Florence Township Council Regular Session 04/07/21

Florence, New Jersey
April 7, 2021

The Florence Township Council held a regular meeting on the above date in the Municipal Complex, 711 Broad Street, Florence, New Jersey. Members of the public were invited to attend the meeting electronically, in person attendance was not encouraged.

The meeting was called to order by Council President Garganio at 7:00 p.m. Council President Garganio led the Salute to the Flag.

The Opening Statement was read by the township clerk: This meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice was published in the Burlington County Times on January 10, 2021; placed on the Township website, and given to the Trenton Times for information.

ROLL CALL OF MEMBERS

Upon roll call the following were found to be present:

Present: Frank Baldorossi, Paul Ostrander, Jerry Sandusky, Dave Woolston, Bruce Garganio

Also Present: Mayor Craig H. Wilkie; Stephen Fazekas, Township Administrator; Kelly Grant, Township Solicitor; Nancy L. Erlston, Township Clerk; Jenise Silinsky, Deputy Township Clerk

Absent: None

APPROVAL OF MINUTES

- Closed Session of March 17, 2021
- Regular Session of March 10, 2021
- Regular Session of March 17, 2021

Motion of Sandusky, seconded by Ostrander to approve the minutes as submitted. Voice vote – all ayes.

FINANCIAL CORRESPONDENCE

Motion of Ostrander, seconded by Woolston to receive and file the following reports. Voice vote – all ayes.

- Court Administrator's Monthly Report for March 2021

Motion of Baldorossi, seconded by Sandusky to approve the **Treasurer's Bill List**.

Upon roll call, Council voted as follows:

- YEAS: Baldorossi, Ostrander, Sandusky, Woolston, Garganio
- NOES: None
- ABSENT: None

Unanimous vote – Motion carried

REGULAR CORRESPONDENCE
None at this time.

APPLICATIONS
None at this time.

PUBLIC COMMENTS
Council President Garganio opened the meeting up to the public at this time.

Lewis Wilson, attorney for Harpreet Bhatia, spoke regarding a bulk and use variance on a lot at 2097 Route 130. He stated that the application is being held over because of a split zone. There is an existing building that was once a night club that is in an RA zone and, where the parking lot empties onto Route 130, is in a NC zone. They have asked the Zoning Board to consider allowing the applicant to use the existing building in the RA as a liquor store, selling packaged goods only. It was also asked to have Code 36-2 waived which prohibits a packaged goods store being within 1 mile of another packaged goods store within the township. The location is in fact far less than a mile from Town Liquor and they would like to ask Council to consider waiving the requirement so that the proposed liquor store can be open at the location on Route 130. The financing is in place and both the land and the liquor licenses are under agreement and they are ready to go into that location.

Mr. Wilson state that the Zoning Board indicated that they do not have the authority to waive the requirement but that redevelopment of that particular area could be discussed with Council. He is asking to have that requirement waived but if it would not be considered, then to have that site for possible redevelopment. They would then come back and file a redevelopment plan showing that the use of the property would not only be for the existing building but they would intend to build a small strip of stores on the site that would enhance the site and be beneficial to the township in several ways. Without the waiver, then they can not move forward with the development of that property.

Mayor Wilkie explained that the ordinance that Mr. Lewis is referring to is the law for Florence Township. Township Solicitor Kelly Grant advised that we are not able to waive a law, the ordinance would have to be amended. Unless Council wanted to amend the ordinance concerning the liquor law in the township, no action will be taken on this matter. Regarding a redevelopment plan, the first thing that should have been done in order to redevelop that site would have been to have requested a meeting with the township to discuss the possibility of a redevelopment plan.

Kristan Marter, 220 East Front Street, stated that, in her opinion, people do not travel to go to a liquor store. They typically go to the closest store. It would not increase the township's revenues in any way because you would take a finite group of people that purchase liquor and just spread them out to multiple stores. Everyone ends up losing money in this situation except for the new business owner and the township loses tax revenues because we are not bringing in something that is going to bring in more taxes or tax revenue to our town, we are just taking the tax revenue that is already there and spreading it out amongst other stores. She stated that it makes good sense not to have a liquor store at that location.

She also asked if a marijuana dispensary is something that the township is looking into as it will bring in a phenomenal amount of revenue. If allowed, the deadline is August in order to opt out of having any type of marijuana dispensary inside of our township. If we do not opt out, we automatically opt in but is that something that the township would consider in order to bring in additional tax revenue? She thinks it would be taxed pretty heavily and that may be something that would benefit that location.

Administrator Fazekas stated that, in reference to Ms. Marter's comments about a dispensary, the township has received the documents from the State and they are being reviewed with our Solicitor. Once the documents have been reviewed, a formal discussion with Council will follow.

Harpreet Bhatia, 2097 Route 130, stated that the liquor license he is purchasing is from the former owner of the liquor store in Harkins Plaza which closed in 2017. In 2015 that gentleman had the same liquor store on the property which is now Rite Aid on Route 130 which is only 1,300 feet from the 1-mile radius. He stated that in the future he would like to include more stores in a strip mall on the same location and he is requesting Council to give him a chance to build some things that will give back to the community.

Kendall Murphy, 309 Market Street, Trenton, NJ, represents Jay Patel, the owner of Town Liquor, which has been in existence on Route 130 for the past 7 years. They are opposed to Mr. Bhatia's application not only because it is not a permitted use in the RA zone, but it is clearly in violation of Chapter 36-2 which is a township ordinance. Town Liquor is approximately 1,000 feet from the proposed new liquor store location and there is really not a need for this application. He thinks Mr. Bhatia would be in opposition to a store being placed 1,000 feet from his store if the situation was reversed.

Albert Jacoby, 911 Wallace Avenue, responded to Ms. Marter's statement about a marijuana dispensary, and he is opposed. In his opinion, we do not need the money that bad. Also, part of the proposed liquor store project called for a shopping center. In his opinion, the plan that was submitted is unacceptable. The strip stores are facing the wrong direction, there are no buffer zones, the parking is against the neighbor's fence in the back section and he did not see any retention ponds for excess water runoff. He stated that before the Zoning Board met on this matter, he passed a petition around the area neighborhood and had gotten 21 signatures from residents opposing what was going to happen there.

Blake Dimon, 1059 Florence-Columbus Road, stated that in regards to the application and the variance for the liquor license he is opposed. He explained that yes, it is against the ordinance that is in place but, this was done in Burlington City and it turned out to be a nightmare that should not be repeated. As far as the gentleman representing Town Liquor, he is empathetic. He said that it would put the store out of business by putting a liquor store that close to him. He agrees with Mr. Jacoby's statements on the strip center, there is very little to this application that would enhance the area, there is nothing in the way of provision for sound, and there will be noise from the compressors. There is minimal that makes it attractive and they need to go back to the drawing board for the site plan.

Jay Patel, 2117 Route 130, owner of Town Liquor, wanted to state for the record that he is opposed to going against this ordinance as well. He stated that their realtor made them aware of this ordinance in the town when they were in the process of purchasing the business. It was one of the factors in their decision to move forward with the purchase process. The ordinance shows a sense of protection for small businesses to prevent similar businesses to pop up, whether it is across the street or, like the proposed site, as a neighbor. It does not make sense and he appreciates that the township has this ordinance in place.

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

RESOLUTIONS

RESOLUTION NO. 2021-80
Change Order No. 1 and Current Estimate No. 5
Water Treatment Plant Phase 2 Chemical Building Upgrade

RESOLUTION NO. 2021-81
Soil Movement Permit Request

RESOLUTION NO. 2021-82
Authorize Refund of Certain Overpayment Water & Sewer Department

RESOLUTION NO. 2021-83
Emergency Temporary Appropriation

Motion of Sandusky, seconded by Ostrander to approve Resolution No. 2021-80 and Resolution Nos. 2021-82 and 2021-83.

Upon roll call, Council voted as follows:
YEAS: Baldorossi, Ostrander, Sandusky, Woolston, Garganio
NOES: None
ABSENT: None Unanimous vote – Motion carried

In regards to Resolution No. 2021-81, Administrator Fazekas explained that Whitesell requested to move 9,000 yards of soil to another site that they are building on Daniels Way and 5,500 yards of soil to a second site. They are now pulling the request for the 5,500 yards to be moved at this time and when they are ready to do that, they will have to resubmit another letter. Our ordinance requires them to pay a permit fee, which they have paid for the 9,000 cubic yards to be moved.

Administrator Fazekas advised Council that he recommends that Council allows Whitesell to proceed with the removal of the 9,000 yards..

Councilman Woolston asked what happens when they reapply? Administrator Fazekas explained that when they reapply, we can ask for the request again and/or deny the request.

Motion of Ostrander, seconded by Garganio to approve Resolution No. 2021-81.

Upon roll call, Council voted as follows:
YEAS: Baldorossi, Ostrander, Sandusky, Garganio
NOES: Woolston
ABSENT: None Majority vote – Motion carried

ORDINANCES

ORDINANCE NO. 2021-11
Amend Chapter 140 "Water and Sewers"
to establish procedures and fees for fire flow/pressure tests
(Intro. & 1st Reading) (2nd Read & Adopt 4/21/21)

Administrator Fazekas explained that the warehouses have to perform water flow tests for assurance of flow for fire protection. This fire testing is done annually and they are going to have to pay for the testing and any manpower involved. It is broken down by line size so the amount of the fee to be paid will be determined by the size of the line. He stated that we have been working in conjunction with Burlington Township on this and we will be mirroring their ordinance as we have nothing in place at this time.

Motion of Sandusky, seconded by Woolston to approve Ordinance No. 2021-11.

Upon roll call, Council voted as follows:
YEAS: Baldorossi, Ostrander, Sandusky, Woolston, Garganio
NOES: None
ABSENT: None Unanimous vote – Motion carried

REPORTS OF COMMITEES, BOARDS AND OFFICERS

None at this time.

REPORTS: ADMINISTRATION

Mayor

Mayor Wilkie stated that on Saturday, March 27th there was a great community partnership between the Fire Company and Boyd's Pharmacy, now in their 98th year in the Township of Florence. They worked together on a drive-thru Easter Egg giveaway where the Easter Bunny was present as well as coordinating an egg hunt throughout the community. Over 100 cars went through so it was very nice to see them pull together and make that happen. The history in this community between Boyd's and the Fire Company goes back 40 years and it is very much appreciated.

Next week at Council's workshop he would like to discuss the request for funding that Congressman Kim sent out, they are looking for "shovel-ready" projects. He would like to discuss what the possibilities are of maybe some road improvements that we might be able to have funded.

The Mayor also stated that the Planning Board is continuing to work on the required review of the Master Plan. The current Master Plan was adopted in 1976 and the Planning Board has issued several Re-examination Reports over the years. The Re-examination is required by law every 10 years. This time the Planning Board was asked to do a thorough review and provide an updated Master Plan that better fits the current character of the township. Once the review is completed the Master Plan will be forwarded to Council for review and recommendation.

Administrator

Administrator Fazekas mentioned that last Wednesday and Thursday, he and the Sewer Department worked with NJDOT on a sewer main break on Route 130 between Potts Mill Road and Mallard Creek. NJDOT will cover the cost for the lane closure and Florence Township will pay for the repair of the sewer line. It was nice to work in conjunction with them and resolve the issue.

There have been questions about the budget and why an introduction has not been done. The federal government and our local state representatives have been promising Covid relief/Cares Act funding. As of today, we still have not received the exact restrictions on how to use these funds from DCA.

There are two new Police Chaplains, Pastor Danita Thompson from Mending Hearts Church on Cathy Lane and Rabbi Wilham who is a Township resident. They have gone through the background checks and the Chaplain program, which is a very good program. It brings the police and the community together, especially in some crisis situations and he welcomed them both to the Chaplain program here in Florence Township.

Administrator Fazekas also mentioned that there were several car burglaries throughout the township and through a great combined effort from Patrol, Command Staff and the Detectives of the Police Department a juvenile has been arrested and charged with quite a few counts of burglary to the vehicles. He complimented the Police Department on a job well done.

UNFINISHED BUSINESS

None at this time.

NEW BUSINESS

A. Request of Waiver Section 36-2 of the Florence Township Code regarding the location of a liquor store in proximity to other liquor stores. Subject Property: 2097 Route 130, Block 109, Lots 6.01, 6.02, 10, 11 & 12

Council President Garganio asked Township Solicitor Kelly Grant for legal review regarding a waiver of Section 36-2 of the Township Ordinance. Solicitor Grant read Section 36-2 to Council for clarification: "The number of packaged goods liquor stores within the boundary lines of the Township of Florence shall at no time exceed the number of 4 and at no time shall any of such places be located within the radius of 1 mile." If a waiver of this requirement was permitted there would be a procedure included in the ordinance. Section 36 is silent on waivers, so if Council were to grant a waiver this evening, you would essentially be breaking your own law. Solicitor Grant stated that if a member of the public or a businessowner in town or out of town were to challenge that in Superior Court, she does not believe we would be successful in defending that decision. The Case Law is well settled that Council enacts their own laws and the courts expect the Governing Body to follow those laws, which is why the only way to permit a liquor store at the proposed location would be to actually amend this ordinance and not just grant a waiver. You cannot amend specifically to the location; you would have to change the law for the entire township otherwise you would face additional scrutiny for spot-zoning the change. From a legal perspective, she cannot recommend granting a waiver and the only alternative would be to amend the ordinance, but you would be changing it for the entire makeup of the town.

Solicitor Grant recommended Council take action in part because there is a formal request. A motion to deny or grant the waiver is necessary and follow up with written correspondence to the applicant.

Motion of Baldorossi, seconded by Sandusky to deny the waiver.

Upon roll call, Council voted as follows:

YEAS: Baldorossi, Ostrander, Sandusky, Woolston, Garganio
NOES: None
ABSENT: None

Unanimous vote – Motion carried

BOARD OF HEALTH
None at this time.

MISCELLANEOUS
Councilman Sandusky stated that a few weeks ago he and Mayor Wilkie were at Veteran's Park for a final Eagle Award project for Mr. Dennis. He is requesting that maybe an asphalt patch could be added to the area coming from the existing trail to the sitting area. Mayor Wilkie mentioned that next week Administrator Fazekas will have a packet put together that will include something along those lines.

PUBLIC COMMENTS
Council President Garganio opened the meeting up to the public at this time.

Jack Jobes, 951 Wallace Avenue, suggested the Township purchase the old Illusions site on Route 130 and build a new police station there.

Seeing no one else wishing to be heard, Motion of Ostrander, seconded by Baldorossi to close the public comment portion of the meeting. Voice vote – All ayes.

Motion of Ostrander, seconded by Baldorossi to adjourn to Closed Session at 7:39 p.m. where no action will be taken. Voice vote – all ayes.

ADJOURNMENT
Council returned to the Regular meeting at 7:44 p.m. No action was taken. Motion of Ostrander, seconded by Woolston to adjourn. Voice vote – all ayes. Meeting adjourned at 7:44 p.m.

Respectfully submitted,

Nancy L. Erlston, RMC
Township Clerk
/js