

Regular & Work Session Meeting Minutes - January 4, 2012

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on January 4, 2012 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 Glenn Douglass

Deputy Mayor Kevin Lare

Mayor Michael Beck

Also present: Michael Donohue, Solicitor, Michael Voll, Manager and Asst. Clerk Picard

Trevor Crookston lead the Pledge of Allegiance. Mayor Beck and Councilman Conrad attended the Eagle Scout Board of Honor for Trevor last week and congratulated Trevor on his accomplishment.

Nomination to fill Ward 2 vacancy -

Mayor Beck opened the floor for nominations to fill the vacancy in Ward 2.

Councilman Douglass stated he believes the replacement of the Ward 2 Councilperson should come from the voters of Ward 2, and it will come to that. He stated he received a call from a concerned citizen wanting to know if there was a conflict with Councilman Conrad voting tonight, being a member of the committee who is passing the names to the Council. Solicitor Donohue replied Mr. Conrad abstained at that vote, which would remove him from that process. Councilmember Douglass stated this vote is covered under the Statute and requested the Solicitor explain the process to the public. Councilman Douglass stated he has a concern with a phone call he received from the solicitor today regarding the vote tonight. He stated the solicitor explained that he, the solicitor, was not a part of the replacement process, but one of the names of the committee person which was passed on was brought up. Councilmember Douglass stated he had a difficult time with the phone call today and wanted it known. Solicitor Donohue explained the process is triggered by a vacancy. Because we are a partisan town, it goes back to the local party that the candidate was elected from. The committee sends three (3) names to the governing body for consideration. The governing body has thirty (30) days in which to act - to choose one of the three (3) nominations. If one is chosen, they are sworn in and take their seat. If the governing body can not agree on one of the three (3) then the matter returns to the Committee at the end of the thirty (30) days and the committee would then select a person who will be sworn in and take the seat. Deputy Mayor Lare questioned Councilman Douglass if he has a problem with the process, is he going to abstain, is he asking for a special election, what exactly is the situation. Councilmember Douglass replied he wanted the public to understand where he stands on the issue. He stated he understands we are under statute and that is the way we will go. Councilmember Conrad stated at the Committee meeting, at which he abstained his vote, he stated he would support who ever the committee did. As Councilman Douglass has stated, this is a Ward 2 decision, he is Ward 1. Councilmember Conrad stated the only vote which included Ward 2 voters was at the Committee meeting. The high vote getter was Walt Craig, so I nominate Walt Craig. Deputy Mayor Lare seconded the nomination and stated his position has been consistent all along - which is who ever came out of the committee with the most votes, would receive his

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support. He stated all three candidates are worthy candidates, and has no problem serving with any of them and if they don't get seated tonight, he wished them all luck in the follow up process. Mayor Beck wished all the candidates luck and stated he will do what he believes is best for the Township.

On the nomination of Walt Craig

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS				X		
LARE		X	X			
BECK				X		

On the nomination of John Rechner

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD				x		
DOUGLASS	X		X			
LARE				X		
BECK		X	X			

On the nomination of Edie Kopsitz

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD				X		
DOUGLASS	X		X			
LARE				X		
BECK		X	X			

Mayor Beck stated if anyone on Council changes their mind, Council would have until January 14th to hold a special meeting. If not, the list will revert back to the committee and they would have 15 days to appoint.

Work Session

Discussion - draft amendment to Code & Council Policy for email, education, attendance etc.

Councilmember Conrad questioned the training policy - getting notice of the classes is very difficult and most

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classes are prior to our election. Mayor Beck stated although classes are available to all members, this is mainly for newly elected officials. This is to follow up on our "best practice list".

Discussion - correspondence and draft legislation for financial disclosure forms & closed session

Mayor Beck stated we received a letter from an "open government" activist stating that we have a number of members on our boards who failed to file their financial disclosure forms. This individual recommends that we pass a resolution if someone does not file the form when it is due, that we take them off the board. Mayor Beck stated he believes we need to correct the situation internally and make sure the Council and manager is notified if a form is not filed on time. The other issue deals with closed session resolutions. He is requesting more information be placed on the resolution - which we have been doing. There is a fine line between what we can give the public without jeopardizing the Township. Councilmember Conrad stated a member had 60 days to fill out the form but as to the closed session, I would like to hear what the Solicitor has to say. Solicitor Donohue stated he has been discussing this with the Clerk and we talked about adding exactly what the issue is. Instead of just litigation - it states "Government Records Council Matters". We have tried and we continue to try to make sure we have identifying information for each matter as we move forward. Mayor Beck stated Council thanks our board members for their dedicated service, but we as a Council have to answer for these situations. We will put a mechanism in that will make sure the situation does not happen again.

Review of Correspondence from Planning Board re: Water Quality Management Plan Map; Proposed Sewer Service Area

Bill Galestok addressed Council and stated this dates back to late 1970. In 2007 the office of Watershed Management decided we needed to have 10 acres zoning and to re-do our sewer service area. Council passed a resolution and we came up with this map which was denied by the State and we were given an extension which will expire in 2013. We are working on the map, we are working with a county consultant and the MUA. Council may want to add or delete anything from this map but there is no guarantee that it will be approved by the State. Councilman Douglass requested the MUA representative and Bill return to the next meeting for additional public input. Mayor Beck stated it would be a good thing to have the public involvement and look further into this at the next meeting.

Review & Discussion of Township's Existing Revolving Loan Program - Mayor

Mayor Beck stated we have had this program for a while and was last updated in 1985 and last used it in 2003 and we currently have about \$300,000.00 in the program. We are trying to mimic Senate Bill 3052 which is so much more business friendly. The old program was unrealistic. We have a few businesses in the Township who have expressed interest in the program. We need to take the money that is sitting there and make it available for economic development. Any Councilmember with any questions or concerns can forward the information to Manager Voll.

Review of Consent & Regular Agenda Items

Council Comments -

Councilmember Douglass requested to have Resolution 2012-31 moved to the regular agenda.

Councilmember Conrad requested Resolution 2012-02 moved to regular agenda.

Public Comment on Consent Agenda - none

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Consent Agenda

- Resolution #2012-03 Appointment of Municipal Auditor for the Year 2012 Without Public Bidding (reappointment Ford Scott Seidenburg & Kennedy)
- Resolution #2012-04 Appointment of Bond Counsel for the Year 2012 Without Public Bidding (reappointment of Mc Manimon & Scotland)
- Resolution #2012-05 Appointment of Municipal Prosecutor for the Year 2012 (reappointment of Ron Gelzunas)
- Resolution #2012-06 Appointment of Municipal Public Defender for the Year 2012 (Reappointment of J. Chris Gibson)
- Resolution #2012-07 Appointment of Emergency Management Council for the Year 2012 (Annual Required Appointments)
- Resolution #2012-08 Appointment of Class III Member to the Planning Board (reappointment Kevin Lare)
- Resolution #2012-09 Appointment of Officials for Joint Insurance Fund and Municipal Excess Liability Fund (Annual Resolution required by Joint Insurance Fund)
- Resolution #2012-10 Appointment of JIF Risk Management Consultant (Barbara Weigand, Marsh & McLennan Agency)
- Resolution #2012-11 Establishment of Council Meeting Dates and Times (1st & 3rd Mondays except holidays)
- Resolution #2012-12 Setting the Interest Rate for Delinquent Taxes (Statutorily regulated)
- Resolution #2012-13 Designation of Official Depositories (annual resolution listing authorized depositories & officials for signing)
- Resolution #2012-14 Designation Of Official Newspapers for Legal Advertising for the Year 2012 (Star & Wave & Herald)
- Resolution #2012-15 Authorizing Payment of 2012 Debt Service (annual resolution authorizing required debt service payments for 2012)
- Resolution #2012-16 Annual Approval of Petty Cash Funds (Police Dept. & Treasurer's Office)
- Resolution #2012-17 Adopting Cash Management Plan (annual required resolution)
- Resolution #2012-18 Resolution to Defer The Regional School Tax (annual resolution)
- Resolution #2012-19 Adopting 2012 Temporary Current Budget (annual resolution for authorizing temporary budget to be used until final adopted budget)
- Resolution #2012-20 Approving 2012 Contract with Cape Assist (Annual Renewal of EAP Program)
- Resolution #2012-21 Authorizing Clerk to Issue Bingo & Raffle Licenses Throughout the Year to Qualified Organizations
- Resolution #2012-22 Designation of Public Agency Compliance Officer for the Township of Lower (annual resolution)
- Resolution #2012-23 Authorization for Public Bidding (Annual resolution for bidding throughout the year)
- Resolution #2012-24 Transfer of 2011 Appropriations, \$6000.02 (from Animal Control, DCRP, Pub. Defender, UFSA, Solicitor to Health Insurance)
- Resolution #2012-25 Authorization for the Payout of Accumulated Sick Leave (annual resolution pursuant to contract for qualifying employees - total \$20,098.50)
- Resolution #2012-26 Payment of 2011 Vouchers \$344,384.31
- Resolution #2012-27 Payment of 2012 Vouchers, \$2,880,967.87
- Resolution #2012-28 Authorization for the Payout of Accumulated Compensatory Time (\$24,104.52 T. Beeby)
- Resolution #2012-29 Resolution Approving the Special Advisory Committee for Review of Issues Related to the Public Safety Building (Confirmation of Councilmember appointees and officials to PSB Committee)
- Resolution #2012-30, A Resolution of the Township of Lower Approving an Agreement with S. Vitale Pyrotechnic Industries, Inc. To Provide Fireworks Display (S. Vitale Pyrotechnic Industries, Inc. \$40,000 - July 3rd)

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Ordinance #2012-01 An Ordinance Amending Chapter 3, Administration of Government, of the Code of the Township of Lower (Amendment to include policies on meeting attendance, training and email communications) 1st rdg. if approved at work session - 2nd rdg & public hearing

Approval of Minutes Dec. 19 & Dec . 21

Motion to approve consent agenda moved by Councilmember Conrad, seconded by Councilmember Douglass

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS		X	X			
LARE			X			
BECK			X			

Resolution #2012-02 Appointment of Acting Municipal Engineer for the Year 2012 Without Public Bidding (Appointment of Hatch Mott McDonald Engineers for six months)

Mayor Beck stated nothing personal to Hatch Mott MacDonal but he has been looking towards hiring an in-house engineer because of financial issues. This is not a decision which will be made tonight, it is simply looking into the feasibility of an in-house engineer, therefore, only appointing Hatch Mott for a six (6) month period while it is being investigated. Mayor Beck stated with our inter-local agreement and with the engineer in charge of the MUA, we would actually have two (2) engineers. Mayor Beck stated he is requesting Council look into it. Last year we spent \$239,999.99 on engineer service. Councilman Conrad quested if Hatch Mott has agreed to a six month deal. Mayor Beck stated this an oppportunity to possible make a break and possible save money. We will just be looking into the situation and if at the end we will not save any money, then give them the remaining six (6) months, but if we can save money, that is what we are supposed to do. Mayor Beck stated we would hire an unclassified position for a couple years to make sure they work out. If this is not viable, then we won't do it. Councilman Douglass stated he reviewed the numbers and over the last few years, we had some very costly projects. He stated he thinks Hatch Mott has done a good job and believes we should go ahead and do a one (1) year contract while we are looking into the feasibility of an in-house engineer. Deputy Mayor Lare stated he agrees with Councilman Douglass but believes it is a false premise to think that with hiring an in-house engineer the need to hire an outside engineer will disappear. The MUA is the living proof of that. The County has three or four in-house engineers and every project they do goes to an RFP. We currently have a massive drainage issue that they have been working on and is in mid-stream and by giving them a six month contract will put that project in jeopardy. Deputy Mayor Lare stated when you hire the engineer, yo do not only get the engineer, you get environmental engineers, environmental consultants, inspectors, surveyors, designers, geologists, architects ,, you get all of that when you pay for the outside engineering firm. In addition to that, there will be substantial start up cost. He stated he is skeptical and does not think the appointment should be for six months. Mayor Beck stated he is asking council to look into the issue, not to vote on it tonight. The question is where are we headed from this. Mayor Beck stated there needs to be an analysis done. There is a consensus to look into the matter and pass the resolution for a 1 year contract with Hatch Mott.

Public Comment on Resolution 2012-02

Steve Sheftz, Townbank addressed Council and stated the idea is good but does not go far enough. Matt Ecker is

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more than just an engineer. Mr. Sheftz stated he has previously prepared a cost analysis on engineering services and a copy is available to Council if they wish to see it.

Motion to adopt Resolution 2012-02 - to appoint Hatch Mott Engineering for One (1) Year moved by Mr. Conrad seconded by Mr. Douglass.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS		X	X			
LARE			X			
BECK			X			

Resolution #2012-01 Appointment of Municipal Solicitor for 2012 Without Public Bidding (Reappointment Michael Donohue of Blaney & Donohue

Council Comments - None

Public Comments -

Joe Winters, Scott Ave, addressed Council and stated on the Business Entity Disclosure form, there is not a corporation seal and it is not notarize. Solicitor Donohue replied he is an attorney, a sworn officer of the court and signs under oath.

Jack Sparks, North Cape May, addressed Council and stated Councilman Douglass stated he received a phone call today that he felt very un-easy about, is he un-easy enough to let that come out? Councilman Douglass replied it was a very uncomfortable phone call regarding a serious issue here tonight and would rather leave it at that right now.

Motion to approve moved by Councilmember Conrad, seconded by Deputy Mayor Lare

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS				X		
LARE		X	X			
BECK				X		

Mayor Beck questioned Solicitor Donohue regarding a temporary appointment. Solicitor Donohue Donohue replied if you take the Resolution and strike out the third where-as and then " Now Therefore, Be it Resolved that the Township Council of the Township of Lower hereby appoints Michael Donohue as Acting Solicitor until re-

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appointment or a successor is named". Mayor beck questioned if Council wishes the manager to reach out to any law firms. Deputy Mayor Lare replied it should be re-visited when the full body of Council is in place. Councilmember Douglass stated that would be the process. Mayor Beck stated he is just questioning if Council wants to get bids or solicit information from other law firms. I understand that a member is missing, I am only saying in case we have a member who votes no, we will at least have some information from another firm that is willing to take the job. Mayor Beck stated his no vote - as it was last year - is predicated upon the situation with the chairman of the Republican organization. During the day he is my solicitor, at night he is not. We have talked and I do not have any problems with him as an individual, but especially going into an election year. Deputy Mayor Lare questioned if the no vote is political or based on the job performance. Mayor Beck replied "based upon my belief that there is a conflict there" if it is a conflict, it is job performance. Mayor Beck stated another issues is back in March when members of Council received an e-mail on a Sunday night that he did not receive until just before the meeting. Motion moved by Mayor Beck to reach out and find out if any other solicitor is interested in the position. Motion seconded by Councilmember Douglass.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD				X		
DOUGLASS		X	X			
LARE				X		
BECK	X		X			

Deputy Mayor Lare offered an amendment to the Resolution - "that we revisit the solicitor position when the next councilperson is seated. If there is not a majority of support, then we RFP it."

Motion to change and approve Resolution 2012-01 " Temporary Appointment of Michael Donohue as Acting Solicitor Until the Governing Body Determines to Re-appoint Michael Donohue or Appoint a Solicitor" Solicitor Donohue stated he will not take the Resolution tonight to name him in an acting capacity to somehow trigger the statutory one year period for a solicitor. Motion seconded by Deputy Mayor Lare.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS			X			
LARE		X	X			
BECK				X		

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Resolution 2012-31 Appointment to Lower MUA (5 year term beginning February 1, 2012)

Councilmember Douglass requested the record reflect that Edie Kopsitz withdrew her application. Motion moved by Deputy Mayor Lare to table until there is a fifth Councilmember seated. Seconded by Councilmember Conrad.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD		X	X			
DOUGLASS				X		
LARE	X		X			
BECK				X		

Mayor Beck stated people came here expressly for the MUA appointment.

Public Comment

Joe Winters, Scott Ave addressed Council and questioned who the nominees are. Clerk Kammer and Mayor Beck replied: Tom Brown, Mr. DeMarcantonio, George Douerty, Bob Rizzo, Steve Sheftz, Tom Frisoli and Edie withdrew her name.

David Brand, Erma, addressed Council and stated this Council was elected to run this government and make some hard decisions, not keep passing everything off. This Council is representing all the voters in the town. It is time to quit playing games and do the peoples business.

Joe Winters, Scott Ave, addressed Council and stated that with Mr. DeMarcantonio's credentials, he has to be the best candidate for the job. Mr. DeMarcantonio's knowledge, the balanced budget, the workers seem satisfied, the solar fields, they saved over \$450,000.00. Compare the candidates, not personalities.

Robert Rizzo, Mickels Run, addressed Council and stated because Mr. DeMarcantonio has applied for the position, Mr. Rizzo would like to withdraw his name. Mr. Rizzo stated Mr. DeMarcantonio is the man for the job.

Bob Webber, Cardinal Ave, addressed Council and stated Mr. DeMarcantonio is obviously qualified for the job and there is no better candidate.

Nells Johnson, chairman of LTMUA Board addressed Council and requested Council appoint Mr. DeMarcantonio to the board. Mr. Johnson stated how Mr. DeMarcantonio was instrumental in wholesale changes which turned the MUA into a thriving and profitable entity. Mr. Johnson cited the following qualities that he stated more than qualifies Mr. DeMarcantonio for the position including working with Council for mandatory water connection, balanced budget, replaced all non working fire hydrants, disposed of all surplus equipment, hired in house licensed electrician , joint purchase with Lower Township, inter-local agreement of 911, construction of Villas water tank and 400 new water hook ups, second largest US grant loan in States history, two solar projects..... Mr. Johnson stated the bottom line is that Mr. DeMarcantonio is more qualified than any other candidate to sit on this board and requested Council appoint him.

John Ambrewster, Erma, addressed Council and stated what Mr. Johnson neglected to mention was that Mr. DeMarcantonio put local people out of work and brought in out-of-towners.

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Steve Sheftz, Town Bank, addressed Council and stated Mr. DeMarcantonio is an outstanding person and wished Mr. DeMarcantonio was on the board when he was the chairman. Mr. Sheftz withdrew his name for consideration as a nominee.

Joe Mento, Townbank, addressed Council and stated he is one of the directors at the MUA and highly recommended Mr. DeMarcantonio for the position.

Ted Mann, Lower Township addressed Council and stated he also sits on the board of the MUA and would agree that Mr. DeMarcantonio is the most qualified person but Mr. Matt Ecker is there now. Mr. DeMarcantonio retired from the MUA and he should enjoy retirement. It has been nice for two years. He stated "I can go into some specific things that have happened over there that I know that no one else knows, no one else knows, and he is not quite on the up-and-up on everything as everyone else wants to explain it to you. I would not recommend Mr. DeMarcantonio".

Mayor Beck questioned if any Councilmember has a nomination. Mayor Beck stated Mr. DeMarcantonio inherited the situation and took an agency that needed a lot of help and provided it. Mayor Beck stated there are rules of what board members can and can not do. They can not run the day-to-day operations. When You look at Mr. DeMarcantonio's resume, it is huge. Mayor Beck stated he supports Mr. DeMarcantonio in his endeavor. Councilmember Conrad stated he likes Mr. DeMarcantonio, but his issue is that it is less than one year since Mr. DeMarcantonio left office. Councilmember Conrad believes it should be at least one year from him leaving, he just left. He is a good man and did a good job, but he should be out of the office at least one year before he comes back. Motion moved by Mayor Beck to appoint Mr. DeMarcantonio to the MUA Board - motion failed without a second.

Councilman Conrad nominated Tom Frisoli . Mayor Beck stated that Mr. Frisoli came before council a year ago and stated "to the victor goes the spoils". Mayor Beck questioned if the MUA pick is part of the spoils. Deputy Mayor Lare stated one of the last people nominated for the MUA board was Ed Butler, who said that "our local school boards are a farce, out teachers are getting rich and our kids aren't learning anything" and the Mayor nominated him without condemning his statement. Mayor Beck read the response to that issue from previous minutes and newspaper articles and stated he never supported his remarks. A lengthy discussion ensued. Motion seconded by Deputy Mayor Lare.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS				X		
LARE		X	X			
BECK				X		

Resolution #2012-32 Resolution Designating the Lower Township Rescue Squad, Inc. as the Provider of Emergency Medical Services in Lower Township (Annual resolution - sets contribution amounts & dates for payment)

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Council Comments - none

Public Comments - none

Motion to adopt Resolution 2012-32 moved by Councilmember Douglass, seconded by Deputy Mayor Lare

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD					X	
DOUGLASS	X		X			
LARE		X	X			
BECK			X			

Administrative Reports

Personnel Action Report

Council Comments

Councilmember Conrad wished everyone a Happy New Year and stated he was glad to see a large crowd at the meeting. He also congratulated Trevor Crookston on his accomplishments as an Eagle Scout.

Councilmember Douglass wish everyone a Happy New Year and a safe and prosperous one.

Deputy Mayor Lare wished everyone a Happy New Year.

Mayor Beck wished everyone a Happy New Year.

Call to the Public

Eric Simonsen, Lower Township, addressed Council and suggested the Mayor and Council look at the Statute for filling a council seat because it is not working. Mr. Simonsen questioned when the Resolution regarding the appointment of the Solicitor and Town Manager will be discussed. Mr. Simonsen stated he had put a lot of time and effort into writing a Resolution that has still has not been even introduced. Mayor Beck stated if Council consents, we will take a look at it.

Steve Sheftz addressed Council and suggested that when someone applies for a position, the resume becomes public.

Sal Riggy, Lower Twp, addressed Council and questioned how an individual puts their name in for nomination. Mayor Beck replied you give the resume to the Clerk.

Joe Winters, Scott Ave, addressed Council and stated the resumes and applications are on record or you can file an OPRA form. Mr. Winters stated you really have to realistically look at one set of credential against another. Mr.

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Winters stated he is giving the resumes to the news papers.

Eileen Kreis stated the 253rd landed in New Jersey yesterday and a welcome home party will be planned.

Closed Session

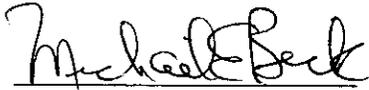
Res. #2012-33

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." (Employment Relationship - MOU M. Voll & Litigation - O'Callaghan vs Lower Twp. Police Dept. - Government Records

Motion to adopt Resolution 2012-33 moved by Councilmember Conrad, seconded by Councilmember Douglass.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
DOUGLASS		X	X			
LARE			X			
BECK			X			

Council returned to open session and there being no further comment, motion to adjourn moved by Mayor Beck, seconded by Councilmember Conrad. Meeting adjourned at 9:03pm by verbal "ayes".


Mayor


Township Clerk

Approved: January 25, 2012