

The Meeting of the Mayor and Council of the Borough of Freehold was held on Monday, May 18, 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 DiBenedetto 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

Mayor Higgins read Item No. 4 on the Agenda as follows:

**“Resolution of the Mayor and Council of the Borough of Freehold Honoring Rear Admiral Kevin S. Cook on the Occasion of His Retirement.”**

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

RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD HONORING REAR ADMIRAL KEVIN S. COOK ON THE OCCASION OF HIS RETIREMENT.

Councilman DiBenedetto stated this is a Freehold born and bred native who has reached the ranks of two star Rear Admiral. Growing up across the street from him, it is hard to believe he joined the Coast Guard. It was a great pleasure to honor him with this Resolution. His retirement was in New Orleans last week.

Mayor Higgins stated he is the highest ranking official from Freehold.

Councilman Kane offered his congratulations. He was a great friend to all of us growing up, we played a lot of baseball and basketball together.

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. 5 on the Agenda as follows:

**“Resolution of the Mayor and Council of the Borough of Freehold Honoring Bigerton Yemmons Lewis, Jr. on the Occasion of His 90<sup>th</sup> Birthday.”**

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

RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD HONORING BIGERTON YEMMONS LEWIS, JR. ON THE OCCASION OF HIS 90<sup>TH</sup> BIRTHDAY.

Councilman Sims stated the Mayor, Council President Shutzer and I had the pleasure of attending the event yesterday for Mr. Lewis. It was a surprise 90<sup>th</sup> birthday party.

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. 6 on the Agenda as follows:

**“Resolution Authorizing Freehold Borough Fireworks Display.”**

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

**RESOLUTION AUTHORIZING FREEHOLD BOROUGH FIREWORKS DISPLAY.**

Councilman DiBenedetto stated this Resolution is to file insurance policies, staging area and to clean up our paperwork for the July 2<sup>nd</sup> fireworks at the Freehold Racetrack. The rain date will be Friday, 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. 7 on the Agenda as follows:

**“Resolution Accepting the Assessment Roll of the Special Improvement District of the Borough of Freehold.”**

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

**RESOLUTION ACCEPTING THE ASSESSMENT ROLL OF THE SPECIAL IMPROVEMENT DISTRICT OF THE BOROUGH OF FREEHOLD.**

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:

**“Resolution Accepting and Introducing the Budget of the Special Improvement District of the Borough of Freehold and Setting the Date for the Budget’s Public Hearing and Adoption.”**

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

**RESOLUTION ACCEPTING AND INTRODUCING THE BUDGET OF THE SPECIAL IMPROVEMENT DISTRICT OF THE BOROUGH OF FREEHOLD AND SETTING THE DATE FOR THE BUDGET’S PUBLIC HEARING AND ADOPTION.**

Councilman Kane stated the public hearing will be on Monday, June 22, 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. 9 on the Agenda as follows:

**“Resolution Authorizing the Purchase of One (1) Dump Truck per the New Jersey State Contract.”**

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

RESOLUTION AUTHORIZING THE PURCHASE OF ONE (1) DUMP TRUCK PER THE NEW JERSEY STATE CONTRACT.

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. 10 on the Agenda as follows:

**“Resolution Authorizing Execution of a Shared Services Agreement with Freehold Township for Code Enforcement, Building Inspection, and Plan Review Services.”**

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

RESOLUTION AUTHORIZING EXECUTION OF A SHARED SERVICES AGREEMENT WITH FREEHOLD TOWNSHIP FOR CODE ENFORCEMENT, BUILDING INSPECTION, AND PLAN REVIEW SERVICES.

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. 11 on the Agenda as follows:

**“Resolution of the Mayor and Council of the Borough of Freehold Approving Subordination of Mortgage Given to Borough of Freehold Housing Rehabilitation Program Concerning RCA Case Number FBHRP06-73.”**

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

RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD APPROVING SUBORDINATION OF MORTGAGE GIVEN TO BOROUGH OF FREEHOLD HOUSING REHABILITATION PROGRAM CONCERNING RCA CASE NUMBER FBHRP06-73.

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 Appropriation of Funds for the 2015 Memorial Day Parade and 2015 Olde Freehold Day.”**

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

RESOLUTION AUTHORIZING APPROPRIATION OF FUNDS FOR THE 2015 MEMORIAL DAY PARADE AND 2015 OLDE FREEHOLD DAY.

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 of the Borough of Freehold, County of Monmouth, State of New Jersey, Amending Temporary Appropriations for 2015.”**

Councilman Kane 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.

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, Authorizing Refund to Iron Mountain for Overpayment of Water Charges.”**

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

RESOLUTION OF THE BOROUGH OF FREEHOLD, AUTHORIZING REFUND  
TO IRON MOUNTAIN FOR OVERPAYMENT OF WATER CHARGES.

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 of the Borough of Freehold, County of Monmouth, State of New Jersey, Authorizing Compensation Payment to Detective Sergeant Andrew DeMuth Upon His Retirement.”**

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

RESOLUTION OF THE BOROUGH OF FREEHOLD, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY, AUTHORIZING COMPENSATION  
PAYMENT TO DETECTIVE SERGEANT ANDREW DEMUTH UPON HIS  
RETIREMENT.

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 of the Borough of Freehold, County of Monmouth, State of New Jersey, Authorizing Compensation Payment to Michael E. Barchi Upon His Retirement.”**

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

RESOLUTION OF THE BOROUGH OF FREEHOLD, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY, AUTHORIZING COMPENSATION  
PAYMENT TO MICHAEL E. BARCHI UPON HIS RETIREMENT.

Councilwoman Shutzer stated Agenda Item Nos. 15 and 16 are for the retirement of two valued employees.

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. 17 on the Agenda as follows:

**“Resolution Confirming Personnel Appointments/Actions:**

- a. **Appointment of Sgt. Christopher Colaner as Detective Sergeant, Freehold Police Department, effective May 18, 2015.**

- b. Appointment of Johnny Saada as full time Special Police Officer, Freehold Borough Police Department, effective July 20, 2015.**
- c. Appointment of Matthew Young as Fire Official for the Borough of Freehold, effective June 1, 2015.”**

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

**RESOLUTION CONFIRMING PERSONNEL APPOINTMENTS/ACTIONS NO. 17A – 17C.**

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:

**“Resolution Approving the Following Applications:**

- a. Walk – from 47 Spring Terrace to St. Rose of Lima Church for Quinceanera, 5/23/15, 9:20 AM – 10:00 AM.**
- b. MDA Walk–A-Thon, Freehold Letter Carriers, starting and ending at the Market Yard Parking Lot, 6/28/15, 10:00 AM – 11:30 AM.**
- c. Sidewalk Café License, Olive, 13 West Main Street.**
- d. Sidewalk Café License, Texas Mexican Restaurant, 3 West Main Street.**
- e. Temporary Taxi Driver License, Victor Gutierrez, Old Bridge.”**

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

**RESOLUTION APPROVING APPLICATIONS NOS. 18A – 18E.**

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. 19 on the Agenda as follows:

**“Approval of Bills.”**

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

BE IT RESOLVED by the Mayor and Council of the Borough of Freehold that the bills on the attached list in the amount of \$1,726,399.39 to 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. 20 on the Agenda as follows:

**“Clerk – Late Communications.”**

There were none.

Mayor Higgins read Item No. 21 on the Agenda as follows:

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

Councilman DiBenedetto recused himself and stepped down from the dais.

Mr. Halleran, Esq., called Gregory Clark, architect.

Ms. Higgins, Esq., swore in Gregory Clark, Architect, Bach and Clark.

Ms. Higgins, Esq., stated Mr. Clark is a member of the Historic Preservation Commission but she doesn't think it presents a problem if he appears for the governing body.

Mr. Clark stated he has appeared before the planning board since becoming a member of the Historic Preservation Commission.

Ms. Higgins, Esq., explained to Mr. Halleran that she didn't feel Mr. Clark could be a witness for the planning board.

Mr. Clark showed the council a map of the Market Yard Parking lot and the building in question, 17-19 South Street. The area in front is where the proposed valet parking location is. He took measurements to confirm the dimensions that were put forth on the plan and he also took measurements in front of the building in question and he verified that there is 26 feet throughout the right-of-way, for the entire area in front of the American Hotel, Court Jester, Metro and Federici's and that 26 feet actually continues in front of our building. So we have 26 feet clear from the 3 foot right of way that was granted by the planning board. It was 29 feet but it is now down to 23 feet with that 3 foot right-of-way, leaving 26 feet between the parking spots and our building. This confirms that we have a continuous 26 foot right-of-way of one way movement throughout the entire path in front of our building.

Mayor Higgins asked for questions from the governing body.

Councilwoman Shutzer stated even though you are saying it is the same width, at the American Hotel and by Federici's and all the other places you mentioned there is no parking that would make it necessary to back out into that space. But in front of your building there is a parking area that would require the folks parking there to back out into that space.

Ms. Higgins, Esq., clarified on the map what Councilwoman Shutzer was questioning.

Mr. Wentzien asked when you back out of the American Hotel, you first encounter the striped drop off aisle that happens to be continuous and that you don't necessarily have to use that spot. If you were to use that drop off aisle behind those spots you would actually trap those spots, so you gain the extra 10 feet of that aisle, plus the remaining spot. You have extra space to back out of a 90 degree space. Over where the facility in question is, to back out of the 5 spaces directly across from the facility you only have the remaining space that would be 29 feet from the building to the back end of those spaces. So if you had the equivalent of a 10 foot drop off aisle then you only have 19 feet clear to back out into.

Mr. Clark explained you are backing into the drop off aisle in the American Hotel which we measured at approximately 10 feet. Right now there are no lines in front of 17-19 South Street but if there were it would probably be right up against the building.

Councilwoman Shutzer stated she went down there the other day and pretended like she was going into the barber shop and she parked in one of those spots and there was no traffic and she backed up and in order to back up and clear the front of her car from hitting the rear of the car beside her she had to back up far enough so that if there had been any people or any cars in front of your establishment, she would not have been able to get out of there.

Councilman Schnurr stated that Councilwoman Shutzer's analysis is dead on with this.

Councilman Kane stated at the end of the spaces that Councilwoman Shutzer is talking about the building is angled a little bit and at the end of those spaces there is a curb point. Is that still 26 feet?

Mr. Clark stated he measured the area and it is pretty consistent at 26 feet.

Councilman Griffiths asked for clarification of the use of 29 and 26 feet, is that the difference of the bollards being installed.

Mr. Clark said yes, it was granted permission that we would have a 3 foot right-of-way in front of the building for protecting pedestrian traffic. That right of way is protected by bollards that sit at the outer edge of the 3 feet.

Councilman Sims asked if those spots are 20 minutes because if they are then there will be a lot of traffic going in and out.

Mr. Clark replied yes.

Mayor Higgins asked for questions from the public.

Mr. Liston, Esq., asked Mr. Clark if he was a licensed engineer and if he had any expertise in traffic or parking.

Mr. Clark replied no.

Mr. Liston, Esq., asked if it was fair to say that the testimony he had been doing dealt with parking and traffic.

Mr. Clark replied he was testifying as a fact witness not as an expert.

Mr. Halleran, Esq., asked to call Barry Fisher, owner of 17-19 South Street.

Mr. Fisher apologized for his behavior at the last meeting. It was due to the pressure and the expense of the money he is losing on this building. He stated he has been in this building since 1953 and for years tractor trailers, which are considerably wider than automobiles, have been parking in the front of his building.

Mr. Fisher handed a letter to Ms. Higgins.

Ms. Higgins, Esq., marked the letter dated 5/18/15 as A-10 from Jacob Lipschitz, Market Yard Properties, LLC, 2 Market Yard.

Ms. Higgins, Esq., read the letter which stated, "I foresee no problems allowing valet to park vehicles to stack on the outside of my parking spaces at 2 Market Yard as long as there is someone there that can move them."

Mr. Liston, Esq., objected to the introduction of the letter because it constitutes hearsay.

Ms. Higgins, Esq., stated that Mr. Lipschitz owns 2 Market Yard that goes from J&H Dinettes south to Mechanic Street. She also asked if he knew what businesses were in that building.

Mr. Fisher stated yes, Mr. Lipschitz owns 2 Market Yard and he did not know who the tenants were in that building. Mr. Fisher stated he only knew this was an office building.

Councilwoman Shutzer said didn't you testify last week that the 4-5 parking spots behind J&H Dinettes would be used exclusively after business hours.

Mr. Fisher stated yes as long as he wasn't there we could park in his spots.

Mr. Liston, Esq., asked if Mr. Lipschitz owns that property.

Mr. Fisher stated he wasn't sure who owned the property.

Mr. Halleran Esq., called up Dave Esquenazi, Exquisite Caterers.

Mr. Esquenazi stated also included in their events, not only do we have the valet, we also have an off duty police officer.

Ms. Higgins, Esq., asked if the off duty police officer would be there for the entire time.

Mr. Esquenazi replied yes.

Councilman Schnurr asked if the Resolution could be framed in a way that we could put conditions into it.

Ms. Higgins, Esq., stated if this application is approved it will be referred to the planning board for site improvements. The Resolution from the governing body to the planning board should state the conditions we've made.

Mayor Higgins asked for public comments.

Mr. Tom Baldwin asked who would pay the salary for the police officer.

Mr. Esquenazi replied he would.

Mike DiBenedetto, owner of Joe's Barber Shop, stated the issue seems to be two things, the parking spots that are required and the bottlenecking that will happen in that area which will cut off parking in front of his lot, especially on Saturday during his business hours. He asked if they ever thought of relieving that bottlenecking by having valet coming in off of South Street.

Mr. Esquenazi said yes. They thought of three areas, one in front of their store, one in front of Bill Mehr's office and one in front on South Street on the other side of the store. The entry of the building is not on the Market Yard it is on the side of the building.

Mr. DiBenedetto asked if those other ideas were abandoned.

Mr. Esquenazi replied no.

Ms. Higgins, Esq., stated you have to explain to the governing body what it is you are proposing.

Ms. Higgins, Esq., marked into evidence A-11, Informational Aerial Map showing location of the site.

Councilwoman Shutzer questioned the site on South Street, what is your plan if those parking spaces are full?

Mr. Esquenazi explained that on the side that faces South Street there are parking spots and we could use them. There is also a loading zone if the parking spots are full.

Ms. Higgins explained that you cannot put cones to block the parking spaces on South Street.

Councilman Sims asked how they would regulate that because sometimes South Street backs up to Mechanic Street.

Mr. Esquenazi explained people will pull up and a valet will take their car and they will go into our building.

Councilman Griffiths asked if they had a written contract with Freeman Funeral home. He understands letters of agreement have been submitted but is there a contract.

Mr. Esquenazi replied he didn't have a contract with Freeman's just a letter. He could also circle back and park the cars in the Stavola lot.

Mayor Higgins asked for questions from the public.

Mr. Liston, Esq., asked if it could be clarified that they only had two leases and the rest were letters.

Mr. Esquenazi replied yes.

Mr. Halleran, Esq., asked to call back Nick Silvestri, owner of Carcierge Valet.

Ms. Higgins, Esq., asked Mr. Silvestri to explain how the valet drivers would go if they picked up people on South Street.

Mr. Silvestri replied that this is the first time he is hearing of this and he's not exactly sure. Mr. Silvestri described the route going to the Stavola lot.

Mr. Halleran, Esq., stated there was a question regarding the location of the stands and key boxes.

Mr. Silvestri replied we currently have stands in front of the American Hotel and Federici's and we will add another in the front of this property. There will be two key boxes, one at the American Hotel and one at this site. There is only an attendant at the Federici's site.

Marilynn Heiberger, 5 Dorothy Lane, Middletown, NJ asked if the other restaurants have the right to use the Stavola lot.

Ms. Higgins, Esq., replied there has been nothing presented that would give any evidence that anybody other than Mr. Fisher is entitled to use the Stavola lot.

Ms. Heiberger asked if this is the only legitimate lease.

Mr. Silvestri replied yes.

Mr. Liston, Esq., called his first witness.

Ms. Higgins, Esq., swore in Mr. Gordon Meth, PE in New Jersey and Traffic Expert and Professional Planner. He also has two certifications from the Transportation Board, one for Professional Traffic Operations Engineer and the other as a Professional Transportation Planner.

Ms. Higgins, Esq., marked his credentials as O-1.

Mr. Meth stated what he thinks this council has been asked to do is to verify that the parking requirements for this proposed application are being met through non traditional means. There is guidance provided in the legal document that was used to create the zone. He referenced the Visioning and Revitalization for the Freehold Center Core Redevelopment Plan Area under paragraph 4, page 19 of the redevelopment plan. What it specifically states is in determining any proposed reduction in the parking requirements, the applicant shall affirmatively demonstrate that the parking spaces will be made available to share among the multiple uses and that the shared parking spaces will be distributed over the site in a manner that would insure that all spaces would be situated in a reasonable distance for the intended users of the parking spaces. This is what the council must decide.

Mr. Meth stated he attended the last council meeting and the plan that the applicant has provided seems fairly well thought out in terms of meeting this. But his question is does it meet the requirements that this board has to consider. He referenced the parking study done on December 17, 2014. The Market Yard Parking Lot has 290 parking spots and at peak times it is full. Mr. Kennel testified that a reasonable walking distance is usually 300-600 feet. After observing on May 8, 2015, many people are actually going far beyond that. A lot of people park at the U-shaped lot on Mechanic Street around 7:30 PM. A few of the cars had valet tickets on them but the majority of them were people self parking and walking back to the businesses on Main Street. Any parking provided has to be available to everyone because on May 8, 2015 there was the valet operation going on at the American Hotel. There were two events going on there and there was a wedding going on in one of the restaurants. He videotaped the operation for 5-6 hours and what he observed was from 5:00-6:00 PM, 7 people used the valet, many people were self parking because there were still parking spaces available. Between 6:00-6:30 PM, 15 people used the valet and from 7:00-8:00 PM, 19 people used the valet. He never noticed more than 3 cars lined up waiting for the valet. The cars stayed there for 3-4 minutes before being driven away.

Mr. Meth stated on the "face" of it the valet may seem like a solution but one has to consider what the implications are. The applicant when he testified talked about 90% of his business being on Fridays and Saturdays. If this is approved, it is the use not the application and one has to consider how another operator would do this. Also this approval would have to require in the Resolution the valet operation and security officer.

Ms. Higgins, Esq., marked pictures of the valet video which is time stamped as O-2.

Councilman Schnurr questioned the purpose of giving us these photos, Are you suggesting that what we are looking at here in terms of the number of vehicles at these proposed times, that one could reasonably expect the same thing as when the applicant has an event.

Ms. Higgins, Esq., stated that you did say that the day you took these pictures the American Hotel was having a wedding and another event.

Mr. Meth replied yes there was a wedding at 6:00 PM with 150 guests and another event at 6:30 PM with 50 guests. Also there was another event with approximately 180 guests going on at one of the other restaurants between 7:30-8:00 PM.

Mr. Meth stated the Old Monmouth Candies lot is a mile away and it is not realistic and it would require a shuttle. Mr. Meth described the design elements of the plan.

Mr. Halleran, Esq., asked Mr. Meth questions regarding the Stavola lot, and that the ordinance does not address valet parking at all.

Mr. Liston, Esq., called up Robert Kash as a witness.

Ms. Higgins, Esq., swore in Robert Kash, owner of the Metropolitan Café.

Mr. Kash stated the following:

“Currently there is a 130 seat restaurant located at 30 East Main Street which shares the same parking lot as us, which recently changed hands and is basically out of business. Above that same property is a catering hall, Courtyard on Main which seats over 175 guests which is doing little or no business. Never has that property and the American Hotel been open and successful at the same time except for a short period in 2010 when the hotel first opened. The parking lot at that time failed miserably even when both properties offered valet. The area in front of the proposed catering hall is the narrowest part of the parking lot and therefore it is why the parking lot was created to be one-way. There is already an issue with congestion, bad site lines for pedestrians and constant cars being unable to maneuver due to deliveries, parked cars and circulation issues. The traffic starts approaching from the wrong direction. In the same area the new plans calls for bollards 3-4 feet off the proposed building which will only exasperate the already narrowest point in the lot. The proposed valet parking area only has a few feet before the lane curves; there is no place for stacking cars both on the drop off and the pick up. Any cue would further block access to the attached barber shop lot which would further create havoc for cars looking to park there or trying to exit that lot. The plan had originally called for removing the 5 short term parking spots which are directly next to the proposed valet area and catering hall. Removing these spots would only decrease parking to the detriment of the store, they are needed for quick turnover during the week and it would just lose 5 more spots in the lot.

There already is an existing parking issue, existing businesses already hear that parking is the reason they don't come downtown. All parking studies have shown the lot is at capacity. To add a minimum of 75 cars during the busiest time will only create additional circulation problems and unsafe situation of people speeding to get to a potential spot in a parking lot that is often used as the main pedestrian entrance to many of these businesses. There is also no way to force people to use the valet. There is no way the valet can stack in this particular area. There is no way to move the cars to the proposed off-site lots fast enough to clear the parking lot of the stacked cars. This proposed valet will stop the flow of the lot completely. As a matter of fact, all the other restaurants used to have a valet closer to my building but we had to get rid of it because it was creating too much of a problem blocking the alley way. The catering hall also has the potential of doing a second party at the same time which instead of the 75 cars, we heard it could be as many as 90 cars and in this case if they do a second party it could be another 50-60 cars.”

Ms. Higgins, Esq., stated this is your concerns not fact.

Councilman Schnurr stated Courtyard On Main doesn't have a liquor license could that be the problem, more than the parking.

Mr. Kash stated the restaurant part did well when the restaurant had a great operator. But the problem right now it has changed hands, if they got another great operator than this will create another 150-225 people coming to the parking lot.

Mayor Higgins asked for questions from the public.

Mr. Esquenazi asked Mr. Kash if he had any monetary interest in any other business in the Market Yard.

Mr. Kash replied only the Metropolitan Café. When the American Hotel opened he was a consultant that opened the place but he has no ownership in the American Hotel.

Mr. Halleran, Esq., stated you talked about the effect of the valet on the thoroughfare, he assumes you mean the walkways.

Mr. Kash replied yes. People leave when all the spots are full.

Mr. Dave Fisher stated this building is zoned for retail down below and office on the top and it is 8,500 square feet. Don't you feel if it was a restaurant down below and office space on top wouldn't that create much more parking. As opposed to having valet services take the parking out to a separate lot. Doesn't that make more sense?

Mr. Kash stated he didn't think you could fit 180 people in a restaurant there, downstairs because you need kitchen space and the office would use much less parking.

Mr. Fisher stated we are proposing that all the parking is going to be off-site.

Mr. Kash replied you would be proposing a 65 seat restaurant which would require a lot less parking.

Mr. Liston, Esq., stated he did not have any further witnesses.

Mr. Barry Fisher stated the following:

"I have been paying taxes in this town for 60 years and all I'm asking for is 5 minutes of your time. For over 60 years I've worked with the Kane and Sweetman families to build this town. This plan was before the planning board and they reviewed it. The beautification committee approved it and everything was set and at that meeting I said it could be 2 restaurants or office and that's what I testified to. I've been paying taxes on a building that was empty because my restaurant couldn't make it. Retail cannot make it in this town. There's no parking and there is no need for it. As for office space, I met with the tenant next store and walked through his building and he has 3 empty spaces, these businesses all left. Bill Mehr just started leasing his building that was empty for a year. I was given permission to put a million dollars into a building in Freehold because I loved Freehold. Now I'm told that there is a possibility that it won't have parking and that I'm going to keep an empty building that I was given permission by this town to put all that money into it. I put my heart and soul and every dime I had into this building to make it work. I didn't want to make a burden on the parking. What am I going to do if I put an office in there and they leave because they say where are my parking spaces. People have come to me and said if they take the office space, where will they park. If I put a restaurant in there, they are not going pay for valet parking so they'll park in the parking lot. You cannot tell me I can't rent it to anybody, that's illegal and wrong. This is the best possible use. This is not about parking it's about competition for the American Hotel. There's a group of restaurants and people in this town that when one votes or one has a problem they stick together. We all know that, I'm saying I'm doing the only possible thing and anything else will not work. So I ask you when you vote to please do the right thing. Thank you."

Ms. Higgins, Esq., stated the initial question under our ordinance is they are here because they need a variance for more than 10 parking spaces and they've presented to you the fact that they have secured at their expense a parking lot according to Mr. Meth, 1,100 feet from their location which would provide more than adequate parking for their proposed use. What you need to look at is whether what they've proposed you deem it to be reasonable. They are proposing off-site parking and there is nothing in our ordinance that prohibits it, doesn't contemplate it but clearly there is nothing in the Market Yard except Mike DiBenedetto's barber shop, the county and the tobacco place that have their own parking. So if anyone is going to have a use in the Market Yard that requires parking they cannot provide it, other than going off-site or asking for a variance. Mr. Halleran is indicating that his belief is that this proposal as he presented it with valet parking complies with and provides the adequate parking for his proposed use. This is a permitted use in the zone and clearly as he's indicated pretty much any use that you put in the zone would require a variance. This is what you have to decide.

Mayor Higgins asked if we would be soliciting information from our planner.

Councilwoman Shutzer stated she would like to talk to the planner and can address this publicly.

Councilman Sims made a motion to consult with the planner and come back in two weeks, seconded by Councilwoman Shutzer.

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

Councilman DiBenedetto returned to the dais.

Mayor Higgins asked for questions from the public.

Al Michenfelder stated the Racer's Club wanted to thank Jody at Freehold Tire. We also asked Ms. Higgins to come to one of the meetings and we would also like to invite Councilwoman Shutzer.

Barry Fisher thanked the governing body for being patient with him and he apologized again for being overzealous.

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

**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.

Councilwoman Shutzer reminded the residents that the Jazz Off downtown this Friday night will be at 7:00 PM, it will include the Freehold High School band and Manalapan High School band.

Councilman Sims offered the motion to Adjourn, seconded by Councilman DiBenedetto:

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 10:14 PM.

Respectfully Submitted,

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TRACI L. DIBENEDETTO, RMC  
BOROUGH CLERK

TLD:aj