

The Meeting of the Mayor and Council of the Borough of Freehold was held on Monday, May 4, 2015 at 7:00 p.m. in the Municipal Building.

Mayor Higgins stated that the notice of the time, date and location of the meeting had been provided pursuant to the provisions of Chapter 231 of the Laws of 1975 (Open Public Meetings Act).

Councilman Schnurr opened the meeting with the Salute to the Flag, followed by a moment of silence.

#### ROLL CALL

PRESENT	MAYOR J. NOLAN HIGGINS
PRESENT	COUNCILMAN MICHAEL DIBENEDETTO
PRESENT	COUNCILMAN RONALD GRIFFITHS
PRESENT	COUNCILMAN KEVIN KANE
PRESENT	COUNCILMAN GEORGE SCHNURR
PRESENT	COUNCILWOMAN SHARON SHUTZER
PRESENT	COUNCILMAN JAYE SIMS

Councilman Sims offered a motion to accept the minutes from the Council Meetings April 6, 2015 and April 20, 2015 and was seconded by Councilman Griffiths.

On roll call Council Members DiBenedetto, Griffiths, Kane, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 5 on the Agenda as follows:

#### **“Racers Club Presentation – Al Michenfelder.”**

Al Michenfelder thanked Mike Page from the Court Jester. He introduced Riley McDonald, 5<sup>th</sup> grader, who won the prize donated by the Court Jester.

Mayor Higgins read Item No. 6 on the Agenda as follows:

#### **“Memorial Day Parade – Councilman George Schnurr.”**

Councilman Schnurr stated there are five veteran’s organizations in the Freehold area, American Legion Post #54; Veterans of Foreign Wars Post #4374; Marine Corp. League Corporal Philip A. Reynolds Detachment #203; Jewish War Veterans Post #539; Disabled American Veterans Chapter #74. On a rotating basis each year, one of the organizations is the lead veteran group for the parade. That veteran’s organization determines the theme of the parade and is given the honor of selecting from its ranks a member who will be the parade Grand Marshall. In addition, that veterans group also selects a person who will be the Master of Ceremony at the Elks Point Service of Reflection which is held earlier in the morning before the parade. The lead veteran’s organization for this year’s parade is the American Legion and the theme, is “Remembering our POW’s and MIA’s”. The Grand Marshall is John H. Hegey, age 88, who is a World War II Navy veteran. He was born in Suffern, New York, on January 2, 1927, he grew up in Jamesburg and joined the Navy in 1944 at the age of 17 and was honorably discharged in 1946. While in the Navy, John received numerous honors. John and his wife, Anna, lived in Freehold for 37 years where they raised four children and they now live in Jackson. He is currently employed at Cavanaugh’s Exterminating where he’s worked for over 50 years and he is an active member of the American Legion Post #54, where he is Sergeant of Arms.

Councilman Schnurr stated this year’s parade is the 141<sup>st</sup> Freehold Memorial Day Parade. The Freehold Borough Memorial Day Parade is the States longest running parade and Monmouth County’s largest parade with an average of over 70 units participating each year. It is one of the signature events of our community. When this streak of 141 parades honoring our servicemen and women started there were only 37 States in our Nation. The reviewing stand Master of Ceremonies is Gregg Higgins. Dee Fisher from Dee Entertainment will sing the National Anthem by the reviewing stand at the start of the parade. Rick Scott, who is the

Cantor for the St. Rose of Lima Church, will sing the National Anthem at the beginning of the parade and Rick's wife, Maureen Scott will sing the National Anthem at Elks Point. Every year we rename a few streets in our community to honor our veterans. The parade will be on Monday, May 25<sup>th</sup>, the morning begins with the traditional Elks Point Service of Reflection in memory of all of our Freehold and other American servicemen and women who lost their lives defending our Nation. The ceremony begins at 8:30 AM, and he is deeply honored to have been asked to be the Master of Ceremonies. The parade will officially commence at 9:45 AM at Brinckerhoff Avenue and Main Street by a flag draped casket, accompanied by active military from the various branches of service. The casket will be pulled down the parade route to remind us why we are all here. At 10:00 AM the veteran's groups will begin to march down Main Street, followed by the rest of the parade. We are also honored to have a flyover from Gerald Norkus, the owner of Freehold Foodtown, with two vintage aircrafts that will fly over the parade route.

Councilman Schnurr stated the parade has grown through the years under the direction of many dedicated volunteers, most notably, Chairperson Alice McCobb. He thanked her for all of her work throughout the entire year. We fundraise for the parade through various fundraisers. These funds pay for the bands that march during the parade. The last fundraiser before the parade is called "Dining to Donate", it will be from May 11<sup>th</sup> – 13<sup>th</sup> and Federici's Pizza, Court Jester and Sweet Lew's will donate 15% of their pre-tax food bill to the Memorial Day Parade as long as you have the flyer. The flyer can be picked up here tonight, through the website and down in the clerk's office. He thanked the downtown restaurants for their support of the parade and Especially For You Florist. They provide the ceremonial wreaths that we use at Elks Point in front of the monuments, as well as, the crosses of the Unknown Soldiers, Comrades Lost at Sea and the Battle of Monmouth Cross.

Mayor Higgins read Item No. 7 on the Agenda as follows:

**"Resolutions of the Mayor and Council of the Borough of Freehold Honoring Roger J. Kane, Glenn Cashion, Allison Calandrino, Christopher Tetto, Jason Kutney, Reginald Sims and Jerrilynn Acevedo on Their Occasion of Their Induction into the Freehold High School Hall of Fame."**

Councilman Kane offered the following Resolution and moved its adoption, seconded by Councilwoman Shutzer:

RESOLUTIONS OF THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD HONORING ROGER J. KANE, GLENN CASHION, ALLISON CALANDRINO, CHRISTOPHER TETTO, JASON KUTNEY, REGINALD SIMS AND JERRILYNN ACEVEDO ON THEIR OCCASION OF THEIR INDUCTION INTO THE FREEHOLD HIGH SCHOOL HALL OF FAME.

Councilman Kane stated these Resolutions were presented by mayor and council at the annual Freehold Hall of Fame Banquet which was held on April 23<sup>rd</sup> at the American Hotel.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 8 on the Agenda as follows:

**"Second Reading and Public Hearing: Bond Ordinance #2015/9 Providing for the Water Meter Replacement Project, Appropriating \$1,500,000 Therefor and Authorizing the Issuance of \$1,425,000 Bonds and Notes to Finance a Portion of the Costs Thereof, Authorized in and by the Borough of Freehold, in the County of Monmouth, New Jersey."**

Mayor Higgins opened the meeting to the public.

There were no comments.

Councilman Sims offered the following Resolution and moved its adoption, seconded by Councilman Griffiths:

RESOLUTION TO CLOSE PUBLIC PORTION.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Councilman DiBenedetto offered the following Resolution and moved its adoption, seconded by Councilman Griffiths:

BE IT RESOLVED, by the Mayor and Council of the Borough of Freehold that a Bond Ordinance entitled "BOND ORDINANCE #2015/9 PROVIDING FOR THE WATER METER REPLACEMENT PROJECT, APPROPRIATING \$1,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,425,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF FREEHOLD, IN THE COUNTY OF MONMOUTH, NEW JERSEY," be, and same is hereby adopted on second reading.

Councilman DiBenedetto stated we are updating our water system and our meters to make them more accurate and efficient.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins Item No. 9 on the Agenda as follows:

**"Second Reading and Public Hearing: Bond Ordinance #2015/10 Providing for the Redevelopment of Well Nos. 8 and 9, Replacement of Water Filter No. 2, the Design and Permitting of Well No. 3, and the Acquisition of a Utility Truck, Appropriating \$200,000 Therefor and Authorizing the Issuance of \$190,000 Bonds and Notes to Finance a Portion of the Costs Thereof, Authorized in and by the Borough of Freehold, in the County of Monmouth, New Jersey."**

Mayor Higgins opened the meeting to the public.

There were no comments.

Councilman Sims offered the following Resolution and moved its adoption, seconded by Councilman DiBenedetto:

RESOLUTION TO CLOSE PUBLIC PORTION.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Councilman DiBenedetto offered the following Resolution and moved its adoption, seconded by Councilman Griffiths:

BE IT RESOLVED, by the Mayor and Council of the Borough of Freehold that a Bond Ordinance entitled "BOND ORDINANCE #2015/10 PROVIDING FOR THE REDEVELOPMENT OF WELL NOS. 8 AND 9, REPLACEMENT OF WATER FILTER NO. 2, THE DESIGN AND PERMITTING OF WELL NO. 3, AND THE ACQUISITION OF A UTILITY TRUCK, APPROPRIATING \$200,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$190,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF FREEHOLD, IN THE COUNTY OF MONMOUTH, NEW JERSEY," be, and same is hereby adopted on second reading.

Councilman DiBenedetto stated we will be replacing and upgrading some of systems and it is time to refurbish some of our fleet.

On roll call Council Members, DiBenedetto, Griffiths, Kane, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 10 on the Agenda as follows:

**“Public Hearing of 2015 Annual Budget of the Borough of Freehold**

Mr. Bellina stated we are still awaiting permission to adopt the budget.

Mayor Higgins opened the meeting to the public.

There were no comments.

Councilman Sims offered the following Resolution and moved its adoption, seconded by Councilman DiBenedetto:

RESOLUTION TO CLOSE PUBLIC PORTION.

On roll call Council Members, DiBenedetto, Griffiths, Kane, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 11 on the Agenda as follows:

**“Resolution Awarding a Contract for the Repaving of Marcy Street.”**

Councilman Griffiths offered the following Resolution and moved its adoption, seconded by Councilman Kane:

RESOLUTION AWARDING A CONTRACT FOR THE REPAVING OF MARCY STREET.

Councilman Schnurr asked when Orchard Street was going to be paved.

Mr. Bellina responded it will probably be the last thing they do in that development, maybe late spring or summer.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 12 on the Agenda as follows:

**“Resolution Authorizing the Borough of Freehold to Enter Into a Cooperative Agreement with the Middlesex Regional Educational Services Commission.”**

Councilwoman Shutzer offered the following Resolution and moved its adoption, seconded by Councilman Sims:

RESOLUTION AUTHORIZING THE BOROUGH OF FREEHOLD TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE MIDDLESEX REGIONAL EDUCATIONAL SERVICES COMMISSION.

Councilwoman Shutzer stated this is a cooperative pricing system for goods and services for equipment for our streets and roads department.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 13 on the Agenda as follows:

**“Resolution Waiving the Health Permit Fee for Olde Freehold Day – 2015.”**

Councilman Kane offered the following Resolution and moved its adoption, seconded by Councilman Griffiths:

RESOLUTION WAIVING THE HEALTH PERMIT FEE FOR OLDE FREEHOLD DAY – 2015.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 14 on the Agenda as follows:

**“Resolution of the Borough of Freehold, County of Monmouth, State of New Jersey, Amending Temporary Appropriations for 2015.” (Fireworks)**

Councilman DiBenedetto offered the following Resolution and moved its adoption, seconded by Councilman Griffiths:

RESOLUTION OF THE BOROUGH OF FREEHOLD, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING TEMPORARY APPROPRIATIONS FOR 2015. (FIREWORKS)

Councilman DiBenedetto stated the fireworks will be on July 2<sup>nd</sup> with a rain date of July 3<sup>rd</sup>.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 15 on the Agenda as follows:

**“Resolution Authorizing 2015 Professional Services Projects with Abbington Engineering for Borough Engineering Services.”**

Councilman Sims offered the following Resolution and moved its adoption, seconded by Councilman Kane:

RESOLUTION AUTHORIZING 2015 PROFESSIONAL SERVICES PROJECTS WITH ABBINGTON ENGINEERING FOR BOROUGH ENGINEERING SERVICES.

Councilman Sims stated this will be for Murray Street and other roads around town.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 16 on the Agenda as follows:

**“Resolution Approving the Following Applications:**

- a. **Life Chain Prayer Vigil, St. Rose of Lima Church c/o Jim Meyer, 5/17/15, 1:30 PM – 2:30 PM, along South Street sidewalk in front of St. Rose.**
- b. **Poppy Sale, 5/6/15–12/31/15, American Legion Auxiliary Monmouth Unit #54.**
- c. **Amendment to Raffle License #7-15, Freehold Boro Music Parents Association, Gift Auction, changing the date and location, 6/4/15, at the American Hotel, 5:00 PM to 10:00 PM.**
- d. **Amendment to Raffle License #8-15, Freehold Boro Music Parents Association, 50/50, changing the date and location, 6/4/15, at the American Hotel, 5:00 PM to 10:00 PM.**

- e. **Raffle License #12-15, PBA Local 314 Monmouth County Sheriff's Officers Civic Association, Inc., 8/26/15, 12:30 PM, 71 Monument Street.**
- f. **Bingo License #2-15, St. Rose of Lima Church, 6/1/15 - 5/30/16, 7:00 PM – 10:30 PM, 51 Lincoln Place.**
- g. **Bingo License #3-15, St. Rose of Lima Sports Association, 6/6/15 – 5/28/16, 7:00 PM – 10:30 PM, 51 Lincoln Place.”**

Councilwoman Sims offered the following Resolution and moved its adoption, seconded by Councilman DiBenedetto:

**RESOLUTION APPROVING APPLICATIONS NOS. 16A – 16G.**

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr and Shutzer voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 17 on the Agenda as follows:

**“Approval of Bills.”**

Councilman Kane offered the following Resolution and moved its adoption, seconded by Councilman Griffiths:

BE IT RESOLVED by the Mayor and Council of the Borough of Freehold that the bills on the attached list in the amount of \$2,328,969.13 be paid as presented.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins read Item No. 18 on the Agenda as follows:

**“Clerk – Late Communications.”**

There were none.

Mayor Higgins read Item No. 19 on the Agenda as follows:

**“Core Redevelopment Plan Presentation, Exquisite Caterers, LLC, - Vincent Halleran, Esq.,”**

Mayor Higgins described the process of how the governing body would hear the application. The Borough Attorney, Kerry Higgins, will give an opening statement, and then the applicant who is represented by Vincent Halleran, Esq., will introduce the application and any testimony that will be present. We will then open for council members questions. We understand that there are parties also represented for the other side and we will ask Mr. Liston, Esq., who is the attorney representing interested parties. He will present his presentation, we will then take questions from the public and then Mr. Halleran, Esq., and Ms. Higgins, Esq., will close with comments.

Ms. Higgins, Esq., stated Mr. Halleran, Esq., represents a property owner who owns property within our downtown core redevelopment area. They have submitted an application for a catering/banquet hall to be located in the old Mellon Farms building. This is a permitted use in the zone; however, because of their use they will require 70 parking spaces. Under our core redevelopment plan, which was amended a few years ago, the applicant's must come to the council first. We also have Mr. Wentzien review any proposals that we receive to make sure it complies with the intended purpose of the core redevelopment zone. It must come to the governing body as the redevelopment entity to make any changes and to amend the actual ordinance. Our ordinance further contains a provision that if an application needs a parking variance for 10 or more spaces then that rises to that type of use variance which has to come to the mayor and council for review and/or an amendment to the core development plan. Mr. Halleran, Esq., has presented a proposal which shows leases which would provide for his requisite number of parking spaces. He is going to

ask you to interpret whether or not he's presented enough evidence and that it complies with the core redevelopment ordinance in terms of the parking he's provided, it is on the burden of the applicant to affirmatively show how it meets the parking ordinance. It is the determination of the redevelopment entity, which is the governing body, that whatever they presented meets the requirements of the core redevelopment zone, and then they can go forward. If the governing body decides that it does not, then Mr. Halleran, Esq., has to present to you how and why you should amend the redevelopment ordinance.

Mr. Vincent Halleran, Esq., represented the applicant. The applicant has gone out of his way to get a parking facility to justify these 70 parking spaces. There is no shared parking, this is his parking facility. He had a few witnesses:

Barry Fisher, owner of the property.  
Dave Esquenazi, caterer.  
Scott Kennel, McDonough and Rea Associates, Manasquan.  
Allison Curtain, who is the planner  
Nick Silvestri, owner of Carcierge Valet

Ms. Higgins, Esq., stated there are a few other witnesses representing the businesses in the core redevelopment zone:

Edward Liston, Attorney, Toms River. He represents the Metropolitan Café, Solo Trattoria, Federici's Restaurant, American Hotel, Court Jester and Little Bit of Cuba Dos.

Mr. Liston, Esq., stated these are major restaurant owners in your downtown who feel that this proposal doesn't comply with your redevelopment plan; it has the potential to negatively affect their businesses.

Mr. Halleran, Esq., asked Mr. Fisher to give a brief background of what's been going on in that building for the past year.

Mr. Fisher stated a long time ago, when the Freehold Center Partnership began, Jeff Jones and I and a few others decided that the back of the buildings had to match the front of the buildings. When we had it as ACE Aluminum, which was his family business, we had an operation in the building, we had contracts with developers and they brought their cars in and we used maybe 40 parking spaces in those days. We also had trucks making deliveries to restaurants, we had deliveries, we had people double parking there and somehow we survived. We had to walk a little bit, but we did it. My employees didn't have parking, they had to walk. We survived because Freehold was always our town.

Mr. Fisher stated he was going to sell the building but he remembered how much his wife loved Freehold and he just couldn't do it. When he went to lease the building, he found Dave Esquenazi, a caterer, and he made sure he explained the parking situation. Whatever we do cannot burden the neighbors.

Mr. Fisher stated recently he was elected by the mayor and council to be the president of Manalapan businesses to help develop Route 9 and Route 33. He has been studying traffic for years, he's put his heart and soul into this town, he could have sold this building, but he refused. My wife loved it, my father loved it and he loves it.

Mr. Fisher stated he went to Toms River with Jeff Jones and when they came back they discussed having the Borough restaurants having outside eating with old fashioned lights to give the downtown a hometown feel. At that time, the downtown was going downhill, the restaurants were suffering, property values were going down, and buildings were empty. We turned the town around and at no point would he ever bring anyone into this town that wouldn't have the same feeling that he felt. His heart is still in this town and he would never do anything to hurt it.

Ms. Higgins, Esq., asked Mr. Halleran, Esq., who will testify about the parking leases.

Mr. Halleran, Esq., responded Mr. Fisher.

Ms. Higgins, Esq., stated there were two leases presented, one lease with Stavola and Company and that lease is for a period of five years. The other is with Old Monmouth Candy and that is a 10 year lease. There are 62 spots at Old Monmouth Candy and 50-60 spots at Stavola. Ms. Higgins, Esq., asked if they had exclusive use to the Stavola lot.

Mr. Fisher stated yes they had exclusive use, but other people have been parking there.

Ms. Higgins, Esq., confirmed that Mr. Fisher will be using these parking spaces for the proposed catering facility.

Mr. Fisher replied he will get the cars to the lots by use of a valet service. In the lease it specifically states that they will have to use valet parking.

Ms. Higgins, Esq., asked if the Stavola Lot was striped.

Mr. Fisher stated it is not striped. It is an open lot and it is not paved. He will probably do something about the surface of the lot.

Ms. Higgins, Esq., stated that Mr. Fisher would have to make that parking lot comply with whatever the parking lot site plan requirements are.

Mr. Halleran, Esq., stated that was not his understanding. According to Mr. Stryker this is an existing parking lot.

Mr. Fisher stated he has leases with Freeman Funeral Homes, a lot on Broad Street and All Car Collision.

Ms. Higgins, Esq., stated you need to show the governing body that you have parking for 70 cars.

Mr. Liston, Esq., asked if he could voice a question.

Ms. Higgins, Esq., stated yes.

Mr. Halleran, Esq., asked why Mr. Liston is allowed to interject while he is providing testimony.

Mr. Liston, Esq., stated that only two leases were provided and those are the leases he's prepared to deal with. If he's now going to put a lot of other stuff in the record, he needs to see it and he thinks mayor and council needs to see them.

Ms. Higgins, Esq., stated we are just taking his testimony now.

Mr. Liston, Esq., stated the other leases must be in the same form as the original two leases that were provided. Otherwise we don't know if there really is a deal there or not.

Ms. Higgins, Esq., stated she understands his objection and if the council is not satisfied with what is presented they will not accept it.

Mr. Liston, Esq., asked a procedural question. Regardless of how the mayor and council vote on this, he assumes the appeal will go to the Superior Court of New Jersey.

Ms. Higgins, Esq., stated that is what she assumed. This is a very unique type of hearing. It's because of the Core Redevelopment Ordinance. It's akin to a planning board/zoning board hearing, but it certainly does not have to follow those perimeters.

Mr. Liston, Esq., stated he presumes he will be allowed to cross examine their witnesses.

Ms. Higgins Esq., stated that no he will not cross examine anyone. You will present your side when it's your turn. The council can ask whatever questions they want.

Mr. Liston, Esq., stated he wants to place an objection on record and that violates basic due process principles because the decision here that this board is going to make tonight has the possible impact of effecting his clients rights to go forward with their businesses, their right to conduct their businesses may be severely impaired and he doesn't think that this board can make a

decision without every single witness, his and mine being cross examined, not only by the board but by opposing council.

Ms. Higgins Esq., stated she has every confidence that you will be able to bring out what your objections are.

Mr. Liston, Esq., stated he was not finished. To do less is to violate his client's civil rights, to violate their right to due process of law and he is asking them to reconsider and he specifically is asking for a vote from the mayor and council as to whether they are going to allow cross examination by opposing council.

Ms. Higgins Esq., asked if the mayor and council would like to entertain cross examination of each and every witness.

Mayor Higgins stated this is open for discussion.

Mr. Halleran, Esq., asked Mayor Higgins why Mr. Liston is running the meeting.

Mayor Higgins stated he is following our attorney's advice.

Ms. Higgins, Esq., stated there is a question to the board, let council answer it.

Mr. Halleran, Esq., stated your mayor and council's questions are fine but if Mr. Liston wants to make suggestions to you about what questions you want answered that's fine. But letting him just go "wild" and letting him cross examine everybody is a mistake, in his opinion.

Ms. Higgins, Esq., stated you both have established your opinions.

Mr. Liston, Esq., stated it is our constitutional right.

Ms. Higgins, Esq., stated but this is not. Under our Core Redevelopment Plan, we do not have to have a hearing. It is not even necessarily required. Any deviation shall be addressed as an amendment to the redevelopment plan, rather than be a use variance. So an amendment to the redevelopment plan goes to the council. There is nothing that says there has to be a hearing. Obviously if you want to do an amendment to the redevelopment plan, that's an ordinance and there has to be a public hearing. It would require an introduction and public hearing. This application is questionable as to the parking and how they are meeting it and this is not really set forth clearly in the redevelopment ordinance as to whether offsite parking would be reasonable and allowed and if the specific offsite parking which is being proposed meets or complies with the ordinance.

Mayor Higgins asked if cross examination of their witnesses should be permitted.

Ms. Higgins, Esq., stated she doesn't think they have to be and it is up to the board. You could make your determination based on what was submitted.

Councilman DiBenedetto made a motion to go into Executive Session, Councilman Schnurr seconded.

#### RESOLUTION AUTHORIZING EXECUTIVE SESSION TO DISCUSS POTENTIAL LITIGATION.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

The meeting resumed at 7:50 PM.

Mayor Higgins stated the governing body will conduct this hearing like a zoning board hearing, if you have a witness he can present testimony and we will allow questions from the public and council.

Mayor Higgins asked Mr. Fisher to describe the Stavola Parking Lot.

Mr. Fisher stated it is within a minute or two walking distance and it is gated. Right now other people are using that parking lot.

Councilman Schnurr asked when you mentioned before about going to Toms River at your own expense, what did you mean?

Mr. Fisher stated way back when they went to Toms River and Red Bank because they had Special Improvement Districts to show them how to implement outside seating for the downtown restaurants and also how to use the old fashioned lighting.

Councilwoman Shutzer stated she was perplexed at parking on Jerseyville Avenue.

Mr. Fisher answered that the traffic expert will answer that question.

Mr. Griffiths questioned the 5 or 6 letters of agreement. They are not leases.

Mr. Fisher stated yes they are letters of agreement. With these letters we have a total of 34 spots; some are at Freeman Funeral Home and Metro Realty Associates.

Ms. Higgins, Esq., marked the following exhibits:

- A-1 Parking space agreement with Monmouth Candies.
- A-2 Lease Agreement with Stavola.
- A-3 Letter from Freeman Funeral Home.
- A-4 Letter from Metro Realty Associates.
- A-5 Letter from Jeffrey Friedman.
- A-6 Letter from All Car Collision.

Ms. DiBenedetto marked and read Exhibits A-3 through A-6 into the record.

Mr. Wentzien, PE, asked about food handling. He asked if an attempt was made to get permanent parking spaces.

Mr. Fisher stated he has not attempted to get permanent parking spaces.

Mr. Liston, Esq., asked how far each of the exhibits was from the proposed catering hall. He also asked if all of the parking would be valet parking and how would they prevent people from not using the valet service.

Mr. Fisher described how far each location was. Mr. Fisher explained that in each person's invitation it will state that you must use the valet parking.

Mr. Carl Steinberg, 2 Monmouth Avenue, asked how many square feet is the building and are there any other uses for that building.

Mr. Fisher replied about 8,000 square feet and we gave up a store. Currently there are two stores in the front of the building and two apartments.

Mr. Steinberg asked if there were any other uses that could move into that building.

Mr. Fisher replied there is no parking and a building that size would require 30-50 parking spaces no matter what type of business was put there.

Mr. Steinberg stated we have a building that is approximately 8,500 square feet that is existing in downtown Freehold which would still require 40-60 parking spaces, this makes this building unusable. If this building was not used as a restaurant the impact would still be the same.

Ms. Higgins swore in:

David Esquenazi, owner of Exquisite Caterers.

Mr. Esquenazi stated he is a partner in Exquisite Caterers, we've owned the business since 2001. We are the in-house caterer at the Marlboro Jewish Center and we also do a large number of off-premise catering. He described the business. The hours of operation will be based on the event being held, generally 8:00 PM on weekends and Friday nights. Our customers now use valet 100% of the time at the Marlboro Jewish Center. To encourage using valet service on all the invitations and cards there will be a directional card listing the entrance as 17 South Street which is the front and the valet entrance which is through the Market Yard Parking Lot. For the last four months he has reached out to everyone we know throughout town. Everyone was very helpful and then we got the lease for the Stavola Lot and then Old Monmouth Candies said we could use their lot.

Councilman Sims asked when the events at night conclude.

Mr. Esquenazi stated the parties usually conclude between 12:00 AM and 1:00 AM.

Councilman Sims stated that some of the lots that were presented tonight are privately owned lots and they are not controlled by our local police department. He asked what will be done to ensure the safety of the people and their vehicles. He also asked about the lighting in the lots and access to emergency vehicles in the case of a car fire.

Mr. Esquenazi replied that we have insurance and so does the valet company. All of the lots are fully lit. All of the lots have paved entrances to allow for emergency vehicles.

Councilwoman Shutzer asked what would you do to insure the vehicles in the lots.

Mr. Esquenazi replied we have insurance and if it is required we can provide a security guard. We will also have a valet station in each of these lots. We plan on using the Stavola Lot and there will be a valet attendant in the lot.

Mr. Wentzien stated the council has to decide if the applicant is providing parking. He asked if they looked at other properties in town that have ample parking.

Mr. Esquenazi stated they were looking at the Bennett Street School, we wanted to turn that into a semi-museum and use the museum during the week and then turn that into catering facility parking when there are events. But someone bought it two weeks before.

Mayor Higgins asked for questions from the public.

Mr. Liston, Esq., asked how many people would the facility hold.

Mr. Esquenazi replied a maximum of 180 people.

Mr. Liston, Esq., asked what would happen if someone decided not to valet their car.

Mr. Esquenazi replied the building is allotted 17 parking spaces in the Market Yard Lot.

Mr. Liston, Esq., asked Mr. Esquenazi how many traffic lights and stop signs the valet parking attendant would have to go through to park the car.

Mr. Esquenazi answered.

Mr. Liston, Esq., asked what times the events would start and end.

Mr. Esquenazi replied on Friday and Saturday nights most events would start at 8:00 PM and end at 1:00 AM. A daytime event would start at 1:00 PM and end at 6:00 PM.

Ms. Higgins, Esq., asked if the catering business will be the exclusive user of that lot.

Mr. Esquenazi replied yes it is for our company. If there is overflow the other restaurants can use the lot.

Councilman DiBenedetto asked how many years is your lease.

Mr. Esquenazi replied it is for 20 years.

Mr. Liston, Esq., asked how many employees he would have for a party with 180 people.

Mr. Esquenazi replied there will be 10 waiters and 2 cooks. They will park at the Stavola Lot. None of the employees will park at the Market Yard Parking Lot.

Mr. Carl N. Steinberg stated it seems like there is a lot of opposition to this project. How much do you think you will be spending to make this investment in Freehold Borough.

Mr. Esquenazi replied a lot, approximately \$1.8 million.

Ms. Higgins, Esq., swore in Mr. Nick Silvestri, owner of Carcierge Valet.

Mr. Nick Silvestri, owner of Carcierge Valet, stated he provides valet service to the American Hotel. He described what he is proposing for the new catering facility. Normal practice is to over staff for the first month of two so we can get a handle of what the flow of traffic will be like. Usually we take an adult count and divide it in half and that is what you are looking at for your total number of cars. Normally we have 1-2 valet employees for every 20 cars.

Ms. Higgins, Esq., asked do you have permission now to use the Stavola Lot.

Mr. Silvestri replied no.

Councilman Schnurr asked if they have a lease to use that lot.

Mr. Silvestri replied he assumed it was the town's parking lot. When he took over he was told these were the parking lots.

Councilman Kane asked if they were forced to use the Old Monmouth Candy parking lot, do you see any problems with that distance.

Mr. Silvestri stated it is doable and he's done valet like that. It is not ideal. The Stavola Lot is used by all of the restaurants. He has parked further away than that but that is far.

Ms. Higgins swore in Mr. Scott Kennel, McDonough and Rea Associates, Manasquan, traffic expert.

Mr. Liston asked if Mr. Kennel was a college graduate and what college did he go to and did he hold any licenses.

Mr. Kennel replied he was not a college graduate but had completed 75% of his credits. He attended the University of Connecticut and NJIT. He does not hold any licenses.

Mr. Liston stated he does not believe that Mr. Kennel is qualified to give expert testimony because he is not a civil engineer and does not hold any licenses in the state.

Ms. Higgins, Esq., asked Mr. Kennel if he was qualified by the Superior Court.

Mr. Kennel replied yes, the Superior Court of Ocean County.

Ms. Higgins, Esq., stated the substance of Mr. Kennel's testimony would be the report submitted on December 17, 2014 which was co-signed by Mr. Rea who is a licensed engineer.

Councilman Schnurr asked Mr. Kennel if he appeared before the Freehold Borough Planning Board and did they approve you as an expert witness.

Mr. Kennel replied yes they did approve him and he testified for the conversion of a property across the street from Foodtown.

Mayor Higgins stated if there is no objection from council then we will accept Mr. Kennel as an expert. If there is a subject that is questionable Ms. Higgins, Esq., and Mr. Wentzien will voice their concern.

Mr. Kennel stated there was a parking study. It was dated December 17, 2014 and the parking study discussed the data collection, the evaluation of the required parking and the means to accommodate the parking that will be generated by the catering hall. As the report stated, we reported ten different observations from November 2014. The observations were conducted during Friday and Saturday evenings and the mid-day period on Saturdays and Sundays. Those are the critical time periods for parking accumulation when considering what is proposed. On Fridays and Saturdays from 7:00 PM – 9:00 PM the Market Yard Parking Lot which has approximately 350 parking spaces is 95%-100% full. The Saturday mid-day period typically is 30%-40% full. On Sunday the mid-day period is typically 70%-80% full.

Mr. Kennel stated for the proposed catering hall the maximum allowed at any event would be 180 people and 20 employees. The parking ordinance requires 1 space for 4 seats, which equates to 45 parking spaces and 1 space for 2 employees, which equates to 10 parking spaces, or a total of 55 parking spaces. The parking demand for a Sweet 16 or Bat Mitzvah would be less intensive.

Mr. Kennel explained the parking capacity for the Stavola Lot. He feels that 70 parking spots is a good number for that lot. He feels that with the 17 parking spaces approved when Mellon Farms was the occupant and the Stavola Lot than that should be sufficient for their use.

Ms. Higgins, Esq., asked where the 17 parking spaces came from.

Mr. Kennel stated he thought that the parking spaces were approved as part of the Mellon Farms application.

Mayor Higgins stated this the second time the 17 parking spaces came up and I am curious.

Mr. Halleran, Esq., stated Mr. Fisher talked about it and I will call him back to clarify it.

Mayor Higgins asked for questions from council.

Councilman Schnurr stated he would like to hear about the 17 spaces too.

Mr. Halleran, Esq., stated do you want me to do it now?

Mayor Higgins stated let's just stay here where we are and we will come back.

Councilman DiBenedetto stated in your report on Page 2, in the 3<sup>rd</sup> paragraph it does mention, Kerry, the 26 foot access aisle of the one-way. So I guess their measuring from the building to the 20 minute parking spots.

Ms. Higgins replied it could be our right of way extends.

Councilman DiBenedetto stated it says it seems like they are providing enough space, with the 26 feet. Prior to that you mentioned the 5 angle spots which would be used for stacking, I'm looking at the map and I'm still saying there is 4.

Mr. Kennel stated again, I was going off ...

Councilman DiBenedetto stated that's not where I'm going. The last sentence says in addition the use of parking spaces located at the barber shop, which I'm assuming is stacking for the same purpose should be considered during peak periods. Why would you put that in there?

Mr. Kennel responded well at that time Mr. Fisher had discussions with the barber shop.

Councilman DiBenedetto stated he did, did he. What was the conversation?

Mr. Kennel replied the discussion was that those spaces would be available.

Councilman DiBenedetto said Number 1, I don't see them and I'm going to cut you off because I'm really upset about this. There is no piece of paper over there saying that he had permission to do that, Number 1. Number 2, there was a conversation and the answer was no. Number 3, take it out.

Mr. Kennel replied I can't, again this is from December 17, 2014.

Councilman DiBenedetto stated I don't care if it was 2001, take it out.

Ms. Higgins stated but actually it just says that they should consider attempting to use.....

Councilman DiBenedetto stated there is no consideration. It is false. That's my answer. Barry, I'm a little upset with you that you put that.

Ms. Higgins stated they can consider it.

Councilwoman Shutzer stated he is the barber shop.

Mr. Halleran asked if the council had a question with Mr. Fisher.

Councilman DiBenedetto stated yes it is a statement. Do you want me to swear myself in?

Mr. Halleran replied no.

Mr. Fisher said I spoke to your mother, Peggy. Peggy said to me, Barry for what you did for Mellon Farms and everything, absolutely you can use it. When I went in to you and you said no absolutely not, I'm against the whole thing, I'm against valet parking, and I'm against the whole thing.

Councilman DiBenedetto asked will I have a chance to speak after he says what he just said. You are under oath, remember you are under oath because I can bring my father in here and that's why I had him back there. What you said and what I said he witnessed it.

Mr. Fisher stated you said I am absolutely against that parking lot being used for that.

Mayor Higgins banged his gravel and stated hold for a minute.

Ms. Higgins stated it's off.....

Councilman DiBenedetto stated that's why I did it in front of him.

Ms. Higgins stated she thinks this is off topic at any rate. I don't think you need to do it but if you are going to put yourself in that possession to .....

Councilman DiBenedetto stated he could call a witness, my father was right there, that's why I had him back there listening.

Ms. Higgins stated if you are going to do that then you have to step down and come out here.

Councilman DiBenedetto stated its fine. You know what, you do 1, 2, 3, what's the difference, stack them. I meant the lies.

Ms. Higgins stated I think the answer is that is not an option for him, clearly.

Councilman DiBenedetto stated that's fine, take it out, please. I'm giving you permission. I'm done Mr. Mayor.

Mayor Higgins replied thank you are there any other questions from the governing body.

Councilman Kane stated the studies were done in November and I heard you say you did a count this past weekend, but when you are in the heat of summer in July and August and there are events at hotel and you have all the cafes full blast out front. Is it going to be a significant difference than November.

Mr. Kennel replied the applicant has done a very extensive report and has been pro-active to try to find other lots and not take advantage of spaces that may be available during the non-peak periods and committed as part of their business plan to do valet and to lease other facilities. They came into this fully aware of the need to find alternate parking to accommodate this use.

Mayor Higgins asked for public comments.

Mr. Liston, Esq., asked where Mr. Kennel came up with the parking ratio of 1 car for 3 attendees.

Mr. Kennel stated that is industry standard.

Mr. Liston, Esq., asked how will you force people to use valet.

Mr. Kennel stated the applicant has been very successful with that at other venues. The applicant is looking at having events that start at 8:00 PM. That is usually when the lots are maxed out. So it will be more convenient for the people to just pull up to the valet area and have their car parked.

Mr. Liston, Esq., asked what the surface was of the Stavola Lot.

Mr. Kennel replied it is hard packed dirt, gravel and grass. If this application is approved we will have further discussions with the Borough engineer regarding improving the lot.

Mr. Halleran, Esq., asked Mr. Fisher where the 17 parking spaces came from.

Mr. Fisher replied Mellon Farms was approved with 12 parking spaces, but he eliminated a store behind that property and because of that store it increased the parking ratio.

Ms. Higgins, Esq., stated that Mellon Farms was approved knowing that it needed parking spaces but it doesn't mean they had those parking spaces.

Mr. Fisher stated he spoke with Jason Maldonado from J & H Dinettes about the parking spots and Mr. Maldonado stated that they could use his spaces, as well.

Ms. Higgins, Esq., read and marked the letter from Mr. Maldonado dated January 20, 2015.

Mayor Higgins stated that we generally try to wrap up by 10:30 PM so we will continue this hearing until the May 18<sup>th</sup> meeting.

Ms. Higgins swore in Carl N. Steinberg, 2 Monmouth Avenue.

Mr. Carl N. Steinberg stated the following, "I've been in this town for a long time like most of you. On a recent business and pleasure trip to Washington DC, at the Washington Hilton, 919 Connecticut Avenue, I parked two blocks away, there was no parking. This is one of the largest hotels in Washington DC. It is a good problem that you are addressing tonight. People that want to come to your downtown, spend a lot of money and parking has always been the number one issue. I understand the gentlemen that have restaurants here, no one likes competition of any type. I used to run the furniture businesses, as most of you know we had five furniture stores in town. Now there are none. I think what you have to look at is the bigger picture. A lot of the people coming into Freehold now aren't from Freehold, two or three generations, like most of you who are sitting up at the dais. This is a good problem you are addressing, there is enough parking, and you might have to walk a little further, like I did in Washington DC. We've talked about parking garages for years, it's all about money. I think when you have applicants that are business people who are willing to spend \$500,000 to \$1,500,000 in your downtown, addressing new developments that are on the border. We have something that no one else has, an old historic town. The problem you guys have is a problem that has been passed down from other councils, other board of adjustments,

other planning boards that let people go, such as Mellon Farms that had 12 parking spaces and they got waived 200 parking spaces. Now you have an existing building that needs 60-80 parking spaces that provides none. We've seen it before. I won't be able to come to the next couple meetings because I took a commitment, I think you should take the positive that outweighs the negative, which is parking, that if people want to come to the downtown and come to a restaurant, it has to be good food but they will survive. I see another bistro in town that is another catering facility that is for sale. However, it's as good as the management runs. Just like mayor and council, were as good as the people who run the town. Thank you for your time."

Mayor Higgins stated we will see you on May 18, 2015.

Mayor Higgins opened the meeting to the public

Elaine Zarr, Ford Avenue, voting District 5, stated all this talk about parking and she is upset because all of the handicap parking spots are being taken over by people who don't have handicap license plates. She stated this occurs on the corner of Center Street and Jackson Street.

Chief Roberts stated any parking that is handicapped that is in front of the police station or in the Rug Mill parking lot is patrolled constantly. He advised her to call the police and they will come right over.

Tom Baldwin, Vought Avenue, commented on the catering presentation. He has never heard such an ill conceived presentation and these people are supposed to be professionals. If he was on the board he would vote it down. He was upset that the valet company uses county property without permission.

Councilman Schnurr stated this is the first he's heard that they are using public property for private gain without any of our approvals and he will look into it.

Mr. Baldwin read a letter regarding his dislike of the name Olde Freehold Day.

Councilman Sims offered the following Resolution and moved its adoption, seconded by Councilman DiBenedetto:

#### RESOLUTION TO CLOSE PUBLIC PORTION.

On roll call Council Members DiBenedetto, Kane, Schnurr, Griffiths, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

Mayor Higgins asked for council comments.

Councilman Schnurr stated the Freehold Borough Education Foundation is doing a bike drive on May 16<sup>th</sup>. If you have used bikes you can donate them between 8:30 AM – 12:00 PM at the Park Avenue Elementary School or Freehold Learning Center.

Councilman DiBenedetto stated the Downtown fliers are downstairs and the summer events start in June.

Councilman Sims had no comment.

Councilman Kane stated on May 16<sup>th</sup> at 9:00 AM at Lake Topanemus Park there will be a flag pole dedication. Kyle Cannon did an Eagle Scout project and there will be a dedication. Right after that at 10:00 AM until 6:00 PM there will be an Irish Festival.

Councilman Griffiths stated the Human Relations Committee will be running a Volunteer Day on June 13<sup>th</sup>.

Councilwoman Shutzer stated the YMCA Walk-a-thon is Saturday, May 9<sup>th</sup> from 9:00 AM – 12:00 PM and there is a \$5.00 entry fee.

Mayor Higgins stated the Mayor's Clean-up Day is Saturday, May 16<sup>th</sup>.

Councilman Sims offered the motion to adjourn, seconded by Councilman Griffiths:

MOTION TO ADJOURN.

On roll call Council Members DiBenedetto, Kane, Griffiths, Schnurr, Shutzer and Sims voted its adoption; opposed none; abstain none; absent none. Mayor Higgins declared the motion adopted.

The council meeting was adjourned at 10:25 PM.

Respectfully Submitted,

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TRACI L. DIBENEDETTO, RMC  
BOROUGH CLERK

TLD:aj