

January 29, 2019

To: Members of Teaneck Council, the Township Attorney and Township Clerk

From: Residents Charles Powers and Alan Sohn

We write to inform those members of the current Teaneck Council who may not be aware that the Township Planning Board has received – and taken initial action on - a Clerk-certified copy of a Council Resolution, Resolution 222-2018, that Council simply did not pass. A copy of that “Resolution,” which was obtained by OPRA by one of us, is erroneously certified to have been passed by this governing body on November 19, 2018. Minutes for that meeting still have not been prepared or made available, but we have carefully reviewed the video of that Council meeting. It is certain that the Council never took the action certified in that “Resolution” (attached).

This letter will substantiate that 1) no Resolution 222-2018 was passed by the Council; 2) what was sent to the Planning Board (PB) misrepresents key elements of the Council’s discussion and adds elements never discussed; 3) State law requires that the transmission to a planning board of a governing body’s action requesting preliminary examination of specified area to determine whether it should be designated an “area in need of redevelopment” must be “**by resolution**”; 4) the processes for the consideration and passage of a legitimate Teaneck Council resolution are designed to provide the public the opportunity to know and understand what the Council is doing; 5) the 11/19/2019 meeting’s 2 non-agenda discussions and motions about redevelopment deprived both some members of the Council and the public of the opportunity to obtain clarification of **for what purpose** the Council was seeking to designate 2 Town-owned properties as being in need of redevelopment; and 6) the Council needs to remedy this redevelopment site designation process and proceed lawfully.

- 1) **The Council did not vote on or pass Resolution 222-2018.** The only mention of “redevelopment” on the 11/19/2018 agenda was a one-line “Council-listed item” said to have been placed there on the day of the meeting by Mayor Hameeduddin – who was absent that night. Citing his absence, it was passed over by DM Katz, presiding. But **after** the Council-listed items agenda portion was completed, the issue of having the PB examine Town-owned 1425 Teaneck Road was raised by the Deputy Mayor. No agenda motion was made, but a 2:49 minute discussion led to passage of an undefined verbal “*motion*” about sending that property to the PB. The word “*resolution*” was never uttered during this discussion. **After** Good and Welfare, DM Katz again, without seeking an agenda motion, suggested that the Council should also request that the PB conduct a similar examination of the DPW property at 1600 River Road. Incoherent, rambling, discussion proceeded for 10 ½ minutes, ending in a *motion* – again never defined, written or described as a “*resolution*.” There was no suggestion that this “*motion*” be a “*resolution*”; nothing was said to make it part of the consent agenda. In sum, no agenda change, no reading, no written version – all required of a legally valid resolution. (See these 11/19 “redevelopment” discussions: <https://www.youtube.com/watch?v=7n-y2g-OcZ0> or <http://www.teanecktransparency.com/?p=3923>.)
- 2) **The erroneously certified Resolution 222-2018 document sent to the Planning Board does not even represent the actual Council discussions.** It conflates/combines elements of these two separate discussions about two different properties, adds many elements never discussed by Council and represents that it is a Consent Agenda resolution, citing as the mover and seconder Council members who the meeting video shows were not the consent agenda mover or seconder. Thus, the document erroneously certified to be Resolution 222-2018 does not even accurately reflect the discussion of the Council or motions made on 11/19/18.
- 3) **State law requires a governing body to pass a formal *resolution* before it can ask the Planning Board to undertake a preliminary investigation to determine whether an area is an area in need of redevelopment.** Pursuant to N.J.S.A. 40A:12A-6(a):

No area of a municipality shall be determined a redevelopment area **unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake**

**a preliminary investigation to determine whether the proposed area is a redevelopment area** according to the criteria set forth in section 5 of P.L.1992, c. 79 (C.40A:12A-5). . .  
N.J.S.A. 40A:12A-6(a) (emphasis added).]

The term “resolution” means acts or regulations of a governing body of any municipality that are “**required to be reduced to writing**, but which may be finally passed at the meeting at which it is introduced.” N.J.S.A. 40:49-1.

It is clear from the discussion that occurred that the Council did not vote on any *written resolution* concerning “redevelopment” on 11/19/18. At most, two motions were made and neither of them addressed the full content of the erroneously certified Resolution 222-2018. Therefore, the Council has not complied with N.J.S.A. 40A:12A-6(a).

- 4) **The Public has a right to know, to be present for all public business and to know what the governing body is voting on.** The State and Township’s Code’s processes for the creation, consideration and passage of a legitimate Teaneck Council resolution are designed to provide the public the opportunity to know and understand what Council is doing and assure the Council itself that by writing out and providing a resolution for timely consideration, it has adequately defined what it is doing and projected effects on taxpayers. [see Teaneck Code Section 2-15, especially (a) and (f)]. The process followed by the Council on November 19, 2018 followed none of the required steps to create or pass a resolution on redevelopment. By failing to properly pass a resolution and instead having the Township Clerk (perhaps with the assistance of the Township Attorney?) draft a post-hoc resolution, the public has been deprived of the right to participate in meetings and to witness government decision-making, as required by the Open Public Meetings Act.
- 5) **The 11/19/2019 meeting’s two non-agenda discussions and motions about redevelopment on its two Town-owned properties deprived both some on Council and the public of the opportunity to obtain clarification of “for what purpose” the Council would seek to designate two Town-owned properties as being in need of redevelopment.** Review of the two impromptu and chaotic discussions about sending two town-owned properties for examination of whether to define them as in need of redevelopment did provide evidence that these two properties were negligently neglected (listen to the Council’s own discussion). They were neglected by Teaneck Councils **for decades!** Both meet the criteria of areas desperately in need of the care that all other Teaneck property owners would be expected to meet. But nowhere is it explained why now and why this “redevelopment” designation would allow the Town to meet its property-owning obligations – or what and to whom Council is proposing to grant tax or capital or other advantages in order to achieve something the Council does not already have the power to implement. On 11/19 Council members Rice and Pruitt pressed hard to get the answers, and got none, as to “why” the designation would help. A proper resolution process would have allowed the Town’s public to press for such information and explanation.
- 6) **Council needs to remedy this flawed redevelopment site designation process and proceed lawfully.** Council had just this Fall proposed - and then under public pressure pulled back from - a broader redevelopment scheme. It needs to explain what are now its real purposes and concepts and allow discussions of those explanations – as required by a proper resolution process. We have not in this letter speculated on why or how this “Resolution 222-2018” was produced though it may be appropriate for Council to find out. We ask the Council to reject this completely faux Resolution 222-2018, go through the proper process of placing a clear and written resolution on a real agenda that the public can debate with Council prior to passage. If Teaneck will benefit from this redevelopment process on two neglected township properties, do it openly, and by the book.

Sincerely,

Alan Sohn and Charles Powers, Teaneck Residents