first round of interviews to fill vacant positions. They will present recommendations to the Acting Chief and Mr. Hain and will take part in the third interview round.

Car Break-ins - A suspect was arrested Saturday in a bunch of vehicle break-ins over the last few weeks. The thefts were wallets, purses, money and valuables left in plain view that tempted the person. Mr. Hain asked residents to keep valuables secured and out of view.

Police Statistics for August 2016:

5,191 Mile Driven; 2,135.54 duty hours; 241 motor vehicles summonses; 8 parking summonses; 18 summonses from mobile data terminals; 309 warnings; 13 criminal arrests; 31 disorderly arrests; 517 phone calls; 120 investigations; 33 motor vehicle accidents; 304 operations reporting investigations.

Also: 5 9-1-1 hangups; 38 alarm calls; 13 noise complaints; 10 welfare checks; 50 complaints of suspicious activities.

Special thanks to Acting Chief Rotella and Patrolman Garrabrant for helping the FCP decorate the town for fall.

Acting Chief Rotella was able to negotiate and bring to a safe close a suicidal/ knife-wielding individual. He was able to calm him down and have him surrender without anyone being injured. The Prosecutor's Office and Raritan Township Police assisted at the scene.

Department of Public Works: Thanks to the DPW/Water Department for repairing the water leak near the laundromat at the end of New York Avenue. If anyone sees water coming up out of the ground, please let the DPW or any council person know about it; all phone numbers are on the borough website.

Kimi Goetz Fundraiser: Participated in the Kimi Goetz 3K walk this past Saturday. Around 30 people participated to help fund Kim's dreams of making it to the Olympics. She needs our help to help fund the equipment and training required of her.

Councilwoman Liebowitz

Streetscape: Ms. Liebowitz is working with Engineer Rob Martucci and the Flemington Community Partnership on Phase 2.

She's working with Deb Gilmartin on a \$43,000 grant for the Fire Department, to handle exhaust from the engines that leaks into Borough Hall. Ms. Liebowitz has reached out to Rep. Leonard Lance's office for help.

Global Ag: The committee has been working on a final redevelopment plan, and will be meeting with the buyer and the buyer's attorney next week.

Council President Swingle

Mr. Swingle has been working on budgets with the Flemington Community Partnership, and hopes to have the budget before the council soon. He noted that the former BID has returned \$50,517 to the borough, along with all physical assets except electronic devices.

After spending money to reimburse the organizer of Thursday Night Lights, and the borough for plantings, \$29,017 remains. He said discussion is needed to determine whether or not to pursue an audit, since there is at least \$10,000 of unaccounted-for funds.

Regarding the recent lawsuits filed against the borough, Mr. Swingle said that when people bought a yard sign or T-shirt from the Friends of Historic Flemington, he wonders if they realized they'd be suing themselves.

5. APPROVAL OF MINUTES

Motion To: Approve Minutes: Sept. 12, 2016 Regular Council Meeting

Move: Brewer 2nd: Hain Vote: Brewer, Gorman, Hain, Liebowitz and Swingle, all Yes

Consent Agenda

Moved: Mr. Swingle; 2nd: Mr. Brewer; Vote: Unanimous approval

1. RESOLUTION 2016-141: URGING THE STATE LEGISLATURE TO APPROVE A-1834/S-178, WHICH REQUIRES THE DEPARTMENT OF HEALTH TO LICENSE ADDITIONAL ANGIOPLASTY FACILITIES, WITH AT LEAST ONE IN EACH COUNTY
2. RESOLUTION 2016-142: AUTHORIZING PAYMENT FOR HALF OF 2016 THURSDAY NIGHT LIGHTS EXPENSES

3. RESOLUTION 2016-143: REIMBURSING THE BOROUGH FOR PLANTINGS
4. RESOLUTION 2016-144: AUTHORIZING AN ON-PREMISE RAFFLE TO BE HELD ON OCTOBER 22, 2016 BENEFITING THE HUNTERDON COUNTY PBA #188 CIVIC ASSOCIATES
5. RESOLUTION 2016-145: GRANTING PERMISSION TO CONSUME ALCOHOL BETWEEN THE HOURS OF 4:00 PM AND 11:00 PM ON STANGL ROAD FOR THE FALL FESTIVAL
6. RESOLUTION 2016-146: APPOINTING CARL TAYLOR AS ASSISTANT MUNICIPAL PROSECUTOR
7. RESOLUTION 2016-147: APPROVING SUBMISSION OF APPLICATION FROM JOSEPH HEITKAMP TO THE NJ FIREMAN'S ASSOCIATION AND HIS MEMBERSHIP IN THE FLEMINGTON FIRE DEPARTMENT
8. RESOLUTION 2016-150: RESCINDING RESOLUTION 2016-73 AND ALLOCATING \$6,900.00 OF OPEN SPACE FUNDS TO SAMUEL FLEMING HOUSE

Regular Agenda

1. RESOLUTION 2016-148: AUTHORIZING SOLICITATION OF BIDS FOR USE OF "THE PATIO" ON MAIN STREET BY ANY VENDOR INTERESTED IN SELLING CHRISTMAS TREES DURING THE WINTER HOLIDAY SEASON

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Brian Swingle, Council President
SECONDER:	Brooke Liebowitz, Councilwoman
AYES:	Brewer, Gorman, Hain, Liebowitz, Swingle

2. RESOLUTION 2016-149: APPROVING THE HIRING OF ALLISON PURCELL AS ADMINISTRATIVE ASSISTANT

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Alan P. Brewer, Councilman
SECONDER:	Marc Hain, Council Vice President
AYES:	Brewer, Gorman, Hain, Liebowitz, Swingle

3. PUBLIC COMMENTS, SESSON II

Alice Schwade, 12 Park Ave., commented on the new lawsuits. "Certain people always get overtime to speak," she said. "Council bends over backward to avoid stepping on toes." Certain people are "always asking where the money is coming from," she said. "This time, it's the taxpayers."

At the large meeting at St. Magdalen's, "4 of 5 speakers were not even residents," she said. "Why is it such a big deal for them? Why should they have such a big say?"

Attorney Goodman said they have a right to be heard, and public comments can't be limited to Flemington residents.

"It's our job to weigh the value of those comments," said Councilman Swingle.

Joann Braun, 77 Jefferson Court, Raritan Township, said she "hears a lot about negativity from our group, but the bashing is not from our group," she said, speaking of the Friends of Historic Flemington. "I have been booed by people from your group," Councilwoman Liebowitz said. "I've been bashed on Facebook. You say your group doesn't do that, but that's not true."

Mr. Goodman asked if Ms. Braun could provide a list of her group's members. "We don't know who you are," said Mayor Greiner. "There's no one to deal with. It's just obstruction and criticism."

Tony Previte, North Main Street, said he sympathized with the preservationists, but didn't empathize with them. He spoke of the Basking Ridge tree, dead but being held up by cables. "Where's the cabling for the hotel?" he asked. "Where was the TLC to keep it from going bad? It's too late."

Chris Englehardt, Main Street, said since Flemington is the county seat, everyone in the county has a stake in what happens here.

Lois Stewart asked if there could be a public session on extension of work planned for Main Street.

4. ATTORNEY’S REPORT

Mr. Goodman noted that an Executive Session would be called to discuss several legal items: Lawsuit by Friends of Historic Flemington against Rebecca Newman; lawsuit by Friends of Historic Flemington, Lois Stewart and Gary Schotland against the borough; the Martin Jones lawsuit; and for legal advice about venues.

5. PAYMENT OF THE BILLS

Motion To: Pay The Bills

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Alan P. Brewer, Councilman
SECONDER:	John Gorman, Councilman
AYES:	Brewer, Gorman, Hain, Liebowitz, Swingle

EXECUTIVE SESSION FOR ANY OTHER APPLICABLE MATTER IDENTIFIED DURING THE REGULAR MEETING (Action May Be Taken)

Move: Brooke Liebowitz; 2nd: Marc Hain; Vote: Unanimous approval

Adjournment

Motion To: **Adjourn**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Marc Hain, Council Vice President
SECONDER:	Alan P. Brewer, Councilman
AYES:	Brewer, Gorman, Hain, Liebowitz, Swingle