

**Township of Berkeley Heights
Union County, New Jersey
January 17, 2023**

Adequate notice of this meeting has been provided by forwarding a copy to the Courier News, Star Ledger and posting on the Township website, at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act. This meeting was contained on a list of meetings set by resolution dated January 4, 2023. This meeting will not substantially go past 10:30 p.m.

COUNCIL MEMBERS:

Manuel Couto – Vice President
Paul Donnelly
John Foster - President
Jeanne Kingsley
Susan Poage
Jeff Varnerin
Angie Devanney- Mayor

AGENDA FOR PUBLIC MEETING

Meeting will be held IN-PERSON and livestreamed via Zoom.
To view the meeting via Zoom, use the link: <http://zoom.us/s/3575747364>
if you need to enter a meeting ID, it is: 357-574-7364.

- I. **CALL TO ORDER – 7:00 p.m.**
- II. **ROLL CALL**
- III. **FLAG SALUTE**
- IV. **EXECUTIVE SESSION -**
- V. **CONFERENCE SESSION -**
- VI. **REGULAR AGENDA**

VII. HEARING ON AGENDA ITEMS ONLY- (3) minutes per resident

Comments are welcome during the public comment period during this meeting on any agenda item. However, if an ordinance is listed for its own public hearing on the agenda, please hold your comments for that particular public hearing. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The (Mayor/Council President) will keep time.

Please promptly yield on the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

Alternatively, written comments may also be submitted in lieu of verbal comments. You may submit written comments in advance of the meeting either via electronic mail (to: aminkoff@bhtwp.com) or by written letter (to: Township Clerk, 29 Park Avenue, Berkeley Heights, NJ 07922), including commenter's full name and address, which must be received by the Township Clerk by 4:00 P.M. on the date of the meeting.

VIII. NEW BUSINESS – RESOLUTIONS OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

1. Resolution consenting to the appointment of Liza Viana as Township Administrator.
2. Resolution approving Bill List dated January 17, 2023, in the amount of \$607,690.74.
3. Resolution authorizing a tax settlement with The Connell Co./Lifetime Fitness, 25 Connell Drive.
4. Resolution appointing Barbara Russo as Fund Commissioner for the Garden State Municipal Joint Insurance Fund.
5. Resolution authorizing the application of a grant from New Jersey Department of Community Affairs for approximately \$100,000, for improvements to Peppertown Park, with a catch match of \$267,900.
6. Resolution authorizing an emergency temporary appropriation in the amount of \$35,000.
7. Resolution authorizing transfers between Budget Appropriations.
8. Resolution appointing several members to the Memorial Park Renewal Committee.

9. Resolution authorizing a submission of a grant application to the EPA, in the amount of \$654,000, for Recycling and Waste Management.

10. **CONSENT AGENDA** – All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.
 - a. Resolution approving an overpayment in the amount of \$1,251.60, for the property located at 280 Mountain Avenue.

 - b. Resolution consenting to the appointment of James Rubino, to the active roster of the Berkeley Heights Fire Department.

IX. TOWNSHIP COUNCIL REPORTS

- A. **Manuel Couto – Vice President**
- B. **Paul Donnelly**
- C. **John Foster - President**
- D. **Jeanne Kingsley**
- E. **Susan Poage**
- F. **Jeff Varnerin**

ADMINISTRATION REPORTS

Mayor Devanney

X. CITIZENS HEARING - (3) minutes per resident

Comments are welcome during the public comment period during this meeting on any matter over which the Township has jurisdiction. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The Mayor and/or Council will keep time. Please promptly yield the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

Alternatively, written comments may also be submitted in lieu of verbal comments. You may submit written comments in advance of the meeting either via electronic mail (to: aminkoff@bhtwp.com) or by written letter (to: Township Clerk, 29 Park Avenue, Berkeley Heights, NJ 07922), including commenter's full name and address, which must be received by the Township Clerk by 4:00 P.M. on the date of the meeting.

XI. EXECUTIVE SESSION –

XII. ADJOURNMENT

Ana Minkoff, Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights is governed pursuant to the Mayor-Council-Administrator form of government, N.J.S.A. 40:69A-149.1, et seq., of the Optional Municipal Charter Law, N.J.S.A. 40:69A-1, et seq. (“Faulkner Act”); and

WHEREAS, pursuant to N.J.S.A. 40:69A-149.8, the Mayor has nominated **Liza Viana** as Township Administrator, subject to the advice and consent of the Township Council, effective January 1, 2023; and

WHEREAS, the Township Council desires to consent to said nomination;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that the Township Council hereby consents to the appointment of **Liza Viana** as Township Administrator for the term prescribed by law; and;

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the appointee and the Township Clerk; and

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 17th day of January, 2023.

ATTEST:

Ana Minkoff
Township Clerk

Agenda Item # 2

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, authorizes and directs the Township Treasurer to make payment of vouchers listed on the Bill List dated 01/17/2023, in the amount of \$607,690.74 such vouchers having been received by the Township Council, having been satisfied that appropriate procedure has been followed in the processing of said vouchers.

APPROVED this 17th day of January, 2023.

ATTEST:

Ana Minkoff
Township Clerk

#3

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

WHEREAS, The Connell Co./LTF R.E. Co., Inc. ("Taxpayer"), the owner of Block 4501, Lot 26 on the Township of Berkeley Heights' Tax Assessment Maps, commonly known as 25 Connell Drive ("Property"), filed an appeal of its 2015 through 2022 tax assessments in the Tax Court of New Jersey, Docket Nos. 006382-2015, 002451-2016, 001582-2017, 001517-2018, 001920-2019, 003683-2020, 003516-2021 and 003267-2022; and

WHEREAS, the Township Council of the Township of Berkeley Heights met and discussed the aforesaid tax appeals and the recommendations of its Township Tax Assessor and its Special Tax Counsel, DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C.; and

WHEREAS, Block 4501, Lot 26 was assessed at \$15,801,000 for the years under appeal; and

WHEREAS, an acceptable settlement of the aforesaid tax appeals has been negotiated which reduces the total tax assessment levied upon Block 4501, Lot 26; and

WHEREAS, the 2015 through 2020 tax assessments shall be affirmed and remain unchanged; and

WHEREAS, the 2021 total tax assessment, based upon said reduction, will be \$12,958,300 instead of \$15,801,000 for Block 4501, Lot 26; and

WHEREAS, the 2022 total tax assessment, based upon said reduction, will be \$12,293,600 instead of \$15,801,000 for Block 4501, Lot 26; and

WHEREAS, the tax assessor has set the 2023 total tax assessment "on the books" at \$12,351,800 for Block 4501, Lot 26; and

WHEREAS, all tax refunds due shall be paid in the form of credits, without statutory interest, toward the next quarterly tax bill due following entry of the Tax Court Judgments, and each successive quarterly tax bill that becomes due thereafter until the credits are exhausted; and

WHEREAS, the provisions of the Freeze Act (N.J.S.A. 54:51A-8) shall not apply to the Tax Court Judgments; and

WHEREAS, Taxpayer has agreed that no appeal will be filed for Tax Year 2023; and

WHEREAS, the Township Council leaves the allocation between land and improvements of the aforesaid tax assessment reductions to the Township of Berkeley Heights' Tax Assessor's discretion with the direction that the same be set so as to be most beneficial to the Township; and

WHEREAS, the aforesaid reductions have no general application to other properties within the Township of Berkeley Heights as a result of the aforesaid specific fact situation; and

WHEREAS, the Township Council makes this settlement with Taxpayer without prejudice to its dealings with any other Berkeley Heights Township's taxpayers' request for tax assessment reduction; and

WHEREAS, the Mayor and Township Council have reviewed a copy of the proposed Stipulation of Settlement, which is annexed hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Township of Berkeley Heights' Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$12,958,300 total tax assessment for the 2021 tax year for Block 4501, Lot 26, which is most beneficial to the Township of Berkeley Heights and advise the Special Tax Counsel of that allocation.
2. The Township of Berkeley Heights' Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$12,293,600 total tax assessment for the

2022 tax year for Block 4501, Lot 26, which is most beneficial to the Township of Berkeley Heights and advise the Special Tax Counsel of that allocation.

3. The Special Tax Counsel, Sandra Belli, is hereby authorized to execute a Stipulation of Settlement relative to the tax appeals of The Connell Co./LTF R.E. Co., Inc. ("Taxpayer"), Docket Nos. 006382-2015, 002451-2016, 001582-2017, 001517-2018, 001920-2019, 003683-2020, 003516-2021 and 003267-2022, which affirms the total tax assessments for Tax Years 2015 through 2020 for Block 4501, Lot 26; which reduces the total tax assessment on Block 4501, Lot 26 from \$15,801,000 to a total tax assessment of \$12,958,300 for the 2021 Tax Year; which reduces the total tax assessment on Block 4501, Lot 26 from \$15,801,000 to a total tax assessment of \$12,293,600 for the 2022 Tax Year; which provides that all tax refunds due shall be paid in the form of credits, without statutory interest, toward the next quarterly tax bill due following entry of the Tax Court Judgments, and each successive quarterly tax bill that becomes due thereafter until the credits are exhausted; which provides that the provisions of the Freeze Act (N.J.S.A. 54:51A-8) shall not apply to the Tax Court Judgments; which provides that the Tax Assessor has set the 2023 total tax assessment "on the books" at \$12,351,800 for Block 4501, Lot 26; and which provides that the Taxpayer has agreed that no appeal will be filed for Tax Year 2023.
4. The settlement outlined above shall be without prejudice to the Township of Berkeley Heights' dealings with any other Township taxpayers' request for tax assessment reductions.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Resolution passed at the regular meeting of the Township Council of the Township of Berkeley Heights in the County of Union on January 17, 2023.

Ana Minkoff, Township Clerk

Attorney ID# 013241989
DiFrancesco, Bateman, Kunzman,
Davis, Lehrer & Flaum, P.C.
 15 Mountain Boulevard
 Warren, NJ 07059
 (908) 757-7800
 Attorneys for Defendant, Berkeley Heights Township
Our File No.: BHTX10

THE CONNELL CO./LTF R.E. CO., INC., Plaintiff, vs. BERKELEY HEIGHTS TOWNSHIP, Defendant.
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TAX COURT OF NEW JERSEY

 DOCKET NOS.: 006382-2015,
 002451-2016, 001582-2017,
 001517-2018, 001920-2019,
 003683-2020, 003516-2021,
 003267-2022

 Civil Action

STIPULATION OF SETTLEMENT

1. It is hereby stipulated and agreed that the assessment of the following property be adjusted and judgment be entered as follows:

Block: 4501
 Lot: 26
 Street Address: 25 Connell Drive
 Year: 2015, 2016, 2017, 2018, 2019 & 2020

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land:	\$ 3,667,500	DIRECT	\$ 3,667,500
Improvements:	<u>\$12,133,500</u>	APPEAL	<u>\$12,133,500</u>
Total:	\$15,801,000		\$15,801,000

Block: 4501
 Lot: 26
 Street Address: 25 Connell Drive
 Year: 2021

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land:	\$ 3,667,500	DIRECT	\$ 3,667,500
Improvements:	<u>\$12,133,500</u>	APPEAL	<u>\$ 9,290,800</u>
Total:	\$15,801,000		\$12,958,300

Block: 4501
Lot: 26
Street Address: 25 Connell Drive
Year: 2022

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land:	\$ 3,667,500	DIRECT	\$ 3,667,500
Improvements:	<u>\$12,133,500</u>	APPEAL	<u>\$ 8,626,100</u>
Total:	\$15,801,000		\$12,293,600

2. The undersigned have made such examination of the value and proper assessment of the property and have obtained such appraisals, analysis and information with respect to the valuation and assessment of the property as they deem necessary and appropriate for the purpose of enabling them to enter into this Stipulation. The assessor of the taxing district has been consulted by the attorney for the taxing district with respect to this settlement and has concurred.

3 Based upon the foregoing, the undersigned represent to the Court that the above settlement will result in an assessment at the fair assessable value of the property consistent with assessing practices generally applicable in the taxing district as required by law.

4. The parties specifically agree that all refunds due to plaintiff as a result of the settlement set forth herein shall be paid in the form of credits toward the next quarterly tax bill due following entry of the Tax Court Judgments, and each successive quarterly tax bill that comes due thereafter until the credits are exhausted.

5. Statutory interest, pursuant to N.J.S.A. 54:3-27.2, having been waived by the taxpayer, shall not be paid.

6. The parties agree that the provisions of the Freeze Act (N.J.S.A. 54:51A-8) shall not apply to any Tax Court Judgment entered as a result of the settlement set forth herein.

7. The parties acknowledge that the Tax Court may not have jurisdiction as to the remainder of this Stipulation of Settlement. However, the following terms are an integral part of the settlement of the parties, each party having entered into this Stipulation of Settlement in part in consideration of the following terms.

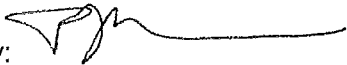
8. The parties agree that the subject property's total tax assessment for Tax Year 2023 will be set by the Tax Assessor at a total tax assessment of \$12,351,800 "on-the-books," if, prior to the Tax Assessor closing the books for Tax Year 2023, there has been no "change in value" of the property [as that phrase has been defined and interpreted by the Courts pursuant to N.J.S.A. 54:51A-8 (Freeze Act), such as, by way of example, assessable additions or improvements to, material damage to, demolition of, and/or casualty to the subject assessable property]; there is no sale of the property then pending for more than the equalized value; and there has been no district-wide reassessment or revaluation. Plaintiff represents that the subject property is not currently being marketed for sale or under contract. Plaintiff agrees that provided the total tax assessment for Tax Year 2023 is set at \$12,351,800, there will be no tax appeal filed on the subject property. The parties agree that the provisions of the Freeze Act (N.J.S.A. 54:51A-8) shall not apply to any Judgment entered to enforce this settlement. This agreement shall be binding upon any assignees, tenants and successors in interest with regard to the subject property, and plaintiff agrees that it will

affirmatively notify any successors and/or assigns of the terms of this Stipulation of Settlement.

9. The provisions set forth in Paragraphs 4, 5, 7 and 8 shall survive Judgment even if not included on the Tax Court Judgments.

Garippa, Lotz & Giannuario PC
Attorneys for Plaintiff

DiFrancesco, Bateman, Kunzman,
Davis, Lehrer & Flaum, PC
Attorneys for Defendant

By: 
Philip J. Giannuario, Esq.

By: _____
Sandra Belli, Esq.

Dated: 12/29/22

Dated: _____

#4

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

**A RESOLUTION APPOINTING
FUND COMMISSIONER AND ALTERNATE FUND COMMISSIONER
FOR THE GARDEN STATE MUNICIPAL JOINT INSURANCE FUND**

WHEREAS, the Township of Berkeley Heights is a member of the Garden State Municipal Joint Insurance Fund (“GSMJIF”); and

WHEREAS, it is required by the GSMJIF bylaws for the Township of Berkeley Heights to have representation on the Board of Commissioners.

NOW, THEREFORE, BE IT RESOLVED on this 17th day of January, 2023 by the Council of the Township of Berkeley Heights, County of Union, State of New Jersey that:

1. **Barbara Russo** is hereby appointed as Fund Commissioner representing the Township of Berkeley Heights on the Garden State Municipal Joint Insurance Fund Board of Commissioners.

I do hereby certify that the foregoing is a true copy of a resolution passed by the Council of the Township of Berkeley Heights at a meeting held on the 17th day of January, 2023.

Ana Minkoff, Township Clerk

#5

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights desires to apply for and obtain a grant from the New Jersey Department of Community Affairs for approximately \$100,000 to carry out a project to make improvements to Peppertown Park. In addition to the total funding received from the Department, Berkeley Heights will contribute a cash match of \$267,900 towards the completion of this project.

BE IT THEREFORE RESOLVED, that the Township of Berkeley Heights does hereby authorize the application for such a grant; and,

BE IT FURTHER RESOLVED, that the Township of Berkeley Heights recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs, does further authorize the execution of any such grant agreement; and also, upon receipt of the fully executed agreement from the Department, does further authorize the expenditure of funds pursuant to the terms of the agreement between the Township of Berkeley Heights and the New Jersey Department of Community Affairs.

BE IT FURTHER RESOLVED that the persons whose names, titles, and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith:

_____ (signature)
Ana Minkoff
_____ (type or print name)
Municipal Clerk
_____ (title)

_____ (signature)
Angie Devanney
_____ (type or print name)
Mayor
_____ (title)

Certification:

I, Ana Minkoff, the Municipal Clerk of the Township of Berkeley Heights hereby certify that at a meeting of the Township Council Meeting held on January 17, 2023, the above *RESOLUTION* was duly adopted.

ATTEST and AFFIX SEAL _____
Signature

7

**TOWNSHIP OF BERKELEY HEIGHTS
RESOLUTION**

**AUTHORIZING TRANSFERS BETWEEN BUDGET APPROPRIATIONS –
N.J.S. 40A:4-58**

WHEREAS, transfers are permitted between budget appropriations during the last two months of the appropriation year.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of The Township of Berkeley Heights, in the County of Union, New Jersey, that transfers between 2022 Budget Appropriations be made as follows:

CURRENT FUND

	<u>FROM</u>	<u>TO</u>
2-01-26-765-011 S&R Full Time	\$ 10,000.00	
2-01-30-818-028 Sewer – Professional Services		<u>\$ 10,000.00</u>
Total	<u>\$ 10,000.00</u>	<u>\$ 10,000.00</u>
2-01-26-772-011 B&G Full Time	\$ 10,000.00	
2-01-30-818-028 Sewer – Professional Services		<u>\$ 10,000.00</u>
Total	<u>\$ 10,000.00</u>	<u>\$ 10,000.00</u>
2-01-26-767-011 Veh Main Full Time	\$ 10,000.00	
2-01-30-818-028 Sewer – Professional Services		<u>\$ 10,000.00</u>
Total	<u>\$ 10,000.00</u>	<u>\$ 10,000.00</u>
2-01-22-725-038 Code Data Processing	\$ 10,000.00	
2-01-30-818-028 Sewer – Professional Services		<u>\$ 10,000.00</u>
Total	<u>\$ 10,000.00</u>	<u>\$ 10,000.00</u>

Approved this 17th day of January, 2023

ATTEST:

Ana Minkoff
Township Clerk

8

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, in meeting assembled, that the following be appointed to the Memorial Park Renewal Committee for a term to expire 12/31/2024.

MEMORIAL PARK RENEWAL COMMITTEE

Arnie Aprahamian	term expires 12/31/2024
John DiPasquale	term expires 12/31/2024
Trent Fettes	term expires 12/31/2024
Jon Hawkins	term expires 12/31/2024
Tom Lombardi	term expires 12/31/2024
Steve Siara	term expires 12/31/2024
Midge Vincendese	term expires 12/31/2024

APPROVED this 17th day of January, 2023.

ATTEST:

Ana Minkoff
Township Clerk

9

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

WHEREAS, the governing body of the Township of Berkeley Heights, County of Union, desires to further the public interest by obtaining a grant from the United States of Environmental Protection (EPA) in the amount of \$654,000, for Recycling and Waste Management; and

NOW THEREFORE BE IT RESOLVED that the Township Council of the Township of Berkeley Heights does hereby authorize the Township make application for such a grant, b) if awarded, to execute a grant agreement with the EPA for the awarded amount, c) to execute any amendments thereto, and d) to expend the funds pursuant to the grant agreement.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign the grant agreement on behalf of the Township of Berkeley Heights and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

APPROVED this 17th day of January, 2023.

ATTEST:

Ana Minkoff
Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Tax Collector has advised that there was an overpayment of a portion of 2022 property taxes for property known as Block# 3503, Lot# 5 also known as 280 Mountain Ave, which requires a refund in the amount of \$1,251.60; and,

NOW, THEREFORE BE IT RESOLVED that the Treasurer is authorized to refund the overpayment of the fourth (4th) quarter 2022 taxes in the amount of \$1,251.60, to Anthony and Luisa Valdes, 280 Mountain Avenue, Berkeley Heights, NJ 07922.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the Tax Collector.

APPROVED this 17th day of January 2023.

Attest:

**Ana Minkoff
Township Clerk**

Agenda Item
#

10(b)

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, Union County, New Jersey, that James Rubino , is hereby appointed to the Active roster of the Berkeley Heights Volunteer Fire Department effective on January 22, 2023.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Fire Chief.

APPROVED this 17th day of January, 2023.

ATTEST:

Ana Minkoff
Township Clerk