

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD MAY 29, 2019**

CALL TO ORDER

At 7:06 p.m. Mayor Devanney called the meeting to order.

The Township Clerk stated that adequate notice of this meeting has been provided by posting the same on the bulletin board of Town Hall and forwarding a copy to the Courier News and Star Ledger at least forty-eight hours prior to this meeting, all in accordance with the Open Public Meetings Act.

ROLL CALL

The following Council members were present:

Mr. Bavoso
Mr. Couto
Mrs. Kingsley
Mr. Medeiros
Mrs. Poage
Mr. Yellin
Mayor Devanney

Also present were:

Township Attorney: Kraig Dowd
Township Administrator: Liza Viana
Township Clerk: Ana Minkoff

FLAG SALUTE

Mayor Devanney asked everyone present to stand for the Flag Salute.

PROCLAMATION

Metastatic breast cancer awareness – METAvivors of NJ

Mayor Devanney noted that this has been postponed until the next meeting.

“Val’s Valiants” – Valerie Diamond

The Mayor read a Proclamation which publically recognized Valerie Diamond for her leadership in helping to make Berkeley Heights a cleaner, greener, healthier community while promoting environmental stewardship and for educating and engaging the public.

CONFERENCE SESSION

NW Financial Group – Debt Analysis of the Township

Ms. Litzebauer of NW Financial presented an analysis of the Township debt and proposed cost savings. Mr. Jessup added to the discussion and explained how the proposal is related to the two bond resolutions on tonight’s agenda. There was a discussion following the presentation.

Mayor Devanney opened the floor to questions from the public.

Mr. Foregger of 14 Dorset Road asked about the projected rates and the rating of the municipality. Ms. Litzebauer responded. Mr. Foregger asked where the sale of the Hamilton Ave property is factored into the calculations. Ms. Litzebauer responded.

Mr. Sincaglia of 22 Robbins Avenue asked whether the Salt Dome Revenue goes into the general budget. Mr. Jessup explained where and how that revenue is used.

Environmental Commission

Mr. Leister, the chairperson of the Environmental Commission, presented on the commission's behalf. He discussed some of the Commission's accomplishments and initiatives. He asked Council for their continued support.

Council provided their feedback and asked questions. There was a detailed discussion on the projects and how Council can support them.

Mast Construction Update

Mr. Edmunds of Mast Construction spoke about the progress of the building and some additional change orders for the project. He presented a slide show on the progress of the new municipal complex.

There was a lengthy discussion between Council members and Mr. Edmunds following the presentation.

TOWNSHIP COUNCIL REPORTS

Mr. Bavoso reported on the following topics:

- Memorial Day Parade
- Communications Committee
- Summer Block Party

Mr. Couto reported on the following topics:

- VFW BBQ
- Val's Valiant's Clean Up Event

Mrs. Kingsley reported on the following topics:

- Downtown Beautification Committee

Mr. Medeiros reported on the following topics:

- Environmental Commission
- Recycling Task Force Survey
- Memorial Day Parade

Mrs. Poage reported on the following topics:

- Memorial Day Parade
- Planning Board
- Innovation Award / Innovation Summit

Mr. Yellin reported on the following topics:

- Littell-Lord Farmstead
- Communications Committee
- Innovation Summit

Mr. Yellin also spoke about some events he recently attended.

ADMINISTRATION REPORTS

Mayor Devanney discussed the following topics:

- Mother's Day 5K
- Nursing Home Week
- Listening Sessions
- Directors Meetings
- New Turf at Snyder Park
- Eagle Scout Award
- GL Youth Advisory Board
- OEM – Tornado Watch
- GL Athletic Awards

Mayor Devanney also highlighted the events she recently attended.

Ms. Viana provided updates from the following departments:

- Public Works
- Construction
- Engineering
- Wastewater Treatment
- Recreation
- Zoning

Ms. Viana also noted that the debt and budget presentations from tonight's meeting will be available on the Township website.

Approval of Township Council and Administration Reports

Mover: Mrs. Kingsley

Seconder: Mr. Yellin

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None

Abstain: None

Absent: None

Result: Approved

APPROVAL OF MINUTES

Approval of Minutes - **Public Meeting – January 1, 2019**

Mover: Mr. Yellin

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Second: Mrs. Poage
Ayes: Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: Mr. Bavoso
Absent: None

Result: Approved

Approval of Minutes - Public Meeting – January 15, 2019

Mover: Mr. Yellin
Second: Mrs. Poage
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

Approval of Minutes – Executive Session – January 15, 2019

Mover: Mr. Yellin
Second: Mrs. Poage
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCE:

Public Hearing and Final Adoption of Ordinance Introduced on April 23, 2019.

The Clerk presented and read:

**“CALENDAR YEAR 2019 ORDINANCE TO EXCEED THE MUNICIPAL
BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK.”**

Opening of the Public Hearing on Ordinance as read by the Township Clerk

Mover: Mr. Medeiros
Second: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Mr. Foregger of 14 Dorsett questioned the 2.5% COLA stated in the ordinance and noted a discrepancy within the ordinance. Mr. Swisher responded. There was some confusion on the ordinance and Mr. Swisher was looking into it.

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Mr. Scorzafava of 356 Timber Drive commented that he hopes the Township is not just copying things from the state.

Mr. Brown of 156 Briarwood Drive E noted that 2.5% is posted on the state's website for 2019.

Mr. Couto motioned to table the ordinance until the issue is clarified. Mr. Yellin motioned to amend Mr. Couto's motion.

Mr. Swisher noted the misprint in the ordinance and explained how it should be amended, striking the language "in any year in which the COLA is equal to or less than 2%" in paragraphs 2 and 4.

Mr. Couto withdrew his motion to table the ordinance. Mr. Yellin withdrew his amendment to the motion.

There was a discussion further clarifying the amendment for the ordinance.

Mr. Foregger asked about the source of the ordinance. Mr. Swisher responded and there was a brief discussion.

Mr. Foregger noted that he does not believe Council should go through with this, stating that it just allows for building a bigger budget.

The Mayor noted that Mr. Dowd would like a brief recess. She asked for a motion to table the Cap Bank Ordinance and Budget portion of the meeting and move to open the Hearing on Agenda Items Only.

To Table the Ordinance

Mover: Mr. Medeiros

Seconder: Mr. Couto

All were in agreement.

HEARING ON AGENDA ITEMS ONLY

Opening of the Hearing on Agenda Items Only

Mover: Mrs. Poage

Seconder: Mrs. Kingsley

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None

Abstain: None

Absent: None

Mr. Sincaglia referenced Agenda item # 11 and asked why Phillip Preiss did the consistency review and not Harbor Consulting. Mayor Devanney and Ms. Viana responded.

Closing of the Hearing on Agenda Items Only

Mover: Mrs. Poage

Seconder: Mrs. Kingsley

Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin

Nays: None

Abstain: None

Absent: None

APPROVAL OF RESOLUTIONS

1. Resolution approving Bill List dated May 29, 2019 in the amount of \$1,765,457.03.

Mr. Medeiros asked about the bill from EPIC. Ms. Viana responded.

Approval of Resolution

Mover: Mr. Couto
Secunder: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

2. Resolution authorizing submission of a treatment works approval application to the NJDEP for Berkeley Heights Developers, LLC (Stratton House, former King's supermarket, 428-434 Springfield Avenue.

Approval of Resolution

Mover: Mr. Bavoso
Secunder: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

3. Resolution authorizing submission of a treatment works approval application to the NJDEP for Luxury Property Investments, LLC – 484 Plainfield Avenue.

Mrs. Kingsley asked for clarification on the property location. Mayor Devanney responded.

Approval of Resolution

Mover: Mrs. Kingsley
Secunder: Mr. Couto
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

4. Resolution consenting to the appointment of Robert Edgar as Tax Assessor for the Township.
(PULLED)

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5. Resolution authorizing the sale of surplus personal property no longer needed for public use on an online auction website www.municibid.com.

Approval of Resolution

Mover: Mr. Yellin
Seconder: Mrs. Poage
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

6. Resolution rejecting the bids for the “Remote Locations SCADA System – Phase 2 Construction” which were received and opened on April 16, 2019.

Ms. Viana provided an explanation for the rejection of the bids.

Approval of Resolution

Mover: Mrs. Kingsley
Seconder: Mrs. Poage
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

7. Resolution determining the form and other details of \$15,265,000 general obligation bonds, series 2019, of the Township of Berkeley Heights, in the county of Union, New Jersey, and providing for their sale.

Approval of Resolution

Mover: Mr. Medeiros
Seconder: Mr. Bavoso
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

8. Resolution providing for the combination of certain issues of general obligation bonds, series 2019, of the Township of Berkeley Heights, in the County of Union, New Jersey into a single issue of bonds aggregating \$15,265,000 in principal amount.

Approval of Resolution

Mover: Mrs. Poage
Seconder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None

Abstain: None
Absent: None

Result: Approved

9. Resolution authorizing, encouraging and supporting the Green Team in their efforts to renew the Township’s Silver Certification.

Mr. Couto spoke in support of the work the Green Team has done.

Approval of Resolution

Mover: Mr. Couto
Secunder: Mrs. Poage
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

10. Resolution authorizing changes to the scope of the Municipal Complex Redevelopment project.

Ms. Viana briefly spoke to the combination of change orders for this resolution.

Approval of Resolution

Mover: Mr. Bavoso
Secunder: Mrs. Poage
Ayes: Mr. Bavoso, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: Mr. Couto and Mrs. Kingsley
Abstain: None
Absent: None

Result: Approved

11. Resolution finding the proposed redevelopment project for the property known as Block 703, Lots 3,4 and 8 on the tax map consistent with the Redevelopment plan and redevelopment Agreement in accordance with the requirements of the redevelopment plan and the redevelopment Agreements. (Lone Pine Drive and Erie Lack RR)

Mrs. Kingsley noted the correspondence which was just received from the Chemtrade attorney. Mr. Jessup responded, confirming that the planner, Phillips Preiss, did see all correspondence received prior to his report dated May 14th.

Approval of Resolution

Mover: Mr. Couto
Secunder: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

12. Resolution approving a Person-to-Person transfer of a Plenary Retail Distribution currently pocketed License #2001-44-003-009 to Connell Hospitality LLC., from Nickolas T. Agathis.

Council had a detailed discussion on the resolution and liquor license. Mr. Yellin raised concern over the number of licenses Connell would now own.

Approval of Resolution

Mover: Mr. Medeiros
Second: Mr. Bavoso
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros and Mrs. Poage
Nays: Mr. Yellin
Abstain: None
Absent: None

Result: Approved

13. Resolution approving a Place-to-Place transfer of Plenary Retail Consumption license, D. Heights, LLC, #2001-33-005-007, for the purpose of expanding the premises under the license.

Mr. Medeiros asked for clarification on the resolution. Mrs. Minkoff responded. Ms. Tamayo, attorney for D. Heights, LLC, elaborated.

Approval of Resolution

Mover: Mrs. Poage
Second: Mrs. Kingsley
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

14. Resolution in support of Volunteer Responder Incentive Protection Act (VRIPA).

Approval of Resolution

Mover: Mr. Yellin
Second: Mr. Couto
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

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.

15. Consent Agenda Resolutions (a-d)

- a. Resolution authorizing the Tax Collector to refund the following 2019 tax overpayment:
 - 1. Brandon & Rebecca Robinson 453 Emerson Lane \$4,398.79
 - 2. Peter & Janine Bavoso 37 Rogers Avenue \$6,779.17

- b. Resolution approving a block party on Burlington Road on June 8, 2019,(with a rain date of June 9th) from 3:00 p.m. to 8:00 p.m.

- c. Resolution authorizing Garden State Fireworks to hold fireworks displays for Our Lady of Mt. Carmel Society on July 16 – 20, 2019 and on December 31, 2019.

- d. Resolution authorizing a release of (3) cash bonds in the amount of \$29,668.42 and (3) Performance surety bonds in the amount of \$222,308.28, \$8,303.58 and \$34,862.40 to 569 Springfield Avenue, LLC.

Approval of Consent Agenda Resolutions #15 a-d

Mover: Mr. Couto
Seconder: Mr. Yellin
Ayes: Mr. Bavoso*, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Approved

* Mr. Bavoso recused himself from Consent Agenda a.

The Agenda returned to the Public Hearing and Final Adoption of the CAP Bank Ordinance.

Mr. Dowd noted that the changes to the CAP Bank Ordinance are non-substantive and do not affect the meaning, intent or dollars. He defined the changes which are to be considered for the Amended ordinance.

PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCE:

Public Hearing and Final Adoption of Ordinance Introduced on April 23, 2019.

The Clerk presented and read:

**“CALENDAR YEAR 2019 ORDINANCE TO EXCEED THE MUNICIPAL
BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK.”**

Opening of the Public Hearing on Ordinance as read by the Township Clerk

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Mover: Mr. Medeiros
Second: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Closing of the Public Hearing on Ordinance as read by the Township Clerk

Mover: Mr. Medeiros
Second: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Mr. Yellin asked about the votes required to approve the CAP Bank and Budget. Mr. Dowd responded.

Adoption on final passage of Ordinance as read by the Township Clerk and hearing held hereon and direction of the Township Clerk to advertise same in the Courier News

Mover: Mr. Medeiros
Second: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Result: Adopted

2019 MUNICIPAL BUDGET ADOPTION:

Public Hearing and Final Adoption of 2019 Municipal Budget as Introduced on April 23, 2019.

Mrs. Poulos and Ms. Viana provided a brief explanation of the budget process. They walked through the highlights of the budget presentation. Council provided their feedback and asked questions.

a. Budget Hearing

Opening of the Public Hearing on 2019 Municipal Budget Adoption

Mover: Mayor Devanney
Second: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Mr. Maciejewski of 40 Ralph Place asked whether a new hire is discretionary or nondiscretionary. Ms. Poulos responded. There was a discussion that followed to clarify the response.

Mr. Maciejewski asked for confirmation that the \$76 was a 3.1% increase. Mrs. Poulos confirmed.

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Mr. Foregger noted the extra \$37,000 in salary and wages for streets and roads and asked what that is for. Mayor Devanney responded.

Mr. Foregger asked about the performance measures for streets and roads. Mayor Devanney responded.

Mr. Foregger asked about the staffing for DPW in 2018 and whether or not their performance goals were met. The Mayor responded.

Mr. Foregger asked where in the budget he could find the money that the Board of Ed pays the Township for the police in the schools. Mrs. Poulos responded. There was a discussion that followed.

Mr. Sincaglia asked a number of questions regarding specific line items in the budget. His questions covered discrepancies in the 2019 budget and 2018 actuals, as well as allocations in grant money. Council, Mrs. Poulos and Ms. Viana responded to provide clarification and explanations.

Mr. Scorzafava noted for the record that the average US inflation is 1.73% and the average wage increase is 3.2%.

Closing of the Public Hearing on 2019 Municipal Budget Adoption

Mover: Mayor Devanney
Seconder: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

b. Resolution to Amend Budget

Approval to Amend 2019 Municipal Budget as Presented by the CFO

Mover: Mayor Devanney
Seconder: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

c. Adoption of Resolution to Read Budget by Title.

Approval of Resolution to Read Budget by Title

Mover: Mayor Devanney
Seconder: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

d. Budget Adoption as Amended

Adoption of 2019 Municipal Budget as Amended

Mover: Mayor Devanney

Secunder: Mr. Medeiros
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

CITIZENS HEARING

Opening of the Citizens Hearing

Mover: Mrs. Kingsley
Secunder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

Mr. Foregger asked why the two Council members voted no on the resolution authorizing the change order.

Mr. D’Aquila of 85 Whitney Drive asked why the pilot is not starting until 2023 since he believed they were almost ready to put a shovel in the ground. He asked that an update on the redevelopment projects be provided at the next meeting.

Mr. D’Aquila raised a concern over the condition of Horseshoe field. He asked that the Township attend to the field as soon as the weather allows.

Mr. Santore of 195 Lincoln Street echoed Mr. D’Aquila about the condition of Horseshoe field noting the grass is about a foot in some places.

Mr. Santore asked about the asbestos removal process that was mentioned in the presentation by Mast tonight. He spoke in depth about the protocol for asbestos removal and raised concerns about how the soil is being handles and removed. He referenced his experience and knowledge on the subject. Mayor Devanney and Mr. Bavoso responded and there was a discussion on the topic.

Mr. Edmonds from Mast came back into the room and provided a detailed response to Mr. Santore’s questions. There was a longer discussion that followed.

Mr. Foregger asked what time the recycling collection should be starting in the morning. There was a brief discussion on the topic and the Mayor noted that they would reach out to Giordano.

Mr. Foregger asked about the underground drainage system, specifically if it could fail and what would be the consequences of a failure. Mr. Edmonds responded and noted that he would follow-up.

Mr. Scorzafava applauded the police on the school security grant.

Mr. Scorzafava spoke about the issue with retaining volunteer fire fighters, acknowledging both the new development and the potential cost of paying for employees or an outsourced firm. He asked if there has been any discussion on an incentive program to help with the retention.

Closing of the Citizens Hearing

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Mover: Mrs. Kingsley
Seconder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

EXECUTIVE SESSION

- 1. Attorney Client Privilege/Potential Litigation – Aptive Environmental

Move to go into Executive Session
(10:36 p.m.)

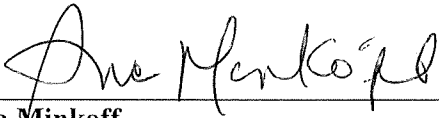
Mover: Mr. Medeiros
Seconder: Mr. Yellin
Ayes: Mr. Bavoso, Mr. Couto, Mrs. Kingsley, Mr. Medeiros, Mrs. Poage and Mr. Yellin
Nays: None
Abstain: None
Absent: None

The Mayor reminded all that they would be coming out of Executive Session, only to adjourn.

ADJOURNMENT

Moved by Mr. Medeiros to adjourn and all were in favor.
(10:55 p.m.)

Approved: July 23, 2019



Ana Minkoff
Township Clerk