

Regular & Work Session Meeting Minutes - August 1, 2011

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on August 1, 2011 at 7:00 p.m. in the meeting room of the Township Hall, 2600 Bayshore Road, Villas, New Jersey.

The Clerk announced that the meeting was being held in compliance with the Open Public Meetings Act and that adequate notice of the meeting had been provided according to law.

The following members of Council were present for roll call taken by the Clerk:

Councilmember Thomas Conrad
Councilmember Erik Simonsen
Councilmember Glenn Douglass
Deputy Mayor Kevin Lare
Mayor Michael Beck

Also present: William Blaney, Solicitor, Michael Voll, Manager and Asst. Clerk Horwath

Work Session

Retirement of Officer Art Mason

Mayor Beck said Officer Mason was retiring and congratulated him. He asked the Chief to say a few words.

Chief Marker said he had served the community well and was proud he could now retire and enjoy the things he like to do. He had been with the department since 1988 and worked his way to the detective bureau. He said he would be missed by the department as well as the community.

Review of Consent and Regular Agenda Items

Councilmember Conrad said Resolution #2011-217 would be tabled; it needed to be approved by the Fire Bureau Commissioners. Councilmember Simonsen seconded the motion. The resolution was tabled by the following roll call vote: Councilmember Conrad, yes, Councilmember Simonsen, yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, yes.

Public Questions on Consent Agenda and/or Regular Agenda Items

There was no public comment on the consent agenda.

Consent Agenda

Approval of Minutes	July 18, 2011
Res. #2011-205	Payment of Vouchers, \$1,846,968.89
Res. #2011-206	Ratification of Addendum to Contract Between Lower Township Supervisor s Union & the Township of Lower (This resolution adds the title of General Supervisor of Public Works to the list of positions covered by the Supervisor s Union in accordance with the Salary Ord. adopted July 6)
Res. #2011-207	Purchase of Off- Duty Weapon (Ed Donohue) (Authorizing the retired Chief to

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- purchase his handgun based on the fair market value of \$200 as quoted by Lawman Supply Co.)
- Res. #2011-208 Authorization for Aart s Transportation Services to Transfer Taxi License From 2001 Dodge Caravan to 2001 Grand Dodge Caravan (replacing one vehicle with another vehicle)
- Res. #2011-209 Resolution Rescinding Resolutions #2011-194 and Authorizing Public Facilities Grant Application for \$400,000, Various ADA Improvements (Original resolution was for wrong amount, applying for \$400,000 instead of \$500,000)
- Res. #2011-210 Authorizing Pay Out of Terminal Leave (E. Christensen resigned - pay for unused vacation & personal time prorated to date of resignation)
- Res. #2011-211 Authorizing Pay Out of Terminal Leave (A. Mason retiring from Police - \$38,618.14)
- Res. #2011-212 Cancellation of 2011 Taxes (Applicant approved as 100% totally disabled by Dept of Veteran s Affairs which now exempts them from property taxes)
- Res. #2011-213 Insertion of Special Item of Revenue Pursuant to N.J.S.A. 40A:4-87, Chapter 159 (\$4,400.00 Over the Limit Under Arrest)
- Res. #2011-214 Application for 2012 Drug Enforcement and Demand Reduction (DEDR) Grant Funds (Annual application for Municipal Alliance Committee)
- Res. #2011-215 Authorization for Waiver of Fees for Good Samaritan Baptist Church Associated With Their Use Variance & Minor Site Plan Applications (The church is seeking the variance to allow them to sell a residential dwelling located on their church campus)
- Res. #2011-216 Certification of Lot Clearing Charges to the Tax Collector (resolution authorizing the cost of clearing/cleaning properties and administration fee (\$500 each) not in compliance with the Property Maintenance Code to be placed as a lien against the property - Total for all 21 properties - \$16,793.57)
- Res. #2011-218 Resolution Approving Project Proposal Amendment Between Hatch Mott Macdonald and the Township for Additional Engineering Services Roof Replacement and Related Work at the Recreation Center (Adding up to an additional \$7000 in engineering services fees to be deducted from the final payment to the contractor doing the roof replacement at the Recreation Center.
- Res #2011-219 Approval of Change Order No 2 for Roof Replacement & Related Work at the Recreation Center (Reducing contract amount by \$2,084 for clean up and lost wages due to water damage sustained during project. This is in addition to the reduction for additional engineering costs)

Councilmember Douglass motioned to adopt the consent agenda, seconded by Councilmember Conrad. The consent agenda was adopted by the following roll call vote: Councilmember Conrad, yes , Councilmember Simonsen, yes , Councilmember Douglass, yes , Deputy Mayor Lare, yes , Mayor Beck, yes .

Regular Agenda

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Res. #2011-220 Authorization for Waiver of Fees for Lower Township Rescue Squad Associated with Minor Site Plan, Use Variance & Hardship Variance (Estimated application fees to be waived \$1200)

Maureen Cerrato of Cardinal Avenue said in this economic climate couldn't the Township use the \$1,150.00 fee they were waiving. She said other institutions in the past had received a waiver. She said she wondered if those other institutions had received the same consideration as the Rescue Squad had. Mrs. Cerrato asked when was enough for the Rescue Squad that was a paid organization. She said the letter Mr. Corrado presented to Council was filled with untruths. She said the lot was never a parking lot and where was the variance to show that it was a parking lot. She said why was the Township showing favor to an organization that consistently did what they wanted to do.

Deputy Mayor Lare motioned to adopt the resolution, seconded by Councilmember Douglass. The resolution was adopted by the following roll call vote: Councilmember Conrad, abstain, Councilmember Simonsen, yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, yes.

Res. #2011-221 Payment of Voucher, \$60.00 (LT Rescue - CPR Certification Class - S Davis, Police Dispatcher)

Councilmember Douglass motioned to adopt the resolution, seconded by Councilmember Simonsen. The resolution was adopted by the following roll call vote: Councilmember Conrad, abstain, Councilmember Simonsen, yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, yes.

Res. #2011-222 Payment of Voucher, \$1,500.00 (for clean up of 5 properties with cost to be placed as lien on each property)

Councilmember Conrad motioned to adopt the resolution, seconded by Deputy Mayor Lare. The resolution was adopted by the following roll call vote: Councilmember Conrad, yes, Councilmember Simonsen, yes, Councilmember Douglass, abstain, Deputy Mayor Lare, yes, Mayor Beck, yes.

Ord. #2011-13, Ordinance Appropriating \$26,142 From the Capital Surplus Fund for the Acquisition of Two Vehicles, 2nd rdg. & public hearing (Purchase of 2 Ford Focuses - fuel efficient 28/38 mpg to replace 3 high mileage 4WD vehicles)

The Clerk announced the ordinance was post and published according to law and copies were available in the Clerk's office.

Mayor Beck opened the meeting for comment on the ordinance.

There were no comments on the ordinance.

Councilmember Douglass motioned to adopt the ordinance, seconded by Councilmember Conrad. The ordinance was adopted by the following roll call vote: Councilmember Conrad, yes, Councilmember Simonsen, yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, yes.

Ord. #2011-14, Bond Ordinance Providing for Various Capital Improvements of the Township of Lower, in the County of Cape May, New Jersey, Appropriating the Aggregate Amount of \$440,000 Therefor and Authorizing the Issuance of \$400,000 Bonds or Notes of the Township to Finance Part of the Cost Thereof, 2nd rdg & public hearing

The Clerk announced the ordinance was post and published according to law and copies were available

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in the Clerk's office.

Mayor Beck opened the meeting for comment on the ordinance.

There were no comments on the ordinance.

Councilmember Douglass motioned to adopt the ordinance, seconded by Councilmember Simonsen. The ordinance was adopted by the following roll call vote: Councilmember Conrad, yes, Councilmember Simonsen, yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, yes.

Administrative Reports

Personnel Action Report

Council Comments

Councilmember Conrad said for everyone to enjoy the summer. He thanked the Manager and Clerk for the explanations of the resolutions on the agenda. He said National Night Out would be the following night.

Councilmember Simonsen said thank you to his special needs kids who worked on cleaning up the Cox Hall Creek Management Wildlife Area. He said they did a great job.

Deputy Mayor Lare said after Council received the confidential memo from the Solicitor regarding several items he had a thought he would like Council to consider regarding the publication of the Collective Bargaining Agreements and how they handled it. He said he would like the Solicitor to expand his scope in research and when they had Collective Bargaining Agreements to approve them in ordinance form.

Deputy Mayor Lare said it would allow for public comment on second reading. He said it wouldn't be made public until passage after first reading so the union agreements wouldn't be made public until after a vote. He said it would also give a two week review period.

Mayor Beck said he spoke to the Solicitor and it may be put on a work session to discuss it. He said it had been his feeling to let the public see what was about to be approved. He said he was willing to look at any suggestions from Council. He mentioned having a work session before the negotiations.

Deputy Mayor Lare said the Manager could work with the Solicitor on it.

Mayor Beck mentioned the tax bills were mailed out and mentioned some of the upcoming activities in the Township were National Night Out, Farmers Market, Coombs - Douglass run and Family Movie Night.

Call to the Public

Request to Change the Ordinance Regarding Farm Animals

Clare Nagel of 101 Shore Drive said she wanted to propose a change in the ordinance regarding farm animals. She reviewed the current ordinance and said she would like to see a certain lot size for a small flock of chickens. She said she modeled her suggested changes according to the current Middle Township Ordinance.

Mayor Beck said they would look it over and get back to her. He said there may be a reason for the lot sizes.

Manager Voll said he visited her home and she had six chickens kept in a clean environment and there were no odors.

Mayor Beck said his concern was the next person that had them on a small lot size and didn't take care of them.

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Traffic Regulations

Bob Walter of Florida Avenue said he had some safety concerns. He said the bikes along the road were not peddling with traffic and he believed it was State law they should. He said he was behind a police officer and he did nothing about it and there were three bikes going against traffic. He said also when people were walking they should be walking against traffic and they weren't.

Township Parking Lot

He questioned about exiting onto Bayshore Road. He said allowing people to exit North and South onto Bayshore Road was creating a liability for the Township for allowing people to cross traffic. Mr. Walter said it would be safer to bring them in from Bayshore Road and exit out the back of the lot. Manager Voll said he would mention it to the engineer.

Rescue Squad

Bob Weber of Cardinal Avenue said the last meeting the five minute rule was brought up and he might have been some of the cause of that. He said he had been coming back to the meetings and in May his wife had put in an OPRA Request for correspondence between the Code Enforcement and Rescue Squad. He explained what he received were nine instances where Code Enforcement had gone out in ten days and the matter was resolved and no further complaints were made.

Mr. Weber said that didn't seem to be the case with the issue he complained about. He reviewed how the issue was handled and it took longer than it should have to get Code Enforcement out to the property. He said a memo had gone to the Manager from Code Enforcement outlining seven violations and Manager Voll made a phone call instead of having violation notices sent. He said three of the issues hadn't been resolved.

Mayor Beck said he thought a letter had gone out Friday.

Councilmember Douglass asked what were the three things that had not been resolved.

Mr. Weber said there was a fence in the yard that was over 4' tall, the shed wasn't allowed to be there and there was a trailer there as well.

Mayor Beck said they couldn't argue about the letter that's why it was sent Friday.

Five Minute Rule

Councilmember Simonsen said Mr. Weber had the right at every meeting to say what he felt. He said it didn't pertain to him or just this issue it was any issue and it just gave everyone a chance to speak. He said in his opinion the issue got heated and people felt passionate about it and that was understandable. He said as far as the five minute rule the idea was to just keep the meetings in a more orderly fashion.

Rescue Squad

Mrs. Weber said now the letter had been sent what about the hole they dug that hadn't been addressed.

Manager Voll said there would be a ten-day reinspection. He said he took offense at Mr. Weber's comments. He said he had been there since the situation first started and had been monitoring it and the Rescue Squad had been treated like any other citizen in trying to resolve the issues. He said as it had been said at a prior meeting they had kicked the horse enough, it was dead; let it go.

Deputy Mayor Lare said he had been in the previous Manager's Office when she made a call to the Rescue Squad on a prior issue. He felt the goal was to leave the emotion out of it. He said in his opinion

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the issue was not to solve the problem but to penalize them. He said Mr. Weber s started off the first night by saying nothing personal against the Rescue Squad and he would hate to see if he did have a personal issue with them. He said everyone in the room should work together to resolve the issue.

Deputy Mayor Lare said with 95% of the code violations they contact the people and tell them to cut their grass.

Mayor Beck said there had been nine different issues with the Rescue Squad and within ten days it had been resolved. He said how did they get to discussing the same issue for three months. He felt they had created some of the problem.

The discussion continued on how it could have been handled.

Council Policy

Fred Long of Cold Spring said in the Solicitor s response to the Prosecutor s letter it was mentioned that formal guidelines would be set up. He wanted to know what the status of the guidelines were?

Mayor Beck said he didn t know of any area where they had been incorporated and asked was he referring to the policy manual?

Mr. Long said yes , were they going to be policies and did it require they be in resolution form.

Mr. Blaney said the Prosecutor s Office said if they didn t follow those guidelines they would be prosecuted.

Mayor Beck said they may need to do that. He said the State Checklist also asked if Council had an absentee policy and he said they may also need to address that. He said there should be a section in the Personnel Manual for Council.

Township Manager

John O Rourke of Main Street said the Manager had been out of order. He said it had been said they were asking questions to stump the Manager. He said the Manager was paid \$85,000.00 and if he couldn t answer a question, shame on them for appointing him. He said Council had been out of order at the meetings more than the residents.

Redwood Avenue

Kathleen Gulla of Redwood Avenue said by the next meeting the horseshoe crabs should be gone and wanted to thank Council in advance. She said regarding how long it took the Rescue Squad with the work it had taken her about a month to get a permit for work at her home.

Bob Rizzo of Mickles Run said he liked the explanations on the agenda and it eliminated a lot of questions. He asked if the Manager could give a report each month of what was going on in the Township. He said the Ponder Lodge fence along Bayshore Road needed to be fixed. He said the parking lot at Township Hall looked great.

Mr. Rizzo asked Council to do what was right for everyone involved and finish the Rescue Squad issue. Manager Voll agreed 100% it was a great community.

Cox Hall Creek Management Wildlife Area

He said he had called weekly to Lee Widjeskog from Fish and Wildlife about the broken fence. He said the only improvements there had been the sign was put up and Councilmember Simonsen and his students had been cleaning it up. He hoped to have a better report about the fence at the next meeting.

Ruthie Dillon was thinking of moving here and as an observer nothing got resolved when adults acted very childish.

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Closed Session

Res. #2011-223

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. (Labor Relations - Chief's Contract, Land Acquisition - Report & Personnel - Police)
Councilmember Conrad motioned to adopt the resolution, seconded by Councilmember Douglass. The resolution was adopted by the following roll call vote: Councilmember Conrad, "yes", Councilmember Simonsen, "yes", Councilmember Douglass, "yes", Deputy Mayor Lare, "yes", Mayor Beck, "yes".

Reopen

Councilmember Conrad motioned to return to open session, seconded by Councilmember Douglass. Council agreed to the motion by verbal "ayes".

Res. #2011-180

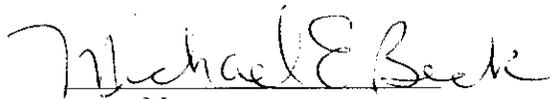
Resolution Ratifying the Agreement Between the Township of Lower and Brian Marker, Chief of Police (July 1 2011 through June 30, 2014 - withdrawn from June 20th agenda)

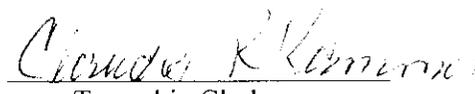
Councilmember Conrad motioned to adopt the resolution, seconded by Councilmember Douglass. The resolution was adopted by the following roll call vote: Councilmember Conrad, "yes", Councilmember Simonsen, "yes", Councilmember Douglass, "yes", Deputy Mayor Lare, "yes", Mayor Beck, "yes".

Res. #2011-224, Appointment of Special Prosecutor For Police Disciplinary Matters

Deputy Mayor Lare motioned to adopt the resolution, seconded by Councilmember Douglass. The resolution was adopted by the following roll call vote: Councilmember Conrad, "yes", Councilmember Simonsen, "yes", Councilmember Douglass, "yes", Deputy Mayor Lare, "yes", Mayor Beck, "yes".

There being no further comment, Deputy Mayor Lare motioned to adjourn the meeting, seconded by Councilmember Douglass the meeting unanimously adjourned by verbal "ayes" at 9:00 p.m.


Mayor


Township Clerk

Approved: August 15, 2011