

Englewood, N.J., August 19, 2008

A Regular Formal Meeting of the Council of the City of Englewood, Bergen County, New Jersey, was held this evening in the Municipal Court in the Public Safety Building commencing at 7:30 P.M..

Present: Mayor Michael Wildes; Council President Kenneth Rosenzweig; Council members Charlotte Bennett Schoen, Scott Reddin, Jack Drakeford, and Gordon Johnson.

Also present were Daniel Fitzpatrick, City Manager; Lenore Schiavelli, City Clerk; William Bailey, City Solicitor.

President Rosenzweig called the meeting to order.

The City Clerk stated that adequate notice of this meeting was given by the posting, filing and distribution of the Annual Notice of Meetings as required by the Open Public Meetings Act.

President Rosenzweig asked those present to stand while the Pledge of Allegiance was recited.

The following items were discussed during Executive Session: presentations by Qscend Technologies and Cablevision; agenda review.

Mr. Reddin moved that the minutes of the July 22 and August 5, 2008, meetings be approved. Mr. Johnson seconded the motion. Upon roll call, all Council members present voted "Yes". President Rosenzweig declared the motion carried.

Mr. Johnson moved that the following Resolution be adopted. Ms. Schoen seconded the motion. Upon roll call, all Council members present voted "Yes". President Rosenzweig declared the motion carried and the Resolution duly adopted.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ENGLEWOOD that the bills and claims as approved for payment by the Chief Financial Officer of the City of Englewood are hereby ordered paid and that the accompanying schedule thereof (pages 1a - 1c of these minutes) is hereby made a part of the minutes of this meeting.

The Mayor and Council members commented on past and upcoming events and issues.

President Rosenzweig stated that consideration would be given to the following ordinances. The City Clerk read the ordinances by title.

08-18 AN ORDINANCE AMENDING ARTICLE 8, SUBARTICLE IV OF THE MUNICIPAL LAND USE ORDINANCE OF THE CITY OF ENGLEWOOD PERTAINING TO SECTION 4-5.2 (a) CENTRAL BUSINESS DISTRICT "PERMITTED USES", AND SECTION 4-5.10.1(a) MURR OVERLAY DISTRICT "PERMITTED USES."

08-19 AN ORDINANCE AMENDING SCHEDULE XI OF SECTION 25-19 OF CHAPTER 25 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF ENGLEWOOD RELATING TO TIME LIMITED PARKING ALONG SPRING LANE IN THE CITY OF ENGLEWOOD

08-20 AN ORDINANCE AMENDING SCHEDULE X OF SECTION 25-18 OF

CHAPTER 25 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF ENGLEWOOD PERTAINING TO PROHIBITING PARKING AT ALL TIMES ALONG A PORTION OF JANE STREET AND HIRLMAN ROAD.

08-21 AN ORDINANCE AMENDING SECTION 12 OF ORDINANCE NO. 95-22 REGULATING THE REMOVAL OF TREES WITHIN THE CITY OF ENGLEWOOD PERTAINING TO FINES.

08-22 AN ORDINANCE AMENDING ARTICLE 14 OF CHAPTER 18 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF ENGLEWOOD PERTAINING TO PENSION RETIREMENT SYSTEM ESTABLISHING POSITIONS ELIGIBLE FOR THE NEW JERSEY DEFINED CONTRIBUTION RETIREMENT PROGRAM.

08-23 AN ORDINANCE AMENDING SECTION 24-14 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF ENGLEWOOD RELATING TO TAXICAB FARE FUEL SURCHARGE.

President Rosenzweig declared that public hearing on this ordinance was open and the following persons spoke:

Curtis Caviness, 41 E. Forest Ave, stated that NJS A 24 prohibits outdoor display of

produce.

Joe Clark, 200 John St, is opposed to 08-18

When no one else wished to speak on the ordinances, President Rosenzweig closed the public hearing.

Mr. Johnson moved that the Ordinances pass on final reading and be adopted and that the ordinances be published once, by title only, in the Press Journal. Mr. Reddin seconded the motion. Upon roll call, Mr. Drakeford voted "No" on Ordinance No. 08-18 and approved the rest; all other Council members present voted "Yes". President Rosenzweig declared the motion carried and the ordinances duly adopted.

Mr. Drakeford moved that the following resolutions be adopted by Unanimous Consent. Ms. Schoen seconded the motion. Upon roll call, all Council members present voted "Yes". President Rosenzweig declared the motion carried and the resolutions duly adopted.

1. WHEREAS, a Bergen County Community Development grant of \$243,869 has been proposed by Southeast Senior Center for Independent Living for 2009 Operating Expenses in the City of Englewood; and

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the City Council; and WHEREAS, the aforesaid project is in the best interest of the people of Englewood; and WHEREAS, this resolution does not obligate the financial resources of the City and is intended solely to expedite expenditure of the aforesaid Community Development funds;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Englewood hereby confirms endorsement of the aforesaid project; and BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

2. WHEREAS, a Bergen County Community Development grant of \$20,000 has been proposed by Bergen Family Center Armory Street Family Intervention Project, in the City of Englewood; and

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the City Council; and WHEREAS, the aforesaid project is in the best interest of the people of Englewood; and WHEREAS, this resolution does not obligate the financial resources of the City of Englewood and is intended solely to expedite expenditure of the aforesaid Community Development funds;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Englewood hereby confirms endorsement of the aforesaid project; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Director of the Bergen County Community Development program so that implementation of the aforesaid project may be expedited.

3. WHEREAS, the City of Englewood is desirous of enhancing its information management and availability to the public; and
 WHEREAS, proposals have been received to update the City's web site to create a more interactive and user friendly experience; and

WHEREAS, based on the expertise and reputation of QScend Technologies, Inc., 231 Bank Street, Waterbury, Connecticut, 06702, the City Council wishes to award a contract for such services, pursuant to N.J.S.A. 19:44A-20.5 as other than a "Fair and Open" contract as defined therein; and

WHEREAS, the parties wish to mutually set forth the compensation, terms and conditions regarding such agreement; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et. seq.) authorizes the execution of such professional services contract without competitive bidding; and

WHEREAS, sufficient funds are available for this purpose pursuant to the 2008 budget of the City of Englewood.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood, Bergen County, New Jersey, pursuant to N.J.S.A. 40A:11-5, that the City Manager is hereby authorized to execute an agreement with QScend Technologies, Inc., for the purpose to updating and improving the web site of the City of Englewood, setting forth the services and compensation in an amount not to exceed \$17,300, plus monthly maintenance charges; and

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to cause a brief notice to be published once in the PRESS JOURNAL newspaper stating the nature, duration, service, and amount of the contract and that the resolution and contract are on file and are available for public inspection in the Office of the City Clerk.

4. WHEREAS, the Charter of the City of Englewood provides that the appointment of a Tax Assessor is within the authority of the City Manager; and

WHEREAS, Claire Psota was appointed to the position of Tax Assessor effective July 1, 2006 for a four year term expiring June 30, 2010;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood, Bergen County, New Jersey, that the appointment of Claire Psota to the position of Tax Assessor for the City of Englewood is hereby confirmed..

5. WHEREAS, on April 18, 1995, the City Council had previously adopted a Resolution authorizing a voluntary deferred compensation plan for employees of the City and has one existing plan with AXA Equitable as the Plan provider; and

WHEREAS, the City of Englewood desires to attract and retain qualified employees and, as a means thereof, to make available to these employees the benefits of optional 457 Deferred Compensation Plans; and

WHEREAS, the implementation of an additional Deferred Compensation Plan will serve the interests of the local governmental unit by enabling it to provide enhanced retirement security to its eligible employees; and

WHEREAS, a Request for Proposals ("RFP") was prepared and the City solicited proposals from three Division of Local Government Services Approved Providers of Deferred Compensation Services - the Hartford, Mutual of America, and ICMA-RC; and

WHEREAS, Mutual of America and ICMA-RC responded to the RFP and their submissions have been reviewed; and

WHEREAS, the ICMA-RC Deferred Compensation Plan is an experienced provider with a thorough understanding of the financial planning needs of the public sector since this has been their only line of business for 35 years, their fees are approximately one-half of those under the Mutual of America plan, and they possess the necessary administrative, enrollment, and servicing capabilities; and

WHEREAS, there has been no collusion, or evidence of an appearance of collusion, between any local official and a representative of the vendor in the selection of ICMA-RC for the administration of a Service Agreement pursuant to N.J.A.C. 5:37-5.7;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood, Bergen County, New Jersey, that the Deferred Compensation Plan of ICMA-RC (Plan Identifier No. 306454) is hereby approved for offering to City employees; and

BE IT FURTHER RESOLVED that the City Manager is authorized to execute a Service Agreement with ICMA-RC (Plan Identifier No. 306454) and submit all necessary documents to the Director of the Division of Local Government Services within the Department of Community Affairs for approval; and

BE IT FURTHER RESOLVED that the Chief Financial Officer of the City is hereby designated as the Local Plan Administrator for the administration of the Plan; and

BE IT FURTHER RESOLVED that this plan is substantially similar to one on which a Private Letter Ruling has been previously obtained from the federal Internal Revenue Service except for provisions added by reason of the Small Business Job Protection Act of 1996 (United States Public law No. 104-188) and the Economic Growth and Tax relief Reconciliation Act of 2001 (Unites States Public law No. 107-16) and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Internal Revenue Code Section 457. The use of the Ruling is for guidance only and acknowledges that for Internal Revenue Service purposes, the Ruling of another employer is not to be considered precedent; and

BE IT FURTHER RESOLVED that the adoption of this resolution shall not be considered exclusive and the City reserves the right to approve other deferred compensation plans and make them available in the future.

6. WHEREAS the City purchased property fronting on Route 4 eastbound for the purpose of constructing an access road for the area south of Route 4 which shall be partially financed by assessments upon the benefiting properties; and

WHEREAS the City has entered into development contracts for these adjoining properties wherein the City has guaranteed to have said access road completed by a specific date and failure of the City to meet these obligations may cause the City to forgo certain future revenues or have the receipt of these revenues delayed; and

WHEREAS the properties purchased contained former automotive fuel stations and the sellers of the stations had completed environmental clean up of the site prior to sale to the City; and

WHEREAS the City Council authorized an emergency contract for the removal of multiple underground tanks, containing gasoline, uncovered during the site demolition process; and

WHEREAS to accomplish the removal of these additional tanks in an expeditious manner, the City Manager and City Engineer authorized Environmental Waste Management Associates, already on site removing one other underground tank to remove these existing tanks; and

WHEREAS 40A:11-6, establishes procedures for local officials to award and/or extend emergency contracts that exceed the bid threshold of the Public Contracts Law to address specific emergent conditions with the City Council required to declare certain emergent conditions requiring the waiving of normal bid procedures; and

WHEREAS on March 4 and 18, 2008 the original emergency contract was extended to cover additional costs incurred to address removal and remediation activities required to correct soil and water contamination discovered with tank removal; and

WHEREAS, it is necessary to extend funding for this project as conditions emerge which must be resolved; and

WHEREAS the regulations of the Local Public Contracts Law provides for the approval of emergency contracts of this magnitude provided that certain approvals, certifications, and notice provisions are met; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood, Bergen County, that the City Manager is hereby authorized to extend the contract with Environmental Waste Management Associates by \$100,000 for the removal of underground storage tanks along Route 4 East, plus related testing and remediation work as required, to meet the requirements of the NJDEP.

The Chief Financial Officer's Certificate of Availability of Funds is on file in the Office of the City Clerk.

7. WHEREAS, the Public Defender, Walker Nealy, has submitted his resignation effective August 7, 2008; and
 WHEREAS, there is a need to provide the services of a Public Defender in the Municipal Court for the remainder of 2008;
 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood, Bergen County, New Jersey, that Joseph A. Raia, Esq. is hereby appointed Public Defender for the term ending December 31, 2008; and
 BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the appropriate appointment letter.

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Mr. Johnson introduced the following ordinance by title:

08-24 AN ORDINANCE AMENDING AND SUPPLEMENTING THE MUNICIPAL LAND USE ORDINANCE OF THE CITY OF ENGLEWOOD RESPECTING GIFTS AND CONTRIBUTIONS FROM APPLICANTS AND PROFESSIONALS APPEARING BEFORE THE BOARD OF ADJUSTMENT AND THE PLANNING BOARD

Mr. Johnson moved that the ordinances pass on first reading and be published in full in the Press Journal with the usual legal notice and that a public hearing be held September 16, 2008. Mr. Reddin seconded the motion.

Upon roll call, all Council members present voted "Yes". President Rosenzweig declared the motion carried.

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President Rosenzweig declared the public session open and the following persons spoke:
 Ms. Choi, 361 Elkwood Terr, commented on garbage pickup and parking on her block.
 Cornelia Rogers, Humphrey St, believes that the DPW is not functioning properly; she believes that the Court Administrator and the Health Director are not qualified.

Dierdre Paul, 96 Oak St, would like the City to conduct an energy audit.
 Curtis Caviness, 41 E. Forest Ave, stated that the basketball rim in Mackay Park has not been repaired and he believes that the DPW will be privatized.

Shirley Smith, 374 W. Palisade, reported that PSEG marked gas lines and did not inform residents they were coming and stated that DPW workers need their jobs.

Alva Jones, King Gardens, does not want any more development.

Jack Silberman, 320 Murray Ave, wants requirements for street closings changed; wants the tree ordinance enforced; stated that 299 Windsor needs paint.

Sondra Greenberg, 449 Liberty Rd, wants development to stop; she is opposed to privatizing the DPW.

When no one else wished to address the Council, President Rosenzweig closed the public session.

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As there was no further business to come before the City Council, the Council President adjourned the meeting.

City Clerk