

## **EAST WINDSOR TOWNSHIP COUNCIL**

Tuesday, January 12, 2010

The meeting of the East Windsor Township Council was called to order by Mayor Janice S. Mironov at 8:00 p.m. on January 12, 2010.

Municipal Clerk Cindy A. Dye certified that the meeting was noticed in the Annual Meeting Notice. Notice was sent to the Trenton Times, filed with the Municipal Clerk and posted in the East Windsor Township Municipal Building, all on January 5, 2010. All requirements of the "Open Public Meetings Act" were satisfied.

Police Officer Wayne Hummel led the flag salute.

Present were: Mayor Janice S. Mironov, Deputy Mayor Marc Lippman, and Council Members Walter T. Daniels, Jr., Hector Duke, Alan Rosenberg, and Perry Shapiro. Also present were Alan M. Fisher, Township Manager, Township Attorney David E. Orron and Municipal Clerk Cindy A. Dye. Council Member Marsha Weinstein was absent.

### **PRESENTATIONS & PROCLAMATIONS:**

Mayor Mironov recognized the 2009 National Champions – Pop Warner Midget Cheerleading Team: Alexa Abbruscato, Jaclyn Bonacorda, Brionna Bryant, Brooke Gillespie, Arielle Golod, Jenna Hart, Rachel Katawick, Megan Keaveney, Michelle Lombardo, Mackenzie Mauro, Sarah Pagani, Jessica Riley, Andrea Schrock, Ashleigh Shannon, Caitlyn Stevens, Tasia Teele, and Diane Villafane, and their head coach Suzanne Mauro, assistant coaches Barbra Callahan, Regina Shannon, and Jeanie Lombardo, team mom Debbie Gillespie, and cheer directors Jenn Havens and Gina Leaver

Mayor Mironov announced that East Windsor Township is the recipient of the Rutgers Center for Government Services Municipal Public Information Contest Award for Spotlight East Windsor.

**PUBLIC FORUM:** None

### **INTERVIEWS FOR BOARDS AND COMMISSIONS:**

Lenox Ng stated he was interested in serving on the Economic Development Committee, due to his background in finance.

Jose Munoz, Jr. stated that he interested in serving on the Economic Development Committee as this was in his field of experience and he felt he could offer good ideas.

### **MINUTES:**

Mayor Mironov stated that the October 20, 2009, November 4, 2009, and November 16, 2009 minutes would be held. She stated that the December 1, 2009, December 15, 2009, and January 1, 2010 minutes would be rescheduled.

**RESOLUTIONS:**

**Resolution R2010-7** Approval of Amendment to Green Acres Project Agreement with New Jersey Department of Environmental Protection with East Windsor Township Open Space Acquisition

The Township Clerk read by title Resolution R2010-7.

Mayor Mironov stated that this was the agreement for the newest grant awarded to the Township for open space. The grant was for \$500,000.

It was MOVED by ROSENBERG and seconded by SHAPIRO that Resolution R2010-7 be adopted.

ROLL CALL: Ayes – Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-7 was adopted.

**Resolution R2010-8** Authorizing First and Final Change Order for Hickory Corner Road Phase II with Cardinal Contracting, Co., LLC

The Township Clerk read by title Resolution R2010-8.

Mayor Mironov stated that this work was funded by the second grant received for Hickory Corner Road.

It was MOVED by DANIELS and seconded by DUKE that Resolution R2010-8 be adopted.

ROLL CALL: Ayes – Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-8 was adopted.

**Resolution R2010-9** Approval of Purchase of Paint Stripping Machine with Sherwin Williams for the East Windsor Public Works Department

The Township Clerk read by title Resolution R2010-9.

Mayor Mironov stated that there was a recommendation from the Public Works Director. She stated that this was included in Capital Ordinance 2009-08.

It was MOVED by SHAPIRO and seconded by ROSENBERG that Resolution R2010-9 be adopted.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-9 was adopted.

**Resolution R2010-10**            Action of Request for Release of Performance Guarantee for CVS  
Pharmacy, Twin Rivers Center, Abbington Drive

The Township Clerk read by title Resolution R2010-10.

Mayor Mironov stated that in the first and third paragraphs, “Store 3161” should be replaced with “CVS Pharmacy in the Twin Rivers Center located on Abbington Drive”. She stated there was a recommendation from the Township Engineer dated November 16, 2009 as well as a certification from the Finance Director that all fees and charges have been paid.

It was MOVED by DANIELS and seconded by ROSENBERG that Resolution R2010-10 be adopted with changes.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-10 was adopted with changes.

**Resolution R2010-11**            Action on Request for Release of Performance Guarantee for Mack  
Drug Co. of NJ, Inc. (CVS Pharmacy)

The Township Clerk read by title Resolution R2010-11.

Mayor Mironov stated that the store number be replaced with “CVS Pharmacy located on Route 130” in the first and third paragraphs. She stated there was a recommendation from the Township Engineer dated November 16, 2009 as well as a certification from the Finance Director that all fees and charges have been paid.

It was MOVED by ROSENBERG and seconded by DANIELS that Resolution R2010-11 be adopted with changes.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-11 was adopted with changes,

**Resolution R2010-12**            Action on Request for Release of Performance Guarantee for  
Presbyterian Homes at Meadow Lakes

The Township Clerk read by title Resolution R2010-12.

Mayor Mironov stated that unless there was an objection, the resolution would be held until the meeting to allow for clarification as the Planning Board had just approved an amended site plan.

**Resolution R2010-13**            Action on Request for Release of Performance Guarantee for  
Riviera at East Windsor – Off-Site Improvements

The Township Clerk read by title Resolution R2010-13.

Mayor Mironov stated Council had an email from the Riviera Homeowners Association asking to be notified with respect to any releases. She asked a letter be sent reaching out to the Association and stated that the resolution would be held.

**Resolution R2010-14**            Refund of Tax Overpayments

The Township Clerk read by title Resolution R2010-14.

Mayor Mironov stated that these were double payments.

It was MOVED by DANIELS and seconded by ROSENBERG that Resolution R2010-14 be adopted.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-14 was adopted.

**Resolution R2010-15**            Closed Session (Collective Bargaining: Teamster Local Union  
676; Communication Workers of America Local 1032; Superior  
Officers Local 191; Policemen’s Benevolent Association Local  
191; Teamster Local Union 469) (Personnel: Township Manager,  
Director of Finance, Tax Collector, Tax Assessor)

The Township Clerk read by title Resolution R2010-15.

It was MOVED by DUKE and seconded by ROSENBERG that Resolution R2010-15 be adopted.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-15 was adopted.

**APPLICATIONS:** None

**REPORTS BY COUNCIL AND STAFF:**

Mr. Daniels stated that the Municipal Drug Alliance met and continued working on projects for 2010. He stated that they discussed reactivating a Students Against Drunk Driving (SADD) chapter at the high school.

Mayor Mironov stated that the Economic Development Committee met on January 7 and discussed programs to assist local businesses and the possibility of “buy local” programs.

**CORRESPONDENCE:** None

**APPOINTMENTS:**

Mayor Mironov stated it was necessary to appoint alternate municipal prosecutors. She stated a letter was received suggesting Daniel J. Graziano, Al Vuocolo, Robert Yostembski. She stated she would also ask the Mercer County Prosecutors Office be included as a back-up.

It was MOVED by SHAPIRO and seconded by DUKE to appoint the alternate municipal prosecutors.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, the motion was approved.

**APPROVAL OF BILLS:**

Listed for approval were a current 2009 bill list dated January 7, a current 2010 bill list dated January 7, and a capital bill list dated January 21, as well as other miscellaneous and trust account bill lists.

Mayor Mironov stated she would like the following pulled for further clarification on the Current 2010 bill list: Page 5, \$281.00; Page 5, \$188.87; Page 5, \$4,500.00; Page 6, \$11,206.00; and Page 20, \$450.00.

It was MOVED by LIPPMAN and seconded by SHAPIRO be approved with changes.

ROLL CALL: Ayes – Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, the bills were approved with changes.

**MATTERS BY COUNCIL:**

Mr. Shapiro asked if it would be possible to put up a sign for the East Windsor softball team that won that national championship.

**MATTERS BY PUBLIC:** None

**DISCUSSION ITEMS AND COUNCIL ACTION WHERE APPROPRIATE:**

1. New Jersey Turnpike Authority Presentation: East Windsor Public Works Facility

Mayor Mironov introduced John Keller of the New Jersey Turnpike Authority.

Mr. Keller introduced Tony Falco, engineer, of Dewberry-Goodkind Engineers and Ted Osborne, architect of Ganflec Architects and Engineers.

Mayor Mironov reminded everyone that the New Jersey Turnpike Authority was currently in the middle of a road-widening project extending from Exit 6 to Exit 9, with the end result being 6 lanes in each direction. She noted that East Windsor is located at the merge of the truck and car lanes, which creates a distinct challenge and many impacts on the Township. She noted one of the areas most impacted by the project is the Public Works Facility on the corner of Etra Road and Ward Street; a part of this property has been taken by the Turnpike Authority. She noted some progress was made in identifying a site layout to ensure the impact does not disable the Public Works Department in any way. She stated that Mr. Keller was present to discuss the site layout; also, decisions needed to be made regarding building materials, colors, and architecture.

Mr. Keller indicated the location of the Turnpike and Etra Road on the site plan. He stated that the Turnpike widening would impact a portion of the Public Works facility; the building to be impacted is used as office and garage space and is currently 4,400 square feet. Because of the impact of moving Etra Road and the Turnpike, the site needed to be reconfigured significantly. Mr. Keller stated that proposal was a 4,400 square foot garage and a 1,500 square foot office building, as well as a replacement salt shed, which will be the same size as the existing shed. He stated Mr. Osborne would present 3 different concepts for this new site, including architectural elements, lighting, colors, etc. He stated that they were working with the Township to make sure the disturbance of services to the residents was minimized, and noted that much of this was dependent on the timing of the demolition and replacement of the salt shed. He stated that they hoped to have a contract out by July or August, with the work likely beginning in the early part of 2011.

Mr. Osborne explained each of the three options to Mayor and Council.

Mayor Mironov noted that the color chart was very small and it was difficult to distinguish between the different colors.

Mr. Osborne stated that if the Council stated a preference in a specific scheme or color, he would provide larger samples.

The Council asked for samples of the existing colors and beige/buff colors. Mr. Lippman asked for samples in greens and earth tones as well.

Mr. Lippman stated he was concerned with the lack of pavement outside of each building.

Mr. Keller stated that they had to create new paved areas. He noted that currently, in the northern part of the property closest to the credit union, there is a grass area. They have proposed installing a new parking lot in this area to replace the parking that would be lost; he indicated that it had not been paved yet due to the cold weather. He also indicated the location of an old building that will be removed to make room for the new salt shed. He stated that when the project was completed, there would be the same amount of parking as there is currently; he also noted that they had worked closely with the Township and Public Works to maintain a good circulation pattern on the site.

Mr. Duke asked about the windows on the new garage.

Mr. Keller stated that windows could potentially be added but that garages often require a lot of wall storage.

Mayor Mironov stated that the Council needed to review the 3 variations as well as the siding and block color.

Mr. Keller agreed and stated that the most important decision was the architecture, and that the colors could be addressed later. He stated that they would provide the Council with the requested color samples.

Mr. Shapiro asked about lighting.

Mr. Keller stated that there would be outside lighting. He noted that they were working with the Township regarding the indoor lighting.

Mayor Mironov thanked Mr. Keller and Mr. Osborne for their presentation and noted the process has been very cooperative and productive.

## 2. "The Seasons at East Windsor" Assisted Living/Senior Housing Proposal

Mayor Mironov stated she had not realized how limited the information available to the Council was, as she had also viewed information as part of the Planning Board; therefore, she had asked the applicant for more information, which was distributed at the meeting. She noted that the applicant had appeared several times before the Planning Board.

Henry Kent-Smith of Fox Rothschild stated that tonight's presentation was based on the discussions with the Planning Board. He stated that the property (Block 3, Lots, 3, 3.01, and 3.02) is located on Route 571 and Old Trenton Road in the Research Office (RO) zone. He

identified the surrounding properties, including the age-restricted housing developments on One Mile Road and on Route 571 in West Windsor.

In 1997, the Zoning Board of Adjustment approved a plan for Seniorvision, a 120-unit assisted living facility in Block 3, Lot 3.01 on Route 571; however, the project never moved forward. EW Acquisitions had since acquired this property and wishes to proceed with the Seniorvision project. The applicant then moved forward with plans to acquire Lots 3 and 3.02, which is 14 acres currently used as farmland, in order to create a companion independent living facility for people 62 years and older. He noted that much of the existing supply is for 55 years and older; the proposed facility would fill a need for those who need moderate or full-time care.

Mr. Kent-Smith stated the applicant came before the Planning Board with several concept plans; the plan being presented to the Council was a result of these discussions. He stated that the independent living facility would have 168 units and the assisted living facility. He stated that in order to maximize open space, as requested by the Board, while maintaining the number of units necessary for the facility to be viable, the independent living facility would be 4 stories, whereas the ordinance allows for 3.5 stories. The assisted living facility would be 3 stories. The plan proposing a 321-foot setback (where 100 feet is required), which allows significant room for landscaping and for measures to limit most of the view from Old Trenton Road. He introduced the landscape architect, Brian Lefwitz, to discuss the line-of-sight analysis done for the Board.

Mr. Lefwitz stated one of the key concerns of the Planning Board was the height of the 4-story building and how it would look from the road, particularly Old Trenton Road. He noted it would be taller than any other building in the area. He stated that the increased setback would allow for many landscaping opportunities and noted it was meant to keep the appearance of all of the buildings to scale. He stated that the analysis showed a 45-foot building set back 100 feet and 321 feet, and the comparative landscaping possibilities, stressing how the 321-foot setback would allow for almost a total screen of the building from the road.

Mr. Kent-Smith then presented the architectural elevations for the facility, noting all of the buildings materials and characteristics would be the same for both sections. He noted the assisted living facility would comply with all the requirements laid in place since Seniorvision was first approved. He also noted that the assisted living facility would have a certified Alzheimer's care facility.

Mayor Mironov asked for the heights of the proposed buildings.

Mr. Kent-Smith stated the assisted living facility would be 35 feet. The independent living buildings would be at 49 feet and 53 feet.

Mayor Mironov asked Mr. Kent-Smith to identify which property was already approved for the assisted living facility. She noted it was a 2-part proposal.

Mr. Kent-Smith stated that the proposal was designed to be completed in 2 phases, with the first phase being the assisted living facility. He indicated the location of the detention basin that would also be constructed during the first phase. He noted there will be a cross access and parking agreement between the two phases, and, when fully completed, free movement between the 2 sections. The detention basin would service the entire project. He noted that these types of development generally require significantly less parking than other adult communities.

Mayor Mironov asked how the footprints and the number of units of the 3- and 4-story buildings compared with each other.

Mr. Kent-Smith stated that the assisted living facility would be 3 stories, as previously approved. It was in the shape of an "H", creating a courtyard effect.

Mayor Mironov asked what the setback from Route 571 was.

Mr. Kent-Smith stated it was 175 feet.

Mayor Mironov stated she personally supported the construction of an assisted living facility as part of an overlay zone, which creates an additional use option, although not as a zoning change. She asked if it was possible to separate phases 1 and 2.

Mr. Kent-Smith stated that the assisted living facility was designed to be constructed as a free-standing facility with the necessary infrastructure.

Mayor Mironov asked if the applicant was prepared to proceed with discussing an overlay zone for the assisted living facility if the Council was not yet prepared to make a decision on the remainder of the proposal.

Mr. Kent-Smith stated yes, they were fully ready to proceed with the assisted living facility; the financing is in place and the operator has been identified. However, the present Lot 3.01 is undersized. This created the interest in Mr. Thompson's land (Lots 3 and 3.02). The idea of joint facilities arose from the fact that Mr. Thompson will only sell the entire property. Therefore, the applicant would need to know the overall project would be approved before closing on Mr. Thompson's land.

Mayor Mironov stated that she asked this question because she feels the assisted living facility is compatible with the area and offers a good service to residents. However, she has questions about the remainder of the proposal. She stated her concerns were based with the State, specifically, the status of affordable housing and the conversion bill. She stated it was unclear how the State's policies would proceed and would affect municipalities. She noted she realized Mr. Kent-Smith was sensitive to these concerns, and that she was appreciative of this.

Mr. Kent-Smith stated that Council had a memorandum which explained how the development would affect the Township's affordable housing obligations. He stated that the development

would provide affordable housing in both the independent and assisted living facilities as part of the facilities to conform with COAH standards. The development would not create any obligations for the Township.

Mayor Mironov clarified that these would be senior units.

Mr. Kent-Smith agreed and stated that the Township's third-round COAH obligation is for 94 units; 31 units are already in place elsewhere in the Township.

Mayor Mironov stated that the assisted living units must be self-contained to qualify, and noted it would 120 beds.

Mr. Kent-Smith stated there would be 34 units between both sections of the development (12 in the assisted living facility and 22 in the independent living facility). He stated that the memorandum also addressed the conversion bill; he stated that the developer would give the Township Council a deed which would have enforceable restrictions. The deed restriction would give Council authority to enforce the age restriction regardless of any decisions from the State. He noted the deed restriction language was provided for review. He also stated that the applicant was in agreement with the Mayor's previous comments regarding the appropriateness of a zoning overlay.

Mayor Mironov asked Council if this was something they were interesting in pursuing.

The Council agreed that it was.

Mayor Mironov stated that Council would review and that the issue would be scheduled on an upcoming agenda.

3. New Jersey Department of Transportation Letter of December 2, 2009: Route 92, Section 1, Parcels VXR5B and VXR5C

Mayor Mironov stated that a letter was received from the New Jersey Department of Transportation (NJDOT) indicating that the NJDOT has a piece of surplus property that they are looking to sell, and that it is their policy that municipalities be given opportunity to purchase it. She noted that Council had additional materials to review. She stated that the property is at North Main Street and Town Center Road, and was incorporated as a condition of a Planning Board approval for a building complex at that site.

Mr. Daniels asked if the land would be paid for out of Township funds, open space funds, or some other funding, or it was unknown.

Mayor Mironov stated if Council was to express interest in the property, more information would be needed before determining funding.

Mr. Shapiro stated that he would like more information.

The rest of Council agreed more information was needed.

Mayor Mironov stated that the land provides access to the office complex property from North Main Street.

Mr. Daniels asked if the land in question is zoned Industrial Office (IO), which is the zoning of the office complex.

Mayor Mironov stated it was. She noted it was just to the south of the bypass and almost fronts of North Main Street. She stated that there is also currently a detention basin on the property.

Mr. Rosenberg asked how much time was left for them to decide.

Mayor Mironov stated this was not an issue. She stated she personally did not see any use for the land.

Mr. Daniels stated that given the economic climate, there were other more attractive parcels of land for possible purchase. He noted that the property was not contiguous on any open or green space.

Mr. Lippman stated he also did not see anything attractive about the property.

Mr. Rosenberg, Mr. Shapiro, and Mr. Duke concurred that they did not see any benefit to the property.

Mayor Mironov stated that it was her suggestion that a letter is sent stating the Township is declining the purchase of the property and request that a requirement be made to the buyer to perform maintenance on the detention basin and that all use must be in conformance with municipal approvals.

It was MOVED by ROSENBERG and seconded by DANIELS a letter is sent stating the Township is declining the purchase of the property and request that a requirement be made to the buyer to perform maintenance on the detention basin and that all use must be in conformance with municipal approvals

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, a letter is sent stating the Township is declining the purchase of the property and request that a requirement be made to the buyer to perform

maintenance on the detention basin and that all use must be in conformance with municipal approvals.

4. Kelly Bill Agreements for 2009

Mayor Mironov stated that a memo has been distributed with a sample letter and the list of agreement and noted that the entire package was available for review should anyone wish to see it.

Mayor Mironov indicated requested that the numbers be doubled check prior to mailing. The Council will act on the agreements as they return form the homeowners associations.

5. 2010-11 PARIS Grant Application in Conjunction with the County of Mercer  
**Resolution R2010-16** Supporting and Committing to Participation in the Public Archives and Records Infrastructure Support (PARIS) Grant for the Purpose of Microfilming and Imaging

Mayor Mironov stated that a memorandum was available from the Clerk and noted this was partially prepared in conjunction with a prior request for document destruction. Mayor Mironov noted that there was an upcoming grant opportunity and that the Clerk had presented some options.

Mr. Daniels stated that this was a needed service.

It was MOVED by DANIELS and seconded by DUKE that Resolution R2010-16 be adopted.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-16 was adopted.

6. 2010 Municipal Budget and Spending Plan, 2010 Temporary Budget  
**Resolution R2010-17** 2010 Temporary Budget Appropriations

It was MOVED by SHAPIRO and seconded by DANIELS that Resolution R2010-17 be adopted.

ROLL CALL: Ayes - Daniels, Duke, Lippman, Rosenberg, Shapiro, Mironov  
Nays – None

There being six (6) ayes and no nays, Resolution R2010-17 was adopted.

There being no further business Mayor Mironov adjourned the meeting at 9:17 p.m.

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Cindy A. Dye  
Municipal Clerk

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Janice S. Mironov  
Mayor