

Regular & Work Session Meeting Minutes -February 6, 2012

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on February 6, 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 Walt Craig
Councilmember Glenn Douglass
Deputy Mayor Kevin Lare
Mayor Michael Beck

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

Oath of Office - Mayor Beck gave the oath of office to Officer Matthew Gamble and Officer Anthony Greto. Chief Marker congratulated and welcomed the two new officers to Lower Township and thanked the Mayor and Council for their support of the police department. Chief Marker also reminded everyone of the Citizens Meeting being held at the Lower Cape May Regional High School Tuesday, February 7, 2012.

Work Session

Presentation - Lower Township - Adult Safety & Wellness Day - March 14 10:30 - 2 p.m.

Mayor Beck stated that last week, he and the manager met with Genesis Health Care and plan to have a Safety and Wellness day for our seniors especially those who do not have healthcare. Denise Ream addressed Council and thanked Council for allowing them to partner with the Township. This event, a complementary Health and Safety Day which will include health screening, ask the experts, consultations on health educations, fire and police representatives, information on advanced living wills, free drawings and give-aways, is scheduled for March 14, 2012 at Township Hall.

WATER QUALITY MANAGEMENT PLAN

Discussion - Water Quality Management Plan continued - Bill Galestok and Matt Ecker addressed Council regarding the plan. Bill Galestok stated the preliminary map has been given to the County consultant and at this point, we are looking to get a consensus from Council to proceed with the map and send it to the State. Mr Galestok stated that Council will have input throughout the entire process. Matt Ecker stated that this is the beginning process and explained the map is showing the areas being currently proposed and in the yellow, areas that may be considered in the future depending on the capacity available. A build out analysis has not been completed, nor has the environmental analysis been done. The map included areas on small lots that are currently on septic and fill in areas around the current system. This is a rough draft that is meant to be inclusive.

Fred Long, addressed Council and stated he believes more information is needed prior to Council taking

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action. He stated nothing that develops the reason for, or the consequence of, the maximum practical expansion including the induced development that may occur from this. Mr. Long stated most of the area is zoned R-2 or R-3. A dwelling in the R-2 - without sewer - has a 1 acre lot size requirement, with sewer ½ acre which in effect, doubles the density. Mr. Long suggested Council have the Planning Department refine the proposal to show the reasoning behind the choices proposed, the consequence of a major potential density increases resulting from the proposals, including the impact on the wastewater treatment plant and the areas which might better be excluded from the plan. Mr. Long stated he believes Council needs more data.

Bob Rizzo, Mickels Run, addressed Council and questioned if there would be any priority for the residents who already have water to get sewer. Mr. Ecker replied there is a link between water and sewer in the plan. He stated we can assume that once this plan is adopted, the areas that already have water mains would receive priority.

Mayor Beck requested Mr. Galestok to address the questions regarding density. Mr. Galestok stated the map does not address density or zoning because the County's consultant is going to do a build out analysis of the Township. If it comes out that we use up all the sewer capacity, this can not exist. All wet land areas will be cut out. As far a zoning, you can alter the zoning so there is no additional density. Mr. Galestok stated we should at least develop a map that we can work on. We can make it bigger or smaller as we go on. Mayor Beck replied even as the map is now, changes still go before Council. Mr. Galestok stated the Township has been working on this map since at least 2007 and we should send something up. Mr. Ecker stated all the concerns will be addressed by the County. This is just the first step - many additional constraints and overlays will be put on the plan.

Melissa Roy, Erma Park Area, addressed Council and stated she would love to see water and sewer in her area and believes most of her neighbors agree.

Brian Ciampetti representing a real estate group that owns some lots in the Diamond Beach Area distributed hand outs to Council regarding an area in the west portion of Diamond Beach. Mr. Ciampetti stated he has met with the County and is requesting Council to include this area in the plan. Bill Galestok stated he and the manager had met with Mr. Ciampetti regarding this area and Mr. Ciampetti was told based on the environmental constraints of Coastal Wetlands, the area could not be included in the plan. Mr. Ciampetti stated a meeting is scheduled with the DEP to discuss the plans.

Motion to proceed with the plan as discussed moved by Councilmember Craig, seconded by Councilmember Douglass.

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

Discussion & review of Planning Board correspondence and draft ordinance re: Outdoor Wood Boilers
 Councilmember Conrad stated this is what the residents are asking for. Mayor Beck stated he believes enforcement of the Ordinance will be a problem in the future.

Review of Consent & Regular Agenda Items

Council Comments

Councilmember Douglass requested Resolution 2012-56 be moved to the regular agenda.

Public Comment -

Resolution 2012-54

Joe Winters questioned the cost of the Edmunds system. Manager Voll replied \$1200.00. Mr. Winters questioned if there is any cost to the resident. Mayor Beck replied it is a one year agreement and is a great service to the residents. Manager Voll stated we currently use the Edmund System. Using this system will allow us to accept on-line payments in other departments as well. Mr. Winters questioned who will oversee this. Manager Voll replied the CFO Lauren Read.

John Skowronski, 607 Arctic Avenue, addressed Council and stated any business using the credit card machine pays a fee on every transaction made. Manager Voll stated the CFO is currently negotiating with Sturdy Bank. Currently, we pay no fees to the bank because of the amount of money we have invested.

Consent Agenda

- Approval of Minutes January 25, 2012
- Res. #2012-43 Approval of Vouchers, \$4,276,100.81
- Res. #2012-44 Renewal of Trailer Park Licenses for the Year 2012 (Annual renewals)
- Res. #2012-45 Approval of 2012 Rotary Towing Licenses (Annual renewals)
- Res. #2012-46 Authorization for Payout of Accumulated Compensatory Time (T Whittington, \$7,263.92)
- Res. #2012-47 Authorization for the Payout of Accumulated Compensatory Time (M. Perry, \$4,992.71)
- Res. #2012-48 Authorization for 2011 Incentive Award For Insurance (Pursuant to union contract for employee who declines medical insurance)
- Res. #2012-49 Authorization for the Payout of Accumulated Sick Time (annual resolution for qualifying

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- employee)
- Res. #2012-50 A Resolution Requesting Release of Maintenance Guarantee for Manzoni Realty; Block 410.01, Lot 63.02; Escrow PO4-01-09 (Project completed)
- Res. #2012-51 A Resolution requesting Release of Performance Guarantee for Cape May Mobile Estates; Block 510, Lots 14.01, 15.01 & 16, Escrow #P07-09-04 (Perf. Guarantee released with maintenance bond in place)
- Res. #2012-52 Transfer of 2011 Appropriations, \$20,000 (from insurance to tipping fees)
- Res. #2012-53 Authorizing the Acceptance of Online Tax Payments (Authorizing the township to accept online tax payments and the installation of the necessary software)
- Res. #2012-54 Authorizing an Agreement with Paymentch, LLC and JP Morgan Chase Bank, N.A. (Authorizing the agreement with the payment processing agency for the online tax payments)
- Res. #2012-55 Amending Resolution #2012-13 Designation of Official Depositories (Adding on line payment acct)
- Ord. #2012-02 An Ordinance Amending Chapter 400 of the Revised General Ordinances of the Township of Lower, (Amendment to Land Development stating Outdoor Wood-Burning Furnaces are not a permitted use and establishing penalties for offenses (1st rdg. if approved at Work Session - 2nd rdg. Feb 22nd)
- Ord. #2012-03 An Ordinance to Exceed the Municipal Budget Appropriation Limits and to Establish a Cape Bank (N.J.S.A. 40A:4-15.14) (Annual resolution done each year prior to budget adoption) 1st rdg. (2nd rdg. & public hearing Feb. 22)
- Ord. #2012-04 An Ordinance of the Township of Lower Establishing the Guidelines of the Economic Development Loan Fund, 1st rdg. (Establishes criteria for Economic Development loans from the Township's Small Cities Grant) 2nd rdg. & public hearing February 22nd)

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

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

- Res. #2012-56 Resolution Requesting the County Prosecutor to Investigate Certain Actions (authorizing investigation in Jan. 18 actions regarding Ward 2 vacancy)

Council Comments -

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Councilmember Douglass questioned who brought this Resolution forward. Deputy Mayor Lare replied he requested it. Councilmember Douglass questioned if the actions that Deputy Mayor Lare is requesting an investigation for, are the actions deemed criminal? Deputy Mayor Lare replied he has no idea.

Mayor Beck humbly requested that this resolution be withdrawn. Mayor Beck stated there are a lot of good things going on in the Township and we need to move forward and put these things away. Mayor Beck stated if anyone wishes to make a complaint, they can go up to the prosecutors office at any time, you do not need Council's permission to go. Mayor Beck stated he would respect if Council moves on with the business of the people and puts this away.

Motion to table moved by Mayor Beck, seconded by Councilman Douglass.

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

Councilmember Conrad stated he was not here, somebody gave an order, somebody authorized this, and I do not understand under what authority, so instead of fighting, let an outside agency investigate and see if there was a violation.

Mayor Beck stated if you sat back and looked at the entire issue, this appointment process, from back in December until the member took office, everything should be investigated, from top to bottom, inside and out, he would probably vote for that. Mayor Beck said he could probably give a half dozen other things to look at, instead, this is picked out. This is one of those deals when you get the knock at the door and someone is covered in mud from head to toe and they look at you and say you have lint on your sock – in all honesty, this is the last thing that should be looked at. Mayor Beck stated he believes this is a political stance. Councilmember Conrad stated he believes the stance was made when the Mayor tried to have a meeting without a quorum. Councilmember Douglass stated he went to the Division of Consumer Affairs and to the Supreme Court of New Jersey District Ethics Committee regarding the issue with the solicitor. Councilmember Douglas stated he has serious concerns that there have been major conflicts involved in what has been happening over the last few weeks. He stated Consumer Affairs has taken it, and they are reviewing it, the Ethics Committee, an official grievance has to be filed, which may be forthcoming. There seems to be a consensus that there were some conflict of interest issues starting back from the question regarding Councilman Conrad voting at the Republic Committee meeting. Councilman Douglass stated he did not bring a Resolution forward to do that and will receive a response from them. Deputy Mayor Lare stated Council has gone from a police officer being sent to a meeting to possibly arrest the gentleman, and is not really sure. Deputy Mayor Lare questioned Councilman Douglass if he ever voted on a supervisor contract. Councilman Douglass replied he probably had. Deputy Mayor Lare questioned if it is an ethical violation because his brother is a supervisor in this Township. He stated he believes this is a transparent way to ask for the prosecutor to look into it. It is on a

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Resolution, out in the open, everyone will know about it. Mayor Beck questioned who drew up the Resolution Solicitor Donohue replied he did. Mayor Beck pointed out a mistake on the date.

Fred Long requested the Resolution be read to the public. Clerk Kammer read Resolution 2012-56. Mr. Long stated he shares the view that there are a lot of things that should be included in the Resolution. One thing is the fact that when a municipal Committee makes an appointment, the appointee shall be sworn in immediately. Among other things, that is definitely an additional one that should be put in.

Gary Douglass, Superintendent of Lower Township Public Works and brother to Councilman Glen Douglass, addressed Council and stated over the last couple weeks between all the meetings, people seem to be infatuated with the Douglass family. At the Republican meeting, for some unknown reason, his father, who was put to rest over 11 years ago, was talked about. Mr. Douglass stated council can fight all they want, members of the party who do not like Councilman Douglass, fight with him, leave the rest of the Douglass family out of it.

Bob Webber, Cardinal Avenue, questioned if this was the first time a police officer was sent with a Township Official for official duty. Mayor Beck replied police officers are used as messengers all the time. Councilman Conrad replied under the authority of the Chief, not a member of Council. Mr. Webber stated this Council has better things to do than worry about a police officer accompanying a Township Official.

Helen Thompson, 44 E. Delaware Parkway, addressed Council and stated there would not be a Resolution if Council would have acted like adults and appointed someone when they had the opportunity. She stated you now have a man who was voted out by the people of the Township.

Joe Winters, Scott Avenue, addressed Council and questioned if someone has a problem with Mike Voll. Mr. Winters requested Council not waste his money on an investigation.

Janet Pitts, the Villas, addressed Council and stated she was at the Township Hall waiting for the meeting to be held. She stated she never heard an officer be sent over there, although the Manager was sent. Ms. Pitts stated neither Deputy Mayor Lare nor Councilman Conrad were here and questioned who informed them about what transpired. Deputy Mayor Lare replied he saw the video on the Herald web site. He stated Council and the Township knew in November that he would not be at the second meeting in January. They knew in advance that Councilman Conrad would not be at the meeting.

Mayor Beck stated he did not know that both Council members would be on vacation until the Thursday before the meeting. Councilmember Craig stated the bottom line is, the rush to have someone come over here from a meeting to be sworn-in has nothing to do with good government, It had one purpose, to take out the solicitor and to make an appointment to the MUA board. Mayor Beck replied at the previous meeting, permission was asked for to solicit proposals, so to replace the solicitor would have been defacto evidence of violation. No permission was received from Council to solicit. There were no proposals presented. Councilman Douglass stated he would have expected a meeting to be held on January 18 because of a text message received on January 4th stating Deputy Mayor Lare would be at the meeting. Mayor Beck questioned since the meeting was about putting the ward 2 individual in there - does he (Councilmember Craig) have a conflict voting on this Resolution. Solicitor Donohue replied we are in unchartered territory. Everyone up there, in some form or another, is involved with the question. There is something called a Doctrine of Necessity which states if everyone has a conflict, everyone can act at that point. Whether someone has a conflict on an individual vote, that person has to decide individually if they have a conflict. From a

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legal standpoint, do I see a conflict because Council may ask the prosecutor to investigate this Council, I do not think so. This is the first time I have ever been confronted with this question. There may be some legal research that may enlighten us further but as I sit here tonight, I do not see a conflict in a Governing Body requesting a higher investigatory authority coming in to investigate something.

Colleen Hughes, Lower Twp, addressed Council and stated she is on the Citizens Advisory Board and hopes one of the Councilmen will show up one day. She stated she was here the entire night and will be a witness to exactly went on and videotaped the evening.

Motion to approve Resolution 2012-56 moved by Councilmember Conrad, seconded by Councilmember Craig

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

Regular Agenda

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) 2nd rdg & public hearing

Motion to adopt moved by Councilmember Douglass, seconded by Councilmember Conrad.

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

Administrative Reports

Personnel Action Report

Council Comments

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Mayor Beck reminded everyone about the Community Meeting at the Lower Cape May Regional High School February 7, 2012 at 7:00PM

Clerk Kammer spoke on the platelet drive for a young boy in the Township. The Red Cross will be at the Township on the last Saturday in March and will have flyers available soon.

Call to the Public

Frank Majane, Erma, addressed Council and questioned the construction on Rt 9 - joint project between State and County. Can anyone do anything to make it safer. Mayor Beck replied it will be looked at tomorrow. Manager Voll replied paving activity should begin soon, but we will have Gary Douglass speak with them. Mr. Matane stated he does not get up and speak at many meetings, but this is becoming a disgrace. Mr. Matane requested Council all give each other a hug. Group hug.

Closed Session

Res. #2012-57

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)(PBA & SOA Contract Negotiation Status & Update & Potential Interest Arbitration Petition)

Motion to approve moved by Councilmember Conrad, seconded by Councilmember Douglass.

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

Council returned to open session.

Motion to Authorize the solicitor to proceed on Collective Bargaining Issues as cussed in Closed Session moved by Councilmember Conrad, seconded by Councilmember Douglass.

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

