



Mayor and Common Council Borough of Flemington

December 12, 2016

Historic Flemington Courthouse

Work Session (7:00 PM)

Preview of Global Ag draft redevelopment plan: Councilwoman Brooke Liebowitz said the redevelopment committee met for several months on the plan, which is available on the borough's website. It generally follows the Terra Noble plan, offering town homes, a little park, presenting what she said is a cohesive plan for the different lots. She said she hoped people would come to a public hearing on the plan, which is likely to be sent to the Planning Board early in 2017. Councilman Brian Swingle said the plan shows continuing movement to improving the available housing stock in Flemington.

In public comments following the discussion of Global Ag, Maryellen Costello of Hoboken said she grew up in Flemington and objected to the proposed hotel-area redevelopment plans, particularly concerning underground parking. She said it was a bad idea to raze buildings just to provide underground parking.

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
Phil Greiner	Mayor	Present	
John Gorman	Councilman	Present	
Marc Hain	Council Vice President	Present	
Brooke Liebowitz	Councilwoman	Present	
Michelle Oberst	Councilwoman	Present	
Brian Swingle	Council President	Present	
Kim Tilly	Councilwoman	Present	

1. HUNTERDON COUNTY CHAMBER OF COMMERCE STATEMENT REGARDING THE HOTEL-AREA REDEVELOPMENT PROJECT

See attached comments from Chris Phelan, President & CEO of the Hunterdon County Chamber of Commerce, and Jim Robinson, Vice President of the Chamber.

2. Public Comments -- Session I (up to approximately 3 minutes each, for a maximum of approximately 30 minutes)

Kevin DeHaven, 33 Pennsylvania Ave., asked about a \$1 million figure regarding mold mitigation for the Union Hotel, wondering where the figure came from.

Mayor Greiner said he hadn't seen any reports, but the source of the information as far as he knows is a consultant hired by the redeveloper.

Chris Englehardt, 180 Main St., asked if the borough would document the four buildings planned to be demolished, and if any archeological objects found could be saved.

Steve Tuccio, 61 Elwood Ave., commented on ongoing deterioration of the Union Hotel, saying there seems to be selective enforcement of the borough's property maintenance ordinance. Councilman Swingle said the borough handles property maintenance situations all the time, and the only method of enforcement is public funds.

Joann Braun, Jefferson Court in Raritan Township, said the plan for the Global Ag property looks great. She then discussed the proposed residential capacity of the hotel-area development plan, saying that the area cannot support development of that scale. Mayor Greiner said that when an application goes before the Planning Board, the board has to determine if it is consistent with the borough's master plan.

Jane DeHaven, Pennsylvania Avenue, asked why Clarke, Caton, Hintz wasn't involved with the downtown hotel area development, and Mayor Greiner assured her the firm is involved.

Susan Peterson, 180 Main St., said it would be a profound mistake to vote the Cust plan through as is. She said the borough shouldn't compromise its revised master plan, and that council members are responsible to the residents. She said the council should accept what people are saying and move toward what was already anticipated.

Bob Schwade, 12 Park Ave., asked if Ms. Peterson's statement disqualified her from voting on the issue in the future, when she joins the council. Attorney Barry Goodman said that's not predetermined.

Karen Fadool, 5 Tavern Lane, Whitehouse Station, urged balance between a big plan and what's suitable for a small town. She asked that the project be scaled down, keeping the hotel intact. Councilman Swingle said two previous developers had unsuccessfully tried that.

Jeanette Fullerton, Raritan Township, asked if mention in the Global Ag plan that buildings would relate to the historic district means that Agway would replicate 7-story buildings in the Cust plan. Councilman Swingle said one block doesn't reset the standards for a whole historic district. Councilwoman Brooke Liebowitz said Mr. Cust has come forward with a plan, and it's incumbent on the council to evaluate it.

Marcia Karrow, 61 Elwood Ave., also commented on the hotel plan.

1. RESOLUTION 2016-185: SECOND READING: FLEMINGTON BOROUGH SPECIAL IMPROVEMENT DISTRICT BUDGET FOR 2017

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Brian Swingle, Council President
SECONDER:	Michelle Oberst, Councilwoman
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

3. Mayor's Report

- Ran in Turkey Trot on Thanksgiving morning, along with 5700 runners and walkers. Thanks to all the residents who come out to cheer on the runners and be a part of the event. Your participation adds a lot to the success and enjoyment of the event.
- 11/28 – attended the swearing-in of new police officer Philip Canale.
- Attended the tree lighting, Whitehouse Wind Symphony concert, and holiday parade to help kick off the holiday season.
- 12/7 – attended the 114th birthday party for a county resident at the Country Arch in Pittstown, along with Clinton mayor Janice Kovach. Adele Dunlap, at 114, is the oldest known living American. Her continued good health adds to Hunterdon County's reputation as being one of the healthiest counties in the country.
- Redevelopment: The redevelopment committee met with the redeveloper's team, with attorneys from both sides, to work out details of the Redeveloper Agreement (RDA). While it is not ready tonight, as you can see, we would still like to have it in place by the end of the year. Therefore, we expect to convene a special council meeting, likely on December 22, for the sole purpose of voting on either an RDA or a short extension of Mr. Cust's designated developer status. If the RDA is ready for a vote on the 22nd, we will make it available on-line before the meeting to allow everyone time to read it. The RDA does not represent an up-or-down vote on the project, and there are multiple points later on at which public hearings and votes will take place before any work can begin. These meeting plans are still subject to final confirmation. In addition to the legal notice, we will post updates on our web and social media pages to confirm a meeting.
- The cost to the borough through November 30 of defending the lawsuits filed by Lois Stewart, Gary Schotland, and the Friends of Historic Flemington LLC is \$6,695. If we must anticipate a pattern of continuing lawsuits throughout the redevelopment, this will have to be reflected in next year's budget at substantial cost to borough residents and at no cost to those not living in the borough who support these suits. Attorney Goodman will provide an update on the suits later in the meeting.
- Snowflake lights: Most lights are working, and the town looks great with them lit. Half of the initial non-working lights had their fuses replaced and are working now; the remaining eight need new photocells. These cells are on order and should be delivered later this week, according to JCP&L.

- The reorg meeting will be held at the intermediate school, RFIS, in the auditorium, rather than at Borough Hall as originally advertised. This is because of the larger-than-usual attendance at this year's meetings. The new venue will be published subject to our application to the school being accepted. The meeting is on Tuesday, January 3, at 5:00 PM.

4. Council Members' Reports

Councilman Gorman

Mr. Gorman thanked outgoing Councilwoman Michelle Oberst for her service. He noted that the Street Department is finishing up with leaf cleanup, and that would stop after it snows. He also said the borough's Christmas tree is the best he's seen in a long time.

Council Vice President Hain

Mr. Hain said the Planning Board met on Dec. 5 about 10 Church St., the former Spice Factory property. He also thanked Police Chief Jerry Rotella for his service as acting chief, saying he's worked hard to update procedures and openness in the department, and that he's heard very positive remarks from the officers.

Councilwoman Liebowitz

Ms. Liebowitz waived her report.

Councilwoman Oberst

Ms. Oberst said the Samuel Fleming House tricky tray event raised more than \$6,000 to be used toward programs and events in 2017. She noted the redevelopment team met and went page by page through an extensive redevelopment agreement. She noted the Fire Department held a drill on the block containing the Union Hotel, and some people who saw it were critical of how it went. She said people shouldn't criticize the firefighters for holding a drill.

Council President Swingle

Mr. Swingle noted the economic wave is beginning to break; investors are coming into Borough Hall, and that's what the borough has been waiting for. He reviewed the year, saying every meeting he's had to look forward to tension. He said residents and council members need to be able to have conversations without being insulted, and look for a better way of getting along.

Councilwoman Tilly

Ms. Tilly said the weather on Thanksgiving was perfect for cheering on the 5,613 participants in the Turkey Trot. She congratulated the Mayor and all those who finished. On Nov. 28 she attended the Flemington-Raritan school board meeting. Following resignation of the district's treasurer, Raymond Krov was appointed on Nov. 18. Superintendent Maryrose Caulfield said it's an oversight

position. She referred people to the board website, www.frsd.k12.nj.us, for agendas and meeting minutes.

On Dec. 7 she attended a work session meeting of the HPC. Topics included website, vacancies on the board, budget, role of the board and upcoming applications. Anyone interested in joining should contact Chair Elaine Gorman. She also thanked Jamie Wright for hard work and dedication serving the last two years on the HPC board. The board's next meeting is Dec. 21.

On Dec. 8 she attended the monthly MediaTech Board meeting. She thanked Robert Shore, Susan Peterson and Matt McPherson for their donations to cover the cost of renting the historic courthouse for the 6th annual Holiday Concert. MediaTech is starting to plan its Maker's Day schedule for March 25. People who are passionate about something they make and would like to host a presentation can email: Steve@stephenfox.info. The next meeting is the annual meeting, Jan. 12.

Ms. Tilly congratulated Flemington resident Tamera McWhorter for being chosen to represent New Jersey in the 2017 Tournament of Roses parade, as part of the Salvation Army's Timbrels team. Ms. Tilly also thanked Ms. Oberst for her guidance during Ms. Tilly's transition onto the council.

5. Approval of Minutes

Motion To: **Approve Minutes: Nov. 21, 2016 Regular Council Meeting**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Gorman, Councilman
SECONDER:	Brian Swingle, Council President
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

1. Motion To: **Approve Minutes of Executive Session held Nov. 21, 2016**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Michelle Oberst, Councilwoman
SECONDER:	Marc Hain, Council Vice President
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

Consent Agenda

Moved: Marc Hain; Second: Kim Tilly; Vote: All in favor

1. RESOLUTION 2016-186: A CHAPTER 159 RESOLUTION ADDING FUNDS INTO THE 2016 MUNICIPAL BUDGET OF THE BOROUGH OF FLEMINGTON IN THE AMOUNT OF \$5,000
2. RESOLUTION 2016-187: A CHAPTER 159 RESOLUTION ADDING FUNDS INTO THE 2016 MUNICIPAL BUDGET OF THE BOROUGH OF FLEMINGTON IN THE AMOUNT OF \$18,911

3. RESOLUTION 2016-188: AUTHORIZING THE MAYOR'S SIGNATURE ON A RIGHT OF ACCESS AGREEMENT WITH JERSEY CENTRAL POWER & LIGHT CO. AND PIVOTAL UTILITY HOLDINGS, DBA ELIZABETHTOWN GAS, FOR SOIL REMEDIATION AT 28 HOPEWELL AVE., BLOCK 5, LOT 3
4. RESOLUTION 2016-189: AUTHORIZING THE REDEMPTION OF TAX SALE CERTIFICATE # 2016-002 HELD ON BLOCK 8 LOT 9, 11 E. MAIN ST., AND AUTHORIZING THE TREASURER TO ISSUE A CHECK IN THE AMOUNT OF \$99.61 PLUS A PREMIUM OF \$200.00
5. RESOLUTION 2016-190: AUTHORIZING THE MAYOR, COUNCIL PRESIDENT AND CLERK TO SIGN FORMS TO BE IN COMPLIANCE WITH THE GUIDELINES SET FORTH BY THE GOVERNOR'S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FOR THE MUNICIPAL ALLIANCE PROGRAM'S JULY 1, 2017 THROUGH JUNE 30, 2018 GRANT CYCLE
6. RESOLUTION 2016-191: AUTHORIZING THE RELEASE OF A STREET OPENING BOND FOR 54 ELWOOD AVE. IN THE AMOUNT OF \$250.00
7. RESOLUTION 2016-192: DECLARING A POLICE CAR SURPLUS AND AUTHORIZING ITS DONATION TO THE FLEMINGTON-RARITAN FIRST AID AND RESCUE SQUAD
8. RESOLUTION 2016-193: BEAUTIFICATION CONTRACT FOR PLANTERS FOR 2017-18
9. RESOLUTION 2016-194: APPOINTING JOHN MOORE RISK MANAGEMENT CONSULTANT FOR 2016
10. RESOLUTION 2016-195: AUTHORIZING INTEREST-FREE TIME PAYMENT FOR OLD EGG AUCTION WATER BILL
11. RESOLUTION 2016-197: AUTHORIZING MAYOR'S SIGNATURE ON A MEMORANDUM OF UNDERSTANDING FOR A SEWER AGREEMENT FOR CHIMNEY ROCK INN RESTAURANT
12. RESOLUTION 2016-201: AUTHORIZING USE OF COAH FUNDING TO COVER ADMINISTRATIVE COST OF RENTING APARTMENT AT 2-6 WILLIAM ST.
13. RESOLUTION 2016-202: HONORING ADELE HENDERSON DUNLAP ON HER 114TH BIRTHDAY

Regular Agenda

1. RESOLUTION 2016-196: 2016-196 : APPOINTING ACTING POLICE CHIEF JERRY ROTELLA AS POLICE CHIEF

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Marc Hain, Council Vice President
SECONDER:	Brooke Liebowitz, Councilwoman
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

2. ORDINANCE 2016-17: SECOND READING: AUTHORIZING A FEE FOR LATE LANDLORD REGISTRATION

A public hearing was opened on a motion moved by Councilman Swingle and seconded by Councilman Gorman. No one made any comments. The hearing was then closed on a motion made by Councilman Swingle and seconded by Councilman Gorman. The council then voted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Brian Swingle, Council President
SECONDER:	Michelle Oberst, Councilwoman
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

CONSIDERATION OF COUNSEL REGARDING RESOLUTION 2016-198

Attorney Sharon Ransavage will be heard in Executive Session.

8. Public Comments -- Session II (up to approximately 3 minutes each, for a maximum of approximately 30 minutes)

Elaine Gorman, New York Avenue, complimented the FCP on the details included in its 2017 budget proposal, saying it was easily read and understood. Al Brewer, Coppermine Village, discussed storage fees for the decorative Christmas balls that are now on display near the Agway property. He said after discussions with the FCP he discovered that \$4,000 was spent not too long ago on them, and that some are damaged, scraped and have paint peeling off. Councilman Swingle said the FCP has determined that the balls are not worth the cost of rehabilitating them, and they're being turned over in payment of storage fees.

Marcia Karrow, 61 Elwood Ave., criticized the decision to hold a special meeting on Dec. 22, right before the holidays. She said the council will have to live with its decision, but it is not practicing transparent government.

Joey Novick, 11 E. Main St., said it would be wise to wait until January to decide the issue of redevelopment for the Union Hotel area.

Susan Peterson, 180 Main St., said she doesn't think it's fair to rush the decision on extending designation of Jack Cust as the hotel-area redeveloper through on Christmas week, saying it's asking a heck of a lot from residents, and is poor community relations.

Bob Schwade, 12 Park Ave., cited a recent news article reporting that Flemington's median household income is \$50,000, while many of the people

criticizing the redevelopment plan come from surrounding communities with much higher median incomes. He said he hoped council keeps that in mind. Robert Shore, 47 Broad St., said a lot of the atmosphere in town has been brought about by the council's actions. He said people come to the council meetings to express opinions and make council understand their perceptions, and that the council members work for the residents. He asked why newly appointed members of the redevelopment committee aren't being included in conversations with the developer. Mayor Greiner said the expanded committee's focus is working on writing the redevelopment plan.

Councilman Swingle said council members have worked through all aspects of the project, and that government can't stop functioning because we have a holiday. He noted there are many more steps coming in the process.

Councilwoman Michelle Oberst said she's been part of the redevelopment committee and has been working constantly for over a year on the proposal. She said pushing it off to have someone else vote on it who isn't familiar with it doesn't make sense.

Chris Englehardt, 180 Main St., asked for details on what the council is requiring for escrow and bonding. Mayor Greiner said the Redevelopment Plan is in the hands of the borough's planner, Beth McManus, and that elements are being discussed with the redeveloper so things don't just go on faith.

Joann Braun, 77 Jefferson Court, Raritan Twp., said her common sense tells her Flemington should follow the examples of Lambertville, Clinton and Frenchtown, where not one building was demolished.

Robert Shore, Broad Street, asked when residents can see financial analyses apart from what Mr. Cust has done. Mayor Greiner said that checks and balances will be put in place so the plan won't go ahead on a wing and a prayer. Asked what requirements the council is setting, Mr. Greiner said those things will come out when the agreement comes out.

Steve Tuccio, 61 Elwood Ave., said holding a special meeting on redevelopment on Dec. 22 looks like the council is trying to suppress participation in the process.

9. Attorney's Report

Borough Attorney Barry Goodman said 3 of 4 elements of a lawsuit filed by the Friends of Historic Flemington LLC against the borough have been dismissed. One was claiming that a meeting held with people in the hallway violated the open public meetings act. A municipality has a right to go back and re-vote any issues that might have been affected, and the borough did that, so the court ruled it was a non-issue.

For a second claim, about local housing laws being violated, Mr. Goodman said people had 45 days to file a challenge; the lawsuit was filed more than 2 years later, and the court dismissed that element.

A third issue, challenging the legality of a meeting because the venue was changed with inadequate notice, was dismissed by the court because council ratified all the actions taken place at the meeting in question.

Mr. Goodman said that leaves one count, an allegation that Friends of Historic Flemington attorney Maley's rights were violated because a resident spoke longer than he was allowed to. Mr. Goodman reported that while the court said it sounds dubious, the court would allow arguments to be made.

Mr. Goodman said a fifth count was added in, claiming the borough didn't contact the State Historic Preservation Office about the area in need of development, but that the borough in fact did contact the State Historic Preservation Office about the area.

Mr. Goodman noted that the borough will have the option to seek attorney's fees for defending the counts that were dismissed.

10. Payment of the Bills

Motion To: **Pay The Bills**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Gorman, Councilman
SECONDER:	Brian Swingle, Council President
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

Executive Session for Legal Advice on Proposed Agreement with State DEP over Sale of Former Gas Station Property and Consulting Proposal and decision to suspend taxi driver's license (Action May Be Taken)

1. RESOLUTION 2016-199: ADOPTING THE DEP AGREEMENT FOR THE BOROUGH-OWNED PROPERTY AT 144 MAIN ST. (BLOCK 38, LOT 1.01)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kim Tilly, Councilwoman
SECONDER:	Marc Hain, Council Vice President
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

2. RESOLUTION 2016-200: APPROVING A CONSULTING PROPOSAL FOR THE BOROUGH-OWNED PROPERTY AT 144 MAIN ST. (BLOCK 38, LOT 1.01)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Marc Hain, Council Vice President
SECONDER:	Brian Swingle, Council President
AYES:	Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

3. RESOLUTION 2016-198: RATIFYING DECISION TO SUSPEND TAXI DRIVER'S LICENSE

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Kim Tilly, Councilwoman
SECONDER: Michelle Oberst, Councilwoman
AYES: Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly

Adjournment

Motion To: **Adjourn**

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Michelle Oberst, Councilwoman
SECONDER: Kim Tilly, Councilwoman
AYES: Gorman, Hain, Liebowitz, Oberst, Swingle, Tilly