

**Florence Township Council Regular Session 05/15/24**

Florence, New Jersey  
May 15, 2024

The Florence Township Council held a regular meeting on the above date in the Municipal Complex, 711 Broad Street, Florence, New Jersey. The meeting was called to order by Council Vice President Fratinardo at 7:00 p.m. Council Vice President Fratinardo led the Salute to the Flag.

The Opening Statement was read by the Township Clerk: Notice was posted on the municipal bulletin board on January 7, 2024; published in the Burlington County Times on January 7, 2024, placed on the Township website and given to the Trenton Times for information on January 7, 2024.

**ROLL CALL OF MEMBERS**

Upon roll call the following were found to be present:

Present: John Fratinardo, Nicholas Haas, Talaya Loftin

Also Present: Mayor Kristan I. Marter; Thomas A. Sahol, Township Administrator; Thomas J. Hastie, Jr., Esq., Township Solicitor; Nancy L. Erlston, Township Clerk; Jenise Silinsky, Deputy Township Clerk

Absent: Joseph Frappolli, Frank Baldorossi

**APPROVAL OF MINUTES**

- Regular Session of May 1, 2024

Motion of Haas, seconded by Loftin to approve the Minutes. Voice vote – All ayes.

**FINANCIAL CORRESPONDENCE**

Motion of Loftin, seconded by Haas to receive and file the following correspondence. Voice vote – All ayes.

- Township Clerk’s Monthly Report for April 2024
- Court Administrator’s Monthly Report for April 2024
- Tax Collector’s Monthly Tax Report for April 2024

Motion of Haas, seconded by Loftin to approve the **Treasurer’s Bill List**.

Upon roll call, Council voted as follows:

- YEAS: Fratinardo, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

**REGULAR CORRESPONDENCE**

- Letter from Florence Township Historical Society requesting permission to hold an Open House at the Third Street Firehouse on June 8, 2024 from 1:00 p.m. to 4:00 p.m.

Motion of Haas, seconded by Loftin to approve the correspondence. Voice vote – All ayes.

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**APPLICATIONS**

None at this time.

**PUBLIC COMMENTS**

Council Vice President Fratinardo opened the meeting to the public at this time.

Jerry Sandusky, 717 Cooper Street, asked to include Superior Court Judge Jack Sweeney on the list of street names. He stated that when it was first brought up to Council over fourteen years ago, the solicitor at that time, William Kearns said that he believed that nothing could be named after an active judge. Mr. Sandusky explained that Judge Sweeney has since retired and is totally out of the court system and he asked that his name be added to that list. Judge Sweeney was born and raised in Florence Township, attended Florence High School, entered the New Jersey National Guard, became a lawyer, was the first Solicitor that he sat on Town Council with back in 1976, ran for State Assemblyman and won, was the Commissioner for the casino in Atlantic City and then became a Superior Court Judge. Council agreed and Judge Sweeney's name will be added to that list.

Mr. Sandusky complimented the Sixth Street park and the Fifth Street trees, stating that a very nice job was done on those projects.

Seeing no one else wishing to be heard, it was the Motion of Loftin, seconded by Haas to close the public portion of the meeting. Voice vote – All ayes.

**RESOLUTIONS**

**RESOLUTION NO. 2024-108**

**Approve Payment #3 for Waterworks Playground & H. Kenneth Wilkie Memorial Rivers Edge Park Improvements**

**RESOLUTION NO. 2024-109**

**Approve Fireworks Display for Patriotic Celebration Day on July 6, 2024**

Motion of Haas, seconded by Loftin to approve Resolution Nos. 2024-108 and 2024-109.

Upon roll call, Council voted as follows:

- YEAS: Fratinardo, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

**ORDINANCES**

**ORDINANCE NO. 2024-05**

**Amending Chapter 36 Entitled “Alcoholic Beverages” to permit up to three Package Goods Liquor Stores to operate within a one mile radius (2<sup>nd</sup> Reading, Public Hearing and Adoption)**

Motion of Haas, seconded by Loftin to open the public hearing.

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Samuel Reale, Jr. of the law firm of Helmer Conley and Kasselmann, spoke on behalf of the Liquor Barn, and suggested that Council not adopt this ordinance. He explained that this is a planning and zoning ordinance by nature and it is limiting the siting of a commercial business enterprise. He stated that, as it relates to this particular analysis, it is not that you cannot approve but he asked Council to just treat it for what it is, as a Land Use ordinance and refer it to the Planning Board, where it is consistent with Land Use provisions and how it impacts the Master Plan. Proximity ordinances create issues both for businesses as well as the municipal government and stated that it is somewhat archaic because they don't address society as it exists in the 21<sup>st</sup> century.

He stated that if you treat distribution licenses/liquor stores, as traffic generators, you want to treat that particular siting of those licenses as a Land Use function to determine whether they are going to generate traffic to support your other economic and business ventures in the permitted zones. For example the second whereas clause in the ordinance states, by virtual debts and limitations the way you can number packaged goods stores that can exist within a 1 mile radius, but he does not know where that comes from and if someone were to challenge it as it relates to the underlying basis behind the purpose of this particular ordinance, if you have not referred it to the Planning Board where it can be examined in the context again of your Master Plan.

The second part is a purpose to address what you believe to be the impact of the new legislation that was signed in January permitting the transfer of liquor licenses except that legislation only deals with plenary retail consumption licenses as far as restaurants, it does not in fact provide for a transfer of a distribution license. The purpose was to make licenses available in municipalities. Your Administrator and your CFO will tell you that it exists in the legislation but it doesn't take it out of the cap. It doesn't allow you to go out and bond and it doesn't address the other issues under Title 40 about how you might be able to finance these things. Plus you have to get in the door of the town to give it to you. So that is not going to happen but again, your purpose is to address something that in fact doesn't exist legally.

He asked Council to stop to consider this, take the time to take a step back and get the analysis from the people who are in the best position to advise so that a determination can be made on how to proceed. You may want to eliminate the entirety of the ordinance, or to say we are not going to get the position so we are going to just let the market drive it, or we are not going to say they have to be within a mile or otherwise. You may also say you want to change it up and you want to hold it. The other thing you could do in this particular ordinance as it currently exists in your code, is determine how the boundary is measured. But you get a chance now to take a step back and revisit the entirety of the issue.

Jeffrey Hall, spoke on behalf of Jay Penali LLC, Inc. (aka Town Liquor) and he echoed the comments of Mr. Reale and added that his clients are a typical Mom and Pop operation and they have come to Florence Township in recognition of the protection the current ordinance offers which doesn't necessarily stifle competition but it does afford some layer of protection to people who make substantial investments in the location as well as the community. He stated that by considering this ordinance you are de-voiding the economic vitality of current businesses that contribute to the community in the form of the service they offer as well as the taxes they pay and it may really cause a significant issue for his clients. They have one liquor store, they have nothing to fall back on and if this other liquor licensee does move in to their area, it will threaten their ability to survive as a business. He asked Council when considering this ordinance, besides the legal issues is that the licensee that petitioned for the change had in this municipality, it is the fourth licensee. He does not know why it did not succeed in its location but the fact

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remains, the ordinance as it existed gave him an opportunity to succeed at a location in Florence Township.

He stated that basically this ordinance works and, in his opinion, if it works then there is no reason to try and fix it. The real question comes down to why that business failed, is it highway commercial zoned or neighborhood commercial zoned, it somehow doesn't function as intended or is it really the business itself and its operator. He echoed Mr. Reale's comments, the ordinance as it currently exists is flawed and it clearly is a land development regulation and it goes beyond ordinances for planning and zoning. It is any regulation that actually affects land use and in this case, clearly the proximity regulation that you have before you as well as the amendment does precisely that. In addition to the Municipal Land Use Law your own ordinances have a specific provision, 91-34, that requires a referral of any development regulation to the Planning Board for its consideration under its powers. He respectfully asked that, at a minimum, his clients would really like to see this ordinance tabled or reintroduced or whatever the procedure is to have a proper referral to the Planning Board so it can be considered, fully evaluated and brought back to this board for further consideration.

Jay Patel, 2117 Route 130 South, owner of Town Liquor, shared some concerns on the ordinance as an owner. He stated that they have been in the Township for over 10 years now and he strongly believes allowing more competition through the waiver of this ordinance will have a significant detrimental affect on their business and their livelihood for him and his dad as well as other establishments in our town. Their business has been a cornerstone of the Florence community for over a decade now and his father is the heart and soul of the establishment and is there for seven days a week, treating his customers as family. Waiving this ordinance will not only jeopardize their business but also undermine the sense of trust and commitment that they have built with their loyal customers. And waiving the ordinance may not lead to an increase in revenue either for the town or for them but it is going to spread it across them and potentially force more liquor stores to shut down with the competition.

Solicitor Hastie explained that a lot of what was said was not legal-based but policy arguments. He offered nothing on that but on the reference in the whereas section to the regulations relating to alcoholic beverage license transfers and exchange in legislation, it was actively pointed out that this applies to consumption licenses although the rationale for it he believes applies to any type of license or the scarcity of the license. He does not think the whereas clause in the ordinance makes it inoperable. The other point is whether it is a development regulation, he does not read that section of Land Use to say the precise thing is that when you are dealing with boundaries and zones and things like that you should send it. He would say that this is a development regulation but he does not read it as one of the things that needs to go to Land Use.

Motion of Haas, seconded by Loftin to close the public hearing.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

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Council Representative Loftin asked for clarification on the licensee. Administrator Sahol explained that they have a license and they are looking to reestablish that license in an area that is closer in proximity to stores that are represented this evening or potentially closer or maybe even between two other stores depending on where they locate. They have interest on being on Route 130 because of the frequency of the amount of vehicle movement that you see on the highway. He also stated that the license that they are referring to once was established within the mile, it was located essentially where the Rite Aid is now.

Council Representative Loftin also asked the Administrator if he feels as though the ordinance needs a review and when it was last reviewed by the Governing Body. He explained that the most recent update to this ordinance regarding the boundary was made in 1983. Council Representative Loftin stated that she thinks it would be worth a review and Council Representative Haas agreed.

Administrator Sahol explained that if Council agreed to refer this to the Planning Board, there is a possibility that the Planning Board decides there are no restrictions, they won't generally settle on a number. But they can say no and that means you could potentially have four within one radius mile versus the three that are being discussed this evening. Solicitor Hastie explained that, to the extent that they want to make an amendment, we could look it over, make that amendment, readvertise and hold another public hearing. If sending to the Planning Board, Council would make a motion and he would draft a resolution that would essentially state that we want to refer it under the 35-day notice.

Mayor Marter asked what sense it makes to refer this ordinance to the Planning Board if it can come right back and be changed anyway? Solicitor Hastie explained that in theory you are doing one of two things, to the extent that you want redevelopment regulations, anything that touches development would be satisfying the code direction. Two, in theory, a Planning Board has certain expertise in Land Use patterns and traffic patterns where they could say, for instance, four liquor stores in one square mile is a terrible idea, they should be spread out towards Columbus or 295 where the density is more spread out and two liquor stores there would probably make it economically non-viable for either one. He does not believe they would say stuff like that but those are the things that, in theory, they are supposed to look at and analyze. He does not think it is required but if Council wants to be prudent they can send it there.

Motion of Haas, seconded by Loftin to Table Ordinance No. 2024-05.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

Motion of Haas, seconded by Loftin to refer Ordinance No. 2024-05 to the Planning Board for consideration.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

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**ORDINANCE NO. 2024-06**

**Amending Chapter 4, Article XI “Police Department” to provide certain law enforcement training requirements are to be met in order to be exempt from Civil Service Examination Requirements  
(2<sup>nd</sup> Reading, Public Hearing and Adoption)**

Motion of Haas, seconded by Loftin to open the public hearing. Seeing no one wishing to be heard, a motion of Haas, seconded by Loftin to close the public hearing.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

Motion of Haas, seconded by Loftin to approve Ordinance No. 2024-06.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

**ORDINANCE NO. 2024-07**

**Fixing Compensation Ranges of Certain Officials and Employees  
(2<sup>nd</sup> Reading, Public Hearing and Adoption)**

Motion of Haas, seconded by Loftin to open the public hearing.

Administrator Sahol explained that there are a few positions that come and go and sometimes responsibility is shifted to a person though they may not be compensated. The Animal Control Officer is not an employee but a shared service and, if we suddenly had to go out of the shared service and bring in an Animal Control Officer, we wouldn't have that ability unless we had some salary for it. Another example are part-time employees. He stated that there are contracts and then there is this resolution where we designate a high/low and this gives a range to put them in and Council will be setting that fixed salary by resolution on June 12<sup>th</sup>. This is just a range; these are all of the positions that really never occurred and periodically might need to occur and there is no intention of bringing any new staff on.

Administrator Sahol explained that the Executive Branch of government rests with the Mayor and that Council is solely Legislative and does not have the ability to dabble in personnel unless dealing with trying to adjudicate some conflict at some point. Solicitor Hastie explained that in this form of government, there are certain things that are allocated to Council as the Legislative Branch. Almost like in a corporate setting, you have the Board of Directors and you have the CEO. The CEO is the one who is doing most of the hiring, firing, disciplining and promoting and the CEO answers to the Board of Directors. Here, you have a Mayor directly elected and, under the code entitled to run the Administrative Branch of government, primarily through the appointment of the Township Administrator who then handles the day to day operations with regular communication. What this is saying is, if the Administrator was to leave tomorrow, and you found a fitting replacement who was the perfect replacement but they wanted payment over what was stated in the ordinance range, you couldn't hire

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them. Administrator Sahol asked Council to continue to trust in the process and know that everyone wants to serve the community and elected officials the very best way possible.

Seeing no one wishing to be heard, motion of Haas, seconded by Loftin to close the public hearing.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

Motion of Haas, seconded by Loftin to approve Ordinance No. 2024-07.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

**ORDINANCE NO. 2024-08**  
**Amending Chapter 140 Entitled: Water & Sewers to establish a Fee for**  
**Bulk Purchase of Water by Permit**  
**(Intro. & 1<sup>st</sup> Read) (2<sup>nd</sup> Reading Public Hearing & Adopt 6-5-24)**

Motion of Haas, seconded by Loftin to approve Ordinance No. 2024-08.

Upon roll call, Council voted as follows:

- YEAS: Fratinaro, Haas, Loftin
  - NOES: None
  - ABSENT: Frappolli, Baldorossi
- Unanimous vote – Motion carried

**REPORTS OF COMMITEES, BOARDS AND OFFICERS**

Council Vice President Fratinaro mentioned his concern regarding the blinking light at the intersection of Burlington-Columbus Road and Old York Road. He stated that it is very dangerous there and he would like to ask the county to make that a full traffic light at that crossing. He asked Administrator Sahol to send a letter asking them to change that from a blinking light to a full light to help safely navigate that intersection there. Council Representative Haas also added that if the grass is overgrown, you can't see past it and that needs to be done each week. Administrator Sahol agreed to send the letter.

**REPORTS: ADMINISTRATION**

**Mayor**

Mayor Marter explained that there were a few things to happen lately to include water and sewer rate increases, PFAS and tax increases. Tax bills are going out in a few weeks and she is putting together a town hall meeting on June 26<sup>th</sup> at the Community Center to allow the community to come in and listen to why the water rates are what they are and what is happening with PFAS and what that means, how we are handling it and dealing with it as well as what happened with taxes. This year to avoid the confusion caused by the delayed tax bills as a result of the state and county not striking the tax rate in a timely fashion, Florence Township will be sending out estimated tax bills to be due on August 1<sup>st</sup>.

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Mayor Marter also mentioned a few things that are happening between now and the next Council meeting, the Steel Mill Street Fair will be held on May 18<sup>th</sup>, the free USTA tennis instruction will occur on May 23<sup>rd</sup> and the Roebling Carnival is coming up May 29 through June 1<sup>st</sup>. And the Florence Township Police Department will host their bike rodeo on June 15<sup>th</sup> as well.

### **Administrator**

Administrator Sahol explained that the County is going to start paving Columbus Road beginning Monday, May 20<sup>th</sup> at 5:00 a.m. starting with the milling and paving and they anticipate being finished in three days.

### **Division of Law**

Solicitor Hastie stated that Council authorized the bond sale and six bids were received. He has been doing this for twenty-five years on the bond side and people always want to know what a good rate is. The market changes everyday and there are a thousand different things and, as a participant in the market seeking bids, you want to see how many bids you get and the quality of those bids. If you put it out there and only one guy bids, you have a problem. If you put it out there and you get a bunch of bids, that brings comfort. There were eight people who sent the Township checks for \$375,000 for the right to bid and out of those eight that sent checks and six submitted a bid and those bids were right on top of each other. The lowest bid was \$6,594,000, next was \$6,599,000 and then \$6,602,000. Between the first and the third bid on \$6.6 Million worth of interest there was an \$8,000 difference. You are dealing with water and sewer and tax issues and the rating agency said they are watching but the market responded and six strong bids were received.

He also explained that the last time the Township sold bonds was in 2022 and that was a slightly shorter duration in bonds and the true interest cost was \$3.77. Here you are at \$3.4621, so interest rates seem to be down a little.

### **UNFINISHED BUSINESS**

None at this time.

### **NEW BUSINESS**

Council Representative Loftin asked about the truck parked on the corner of Hornberger and Delaware Avenues and whether or not there was any resolution or solution to that problem there. She stated that she drove by there and had a problem seeing past it and she feels there is a danger with how far you have to inch out to see past the truck. She asked if anyone reached out to the owner of the vehicle and explained that it is a hazard. Administrator Sahol explained that every angle of approach has been attempted and that he will discuss this issue with her further.

### **BOARD OF HEALTH**

None at this time.

### **MISCELLANEOUS**

None at this time.

### **PUBLIC COMMENTS**

Council Vice President Fratinardo opened the meeting to the public at this time. Seeing no one wishing to be heard, it was a Motion of Haas, seconded by Loftin to close public comment.



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**ADJOURNMENT**

Motion of Loftin, seconded by Haas to adjourn. Voice vote – All Ayes. Meeting adjourned at 8:07 p.m.

Respectfully submitted,

Nancy L. Erlston, RMC  
Township Clerk  
/js