



Mayor and Common Council Borough of Flemington

August 13, 2018

Historic Flemington Courthouse

Work Session (7:00 PM)

Council discussion of Courthouse Square project:

Mayor Greiner noted council members had expressed a desire to sit together and talk about the hotel project, and this is the first time since the idea was brought up that everyone is available. With a half hour, there can't be a full discussion, but council can at least cover how they'd like such a discussion to proceed.

Mr. Harris said he's a member of the Redevelopment Committee, and the full council isn't familiar with all the information available to committee members. He supports the use of a PILOT, but it has to be put in context with costs and liabilities. Through negotiation, the project can become one everyone can embrace, if council is willing to negotiate. He hopes negotiations will come, and that there's representation for the community's interests.

Ms. Driver said we've heard the RDA can be renegotiated, but as we obtain more information, that seems less likely. She's concerned about the lack of a performance bond. Bank financing doesn't protect the taxpayers. There's no accommodation for having to move the Police Department. The lack of independent review of the RDA is particularly troubling; there are a lot of subjective variables that should be defined to protect stakeholders from harm. The worst-case scenario would be a pause after the buildings are taken down; don't think it can't happen here. She is also concerned about the developer's ability to pull out if contamination is discovered. She asked what those opposed to having an independent review of the RDA are afraid of.

Ms. Peterson said she'd feel more confident if we had an attorney specializing in redevelopment look at the RDA. Having no performance bond makes her nervous. The project is too big for the space; height and density need to be looked at. We need a professional mediator to run a meeting; council needs to start communicating with each other. She has a special affinity for the building at 78 Main; the thought of it being demolished keeps her up at night. She brought a copy of a walking trail map of the historic downtown listing all the wonderful sites, and said a 7-story building is going to look mighty out of place.

Mr. Hain said everyone agrees that we need development on that property. It all comes down to scale, particularly on the Spring Street side. If stepping the height on that side back can be done, that would reduce some concerns. Having a PILOT is going to benefit the borough, versus having property taxes paid. Less density will impact that, but whatever money comes into the coffers will benefit all.

Ms. Driver asked for numbers CFO Hance was going to put together about density impacting the PILOT. Ms. Warden said Mr. Hance had emailed committee members last week that the spreadsheet is proprietary information that can't be shared, per the Otteau Group. Mayor Greiner also noted that we don't know how changes in scale would affect costs that must be included in the spreadsheet model.

Ms. Warden said she's been saying for a year that it's important to sit down and talk. Compromises can be made in density and scale. We've had a serious lack of communication and trust. It's exhausting to always ask to have this conversation. The only council member who's been willing to talk is Susan. Mr. Gorman said we've been looking at projects for 10 years and nothing's happened. Council has to work together. We all want something good to happen, but we don't want the developer to walk away. We need to do something and we need to do it soon or what, wait another 10 to 15 years? He wants to see this happen.

Mayor Greiner said the plan adopted in December is 7 stories of residential housing along Spring Street, and the master plan calls for nothing more than 4 stories and keeping all the buildings on Main Street. Compromise has to be somewhere in the middle. People supporting the project have been pretty open about their willingness to discuss something for compromise, but we haven't seen anything come forth from those opposing the project. If there's no compromise position you're willing to offer, then there's only one plan on the table. You've got to offer something other than the master plan, which doesn't seem to be economically feasible.

Mayor Greiner said that the proposed financial agreement contains numbers that led to the analysis being presented tonight. That financial agreement will go before council for approval, but he asked council members if they were willing to release the draft financial agreement before its official introduction. Everyone was in agreement.

Mr. Harris said we're stuck at status quo, and moving forward requires an independent legal review of the RDA. Conditions have changed and right now there's a lot of financial assistance for this project. Giving away more approvals at this point is premature.

Regular Meeting (7:30 PM)

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

Flag Salute

Roll Call:

| Attendee Name | Title | Status | Arrived |
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| Betsy Driver | Councilperson | Present | |
| John Gorman | Councilman | Present | |
| Marc Hain | Council Vice President | Present | |

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| Michael Harris | Councilman | Present | |
| Susan Peterson | Councilwoman | Present | |
| Brooke Warden | Council President | Present | |
| Phil Greiner | Mayor | Present | |

I. Report of Findings on Review of the proposed PILOT (Payment in Lieu of Taxes) agreement with Flemington Center Urban Renewal LLC - Chris Otteau

Mr. Otteau's presentation is being recorded, and will be available on the borough website for viewing.

Mayor Greiner said usually this sort of presentation is given during a public hearing on an ordinance to adopt a financial agreement. Tonight's presentation is being done ahead of schedule. There have been remarks that the developer went out and hired someone to do this study, but this came from the borough's Redevelopment Committee; the cost is being charged to the developer. Attorney Robert Beckelman said there appeared to be some confusion about the process regarding a PILOT agreement. It starts with a developer's application, which has not been filed yet. The application includes a draft financial agreement. There have been communications for a financial agreement, but it is not finalized. Mr. Otteau is not doing an analysis of the financial agreement; he's looking at the reasonableness of the numbers in the PILOT requested. The selection of the Otteau Group was made by the borough Redevelopment Committee unanimously, after considering 3 or 4 options. Funding of the review is considered a project cost, meaning it's an expense the redeveloper is obligated to fund. To clarify: Mr. Otteau is not the redeveloper's guy.

Chris Otteau said he's a real estate appraiser and consultant, engaged to determine the reasonableness of the proposed financial agreement as it relates to a PILOT agreement. Users are the borough and Flemington Center Urban Renewal LLC. The developer pays so that the borough and taxpayers don't bear the cost.

The proposed financial agreement covers 35 years, with the PILOT lasting for 30 years.

He presented figures about taxes, tax structure, land and school taxes, and said the project can be expected to reduce taxes for schools by less than 1%.

A complicated return on investment analysis was performed. He said the project offers 208 market-rate apartments and 14 affordable-housing apartments, along with a 100-room hotel and 45,000 square feet of educational/medical space. There are 760 parking spaces - 565 in a structure, 159 on a podium, and 26 on the surface. The parking garage is necessary to provide adequate parking for the project, but it's a tremendous infrastructure cost.

Apartment rentals: Renters are likely to be non-buyers, Millennials, and Baby Boomers, generally having very low school enrollment numbers. Seventy percent of all houses in NJ are childless now, a boom is not on the horizon, and this area's

housing stock is outdated and old. Apartment vacancy rates are dropping dramatically and rents are rising; they anticipate high demand and strong rent. The average Hunterdon County apartment is 54 years old. After reviewing competing projects, he estimates rents would be \$1900/month in 2018; rising to \$1985/month in 2020. Hotel rooms are likely to go for \$125/night average daily rate, plus the borough's hotel tax. Office space is likely to go for \$20 a square foot.

Projecting gross income for the first year, he said gross income would be \$9,984,000; net operating income would be \$6,662,000. That would mean an annual service charge of \$591,075 being paid to the borough. He noted the Borough gets to keep 95% from a PILOT, rather than the 34% it gets through normal taxation.

The total PILOT would mean about \$591,000 in the first year, and \$620,000 in the 10th year. On average, the 30-year PILOT will bring in \$694,126 annually, or \$20,823,786 over the 30-year agreement.

Speaking about Internal Rate of Return, he said generally the lowest acceptable to developers is 6%; they generally want 7% or more.

He said without a PILOT, the project would not be financially feasible. The parking garage, adaptive re-use - those costs add up. Without a PILOT, the developer would still be "upside down" 10 years out.

He said his conclusion is that the PILOT is reasonable. There's also a municipal safeguard provided through state statutes, that a developer's profits above 12% would go to the borough.

Marie Corfield, Raritan Twp., said enrollment numbers at Robert Hunter School have gone up over the past year - they added 10 kindergartners after the start of the year. She asked for projected numbers for the school district. Mr. Otteau said he wasn't engaged to do a school enrollment study for the town.

George Muller, Raritan Twp., asked about the impact of borough-owned properties that aren't currently on the tax rolls. Mr. Otteau said there are 5, and going forward they all will be taxable.

Caitlin Giles-McCormick, Flemington, asked for detail about the taxes vs. PILOT numbers. Mr. Otteau compared some numbers and said with taxes, it would take to Year 17 to get a positive cash flow.

Al Brewer, Coppermine Village, asked if sewer/water bonding, water tower construction and other costs the municipality might have to bear were factored into the return on investment figures. Mr. Otteau said yes, water and sewer was factored into the analysis. Attorney Beckelman said the developer is making a \$2 million contribution above the normal connection fees, and still would pay the normal connection fees.

Marcia Karrow, Elwood Ave., asked how easy it would be to plug in different numbers if, for example, the scope of the project were reduced. Mr. Otteau said he could do it, but to reduce the scope of a project you'd need new site engineering, traffic studies, time to go through the architect and general

contractor, and construction costs might change. He said while the parking structure is expensive to put in, you can't under-park a project.

Joanne Elacqua, Raritan Township, asked how the PILOT will affect the school sending districts. Mr. Otteau repeated that he didn't do a school enrollment study.

Joanne Braun, Raritan Township, said if there's less density, wouldn't you need less parking? Mr. Otteau said you look at the value of the land. The smaller the project, the less valuable the land is. Generally the revenue from the PILOT would be less, and if it's smaller, the developer can say the land's not worth what he was going to pay for it, and renegotiate the cost. He cautioned that if you under-park a project, all parking within a 3-block radius is done.

Robert Shore, Broad St., asked if the project is bankable, and how much the developer would have to put down. Mr. Otteau said yes, and the developer would probably have to put down 40% in equity. Mr. Shore asked about the length of term for financing; Mr. Otteau said most are 30-year rates.

Kevin DeHaven, Flemington, asked about the percentages in the PILOT. Mr. Otteau said it increases 5% every 5 years, according to the agreement.

Mr. Otteau said in examining taxation for the project, you need to look at the land. Flemington is in its revitalization and growth stage, and the land is worth more than buildings would sell for.

A man at the back of the courtroom suggested you could figure 1 child for every 2-bedroom apartment in the project, requiring perhaps three more classes and additional teachers. He said the project would add children to the schools without funding for them. Mr. Otteau said 1 child for every 2-bedroom apartment would be excessive. Mr. Otteau said state statutes leave school funding out of PILOT agreements; if someone has a problem with the state statutes, they need to talk to state legislators.

John Lanza, County Freeholder, said there are 2 options on the table, things as they exist, or the proposed project. Now, the Borough collects about \$182,000 a year in taxes, and the county gets 11.1%, or about \$20,000. Under the agreement, the county would get 5% of the amount collected, or about \$25,000, so the county would get more. It would be a tremendous windfall for the Borough, and even some windfall to the county. He understands concerns about less money going to the schools, but savings can be made by the school district. He noted Hunterdon County also suffered a \$1.2 million cut in state aid this year. Without this development, there's a tremendous windfall that the Borough wouldn't get; that's why Freeholders support the project.

Chris Englehardt, Main Street, asked if a 30-year PILOT is normal. Mr. Otteau said it is. She asked why following the master plan isn't feasible. Mr. Otteau said master plans are guidance. They're very commonly designed for 1 idea, and they're always being changed because things change, concepts change. They're living, breathing documents that have to mold to new situations. He said a typical concern is that our lifestyle is going to change. Yes, it's going to

change, but generally development improves business, the taxation situation, and the quality of life all around.

John Griffith, Raritan Township, asked where jobs to support the Millennials moving in would come from. Mr. Otteau said in towns that have downtown development, their Millennial populations rise. In a lot of these places there are job sources in the area. Here, the hospital has a tremendous amount of demand, and the project is bringing in a university too. Mr. Griffith asked about inflation and risk. Mr. Otteau said his charts show a path with inflation increasing steadily over a 30-year period.

Mark Lowazo, Raritan Township, said the projections are based on a number of assumptions; what are the greatest risks? Mr. Otteau said construction costs.

Mary Ellen Costello, formerly from Flemington, asked about the value of the PILOT over time. Mr. Otteau said she's talking about the time value of money, and they have to factor in how long it takes to get a return. She said \$20 million in 30 years could be worth very little.

Lois Stewart, Flemington, asked if they considered other projects that will provide rental units, like Cut Glass, the Agway site. Mr. Otteau said that would be a market feasibility study, which they were not engaged to perform. He noted there are plenty of approvals that go through but never get built. Once you get 3 or 4 projects built, however, it often draws people to the area.

Bill Deni, an attorney in Flemington, asked if they considered the effect the development would have on merchants and business people who have been hurting over the years. Mr. Otteau said that's called a fiscal impact analysis, and while he wasn't engaged for that, he can say that when you have a project like this, you generally see property values increase throughout the borough.

Neila Greenware, Raritan Township, suggested someone study what the town would look like in 10 years if nothing is touched.

Ron Van Horn, Flemington, asked if the scope is reduced 20% to 30%, would the project be feasible without a PILOT? Mr. Otteau said no. Mr. Van Horn said that as the base goes down, the tax burden on residents goes up.

Gene Valley, Raritan Township, asked why there are so few affordable housing units planned. Mayor Greiner responded, saying the unit numbers were negotiated when the borough did a COAH settlement, and were approved by the court.

Colleen Rosetti, Pennsylvania Ave., asked if we should have a performance bond in place. Mr. Otteau said some projects have them, some don't. He generally sees them in multi-phase projects, so the developer won't stop after the first phase is complete. He said this is an all-in project, where the parking and everything else is one project. Ms. Rosetti asked if it is unusual not to go out to bid. Mr. Otteau said that only happens when a borough holds all the property, and is very rare. Here, the private developer has acquired properties.

Chris Runion, Broad Street, asked if local demographic data was used on Millennials, because most here are poor, and how could they afford these units? Mr. Otteau said they looked at the surrounding area income within a 5- and 10-

mile radius. Mr. Runion then referenced recent articles that report on state bills being introduced to change the tax situation for developers. Mr. Otteau said the statutes last changed in 1999, though there's talk about changing things constantly.

Steve Tuccio, Elwood Ave., asked Mr. Otteau to discuss how a surplus in profits would come back to the borough. Mr. Otteau said according to state statutes, anything over 12% profit goes back to the municipality. Mr. Tuccio then asked about construction costs, saying what if there's a smoking hole in the ground? Mr. Otteau said developers eat such costs; big expenses go into project costs, and developers do build for lower projected profits than they would prefer.

Caitlin Giles-McCormick, Flemington, asked if Mr. Otteau had any history of projecting costs regarding adaptive reuse. He said in Hightstown, a small borough, they were interested in keeping 2 historic buildings. Adaptive re-use cost 100% more in construction costs, and architectural costs were about double. The only place you see big benefits in adaptive re-use is in big-city downtown markets. In an area like this, those costs are hard to recoup. In Hightstown, costs were up to \$400 per square foot in areas being saved.

Al Brewer, Coppermine Village, asked about sewer connection fees being considered in the expected windfall. Mayor Greiner said that was not part of what Mr. Otteau was asked to study. He said it's clearly stated in the RDA that the developer will pay to put in sewer and water. If connection fees should be \$900,000 and he only paid \$700,000 for sewer and water service, he'd pay the extra \$200,000 in fees.

Joanne Elacqua, Raritan Township, asked if it would be possible to carve the residential part of the project out of the PILOT, so schools aren't affected; she said PILOTS are usually for industrial projects. Mr. Otteau said PILOTS are not for industrial projects; they're generally for areas in need of redevelopment. If the PILOT was taken off the residential area, the project would not happen.

Councilwoman Driver asked how this PILOT rate per square foot compares to similar projects in other boroughs. Mr. Otteau said the analysis wasn't done that way. In the end, it's all looking at the return on investment. He said comparisons are difficult. In Metuchen, for example, rents are double what they are here, and there are train lines. It's apples to oranges. Ms. Driver asked if, in the PILOT, an increase of 5% every 5 years is pretty standard. Mr. Otteau said it all goes back to the Internal Rate of Return. She asked what the projected 30% vacancy rate of the hotel is based on, seasonal or annual. Mr. Otteau said there are 3 groups for hotel tenants - business travelers, friends attending special events, and travel & leisure. Diamond Nation currently feeds 7 hotels in the area, so a 70% annual occupancy rate here seems accurate.

Councilman Hain asked if Mr. Otteau thinks a performance bond is needed. Mr. Otteau said performance bonds aren't really his area. In his experience he's seen them sometimes, but normally where there's a lag in phases of projects.

II. Mayor and Council Member Reports

Motion by Hain, second by Driver, to forgo Mayor and Council reports due to the length of meeting. All voted in favor.

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

Al Brewer, 1 Coppermine Village, said he submitted a letter to council members and no one has responded to him. He hopes a response is forthcoming on the issue of conflicts of interest of Planning Board members. He also asked about the sewer and water ordinances on the agenda, and sewer rates and revenue, and asked CFO Bill Hance if residents are under-paying. Mr. Hance said the cost of the water ordinance is about \$30,000 a year for the next 13 years; that amounts to about a 2.5% to 3% increase in the rate. The sewer ordinance cost is about \$10,000 a year for the next 15 years, representing about a .5% increase in the rate.

Rich Cornelison, who has a business on Main Street, asked for the bleeding on Main Street to stop. He pays about \$3,000 to \$4,000 a year in Business Improvement District taxes, and we've been to the table with development discussions about 3 times over the last 8 years. He urged council to stop delaying in making a decision.

Lois Stewart, 26 Spring St., asked if the compromise response from the Friends of Historic Flemington LLC had been shared with the borough yet. Attorney Beckelman said it will be discussed during tonight's executive session. She also asked if there's been any response to advertisements for the Property Maintenance Official position. Mr. Hain said we have received 5 resumes, and interviews will be starting soon.

Chris Englehardt, 180 Main St., said Mr. Otteau kept saying some studies weren't in his purview. Maybe there needs to be another study by him or someone else. Ms. Peterson said the 5 most important words she heard were, "because the borough required it."

Chris Runion, 25 Broad St., said he doesn't understand why a study of the PILOT didn't include school tax impact. Mayor Greiner said the study shows where the revenues go, not where they don't go.

Robert Shore, 47 Broad St., asked for an update on the Friends of Historic Flemington lawsuits. Attorney Beckelman said a briefing is due from the Friends by the end of the week in the lawsuit appealing the SHPO decision. The suit over the expanded area of designation will be scheduled for trial soon. Mr. Shore also suggested putting a section for "new business" on the agenda, which would offer an opportunity for council members to opine, and bring up other items. Mr. Harris said regarding the PILOT plan, and questions about the PILOT taking money that would otherwise go to schools and give it to the borough, that the borough could take that into consideration when making its budget.

IV. Approval of Minutes

Motion To: **Approve Minutes: July 23, 2018 Regular Council Meeting**

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

Consent Agenda

Moved by: Harris Seconded by: Hain Vote: All members voted in favor.

1. RESOLUTION 2018-121: CERTIFYING THAT ALL MEMBERS OF THE GOVERNING BODY OF FLEMINGTON BOROUGH, HUNTERDON COUNTY, HAVE REVIEWED, AT A MINIMUM, THE SECTIONS OF THE 2017 ANNUAL AUDIT ENTITLED "GENERAL COMMENTS AND RECOMMENDATIONS"
2. RESOLUTION 2018-122: CORRECTIVE ACTION PLAN FOR AUDIT FOR YEAR 2017
3. RESOLUTION 2018-123: AUTHORIZING A LIEN BE PLACED ON BLOCK 14 LOT 1 KNOWN AS 40-42 N MAIN STREET, ASSESSED OWNER FLEMINGTON NILKANTH, LLC C/O STEVES IN THE AMOUNT OF \$400.00 FOR WEED CONTROL AND BRUSH REMOVAL
4. RESOLUTION 2018-124: DECLARING DPW VEHICLES AS SURPLUS AND AUTHORIZING THEM TO BE SOLD BY SEALED BID OR DISPOSED OF
5. RESOLUTION 2018-125: AUTHORIZING A LICENSE FOR ONE BINGO EVENT FOR ST. MAGDALEN'S CHURCH TO BE HELD ON SEPT. 28, 2018

Regular Agenda

Mayor Greiner addressed procedural items. A phone connection at the July 23, 2018 meeting was poor, and Borough Attorney Barry Goodman had advised holding confirming votes on the two items that Mr. Gorman had participated in by phone. The votes wouldn't be adding the items to this agenda, but rather covering the bases to prevent any challenges to the action of the July 23 meeting. Mayor Greiner asked Mr. Gorman if he'd had a chance to review the recording of the July 23 meeting so he could re-vote on the matters, and Mr. Gorman said no, he hadn't had a chance to view it yet. Mayor Greiner said there was no sense holding confirming votes, then, if Mr. Gorman hadn't viewed the recording.

Discussion ensued about amending the agenda. Mayor Greiner said that, since Mr. Gorman had not watched the video, the best way under the circumstances to remedy the issue of Susan Peteron's motion on July 23 was to consider it now for this meeting. Ms. Peterson moved and Mr. Harris seconded a motion to include a resolution about requiring a name change for the liquor license currently held by Stagecoach Liquors LLC. Mayor Greiner said he wasn't in favor of this. Both municipal attorneys have advised that it would be setting ourselves up for breach of contract. Ms. Peterson said it wouldn't be expensive, just \$200.

Ms. Warden said it's minutiae like this that's so frustrating - we know there's going to be a liquor license for the project. Mayor Greiner said it's not about the expense. Mr. Harris said council was demonstrating that we have an RDA we're not willing to enforce. Ms. Peterson and Mr. Harris withdrew their motion and second.

Mr. Harris moved and Mr. Hain seconded a motion to amend the agenda to remove the two items calling for confirming votes on action at the July 23 meeting. Ms. Driver voted against the motion; all others voted in favor.

1. RESOLUTION 2018-126: AUTHORIZING THE HIRING OF SPECIAL COUNSEL TO REVIEW THE COURTHOUSE SQUARE REDEVELOPER'S AGREEMENT (SUBMITTED BY COUNCILMAN MICHAEL HARRIS)

Mr. Harris said he looked at 3 different options in terms of attorneys, and began outlining the process he went through. Asked to address his resolution, he said we need to fix issues with the RDA, and hiring an independent counsel to review it is the way to go. He summarized the resume of attorney William Kearns Jr., saying he focuses on municipal land use law and local government. He said we're at a crossroads, and finally have leverage to negotiate because our approval is required for the financial agreement. We can operate from strength and move forward after our agreement has been independently reviewed. The cost is \$200/ hour, and the charge would be \$2,000. He could do it within 2 weeks' time.

Ms. Warden said local attorney Lee Roth had reviewed the RDA and asked questions; now we want to go to another independent review and have the taxpayers take on that cost? She asked Mr. Harris if he can name 3 or 4 things that stick in his craw about the RDA, saying you can't cherry-pick what you ask the taxpayers to finance.

Mr. Harris said he'd be happy to re-allocate the salary he has not collected as a councilman to finance this expense. He said some members of council have had 8 years to work on this issue. At some point we should recognize we represent the community, not the developer.

Ms. Peterson said this is a great idea; Ms. Driver said it seems like a small amount to move forward. Mayor Greiner said he has concerns on several levels. When you oppose a project, there's always one more study you can do, one more professional you can hire. Mr. Harris did send council members a 12-page resume. He did a word search of the resume for "redevelopment" and there was one "hit" from 14 years ago. Mr. Kearns is a well-respected general attorney and municipal attorney, but this would be putting him in a position to review the work of two stellar guys in the redevelopment law field and give a critique. No one could read a document that extensive and not find something they wanted to change. There is some risk, to both the borough and the developer, so you want to fairly balance the risk. If we want to reopen the agreement, the developer may want changes too, like instead of paying \$2 million toward sewers, he'll pay

\$1 million. This could set us right back to Square 1, and we can keep arguing as we are tonight instead of keeping on track.

Attorney Beckelman was asked if he was familiar with Mr. Kearns' redevelopment work. Attorney Beckelman said he knew Mr. Kearns through the League of Municipalities and was aware of only one redevelopment matter in which Mr. Kearns was involved through the League of Municipalities, when Mr. Kearns retained Mr. Beckelman and the Greenbaum firm for the League in connection with a redevelopment case. Ms. Warden asked Mr. Beckelman if Mr. Kearns retained Mr. Beckelman and Greenbaum to advise him on redevelopment and Mr. Beckelman said yes.

Mr. Harris said Mayor Greiner characterized some members of council as opposing the project. He said he doesn't oppose the project, he just thinks it needs to be negotiated. He opposed people who push the process; it shouldn't have a timeline based on an election.

Mayor Greiner said ever since we got SHPO agreement in March he's been trying to get a compromise, which means something different from the master plan. Going to the developer and nit-picking is not a position of strength. It would be strength to come up with a plan that has something for the community and something for the developer.

Mr. Harris said negotiating is when the Redevelopment Committee comes up with a strategy for negotiating. Ms. Warden said she's told him she'd be willing to look at 3 or 4 things that really bother him, but he said no, he'd get an independent attorney.

Mayor Greiner said that, when he spoke to Mr. Kearns around July 26, Mr. Kearns had not yet spoken with Mr. Harris but had been asked about his assignment by another attorney. Mayor Greiner asked Mr. Harris who this third-party attorney was, and Mr. Harris said it may have been Lee Roth. Mr. Harris also said he had spoken twice with Mr. Kearns.

The vote was taken, ending in a 3-3 tie. Mayor Greiner voted no, breaking the tie.

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| RESULT: | DEFEATED [3 TO 4] |
| MOVER: | Michael Harris, Councilman |
| SECONDER: | Betsy Driver, Councilperson |
| AYES: | Betsy Driver, Michael Harris, Susan Peterson |
| NAYS: | John Gorman, Marc Hain, Brooke Warden, Phil Greiner |

2. RESOLUTION 2018-127: AUTHORIZING MAYOR'S SIGNATURE ON FORM TO INCLUDE 5 BOROUGH PROPERTIES IN THE COURTHOUSE SQUARE PLANNING BOARD APPLICATION

Ms. Peterson asked what the selling price would be for the borough-owned properties (90-100 Main, which counts as two properties, and 3 parking lots on Chorister). Mayor Greiner said it would likely be close to the assessed value - \$1 million to \$1.1 million for all of them. Mr. Harris asked if voting for this resolution

would be advancing the process for the Planning Board, and Mayor Greiner said yes it would.

The vote was taken, and ended in a 3-3 tie. Mayor Greiner voted yes, breaking the tie.

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| RESULT: | ADOPTED [4 TO 3] |
| MOVER: | Marc Hain, Council Vice President |
| SECONDER: | Michael Harris, Councilman |
| AYES: | John Gorman, Marc Hain, Brooke Warden, Phil Greiner |
| NAYS: | Betsy Driver, Michael Harris, Susan Peterson |

- 3. ORDINANCE 2018-13: SECOND READING: AMENDING THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF FLEMINGTON, CHAPTER III POLICE REGULATIONS, SECTION 3-18 SMOKING REGULATED AT FLEMINGTON BOROUGH MUNICIPAL, FIRE AND POLICE BUILDING"

Motion to open public hearing: Driver; seconded by Hain. All voted yes to open the public hearing.

Chris Runion, 25 Broad St., asked if this would cover parks too. Ms. Driver said yes. Lois Stewart, 26 Spring St., asked if it would cover the DPW building. Al Brewer, 1 Coppermine Village, asked if it would cover the Fire Department. The clerk read from the ordinance, which states in Section 3-18.2 a: that the rules and regulations of the New Jersey Smoke-Free Air Act shall be complied with at all times while on Borough of Flemington property or within Borough of Flemington buildings.

Motion to close public hearing: Harris; seconded by Driver. All voted in favor of closing public hearing. Vote then taken.

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| RESULT: | ADOPTED [5 TO 1] |
| MOVER: | Betsy Driver, Councilperson |
| SECONDER: | Michael Harris, Councilman |
| AYES: | Driver, Hain, Harris, Peterson, Warden |
| NAYS: | John Gorman |

- 4. 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

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| RESULT: | TABLED [UNANIMOUS] | Next: 8/27/2018 7:30 PM |
| MOVER: | Michael Harris, Councilman | |
| SECONDER: | Brooke Warden, Council President | |
| AYES: | Driver, Gorman, Hain, Harris, Peterson, Warden | |

5. 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

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| RESULT: | TABLED [UNANIMOUS] | Next: 8/27/2018 7:30 PM |
| MOVER: | Michael Harris, Councilman | |
| SECONDER: | Brooke Warden, Council President | |
| AYES: | Driver, Gorman, Hain, Harris, Peterson, Warden | |

6. ORDINANCE 2018-16: FIRST READING: AN ORDINANCE AMENDING CHAPTER XI TITLED UTILITIES, CHAPTER 11-1.2 FEES

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| RESULT: | INTRODUCED [UNANIMOUS] | Next: 8/27/2018 7:30 PM |
| MOVER: | Michael Harris, Councilman | |
| SECONDER: | John Gorman, Councilman | |
| AYES: | Driver, Gorman, Hain, Harris, Peterson, Warden | |

7. ORDINANCE 2018-17: FIRST READING: ACCEPTING AN EASEMENT FOR WATER MAIN FACILITIES

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| RESULT: | INTRODUCED [UNANIMOUS] | Next: 8/27/2018 7:30 PM |
| MOVER: | John Gorman, Councilman | |
| SECONDER: | Brooke Warden, Council President | |
| AYES: | Driver, Gorman, Hain, Harris, Peterson, Warden | |

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

Elaine Gorman, 34 New York Ave., asked if Mayor Greiner had an announcement to make about an appointment to the Historical Preservation Commission. He thanked her for reminding him, and said he's appointed Kim Tilly to replace Richard Giffen as a regular member of the board. Her term expires Dec. 31, 2020.

Lee Roth, a Flemington attorney, said he wrote a review of the RDA because someone had asked him questions about it and sparked his interest. He didn't analyze it on behalf of anyone on any official body. He thought it should be more thoroughly reviewed, and was familiar with Mr. Kearns and suggested him. We continually hear we must make this deal because no other possibilities exists and the center of town is dead. There's a tremendous amount of traffic on Main Street. He's been approached by someone wanting to buy the hotel and the

Potting Shed building, willing to offer \$2 million cash, closing at the end of September. He said he suspected the offer was made to move Mr. Cust. The individual asked that his name not be disclosed.

Lois Stewart, Spring Street, said the center of town is not dead. Other people have wanted to purchase properties in town.

Chris Englehardt, Main Street, asked the mayor how long he's been in public office, and if he believes in honesty and integrity. She asked why he would sign an RDA knowing there were factual errors regarding the liquor license. Mayor Greiner said the issue has been addressed repeatedly, and the liquor license doesn't need to be corrected.

Al Brewer, Coppermine Village, said the liquor license saga is not just about changing the name, it's about ownership. He addressed the Mayor, saying the mayor went out and told the developer not to negotiate unless the lawsuits are dropped.

Mr. Harris said the risk to the borough is that there won't be any negotiations. Mayor Greiner said we took 13 months to negotiate the RDA, and 9 months later is was reaffirmed. It doesn't need to be reopened.

Mr. Harris said he's not talking about restarting negotiations; he has listed specific concerns. Given the narrow scope of time, it's best to have an independent attorney advise this body. We were told it could be done.

Todd Cook, Pennsylvania Ave., said he appreciated what everyone was trying to do. He asked council members to watch the tape of the night's meeting and look at their body language - they can't look each other in the eyes, except Ms. Warden, who's been amazing about reaching out.

VI. Attorney's Report

Attorney Beckelman reported that a notice of tort claim has been received regarding trespassing charges at the Union Hotel against Mr. Giffen, Mr. Romanowski, Mr. Schotland and Mr. Eckelmann. It's been referred to our insurance carrier. There's a six-month waiting period before a lawsuit can be filed.

VII. Payment of the Bills

Motion To: **Pay The Bills**

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Brooke Warden, Council President |
| SECONDER: | Betsy Driver, Councilperson |
| AYES: | Driver, Gorman, Hain, Harris, Peterson, Warden |

Executive Session

For legal update on Courthouse Square litigation, and any other applicable matter identified during the regular meeting. (Action may be taken.)

Motion to go into executive session moved by Hain, seconded by Warden. All voted yes to enter executive session. Minutes kept separately.

VIII. Adjournment

The meeting's business having been concluded, Mayor Greiner declared the meeting adjourned at 12:22 a.m.

Attest: _____

Sallie Graziano, RMC, Borough Clerk