

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

PUBLIC MEETING

MINUTES

OCTOBER 4, 2021

1. ROLL CALL, INVOCATION AND FLAG SALUTE

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

Present: Councilmember Peterson, Skabich, Zichelli, Deputy Mayor Maceri, Mayor Tanella
Also Present: Township Manager Tucci, Attorney Nabbi for Township Attorney Giacobbe,
Township Clerk Stutz

The flag salute was led by Mayor Tanella.

Mayor Tanella 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 December 24, 2020, 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

- a) Proclamation – Domestic Violence Awareness Month

Deputy Mayor Maceri noted the importance of domestic violence awareness and read proclamation designating October as Domestic Violence Awareness Month.

3. APPROVAL OF MINUTES

- a) To consider approval of minutes of regular public meeting of September 13, 2021

Councilman Zichelli moved approval of the minutes, seconded by Councilwoman Skabich, and passed by the following vote:

AYE: Councilmember Peterson, Skabich, Zichelli, Deputy Mayor Maceri, Mayor Tanella
NO: None

4. PUBLIC HEARING

- a) To consider adoption of Pending Ordinance #21-880 – Amending Chapter 188 of the Township Code entitled “Peace and Good Order”

The ordinance was read by title only as follows:

AN ORDINANCE AMENDING CHAPTER 188 OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE, ENTITLED “PEACE AND GOOD ORDER.”

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

Councilman Zichelli 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 Councilwoman Peterson, and passed by the following vote:

AYE: Councilmember Peterson, Skabich, Zichelli, Deputy Mayor Maceri, Mayor Tanella

NO: None

- b) To consider adoption of Pending Ord. #21-881 – Amending chapter 268 of the Township Code entitled “Zoning”

The ordinance was read by title only as follows:

AN ORDINANCE AMENDING CHAPTER 268 OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE, ENTITLED “ZONING.”

Mayor Tanella opened the public hearing on this item.

Attorney Nabbi explained that the purpose of the proposed ordinance is to clarify that an artistic mural/painting or mosaic constitutes a sign, which is regulated and subject to the existing permitting process in the zoning ordinance. Following Attorney Nabbi’s detailed explanation, there were lengthy comments from the following individuals that the wording of the amendment is perceived as a prohibition of artistic/creative expression:

Nat Harris; 238 Ridge Rd. – Mr. Harris stated that he is of the opinion that the ordinance is reactive, disputed the intent of the ordinance, and further commented that the amendment is perceived as an attack on art. Mr. Harris further commented that he represents the Cedar Grove Artist Alliance, a group that he formed in response to the proposed ordinance.

Joe Iurato; 104 Ridge Rd. – Mr. Iurato voiced objection to the verbiage of the proposed ordinance, contending that it hampers creative expression. Mr. Iurato commented that Dave Fletcher, proprietor of Cedar Beans has created a cultural hub in Cedar Grove. Mr. Iurato that there should be a separate process for murals, that they should not be treated as signs.

Gail Tynan; 43 Upland Way – Ms. Tynan stated that as written, the proposed ordinance prohibits art and suggested that the definition of sign included

Christian Alduante; 205 Bowden Rd. – Mr. Alduante state that he is an artist and art teacher and objected to the perception of the proposed ordinance as prohibiting art.

Sal Minieri; 26 Sweetwood Dr. – Mr. Minieri discussed reference of mural as a sign and impact on perception of proposed amendment as restricting murals rather than clarifying murals are also subject to permit process. Mr. Minieri referred to a recently issued violation to a local business owner concerning a mural. Attorney Nabbi stated the purpose of the public hearing was to receive comments on proposed amendment; comments concerning a matter in litigation are not permitted either from the public or by the governing body or counsel.

Stefan Marrek; 47 Winding Way – Mr. Marrek concurred with previous comments that the wording of proposed ordinance amendment is perceived as a prohibition of art.

Gene Niemiec; 66 Skytop Rd. – Mr. Niemiec voiced his contention that the proposed ordinance restricts art expression and equates to censorship.

Ken Ronkowitz; 92 Yorkshire Dr. – Mr. Ronkowitz describe a hypothetical scenario and requested comment from the Township Attorney. Deputy Mayor Maceri stated that it is inappropriate for Attorney Nabbi to render an opinion on a hypothetical scenario. Deputy Mayor Maceri also reiterated that there is no intent of the governing body to prohibit art, rather to clarify that artistic signs/murals are subject to the permit process.

Dave Fletcher; 29 The Glen – Mr. Fletcher commented that the definition of sign should be modified to include artistic mural, rather than prohibition. Mr. Fletcher also suggested discussion with artists in town before the ordinance is adopted. Deputy Mayor Maceri restated that the proposed ordinance is to clarify that there is a zoning process that pertains to artistic murals the same as signs, not to stop art.

Michael Palamara; 285 Ridge Rd. – Mr. Palamara objected to discussion of murals.

Matthew Votti; 12 Oxford Rd., West Caldwell – Mr. Votti expressed concern that the amendment could be restrictive.

Daria Selepouchin; 115 Harper Terr. – Ms. Selepouchin stated that should not be suppressed or restricted and requested that the governing body postpone adoption to collaborate with artists to define restrictions. Deputy Mayor Maceri commented that such collaboration would violate constitution first amendment.

Vladimir Selepouchin; 115 Harper Terr. – Mr. Selepouchin stated that the ordinance should contain a definition for a sign and artistic mural.

David Baron; 36 Old Orchard Ct. – Mr. Baron suggested postponement of adoption to facilitate redrafting.

Gene Niemiec; 66 Skytop Rd. – Mr. Niemiec referred to murals on Bloomfield Avenue in Verona.

Colin Weil; 61 Tissing Rd., Clifton – Mr. Weil commented that the ordinance appears to define artistic mural as a sign.

Bill Rogers; 46 Sunrise Terr. – Mr. Rogers suggested postponement of ordinance adoption to facilitate rewriting of amendment.

Nat Harris; 238 Ridge Rd. – Mr. Harris commented on timing of ordinance adoption.

There being no one else present wishing to be heard, Mayor Tanella closed the public hearing.

Councilman Zichelli 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 Deputy Mayor Maceri, and passed by the following vote:

AYE: Councilmember Peterson, Skabich, Zichelli, Deputy Mayor Maceri, Mayor Tanella
NO: None

5. MEETING OPEN TO RESIDENTS OF THE TOWNSHIP WISHING TO BE HEARD ON ANY ITEM ON THE AGENDA

Mayor Tanella opened this portion of the meeting to anyone wishing to be heard on any item on the agenda. There being no one present wishing to be heard, Mayor Tanella closed this portion of the meeting.

6. REPORTS OF TOWNSHIP OFFICIALS

- a) Township Manager – The Manager noted a request to display flag at Panther Park in recognition of Italian Heritage month, to which the governing body agreed. Mr. Tucci provided update of Peckman River clean up and desnagging activity Township is taking to address damage from Storm Ida. Mr. Tucci advised that silt & sediment removal has commenced by Salomon Bros. and PVSC is removing tree debris. The Manager also advised that the Township officials conducted a site visit with Senator Corrado of the Little Falls Rd segment of the river. Mayor Tanella also commented that the Township is contacting federal, state, and county officials for assistance. The Manager advised that COVID and antibody testing is available for residents every Tuesday at Panther Park from 8:00 a.m. – 6:00 p.m.
- b) Township Clerk – The Clerk noted that October 12 is the last day for anyone not already registered and wishes to vote in the November 2nd general election and the Clerk’s Office will be open until 9:00 p.m. that evening. Ms. Stutz provided information regarding the three voting options, including the new option of early voting. Ms. Stutz also advised that voting information can be found on the Township website shortly and on the State’s voter information portal.
- c) Township Attorney – Attorney Nabbi stated that an access agreement was drafted for Little Falls Road residents. Attorney Nabbi requested an executive session to discuss potential litigation matter concerning Peckman River.

d) Other Reports

Councilwoman Peterson – No report

Councilwoman Skabich reported upgrades made to CATV studio equipment to facilitate live streaming of Council meetings and other community events.

Councilman Zichelli announced the Historical Society’s annual apple and pumpkin sales at Morgan’s Farm. Councilman Zichelli also requested drafting of proclamation/resolution to recognize individuals receiving Columbian Foundation awards, to which the governing body agreed.

Deputy Mayor Maceri stated that he attended the Elks Club 60th Anniversary celebration on September 23rd.

Mayor Tanella noted that he attended the South End Fire House grand opening event.

7. NEW BUSINESS

- a) To consider resolution concerning designation of area in need or redevelopment

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

**A RESOLUTION OF THE TOWNSHIP OF CEDAR GROVE
DESIGNATING BLOCK 280, LOTS 247, 320, 330, 551 and 552 AS AN AREA IN NEED OF
REDEVELOPMENT**

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., (“LRHL”) provides a mechanism to empower and assist local governments in efforts to promote programs of redevelopment and sets forth a specific procedure for establishing whether or not various properties constitute an “area in need of redevelopment”; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, prior to the Township Council making a determination as to whether the Study Area, as hereafter defined, qualifies as an area in need of redevelopment, the Township Council authorized and directed the Planning Board to undertake an investigation, to prepare reports and hold appropriate hearings to determine whether some or all of the properties in the Study Area meet the criteria of an area in need of redevelopment as set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, by Resolution dated August 9, 2021, the Township Council adopted a resolution directing the Cedar Grove Planning Board to review the properties identified herein as the Study Area, as hereafter defined, to determine if said properties would qualify as an area in need of redevelopment; and

WHEREAS, the Township engaged Jason L. Kasler, AICP, PP of Kasler Associates, PA to prepare a Redevelopment Area Designation Analysis (without condemnation) and all necessary studies and reports incident thereto in order to determine if the Study Area constitutes an “Area in Need of Redevelopment” and to otherwise guide the Planning Board in the redevelopment process, deliberations and public hearing(s); and

WHEREAS, the Board received a Memorandum dated September 3, 2021 and prepared by Jason L. Kasler, AICP, PP of Kasler Associates, PA; and

WHEREAS, the following five lots identified herein and in Mr. Kasler’s Memorandum constitute the Study Area; and

<u>Block</u>	<u>Lot</u>	<u>Location</u>
280	247	Collectively known as 36 Cliffside Drive
280	320	
280	330	
280	551	
280	552	

WHEREAS, three of the five lots (Lots 247, 320, and 330 in Block 280) are designated for development while two of the lots (Lots 551 and 552 in Block 280) are designated for open space;

WHEREAS, the Planning Board conducted a public hearing on September 21, 2021, which was appropriately noticed and at which hearing, Mr. Kasler testified and presented his professional opinion that the properties in the Study Area, as set forth in his Memorandum and on the record, meet criteria “c” (vacant land), “e” (underutilization) and “h” (smart growth) of N.J.S.A. 12A-5; and

WHEREAS, the Cedar Grove Planning Board determined that the subject properties meet criteria “c”, “e” and “h” of N.J.S.A. 40A:12A-5. Specifically, the Planning Board found that the properties qualify as an area in need under criterion “c”, “e” and “h” of N.J.S.A. 40A:12A-5 (without condemnation); and

WHEREAS, the Cedar Grove Planning Board concluded, as set forth in its memorializing Resolution, that based on its preliminary investigation, as well as the testimony and recommendation of Mr. Kasler, the delineated properties known and identified as Block 280, Lots 247, 320, 330, 551 and 552 in Block 280 (collectively known as 36 Cliffside Drive) qualifies as a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5(c), (e) and (h) and for which the inclusion of parcels is necessary for the effective redevelopment of the area identified; and

WHEREAS, the Township Council accepts the recommendation of Kasler Associates, PA, and determination of the Cedar Grove Planning Board, as memorialized in the Planning Board’s memorializing Resolution adopted on September 21, 2021 and dated September 22, 2021.

NOW THEREFORE, BE IT RESOLVED that the properties identified herein as Block 280, Lots 247, 320, 330, 551 and 552 shall be and are hereby designated as an area in need of redevelopment, without condemnation, pursuant to N.J.S.A. 40A:12A-5(c), (e) and (h); and

BE IT FURTHER RESOLVED that that the foregoing redevelopment area determination shall further authorize the Township to use all those powers provided by the New Jersey Legislature for use in a redevelopment area, except for the power of eminent domain, and the Redevelopment Area shall in no way be considered to be a “Condemnation Redevelopment Area”; and

BE IT FURTHER RESOLVED that the Township Council determines to engage a licensed professional planner to prepare a redevelopment plan for the designated redevelopment area in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et. seq.; and

BE IT FURTHER RESOLVED that all appropriate Township professionals, employees, elected and appointed officials are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Township Clerk, Chief Financial Office and Township Planning Board Chairman and Secretary.

BE IT FURTHER RESOLVED that the Township Clerk shall, pursuant to N.J.S.A. 40A:12A-6(b)(5)(c), forthwith transmit a copy of this Resolution to the Commissioner of Community Affairs for review.

BE IT FURTHER RESOLVED that, pursuant to N.J.S.A. 40A:12A-6(b)(5)(d), the Township Clerk shall serve, within ten (10) days of the date of the adoption of this Resolution, notice of the foregoing determination upon (i) all record owners of property located within the Redevelopment Area; (ii) those whose names are listed on the Tax Assessor’s records; and (iii) upon each person who filed a written

objection to the determination and stated, in or upon such written submission, an address to which notice of determination may be sent.

This Resolution shall take effect immediately.

Deputy Mayor Maceri moved adoption of the resolution, seconded by Councilwoman Peterson, and passed by the following vote:

AYE: Councilmember Peterson, Skabich, Deputy Mayor Maceri, Mayor Tanella

NO: None

ABSAIN: Councilman Zichelli

- b) To consider resolution concerning approval of raffle application – St. Catherine of Siena HSA

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

WHEREAS, an application for raffle license has been received from:

APPLICANTS

EVENTS, DATES TIMES & PLACE

St. Catherine of Siena HSA
39 E. Bradford Ave..
Cedar Grove NJ 07009

Off-Premise Merchandise Raffle to be held
November 22, 2021 at 9:00 p.m. at
39 E. Bradford Ave., Cedar Grove NJ 07009

WHEREAS, the fees have been paid, and the application has been reviewed by the Township Clerk and found acceptable.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Cedar Grove that it does hereby approve said application.

Councilwoman Peterson moved adoption of the resolution, seconded by Councilman Zichelli, and passed by the following vote:

AYE: Councilmember Peterson, Skabich, Zichelli, Deputy Mayor Maceri, Mayor Tanella

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 Tanella opened this portion of the meeting to anyone wishing to be heard.

Paul Burns; 2 Elm Dr. – Mr. Burns requested clarification of the scope of work planned for Peckman River. The Manager explained the planned remediation of the riverbed (silt and sediment removal and re-establishing of banks) and further advised that the Township is only allowed to remove up to two feet of silt and sediment from the streambed in accordance with NJDEP regulations. Mr. Burns commented that long term plans are needed to address flooding concerns. Mayor Tanella advised that the Township is taking remedial action it is permitted to immediately on an emergency basis. Mayor Tanella further stated that the Council is committed to advocate to County, State and federal

authorities for assistance for long term remediation. Mr. Burns also expressed concern regarding kids trespassing on the new turf athletic field on LRP school property.

Spencer Sujjaporamest; 201 Little Falls Rd. – Mr. Sujjaporamest thanked Township officials for action and efforts to remediate and address flooding issues of Peckman River along Little Falls Rd. The Manager addressed Mr. Sujjaporamest’s request for timeline for action.

Frank Turner; 201 Little Falls Rd. – Mr. Turner inquired when access agreements will be provided to affected Little Falls Rd. residents. Attorney Nabbi commented that they could be mailed this week. Mr. Turner expressed appreciation to the governing body for addressing Little Falls Rd. residents’ concerns and offered to assist in return of access agreements.

Kasmir Sousa; 29 W. Lindsley Rd. – Mr. Sousa thanked the Township Council for temporary remediation of stream drainage easement on W. Lindsley Rd. Mr. Sousa further commented that a long term solution is required.

Mike Corbosiero; 9 Vista Way, Denville – Mr. Corbosiero thanked the Township Council for the Elks Club 60th anniversary proclamation. Mr. Corbosiero noted the growth of the local lodge, its national recognition, and appreciation of support of Township officials.

Chris Caporaro; 195 Little Falls Rd. – Mr. Caporaro proffered suggestion of collaborative efforts with other towns to effect remediation of Peckman River flooding issues. The Manager advised that the Township is considering formation of joint flood board with the Township of Verona for such purposes.

Jodi Preish; 143 Little Falls Rd. – Ms. Preish noted a tree removal concern on the river bank and the steep drop to the streambed from the bank resulting from the storm near the tennis courts adjacent to her property.

Eric Nunes; 69 W. Lindsley Rd. – Mr. Nunes requested assistance to resolve flooding and drainage issues affecting his property.

Patrick Clough; 143 Little Falls Rd. – Mr. Clough suggested elevation of the riverbank along Little Falls Rd. and consultation with the Army Corp. of Engineers to address flooding concerns and remediation.

Gene Niemiec; 66 Skytop Rd. & business owner at 610 Pompton Ave. – Mr. Niemiec cited Peckman River flooding concerns along Pompton Avenue impacting businesses. Mr. Niemiec questioned the need for electric vehicle charging stations vs. additional handicapped parking spaces in the Municipal Bldg. parking lot.

Kate Hartwyk; Essex County Liaison – Ms. Hartwyk announced dates of upcoming County sponsored household hazardous waste and computer/electronics collection dates at 99 W. Bradford Ave. Ms. Hartwyk commented that Mayor Tanella was very proactive with the County immediately following Storm Ida. Ms. Hartwyk pledged to help facilitate meetings with County officials to address the Township’s concerns.

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

AUTHORIZATION TO GO INTO EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings' Act (N.J.S.A.10:4-12 (b) (1-9) permits the exclusion of the public from a Meeting of the Mayor and Council in certain circumstances; and

WHEREAS, the Mayor and Council of the Township of Cedar Grove are of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Cedar Grove, County of Essex, State of New Jersey that:

1. The public shall be excluded from discussion of any action on the Executive Session of the Meeting of the Mayor and Council of October 4, 2021.
2. The general nature of the subject matters to be discussed is potential litigation regarding Peckman River.
3. It is anticipated at this time that the above stated subject matter will be made public as soon thereafter as it is deemed in the public interest to do so.
4. This Resolution shall take effect immediately.

Councilman Zichelli moved adoption of the resolution, seconded by Councilwoman Peterson, and passed by the following vote:

AYE: Councilmember Peterson, Skabich, Zichelli, Deputy Mayor Maceri, Mayor Tanella

NO: None

9. ADJOURNMENT

Councilman Zichelli moved adjournment of the public council meeting, seconded by Councilwoman Peterson, and passed by the following vote:

AYE: Councilmember Peterson, Skabich, Zichelli, Deputy Mayor Maceri, Mayor Tanella

NO: None

The meeting adjourned at 9:50 p.m.

ATTEST:

PETER TANELLA MAYOR

KATHLEEN R. STUTZ MUNICIPAL CLERK