

**MINUTES OF A SPECIAL MEETING
MUNICIPAL COUNCIL - TOWNSHIP OF EDISON
JUNE 20, 2011**

A Special Meeting of the Municipal Council was held in the Council Chambers of the Municipal Complex on Monday, June 20, 2011. The meeting was called to order at 5:15 p.m. by Council Vice President Karabinchak, followed by the Pledge of Allegiance.

Present were Councilmembers Gomez, Karabinchak, Lankey, Perilstein, and Prasad.
Council President Diehl entered at 5:24 p.m.
Councilmember Mascola entered at 5:15 p.m.

Also present were Township Clerk Murphy, Deputy Township Clerk Kenny, Township Attorney Kemm and Health Director Elliot.

The Township Clerk advised that adequate Notice of this meeting as required by the Open Public Meetings Act of 1975, has been provided by a Special Notice sent to The Home News Tribune, The Star Ledger and the Sentinel on June 7, 2011, and posted in the Main Lobby of the Municipal Complex on the same date.

Hearing on Parade Permit

Council Vice President Karabinchak said this is a special hearing regarding the permit for the India Day parade. He is going to have Mr. Kemm give an overview of what happened and then a spokesperson from each group will speak and present their case. At that time, the Council will ask questions and if time permits, he will allow additional speakers from each side.

Mr. Kemm said the permit in question is for the India Day parade. A Permit was submitted by the Oak Tree Group and then shortly thereafter by the Indian Business Association. It was granted to Oak Tree and then rescinded because they did not receive County approval. The Mayor then denied the permit. The Judge stated that this appeal hearing must proceed to the Council.

Councilmember Perilstein asked the process for the application.

Mr. Kemm said the protocol is that once it is received it goes to Administration and then to the various departments for their input. A determination is then issued for each permit.

Councilmember Perilstein asked if the conditions are arbitrary or if these are conditions that are memorialized.

Mr. Kemm said certain conditions are in the Ordinance and then each event has its own concerns raised.

Councilmember Perilstein said she is trying to understand the criteria for the groups present. She wants to ensure that we move forward with a certain amount of integrity in the process that they are judging this on.

Mr. Kemm said his letter indicated the deficiencies and the requirements that need to be met. When Oak Tree was originally approved, it was approved with conditions that needed to be met. Because this is a County road, they still need permission to use the roadway. The Administration revoked this and then there was a resubmission by IBA. The Mayor attempted to work something out.

Councilmember Perilstein asked the criteria for making a decision about this.

Mr. Kemm spoke about the Township Ordinance and explained the items requested. He said it is not addressed in the Ordinance if two groups ask for the same thing at the same time. He said there is no guide except for what the Council deems appropriate.

Council President Diehl entered the meeting.

Council President Diehl asked for a representative from IBA first.

There was an objection that an attorney cannot speak because this is a public hearing.

Mr. Kemm said the Attorney is representing the IBA.

Frank Fusco, 15 Princeton Street, Clifton, attorney on behalf of IBA, said he dealt with parade issues when he was a Councilman in Clifton. He said the India Day parade is a time honored tradition with almost 35,000 attendees. He said his clients have sponsored this parade for the last six years and have met all the requirements put forth by the Administration. There has been no fall out after the parade. Most of the documents have been submitted or are ready to be submitted. He said it is up to the Council to make a decision and interpret the code. He said the public's health, safety and welfare is what the permit is supposed to be decided on. He said whether or not the two groups can work together is not a requirement of the code. His clients work with over ninety five different organizations. He noted that the permit for the Oak Tree Business Association was rescinded and they had ten days to appeal and did not do this. His clients followed the same process for the permit for six years. He said they obtained County approval first and also received permission from Woodbridge. He said the code states they have thirty days to meet the permit requirements. The Oak Tree Organization was given ten months. He felt his applicant is the best suited applicant for this parade. He felt the Oak Tree Business organization was not formed and did not exist when they first submitted their application.

Councilmember Perilstein asked if the Township Ordinance states the thirty day time frame.

Mr. Kemm said the time frame to act on is thirty days and the appeal time is ten days.

Councilmember Karabinchak said the Judge asked that regardless of the amount of days he would prefer the Council to make a decision on this. He wanted to know about all the time periods.

Councilmember Perilstein said there is something in the Ordinance and the Judge is leaving this to the Council to decide.

Council President Diehl asked for a representative from Oak Tree Business Association.

Bimal Joshi, 11 Myrtle Street, Vice President of the Oak Tree Business Association, said the ninety five businesses on Oak Tree Road have authorized him to organize on their behalf and he distributed documentation to the Council. He said this is the first group of people who had the parade on Oak Tree Road without any problem. He explained the history of when the India Business Associates tried to take over the parade under the Spadaro Administration. He said Mayor Choi told them that they should agree to do the parade together. They spoke about alternately doing the parade and finally agreed, however, this did not happen. He felt they were betrayed. He said his group was not allowed to join the IBA and that is why they started their own organization. He was concerned with the parade ending in Woodbridge Township because Edison's businesses do not benefit from this. He said the Township does not require any specific organization to apply for the parade. He said they had a meeting with the Administration regarding what needed to be done as per Mr. Kemm's letter within thirty days. During this time, they heard that IBA was suing. He felt Edison businesses have a right to their fair share of the parade and he did not understand why everyone cannot be given a chance.

Council President Diehl asked what needs to be done procedurally because there is a Worksession scheduled for 6:00 p.m.

Mr. Kemm asked if the Council wants this to go further and said they cannot start the Worksession before 6:00 p.m.

Council President Diehl said they will press on and will get to the residents as soon as they can for the 6:00 p.m. meeting.

Council President Diehl said the good news is that the India Day Parade is a spectacular event and he has attended many of them. He said the bad news is having competing groups and they want to find the best decision for everyone involved.

Frank Fusco said IBA also has organizations which support them.

Councilmember Lankey asked about Woodbridge's role.

Mr. Kemm said Woodbridge has already given approval.

Councilmember Lankey asked if this was the only application submitted to Woodbridge.

Mr. Kemm said he did not know.

Councilmember Lankey asked why this issue would be sent back to the Council if the judge read the ordinance.

Mr. Fusco said, under the law, the Township and the other attorneys argued that they have to exhaust all Administrative remedies before a decision is made. IBA chose not to appear before Council but before the Judge and he said they have to go to Council first. Before the Judge will entertain substantive issues, the Council has to hear the matter first.

Mr. Kemm said if there is a rule of procedure to be followed before the court, they must follow this first. The Judge said they have to appeal to the Council first before the Court.

Councilmember Lankey asked if they rule in favor of Oak Tree, can they go back to court.

Mr. Kemm said "yes", each group can go back to court.

In response to Councilmember Perilstein's questions, Mr. Fusco said he met with a group on the 18th of February including the Mayor, Mr. Stephens, Mr. Gonzalez and Mr. Kemm. He said after this meeting there was an offer to include both groups but this was turned down. They still heard nothing after a week. His position as attorney was that they had a right to bypass and try to force the issue to a close because of time concerns.

Councilmember Perilstein felt we are at a crossroads. She asked if there were any discussions on the ability to find common ground.

Mr. Joshi said on the day he met with the Mayor and the other group, they did not recognize them. He spoke about membership fees to the organization.

Council President Diehl said at this point he would like to have Council address the questions.

Mr. Fusco spoke about the February meeting. He said the Oak Tree Business Associates refused to meet and work with IBA.

Mr. Kemm agreed with Mr. Fusco noting the groups would not agree to work together and he explained the offer from the IBA group.

Mr. Stephens agreed with Mr. Kemm.

Mr. Kemm said the issue of both groups jointly sponsoring was not acceptable to Oak Tree Associates. Neither group was amenable to jointly sponsoring the parade.

Council President Diehl asked if Mr. Fusco was at the meeting and he said he was.

In response to Council President Diehl's questions, Mr. Joshi said that IBA did not recognize them. The Parade will be under the IBA name. He said at one time they had a joint parade.

Council President Diehl asked if Oak Tree Business Association agreed to a joint sponsorship of the parade.

Mr. Fusco said they have many organizations to deal with and they cannot put one in front of the other. He said one organization needs to run the parade.

Council President Diehl asked if any of the other organizations came forward to be a partner.

Mr. Fusco said they are partners but not joint permit holders.

Council President Diehl said he does not understand the logic that a joint venture will not work.

Mr. Fusco said they cannot have two presidents and he cannot conceivably see why the two organizations would work together.

Council President Diehl asked what the most challenging part of running the parade is.

Mr. Fusco distributed an article to the Council on why they do not want to work with Oak Tree Business Associates.

Council President Diehl said he is not convinced that they cannot work together.

Councilmember Karabinchak said what is being discussed is a joint venture. He said this is doing business and there is always a hierarchy on how to come to a conclusion internally with the differences. He felt if they create a joint venture this would not stop all the other sponsors. He felt this is not about anyone, this is about the parade. He said there is a permit given out and everyone should work together because this is a day of pride. He said if he was the Judge he would have them talk and he does not know how they could not come to a common ground.

Council President Diehl asked Mr. Joshi if his organization would be willing to co-chair a joint venture.

Mr. Joshi said "yes".

Council President Diehl asked IBA the same question.

Mr. Fusco asked for a five minute recess to discuss this with his client.

Councilmember Perilstein said we need some strong clarification on this process for any future applications.

Councilmember Perilstein made a motion to recess at 6:21 p.m., seconded by Councilmember Gomez, with all in favor.

Councilmember Mascola made a motion to reconvene at 6:30 p.m., seconded by Councilmember Perilstein, with all in favor.

Mr. Fusco said the Council's purview was to decide between the two applications. This parade is not about one group or another. It is about the parade and how the parade is conducted. The problem with a joint venture is issues with members of the other organizations. He spoke about the permit for the Navratri Festival and said there are problems with this. He was concerned with the history of the Oak Tree organization and did not want them to be a part of the IBA and affect how the Indian community is viewed. They did offer to work with them in some manner despite their history, however, the IBA does have concerns with their history. His clients decline to consent to these arrangements.

Council President Diehl clarified that their position is that they prefer not to work with Oak Tree but it is not out of the realm of possibility that they would.

Mr. Fusco said he would not consent to this but if this is ordered, he would have to decide what to do.

Council President Diehl asked Oak Tree Business Associates if they are awarded the permit how ready are they to put the parade on.

Mr. Joshi said they are ready.

Mr. Fusco also said his group is ready.

Council President Diehl said they are going to conclude the meeting and not make a decision this evening. There are issues to think about on all sides and he hopes on Wednesday they will have a Resolution with a decision.

On a motion made by Councilmember Karabinchak, seconded by Councilmember Perilstein, the meeting was adjourned at 6:36 p.m.

Robert Diehl
Council President

Reina A. Murphy, RMC
Municipal Clerk