

TOWNSHIP OF SPRINGFIELD
COUNCIL MEETING AGENDA
7:30 PM
APRIL 27 2022

1. Meeting called to order by the Mayor
2. Reading of the Sunshine Notice
3. Salute to the Flag
4. Roll Call: Mr. Eaton, Mr. Frank, Mr. Marinello, Mr. McDaniel, Mr. Sobotka
5. Minutes submitted for approval:
 April 13, 2022 Regular Session
6. Public Comment*
7. Executive Session
 No. 2022-04-06 – Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12 (Litigation – D.R. Horton, Inc. v. Township of Springfield litigation)
8. Resolutions
 No. 2022-04-07 – Resolution Authorizing Defense of Action Entitled D.R. Horton, Inc. A Corporation of the State of Delaware v. The Township of Springfield, et al., BURL-L-000684-22
9. Adjournment

**TOWNSHIP COUNCIL MEETING
APRIL 27, 2022**

The meeting of the Springfield Township Council was called to order by Mayor Marinello with Council Members David Frank, Andrew Eaton, Mr. McDaniel and Peter Sobotka present.

The Sunshine Notice was read:

“Public notice of this meeting pursuant to the Open Public Meetings Act has been given by the Springfield Township Council in the following manner on January 5, 2022:

- a. Posting written notice on the official bulletin board at the Municipal Building, Jobstown, NJ
- b. Transmitting written notice to the Burlington County Times and the Trenton Times
- c. Filing written notice with the Clerk of Springfield Township
- d. Mailing written notice to each person who has requested copies of the regular meeting schedule and who has prepaid any charges fixed for such services.”

Mayor Marinello led the salute to the Flag.

Mr. Sobotka made a motion seconded by Mr. McDaniel to approve the April 13, 2022 work session minutes as amended. All were in favor, except Mr. Eaton and Mr. Marinello who abstained. Motion carried.

Mr. McDaniel mentioned that road work should commence in May.

Mr. Frank stated that the Council can't comment on the D.R. Horton matter because it is pending. He wanted the public to be aware that Council will not be able to answer questions during the public comment regarding this matter.

PUBLIC COMMENT

Mr. Sobotka made a motion seconded by Mr. McDaniel to open public comment. All were in favor. Motion carried.

Mr. Roberson, 396 Juliustown stated that he realizes Council can't respond back but he has read both lawsuits and he does sympathize with the position the town is in. However, he is concerned that Council doesn't take these lawsuits personally and he asked that Council put emotions aside when looking at the lawsuits and how to respond. He added that the tone of both suits indicates that the developers felt the Township was unresponsive to their projects. Mr. Roberson stated that last meeting Mr. Frank said the Township would fight the developers at all costs but he feels Council needs to have a systematic approach considering both a win or lose perspective. He asked if the Township has made a fair assessment of the D.R. Horton property and the proposal they are presenting and whether it is even possible at that site. He went on to ask if there a funding mechanism established for both these lawsuits and what happens if the Township loses. Mr. Roberson stated that on the Old York property half of the property looks like it is in flood plain from the map and may not be suitable for development. He went on to ask how many homes the Township will get on that site if you can only use half the property and need to include parking and infrastructure. He added that if the developer can use it to put some homes then let them develop. Lastly, Mr. Roberson stated that there seems to be a discrepancy between the affordable housing obligation in D.R. Horton lawsuit which indicates the Township's obligation is over 200 and the Township says the obligation is around 90. Mr. Roberson wondered if the Township can afford this fight or if they should engage with developer to get out of it what the Township needs to satisfy their affordable housing obligation.

Hearing no further comments, Mr. Sobotka made a motion seconded by Mr. Marinello to close public comment. All were in favor. Motion carried.

Mr. Sobotka made a motion seconded by Mr. Eaton to approve Resolution No. 2022-04-06 to discuss litigation. All were in favor, except Mr. Marinello who abstained. Motion carried. Mr. Frank advised the public that formal action may be taken after executive session, public were placed back in waiting room and Council entered into executive session at 7:46 PM.

SPRINGFIELD TOWNSHIP RESOLUTION 2022-04-06

RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12

WHEREAS, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting, and

WHEREAS, the Governing Body of Springfield Township has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public; and

WHEREAS, the regular meeting of this Governing Body will reconvene;

NOW, THEREFORE, BE IT RESOLVED that the Township Council of Springfield Township will go into closed session for the following reason(s) as outlined in N.J.S.A. 10:4-12:

_____ Any matter which, by express provision of Federal Law, State Statute or Rule of Court shall be rendered confidential or excluded from discussion in public (Provision relied upon: _____);

_____ Any matter in which the release of information would impair a right to receive funds from the federal government;

_____ Any matter the disclosure of which constitutes an unwarranted invasion of individual privacy;

_____ Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body (Specify contract: _____);

_____ Any matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed;

_____ Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____ Any investigations of violations or possible violations of the law;

X Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer (If pending or anticipated litigation, the matter is: D.R. HORTON, INC v. Township of Springfield) (If contract negotiation the nature of the contract and interested party is:)

Under certain circumstances, if public disclosure of the matter would have a potentially negative impact on the Township's position in the litigation or negotiation, this information may be withheld until such time that the matter is concluded or the circumstances no longer present a potential impact);

_____ Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting (Subject to the balancing of the public's interest and the employee's privacy rights under *South Jersey Publishing*, 124 N.J. 478, the employee(s) and nature of discussion is:);

_____ Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility;

BE IT FURTHER RESOLVED that the Township Council hereby declares that its discussion of the aforementioned subject(s) may be made public at a time when the Township Attorney advises the Township Council that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Township or any other entity with respect to said discussion. That time is currently estimated as the time of said matter. (Estimated date: upon authorization by the Township Solicitor) or upon the occurrence of Litigation resolved);

BE IT FURTHER RESOLVED that the Township Council, for the aforementioned reasons, hereby declares that the public is excluded from the portion of the meeting during which the above discussion shall take place and hereby directs the Township Clerk to take the appropriate

action to effectuate the terms of this resolution.

Council returned to public session at 8:27 PM and the public was let back into the meeting.

Mr. Sobotka made a motion seconded by Mr. McDaniel to adopt Resolution No. 2022-04-07. Roll Call: Mr. Eaton – yes; Mr. McDaniel – yes; Mr. Sobotka – yes and Mr. Frank - yes. Mr. Frank noted for the record that Mr. Marinello has abstained from all discussion and voting on this litigation. Motion carried.

RESOLUTION NO. 2022-04-07

RESOLUTION AUTHORIZING DEFENSE OF ACTION ENTITLED D.R. HORTON, INC, A CORPORATION OF THE STATE OF DELAWARE v. THE TOWNSHIP OF SPRINGFIELD, et al, BUR-L-000684-22.

WHEREAS, a civil action has been filed against the Township of Springfield and the Planning Board of the Township of Springfield by D.R. Horton, Inc, a corporation of the State of Delaware, under Docket No. BUR-L-000684-22; and

WHEREAS, the Township Council of the Township of Springfield intends hereby to authorize a defense of said action and a counterclaim for Declaratory Judgment and other relief;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Springfield, County of Burlington that:

1. The Township’s conflict counsel, Renaud DeAppolonio LLC, is hereby authorized and directed to defend the Township of Springfield in the matter entitled D.R. HORTON, INC, A CORPORATION OF THE STATE OF DELAWARE v. THE TOWNSHIP OF SPRINGFIELD, et al, BUR-L-000684-22; and
2. Said counsel is hereby authorized and directed to file an answer and counterclaim in such legal action and to take such other actions as counsel may deem appropriate to defend the Township of Springfield and to obtain other appropriate relief.

Mr. Sobotka made a motion seconded by Mr. McDaniel adjourn the meeting. The meeting was adjourned at 8:30 PM. All were in favor.

Respectfully submitted,

Patricia A. Clayton
Township Clerk