

CITIZENS COMMENTS
COUNCIL MEETING SEPTEMBER 1, 2020

JEFF FELDS

Regular Meeting
Approval of Agenda and Minutes

- 1.** Who drafted, reviewed and approved the September 1, 2020 Agenda and Document Packet prior to its posting and submission to the entire local governing body and the administration? **MY OFFICE DID AN INITIAL DRAFT, THEN THE CLERK**
- 2.** Who drafted, reviewed and approved the proposed July 1, 2020 and August 5, 2020 meeting minutes prior to their submission to the local governing body for approval? **THE DEPUTY CITY CLERK**
- 3.** Do the proposed minutes adequately and correctly disclose whether written responses to my written agenda related questions were posted on a public website prior to consideration by the local governing body, whether stakeholders were provided a reasonable opportunity to fact check legislative representations and warranties prior to municipal approvals, and whether the local governing body provided stakeholders a reasonable second reading public hearing opportunity to be heard on ordinances not subject to referendum challenge? **PROPOSED MINUTES REFLECTS WHAT OCCURRED AT MEETING. MINUTES ARE TO REFLECT WHAT IS DONE AT A MEETING NOT WHAT IS SAID**

July 2020 OPRA Report

- 4.** Of the 23 pending and open July 2020 OPRA Requests, who are the requestors? **THERE ARE ONLY 11 OUTSTANDING NOT 23 – JEFF FELD – 9 ROCCO LAPORE DAVID MAZEIKA**
- 5.** Of the 23 pending and open July 2020 OPRA Requests, what departments or boards have delayed production? **SEE BELOW**
- 6.** What was the average July 2020 OPRA response time?

CLERK -

Department	Request Number pending
Personnel (T. Knight)	PER-20-0001 (payroll for Central Ave. Field House project)
Personnel (A. Cruz)	PER-20-0002 (Resume and application for police director)
BA	JF-20-0017 (Item #10), JF-20-0018 (Item #21, #25)
IT	JF-20-0017 (Item #8), JF-20-0018 (Items #18, #19)
Clerk	JF-20-0017 (Item #3), JF-20-0018 (Items #20)
Police	JF-20-0018 (Item #23)

- 7.** How many days did it take to produce requested documents relating to the July 22, 2020 planning board meeting to Attorney Feld? **2 days**
- 8.** How many CY 2019 and CY 2020 OPRA Requests remain open and pending? **CY-2019 – 14 PENDING (13 MR FELD 1 DEBBIE LITTE)**

CY- 2020 - 16 PENDING (12 MR. FELD)

- 9.** Did Orange receive any additional federal document subpoenas in CY 2019 and CY 2020? **YES -- AUGUST 5, 2020**
- 10.** If so, what were their dates of issuance and receipt by Orange's record custodian? **SUBPOENA IS DATED AUGUST 5, 2020 – CUSTODIAN RECEIVED IT AT AUGUST 6, 2020**

New and Amended Virtual Meeting Citizens Comments Restrictions and Limitations

- 11.** When and why did the citizens comments virtual meeting limitations caption change? **DUE TO COVID-19 AND THE LEARNING CURVE OF VIRTUAL MEETING PROCEDURES – THE POLICY AND PROCEDURE IS A WORK IN PROGRESS**
- 12.** Does this new citizens' comment virtual meeting limitation caption violate the terms and spirit of Res. 297-2020 adopted July 8, 2020 and Orange Administrative Code Section 2-10(G)? **TO BE ANSWERED BY CITY ATTORNEY UPON RETURN TO THE OFFICE.**
- 13.** Does this new citizens' comment virtual meeting 3 minutes limitation blur the distinction between second reading public hearing comments, agenda item comments and non-agenda item public comments? **NO, PEOPLE WILL STILL BE PROVIDED AN OPPORTUNITY TO SPEAK ON SECOND READING**
- 14.** Under what authority can the local governing body unilaterally impose a 3 minutes limitation on second reading public hearing, agenda item and non-agenda item virtual public comments without providing stakeholders reasonable notice and an opportunity to be heard prior to instituting these new political free speech restraints? **TO BE ANSWERED BY CITY ATTORNEY UPON RETURN TO THE OFFICE.**
CLERK'S OFFICE DO NOT PROVIDE LEGAL OPINIONS.
- 15.** Who issued the written legal opinion as to the validity of this unilateral prior restraint on virtual political free speech? **THE LAW DEPARTMENT DOES NOT HAVE A LEGAL OPINION AT THE MOMENT.**
- 16.** What was the cause for this stealth new and amended virtual meeting citizens' comment policy and procedure? **REEVALUATION OF PROCEDURE DUE TO COVID-19**
- 17.** Was this new and amended virtual meeting citizens' comment based upon some other template or public guidance? **CONSULTATION WITH MUNICIPAL CLERKS IN ESSEX COUNTY**
- 18.** Does this new and amended posted virtual meeting citizens' comment policy constitute an admission against interest by the local governing body, the municipal clerk, the city attorney and legislative research officer? **NO COMMENT.**

Ordinances
Second Reading

North Main Street Non-Condemnation Redevelopment Plan Approval Ord.
29-2020

- 19.** Who drafted, reviewed, fact checked and approved this non condemnation powers redevelopment plan ordinance prior to its inclusion on the August 5, 2020 first reading agenda? **BA, LAW, PLANNING REDEVELOPMENT COUNSEL.**
- 20.** Under what authority did the local planning board consider and approve a non-condemnation powers redevelopment plan prior to the local governing body approving the investigative study and authorizing the local planning board redevelopment plan?
- 21.** Will there be a public city council presentation about the North Main Street non- condemnation redevelopment area and plan prior to its approval?
CLERK / BA HAVE NO PROBLEM DOING SO
- 22.** Why was my family's former warehouse excluded from the North Main Street Redevelopment plan? **IDIDN'T KNOW IT WAS UNTIL YOU TOLD ME. I ALSO DON'T KNOW THE OWNERS' NAMES FOR THE OTHER PARCELS.**
- 23.** When was the Main Street Redevelopment Plan described in the North Main Street Redevelopment Plan adopted? **CLERK/LAW THIS DOCUMENT WOULD BE IN THE CUSTODY OF THE CLERK'S OFFICE.**
- 24.** Why did Orange have to recommence the Main Street (with condemnation powers) Investigative Study and Redevelopment Plan Process in CY 2019?
NOTICE ISSUES
- 25.** Under the terms of this proposed redevelopment plan, when are redeveloper designation and a fiscal impact study a precondition to any planning board approvals? **ON MOST PROJECTS/CITY PROJECTS WOULD BE EXEMPT**
- 26.** When did our mayor execute the Nishuane Group CY 2020 retention agreement?
THE CONTRACT WAS SENT TO ADMINISTRATION – NO EXECUTED CONTRACT ON FILE WITHIN THE CLERK'S OFFICE.
- 27.** Was the Nishuane Group implicated in any of the CY 2020 federal indictments or guilty pleas relating to Orange? **NO COMMENT**
- 28.** After the August 26, 2020 planning board amended Reock Street (with condemnation powers) investigative study cross examination of the Nishuane Group, what weight should be accorded to the Nishuane Group work product?
SAME WEIGHT AND DEFERENCE AS ANY OTHER PLANNING PROFESSIONAL

Main Street Business Hours Ord 30-2020 (sponsored by Councilperson Eason)

- 29.** Who drafted, reviewed, fact checked and approved this proposed ordinance prior to its inclusion on the August 5, 2020 first reading agenda? **BA REVIEWED LRO DRAFTED ORIGINAL ORDINANCE LAW – REVIEWED AND APPROVED**

CLERK – PREPARED FOR AGENDA

- 30.** With whom was the proposed Main Street business hours ordinance vetted?
VARIETY OF BUSINESS ON MAIN STREET
- 31.** Did the Warren Administration sign off on this proposed business hours ordinance?
ADMIN DOES NOT NEED TO SIGN OFF ON COUNCIL LEGISLATION
- 32.** Did the local chamber of commerce sign off on this proposed business hours ordinance?
NO
- 33.** Does this proposed ordinance discriminate against businesses that traditionally serviced the trade and opened and closed earlier than the hours proposed in the ordinance?
NOT THE INTENT -- EXAMPLE PLEASE
- 34.** Does this proposed ordinance unfairly aid competing businesses located in other parts of the City?
NOT THE INTENT -- EXAMPLE PLEASE
- 35.** In this pandemic, is it prudent to impose any additional restrictions on small business owners?
COMMENT NOTED
- 36.** Under fundamental, basic and elementary municipal State law, can a resolution amend an ordinance?
YES, AS LONG AS THE RESOLUTION AMENDS A MATERIAL ASPECT OF THE ORDINANCE AND THE ORDINANCE PUBLIC HEARING AND PUBLICATION ARE MODIFIED
- 37.** Who monitors the work product of all local elected officials, city employees and outside professionals?
THE PUBLIC/DEPARTMENT DIRECTORS AND BA/ DEPARTMENT DIRECTORS
- 38.** How many years has this ordinance sponsor sat on this legislative governing body?
18 YEARS

First Reading

Police and Fire Chiefs Creation Ordinances 39- and 42-2020

- 39.** What is the purpose and need for these para-military chief creation ordinances?
THE PURPOSES ARE TO PROVIDE ACCOUNTABILITY WITHIN EACH DEPARTMENT/PROVIDE COMPETITION WITHIN THE RANKS/TO RESTORE THE DEPARTMENTS TO CONFORM WITH THE LETTER AND INTENT OF A FAULKNER ACT, CIVIL SERVICE POLICE AND FIRE STRUCTURE.
- 40.** What is will be the functions of these chief positions?
THE TWO CHIEF POSITIONS HAVE CIVIL SERVICE JOB DESCRIPTIONS
- 41.** Did we ever have police and fire chiefs?
THEY ARE PROMOTED PURSUANT TO CIVIL SERVICE, NOT HIRED
- 42.** Is so, why were those positions eliminated?
IT WAS APPARENTLY THE WILL OF PRIOR MAYORS AND COUNCILS
- 43.** Are these two ordinances premised upon the consolidation of the director positions?
NO
- 44.** What criteria will be used to select the chiefs?
CILVIL SERVICE EXAM
- 45.** Will the selection of chiefs be subject to the advice and consent of the local governing body?
NO
- 46.** What will be the cost savings from these chief creation ordinances?
IT IS COST NEUTRAL

Purchase & Sale Ord.40-2020

47. Why the sudden need for this ordinance? **LACK OF FREQUENCY OF MEETINGS OF THE NJ STATEHOUSE COMMISSION**
48. Is this purchase and sale ordinance related to: (i) Res 280-2020 (WO) adopted July 1, 2020 or (ii) Res. 337-2020 adopted Aug 12, 2020? **IT IS RELATED TO PHASE IV OF REOCK REDEVELOPMENT**
49. Who drafted and approved these 3 pieces of municipal legislation? **OUTSIDE DEVELOPMENT COUNSEL**

Salary Increase Ord. 43-2020

50. Why the sudden urgency for these salary increases during a pandemic? **THESE ARE ADJUSTED RANGES NOT RAISES**
51. When was the last time the local governing body approved base range salary increases? **2017**
52. In what CY Budget, will these increases be included? **NO**
53. What is the anticipated increase in salaries, pension other related costs? **“0”**
54. Is there a 4 columns chart tracing the increases? **NO**
55. Were any new positions created? **TITLES HAVE BEEN ADDED**
56. Is there a chart showing who currently serves in these positions?

Resolutions

\$600,000 Emergency Workers' Compensation Appropriation Res. 340-2020

57. When did this \$600,000 workmen's compensation liability occur? **LAW**
58. Why wasn't it included in the amended CY 2020 Budget? **IT IS ONGOING AND THERE IS A LAG IN REPORTING**
59. When will this \$600,000 emergency appropriation begin to be amortized in a CY Budget? CY 2020? CY 2021? **2021**
60. Why wasn't the amount of this emergency appropriation set forth in the caption? **IT DOESN'T HAVE TO BE**

Public Safety Department 15 Person Working Committee Creation Res. 351-2020

61. Does the creation of this 15 person working committee undermine the structural reforms represented to the Local Finance Board in connection with various City's CY 2020 budget related applications? **DO NOT UNDERSTAND QUESTION, PLEASE ELABORATE**
62. What is the purpose of this 15 person working committee? **TO LOOK FOR SAVINGS IN THESE DEPARTMENTS**
63. Does this resolution delay the need to approve the two chiefs' ordinances? **NO**

Attorney Retention Res. 345-, 350- and 354-2020

- 64.** When were Childress & Jackson approved and added to the list of special shelf registration outside counsel? Res. 345-2020 **MARCH 17, 2020**
- 65.** Does Orange have any colorable claims and causes of actions against Attorney Childress? **DO NOT KNOW**
- 66.** What are the basic allegations in this retention matter (ESX-L-174-2020)? **THE DOCUMENT IS A PUBLIC RECORD**
- 67.** Why the sudden need to retain Attorney Armstrong in the Anthony Carey matter? Res. 350-2020 **IT ISN'T SUDDEN – CAREY FILED A LAWSUIT, WE NEED TO RESPOND AND DEFEND**
- 68.** What are the basic allegations in this Carey matter (ESX-L-2475-2020)? **THE DOCUMENT IS A PUBLIC RECORD**
- 69.** Didn't the local governing body retain the Pennington law firm to defend Orange in this Anthony Carey matter? **IT IS BEING CHANGED**
- 70.** Is former city attorney Eric Pennington a potential fact witness in this Carey matter? **DON'T KNOW**
- 71.** What claims have plaintiff and defendants (City, Mayor and Ray Wingfield) asserted against each other? **PUBLIC DOCUMENTS**
- 72.** Why the need to retain Attorney Stanziale to investigate a matter in which the notice of tort claim was filed years after the complaint was filed and the City has filed an answer? Res. 354-2020 **ATTORNEY CLIENT PRIVILEGE**
- 73.** What are the basic allegation in this retention investigatory matter (2-18-cv-09324 (SDW/LDW))? **TO BE ANSWERED BY CITY ATTORNEY UPON RETURN TO THE OFFICE.**

Litigation Settlement Res. 346- and 355-2020

- 74.** Why the delay in settling these matters? **WHAT DELAY ARE YOU REFERRING TOO**
- 75.** How much was expended defending these matters? **TO BE ANSWERED BY CITY ATTORNEY UPON RETURN TO THE OFFICE AFTER OBTAINING RECORDS FROM FINANCE DEPARTMENT.**
- 76.** Are these \$40,000 and \$30,000 settlements self-funded? **TO BE ANSWERED BY CITY ATTORNEY UPON RETURN TO THE OFFICE.**
- 77.** What were the nature of the settled claims and allegations? (ESX-L-3600-17 and ESX-L-3581-17) **THE DOCUMENTS ARE PUBLIC RECORD.**

Bill List Res 358-2020

- 78.** Are monies released from planning escrows used to pay certain professionals? **YES**
- 79.** Are time summaries attached to all professional purchase orders? **DEPENDS, TIME SUMMARIES ARE RECEIVED BUT MAY CONTAIN PRIVILEGED INFORMATION**
- 80.** Is there backup to the new COVID 19 S & W line item racing from which CY 2020 budget line item these expenses were shifted? **INTERNAL**
- 81.** When was this COVID 19 S & W line added? **WHEN BUDGET WAS DRAFTED**

- 82.** What is the aggregate amount of monies allocated through this Bill List to this new COVID 19 S & W line item? **\$1,770,984.64**

Main Street Business Hours Amending Res. 362-2020

- 83.** Can a resolution amend an ordinance? **YES**
- 84.** Why did the local governing body elect not to amend a not yet adopted ordinance and to amend the contested ordinance by a resolution? **NO COMMENT**
- 85.** Did our council president, municipal clerk, municipal attorney, and legislative research officer each bless this method of amendment? **DOCUMENTS WERE REVIEWED BY LAW DEPARTMENT**

Non-Agenda Matters

- 86.** After being sworn into office on July 1, 2020, did Councilperson Cliff Ross resign from the local housing authority board? **COUNCIL MAN ROSS IS CURRENTLY STILL ON THE BOARD.**
- 87.** If so, when? **SEE RESPONSE ABOVE**
- 88.** If not, under what authority or written opinion? **LAW DEPARTMENT IS CURRENTLY REVIEWING THE LEGALITY**
- 89.** Does the local housing authority owe any monies to the City? **YES**
- 90.** What is the status of Feld X per se disqualifying conflict of interest Walter G. Alexander Phase III fairness report? **LITIGATION – NO COMMENT**
- 91.** What is the status of the Lincoln Avenue former police station private sale? **PENDING AMENDMENT**
- 92.** What is the status of the Rossi Paints renovation of the former Bank of America site? **STILL WORKING ON IT**
- 93.** If a complaint is filed within a twenty days statutory estoppel period, who bears the risk of loss and how can counsel deliver a clean transactional opinion? **DEPENDS**
- 94.** When will the local governing body take a non-binding vote of confidence on Orange's finance director and municipal attorney? **NO COMMENT**
- 95.** Under Mr. Mapp's watch, how many entities were granted five years short term tax exemptions by Orange? **RESEARCH NEEDS TO BE CONDUCTED**
- 96.** Under Mr. Mapp's watch, how many entities failed to make yearly and increasing five year short term tax exemption payments to Orange? **SEE ABOVE**
- 97.** Under Mr. Mapp's watch, how much long term tax exemption revenues does Orange owe the County? **SEE ABOVE**
- 98.** Can the law partner of a planning board member act as counsel for that planning board? **TO BE ANSWERED BY CITY ATTORNEY UPON RETURN TO THE OFFICE.**
- 99.** What are the consequences of this disqualifying conflict of interest? **RETORICAL**
- 100.** What is the status of the CY 2019 Audit? **PENDING**
- 101.** Since the introduction of the CY 2020 Budget, has the City hired any new full or part time employees? **YES**

- 102.** Did Orange breach its August 5, 2020 promise to post within 48 hours responses to all August 5, 2020 written citizen comments and questions? **THE PROMISE WAS TO MAKE BEST EFFORTS AND DID NOT SAY ALL**
- 103.** Did Orange breach its February 7, 2018 agreement with the Appellate Division and Attorney Feld to present a \$20,000 Feld V settlement agreement negotiated by the BA and former city attorney Pennington to the local governing body for approval? **NO COMMENT**
- 104.** What current councilmembers voted in favor of a certain walk-on \$350,000 contract resolution approved without any public comment after a closed executive session and the subject of a certain federal indictment announced on August 19, 2020? **PLEASE BE MORE SPECIFIC – WHAT IS THE WALKON**
- 105.** Would the City of Orange Township qualify as an “overburdened community” under new State environmental law? **RESEARCH**

Charlie Wirene
Managing Director
The HUUB, Inc.
35 & 47 Cleveland St,
Orange, NJ 07050

Dear Council President Coley,

My name is Charlie Wirene and we have met before. I am the Managing Director of The HUUB at the First Unitarian Universalist Church of Essex County, 35-47 Cleveland St, Orange, NJ, 07050. I am writing to submit a citizen comment and questions for the council and administration that I request you read at the appropriate time during tonight's city council meeting. Thank you:

To the City of Orange Township Administration and City Council,

The First Unitarian Universalist Church of Essex County was founded on Cleveland St in 1890, and has been an institution in Orange for 130 years. Over the past five years, through The HUUB, First UU's growing urban ministry, we have cultivated relationships across the city, developed community based programs, and invested significantly in repairs and improvements to our properties to make them more useful spaces for our neighbors. We are home to four small churches, four community based organizations, and a handful of resident groups. We serve Orange residents from all four wards and across its diverse cultural groups. The HUUB and First UU are a beloved community space for countless Orange residents and community members.

As active community members we are disheartened and disappointed at the lack of communication about these plans to the properties in the redevelopment area. To date we have received one letter after the plan was being made. We are deeply concerned that this plan is punitive to people trying to maintain older buildings and those struggling economically in these times.

We have three questions:

- 1. We received notice in June about a presentation of this study at the planning board meeting, but the notice arrived too late for us to attend. We have also been witness to**

other plans being memorialized by the planning board, and have seen that questions and concerns raised are completely disregarded by both the Nishuane Group, the Planning Board, and the Administration. Do council members feel comfortable that there has been adequate community engagement when at every council meeting and every planning board meeting there are residents and property owners saying they have received little to no communication, and that there has been no attempt at truly engaging the community in these studies?

2. We've been told churches and community centers have been included in study areas for the "benefit" that can be derived from the process for these entities. We have yet to hear a clear articulation of what these benefits may be. What are the benefits associated with being included in this plan as a church and community center? What assurances are you offering that this isn't a stepping stone towards a plan *with* condemnation?
3. In the current economic climate, greatly exacerbated by the conditions of COVID-19, we question the validity of both the Master Plan and subsequent neighborhood plans' reliance on chain/franchise brick and mortar retailers as a cornerstone for local economic development. Does the City Council or Business Administrator have any plans to offer support to existing small businesses and residents?

Thank you for presenting this letter at tonight's City Council meeting and for your answers to the above questions.

RICHARD DUNN
Senior Vice President

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Outline – Objection to Ordinance 30-2020
City of Orange Township; City Council Meeting
September 1, 2020

1. Brian Shemesh, appearing on behalf of Paramount Assets, LLC and its affiliate entities, which as you know owns a host of properties in the City, including within the Main Street Corridor.
2. As noted in letters to the Mayor, Council and Business Administrator dated August 21, 2020 and August 27, 2020, we strongly oppose Ordinance 30-2020, and believe it will have a number of negative effects.
3. While we agree the underlying reasons for the Ordinance are noble causes, such as reducing crime, loitering and litter, we do not believe this is an appropriate solution to these problems, as the Ordinance will have unintended consequences for the City.

4. We will not recite all of the negative economic effects listed in the letters previously sent, however we wish to emphasize some of the material adverse economic effects the Ordinance will cause.
 - a. First, retail businesses are suffering tremendously at this time. Putting aside the continuing shutdowns related to COVID-19, retail businesses have been facing challenges due to the effects of online retail. This has been exacerbated significantly by COVID-19 shutdowns. We do not believe this is an appropriate time to saddle existing retail businesses with additional regulation limiting their ability to make profit.
 - b. Second, there is no doubt the ordinance will slow or stop retail redevelopment in the City and along the Main Street Corridor. Developers will be forced to compare an investment in Orange with an investment in other municipalities that do not have similar ordinances, thus making the City less likely to receive that investment and redevelopment.
 - c. Hindering redevelopment will likely be counterproductive, since it will reduce the attractiveness for companies and residents to move and invest in the City. Blighted areas tend to be hubs for crime, loitering and littering, so we believe it is critically important to ensure the continued redevelopment of the City.
5. As you know, Paramount is the process of finalizing approvals for its Wawa project. However, this Ordinance would result in termination of that project in light of the Ordinance's effect on the Wawa's ability to generate profit.
6. In discussions with Councilwoman Eason, we were informed that the Planning Board can grant relief from the Ordinance, including for the Wawa project. However, the Ordinance makes no mention of exceptions, or the ability of the Planning Board (or any other governing body) to grant such relief. Our view is that, as drafted, the Planning Board would not have authority to grant that relief, and therefore passage of the Ordinance in its current form will result in the loss of the Wawa project for the City and Paramount, a devastating result for both parties.
7. In summary, we ask that the Council vote no on Ordinance 30-2020, or in the alternative, table such Ordinance for the time being until affected stakeholders and City representatives can discuss these matters more fully.