

**LINWOOD COMMON COUNCIL
CAUCUS AGENDA
May 24, 2017
6:00 P.M.**

**NOTICE OF THIS MEETING HAS BEEN PUBLISHED
IN ACCORDANCE WITH THE REQUIREMENTS OF
THE OPEN PUBLIC MEETINGS ACT.**

1. Roll Call Mayor DePamphilis __ Mr. Beinfest _____ Mrs. DeDomenicis _____
 Mr. Ford _____ Mr. Gordon _____ Mr. Heun _____
 Mr. Matik _____ Mr. Paolone _____

Also Present: Mr. Youngblood _____ Mrs. Napoli _____ Mr. Polistina _____

2. Approval of Minutes Without Formal Reading
3. Mayor's Report
4. Councilman Beinfest
 - A. Neighborhood Services
5. Councilwoman DeDomenicis
 - A. Public Works
6. Councilman Ford
 - A. Planning & Development
 1. Resolutions reappointing Acting Fire & Plumbing Sub Code Officials
7. Councilman Gordon
 - A. Engineering
8. Councilman Heun
 - A. Public Safety
9. Councilman Matik
 - A. Revenue & Finance
10. Council President Paolone
 - A. Administration
 1. Berlin Road Investments, LLC petition to ABC for Special Ruling
11. Mr. Youngblood
 - A. Resolution to authorizing payment of \$1,000 with regard to the Mount Laurel Litigation

SCOTT N SILVER, P.C.
524 Maple Avenue
Linwood, NJ 08221
(609) 927-0800

Attorneys for petitioner,
BERLIN ROAD INVESTMENTS, LLC

IN THE MATTER OF THE	:	STATE OF NEW JERSEY
APPLICATION OF BERLIN ROAD	:	DEPT. OF LAW & PUBLIC SAFETY
INVESTMENTS, LLC FOR A	:	DIVISION OF ALCOHOLIC
SPECIAL RULING TO AUTHORIZE	:	BEVERAGE CONTROL
THE RENEWAL OF PLENARY	:	
RETAIL CONSUMPTION LICENSE	:	DOCKET №
№ 0114-33-001-003, PURSUANT TO	:	
N.J.S.A. 33:1-12.39, FOR LICENSE	:	<u>VERIFIED PETITION</u>
TERMS 2016-2017 and 2107-2018	:	
	:	

Petitioner **BERLIN ROAD INVESTMENTS, LLC** ("Licensee"), holder of Linwood (Atlantic County) Plenary Retail Consumption License № 0114-33-001-003, by way of petition to the Director of the Division of Alcoholic Beverage Control for a Special Ruling pursuant to N.J.S.A. 33:1-12.39, to allow the local issuing authority to consider its renewal application for the 2016-2017 and 2017-2018 license terms, states:

1. This license is the only license issued by the City of Linwood. It was initially purchased in 2004 from the City of Linwood as a "new" license for one-half million dollars, after a public referendum, for use in a specific restaurant within the Cornerstone Commerce Complex. It was purchased by an affiliate of the developer of the Cornerstone Commerce Complex in an effort to help develop the project.
2. The license is a pocket license which has not been used since July 13,

2008, when the restaurant to which it was sited closed due to a partnership dispute. After the restaurant closed, the premises was converted to a different use and occupied by the operator of a kidney dialysis facility. That location is still used as a kidney dialysis facility.

3. Application to renew the license for the 2016-2017 license term was timely made and all fees were timely paid to both the State ABC and the City of Linwood.

4. This is the third petition for a "special ruling" filed by the Licensee. The first petition (dated June 15, 2011) sought a three year ruling (for license terms 2011-2012, 2012-2013 and 2013-2014). That petition was granted by Director Fischer by a Special Ruling dated September 19, 2011 under Docket № 07-11-7116. The second petition (dated July 16, 2014) sought a two year ruling (for license terms 2014-2015 and 2015-2016). That petition was granted by Director Halfacre by a Special Ruling dated September 8, 2014 under Docket № 07-14-8830.

5. The two earlier petitions are incorporated herein by reference. In summary, the first petition stated that there was no location in the entire City of Linwood to which the license could be sited, as a result of technical requirements in the Linwood liquor license ordinance concerning the size, location, configuration, zoning and other attributes of a licensed premises. The only premises that could be licensed was the former licensed premises, which was then (and still is) a kidney dialysis facility. In 2012, to make it possible to use the license at *some* location, the Licensee and the Linwood City Council worked together to revise the ordinance and remove many of the technical conditions concerning licensed premises. A revised

ordinance was adopted and became effective on or about September 17, 2012. As a result, the potential locations to which the license could be sited was significantly expanded.

6 The second petition observed that since the ordinance amendment in September 2012, the Licensee sought to place this license into some revenue-generating productive use. In 2013 the Licensee explored a potential joint venture with an existing restaurant operator in the Cornerstone Commerce Complex. After many months of negotiations, the parties were unable to consummate a deal. At or about the same time, An affiliate of the licensee explored with the City of Linwood amending an existing redevelopment plan applicable to the Cornerstone Commerce Center and its surrounding campus, but it has not yet lead to the hoped-for development.

7. Development of the site has not occurred. As a result of the Southern New Jersey economy in general, and the Atlantic County economy in particular, there has been no significant interest expressed by third parties in developing the site or occupying any buildings that might be constructed at the site as part of a redevelopment plan.

8. There appears to be little or no demand for a liquor license in Linwood. In December 2014, the City put out for bid a second consumption license, with a minimum bid of \$300,000. This was a sharp decline in price from the \$500,000 previously paid by Berlin Road when it purchased its license "new" from the City. There were no bidders. In March of 2015, a new consumption license was again put out to bid, with a minimum bid of \$250,000. No bids were received. In August of

2015, a new consumption license was put out to bid by the City, with a minimum bid of \$212,500. Once again, no bids were received. A new consumption license was put out for bid by the City a fourth time, in September 2016. Bids are not due until October 27, 2016 and no bids have thus far been submitted,

9. In May of 2011, Bancorp Bank made loans to the licensee and its parent company and affiliates. Among the collateral provided for the loans was the entire membership interest in Berlin Road Investments, LLC, and developable land adjacent to the building to which the license was sited (and where it was used) when it was first issued to Berlin Road Investments by the City of Linwood. Bancorp assigned the loans to Walnut Street 2014-1 Issuer ("Walnut Street"). WS NEW STREET, LLC is a wholly owned subsidiary of Walnut Street.

10. The loans are presently in default. As part of a settlement concerning the loans, Walnut Street and its subsidiary WS NEW STREET have entered into agreements with the licensee and its parent company and affiliates. The agreement between the licensee and WS NEW STREET, LLC provides that WS NEW STREET will acquire the Linwood liquor license from Berlin Road Investments, LLC. (If the Director requests a copy of the agreement as an investigative record pursuant to N.J.A.C. 13:2-29.2 such that it will remain confidential, a copy will be submitted.) That portion of the settlement cannot be consummated until the license is transferred, and the license cannot be transferred until it is first renewed. The license cannot be renewed until a "special ruling" authorizing renewal is granted.

11. WS NEW STREET is in the business of short term real estate development. Walnut Street, the sole member of WS new Street, is a passive Wall Street investment company. Neither is in the business of operating food and

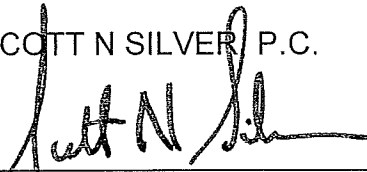
beverage establishments and neither will not conduct alcoholic beverage operations under the authority of the license. The license is being acquired as part of a loan settlement with the goal of selling it to a third party.

12. The License in its inactive state is a wholly unproductive asset. Upon acquiring the licensee, WS NEW STREET, LLC will be most anxious to find a buyer for the license so it can obtain a return on its investment.

13. Good cause exists to issue a "special ruling" pursuant to N.J.S.A. 33:1-12.39 for incense terms 2016-17 and 2017-18.

WHEREFORE, BERLIN ROAD INVESTMENTS, LLC respectfully requests that the Director of the Division of Alcoholic Beverage Control issue a Special Ruling pursuant to N.J.S.A. 33:1-12.39, authorizing the local issuing authority of Linwood to renew Plenary Retail Consumption License No. 1209-33-001-003 for the 2016-2017 and 2017-2018 license terms, and granting such additional relief as is just and equitable.

SCOTT N SILVER P.C.



SCOTT N SILVER, ESQUIRE
Attorney for BERLIN ROAD INVESTMENTS, LLC

Dated: September 29, 2016

STATE OF DELAWARE :
COUNTY OF New Castle :SS

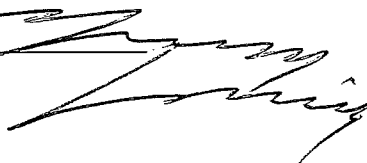
Daniel T. Sacho of full age, having been duly sworn upon his oath according to law, deposes and says:

1. I am a Designated Manager of WS NEW STREET, LLC
2. I have reviewed the within petition, am familiar with the facts therein as they pertain to WS NEW STREET, LLC, and to the best of my knowledge, information and belief, all such statements therein are true.



DANIEL T. SACHO

Sworn and subscribed to
before me this 8th
day of May 2017

NOTARY 

GEORGIANA CUMMINGS
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Jan. 30, 2019

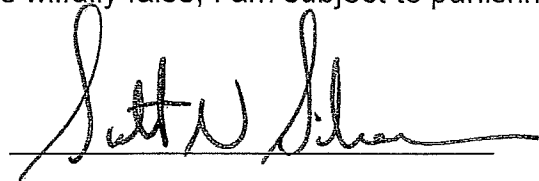
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INVESTMENTS, LLC FOR A	:	DIVISION OF ALCOHOLIC
SPECIAL RULING TO AUTHORIZE	:	BEVERAGE CONTROL
THE RENEWAL OF PLENARY	:	
RETAIL CONSUMPTION LICENSE	:	DOCKET No
No 0114-33-001-003, PURSUANT TO	:	
N.J.S.A. 33:1-12.39, FOR LICENSE	:	<u>CERTIFICATION OF SERVICE</u>
TERMS 2016-2017 and 2107-2018	:	
	:	

I hereby certify that on May 11, 2017, I served a copy of the attached Petition for a Special Ruling on the City of Linwood by hand-delivering a copy of the petition to the Municipal Clerk's office at the Linwood Municipal Building.

I am aware that if this statement is wilfully false, I am subject to punishment.



SCOTT N SILVER

SCOTT N SILVER, P.C.
ATTORNEY AT LAW
524 MAPLE AVENUE
LINWOOD, NJ 08221

Date: May 11, 2017

**LINWOOD COMMON COUNCIL
AGENDA OF REGULAR MEETING
May 24, 2017**

CALL TO ORDER

FLAG SALUTE Councilwoman Stacy DeDomenicis

ROLL CALL

APPROVAL OF MINUTES WITHOUT FORMAL READING

RESOLUTIONS WITHIN CONSENT AGENDA

All matters listed under item, **Consent** Agenda, are considered to be routine by City Council, and will be enacted by one motion in the form listed. Any items requiring expenditure are supported by a Certification of Availability of Funds and any item requiring discussion will be removed from the Consent Agenda and discussed separately. All Consent Agenda items will be reflected in full in the minutes.

- | | |
|-----------------|---|
| 105-2017 | A Resolution authorizing the payment of the sum of One Thousand Dollars into a Special Escrow Account for payment of Special Master fees and professional fees related to the Mount Laurel Litigation |
| 106-2017 | A Resolution reappointing Dennis C. Sharpe as the Acting Fire Sub Code Official for the City of Linwood |
| 107-2017 | A Resolution reappointing James A. Cotton as the Acting Plumbing Sub Code Official for the City of Linwood |

APPROVAL OF BILL LIST: \$

MEETING OPEN TO THE PUBLIC

FINAL REMARKS BY MAYOR AND COUNCIL

ADJOURNMENT

RESOLUTION No. 105, 2017

A RESOLUTION AUTHORIZING THE PAYMENT OF THE SUM OF ONE THOUSAND DOLLARS INTO A SPECIAL ESCROW ACCOUNT FOR PAYMENT OF SPECIAL MASTER FEES AND PROFESSIONAL FEES RELATED TO THE MOUNT LAUREL LITIGATION

WHEREAS, a Case Management Order was entered in the Mount Laurel litigation on September 10, 2015 by Judge Nelson C. Johnson, J.S.C.; and

WHEREAS, the aforesaid Order required certain municipalities, inclusive of the City of Linwood, to pay the sum of One Thousand Dollars to be held in escrow by the firm of Fitzgerald & McGroarty, Mt. Laurel Litigation Escrow Account for payment of certain professional fees as directed and authorized by further Court Order; and

WHEREAS, the Common Council of the City of Linwood is desirous of complying with the terms and conditions of the aforesaid Order;

NOW, THEREFORE BE IT RESOLVED, by the Common Council of the City of Linwood, that the Chief Financial Officer of the City of Linwood be and is hereby authorized, empowered and directed to issue a draft of the City of Linwood in the amount of One Thousand Dollars payable to Fitzgerald & McGroarty, Mt. Laurel Litigation Escrow Account in accordance with the terms and conditions of the Case Management Order entered by Judge Nelson C. Johnson, J.S.C. on September 10, 2015.

I, Leigh Ann Napoli, RMC, Municipal Clerk of the City of Linwood, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of Linwood, held this 24th day of May, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 24th day of May, 2017.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR

APPROVED: _____

FILED

MAY -9 2017

**ATLANTIC COUNTY
LAW DIVISION**

COURT INITIATED

IN RE:	:	SUPERIOR COURT OF NEW JERSEY
City of Absecon	ATL-L-2726-12	:
City of Northfield	ATL-L-2050-14	:
Township of Egg Harbor	ATL-L-3501-14	:
Township of Galloway	ATL-L-1442-15	:
City of Brigantine	ATL-L-1504-15	:
Township of Egg Harbor	ATL-L-1506-15	:
Township of Hamilton	ATL-L-1517-15	:
Borough of Buena	ATL-L-1523-15	:
City of Corbin City	ATL-L-1533-15	:
Township of Mullica	ATL-L-1534-15	:
City of Somers Point	ATL-L-1538-15	:
City of Linwood	ATL-L-1539-15	:
Town of Hammonton	ATL-L-1573-15	:
Township of Buena Vista	ATL-L-1639-15	:
Borough of Cape May Point	CPM-L-292-15	:
Borough of West Cape May	CPM-L-302-15	:
Township of Upper	CPM-L-303-15	:
Township of Sea Isle City	CPM-L-304-15	:
City of Ocean City	CPM-L-305-15	:
Borough of Avalon	CPM-L-306-15	:
City of Cape May	CPM-L-307-15	:
Borough of Wildwood Crest	CPM-L-309-15	:
Borough of Woodbine	CPM-L-310-15	:
Borough of Stone Harbor	CPM-L-351-15	:
		ORDER DIRECTING PAYMENT TO ESCROW


THIS MATTER having initially come before the Court on September 10, 2015 for an on-the-record Case Management Conference; and thereafter this Court having appointed the Honorable Steven P. Perskie, J.S.C. (Ret'd.) to serve as Special Master, together with Richard B. Reading to serve as Special Regional Master; and the Court having conducted several separate case management conferences and conducted hearings with regard to Hamilton Township and Egg Harbor Township; and the Court believing it would be inequitable to impose any further assessment upon the City of Brigantine, the Township of Mullica, Hamilton Township and Egg Harbor Township; and the New Jersey Supreme

Court having made a ruling and issued an Order which this Court is hopeful will facilitate the settlement of most, if not all, of the above-captioned matters; and the Court being hopeful that this will be the final assessment to be made in this litigation; and all terms and conditions of the Court's Initial Case Management Order of September 28, 2015, being incorporated herein;

IT IS ON THIS 9th day of May, 2017, ORDERED, as follows:

1. Each of the municipalities remaining in "Category A", "Category B" and Category C" in Exhibit A shall, within sixty (60) days hereof, deposit into escrow the sum of \$1,000.00 with the "Fitzgerald & McGroarty, Mt. Laurel Litigation Escrow Account."
2. Any and all disbursements of the funds paid into escrow shall be pursuant to this Court's Order(s) and shall be limited to the fees and expenses of the professionals to be appointed hereunder.
3. Any future assessments of the Plaintiff municipalities shall be made in an effort to equitably assign the financial burden, based upon population and resources devoted to concluding such municipalities' DJ action.

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all parties within seven (7) days of its receipt.



NELSON C. JOHNSON, J.S.C.

EXHIBIT "A"

Category A

Municipalities previously granted "substantive certification" by COAH, plus, a period of immunity which this Court acknowledges and respects.

- Borough of Buena (12/20/15)
- Borough of Cape May Point (12/31/18)
- City of Cape May (12/31/18)
- Borough of Stone Harbor (12/31/18)
- West Cape May (9/10/18)

Category B

Municipalities which previously formally petitioned under the then existent guidelines, and filed a submission with COAH, but COAH failed to act on said petition, or they have been involved in litigation in which the Court entered an Order.

- City of Absecon
- Township of Galloway
- City of Northfield
- Linwood
- Buena Vista
- Upper Township
- Sea Isle City
- Ocean City
- Avalon

Category C

Municipalities which previously adopted a "Resolution of Participation" and took some action(s) towards certification, but didn't file a "complete submission."

- Somers Point
- Hammonton
- Woodbine
- Corbine City
- Wildwood Crest

RESOLUTION No. 106, 2017

A RESOLUTION REAPPOINTING DENNIS C. SHARPE AS THE ACTING FIRE SUB CODE OFFICIAL FOR THE CITY OF LINWOOD

WHEREAS, by Resolution No. 95, 2017, Dennis C. Sharpe was appointing Acting Fire Sub Code Official for a period not to exceed thirty (30) days;

WHEREAS, the Common Council of the City of Linwood is desirous of reappointing Dennis C. Sharpe as the Acting Fire Sub Code Official for an additional period of thirty (30) days;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Linwood that Dennis C. Sharpe is hereby reappointed to the position of Acting Fire Sub Code Official for the City of Linwood to commence May 25, 2017 for a period not to exceed thirty (30) days and at a salary not to exceed \$6,500.00 as per the Linwood Salary Ordinance and all amendments thereto.

I, Leigh Ann Napoli, RMC, Municipal Clerk of the City of Linwood, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of Linwood, held this 24th day of May, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 24th day of May, 2017.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR

APPROVED: _____

RESOLUTION No. 107, 2017

A RESOLUTION REAPPOINTING JAMES A. COTTON AS THE ACTING PLUMBING SUB
CODE OFFICIAL FOR THE CITY OF LINWOOD

WHEREAS, by Resolution No. 98, 2017, James A. Cotton was appointing Acting Plumbing Sub Code Official for a period not to exceed thirty (30) days;

WHEREAS, the Common Council of the City of Linwood is desirous of reappointing James A. Cotton as the Acting Plumbing Sub Code Official for an additional period of thirty (30) days;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Linwood that James A. Cotton is hereby reappointed to the position of Acting Plumbing Sub Code Official for the City of Linwood to commence June 2, 2017 for a period not to exceed thirty (30) days and at a salary not to exceed \$10,000.00 as per the Linwood Salary Ordinance and all amendments thereto.

I, Leigh Ann Napoli, RMC, Municipal Clerk of the City of Linwood, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of Linwood, held this 24th day of May, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 24th day of May, 2017.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR

APPROVED: _____