



Mayor and Common Council Borough of Flemington

September 11, 2018

Historic Flemington Courthouse

Work Session Agenda (7:00 PM)

Council discussion about Main Street Streetscape construction bids:

Mayor Greiner said bids came in above the amount budgeted for the project. Options include raising the bond amount previously approved, scrapping the project, putting it out to bid again, and pursuing additional funding. Scaling back the scope of the project isn't an option - the State made it clear that the scope of the project is why they awarded the grant.

Borough Engineer Robert Martucci said the budget was \$1 million, covered by a grant administered by the state DOT and funded by the federal government. The lowest bid, from Your Way Construction, was 1,090,549.90. He said site clearing was costly, which could have to do with the Borough's intent to phase the project and restrictions over work schedules during Borough events. Lighting was the most expensive, he said - the work requires special lights. Storage costs are also a likely factor.

Some legal items are being reviewed by the borough attorney and lowest bidder, regarding a list of subcontractors. Attorney Barry Goodman said if you're using subcontractors, you have to list them. The point might be moot, if the borough rejects all bids and re-issues the notice.

Mr. Martucci said there's a requirement to award a construction contract within 4 months of Aug. 16, the bid opening. If we go beyond that, the three lowest bidders have to OK that in writing.

If we proceed with the project, work will not start in October-November, except perhaps for site clearing, Mr. Martucci said. The schedule would have to be discussed. Our options are: Reject the bids and issue a new call for bids; award the contract to Your Way and add money; or scrap the job. He reached out to the state DOT to see if federal money is available to cover the shortfall. There are funds available, but Flemington would have to award the contract, then submit the request.

Mayor Greiner said if we went ahead and increased the bonding by just under \$300,000, there is some chance we could get reimbursed by federal funds.

Council President Warden asked if we could ask bidders for a last best offer.

Attorney Goodman said that's not allowed for projects like this. Ms. Warden asked if we start after Christmas, does that save money, or jeopardize federal funding? Mr. Martucci said we could rewrite the contract and re-bid for new numbers, but we have 4 months to award a contract, and if we choose to re-bid, we'd have to seek an extension.

Councilman Gorman asked how the restrictions due to local businesses' interests affect the project. Mr. Martucci said the requested delays drive the price up. A

contractor usually has free reign to work, rather than the scenario of starting after Labor Day, pausing for the Jazz Fest, going full steam then pausing for the Turkey Trot.

Mayor Greiner said the basic question is if council wants to raise bonding and move ahead, with the idea we might get some of the increase back, or if they're not willing to do that.

Councilman Harris questioned having the project costs go up 27% to 28%. There are 3 criteria - speed, quality and price. Why are we in this position now? When did this begin?

Mayor Greiner said we got the grant award in early 2015. The application was submitted in December 2016. The DOT delayed in getting comments in about the project, and there were additional delays with the SHPO review. Mr.

Martucci said the Borough wasn't authorized by the federal government to go to bid until mid-August 2018.

Ms. Warden asked if the overage can be attributed to that timing gap. Mr. Martucci said probably \$50,000 of the \$200,000 can. The rest is lighting costs, because it's specialty lighting. He noted the grant application was prepared by the former Flemington Business Improvement District and its engineering consultant, but the municipality must manage the project, a BID can't.

Ms. Peterson asked if we could make the project smaller. Mr. Martucci said no. She asked if we go straight through without stopping, would that save \$50,000? Mr. Martucci said there would be some savings, but it's hard to estimate. To do that we'd have to go to re-bid. The lighting is still expensive. The problem is that contractors were bidding in 2018 on a project that was budgeted based on 2014 figures, and costs go up.

Mayor Greiner asked what happens if we don't re-bid the project and want to proceed with it? Mr. Martucci said he would ask for an extension; state and federal officials want us to spend the money. Ms. Warden said Main Street businesses would likely be happy not to wait until spring to get started. Attorney Goodman asked what the increase might be due to the wait. Mr. Martucci said there might be a 5% increase.

Mayor Greiner said looking at the timing, if council decides to go ahead with the project, we could have a first reading on an ordinance to increase the bond amount on Sept. 24, and adoption on Oct. 9, so we'd be awarding a contract on Oct. 9 at the earliest. Is it even realistic to start this year? Mr. Martucci said the paperwork has to go back to the federal government, so probably not. Mayor Greiner asked if we go into next year, the question is if we re-bid the project or award a contract now. Mr. Martucci noted that now, all the contractors know each other's prices.

Mayor Greiner said his recommendation would be to try to award the contract now. In response to a question from Ms. Warden, Mr. Martucci said we could make some adjustments in the contract, as long as there are no major changes.

He added that people should understand that this job has been 4 years in the making, and if we want to get it done, it has to take precedence over other events.

Mayor Greiner asked if council is inclined to go with raising the bond and proceeding. Mr. Hain said he knows several business owners have been looking forward to these improvements. If we don't do this, it raises a red flag for them.

Mr. Gorman asked about applying for extra federal funding and waiting until next year to start. Mr. Martucci said they'd have to award the project first before applying for the extra federal funds.

Mayor Greiner said he'd ask CFO Hance to make up a bond ordinance to be considered at the meeting Sept. 24. Mr. Martucci said council members can call him with any questions.

Regular Meeting Agenda (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
Betsy Driver	Councilperson	Present	
John Gorman	Councilman	Present	
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

-Attended the 9-11 Memorial Service on the courthouse steps this morning, hosted for the second year by Sheriff Fred Brown. He called for a moment of silence for the victims of 9-11 on Sept. 11, and the growing list of people still succumbing to illnesses and maladies contracted from trying to help out that day.

-Attended the HART awards breakfast. The agency has changed its name to goHunterdon.

-Library paneling - Spoke last meeting about a fire marshal's determination that the wood paneling in the library is a fire code violation, and estimated costs of repair are \$50,000. He's had a number of conversations with our official and state officials, and as it turns out a lower-cost approach has been worked out. Councilperson Driver has more information.

-Everybody is watching Hurricane Florence. He's checked with OEM, and they don't expect it to have a major impact here.

- Since the last meeting, word has gotten around about the liquor license for TGIFriday's being shopped around, which led to a Facebook post that the restaurant is closing. Various officials have tried to reach Friday's, and today the FCP director spoke to the restaurant's general manager, who said the restaurant has no plans to close. They are actually holding a fundraiser for the Police Department's K-9 officer Jax, from 11 a.m. to 11 p.m. on Sept. 15. The mayor asked residents to come out on the 15th to support both Friday's and Officer Jax.

-Chimney Rock Inn - He and his wife attended a soft opening on Aug. 31. It's opening now in the evenings, and a 1 p.m. Grand Opening is planned for Sept. 24.

II. Council Members' Reports

Councilperson Driver

- There is a surround-sound microphone on the video camera now, to improve sound on videos of the meetings.

- The Library Board meets next week.

- "No Smoking" signs are now up on all borough properties.

- OEM - They're keeping an eye on Hurricane Florence.

- DIY - The bill related to a flood that happened when a pressure hose leaked is \$4,667.55. DIY's insurance company initially denied the claim; if reimbursement doesn't come through the insurance company, DIY will set up a payment plan with the Borough.

DIY's jazz shows are returning this month.

- Library paneling - We initially thought that coating the paneling with a fire retardant would cost around \$50,000. It turns out the cost is more like \$16,500. We were able to include the project in the library roofing bids.

Councilman Gorman

DPW - will meet tomorrow morning. He noted to residents that brush and branches will be picked up; there's been a lot going on in town, but the DPW crew will be getting to that.

Council Vice President Hain

Environmental Commission - meets Sept. 17, 7 p.m.

Parks & Recreation Committee - meeting tonight at Borough Hall.

Administration Committee - hasn't met.

Planning Board - meeting Sept. 25 at the historic courthouse. Agenda includes a second drive-through lane for McDonald's, and completeness on a proposal from Flemington Center Urban Renewal, LLC. There are no HPC items on the agenda.

Police - Statistics for August: 4,384 miles driven; 375 motor vehicle summonses issued; 2 parking summonses issued; 12 tickets from the license plate reader; 12 criminal arrests; 42 disorderly conduct charges; 2,117 radio and phone conversation minutes; 27 motor vehicle accidents. On Sept. 14, author Patti Kerr

will be at Barkley's from 5 to 7 p.m. with her book, "Magical Dogs." The event will benefit K-9 Officer Jax's care.

Property Maintenance - We'll be starting interviews 9/12 at 6 p.m. with applicants for the Property Maintenance Official position. Councilman Harris brought an issue of brush piles at 180 Main St. to his attention. The construction official has spoken with the owners and asked that the brush be removed. Removal of a mulch pile in the area is also being discussed; we're checking who owns the property where the pile is located.

Councilman Harris

- Toured Tabby's Place on Sunday. They have an interest in supporting us. Regarding feral cats - which they prefer calling "community cats" - they're planning a TNR - trap, neuter and release - program and micro-chipping program next month; people can contact them for more information. He noted that since enforcement powers were removed from the NJ SPCA, the borough is held responsible for paying for board when animals are seized. There was an incident today, handled by a police officer and an animal control officer. Coordinating shelter is something Tabby's Place can assist with. We're going to need to put a new contract out to bid for next year, due to the boarding issue.
- Redevelopment Committee- hasn't met.
- Schools - Meeting with the superintendent next month.
- DPW - Meeting is scheduled for tomorrow.

Councilwoman Peterson

She's returning from some time away and is working to catch up. She noted that the HPC held an executive session with the redevelopment attorney and she needs to get caught up on that.

The Samuel Fleming House hosted a successful apple event recently.

Beautification - Some planters are on their way out; the fall plantings will be going in shortly.

Council President Warden

-Attended the recent FCP meeting. The Jazz Fest is coming on Friday; this year they're adding a street fair component. Volunteers are still needed.

The FCP published its Fall Guide to Flemington, which has been well-received. The kiosk on Main Street, which holds brochures about events, businesses and offerings in the Borough, has been vandalized twice recently. Materials were taken out and dumped down the street. People should know that there's a camera there.

- Hurricane Florence - JCP&L received a lot of flak for outages during the last severe storm. They have added additional line and substation personnel to be on hand for impacts from this storm.

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

Lois Stewart, 26 Spring St., asked for explanations about the Courthouse Square agenda items. Mayor Greiner said that before the Planning Board hears the project's application, the concept plan goes to council for confirmation of its conformance to the redevelopment plan. That's Resolution 2018-137. There have been no changes.

There's a separate resolution for the financial agreement. The applicant sends a letter to the mayor, and the mayor has to send a letter to council with a recommendation. Resolution 2018-138 is for council's approval of the application for a PILOT.

Ordinance 2018-18 authorizes execution of the financial agreement for a PILOT. It's being introduced tonight.

Ms. Stewart asked about the garbage contract. Mayor Greiner said the garbage company is looking for a small bump in the recycling fee paid by the borough, because there have been substantial changes in cost. This \$1,500 a month fee was negotiated - it's \$1,500 a month for the last 5 months of this year. That's on a base rate of \$19,000 a month for the contract.

Steve Tuccio, 61 Elwood Ave., asked if the PILOT items are the same as discussed about a month ago, which was supposed to be published in draft form. Mayor Greiner said the Otteau Group's report has been on the borough's website since that time. Mr. Tuccio said he thought the draft financial agreement was going to be made available to the public. Mayor Greiner said it is - reporter Curtis Leeds requested and received a copy, and anyone is welcome to ask for it. Attorney Goodman confirmed that the document is available for the public to see, and noted that not every document the borough receives is published.

Chris Runion, 25 Broad St., asked if the streetscape project is in the same area as the hotel development project. It seems like it would just be getting all torn up. Mayor Greiner said we got the streetscape award before Courthouse Square was a twinkle in anyone's eye, and you can't postpone a project once you've received an award. We all recognize the problem, and Mr. Cust's team has been made aware that they will have to work around the new sidewalk. It's written into the redeveloper agreement. There will be some conduits put in, so lines can be run under the new sidewalks.

IV. Approval of Minutes

Motion To: **Approve Minutes: August 27, 2018 Regular Council Meeting**

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

Consent Agenda

Moved: Harris Seconded: Hain Vote: Gorman away; all others Yes

1. RESOLUTION 2018-133: APPROVING PARTICIPATION WITH THE STATE OF NEW JERSEY FEDERAL GRANT PROGRAM ADMINISTERED BY THE DIVISION OF CRIMINAL JUSTICE, DEPARTMENT OF LAW AND PUBLIC SAFETY
2. RESOLUTION 2018-134: ACCEPTING FORFEITURE OF TAXI LICENSE #18-27

Regular Agenda

1. RESOLUTION 2018-131: APPROVING CHANGE ORDER #1, RECYCLING CHARGE, IN THE SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION SERVICE CONTRACT

Ms. Driver asked what happens in January. Clerk Graziano said the five-year contract was signed in 2016. Mr. Gorman said we'll have to renegotiate the recycling terms. Mr. Harris noted this was the only contractor to bid on the contract.

RESULT:	ADOPTED [5 TO 1]
MOVER:	Michael Harris, Councilman
SECONDER:	Marc Hain, Council Vice President
AYES:	Gorman, Hain, Harris, Peterson, Warden
NAYS:	Betsy Driver

2. RESOLUTION 2018-135: AWARDING CONTRACT FOR REPAIRS TO THE LIBRARY

Ms. Driver described the original project, and said a Clean Energy NJ grant will cover most of the HVAC replacement. We bonded for \$300,000, and \$250,000 was for the library work, with \$50,000 going to Borough Hall improvements. Between the amount of the low bid - \$332,775 from Northeast Roof Maintenance - and the fact that about \$90,000 is coming back to the Borough, it brings the cost down to around the \$250,000 we originally bonded for.

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

3. RESOLUTION 2018-128: AUTHORIZING THE CLOSING OF STREETS FROM 6:00 A.M. TO 11:00 A.M. AND RESTRICTION OF VEHICLE PARKING ON SEVERAL STREETS FROM 8 A.M. TO 10:30 A.M., ON NOV. 22, 2018, FOR THE TURKEY TROT

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Marc Hain, Council Vice President
SECONDER: John Gorman, Councilman
AYES: Driver, Gorman, Hain, Harris, Peterson, Warden

4. RESOLUTION 2018-136: AUTHORIZING CLOSURE OF PARTS OF STANGL ROAD, CAPNER ST., PARK AVE. AND MINE ST. FOR THE MAIN ST. MARATHON ON OCT. 7, 2018

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Marc Hain, Council Vice President
SECONDER: Betsy Driver, Councilperson
AYES: Driver, Gorman, Hain, Harris, Peterson, Warden

5. RESOLUTION 2018-137: CONFIRMING CONSISTENCY OF FLEMINGTON CENTER URBAN RENEWAL, LLC'S AUGUST 10, 2018 DRAFT SITE PLAN/ CONCEPT PLAN SUBMISSION WITH THE REDEVELOPMENT PLAN AND REDEVELOPMENT AGREEMENT

Mayor Greiner held up a 4-inch-thick Planning Board packet and said it includes architectural and engineering drawings and a traffic study. The RDA provides that council will review the concept plan. The purpose is so the Planning Board can say they know council has looked at it, and it's what they intended when they adopted the development plan. The planner has reviewed it and concurs that it is consistent. Council needs to vote whether it agrees it is consistent with the RDA or not.

In Council Discussion, Mr. Harris asked his colleagues who also serve on the Planning Board, what is their sense of the traffic study now? Mayor Greiner said the study in the packet is dated August of this year, and borough and applicant engineers agree that the traffic is manageable.

Mr. Hain said he asked the Borough's planner about the traffic study, and she confirmed there should not be a negative impact to the Borough.

Tie vote 3-3; Mayor Greiner voted yes to break the tie and the resolution was approved 4-3.

has changed, it's just to signal to the Planning Board that the project is as intended in the development plan.

Lois Stewart, 26 Spring St., asked what the federal grant program is in Resolution 2018-133. Mayor Greiner it's a Safe and Secure Communities grant that partially funds the community policing effort. CFO Hance said the borough will get \$26,713 from the state. Ms. Stewart suggested the funds be used for something other than the police department. Mayor Greiner said they have to be used for what is stated in the application for the grant. Ms. Stewart suggested that next year the borough use it for something else, like pedestrian signs. Mayor Greiner asked Councilman Hain to check what other things might be covered by this kind of grant.

Robert Shore, 47 Broad St., asked for a description of the parameters for the long term tax exemption. Mayor Greiner said this information was presented in the Otteau Group's report. It's a 30-year PILOT program. The Borough gets money for each hotel room, apartment, retail space and educational space. Payments to the borough for those components begin as they come online. The starting value for the PILOT is about \$600,000 a year. Once the project is fully built out, it will reduce the tax levy by about 13%. If used solely for tax reduction, the owner of the average house valued at \$275,000 would save about \$350 a year going forward.

Mr. Shore asked if there's an occupancy tax on hotel rooms too. Mayor Greiner said yes there is. Mr. Shore said so this RDA is actually passing a tax? Mayor Greiner said no, he doesn't think that's in the agreement, but it's part of the calculation of money the borough will get.

Chris Englehardt, 180 Main St., asked if hotel rooms aren't rented, do they still pay the PILOT? Mayor Greiner said yes. She asked about the difference if there were no PILOT and they had to pay taxes. Mayor Greiner said the fact is that if we didn't have a PILOT we'd get nothing, because there would be no project. We'd get what we have over there right now.

Mr. Hain said the Otteau Group report confirmed that the Courthouse Square project wouldn't happen without a PILOT agreement.

Ms. Englehardt asked about roads, water costs, impact on schools and rentals as the 3-minute period for her comments expired.

Jeff Cain, Broad Street, thanked the Mayor for pushing back on the state about the paneling issue in the library. He asked if residents would have to file an Open Public Records Act request to see a copy of the proposed financial agreement. Mayor Greiner said that now that the agreement has been introduced, it will be added to the Hotel page of the Borough website.

Robert Shore, 47 Broad St., asked to have a "new business" section added to the agenda. Attorney Barry Goodman said he's spoken to a couple of council members who suggested this, and he sees it as a violation of the spirit of the Open Public Meetings Act, which requires an agenda be put out informing residents of what will be discussed. A "new business" section would mean there would be surprises. The agenda is published so the public can make informed

decisions about whether or not they want to come. An open item would defeat the purpose of the Open Public Meetings Act.

Mr. Shore said it seems like common sense, since council meetings are the only time council is together. Attorney Goodman said the agenda gets finalized on Thursday. Each council member has the right to submit items for inclusion in the agenda and, if they are not included, to move to amend the agenda at a meeting.

Ms. Driver said she thinks Mr. Shore means that during the course of the meeting we have an open section for new business. Attorney Goodman said new items can be raised during the course of the meeting as issues come up, but it's inappropriate to have an open section for new business.

Chris Runion, 25 Broad St., said he teaches environmental science, and understands why it's more expensive for recycling, but he's not pleased with the way our garbage and recycling is being handled. He suggested the Borough look for a new service.

Mayor Greiner said we've done that, and this company was the only one who submitted a bid. We're in the third year of a five-year contract.

At the conclusion of the public's comments, Ms. Driver said the updated traffic study addresses the block surrounding the project area.

Mr. Harris said we hear now that the traffic study was updated in August. He was told in June that it was completed. In June the Mayor said we had financials about the project, but Mr. Harris said he never got them until receiving the Otteau Group report. The biggest problem here is information. With regard to the financial agreement, the Redevelopment Committee agreed to look at that. For financials, we looked at benefits, but we haven't looked at costs. Mayor Greiner said those questions are for the public hearing. Discussion at this point is not on the agenda. Mr. Harris continued, and Mayor Greiner said he was out of order by talking on at this length. Mr. Harris asked if the DPW is working on anything regarding infrastructure costs. He said the financials have discussed nothing about a performance area bond. We voted to approve an agreement we made absolutely no negotiations on. We received input only with regards to typographical issues.

Attorney Goodman said all the council did tonight was accept the application. The ordinance introduced tonight will decide if the financial agreement is approved. He said if material changes were made, it would have to be introduced again.

Mr. Harris asked Mr. Goodman for a written opinion on the vote for a bond; Mr. Goodman asked Mr. Harris to email him about this.

VI. Attorney's Report

Attorney Goodman said a lawsuit filed by Mid-American Salt, which was dismissed in federal court and appealed to the 3rd Circuit, has now been referred to mediation. He will need to discuss this with council tonight in executive session.

Attorney Goodman also reported on a ruling made by Judge O'Neal on Aug. 30, regarding a lawsuit filed by the Friends of Historic Flemington LLC regarding expansion of the Redevelopment Area. The judge rejected all the arguments of the Friends group, and dismissed the lawsuit.

Attorney Goodman has read in the newspaper that the Friends group intends to appeal that ruling, and they have 45 days to do that.

VII. Payment of the Bills

Motion To: **Pay The Bills**

Bill list was amended to include a \$1,000 purchase order to cover postage.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Michael Harris, Councilman
SECONDER:	Brooke Warden, Council President
AYES:	Driver, Gorman, Hain, Harris, Peterson, Warden

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

Attorney Goodman asked for an executive session to discuss the Mid-American Salt lawsuit. Minutes of the executive session are kept separately. The session started at 9:00 p.m. and ended at 9:12 p.m.

Ms. Warden moved to return to public session, seconded by Mr. Hain. All voted yes.

IX. Adjournment

Business having been concluded, Mayor Greiner declared the meeting adjourned at 9:13 p.m.

Attest: _____
Sallie Graziano, RMC, Borough Clerk