

A Regular Meeting of the Borough Council convened in the Borough Hall at 7:30 p.m. with Mayor Stemberger presiding.

Invocation was given by Mayor Stemberger, followed by the pledge of allegiance.

Mayor Stemberger noted that the requirements of the Open Public Meetings Act have been met by the filing and posting of the Annual Notice.

Councilpersons President Schneider Councilwoman Davis and Nolan, Councilman Schalick, Williams and Zee answered to the roll call. Absent – None.

Motion Davis, seconded Zee that the last regular meeting and all subsequent meetings be approved and that the reading of the minutes be dispensed with. Motion carried.

Committee reports were made at this time: Finance, Water/Street Lights, Public Safety and Recycling/Solid Waste-Parks & Playgrounds.

Leaf Collection will be on December 2, 2013.

Santa Clause will be December 6, 2013 between 7 and 8 pm.

President Schneider called up for second reading an Ordinance entitled:

ORDINANCE NO. 2013-8

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER, COUNTY OF SALEM, STATE OF NEW JERSEY ESTABLISHING A FAIR AND OPEN PROCESS FOR THE AWARD OF PROFESSIONAL SERVICE AGREEMENTS AND OTHER AGREEMENTS WITH BUSINESS ENTITIES

Clerk presented affidavit of publication, motion Zee, seconded Davis that the affidavit be received and filed. Motion carried.

Motion Nolan, seconded Zee that the Clerk read the Ordinance by title only and that the public hearing be held thereon. Motion carried.

Clerk read following ordinance by title only:

ORDINANCE NO. 2013-8

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER, COUNTY OF SALEM, STATE OF NEW JERSEY ESTABLISHING A FAIR AND OPEN PROCESS FOR THE AWARD OF PROFESSIONAL SERVICE AGREEMENTS AND OTHER AGREEMENTS WITH BUSINESS ENTITIES

WHEREAS, In our representative for of government, it is essential that individuals who are elected to public office have the trust, respect and confidence of the citizenry; and

WHEREAS, All individuals, businesses, associations, and other persons have a right to participate fully in the political process of New Jersey, including making and soliciting contributions to candidates, political parties and holders of public office; and

WHEREAS, When a person or business interest makes or solicits major contributions to obtain a contract awarded by a government agency or independent authority, this constitutes a violation of the public's trust in government and raises legitimate public concerns about whether the contract has been awarded on the basis of merit; and

WHEREAS, The growing infusion of funds donated by business entities into the political process at all levels of government has generated widespread cynicism among the public that special interest groups are "buying" favors from elected officeholders; and

WHEREAS, For the purposes of protecting the integrity of government contractual decisions and of improving the public's confidence in government, it is a compelling interest of this State to prohibit awarding government contracts to business entities which are also contributors to candidates, political parties and the holders of public office; and

WHEREAS, Professional entities and other business entities are exempt from established New Jersey Public bidding laws, specifically said exception being set forth under N.J.S.A. 40A:11-5; and

WHEREAS, the Borough of Elmer ("Borough") has recognized that there is a need for a fair and open process for the awarding of professional service contracts and other contracts as contained in *N.J.S.A. 40A:11-5*, where other contracts and agreements are subject to public bidding, in order to address the concerns of taxpayers regarding political contributions and to engender trust in the process of local government and to insure that quality public services are received;

WHEREAS, the State of New Jersey has enacted *N.J.S.A. 19:44A-20.5* which bars any municipality, agency, board, authority or instrumentality thereof from entering into a contract in excess of \$17,500.00 with a business entity that has made a political contribution reportable pursuant to *N.J.S.A. 19:44A-1 et. seq.* to any municipal Council of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate Council of any person serving in an elective public office of that municipality when the contract is awarded unless said contract is awarded pursuant to a fair and open process; and

WHEREAS, this Ordinance shall apply to those services, contracts, etc. described above, that expire as of December 31 of that calendar year; and

WHEREAS, this Ordinance shall apply to all Municipal appointing authorities, to include the Office of the Mayor, municipal governing body, planning board, and zoning board.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Elmer, County of Salem and State of New Jersey, that the Borough of Elmer enact an Ordinance to be known as an Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements and Other Agreements with Business Entities as consistent with the provisions of *N.J.S.A. 19:44A-20.5, et seq.*, and said Ordinance shall read as follows:

An Ordinance Establishing a Fair and Open Process for the Award of Professional Service Agreements and Other Agreements with Business Entities

I. Prohibition Awarding Certain Public Contracts

Any other provision of the law to the contrary notwithstanding, the Borough or any board, authority, agency or instrumentality thereof (hereinafter referred to as "Municipal Appointing Authority"), shall not enter into a contract having an anticipated value in excess of \$17,500.00 as determined in advance and certified in writing by the Municipal Appointing Authority, or its designee, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one year period, that business entity has made political

contributions that are reportable by the recipient under *N.J.S.A. 19:44A-1 et seq.*, to any municipal committee of a political party in the Borough if a member of that political party is serving in an elective public office of the Borough when the contract is awarded or to any candidate committee of any person serving in an elective public office of the Borough when the contract is awarded; and

A business entity that has entered into a contract having an anticipated value in excess of \$17,500 with the Municipal Appointing Authority, except a contract that is awarded pursuant to a fair and open process, shall not make such a contribution, reportable by the recipient under The New Jersey Campaign Contributions and Expenditures Reporting Act, *N.J.S.A. 19:44A-1 et seq.*, during the term of the contract, to any municipal committee of a political party in the Borough if a member of that political party is serving in an elective public office of the Borough when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Borough when the contract is awarded, during the term of the contract. In the alternative to proceeding with the fair and open process described herein, the Municipal Appointing Authority thereof may award a contract to a business entity for an amount in excess of \$17,500, pursuant to procedures prescribed by the New Jersey Local Public Contracts Law and without competitive bidding or competitive proposals. However, such award may be made only if the recipient of the contract provides a written certification that it has not made a political contribution which would bar the award of the contract to it.

II. Fair and Open Process

A. Any professional service entity or other business entity providing services to the Borough shall be subject to a fair and open process for selection. That fair and open process shall be set forth in subsection B below which shall establish a criteria for the fair and open process. Included in that criteria and made a part hereof, shall be some or all of the following: accessibility; understanding of the assignment; methodology/plan for accomplishing the assignment; general experience; experience specific to the assignment; sufficiency of resources to perform the task.

B. The fair and open process established by the Borough shall require the following:

(1) The solicitation of proposals or qualifications for any professional position, service contract, or other contract not subject to bidding pursuant to *N.J.S.A. 40A:11-5*, that shall expire as of December 31 of that calendar year shall be published and advertised by the Municipal Appointing Authority or its designee either in the official newspaper of the Borough for publication of notices, or on the Borough's website in sufficient time to give notice in advance of the contract solicitation. The published notice shall set forth the name of the position or contract which is to become open, set forth the criteria to be considered and materials required to be submitted by the applicant/proposer and a date, time and place when the proposals or qualifications shall be publically opened.

(2) Should the applicant/proposer be a professional acquiring licensure in the State of New Jersey, said applicant/proposer shall be licensed for a period not less than five (5) years.

(3) If the applicant/proposer is not a professional and/or the contract to be awarded is not a professional services contract, the applicant/proposer shall provide a "Certificate of Good Standing" or other similar document evidencing that it is authorized to do business in the State of New Jersey.

(4) The applicant/proposer shall submit a resume which shall set forth information including, but not limited to the following (as applicable to a business entity or individual professional):

- (a) Full name and business address;
- (b) A listing of all post high school education of the applicant/proposer;
- (c) Dates of licensure in the State of New Jersey and any other State;
- (d) A listing of any professional affiliations or memberships in any professional societies or organizations, with an indication as to any offices held therein;
- (e) The number of licensed professionals employed by/affiliated with the business entity or the business entity which employs the applicant/proposer;

- (f) A listing of all special accreditations held by the individual licensed professional or business entity;
- (g) A listing of all previous public entities served by the business entity or licensed professional, indicating the dates of services and position held; and

C. The Municipal Appointing Authority shall thereafter publicly select the professional or business entity for the position so advertised which shall thereafter be confirmed or approved as required by law or Ordinance.

D. The awarded contract shall be publicized in the official newspaper of the Borough for publication of notices in accordance with *N.J.S.A. 40A:11-5*.

E. The Borough's determination of what constitutes a fair and open process shall be final. Fair and open may necessarily be implemented differently for different categories of procurement depending on the subject matter of the procurement, and the nature and nuances of the industry providing the services or product, but in every instance, the principles of fair and open shall be maintained.

F. If any sentence, paragraph or section of this Ordinance or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action, any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair, or void the remainder of any of the provisions of this Ordinance.

G. The purpose of this Ordinance is to comply with the provisions of *N.J.S.A. 19:44A-1, et seq.* The definitions as set forth in that statute are referred to and incorporated into this Ordinance.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately upon final passage and publication in accordance with law.

Mayor Stemberger announced that the public hearing on the above Ordinance to be open.

Opportunity having been given to those who wished to speak for or against the Ordinance, it was moved by Williams, seconded Nolan that the public hearing be closed. Motion carried.

The following resolution was presented:

FINAL RESOLUTION

WHEREAS, an Ordinance entitled **AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER, COUNTY OF SALEM, STATE OF NEW JERSEY ESTABLISHING A FAIR AND OPEN PROCESS FOR THE AWARD OF PROFESSIONAL SERVICE AGREEMENTS AND OTHER AGREEMENTS WITH BUSINESS ENTITIES** was introduced and passed first reading on October 9, 2013, and

WHEREAS, public hearing has been held thereon;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Elmer, County of Salem, and State of New Jersey, that an Ordinance entitled **AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER, COUNTY OF SALEM, STATE OF NEW JERSEY ESTABLISHING A FAIR AND OPEN PROCESS FOR THE AWARD OF PROFESSIONAL SERVICE AGREEMENTS AND OTHER AGREEMENTS WITH BUSINESS ENTITIES** be finally adopted and that notice of its adoption be published in the Elmer Times in accordance with law.

Motion Davis, seconded Nolan that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

The following resolution was presented:

RESOLUTION

Number 89-13

**RESOLUTION FOR TO ADJUST WATER BILL FOR
ID # 868 BLOCK 26 LOT 30, 160 S MAIN STREET**

WHEREAS, \$600.00 was posted in error to account ID# 868 due to a meter reading error on October 8, 2013, and

WHEREAS, the correct reading was actually 1415k instead of 1615k.

NOW, THEREFORE, BE IT RESOLVED, that the Water Collector, is hereby authorized and directed to cancel the \$600.00 on this account leaving a balance due of \$113.00.

BE IT ALSO RESOLVED, that the Water Collector report the error in consumption to the Water Superintendent to correct any State Tax that may be due.

Motion Davis, seconded Nolan that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

The following resolution was presented:

RESOLUTION

Number 90-13

ENFORSYS SOFTWARE MAINTENANCE CONTRACT

BE IT RESOLVED by the Mayor and Borough Council that the Clerk be authorized to enter into an agreement with ENFORYSYS for Software Maintenance Support for the year 2014 in the amount of \$500.00. This shall be charged to Fire Official: OE in the 2014 Budget.

Motion Davis, seconded Zee that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

The following resolution was presented:

RESOLUTION

Number 91-13

E. C. P. BUSINESS MACHINES CONTRACT

BE IT RESOLVED by the Mayor and Borough Council that the Clerk be authorized to enter into an agreement with E.C.P. BUSINESS MACHINES for Borough Clerk’s Computer Service for one year starting November 6, 2013 and ending November 14, 2013, 2014 in the amount of \$153.00. This shall be charged to: Technology: OE in the 2013 Budget.

Motion Zee, seconded Davis that the resolution be adopted as read: Ayes –Davis, Nolan, Schalick, Williams and Zee. Abstained-Schneider. Nays – None. Motion carried.

The following resolution was presented:

RESOLUTION

Number 92-13

EDMUNDS & ASSOCIATES SOFTWARE CONTRACT

BE IT RESOLVED by the Mayor and Borough Council that the Clerk be authorized to enter into an agreement with Edmunds & Associates for Software Support for the year 2014 in the amount of \$3,308.00. This shall be charged to Finance: OE in the amount of \$2,308.00 and Water: OE in the amount of \$1,308.00 in the 2014 Budget.

Motion Schneider, seconded Nolan that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

Bids were received on Wednesday, November 13, 2013 at 11:00 a.m. in the Borough Clerk's Office for the Sidewalk Project. (See page 20 in minute book for Bid results)

The following resolution was presented:

RESOLUTION

Number 93-13

**NEW JERSEY DEPARTMENT OF TRANSPORTATION
DIVISION OF LOCAL AID
AND ECONOMIC DEVELOPMENT
RECOMMENDATION OF AWARD
OF STATE AID PROJECT**

BE IT RESOLED that Elmer Borough Council hereby recommends to the New Jersey Department of Transportation that the contract for Construction of Pedestrian Sidewalks in the Borough of Elmer, County of Salem be awarded to Charles Marandino LLC whose bid amounted to \$126,036.00 (base \$j85,048.00 + alternate # 1 \$21,334.00 + alternate #2 \$19,654) subject to the approval of the Department.

The presiding officer of this body be and is hereby directed to sign for and on its behalf the contract in the prescribed form for said construction.

Motion Schneider, seconded Davis that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

The following resolution was presented:

RESOLUTION

Number 95-13

MUNICIPAL SOFTWARE CONTRACT

BE IT RESOLVED by the Mayor and Borough Council that the Clerk be authorized to enter into an agreement with Municipal Software for Support for the year 2014 in the amount of \$6,365.71. This shall be charged to Tax Collection: OE, Animals: OE, Technology: OE and Water Operating OE in the 2013 Budget.

Motion Davis, seconded Schalick that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

The following resolution was presented:

RESOLUTION

Number 96-2013

WHEREAS, there exists in the Borough of Elmer, County of Salem, State of New Jersey, a need for certain conflict engineering services; and

WHEREAS, funds are available for this purpose; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-15) requires that the Resolution Authorizing the Award of Contract for "Professional Services" without competitive bidding must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Elmer, County of Salem and State of New Jersey as follows:

1. Jefferis Engineering Associates, LLC, an Engineering Firm of the State of New Jersey, be and is hereby appointed Conflict Engineer for the Borough of Elmer to render such conflict engineering services as may be required for a term beginning November 13, 2013 and ending December 31, 2013.
2. The Mayor and Borough Clerk are hereby authorized and directed to enter into an agreement with the aforesaid individuals for "Professional Services" under the provisions of the Local Public Contracts Law.

Motion Davis, seconded Zee that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

The following resolution was presented:

**RESOLUTION
PLANNING BOARD ESCROW FUND**

Number 97-13

BE IT RESOLVED that the Escrow Fund Deposit made pursuant to Article IV, Section 2.30 of the Land Development Ordinance by Southwick Properties (Applicant) Site Plan Review (Purpose of Deposit e.g. Site Plan Application) in the amount of \$478.75 be distributed and paid as follows:

\$ 478.75 To: Fralinger Engineering

Motion Davis, seconded Zee that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

The following Ordinance was introduced by title only:

FIRST RESOLUTION

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Elmer, County of Salem, and State of New Jersey, that an Ordinance entitled **AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST OF COMCAST OF SOUTH JERSEY, LLC TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN ELMER, NEW JERSEY** be adopted on first reading, that hearing thereof be held on December 11, 2013, at 7:30 p.m., Borough Hall, Elmer, New Jersey, and that Notice of Final Hearing, be published in the Elmer Times, in accordance with law.

Motion Zee, seconded Nolan that the resolution be adopted as read: Ayes – Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays – None. Motion carried.

Motion Zee, seconded Nolan authorizing the Clerk to solicit bids for water repair and maintenance. Motion carried.

Tax/Water Collector report for October 2013 was presented.

Motion Davis, seconded Schneider that the Tax/Water Collector report for October 2013 be received and filed. Motion carried.

Clerk and Mayor's mail for the month of November 2013, was presented and read.

Motion Zee, seconded Davis that the correspondence be received and filed. Motion carried.

Treasurer's Reports for the month of October 2013, were presented and read.

Motion Williams, seconded Davis reports be received, filed and spread full upon the minutes. I state this Andrew M. Williams. Motion carried.

(Treasurer's Reports – See Pages 22 a)

The following bills were presented and read: (See pages 22 b)

Moved Davis, seconded Zee that the bills be paid and charged to their respective accounts. Ayes - Schneider, Davis, Nolan, Schalick, Williams and Zee. Nays - None. Motion carried.

There being no further business, it was moved by Zee, seconded Davis that the meeting be adjourned. Motion carried.

November 13, 2013

Beverly S. Richards, RMC
Borough Clerk