

City of Englewood
City Council Work Shop
Meeting Minutes

October 8, 2013 at 6:30pm

A Workshop Meeting of the Mayor and Council of the City of Englewood, Bergen County, New Jersey, was held in the Municipal Court in the Public Safety Building commencing at 6:30 P.M.

ROLL CALL: Present: Council member Marc Forman
Council member Michael Cohen
Council member Eugene Skurnick
Council member Wayne Hamer
Council member Lynne Algrant (7:20PM)
Mayor/Council President Frank Huttle III
City Attorney William Bailey
City Manager Timothy Dacey
City Clerk Lauren Vande Vaarst

President Huttle 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 notice as required by the Open Public Meetings Act.

RESOLUTION #199-10-08-13

PERMIT THE COUNCIL OF THE CITY OF ENGLEWOOD TO ENTER INTO CLOSED SESSION

BE IT RESOLVED by the Council of the City of Englewood, pursuant to the provisions of the Open Public Meetings Act, that the Council meet in closed session to discuss the following subject matter:

Contract Negotiations and Personnel

Which subject matter is permitted to be discussed in closed session pursuant to the following designated sub-section(s) of Section 7 of the Open Public Meetings Act:

- () Sub-section 1 dealing with material rendered confidential by express provision of Federal or State law.
- () Sub-section 2 covering a matter in which release of information would impair a right to receive federal funds.
- () Sub-section 3 involving disclosure of material which would constitute an unwarranted invasion of privacy, including material related to an individual's personal and family circumstances, without the express written consent of the individual involved.
- () Sub-section 4 pertaining to collective bargaining agreements and the terms, conditions, and negotiations thereof.
- () Sub-section 5 dealing with the acquisition of real property, the settling of bank rates, or the investment of public funds where discussion thereof would adversely affect the public interest.
- () Sub-section 6 dealing with tactics and techniques used in protecting the safety and property of the public where disclosure could impair such protection or investigation of violation of the law.
- (X) Sub-section 7 dealing with pending or anticipated litigation, contract negotiations, or matters falling within the attorney-client privilege.
- (X) Sub-section 8 dealing concerning personnel matters dealing with employment, appointment, termination, or terms and conditions of employment of any person or persons, or the evaluation, promotion or disciplining of employees unless all employees involved consent to disclosure thereof.
- () Sub-section 9 involving deliberations after public hearing on a matter which may result in the imposition of a civil penalty or the suspension or loss of a license.

AND BE IT FURTHER RESOLVED that, as precisely as can be determined at this time, the discussion conducted in the said closed session can be disclosed to the public upon taking final action thereon, provided disclosure shall not violate the attorney-client privilege or constitute an undue invasion of privacy; and

BE IT FURTHER RESOLVED that, although it is not envisioned that the Council will return to open session after this meeting, the Council reserves the right to do so upon conclusion of the closed session.

COUNCIL	MOTION	AYES	NAYS	ABSTAIN	ABSENT
Algrant					X
Forman		X			
Skurnick	X	X			
Cohen		X			
Hamer		X			

The Council entered into Closed Session at 6:40PM and concluded at 7:50PM. The Council then reconvened in open Executive session at 7:52PM.

EXECUTIVE SESSION:

- Tim Dacey, City Manager reviewed Resolution #198 and explained that Mr. Fred Robinson, DPW employee, had an accident in March 2012 when a garbage truck ran over his ankle and crushed it. A Workman's Compensation claim was filed. The Doctor placed permanent restrictions on Mr. Robinson that requires permanent light duty status. City does not want to create a new class of employees, "Permanent Light Duty". The action that the City is proposing to take is not punitive and Mr. Robinson would receive a pension of \$49,000 per year tax free with lifetime Health benefits as compared to \$32,000 per year which would be taxable if he works until he can retire.
- Mayor & Council comments:
 - o Councilman Hamer asked for a explanation of voluntary vs. involuntary retirement and if there is an economic difference between them.

The Council concluded the open Executive session at 7:58PM. The Council then reconvened in open session at 7:59PM.

RESOLUTIONS FOR VOTE:

- Ken Albert, City Engineer reviewed Resolutions #188, 194-197:
 - o Resolution #188, this is for the 1st phase of the Overpeck Creek Channel Wall Replacement and will encompass approximately 1,700 feet. For Alternate #1 which covers the remaining 250 foot long section we have competitive bids for this and will ask the contractor to hold their price on this until the Council can make a decision on this in 2014.
 - Councilwoman Algrant confirmed that the Council bonded for this.
 - Councilman Hamer asked how long the work will take in Phase 1 and when it would begin. Mr. Albert explained that it should take 6 months and the work will begin immediately. Also asked if fencing along the wall will be a part of this project and if the missing fencing could be replaced at the intersection of Linden and William? Mr. Albert explained that the fencing along the 1,700 foot section will be replaced as part of this bid and the missing fencing by Linden and William is part of the 250 feet that will be done in 2014 and he will look into the possibility of placing temporary construction fencing there.
 - o Resolutions #194-196, Mr. Albert reviewed the applications that the City will be submitting to the NJDOT for grant monies for the following projects:
 - Bikeway Grant
 - Safe Streets to Transit Grant
 - Local Municipal Aid Grant
 - o Resolution #197, Mr. Albert explained that this is to award the design work for the emergency generators and transfer switches.
 - Councilman Skurnick asked if the generators for the new Firehouse are being included in with the Public Safety Complex. Mr. Albert explained that it is not and an additional generator has already been included in design of the new Firehouse. Councilman Skurnick inquired as to the estimated cost of this work, and Mr. Albert said around \$300,000.
 - o Resolution #198, Mr. Dacey stated that this resolution was already discussed in the open Executive session.

PUBLIC COMMENT ON AGENDA ITEMS:

- Elle Kelly 350 Shepard Avenue:
 - o Spoke about Resolutions #194-196, incomplete sidewalks and poor lighting.
- Phil Vogel 318 Marlboro Road:
 - o Resolution #194, wants bike racks installed before bike lanes.
 - o Resolution #197, spoke about the work that T&M did on the Wright Arena, and that he was not happy with the work that they did and felt that the plans were incorrect which caused overruns on the project. Mentioned that generator companies usually the plans for installation of the equipment and transfer switches.
- Samuel Halpern- Attorney in West Orange, NJ:
 - o Spoke about Resolution #198, he is representing Mr. Robinson and feels that the proposed action is ill advised. Commented that Mr. Robinson has not been doing light duty work for the past six (6) months but for only a short time, Mr. Robinson has been driving a lawn mower as part of his duties, feels that the State Disability and Pension Board will not approve the application for Mr. Robinson and he spoke about the proposed procedural

retirement date is November 1, 2013 and that is less than 30 days and these applications usually take 4-6 months. Asked if Mr. Robinson will be on unpaid leave until the Pension Board makes a decision.

- William Fulmore Chief Shop Steward, DPW:
 - Spoke about Resolution #198, he witnessed the accident and never thought that Mr. Robinson would be back to work. He explained that Mr. Robinson was put back to work cutting grass (on a Toro Mower) within days of returning and has been performing his job for the past 5-6 months. Spoke about reasonable accommodations for the disabled and that Mr. Robinson is wants to work and not go on disability and he is able and willing to work.
- Fred Robinson, DPW:
 - Spoke about Resolution #198 and that he has worked for the City for over 21 years 9 months. He has never been on light duty just restrictions for a few days and then went back to his regular job. He does not feel that he is disabled.

RESOLUTION #188-10-08-13

**AUTHORIZING AWARD OF CONTRACT FOR
OVERPECK CREEK CHANNEL WALL RECONSTRUCTION, PROJECT NUMBER 111219**

WHEREAS, sealed bids were received on September 19, 2013 for the Overpeck Creek Channel Wall Reconstruction, Project Number 111219 in accordance with specifications therefore and following public advertisement; and

WHEREAS, specifications were sent and responsible bids were received from seven (7) bidders listed on the attached Bid Summary Sheet; and

WHEREAS, the bid submitted by Let It Grow, 52 Ackerson Street, River Edge, New Jersey 07661 for the sum of \$3,322,962.50 was determined to be the low bid and is in compliance with the specifications; and based upon the recommendation of the City Engineer, can be accepted by the City Council; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available to award this contract;

WHEREAS, this bid is awarded according to a fair and open process pursuant to PL 2004, c.19;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood that the bid submitted by Let It Grow, is hereby accepted; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute an agreement between the City of Englewood and Let It Grow, for the Overpeck Creek Channel Wall Reconstruction, Project Number 111219 in accordance with the specifications therefore.

BE IT FURTHER RESOLVED that subject to the availability of funds therefore, the City Manager is authorized to approve change orders in a sum not to exceed 20% of the contract price.

Funding for this project is available from the following sources:

- Ordinances 06-08(k), 13-01, 13-06(3)
- CD Grant
- CD Additional

<i>COUNCIL</i>	<i>MOTION</i>	<i>AYES</i>	<i>NAYS</i>	<i>ABSTAIN</i>	<i>ABSENT</i>
<i>Algrant</i>		X			
<i>Forman</i>		X			
<i>Skurnick</i>	X	X			
<i>Cohen</i>		X			
<i>Hamer</i>		X			

RESOLUTION #194-10-08-13

**APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE
A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION
FOR THE ENGLEWOOD BIKEWAY PROJECT**

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Englewood formally approves the grant application for the above stated project; and

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to submit an electronic grant application identified as BIKE-0214-Englewood City- 00077 to New Jersey Department of Transportation on behalf of the City of Englewood.

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to sign the grant agreement on behalf of the City of Englewood and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

<i>COUNCIL</i>	<i>MOTION</i>	<i>AYES</i>	<i>NAYS</i>	<i>ABSTAIN</i>	<i>ABSENT</i>
<i>Algrant</i>		X			
<i>Forman</i>		X			
<i>Skurnick</i>	X	X			
<i>Cohen</i>		X			
<i>Hamer</i>		X			

RESOLUTION #195-10-08-13

**APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE
A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION
FOR THE ENGLEWOOD AVENUE PROJECT**

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Englewood formally approves the grant application for the above stated project; and

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to submit an electronic grant application identified as MA-0214-Englewood City- 00661 to New Jersey Department of Transportation on behalf of the City of Englewood.

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to sign the grant agreement on behalf of the City of Englewood and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

<i>COUNCIL</i>	<i>MOTION</i>	<i>AYES</i>	<i>NAYS</i>	<i>ABSTAIN</i>	<i>ABSENT</i>
<i>Algrant</i>		X			
<i>Forman</i>		X			
<i>Skurnick</i>	X	X			
<i>Cohen</i>		X			
<i>Hamer</i>		X			

RESOLUTION #196-10-08-13

**APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE
A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION
FOR THE W. PALISADE AVENUE PROJECT**

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Englewood formally approves the grant application for the above stated project; and

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to submit an electronic grant application identified as SST-0214-Englewood City- 0102 to New Jersey Department of Transportation on behalf of the City of Englewood.

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to sign the grant agreement on behalf of the City of Englewood and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

<i>COUNCIL</i>	<i>MOTION</i>	<i>AYES</i>	<i>NAYS</i>	<i>ABSTAIN</i>	<i>ABSENT</i>
<i>Algrant</i>		X			
<i>Forman</i>		X			
<i>Skurnick</i>	X	X			
<i>Cohen</i>		X			
<i>Hamer</i>		X			

**AWARD PROFESSIONAL SERVICES CONTRACT TO T&M ASSOCIATES
FOR DESIGN SERVICES FOR EMERGENCY GENERATORS AND TRANSFER SWITCHES**

WHEREAS, the City of Englewood requires a consultant to provide professional services for the design and construction administration for the installation of five (5) emergency generators at the following sites:

- Morris Park Pump Station
- Mackay Park Pump Station
- Cedar Lane Pump Station
- Department of Public Works Building
- Public Safety Complex

WHEREAS, on the recommendation of the City Engineer, the City Council has determined, based on professional experience, expertise and reputation, to award a contract for such services to T&M Associates, 11 Tindall Road, Middletown, New Jersey 07748 pursuant to N.J.S.A. 19:44A-20.5 as other than a "Fair and Open" contract as defined therein; and

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

WHEREAS, the City Manager has determined the value of this contract for the scope of services as stated above and in the attached proposal, will be compensated by a lump sum fee of \$38,000, plus direct expenses, at cost in accordance with the enclosed Schedule of Miscellaneous Charges; and

WHEREAS, T&M Associates will complete and submit a Business Entity Disclosure Certification and a Political Contribution Disclosure Form certifying that the firm has not made or will make any reportable contributions that would bar the award of this contract under the provisions of N.J.S.A. 19:44A-1 et seq. and City of Englewood Ordinance No. 07-31; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available to award this contract and a copy of said certification is on file in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Englewood, Bergen County, State of New Jersey that a professional services contract is hereby awarded to T&M Associates to provide professional services for the design and construction administration for the installation of five (5) emergency generators at the aforementioned sites; and

BE IT FURTHER RESOLVED, that a copy of the within resolution, together with a copy of the Agreement and that the Business Disclosure Entity Certification and the Determination of Value, be on file in the Office of the City Clerk and be available for public inspection during regular business hours; and

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

Funding for this project is available from the following source:

- Ordinance 12-15 (f)

<i>COUNCIL</i>	<i>MOTION</i>	<i>AYES</i>	<i>NAYS</i>	<i>ABSTAIN</i>	<i>ABSENT</i>
<i>Algrant</i>		X			
<i>Forman</i>		X			
<i>Skurnick</i>	X	X			
<i>Cohen</i>		X			
<i>Hamer</i>		X			

**AUTHORIZATION FOR THE CITY OF ENGLEWOOD STAFF TO PROCESS
AN INVOLUNTARY DISABILITY RETIREMENT APPLICATION**

WHEREAS, the City of Englewood has employed Frederick Robinson in its Department of Public Works; and

WHEREAS, Mr. Robinson is an active member of the PERS; and

WHEREAS, Mr. Robinson has twenty-one years and 1 month of PERS Service Credit, meeting the minimum service credit requirement of at least 4 years for PERS members; and

WHEREAS, the City staff is of the opinion that Mr. Robinson is totally and permanently disabled and no longer can perform his assigned duties based on the documentation supplied by professionals retained by the City; and

WHEREAS, the City of Englewood is unable to provide an alternative to the PERS covered position with duties capable of being performed by said individual; and

WHEREAS, the City Manager has consented to the processing of the Involuntary Disability Retirement application;

NOW, THEREFORE, BE IT RESOLVED BY the City Council of the City of Englewood, County of Bergen, New Jersey that the City Manager process an Involuntary Disability Retirement application for Frederick Robinson currently employed in the Department of Public Works and;

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be forwarded to all parties involved in the administration of this action.

<i>COUNCIL</i>	<i>MOTION</i>	<i>AYES</i>	<i>NAYS</i>	<i>ABSTAIN</i>	<i>ABSENT</i>
<i>Agrant</i>			X		
<i>Forman</i>	X		X		
<i>Skurnick</i>				X	
<i>Cohen</i>				X	
<i>Hamer</i>			X		

Comments on Resolution #198:

- Tim Dacey, City Manager explained what the next step in the process is now that the resolution failed. The City will begin the process to terminate the employee because the doctor, insurance and workman's compensation agree to do so.
- Samuel Halpern, Mr. Robinson's attorney said that he just received a report from the doctor dated October 4, 2013 saying that Mr. Robinson is cleared for duty.
- Mayor Huttie directed Mr. Halpern to submit the doctor's note to Bill Bailey, City Attorney who will contact Mr. Halpern tomorrow.
- Mr. Robinson explained that during his time off he went to the doctor and was retested and passed.
- Mayor Huttie hopes that this can be worked out and resolved amicably before the October 22, 2013 Council meeting.

Resolutions for Discussion:

- Dedication of the City of Englewood's 9/11 Memorial
- Authorizing Award of Contract for Grand Avenue Drainage Improvements Project Number 111308
- Authorizing Award of Contract for Wright Arena Flooring Replacement, Project No. 111332
- Authorizing Award of Contract for Wright Arena Screening Replacement, Project No. 111331
- Authorize Southeast Senior Center for Independent Living Application for Bergen County Community Development Block Grant Funds
- Authorize Bergen Family Center Application for Bergen County Community Development Block Grant Funds
- Refunds Due to State Tax Appeals
- Refund Due to Tax Overpayment
- Refunds Due to Disabled Veteran
- Resolution Authorizing Waiver of Downtown Parking Meter Fees During the Holiday Season

Ordinances for Discussion:

- Amend Peddler's License (Mobile Food Vendors):
 - Bill Bailey reviewed and explained that he needs additional information from the Mayor and Council in order to revise this ordinance.
 - Mayor and Council comments:
 - Councilman Skurnick would like Mr. Bailey to send the Mayor and Council an Excel spreadsheet and everyone can then submit the information that Mr. Bailey is looking for.
 - Councilman Hamer said that the City should be proactive because these trucks are coming.
- Amend Parking on Elmore Avenue:
 - Mr. Dacey let the Mayor and Council know that there is going to be a meeting held to discuss some new ideas in regards to this issue and he will keep them informed.

Items for Discussion:

- CY 2013/SFY 2014 Best Practices Inventory:
 - Mr. Dacey explained that the deadline for submission is October 15, 2013. The City score is 90% so we are eligible for 100% of State Aid available.
 - Mayor and Council comments:
 - Mayor has sent a letter to the Board of Education to try and schedule a joint meeting.
 - Councilman Skurnick asked for detailed financial information on a quarterly basis but has only received it once so far this year.

- Council Retreat:
 - Mayor Huttle wants to know how the Council feels about this idea.
 - Councilman Cohen asked if a retreat would be in conflict with the State laws and if it would have to be noticed and open to the public. He is okay with the idea but feels that it is at cross purposes with the law and we will not be able to accomplish what retreats are designed to do.
 - Councilman Skurnick asked what the law says about this.
 - Mr. Bailey explained that the Mayor and Council cannot discuss City business but can get together.
- Governor Christie's Veto of the Marriage Equality Bill (Asbury Park Resolution):
 - Mayor Huttle explained that the sample resolution is to encourage the Legislature to over ride the Governor's veto. He asked if the Council has any interest in moving such a resolution.
 - Councilman Skurnick does not think that it is a good idea to get the mayor and Council involved with a political issue right before the November election. After the election is better and he would support it.
 - Councilwoman Algrant spoke about interracial marriages only just becoming legal in all 50 states. She would be proud to support this after the November election.
 - Mayor Huttle respects what Councilman Skurnick said and would push this off until after the November election.

Public Session:

- Elle Kelly 350 Shepard Avenue:
 - Spoke about Peddlers' licenses for Veterans, and that he feels that vendors can be on private railroad property.
 - Glad that the City will have a joint meeting with the Board of Education and asked when it will be. Commented that teachers have been hired who are not State certified.
 - Spoke about the Dedication by Rider resolutions discussed at the last meeting in regards to extra duty police officers.
- Bruce Prince 120 Jones Road:
 - Commented about this being the second meeting without an agenda item regarding the operation of the arena. Mayor Huttle said that the meeting of October 22, 2013 will start at 6:30PM and this item will be on the agenda.
- Phil Vogel 318 Marlboro Road:
 - Asked when the W. Palisade Avenue planters will get plants. Frantz Volcy, Engineer's office spoke about the need to have the soil removed because it was too acidic and new topsoil was put in them and replanting should take place next week.
 - Recommends that the City requires bagging of leaves and that people cannot put their leaves out too far in advance.
 - Asked if ice cream and catering trucks will be regulated as well as mobile food vendors.
 - Commented on the arena not being on the agenda.
- Ken Rosenzweig 143 Booth Avenue:
 - Supportive of a Council Retreat, and they should have it far away but do open it to the public.
 - Glad that the arena will be on the agenda in 2 weeks.
- Lisa Wisotsky 230 Hutchinson Road:
 - Asked what kind of council meeting will be held on October 22nd. Mayor explained that it is a regular Council Meeting and will start at 6:30PM in order to discuss the arena.
 - Has met many residents lately that are supportive of the arena and it is interesting that it is the topic of conversation throughout the City by various boards and organizations.
- Dr. Bruce Tisch, Englewood resident and physician at Metropolitan Surgical Associates:
 - Read a prepared statement regarding escalating incidents at 40 Engle Street and the most recent on October 5, 2013. Handed City Clerk a copy of statement to put in the official record.
 - Would like the City to draft ordinance regarding the rights and regulations governing gatherings in Englewood and that it should be neutral so as not to offend.
 - Councilman Skurnick commented that it sounds as if public protection is not being provided.
 - Mr. Bailey explained that this should be dealt with in Closed Session.
- Russ Kotopoulos, Esq. attorney representing 40 Engle Street:
 - Mr. Kotopoulos spoke about a new group coming into town and causing the disturbances.
- Sandy Greenberg 449 Liberty Road:
 - Asked if the judgment put in place many years ago regarding 40 Engle Street is still in place.
 - Spoke about a documentary produced by a former Englewood resident.
 - Inquired if there will be further public discussions regarding cameras on Palisade Avenue.
 - Anxious that the arena should open this year. Suggested that someone just runs it for a year or two and then the City can devise a plan.
- Sheila Figueroa Humphrey Street:
 - Discussed a handout that she gave to the Mayor and Council.

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Litigation and Personnel

Which subject matter is permitted to be discussed in closed session pursuant to the following designated sub-section(s) of Section 7 of the Open Public Meetings Act:

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<i>Algrant</i>		X			
<i>Forman</i>		X			
<i>Skurnick</i>	X	X			
<i>Cohen</i>		X			
<i>Hamer</i>		X			

ADJOURN: 10:15 PM

Motion: Algrant
All in Favor

Lauren Vande Vaarst, RMC
City Clerk