



Mayor and Common Council Borough of Flemington

July 23, 2018

Historic Flemington Courthouse

Work Session

Canceled.

Regular Meeting (7:30 PM)

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

Flag Salute

Roll Call: (John Gorman called in to the meeting during the presentation of Council member reports.)

Attendee Name	Title	Status	Arrived
Betsy Driver	Councilperson	Present	
John Gorman	Councilman	Remote-part time	
Marc Hain	Council Vice President	Present	
Michael Harris	Councilman	Present	
Susan Peterson	Councilwoman	Present	
Brooke Warden	Council President	Present	
Phil Greiner	Mayor	Present	

I. Mayor's Report

The Environmental Commission has several vacancies, and Mayor Greiner said he is appointing Kathryn Eckel and Kenneth Miller to the commission. Ms. Eckel will hold the seat vacated by Lori Hughes, which expires in 2020; Mr. Miller will hold the seat vacated by Brian Budney, which expires in 2018.

Courthouse Square project - At the next council meeting, the mayor anticipates having a presentation for the public and council by Chris Otteau of The Otteau Group, an independent third party that has been reviewing the financial agreement at the suggestion of our redevelopment attorney. Mr. Otteau's report will be available in advance of the meeting. Besides financial information it offers an analysis of market conditions, the suitability of the project for Flemington, and anticipated returns for the developer and the borough. This group has done many such analyses for municipalities, and our redevelopment attorney recommended this review. Acceptance of the financial agreement would have to be done by ordinance and that would entail a public hearing, but the mayor thinks it would be good to review this report in advance. Once a financial agreement is in place, we could expect the redeveloper's application to go before the Planning Board, possibly by the end of August, with hearings in September.

Property tax bills - These have been mailed out. There's an increase of about 1.3% pretty much across the board - school, borough and county.

II. Council Members' Reports

Council President Warden

Attended the FCP meeting earlier this evening on ordinances that could be changed to make the borough more business-friendly. They're looking at blade signs, escrow payments, streamlining the application process. It was nice to talk with business owners and hear that our Planning Board is friendly to deal with.

Corn, Tomato & Beer Fest - This will be the weekend after next, and it's a high point of summer in the borough.

Streetscape - We're still waiting for the federal government to sign off on a few things.

Redevelopment - The third-party financial review is back; she has some questions, but overall she's very pleased. Also, she met with Council members Harris and Hain earlier this evening to talk about the project, and felt there was a good exchange. She hopes such efforts continue.

Councilwoman Peterson

After posting pictures on Facebook about the county's upkeep of its grounds in the borough, she got an apology from the county along with its recognition that someone went a little crazy with the weed whacker. More care will be taken in the future.

Redevelopment - Brooke spoke with some folks, but Ms. Peterson is disappointed the full council didn't get together to discuss issues. We're selling ourselves short not doing it as a group in a setting that is not part of a council meeting.

Liquor license - This issue still bothers her. The Stagecoach Liquors license is not in the name of the Redeveloper named in the RDA. She wants to make a motion to enforce the RDA by making the developer transfer the liquor license to the LLC listed in the RDA. She passed around a letter she'd prepared to send to Mr. Cust, which gives him 30 days to comply.

Mayor Greiner said it's problematic to call for making a motion to introduce a resolution and ask council members to vote when they don't know what it means. Ms. Peterson said she still wanted to make a motion.

Attorney Barry Goodman said legal advice has been given that as long as the liquor license is held by Mr. Cust as the sole proprietor of Stagecoach Liquors, there's no problem. He asked Ms. Peterson what section of the RDA she was referring to in saying that it requires the liquor license to be in the redevelopment company's name. Mr. Harris said section 7.5 addresses liability of the parties. Mr. Goodman said section 7.5 addresses limitation of liability and doesn't deal with the liquor license at all. He suggested that instead of proceeding with this tonight, Ms. Peterson contact him with the specific sections that address the issue and they discuss it. Ms. Peterson said no, she wanted to do it tonight, the

letter's ready to go out. Mr. Harris said the name on the liquor license is a simple fix and he expects it to be fixed.

Ms. Warden said the liquor license is one of the first things Mr. Cust bought, and he's holding onto it unless he gets a 100-unit hotel that can have its own license. She said he wants a liquor license for the restaurants associated with the project; it's a critical component of them making money. Ms. Warden said every meeting these surprise moves are being made, and it's not fair to the public. Mr. Hain said he was just talking about the redevelopment today with Mr. Harris and Ms. Warden. He asked if this could be pushed to the next meeting when all council is going to be discussing the project. Ms. Peterson said she wanted to proceed with making a motion to amend the agenda to introduce a resolution to require Mr. Cust to transfer the liquor license to Flemington Urban Renewal, LLC.

Mayor Greiner called Councilman John Gorman, who participated in the meeting by use of his cell phone. Ms. Peterson made her motion to amend the agenda, seconded by Mr. Harris. Ms. Driver asked Attorney Goodman if it was an OPMA violation to have Mr. Gorman call in after the roll call had been taken. Mr. Goodman said he views it the same as if a council member arrived to the meeting late; he doesn't have to be here when the roll call is taken in order to participate. Ms. Warden said they had a nice discussion today, then this happens. The vote on the motion to amend the agenda was taken: Driver, Harris and Peterson in favor; Gorman, Hain and Warden against. Mayor Greiner broke the tie with a no vote.

Council Vice President Hain

Env. Commission: There was no quorum for the meeting scheduled for July 16. Two people are being appointed by the mayor to fill vacancies, but there are still two openings for alternates. The next meeting is Aug. 20 at 7 p.m. at Borough Hall.

Parks & Rec: Doesn't meet over the summer. The next meeting is Sept. 11.

Administration: No meetings have been held.

Planning Board: Meets July 24. Topics include a presentation on a minor subdivision by Stothoff, and a hearing on a proposal by Country Side Plaza LLC for 2 Reasoner Lane. There are 2 HPC resolutions on the agenda, and a sign review for Printech on Main Street.

Police: Stats for June: 4,196 miles driven; 275 motor vehicle summonses issued; 8 summonses from the license plate reader; 387 warnings issued; 12 criminal arrests; 1,999 radio communications; 47 motor vehicle accidents.

On Sept. 14, Patti Kerr will be signing her book, "Magical Dogs," at Barkley's on Main Street, with some of the proceeds going to help care for K-9 officer Jax.

DPW: They cut the grass berm at the Agway property. We've been unable to reach the owners of the Agway property. In the past we've had maintenance issues there; we're likely to put a lien on the property and have the DPW do

some maintenance there. Mr. Harris suggested the DPW hire a contractor to do the work, so there's no question regarding how much the lien should be.

Property Maintenance: The open position of Property Maintenance Officer has been advertised in the Hunterdon County Democrat on July 19; the ad is running again on July 26, and it's online on NJ.com through the middle of August. We'll start interviewing applicants after that.

Councilperson Driver

Salsa Night in the rain on Saturday was still a lot of fun.

Thanks to Mark Barbour from Zoup! for bringing lunch to the Fire Department.

Library roof: We're bonding for the project, and nearly \$90,000 of the cost is for rooftop mechanicals that will need to be replaced. Thanks to CFO Bill Hance, DPW Superintendent Mike Campion and Engineer Robert Martucci, the Borough has obtained a clean energy grant from the state that will bring the Borough's cost down to \$13,670.73, providing savings of more than \$70,000. It includes things like replacing the lighting in the building with energy-efficient LEDs, so savings will continue in the future.

Redevelopment: She declined meeting with Ms. Warden about the project. She's willing to discuss it contingent on a special meeting of the full council being held, and one hasn't been scheduled. Another member of the Redevelopment Committee has her suggestions.

Councilman Gorman

Participating by phone; no report.

Councilman Harris

Animal control: An abandoned cat was a topic on social media recently. He contacted the police through Councilman Hain. Regarding the borough's current animal control situation, law enforcement can collect an animal, but the borough is required to have the animal tested and held. In speaking with Mr. Hain, they discussed having the Borough pay for the veterinarian's bill, but finding someone to take the animal to relieve the cost of sheltering it. Several local residents came together to address the situation. The borough needs to find a solution while the county resolves how to replace the services previously provided by the NJ SPCA. He's started researching the question and found that the NJ SPCA had contracted with St. Hubert's for this service. He's awaiting their proposal. Also, there was a dog bite incident on July 13th, and the animal was quarantined afterward. He checked with Mr. Gorman to confirm that the DPW will be arranging for maintenance of the Agway building where feral cats are gathering.

DPW: Met July 11. A sewage leak was investigated and resolved; it was the responsibility of the business where it was located. Yard waste pickups continue to be made. He's happy to see residents taking pride in the appearance of their properties.

Redevelopment: He's glad to participate in meetings with council members. He'd been told there would be a full meeting. He had wanted to hear from Mr. Hain about his position on density of the project. The Redevelopment Committee has had one meeting with the Otteau Group over the financial agreement and with the LLC group as well. There was a presentation to both the LLC and the Borough. Since these are issues that affect negotiations, he wanted a separate meeting with the Otteau Group.

At the last council meeting we discussed that we can reopen the RDA for amendments. Our attorney Mr. Goodman recommended hiring an independent counsel to advise the borough on the redevelopment agreement. Questions have been raised about the Borough's agreement with the redeveloper- does it properly protect Flemington. As the mayor has said, it's not fair to ask Mr. Beckelman to review his firm's work. Mr. Harris said he has investigated, through conversation and internet, and found 3 possible attorneys council can review; one is the Wilentz, Goldman & Spitzer law firm. The firm's website says it has provided advice for redeveloper and public redevelopment entity clients in New Jersey for more than 20 years.

Attorney Goodman said he's reluctant to discuss legal advice he's given in public, but Mr. Harris's characterization of the legal advice he gave is a total distortion. His advice was very targeted, and given with regard to the libelous resolution Mr. Harris had proposed about replacing Attorney Beckelman. The recommendation to consult an independent attorney was solely for the purpose of reviewing that resolution. The suggestion that he's endorsing that the Borough hire a separate attorney to review the RDA is a distortion.

Mr. Harris said regarding libel, if there's a fact basis, there's no libel. Mr. Goodman disagreed, saying a false fact is libelous. If it's an opinion, that's different.

Mr. Gorman said he was having a hard time hearing on the phone, but that he's very disappointed with Council. He had viewed the agenda and knew what would be coming up at this meeting, and surprises like what's happened tonight are out of line.

Mayor Greiner asked if there would be any more motions to change the agenda tonight. Mr. Harris said there's certainly potential, he intends on doing his due diligence. Mayor Greiner asked if there was a need to recap the conversation so Mr. Gorman could hear what was going on. Mr. Harris asked if anyone could hear Mr. Gorman.

Mr. Harris said he wants to move on with the project, and he's looking for independent legal advice. He's been asked to play lawyer and come up with all the other concerns. We need a comprehensive strategy. He wants to bring in an independent counsel, and he hopes a majority of the council supports that. Mayor Greiner said he felt the meeting is being completely managed to take advantage of Mr. Gorman's absence. Mr. Harris started reviewing attorney names he's considered. Mayor Greiner asked him to make a motion so council could vote on the motion. Mr. Harris said he found 3 qualified attorneys. Mayor

Greiner said as a point of order, there's no agenda item to discuss that unless Mr. Harris makes a motion to amend the agenda to consider a resolution.

Mr. Harris moved to amend the agenda to retain attorney William Kearns to review the RDA. It was seconded by Ms. Driver. The vote was 3 in favor (Driver, Harris, Peterson) and 3 against (Gorman, Hain, Warden). Ms. Warden objected to being asked to review two different topics with 2 seconds to review them. Her colleagues dump paper on her desk and ask her to make a decision about someone she doesn't know. Clerk Graziano announced the tie vote. Mayor Greiner voted no, breaking the tie.

Mr. Harris continued his report, and said discussions with Ms. Warden and Mr. Hain were very positive. He repeated his concern that the RDA protect the Borough. Ms. Warden objected, saying they'd just talked 2 hours earlier and he'd said nothing about this. She said it was unfair how he's treating his colleagues. Mayor Greiner reined in the discussion, saying we need to follow the rules of order out of respect for ourselves and the community.

Mr. Gorman ended his cell phone participation in the meeting at 8:25 p.m. Mayor Greiner said regarding getting the whole council together to discuss the redevelopment project, the Aug. 13 council meeting is the first date everyone is available to discuss things. We've just proved, with Mr. Gorman's participation in this meeting by phone, how hard it is to have a council member phone in to a meeting.

The agenda publication schedule is well known. He called council members on Wednesday to see if we even had to have this meeting. No one said they had special topics to bring up, though Mr. Harris said he would prefer to meet. This morning he contacted Mr. Harris to see if he had any items to bring up, and he didn't indicate this. Ms. Peterson didn't indicate her intent either. Ms. Peterson asked him how he knew when she thought of it.

Attorney Goodman noted the current discussion was not on the agenda, and the conversation ended.

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

Lois Stewart, 26 Spring St. - asked for the details on any special meeting planned by council to discuss the redevelopment project. Mayor Greiner said at the last council meeting, council had agreed there should be a group discussion. There was a request by one member that it be held at a special meeting, not a council meeting. Ms. Stewart said it sounded like this discussion wasn't going to happen; Mayor Greiner said he notified council that Aug. 13 is the first day everyone can get in a room.

Ms. Stewart said there are 2 trees at the Herman Kapp property that need to be taken down, and she wants them to be replaced, not just removed. She also asked how many exterior signs businesses are allowed. She complained about orange signs outside a business on Main Street. Mr. Hain said he would notify the construction official.

Ms. Warden noted that a special meeting would be fine with her. It's an important issue. She'd like to discuss a spreadsheet from the Otteau Group that shows how changes would affect things.

Tony Previte, 45 N. Main St. - said council is a representative body and it's supposed to represent the borough. There are less than a half-dozen people at this meeting. We need to move forward. Regarding poorly kept properties, he noted that towns in South Jersey are using eminent domain to get people to do something with their properties.

Robert Shore, 47 Broad St. - The display here today was a mess. The message is clear, there's a necessity for transparency. Some feel the RDA is not in the best interest of the borough. He doesn't see the harm in having another firm look at it.

IV. Approval of Minutes

Motion To: **Approve Minutes: July 9, 2018 Regular Council Meeting**

RESULT:	APPROVED [5 TO 0]
MOVER:	Marc Hain, Council Vice President
SECONDER:	Michael Harris, Councilman
AYES:	Driver, Hain, Harris, Peterson, Warden
AWAY:	John Gorman

Consent Agenda

Moved: Hain Seconded: Harris Vote: All present voted Yes (5-0)

1. RESOLUTION 2018-115: AUTHORIZING AN EXTENSION OF THE DUE DATE FOR THIRD-QUARTER PROPERTY TAXES, 2018
2. RESOLUTION 2018-116: AMENDING RESOLUTION 2018-74 TO CHANGE THE LOCATION OF THE CENTRAL JERSEY JAZZ FESTIVAL TO MAIN STREET
3. RESOLUTION 2018-117: AUTHORIZING AN ON-PREMISES RAFFLE LICENSE FOR THE FLEMINGTON WOMAN'S CLUB
4. RESOLUTION 2018-118: AUTHORIZING RETURN OF \$250 ESCROW FEE FOR A STREET OPENING PERMIT ISSUED FOR 19 BLOOMFIELD AVE.

Regular Agenda

1. RESOLUTION 2018-119: AUTHORIZING THE PURCHASE OF A GLOBAL M3 MECHANICAL BROOM STREET SWEEPER AND ASSOCIATED EQUIPMENT UNDER NJPA CONTRACT #122017-GEP, FROM BORTEK INDUSTRIES OF MECHANICSBURG, PA., FOR A TOTAL OF \$210,315.00

RESULT: ADOPTED [5 TO 0]
MOVER: Michael Harris, Councilman
SECONDER: Marc Hain, Council Vice President
AYES: Driver, Hain, Harris, Peterson, Warden
AWAY: John Gorman

2. RESOLUTION 2018-120: AUTHORIZING THE PURCHASE OF A SPACIAL DATA LOGIC SOFTWARE LICENSE UNDER NJ SOFTWARE STATE CONTRACT 89851, FROM SHI INTERNATIONAL CORP., FOR A TOTAL OF \$35,050.00

RESULT: ADOPTED [5 TO 0]
MOVER: Marc Hain, Council Vice President
SECONDER: Brooke Warden, Council President
AYES: Driver, Hain, Harris, Peterson, Warden
AWAY: John Gorman

3. ORDINANCE 2018-14: SECOND READING: BOND ORDINANCE PROVIDING FOR WATER UTILITY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$455,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$455,000 IN BONDS OR NOTES TO FINANCES THE COST THEREOF

RESULT: INTRODUCED [5 TO 0] **Next: 8/13/2018 7:00 PM**
MOVER: Michael Harris, Councilman
SECONDER: Marc Hain, Council Vice President
AYES: Driver, Hain, Harris, Peterson, Warden
AWAY: John Gorman

4. ORDINANCE 2018-15: SECOND READING: PROVIDING FOR SEWER UTILITY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$150,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$150,000 IN BONDS OR NOTES TO FINANCE THE COST THEREOF

RESULT: INTRODUCED [5 TO 0] **Next: 8/13/2018 7:00 PM**
MOVER: Marc Hain, Council Vice President
SECONDER: Betsy Driver, Councilperson
AYES: Driver, Hain, Harris, Peterson, Warden
AWAY: John Gorman

V. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)
 Lois Stewart, 26 Spring St. - asked if the Borough's planner had been told to stop investigating eminent domain. Mayor Greiner said yes. Ms. Stewart asked how much it cost, and Mayor Greiner said nothing for the borough; maybe a small amount will be billed to the developer. Ms. Stewart said that regarding

development project revenue figures being affected by lower density, people need to remember that quality of life is important.

Tony Previte, 45 N. Main St. - called for unification of Flemington and Raritan Township. He wants council members to write up what they think about merger and present it at the next council meeting.

Robert Shore, 47 Broad St. - He said to look at the big picture of what's going on in town. He suggested hiring a firm to redevelop the parking area behind Main Street, to bring people into the Main Street area more. He suggested possibly closing Bloomfield Avenue to traffic, making it a walking area. A new facility for the DPW would be good, and they could clean that area up. There's a whole town besides the Union Hotel to worry about.

Chris Runion, 25 Broad St. - said he had a problem with Mr. Gorman being called to participate by cell phone after discussion of Ms. Peterson's motion had already begun. He also said pavers rather than concrete were preferable for the streetscape project. If you have to go with concrete, consider permeable concrete.

Ms. Driver - commented on points raised by Ms. Stewart and Council President Warden, saying that given the fact that the redeveloper is asking the CFO to come back with new figures reflecting lower density, and given that council has not met as a whole about the project, she suggested pushing off the Otteau Group presentation until after the council holds a discussion. Mayor Greiner said Mr. Hance is on vacation for several weeks. Ms. Peterson asked when the rest of council will get copies of the financial agreement.

Attorney Goodman said there's an agenda council is supposed to be following, and the public relies on the agenda. Mr. Harris said the mayor's not the only one who gets to respond to questions raised in public comment. Attorney Goodman said the previous discussion did not relate to anyone's specific comments.

Chris Runion, 25 Broad St. - said he signed up for online payment of water and sewer bills and hasn't gotten his bill. He's wondering if it still gets mailed out.

Mayor Greiner said it's just a payment method and shouldn't affect how he gets his bill.

Robert Shore, 47 Broad St. - asked if there's any progress with the Friends of Historic Hunterdon LLC lawsuit. Attorney Goodman said the Borough's been trying to get a proposal from the Friends group to settle the matter. Something just arrived late this afternoon from the Friends' attorney; he hasn't seen it yet. Mr. Shore said if it doesn't seem like they're going to be reasonable, we should just go to court, let the judge rule, and move forward from there. Ms. Stewart, a member of the Friends group, said there was agreement among the group's members, a document was sent to their attorney, and it was also sent to Mr. Beckelman.

VI. Attorney's Report

No report.

VII. Payment of the Bills

Motion To: **Pay the Bills**

RESULT:	APPROVED [5 TO 0]
MOVER:	Brooke Warden, Council President
SECONDER:	Marc Hain, Council Vice President
AYES:	Driver, Hain, Harris, Peterson, Warden
AWAY:	John Gorman

VIII. Executive Session for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

Mr. Harris asked if any of his colleagues wanted to further discuss his proposed resolution to hire an independent attorney to review the RDA. Mayor Greiner said Attorney Goodman can't advise the council on this issue, so holding an executive session now would not be appropriate. No executive session was held.

IX. Adjournment

With business concluded, Mayor Greiner declared the meeting adjourned at 9:03 p.m.

Attest: _____
Sallie Graziano, RMC, Borough Clerk