



# Mayor and Common Council Borough of Flemington

April 8, 2019

Council Meeting Room

## Early Executive Session (5:30 PM)

1. RESOLUTION 2019-89: EXECUTIVE SESSION FOR LEGAL ADVICE REGARDING LAWSUITS FILED BY FRIENDS OF HISTORIC FLEMINGTON

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	John Gorman, Councilman
<b>SECONDER:</b>	Susan Peterson, Councilwoman
<b>AYES:</b>	Doshna, Giles-McCormick, Gorman, Peterson, Runion
<b>ABSENT:</b>	Michael Harris

Minutes kept separately.

Mr. Doshna moved to return to open session, seconded by Mr. Runion. All present voted in favor. Council returned to open session at 6:57 p.m.

## Work Session (7:00 PM)

County-led Energy Cooperative Program for shared purchasing of electric power for government electric costs - Vicky Molloy, Vice President of Concord Energy Services, program manager.

Ms. Molloy outlined the energy aggregation program the county is offering to municipalities. It offers an 8% to 15% savings, she said. There's a May 15 target date for signing up, then they seek proposals from suppliers and hold an auction in October. They can look at various lengths of contracts up to 24 months. She said the program will not move forward if projected savings are less than 5%. There will be options for selecting types of electric generation, including from renewable sources.

Regarding the risk of locking in to a 2-year deal then having the rates drop lower, she said they've been doing this since 2010. In 2014 rates were really high, then the market changed and the pricing sank, but they were still able to get a lower rate than the general rate offered. She noted that at auction they buy 33% each year, and bundle the plans together. She noted that once the Borough commits to the program, there's no ability to withdraw for the contracted period.

Mr. Harris moved to close the work session at 7:28 p.m., seconded by Mr. Runion. All present voted in favor.

## 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
Jeffrey Doshna	Councilman	Present	
Caitlin Giles-McCormick	Councilwoman	Present	
John Gorman	Councilman	Present	
Michael Harris	Council President	Present	
Susan Peterson	Councilwoman	Present	
Christopher Runion	Council Vice President	Present	
Betsy Driver	Mayor	Present	

### I. NJ DEP proposal to amend surface water quality standards to upgrade 749 river miles to Category One - Attorney Diane Alexander

Attorney Diane Alexander, representing the Borough Sewer Department, said the South Branch of the Raritan River, which is an outfall for the RTMUA, is among the streams targeted for Category 1 designation. The stream is of exceptional quality now. The Category 1 designation would have 2 impacts: It specifies no measurable change be allowed for the stream, and that would make increasing the discharge from RTMUA very difficult, and potentially extremely expensive. It also creates a 300-foot no-development buffer around streams. In effect, the proposed change would freeze RTMUA's discharge at its current allocation. This could also affect the Borough's wet weather facility. One of the options for the WWF was to send the runoff to the RTMUA, but that won't happen if the Category 1 designation is implemented.

Responding to questions from Council, Ms. Alexander said very few waste water facilities discharge into Category 1 streams. They're normally in the Highlands, the Pinelands, and around reservoirs.

Several council members and members of the audience noted the apparent discrepancy between designating Flemington as an Opportunity Zone for development, and limiting the RTMUA's ability to expand discharge.

Councilman Doshna expressed reservations about approving a resolution authorizing comments when he doesn't know the nature of those comments.

Ms. Alexander said they're waiting to hear specifics about the proposal, including GIS data on the locations that would be affected. There are questions about the underlying science forming the basis for the Category 1 designation, and questions about what's being covered. The DEP was supposed to do a socio-economic analysis, and it's just a couple of lines, basically acknowledging that it would be costly to expand. Flemington has been designated for growth and that's not mentioned in the analysis.

### II. Mayor's Report

Mayor Driver said the early executive session this evening was to review settlement attempts regarding the Friends of Historic Flemington lawsuits. All parties met for a settlement conference on March 26. The Redevelopment

Committee will meet with the FOHF group on April 23. On April 30, there will be another settlement conference in Judge Miller's chambers. These talks are all confidential.

The Opportunity Zone committee held its first meeting April 4. On April 5, she and Planning Board Chairman Todd Cook and FCP board chair Bob King met with someone proposing a gateway monument on the Route 202 circle. Council members in small groups will be making arrangements to view the proposal. She's spoken with the mayor of East Orange, who oversaw the upgrade of that municipality's water system, about ideas for upgrading our water system. Mayor Driver said School Superintendent Kari McGann reports that the STEM application recently authorized by Flemington Borough was accepted. Ms. McGann will be at the 4/22 council meeting to discuss the school district budget.

The borough has received notice about a potential lawsuit to be filed regarding access to the hotel. The mayor has asked our insurance company to reach out to the attorney for the parties involved.

### III. Council Members' Reports

Councilman Doshna

At the Local Emergency Planning Council's quarterly meeting, they mainly discussed large gatherings, state Fire Marshal requirements about crowd managers, and how we can comply without any unnecessary burden on the part of event organizers.

Library- They're preparing an RFP for work to be done on interior renovations. A Borough Cleanup day is likely to be sometime in early May; plans are being formed.

Mr. Doshna spoke of his personal experience with organ donation, and urged people to sign the organ donation box on their driver's licenses and notify their relatives about their preferences.

Councilwoman Giles-McCormick

The HPC met 4/3. This is the lull before the storm. Historic map updates are underway.

Samuel Fleming House - Fifth-graders from RFIS are there today, tomorrow, and Monday and Tuesday. A Spring Fling is set for 4/13, 1-4 p.m.

Redevelopment - she was very impressed with Judge Miller, who handled recent settlement negotiations.

She attended the Firefighters' Ladies' Auxiliary event, which was a lot of fun. The town-wide yard sale is May 4-5.

Councilman Gorman

He and his wife attended the Fire Department auxiliary's dinner and dance. He said it's a great group of volunteers.

On 4/9, the Recreation Committee will meet at Borough Hall.

### Council President Harris

Mr. Harris said last week's Restaurant Week was very enjoyable.

He noted there's a new temporary animal control officer.

The Redevelopment Committee met with the developer and members of the Friends of Historic Flemington group last month, and there's another meeting on April 23. Resolution 2019-17 authorizes a fiscal impact study of the Courthouse Square project.

DPW - He met with the construction official, borough engineer and Councilwoman Peterson about a borough tributary. He complimented the DPW on yard waste pickup.

### Councilwoman Peterson

FCP - They're close to hiring a new executive director. Restaurant Week was very successful.

Beautification - She's been in touch with the owner of the Agway property where the mural of the guitar boy is located, about a new design that would include long banners. One in the middle would stay constant, and one on each side would change to highlight events. The owner said there's a prospective buyer and he can't commit to anything yet.

Property Maintenance - She met with the employees. Rebecca Newman has been helping by gathering information about the ordinances supporting the regulations, and they will be keeping better records of violations.

Code Enforcement - Engineer Rob Martucci, Construction Official Jeff Klein, Borough Attorney Frank Whittlesey and Ms. Peterson have been addressing a storm drain at Coppermine Village. A wetlands expert will be out to look at it. Regarding the Construction Bd. of Appeals hearing on sidewalk protection near the hotel, there will be no more adjournments. A hearing is set for April 17, 4:30 p.m. in the Freeholders meeting room. The fence around the hotel has been extended across the alleyway by the Potting Shed building, and it's secured.

### Council Vice President Runion

Environmental Commission - A community solar presentation is planned for April 15 at 7 p.m. They will be discussing a shared solar installation in the community.

### **IV. Public Comments - Session I. Agenda items only. (Up to 3 minutes each, for a maximum of 30 minutes)**

Al Brewer, 1 Coppermine Village, asked for a list of police officers, their pay prior to the raises in the last contract, and their pay after the raises.

Tony Previte, 45 N. Main St., asked about blocking off the sidewalk around the hotel, since bricks are falling off 3 sides. Mayor Driver said the Construction Board of Appeals hearing set for April 17 is about putting a structure over the sidewalk.

Sandi Scott, 5 Broad St., asked about the proposed Beacon Planning contract and its relation to the Otteau study. Mr. Harris said the Otteau report looked at

the payout from the project. Now, with changes proposed, we need to see how that could change the impact.

Lois Stewart, 26 Spring St., said Borough Hall needs a sound system.

Tony Previte, 45 N. Main St., said we need to indicate to officials our concerns about Category 1 stream designation.

V. Approval of Minutes

Motion To: **Approve Minutes: March 25, 2018 Regular Council Meeting**

<b>RESULT:</b>	<b>APPROVED [5 TO 0]</b>
<b>MOVER:</b>	Michael Harris, Council President
<b>SECONDER:</b>	Caitlin Giles-McCormick, Councilwoman
<b>AYES:</b>	Doshna, Giles-McCormick, Harris, Peterson, Runion
<b>ABSTAIN:</b>	John Gorman

Motion To: **Approve Minutes: March 25, 2019 executive session**

<b>RESULT:</b>	<b>APPROVED [5 TO 0]</b>
<b>MOVER:</b>	Michael Harris, Council President
<b>SECONDER:</b>	Caitlin Giles-McCormick, Councilwoman
<b>AYES:</b>	Doshna, Giles-McCormick, Harris, Peterson, Runion
<b>ABSTAIN:</b>	John Gorman

**Consent Agenda**

Moved: Doshna Second: Giles-McCormick Vote: All Aye

1. RESOLUTION 2019-90: APPROVING SUBMISSION OF AN APPLICATION FROM COLE A. KIMBALL TO THE NJ STATE FIREMEN'S ASSOCIATION AND HIS MEMBERSHIP TO THE FLEMINGTON FIRE DEPARTMENT
2. RESOLUTION 2019-91: PROCLAIMING APRIL 2019 AS NATIONAL DONATE LIFE MONTH

**Regular Agenda**

1. ORDINANCE 2019-6: SECOND READING: AMENDING CHAPTER XIV PLANNING BOARD AND HISTORIC PRESERVATION COMMISSION, SECTION 1401 (I); CHAPTER XVI DESIGN AND PERFORMANCE STANDARDS, SECTION 1631 HISTORIC DISTRICT REVIEW ORDINANCE; CHAPTER XXVI ZONING, SECTION 2631 SIGNS; AND A SUMMARY OF SIGN REGULATIONS

Sponsor Chris Runion said he wants to make some changes to this, and moved to table the ordinance, seconded by Mr. Gorman. They then both withdrew their motions. Ms. Giles-McCormick moved to open the public hearing, seconded by Mr. Runion. All voted yes to open the public hearing. Attorney Scholl asked Mr. Runion to confirm his intention to make material changes to the proposed ordinance. Mr. Runion did. Planning Board Chairman Todd Cook

confirmed that Mr. Runion had proposed some changes to the wording. Mr. Doshna noted there is a superseding state ordinance. Mr. Doshna moved to close the public hearing. Mr. Gorman seconded that motion, and all voted yes to close the public hearing. Mr. Runion then moved to withdraw Ordinance 2019-6, seconded by Mr. Doshna. All voted yes to withdraw.

**RESULT: WITHDRAWN**

2. ORDINANCE 2019-7: SECOND READING: AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FLEMINGTON, CHAPTER IV LICENSING, SECTION 4-3 RETAIL FOOD ESTABLISHMENTS

Mr. Harris moved to open the public hearing, seconded by Mr. Doshna. All voted yes to open the public hearing.

Al Brewer, 1 Coppermine Village, asked how many local businesses have food trucks. Mayor Driver said there are one or two. Lois Stewart, 26 Spring St., asked if anyone from anywhere can come in and set up a food truck; that was confirmed. Mr. Doshna said after participating in an event, they might want to open up a business in town. Rich Cornelison, 134 Main St., asked about Uber deliveries; Mayor Driver said there is no local control over Ubers. Mr. Harris said he at first questioned if businesses in the borough, particularly along Main Street, would want this due to the competition, but he's found that in other communities it's done quite well.

Motion to close public hearing: Gorman, seconded by Harris. All voted yes to close the public hearing.

**RESULT: ADOPTED [UNANIMOUS]**  
**MOVER:** John Gorman, Councilman  
**SECONDER:** Michael Harris, Council President  
**AYES:** Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

3. ORDINANCE 2019-8: SECOND READING: ESTABLISHING A CAP BANK 2019

Motion to open public hearing: Gorman, seconded by Doshna. All voted yes to open the public hearing. No comments were made. Motion to close the hearing: Doshna, seconded by Gorman. All voted yes to close the hearing.

Council discussion: Mr. Harris said we should not ever need this and he will not support this. Ms. Giles-McCormick asked how long it lasts, and was told it expires after 2 years.

**RESULT:**           **ADOPTED [5 TO 1]**  
**MOVER:**           John Gorman, Councilman  
**SECONDER:**       Caitlin Giles-McCormick, Councilwoman  
**AYES:**             Doshna, Giles-McCormick, Gorman, Peterson, Runion  
**NAYS:**             Michael Harris

- 4. ORDINANCE 2019-9: FIRST READING: AN ORDINANCE AMENDING CHAPTER XI TITLED UTILITIES SECTION(S) 11-1.1 REGULATIONS; 11-1.2 FEES; 11-2.5 LINE EXTENSIONS; 11-2.6 WATER RESERVATION APPLICATION AND CONTRACT; AND 11-3.11 VIOLATIONS

Mayor Driver summarized the ordinance, saying it addresses regulations, fees, line extensions, violations, and firm water capacity. A public hearing will be held April 22 at 7:30 p.m.

**RESULT:**           **INTRODUCED [UNANIMOUS]**                               **Next: 4/22/2019 7:30 PM**  
**MOVER:**           Michael Harris, Council President  
**SECONDER:**       John Gorman, Councilman  
**AYES:**             Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

- 5. RESOLUTION 2019-92: AUTHORIZING SUBMISSION OF COMMENTS ON THE N.J DEPARTMENT OF ENVIRONMENTAL PROTECTION'S PROPOSED RECLASSIFICATION OF 749 MILES OF WATERWAYS TO CATEGORY 1 STATUS

Ms. Giles-McCormick moved to adopt, seconded by Mr. Harris. Mr. Doshna expressed concern about not knowing what the comments this would authorize would be about. Ms. Giles-McCormick and Mr. Harris withdrew their motions. No action was taken on the resolution.

- 6. RESOLUTION 2019-93: AUTHORIZING THE BOROUGH OF FLEMINGTON TO CONDUCT THE ANNUAL BUDGET EXAM

**RESULT:**           **ADOPTED [UNANIMOUS]**  
**MOVER:**           Michael Harris, Council President  
**SECONDER:**       John Gorman, Councilman  
**AYES:**             Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

- 7. RESOLUTION 2019-94: ENDORSING THE PURCHASE OF A K-9 TO WORK WITH THE BOROUGH POLICE DEPARTMENT

Ms. Giles-McCormick asked what happens to a K-9 service dog when it retires. Police Officer Greg Zytko, the K-9 officer, said normally a municipality would allow the dog's handler to purchase the dog. Dogs can usually work until they're around 10. Mr. Runion asked about associated costs. Officer Zytko said there was a substantial private donation for Kita's purchase, and Stockton Veterinary is

donating services, and Barkley's is donating food. Fundraisers are held throughout the year to fund the purchase of equipment. Mr. Harris expressed concern about the liability involved. Ms. Giles-McCormick asked how often Jax was deployed last year; Officer Zytko said 250 deployments for narcotics alone.

There was a 3-3 tie vote; Mayor Driver voted yes to break the tie, with the resolution passing 4-3.

**RESULT:**           **ADOPTED [4 TO 3]**  
**MOVER:**           Caitlin Giles-McCormick, Councilwoman  
**SECONDER:**       John Gorman, Councilman  
**AYES:**             Jeffrey Doshna, Caitlin Giles-McCormick, John Gorman, Betsy Driver  
**NAYS:**             Michael Harris, Susan Peterson, Christopher Runion

8. RESOLUTION 2019-95: SUPPORTING PATH TO PROGRESS RECOMMENDATIONS MADE BY NEW JERSEY ECONOMIC AND FISCAL POLICY WORKGROUP

Mr. Harris moved adoption, seconded by Mr. Gorman. Following discussion, both withdrew their motions. No action was taken on the resolution.

9. RESOLUTION 2019-96: AUTHORIZING THE RELEASE OF THE REMAINING BALANCE OF \$8,003.05 IN THE DEVELOPER'S ESCROW ACCOUNTS FOR KERBEL-SHERIFF PARTNERS, HELD IN TRUST BY THE BOROUGH OF FLEMINGTON

**RESULT:**           **ADOPTED [UNANIMOUS]**  
**MOVER:**           Caitlin Giles-McCormick, Councilwoman  
**SECONDER:**       Michael Harris, Council President  
**AYES:**             Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

10. RESOLUTION 2019-97: AUTHORIZING A CONTRACT WITH BEACON PLANNING & CONSULTING SERVICES, LLC, FOR A FISCAL ANALYSIS OF THE IMPACT ON FLEMINGTON BOROUGH OF THE COURTHOUSE SQUARE PROJECT PROPOSED BY FLEMINGTON CENTER URBAN RENEWAL, LLC

**RESULT:**           **ADOPTED [UNANIMOUS]**  
**MOVER:**           Jeffrey Doshna, Councilman  
**SECONDER:**       Caitlin Giles-McCormick, Councilwoman  
**AYES:**             Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

11. RESOLUTION 2019-98: OPPOSING SENATE BILL S2505 AND ASSEMBLY BILL A2558 KNOWN AS THE VEGETATION MANAGEMENT RESPONSE ACT



<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Harris, Council President
<b>SECONDER:</b>	Christopher Runion, Council Vice President
<b>AYES:</b>	Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

12. RESOLUTION 2019-99: OPPOSING LEGISLATION OPENING PRESERVED FARMLAND TO COMMERCIAL ACTIVITY

Mr. Runion said he would prefer to revise the resolution before council acts on it. No action was taken on this resolution.

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

Lois Stewart, 26 Spring St., commented on state proposed pension changes, said the power company overdoes it when they trim trees, and asked about the Opportunity Zone committee schedule.

Al Brewer, 1 Coppermine Village, asked how the dog handler Officer's time is paid when a dog is sent on a call.

Rich Cornelison, 134 Main St., asked how the proposed utility ordinance amendment affects existing properties. Mayor Driver said the rate increase would affect those properties.

Robert Shore, 47 Broad St., said several properties he owns are available for the Borough to use as a Borough Hall, Police HQ, or court.

Elaine Gorman, 34 New York Ave., said the public has been allowed to comment on ordinances or resolutions in the past. Mayor Driver said that opportunity is available during the second public sessions, but opening each resolution up to public comment would take too long. Mr. Harris said he's asked to have listed who's responsible for sponsoring resolutions. Mayor Driver said if somebody wants to put a resolution on the agenda they can if they get it in by the deadline; it gives council a chance to be heard and make comments.

Robert Shore, 47 Broad St., said he wanted to hear from council about his proposal. Mayor Driver said it would be premature to enter into any additional contracts at this time.

Al Brewer, 1 Coppermine Village, said preconditions set by SHPO on the sale of 90-100 Main still have to be met. Mr. Doshna said we have to operate on the assumption that they will be met.

Steve Karpew, 32 Allen St., complained about people speeding near the school and urged more police patrols.

**VII. Attorney's Report**

No report.

**VIII. Payment of the Bills**

Motion To: **Pay the Bills**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Harris, Council President
<b>SECONDER:</b>	John Gorman, Councilman
<b>AYES:</b>	Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

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

None needed.

X. Adjournment

Motion To: **Adjourn**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	John Gorman, Councilman
<b>SECONDER:</b>	Michael Harris, Council President
<b>AYES:</b>	Doshna, Giles-McCormick, Gorman, Harris, Peterson, Runion

Meeting was adjourned at 10:35 p.m.

Attest: \_\_\_\_\_  
Sallie Graziano, RMC, Borough Clerk