

Borough of Elmer Minutes

November 8, 2017

CALL TO ORDER: A Regular Meeting of the Borough Council convened in the Borough Hall at 7:30 p.m. with Mayor Stemberger presiding.

FLAG SALUTE AND INVOCATION: Invocation was given by Mayor Stemberger, followed by the pledge of allegiance. Mayor Stemberger noted that adequate notice of the meeting was provided pursuant to the Open Public Meetings Act.

ROLL CALL: Council President Lewis Schneider, Council Members Lynda Davis, Cynthia Nolan, R. Matthew Richards, Steven Schalick, James Zee, and Mayor Joseph Stemberger answered to the roll call. Also present were Solicitor Brian Duffield, Chief Financial Officer Cynthia Strang, and Clerk Sarah Walker.

APPROVAL OF MINUTES: Motion Davis second Nolan to approve the minutes from the Regular Council Meeting held on October 11, 2017 and to dispense with the reading of the minutes.
Roll Call: Ayes: Schneider, Davis, Nolan, Richards, Schalick, Zee; Nays: None. Motion carried.

PUBLIC SESSION: Motion Richards second Davis to open the public portion of the meeting. All were in favor and the motion carried. Marissa Dugan, 314 N. Main St., explained that she came with her friend Tyler for her journalism class. Motion Zee second Nolan to close the public portion of the meeting. All were in favor and motion carried.

PRESENTATION: None.

EXECUTIVE CLOSED SESSION: The following resolution was introduced by title:

**BOROUGH OF ELMER, COUNTY OF SALEM
RESOLUTION AUTHORIZING EXECUTIVE SESSION**

Number 108-17

WHEREAS, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting, and

WHEREAS, the Governing Body of the Borough of Elmer has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public; and

WHEREAS, the regular meeting of this Governing Body will reconvene;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Elmer will go into closed session for the following reason(s) as outlined in N.J.S.A. 10:4-12:

 X Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer;
If pending or anticipated litigation, the matter is: Potential litigation involving Police Department

If contract negotiation the nature of the contract and interested party is: _____

(Under certain circumstances, if public disclosure of the matter would have a potentially negative impact on the Borough's position in the litigation or negotiation, this information may be withheld until such time that the matter is concluded or the circumstances no longer present a potential impact);

BE IT FURTHER RESOLVED that the Borough Council hereby declares that its discussion of the aforementioned subject(s) may be made public at a time when the Borough Attorney advises the Borough Council that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough or any

other entity with respect to said discussion. That time is currently estimated as the time of said matter. (Estimated date: upon the occurrence of said matters being resolved);

BE IT FURTHER RESOLVED that the Borough Council, for the aforementioned reasons, hereby declares that the public is excluded from the portion of the meeting during which the above discussion shall take place and hereby directs the Borough Clerk to take the appropriate action to effectuate the terms of this resolution.

Motion Zee, second Richards to approve Resolution 108-17.

Roll Call: Ayes: Schneider, Davis, Nolan, Richards, Schalick, Zee; Nays: None. Motion carried.

The Mayor and Council Members entered closed session at 7:35 pm. At 7:52 pm Davis made a motion, second Zee, to adjourn the Executive Session and re-open the Regular Meeting. All were in favor and motion carried.

The following resolution was introduced by title:

RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER, COUNTY OF SALEM, STATE OF NEW JERSEY AUTHORIZING SETTLEMENT OF ATTORNEY FEE CLAIM PURSUANT TO N.J.S.A. 40A:14-155

Number 109-17

WHEREAS, during 2016 and 2017, Elmer Borough Police Department Chief, Patrick Bryan, instituted six (6) disciplinary charges against Patrolman Raymond Sambor for alleged violations of department rules and regulations; and

WHEREAS, on August 2, 2017, the Elmer Borough Council conducted a hearing regarding the charges in accordance with N.J.S.A. 40A:14-147; and

WHEREAS, at the conclusion of the hearing, the Elmer Borough Council determined that the six (6) disciplinary charges had not been established by a preponderance of the evidence; and

WHEREAS, the six (6) disciplinary charges were dismissed against Patrolman Raymond Sambor; and

WHEREAS, Patrolman Raymond Sambor's attorney, The Vigilante Law Firm, P.C., submitted a claim for reimbursement of attorney's fees pursuant to N.J.S.A. 40A:14-155; and

WHEREAS, the Borough of Elmer and The Vigilante Law Firm, P.C. have negotiated, compromised and agreed upon the attorney fee claim in the sum of \$13,500.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council, Borough of Elmer, as follows:

- 1) The sum of \$13,500.00 payable to The Vigilante Law Firm, P.C. is hereby authorized and approved to settle the attorney fee claim related to the disciplinary matter of Patrolman Raymond Sambor.
- 2) The Mayor and Clerk of the Borough of Elmer are hereby authorized and directed to execute a Release and any and all such other documents as may be necessary and appropriate to effectuate the terms of this Resolution.

Motion Richards second Nolan to adopt Resolution 109-17.

Roll Call: Ayes: Schneider, Davis, Nolan, Richards, Schalick, Zee; Nays: None. Motion carried.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

1. Ordinances: None.

2. Resolutions: The following Resolutions were read by title:

**BOROUGH OF ELMER COUNTY OF SALEM
RESOLUTION AUTHORIZING THE CANCELLATION OF INTEREST
FOR 440 FRONT STREET, BLOCK 13, LOT 8**

Number 110-17

WHEREAS, the Tax Collector posted August 2017 payment on August 28, 2017 causing interest to be added to the property;

WHEREAS, the homeowner dropped the payment in the drop box on the last day of the grace period;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Elmer, that the Tax Collector of the Borough of Elmer is hereby directed to cancel the interest charged to the property.

**BOROUGH OF ELMER, COUNTY OF SALEM
RESOLUTION FOR PLANNING BOARD ESCROW FUND (Dollar General & Williams)**

Number 111-17

BE IT RESOLVED that the Escrow Fund Deposit made pursuant to Article IV, Section 2.30 of the Land Development Ordinance by applicant Dollar General for Site Plan Review in the amount of \$33.00 be distributed and paid as follows:

Amount: \$33.00 To: Law Office of Brian Duffield For: Site Plan Review

BE IT FURTHER RESOLVED that the Escrow Fund Deposit made pursuant to Article IV, Section 2.30 of the Land Development Ordinance by applicant Williams for Minor Subdivision in the amount of \$311.84 be distributed and paid as follows:

Amount: \$311.84 To: Fralinger Engineering, PA For: Minor Subdivision

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER,
COUNTY OF SALEM, STATE OF NEW JERSEY RATIFYING AND AUTHORIZING THE
BOROUGH SOLICITOR TO FILE TAX APPEALS WITH THE SALEM COUNTY
BOARD OF TAXATION AND THE NEW JERSEY TAX COURT WITH RESPECT TO
TAX EXEMPTION CLAIMED BY INSPIRA MEDICAL CENTERS, INC.**

Number 112-17

WHEREAS, the New Jersey Tax Court, in the matter of AHS Hospital Corp. v. Town of Morristown, 28 N.J. Tax 456 (Tax 2015) (hereinafter the "AHS Case"), decided that portions of hospital properties in the State of New Jersey may not be exempt from taxation, pursuant to N.J.S.A. 54:4-3.6; and

WHEREAS, the New Jersey Tax Court further decided in the AHS Case that a municipality may impose omitted assessments for the year of appeal and the prior year challenging exemptions of a hospital property; and

WHEREAS, the Borough Tax Assessor did not impose omitted assessments for the 2017 year as a result of the AHS Case having only recently being decided; and

WHEREAS, upon information and belief certain properties and/or portions of property located in the Borough of Elmer, County of Salem, may be taxable and not exempt by reason of the AHS Case; and

WHEREAS, the burden of proving that an exemption from taxation should be granted to a property owner is solely upon the property owner claiming that exemption; and

WHEREAS, the Borough Council has determined that it is the best interests of the Borough of Elmer, County of Salem, to file such Petitions, Complaints, Counterclaims and such other pleadings as may be necessary to determine whether or not properties are taxable or exempt within the Borough of Elmer, County of Salem, including challenging the failure to impose omitted assessments for the years 2015 and 2016.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Elmer, County of Salem, State of New Jersey, that the Borough Solicitor is hereby authorized to file such Petitions of Appeal with the Salem County Board of Taxation and Complaints with the New Jersey Tax Court, including the challenging the failure to impose omitted assessments for the year 2017, and challenging other claims of exemption for hospital properties and/or portions of hospital properties pursuant to N.J.S.A. 54:4-3.6 and the holding in AHS Hospital Corp. v. Town of Morristown, 28 N.J. Tax 456 (Tax 2015).

**BOROUGH OF ELMER COUNTY OF SALEM
BUDGET APPROPRIATION TRANSFER RESOLUTION**

Number 113-17

WHEREAS, it has become necessary to expend for certain purposes specified in the 2017 budget amounts in excess of the respective sums originally appropriated therefore; and

WHEREAS, there is an excess in one of more appropriations over and above the amount deemed necessary to fulfill the purposes of such appropriations; and

WHEREAS, transfers between appropriations are permitted pursuant to N.J.S.A. 40A:4-58 when adopted by not less than two-thirds vote of the full membership; and

WHEREAS, the following transfers are in accordance with N.J.S.A. 40A:4-45.38;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Elmer, County of Salem and State of New Jersey, that the following transfers are hereby approved:

	Transfer Amounts	
	To	From
Mayor and Council:		
Other Expenses	1,000.00	
Mayor and Council:		
Salaries and Wages		300.00
Tax Assessment Administration:		
Salaries and Wages		700.00
Revenue Administration (Tax Collection):		
Other Expenses	700.00	
Revenue Administration (Tax Collection):		
Salaries and Wages		700.00
Housing Inspections:		
Other Expenses	200.00	
Insurance:		
Workers Compensation Insurance		200.00
Unemployment Compensation Insurance	500.00	
Insurance:		
Workers Compensation Insurance		500.00
Public Buildings and Grounds:		
Other Expenses	2,000.00	
Public Buildings and Grounds:		
Salaries and Wages		2,000.00
Board of Health:		
Other Expenses	400.00	
Board of Health:		
Salaries and Wages		400.00

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	Transfer Amounts	
	To	From
Gasoline	1,800.00	
Insurance:		
Workers Compensation Insurance		1,300.00
Recreation and Education:		
Other Expenses		500.00
Legal Services:		
Other Expenses	5,500.00	
First Aid Organization Contribution		1,300.00
Police Department:		
Other Expenses		3,200.00
Telephone		500.00
Technology:		
Other Expenses		500.00

Motion Davis second Richards to adopt Resolutions 110-17 through 113-17. Solicitor Duffield explained Resolution 112-17 and discussed with Council Members potential costs and options.
 Roll Call: Ayes: Schneider, Davis, Nolan, Richards, Schalick, Zee; Nays: None. Motion carried.

DISCUSSIONS/MOTIONS:

1. Council Members discussed the Verdin Clock Contract; no action was taken to renew the contract.
2. Council President Schneider explained the status of the Borough Hall copy machine contract; the following resolution was read by title:

RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER AUTHORIZING THE LEASE OF DIGITAL COPIER FROM ECP BUSINESS MACHINES
 Number 114-17

WHEREAS, the Borough’s lease for its existing copy machine expired in August 2017; and

WHEREAS, the Borough is in need of a new digital copier; and

WHEREAS, the Borough Clerk and Finance Committee obtained quotes for a Copystar CS-3011i; and

WHEREAS, ECP Business Machines, P.O. Box 1000, Malaga, New Jersey 08328, provided the lowest comparable quote for a sixty (60) month lease for the Copystar CS-3011i digital copier.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Elmer, County of Salem and State of New Jersey that an award of contract/sixty (60) month lease is hereby authorized and awarded to ECP Business Machines, P.O. Box 1000, Malaga, New Jersey 08328, pursuant to the terms of their quote dated October 31, 2017, attached hereto.

Motion Davis, second Richards to approve Resolution 114-17.

Roll Call: Ayes: Schneider, Davis, Nolan, Richards, Schalick, Zee; Nays: None. Motion carried.

3. The Clerk updated Council on the status of Animal Shelter Services 2018; Members recommended contacting the Gloucester County Animal Shelter for a quote.

4. Council discussed options for shared services for the Construction Office. No action was taken.

REPORTS/BILL LIST:

Motion Zee second Nolan to receive and file the Tax/Water Collector report; all were in favor and motion carried.

Motion Richard second Davis to receive, file and spread full upon the minutes the Treasurer's Report (Page 111a). All were in favor and motion carried.

Motion Davis second Zee, that the bills be paid and charged to their respective accounts (see Page 111b).

Roll Call: Ayes: Schneider, Davis, Nolan, Richards, Schalick, Zee; Nays: None. Motion carried.

Motion Zee second Nolan that the Clerk and Mayor's mail correspondence be received and filed. All were in favor and motion carried.

COMMITTEE REPORTS:

Finance/Celebration Public Events: Schalick reported a successful Halloween and Santa will be visiting December 8, 2017, at 7:00 pm.

Public Safety: Schneider summarized the Fire Department report and recent Police Department activities.

Streets/Sidewalks/IT: Richards reported on a few street problems and discussed street signs. He mentioned the upcoming 125th anniversary of the Borough; Council members discussed the formation of a committee to plan activities. The Mayor said he would submit a letter to the Elmer Times.

Borough Hall/Public Property: Davis reported on recent Borough Hall improvements (chairs and rug cleaning).

Water/Street Lights: Zee reported that the punch list for the water tower has been completed and project is done.

Trash/Recycling/Parks & Playgrounds: Nolan mentioned that December 4th is leaf pickup and discussed options for putting up the holiday lights. Members also discussed the status of the borough hall boiler room roof.

Mayor Stemberger updated Council the housing and property maintenance position and recent land use issues.

ADJOURNMENT: Motion Richards, second Nolan that the meeting be adjourned. Motion carried.

November 8, 2017

Sarah D. Walker, Borough Clerk

Approved: December 13, 2017