

**TOWNSHIP OF CEDAR GROVE  
ESSEX COUNTY NEW JERSEY**

**PUBLIC MEETING**

**MINUTES**

**JUNE 1, 2015**

**1. ROLL CALL, INVOCATION AND FLAG SALUTE**

Mayor Longo called the meeting to order at 7:00 p.m.

Present: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

Also Present: Township Manager Tucci, Township Attorney Scrivo, and Township Clerk Stutz

The invocation was given by Fr. Robert McLaughlin of St. Catherine of Siena Church, followed by the flag salute led by Mayor Longo.

Mayor Longo made the required announcement concerning the Open Public Meetings Act as follows: Adequate notice of this meeting was duly provided to the Verona-Cedar Grove Times and the Star Ledger on January 1, 2015, filed with the Township Clerk, and posted on the public bulletin board in the Municipal Building Lobby in accordance with the Open Public Meeting Act.

**2. EXTRAORDINARY BUSINESS OF THE TOWNSHIP COUNCIL**

Councilman O'Toole requested to present his report at this time, to which the governing body agreed. Councilman O'Toole read a prepared statement that recounted his personal history, military service, employment career, and long-time involvement in the Township as a volunteer Fire Department member, youth sports coach, St. Catherine of Siena parishioner, and Councilmember. Councilman O'Toole thanked residents for their support and confidence in him by electing him to serve as Councilman. Councilman O'Toole also thanked the municipal administrative staff and employees, and fellow Councilmembers. Councilman O'Toole pledged to remain active as a member of the public and continue to attend Council meetings and participate from the other side of the dais.

(a) Receive Senator Kevin J. O'Toole

Senator O'Toole thanked his father for his 12 years of service as a Councilman, and 55 years of public service. Senator O'Toole presented a proclamation from the Senate and General Assembly in recognition of Councilman O'Toole's public service. Senator O'Toole also presented and read a letter from Governor Christie to Councilman O'Toole.

(b) Receive Essex County Executive Joseph DiVincenzo – Mayor Longo acknowledged the presence of the County Executive.

**3. PUBLIC HEARING**

(a) To consider adoption of Pending Ord. #15-780 – Addendum No. 1 to the Cedar Grove Redevelopment Plan – Hilltop Property

At Mayor Longo's suggestion, there was consensus to consider this item to the end of the agenda.

(b) To consider adoption of Pending Bond Ord. #15-781 – Sewer Utility Improvements

The ordinance was read by title only as follows:

**BOND ORDINANCE AUTHORIZING VARIOUS SEWER UTILITY IMPROVEMENTS IN AND FOR THE TOWNSHIP OF CEDAR GROVE, IN THE COUNTY OF ESSEX, NEW JERSEY, APPROPRIATING \$120,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$114,000 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF.**

Mayor Longo opened the public hearing on this item. There being no one present wishing to be heard, Mayor Longo closed the public hearing.

Deputy Mayor Chiusolo moved that the ordinance be adopted at second reading, published in the Verona-Cedar Grove Times as a passed ordinance to take effect as prescribed by law, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilman O’Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

(c) To consider adoption of Pending Bond Ord. #15-782 – Water Utility Improvements

The ordinance was read by title only as follows:

**BOND ORDINANCE AUTHORIZING VARIOUS WATER UTILITY IMPROVEMENTS IN AND FOR THE TOWNSHIP OF CEDAR GROVE, IN THE COUNTY OF ESSEX, NEW JERSEY, APPROPRIATING \$160,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$152,000 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF.**

Mayor Longo opened the public hearing on this item. There being no one present wishing to be heard, Mayor Longo closed the public hearing.

Councilman O’Toole moved that the ordinance be adopted at second reading, published in the Verona-Cedar Grove Times as a passed ordinance to take effect as prescribed by law, seconded by Councilman Zunic, and passed by the following vote:

AYE: Councilman O’Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

(d) To consider adoption of Pending Bond Ord. #15-783 – Various General Improvements

The ordinance was read by title only as follows:

**BOND ORDINANCE AUTHORIZING VARIOUS GENERAL IMPROVEMENTS IN AND FOR THE TOWNSHIP OF CEDAR GROVE, IN THE COUNTY OF ESSEX, NEW JERSEY, APPROPRIATING \$600,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$570,000 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF.**

Mayor Longo opened the public hearing on this item. There being no one present wishing to be heard, Mayor O'Toole closed the public hearing.

Councilman Zunic moved that the ordinance be adopted at second reading, published in the Verona-Cedar Grove Times as a passed ordinance to take effect as prescribed by law, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

#### **4. MEETING OPEN TO RESIDENTS OF THE TOWNSHIP WISHING TO BE HEARD ON ANY ITEM ON THE AGENDA**

Mayor Longo opened this portion of the meeting to anyone wishing to be heard on any item on the agenda.

John Chiaia, Attorney representing Joseph Smentkowski, Inc./Galaxy – Attorney Chiaia voiced objection to the Township's severance of the contracts between the Township and his client for the collection, transportation and disposal of solid waste and grass clippings/vegetative waste. Attorney Chiaia requested that the Township Council not rush to judgment and provide his client the opportunity to resolve any issues and/or dissatisfaction with services provided. Township Attorney Scrivo explained that the issue Attorney Chiaia addressed was Agenda Item #6 (i) a resolution to authorize the execution of an emergency contract for the referenced services. Attorney Scrivo cautioned the governing body regarding discussion, as the issue may result in potential litigation by the service provider. Attorney Scrivo provided a chronology of discussions and subsequent actions by Township officials, including written notification to the contractor and lack of response by a specified date that has culminated in the termination of the current provider, and making an emergency contract with another provider necessary. The Manager provided more detailed information and cited specific ongoing and repetitive issues regarding the contractor's performance that effected the termination. Following Attorney Scrivo's affirmative response to Councilman Tanella's request to take action at this time, there was consensus to consider the referenced resolution immediately.

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**BE IT RESOLVED**, by the Township Council of the Township of Cedar Grove that the Township Manager is hereby authorized to execute an emergency contract between the Township of Cedar Grove and Suburban Disposal, Inc. for the Collection, Transportation and Delivery of Solid Waste.

Attorney Chiaia voiced objection to the award of emergency contract without providing the contractor the opportunity to respond to the Township's concerns. Councilman Zunic stated that any disagreement with the governing body's decision is a matter for litigation.

Gary Giordano, President, Joseph Smentkowski also objected to his company's removal from the solid waste and vegetative waste contracts.

Councilman Tanella moved adoption of the resolution, seconded by Deputy Mayor Chiusolo, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

There being no one else present wishing to be heard, Mayor Longo closed this portion of the meeting.

## 5. REPORTS OF TOWNSHIP OFFICIALS

(a) Township Manager – The Township Manager congratulated Councilman O’Toole on his upcoming retirement as a Councilmember. Mr. Tucci stated that he holds their friendship that has developed over the years most dear. The Manager also extended his best wishes to Councilman O’Toole and his family. The Manager noted a memo from the Municipal Engineer that recommended award of contract for the preparation of the Township’s master plan and re-examination report to Jason Kasler. There was consensus to put a resolution for award on the next meeting agenda. Mr. Tucci also announced upcoming annual Clean Sweep Day scheduled for Saturday, June 6<sup>th</sup>. The Manager responded to Mayor Longo’s inquiry regarding the status of 45 Monroe St. Mr. Tucci explained that the governing body must relinquish its right of deed restriction before the property sale can be effected. There was consensus to put the required resolution on the next meeting agenda.

(b) Township Clerk – The Clerk reminded residents of the Primary Election on Tuesday June 2<sup>nd</sup> and advised that polls are open from 6:00 a.m. until 8:00 p.m.

(c) Township Attorney – No report

(d) Other Reports –

Councilman Zunic referred to the upcoming Reorganization meeting and requested to consider selection of Mayor and Deputy Mayor, to which the governing body agreed. Councilman Zunic nominated Deputy Mayor Chiusolo to serve as Mayor for 2015-2015, seconded by Councilman Tanella, and agreed to unanimously. Councilman Tanella nominated Councilman Zunic to serve as Deputy Mayor, seconded by Deputy Mayor Chiusolo, and agreed to unanimously.

## 6. NEW BUSINESS

(a) To consider introduction of Pending Ordinance #15-784 – 2015 Salaries, Grades & Ranges, Wages and Fees of Municipal Employees

The Clerk read the ordinance by title only:

**AN ORDINANCE FIXING SALARY GRADES AND RANGES, WAGES AND FEES OF THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF CEDAR GROVE FOR FISCAL YEAR 2015**

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF CEDAR GROVE AS FOLLOWS:

Section 1. Unless heretofore created and established in the Township of Cedar Grove, the salary grades and ranges, wages and fees of all officers and employees of the Township of Cedar Grove shall be as follows:

**GROUP I - SALARY GRADES**

<u>Grade</u>	<u>Position Classification</u>	<u>Minimum</u>	<u>Maximum</u>
1	Clerical Assistant Building Maintenance Worker	\$30,000.	\$39,364.
3	Assistant to Township Clerk Department Secretary Accounting/Payroll Assistant Tax/Utility Accounting Assistant Recreation Coordinator	35,000.	49,947.
4	Recreation Maintenance Worker Records Clerk – Police	30,753.	52,263.
5	Administrative Secretary Code Enforcement Officer Communications Operator Deputy Court Clerk Health/Welfare/Sr. Transportation Planning/Zoning Coordinator	37,592.	58,802.
8	Assistant Municipal Treasurer Building Inspector Senior Recreation/Pool Coordinator	42,254.	72,003.
9	Municipal Court Administrator Deputy Municipal Tax Collector Assistant Recreation Director	46,542.	82,972.
10	Construction Official/Com. Develop. Dir. Dir. of Assessments/Tax Assessor Director of Recreation	51,119.	87,274.
11	Director of Finance/Tax Collector/CMFO Municipal Engineer/Public Works Director	56,242.	123,026.

	<u>MINIMUM</u>	<u>MAXIMUM</u>
L-2 Library Assistant	16,793.	41,817.
L-3 Technical Library Assistant	21,224.	45,221.
L-4 Senior Library Assistant	25,469.	49,858.
L-5 Principal Library Assistant/Administrative Services	28,653.	54,497.
L-6 Supervising Library Assistant	30,775.	61,453.
L-7 Library Specialist	32,897.	66,064.
L-8 Children's Librarian	37,142.	69,569.
L-9 Senior Children's Librarian	40,326.	75,368.
L-10 Supervising Librarian	45,632.	82,325.
L-11 Library Director	59,427.	102,036.

Group II – Fixed Salaries and Fees

Township Clerk	\$ 78,395/year
Township Manager	168,994/year
Municipal Court Judge	37,457/year
Township Attorney	28,189/year – Non Retainer \$175./hr
Electrical Sub-Code Official	16,173/year
Plumbing Sub-Code Official	16,173/year
Prosecutor	350./session
Public Defender	250./session
Planning Board Attorney	203./session
Zoning Board Attorney	240./session

Group III – Part –Time Hourly

<u>Position Classification</u>	<u>Minimum</u>	<u>Maximum</u>
Clerk Typist	\$ 8.99	\$10.91
Life Guards	8.38	13.81
School Traffic Guards	12.36	15.60
Public Health Nurse		21.74
Public Health Nurse/School Nurse		29.33
Municipal Alliance Coordinator		14.08
Bus Driver	10.79	19.90
Recreation Supervisor	8.38	12.22
Recreation Leader	8.38	9.19
Pool Maintenance Worker	8.38	9.19
Recreation Maintenance Worker	8.38	10.30
Public Workers Helper	8.38	12.60
Shelver-Library	8.38	9.29
Library Aides	8.38	8.50
Technical Library Asst.	11.31	24.36
Administrative/Computer Asst.	15.85	31.23
Library Specialist	17.54	34.23
Senior Library Assistant	13.58	25.82
Principal Library	15.29	28.22
Violations Clerk	15.45	19.51

Section 2. The Township Council shall, by Resolution, and in accordance with labor contracts, fix the salary of each officer and employee within the salary range as set forth in Section 1 of the Ordinance.

Section 3. This Ordinance shall take effect twenty (20) days after the first publication after passage pursuant to law. When adopted, the provisions of Section 1 shall be retroactive to January 1, 2015 and shall be deemed to have taken effect as of that date.

Councilman Zunic moved that Pending Ordinance #15-784 be passed at first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of June 15, 2015, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilman O’Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo  
 NO: None

(b) To consider resolution concerning tax reduction granted by Tax Court of NJ

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, the Tax Collector of the Township of Cedar Grove has determined that action is required as a result of 2011 - 2014 tax reductions granted by the Tax Court of New Jersey;

**WHEREAS**, the Tax Collector has certified to the foregoing as well as to the amount of the tax cancellations, which are set forth along with the name and address of the taxpayer.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Cedar Grove that the required tax cancellations and refunds be made:

2011 Tax Reductions Granted by the Tax Court of New Jersey

<u>Block</u>	<u>Lot</u>	<u>Owner &amp; Location</u>	<u>Tax Cancellations and Tax Refund</u>
297	40	Mirage II, LLC 89 Commerce Road Cedar Grove, NJ 07009	\$4,696.80

2012 Tax Reductions Granted by the Tax Court of New Jersey

<u>Block</u>	<u>Lot</u>	<u>Owner &amp; Location</u>	<u>Tax Cancellations and Tax Refund</u>
297	40	Mirage II, LLC 89 Commerce Road Cedar Grove, NJ 07009	\$6,881.60

2013 Tax Reductions Granted by the Tax Court of New Jersey

<u>Block</u>	<u>Lot</u>	<u>Owner &amp; Location</u>	<u>Tax Cancellations and Tax Refund</u>
297	40	Mirage II, LLC 89 Commerce Road Cedar Grove, NJ 07009	\$4,210.00

2014 Tax Reductions Granted by the Tax Court of New Jersey

<u>Block</u>	<u>Lot</u>	<u>Owner &amp; Location</u>	<u>Tax Cancellations and Tax Refund</u>
297	40	Mirage II, LLC 89 Commerce Road Cedar Grove, NJ 07009	\$4,396.00

Councilman O'Toole moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

(c) To consider resolution concerning purchase of sport utility vehicles through State Contract

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, the Township of Cedar Grove has availed itself of the right to purchase Sport Utility Vehicles (SUV) entered into on behalf of the State of New Jersey by the Division of Purchase and Property in the Department of Treasury pursuant to N.J.S.A. 40A:11-12; and

**WHEREAS**, it is desirable from time to time to purchase Sport Utility Vehicles (SUV) under contracts entered into on behalf of the State by the said Division without the necessity of advertising for bids, or in cases where no bids have been received; and

**WHEREAS**, it is desirable to purchase Sport Utility Vehicles (SUV) under such contracts enter into on behalf of the State of New Jersey by said Division during the year 2015;

**WHEREAS**, funds for the purchase of Sport Utility Vehicles (SUV) are available in the 2015 Municipal Budget, Police – Other Expenses.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Cedar Grove, that the purchase of Sport Utility Vehicles (SUV) be awarded to Winner Ford, through State Contract No. A82925.

Councilman Tanella moved adoption of the resolution, seconded by Councilman O'Toole, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

(d) To consider resolution concerning estimated tax bills

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, the Essex County Board of Taxation is unable to certify tax rates for the year 2015 in a timely manner; and



**WHEREAS**, without a 2015 certified tax rate the Tax Collector of the Township of Cedar Grove will be unable to issue 2015 tax bills on a timely basis; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Cedar Grove, as follows:

1. The Tax Collector of the Township of Cedar Grove is hereby authorized and directed to prepare and issue estimated tax bills for the Township of Cedar Grove for the third installment of 2015 taxes. The Tax Collector shall proceed and take such actions as are permitted and required by Chapter 72, Public Laws of 1994 and N.J.S.A. 54:4-66.2 and 54:4-66.3.
2. The total estimated tax levy for 2015 is \$49,831,961.37. The estimated tax rate for 2015 is \$2.262.

Councilman Zunic moved adoption of the resolution, seconded by Councilman O’Toole, and passed by the following vote:

AYE: Councilman O’Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

(e) To consider resolution concerning special item of revenue – Clean Communities Program

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, N.J.S.A. 40A:4-87, provides that the Director of Local Government Services may approve the insertion of a special item of revenue in the Municipal Budget of the Township of Cedar Grove for 2015 when such items shall have been available by law and the amount thereof was not determined at the time of adoption of the budget; and

**WHEREAS**, said Director may also approve the insertion of any item of appropriation of equal amount;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Cedar Grove, Essex County, New Jersey, that it hereby requests that the Director of the Division of Local Government Services to approve the insert of an item of revenue in the budget of the year 2015 in the sum of \$23,520.02, which is now available as a revenue from the Clean Communities Program, which is administered by the Department of Environmental Protection, pursuant to the provision of statute; and

**B IT FURTHER RESOLVED** that a like sum of \$23,520.02 is hereby appropriated under the caption:

Clean Communities Program    \$23,520.02

Councilman O’Toole moved adoption of the resolution, seconded by Councilman Zunic, and passed by the following vote:

AYE: Councilman O’Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

(f) To consider resolution concerning 2014 LOSAP for Cedar Grove volunteer Fire Dept.

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, pursuant to N.J.S.A. 40A:14-191, the Cedar Grove Fire Department has certified to the Township of Cedar Grove a list of all volunteer members who have qualified for credit under the LOSAP program for the year 2014; and

**WHEREAS**, pursuant to N.J.A.C. 5:30-14.10 (b), the Township of Cedar Grove has reviewed and accepted the attached certified list of the Cedar Grove Fire Department; and

**WHEREAS**, pursuant to N.J.A.C. 5:30-14.10 ( c ), the Township of Cedar Grove shall return the certified list to the Cedar Grove Fire Department for posting to allow for sufficient time for membership review.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township Cedar Grove that the attached certified list herein of the Cedar Grove Fire Department is hereby accepted and returned to the respective emergency service organization for posting to allow sufficient time for membership review.

Councilman Zunic moved adoption of the resolution, seconded by Deputy Mayor Chiusolo, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

(g) To consider resolution concerning purchase through Morris County Coop – Road Resurfacing

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, the Township of Cedar Grove utilizes the Morris County Cooperative Pricing Council Contract #6 for road resurfacing; and

**WHEREAS**, the contract amount for road resurfacing of Church Street, Elm Drive, Vreeland Lane and Fredrick Court will not exceed \$34,477.50; and

**WHEREAS**, the funds are available to satisfy our obligations under this contract through Bond Ordinance No. 14-775.

**NOW THEREFORE BE IT RESOLVED** by the Township Council of the Township of Cedar Grove authorizes the Township of Cedar Grove to purchase from the Morris County Cooperative Pricing Council Contract #6 for road resurfacing of Church Street, Elm Drive, Vreeland Lane and Fredrick Court from D & L Paving Contractors for an amount not to exceed \$34,477.50.

Councilman Tanella moved adoption of the resolution, seconded by Councilman O'Toole, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

- (h) To consider resolution concerning purchase through Morris County Coop – Road Resurfacing

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, the Township of Cedar Grove utilizes the Morris County Cooperative Pricing Council Contract #6 for road resurfacing; and

**WHEREAS**, the contract amount for road resurfacing of Church Street, Elm Drive, Vreeland Lane and Fredrick Court will not exceed \$92,785.12; and

**WHEREAS**, the funds are available to satisfy our obligations under this contract through Bond Ordinance No. 14-775.

**NOW THEREFORE BE IT RESOLVED** by the Township Council of the Township of Cedar Grove authorizes the Township of Cedar Grove to purchase from the Morris County Cooperative Pricing Council Contract #6 for road resurfacing of Church Street, Elm Drive, Vreeland Lane and Fredrick Court from Tilcon New York, Inc. for an amount not to exceed \$92,785.12.

Councilman O'Toole moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

- (i) To consider resolution authorizing execution of emergency contract – Suburban Disposal

The governing body took action on the resolution during the public portion of the meeting open to any one wishing to be heard on any item on the agenda.

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**BE IT RESOLVED**, by the Township Council of the Township of Cedar Grove that the Township Manager is hereby authorized to execute an emergency contract between the Township of Cedar Grove and Suburban Disposal, Inc. for the Collection, Transportation and Delivery of Solid Waste.

Councilman Tanella moved adoption of the resolution, seconded by Councilman O'Toole, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

## 7. APPROVAL OF BILLS

The Bill Resolution was read by title and amount as follows:

**BE IT RESOLVED** by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that the attached summary of bills having been duly audited and found correct be and

they are thereby ordered paid and that warrants be drawn on the Treasurer in the aggregate amount of \$390,638.61

Councilman Zunic moved adoption of the resolution, seconded by Deputy Mayor Chiusolo, and passed by the following vote:

AYE: Councilman O'Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

**8. MEETING OPEN TO RESIDENTS OF THE TOWNSHIP WISHING TO BE HEARD ON ANY ITEM ON OR OFF THE AGENDA CONCERNING TOWNSHIP BUSINESS**

Mayor Longo opened this portion of the meeting to anyone wishing to be heard. There being no one present wishing to be heard, Mayor Longo closed this portion of the meeting.

**3. PUBLIC HEARING -** Mayor Longo turned the conduct of this portion of the meeting to Deputy Mayor Chiusolo.

- (a) To consider adoption of Pending Ordinance #15-780 – Addendum No. 1 to the Cedar Grove Redevelopment Plan – Hilltop Plan

The ordinance was read by title only as follows:

**AN ORDINANCE ADOPTING ADDENDUM NO. 1 TO THE CEDAR GROVE REDEVELOPMENT PLAN – HILLTOP PROPERTY**

Deputy Mayor Chiusolo explained the format for the public hearing; commentary and explanation of the legal issues and actions from the Township Attorney, special COAH legal counsel, Jeffrey Surenian, presentation from County Executive of the open space portion of the proposed plan, comments from the Township Manager, followed by public comment/questions prior to final consideration by the Township Council. Deputy Mayor Chiusolo noted that the proposed redevelopment plan amendment is the culmination of years of discussions and events that have occurred between the Township, developer, and also within the State.

The Township Attorney explained the legal aspects that have led to the proposed plan. Attorney Scrivo explained that the Hilltop Redevelopment Plan evolved from the County's decision to parcel and sell the Hilltop property that spread over four municipalities, the largest portions (specifically Parcel 1 and 5) within Cedar Grove. Attorney Scrivo stated that the current Cedar Grove portion of the Hilltop Redevelopment that was adopted in 2001 consists of a 1000 unit CCRC and 45 single family homes, and is part of the multi-municipality Hilltop Redevelopment Plan. Attorney Scrivo provided a detailed chronology of the events/actions that have led to the proposed adoption of the redevelopment plan amendment:

- 2005 unsuccessful Township lawsuit against County over transfer of Hilltop property parcels 1 and 5
- 2005 K. Hovnanian approached the Township Council to amend the redevelopment plan; developer did not want to build a CCRC
- 2005 – 2010 numerous discussions between developer and Township Council with several development proposals, none of which addressed affordable housing concerns. K. Hovnanian made no attempt to satisfy the Township's affordable housing obligations, there was no meeting of the minds. The lowest density of any of the development proposals was 560 units

- 2010 developer agreed to consider the COAH obligations and filed a builders' remedy lawsuit against the Township. Attorney Scrivo noted that such lawsuits are frequently used as a "leverage" tool by developers to force municipalities to accept developer plans.
- 4-year litigation of builder remedy lawsuit in which the Township was successful on the premise that COAH was an operating agency
- 2015 Supreme Court ruled that COAH was not an operating agency, and placed COAH decisions in the hands of Supreme Court
- Prior to 2015 K. Hovnanian filed an application before the Zoning Board for development on Parcel 1 of 460 units, Zoning Bd. declined to consider, K. Hovnanian appealed and filed suit successfully, and that application is currently before the Zoning Board
- K. Hovnanian came to Township Council with new development proposal that included anticipated COAH obligations
- Proposed redevelopment plan amendment forwarded to Planning Board for review & comment
- Developer submitted final plan amendment that addressed and included Planning Board recommendations

Attorney Scrivo explained that the convergence of numerous aforementioned issues and recent Supreme Court decisions regarding COAH simultaneously has forced the governing body to come to a decision on the new proposal from K. Hovnanian based on the advice of legal counsel and the subsequent risk to the Township.

Attorney Scrivo described the components of the proposed plan:

- Replace existing zone districts (R-18, R-30, and R-40 single family and CCRC with approximately 77 acres of open space and 61.5 acres of development in a new residential cluster zone
- Residential cluster zone consists of 460 different types of townhome units; 97 traditional, 93 master down, 180 stacked, and 90 affordable housing townhomes
- Clubhouse
- Parking
- Detention basins
- \$1,000,000 redevelopment fee paid to Township by K. Hovnanian
- Reconstruction and expansion of South End Firehouse by K. Hovnanian
- Construction of new artificial turf Little League baseball field on Hilltop property (existing field)
- PILOT program

There was discussion of legal fees incurred to date from litigation over Hilltop property issues (approximately \$250,000), potential of future litigation, chance of success, and anticipated costs should the governing body fail to take action. The Township Attorney explained that because of recent Supreme Court decision remanding determination of municipalities' COAH obligations to Superior Court, certain actions must be taken by July 8<sup>th</sup>, by the Township to protect itself from builder remedy lawsuits. Attorney Scrivo further stated that the adoption of the redevelopment plan amendment is the Township's first step to protect itself. Attorney Scrivo further projected legal fees of approximately \$10-15,000/month over a 2year period to litigate a subsequent developer lawsuit.

Deputy Mayor Chiusolo referred to a recent suggestion to circulate a petition for a binding referendum in November to prevent the Hilltop development. The Township Attorney explained that

because the Hilltop property is designated as an area in need of redevelopment, proposed development plans are governed by the Redevelopment Law which is the strongest law ever passed by the Legislature, and is not subject to initiative and referendum. Attorney Scrivo further explained that the Township Council could not consider any petition submitted pertaining to the redevelopment plan. Councilman Zunic clarified status of K. Hovnanian's pending zoning application for over 400 housing units on Parcel 1. Attorney Scrivo stated that approval of the redevelopment plan amendment effects the withdrawal of that zoning application.

Councilman Tanella inquired the consequences for the Township should the Council fail to approve the redevelopment plan amendment. The Township Attorney explained the significant litigation risk to the Township regarding affordable housing obligations and builder remedy lawsuits. Attorney Scrivo further explained that approval of the redevelopment plan amendment affords the Township control over an uncontrollable situation; there will be development of the Hilltop property. Attorney Scrivo further noted that K. Hovnanian is not the only player in COAH litigation, other developers will be looking to file suit. Councilman Zunic inquired if a builder remedy lawsuit exposes towp to higher density than that proposed in the redevelopment plan amendment. Attorney Scrivo responded that the density decision falls to judges solely according to a predetermined ratio, and judges are not required to set aside any open space.

Deputy Mayor Chiusolo recognized Councilman-elect Kumburis; 41 The Glen – Mr. Kumburis requested clarification regarding submission of petition for binding referendum. Attorney Scrivo explained that the Redevelopment Law, which governs the proposed plan amendment does not permit consideration of a binding referendum.

Jeffrey Surenian, the Township's COAH legal counsel provided his qualifications. Mr. Surenian stated that he has 30 years of experience litigating affordable housing law on behalf of municipalities. Mr. Surenian provided background of his involvement of the builder remedy lawsuit filed against the Township by K. Hovnanian. Surenian explained that since the Township's successful litigation of the lawsuit, decisions have been made at the State level by the judiciary regarding COAH that makes the grounds on which the Township was successful no longer applicable in a subsequent builder's remedy lawsuit. Attorney Surenian stated that because COAH failed to act by the Supreme Court stipulated deadline to enact new rules and regulations, on March 10, 2015 the Supreme Court ruled that COAH is a non-functioning agency and remanded COAH responsibilities to be decided by the Courts, meaning that affordable housing plans/and pending third round certifications must now go through the Supreme Court established procedure. Attorney Surenian further explained that there is a big discrepancy between over the formula to determine municipal affordable housing obligations. Attorney Surenian explained the impact of the Court's decision on the proposed redevelopment plan amendment and detailed the reasons that the current redevelopment plan proposal provides the Township the opportunity to control what happens on the site, rather than having a judge make the decision through a builder remedy lawsuit.

The Township Manager gave a comparative assessment of the advantages and disadvantages of the proposed plan to the current zoning, and concluded that the proposed amendment is more favorable to the Township than the current zoning.

Deputy Mayor Chiusolo requested the County Executive to provide input regarding the open space proposal of the redevelopment plan. County Executive DiVincenzo provided a chronology of the sale of Hilltop property. Mr. DiVincenzo stated that 8 out of 9 parcels have been sold to date, Parcel 5 is the only parcel not yet resolved, and has been the subject of litigation between the County

and developer/purchaser (K. Hovnanian), arising from the County Executive's decision to provide a 90 acre County park on Parcel 5. The County Executive further noted that the current proposed redevelopment plan amendment effects settlement of the litigation via a land swap between the County and K. Hovnanian, return of Parcel 1 of the Hilltop property to the County in exchange for Parcel 5. County Executive DiVincenzo stated that the return of Parcel 1 to the County enables the County to provide a previously promised County park on Hilltop property in Cedar Grove. The County Executive described his vision for the proposed 77 acre park, to be permanently preserved as open space through application for Green Acres funding from the State.

Prior to final consideration, Deputy Mayor Chiusolo referenced the proposed redevelopment plan amendment's inconsistencies with the Master Plan and support of the same as set forth herein:

The areas where Addendum #1 is inconsistent with the Master Plan are summarized as follows:

- a. Addendum #1 is not consistent with the recommendation in the Master Plan Land Use Element (page 28 of 2006 Re-exam Report) to use 100 acres of the lower Hilltop area for Low Density Residential-2 uses because it changes a reduced portion of the CCRC are (61.5 acres including roads) to "Residential Cluster" for townhouses, stacked townhouses and "Master Down" townhouse rather than the single family detached homes on lots between 18,000 s.f. and 40,000 s.f. in size.
- b. Addendum #1 is not consistent with the designation of the 39 acres in the Master Plan for Low Density Residential-2 on opposite sides of Fairview Avenue. Addendum #1 changes the 39 acres to a new land use category ("Open Space").
- c. Addendum includes 90 affordable units out of the total of 460 townhouses. The last Housing Element and Fair Share Plan adopted in 2008 and filed with COAH did not include or identify the Hilltop property for affordable housing.
- d. The Addendum "zones" 77.5 acres for "Open Space" as taken from the 139 acres designated in the current redevelopment plan for development. While other Essex County parkland in Cedar Grove was listed in the Open Space Inventory in the Open Space Element of the Master Plan adopted in 2001, the Hilltop Property was not listed. Therefore, even though Addendum #1 would expand the designated open space in the Township by 77.5 acres and advance the purposes of the Open Space Element, it would be inconsistent with the listed open space properties in the Element.

The reasons that Addendum #1 effectuates the Master Plan Elements despite the identified inconsistencies with the Master Plan are as follows:

- a. These changes cluster the development area to 61.5 acres of the 139 acre tract, and reduce the overall density of development from 1045 units to 460 units. The changes will add a total of 77.5 acres of the original Essex County Hospital site to the County's open space preservation program, thereby effectuating the Land Use Element and Open Space Element of the Master Plan.
- b. The amendments incorporated in to Addendum Nol. 1 are necessary based on the economic changes in the real estate market that have caused a dramatic reduction in demand for age-restricted housing, evidenced by action of the State Legislature in the enactment of legislation

in July of 2009 enabling the conversion of approved age-restricted developments to non-age-restricted development, while the demand for higher density units by young adults and downsizing “empty nesters” remains the most likely market sector to enable redevelopment of the blighted former Essex County Overbrook Hospital site to proceed.

- c. The mix of 460 townhouses, stacked townhouses and “Master Down” townhouses is consistent with the 450 units referenced on page 15 of the 2006 Re-exam, and while the Residential Cluster provisions in Addendum #1 do not include age-restrictions, the “Master Down” units are “age targeted” to be most attractive to “empty nesters” which would represent a comparable demographic to the senior housing originally contemplated in the Master Plan and for which the 100 acres is still zoned (Senior Living-Care (SL-C)).
- d. Open Space Area A on the west side of Fairview Avenue allows for the expansion of the Hilltop Reservation all the way to Fairview Avenue, which not only preserves more open space, but eliminates the unsupportable pattern of 21 large lot single family homes on 40,000 square foot and 18,000 square foot lots from the Redevelopment Area and preserves the view shed on the west side of the corridor.
- e. The Addendum and amended Zoning May also eliminates the 24 single family homes on 30,1000 square foot lots on block 101, Lot 1.01 and preserves this mostly wooded area as open space and a buffer to the existing residential neighborhood to the north.
- f. The CCRC is eliminated from the area between the bikeway and Grove Avenue (Open space Area D), and preserves a predominantly wooded area. It also serves to provide for a connection from the newly created open space areas to the more substantial Municipal Open Space and Recreation areas on Grove Avenue and Bradford Avenue thereby creating a greenway between the Hilltop Reservation and Grove Avenue linked by the West Essex Bikeway.
- g. Under this Amendment, the proposed development area would be centered predominantly in areas previously developed as the Hospital Center, while the fringe areas, many of which are heavily wooded, would be preserved as open space and serve as buffers to existing homes and other nearby uses.
- h. Amendment #1 provides the Township with a proactive strategy for addressing Cedar Grove’s housing obligation in light of the New Jersey Supreme Court Decision of March 10, 2015. The combination of the provision of up to 90 units of affordable housing and the increase in the amount of open space being dedicated would satisfy the reasonable development potential of the Hilltop site.
- i. The overall density of development of the HRDA is generally consistent in Addendum #1, as the current Hilltop Redevelopment Plan would allow 1045 units on 139 total developable acres (7.51 du/acre), and the proposed Amendment #1 would allow 460 units on 61.5 acres (7.48 du/acre). If the original 139 developable acres were used for comparison, the density would be 3.5 du/acre, which is less than half the density of the current plan.

Deputy Mayor Chiusolo explained the benefits of the proposed PILOT program. Deputy Mayor Chiusolo summarized the components of the proposed redevelopment plan amendment.



At Councilman Tanella's request, the Township Attorney discussed estimated time frames relevant to approval of the proposed redevelopment plan amendment, the protracted land use process once the developer applies for site plan approval, and necessary demolition, prior to commencement of construction. Attorney Scrivo anticipated approximately 1 year from site plan submission before commencement of construction, which will occur in phases.

Deputy Mayor Chiusolo opened this portion of the meeting for public comment.

Patrick Gerini; 47 Briarhill Rd. – Mr. Gerini opposed any development of the Hilltop property and commented on the historic construction value of the remaining buildings on the site. Mr. Gerini commended the County Executive for his efforts to preserve the property.

John Miller; 50 Elmwood Rd. – Mr. Miller stated that he was a new resident in town and expressed concern regarding the inclusion of COAH units in the redevelopment proposal. Mr. Miller requested clarification of affordable housing qualifications. Attorney Surenian addressed the issue at the request of the Township Attorney. Mr. Miller also inquired the potential for the designated open space to be developed at a later time. The Township Attorney explained the means that the dedicated open space would be preserved forever.

Jean Jaeger; 9 Bradford Way – Mrs. Jaeger thanked the Township Council for the informative presentation. Mrs. Jaeger commented that the prospective student study is just a guess, not a definite. Mrs. Jaeger urged careful consideration of the full impact of the proposed plan, school district, such as insufficient number of schools, need for school busing, emergency services, environmental impact. Mrs. Jaeger voiced objection to the developer pressure on the municipality to make a decision and urged the governing body to make its decision on what is best for the residents of the Township, not the developer.

Ray Shea; 16 Bruce Ct. – Mr. Shea voiced his opposition to the proposed plan and preference to resolve through litigation. Mr. Shea suggested the establishment of a "super fund" to pay for the cost of litigation. Mr. Shea further stated that the proposed plan will have a negative impact on the Township.

Nicole Dichiaro; 21 Ring Place – Ms. Dichiaro thanked the Council for the presentation. Ms. Dichiaro requested possibility of postponement of the vote to disseminate formal information available to more residents. Ms. Dichiaro further requested that the Township ask for more concessions from the developer.

Bernadette Rosen; 27 Winding Way – Ms. Rosen stated that K. Hovnanian is not accredited with the Better Business Bureau. Ms. Rose expressed concern regarding the integrity of K. Hovnanian, provided complaints from residents of other K. Hovnanian-developed properties, and asked how the Township will hold the developer to high standards.

Sue Trapp; 6 Eastwood Pl. – Ms. Trapp raised concerns regarding the conduct of environmental studies, liability of long-range health issues resulting from development. Attorney Scrivo advised that environmental studies are conducted under DEP oversight. Ms. Trapp also raised several PILOT program questions.

Joe Cicala; 83 Briarwood Terr. – Mr. Cicala commented as President of the Board of Education and commended the Township Council for its efforts for the presentation. Mr. Cicala expressed concern

regarding the impact of the proposed development on the school district, potential need for an additional facility to accommodate the increase in students, and resulting financial repercussions. Mr. Cicala suggested a joint discussion between the Township officials and Board of Education regarding the impact of the proposed development on the Township.

Robby Vargo; 102 Union St. – Mr. Vargo voiced support for the Township having control over the redevelopment of the Hilltop property (i.e. proposed amendment) vs. litigation.

Diane Raum; 46 Brunswick Rd. – Ms. Raum inquired the means to ensure that designated open space cannot be developed at some later date. Following response from County Executive DiVincenzo, Ms. Raum suggested relocation of the proposed club house closer to designated open space for use as a community center for all Township residents.

Rein Emrich; 23 Greendale Rd. – Mr. Emrich raised questions regarding PILOT program termination. Mr. Emrich also inquired the financial benefit to the County for the proposed development plan. County Attorney Paganelli responded that there is no financial benefit to the County, that there will be a land swap between K. Hovnanian and the County of Parcel 1 (owned by K. Hovnanian) and Parcel 5 (owned by County).

Harry Kumburis; 41 The Glen – Mr. Kumburis thanked residents for their support during the election. Mr. Kumburis commented that statements he made during the election campaign regarding a PILOT program were correct. Mr. Kumburis suggested that the County lease the former daycare facility on Grove Ave. to the Township for its use as a potential community center. Mr. Kumburis also voiced concern regarding the possible future development of reservoir property.

Sam Paparatto; 108 Holly Lane – Mr. Paparatto stated that the homeowners association of Four Seasons at Cedar Grove has filed suit against K. Hovnanian for construction issues. Mr. Paparatto also commented that property values of units in the Four Seasons had decreased which also has an impact on all other taxpayers within the Township. Mr. Paparatto also objected to any further development by K. Hovnanian within the Township.

Todd Margiotta; 14 Devonshire Rd. S. – Mr. Margiotta thanked the Council for the informative presentation. Mr. Margiotta voiced support for the proposed redevelopment plan amendment.

Rita Dyer; 116 Myrtle Ave. – Ms. Dyer requested clarification of the PILOT program. Ms. Dyer also expressed concern with the traffic impact of the development on Myrtle Ave.

Karl Mangels; 15 Bruce Ct. – Mr. Mangels inquired what assurances the Township has that once approved, the proposed development plan will be built. Attorney Scrivo stated that the redevelopment plan amendment, once adopted and subsequent contractual agreements between the developer and the Township are the assurances.

Isabel Spagnardi; 511 Holly Lane – Ms. Spagnardi thanked the Council for their efforts on the redevelopment plan. Ms. Spagnardi referred to K. Hovnanian developer problems with Four Seasons, and expressed concern for the Township's ability to oversee construction and quality control issues.

John Martinelli; 30 Hillside Ave. – Mr. Martinelli raised tax revenue concerns regarding the impact of affordable housing on property values. Mr. Martinelli voiced his preference for the property to remain as currently zoned, ie. CCRC, rather than the proposed amendment.

James Hudson; 47 W. Bradford Ave. – Mr. Hudson raised concern regarding the environmental impact of the proposed development. Mr. Hudson described the site as environmentally sensitive. Mr. Hudson suggested that the Township purchase the property and appeal to nature conservancies for funding assistance.

Kevin McVey; 19 Briarwood Terr. – Mr. McVey inquired the timeframe for potential litigation should the redevelopment plan not be approved.

There being no one else present wishing to be heard, Deputy Mayor Chiusolo closed this portion of the meeting.

Deputy Mayor Chiusolo provided an opportunity for Councilmembers to comment on the proposed ordinance prior to final consideration. Councilman Zunic, Councilman Tanella, and Mayor Longo all commented that after consideration of all facts, approval of the amendment is the best course of action for the Township and supported by the advice of the Township’s professionals.

Councilman Zunic moved that the ordinance be adopted at second reading, published in the Verona-Cedar Grove Times as a passed ordinance to take effect as prescribed by law, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilman Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

ABSTAIN: Councilman O’Toole

**9. ADJOURNMENT**

Councilman Zunic moved adjournment of the public council meeting, seconded by Deputy Mayor Chiusolo, and passed by the following vote:

AYE: Councilman O’Toole, Tanella, Zunic, Deputy Mayor Chiusolo, Mayor Longo

NO: None

The public meeting adjourned at 10:55 p.m.

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JOSEPH CHIUSOLO      MAYOR

ATTEST:

\_\_\_\_\_  
KATHLEEN R. STUTZ      MUNICIPAL CLERK