

COUNCIL MEETING MINUTES – June 16, 2014

The meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on June 16, 2014 at 6:00 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 James Neville
Councilmember Erik Simonsen
Deputy Mayor Clark
Mayor Michael Beck

Also present: Michael Voll, Township Manager, Ron Gelzun, Township Solicitor and Karen Fournier, Clerk's Office

Bayshore Ecosystem Update - Dianne F. Daley

Mayor Beck announced that the Bayshore Ecosystem Update will take place at a later date.

Manager Voll invited the Municipal Auditor, Leon Costello, to clarify the Township's financial status with regard to bonding capacity. Mr. Costello pointed out that the market is as good as it gets for financing. He spoke about Lower Township's debt plan, allowing for future capital projects. He informed that the Township will be debt free in 2018 without incurring any additional debt. He conservatively plotted out a bond sale for 2015, 2016 and 2018 without changing what we pay in debt service in our budget. He stated that we have the capability and planning to absorb a four million dollar project without a tax increase. Manager Voll presented a question about affording to take on this project in addition to storm drain improvement projects that could be an added \$1 million dollars. Mr. Costello informed that the Township has the capacity to take on \$11 million dollars in debt next year without affecting the tax rate. He added that the bonding would take place sometime in 2015.

Mayor Beck asked Councilmember Conrad if he has any additional questions. Councilmember Conrad replied no. Councilmember Simonsen made a point to clarify that whatever the amount of debt incurred, it still has to be paid back. Mayor Beck validated the reason for bonding.

Work Session

Discussion - Resolution Authorizing Submission of Question to Non-binding Referendum Concerning the Public Safety Building - Councilman Simonsen - Resolution on Regular Agenda
Mayor Beck and Councilmember Simonsen agreed to move the discussion to the regular agenda.

Consent Agenda

Approval of Minutes	June 2, 2014
Res. #2014-170	Payment of Vouchers \$ 680,406.46
Res. #2014-171	Authorizing Payout of Terminal Leave (W.McPherson \$49,618.06)
Res. #2014-172	Authorization For the Payout of Accumulated Compensatory Time (R.Fessler \$3,457.41)
Res. #2014-173	2014 Drive Sober or Get Pulled Over Statewide Labor Day Crackdown Grant (\$5,000. Aug 15 thru Sept.1, 2014)
Res. #2014-174	Authorization for Refund of Taxes (2 properties \$6,383.67)
Res. #2014-175	A Resolution Requesting Release of Demolition Bond for Block 589, Lot 9, 1604 Roslyn Avenue, North Cape May (\$1,000)
Res. #2014-176	Authorization for 2014 Incentive Award for Insurance Waiver (19 employees \$44,916.67 per contracts)
Res. #2014-177	Insertion of Special Item Of Revenue Pursuant To N.J.S.A. 40A:4-87, Chapter 159 (Drive Sober or Get Pulled Over Grant \$5,000.)
Res. #2014-178	Annual Renewal of Liquor Licenses for the Year 2014-2015
Res. #2014-179	A Resolution Rescinding Resolution #2014-109 And Directing the Township NOT to Apply to the Cape May County Open Space Program for a Beach Drive Pedestrian Access Improvement Project
Res. #2014-180	Insertion of Special Item of Revenue Pursuant to N.J.S.A. 40A:4-87, Chapter 159 (Clean Communities \$65,187.69)

- Res. #2014-181 Resolution Approving Settlement of Tax Appeal Litigation (H Tamagni v. Twp & Bartle v. Twp)
- Res. #2014-182 Cops Hiring Program (application for grant \$250,000)

Councilmember Conrad requested to have Res. #2014-179 moved to the regular agenda. Councilmember Neville agreed. In addition, he would like the resolution reworded to include Shore Drive.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
NEVILLE			X			
SIMONSEN		X	X			
CLARK			X			
BECK			X			

Regular Agenda

Res. #2014-179 A Resolution Rescinding Resolution #2014-109 And Directing the Township NOT to Apply to the Cape May County Open Space Program for a Beach Drive /Shore Drive Pedestrian Access Improvement Project

Councilmember Conrad expressed his reservations about killing the project. Mayor Beck questioned Councilmember Conrad's intention to abstain. He reminded him about the unambiguous opinions expressed by the residents at the public meeting. Councilmember Neville informed that the resolution does not affect beach access in other areas included in the plan. Councilmember Simonsen stated that he thought the project was a great idea but agreed that it is best not to apply for the Open Space Grant at this time. Deputy Mayor Clark admitted that the township made the mistake of not communicating the information well enough about the project. He personally supported the project but was made aware by the public that they were not in favor of it.

Eileen Kreis, resident and member of the Recreation Advisory Board, addressed Council to clarify the intention of the resolution, which then led to discussion with Mayor Beck. Ms. Kreis contested the comments about not communicating the information well enough. She also voiced her disappointment with the township's lack of effort disputing the lies that were circulated about the project. She communicated that the project is no less needed now than it was several weeks ago when Council supported it, particularly for public safety reasons. Again, she expressed her disappointment with Council's decision not to apply for the grant.

Councilmember Conrad pointed out that road repairs included in the project will now be paid with taxpayer's money rather than grant money.

Eleanor Chestnut, 9 Beverly Road, member of the Property Owners Association and member of Save our Shores Association, agreed that safety is an issue, but sidewalks and dune fences are not the answer. She applauded Councilmember Neville for his support.

Jim Quinn, Townbank, expressed his disfavor with destroying the dunes.

Maria Gegan, North Cape May, voiced her favor with the project and informed that lies were being circulated to misinform the residents. She requested that Council postpone their decision to reevaluate the need for the project.

Lois Jacobsen, Beach Drive, thanked Mayor and Council for holding the public meeting. She proposed the idea of more police presence, crosswalks, signs and benches in that area. She also suggested that children are not well disciplined. Councilmember Neville stated that he has requested that the police department enforce the speed limit and control traffic flow in that area.

Bill Greenfield, Villas, suggested a referendum on the issue based on the division of opinions. Mayor Beck commented that he is comfortable with his decision based on the outcries of the public meeting. Deputy Mayor Clark suggested we learn a lesson from this, to get the word out early and get people involved before planning any major improvement projects.

Linda Blanchette, Townbank, addressed Council requesting clarification on the language of the resolution and if an additional resolution is needed. Mayor Beck explained.

John Sworonski, 607 Arctic Avenue voiced his opinion that a sidewalk will not slow down traffic or alleviate parking issues.

Steve Morey addressed Council to discuss several technical and legal issues with the resolution. He read aloud his statement which included 3 points of concern: Public Access, ADA Access and Sidewalk Maintenance. In summary, the project was planned in compliance with all of the above state and federal requirements. He advised Council to consider these points before shelving the project. Mayor Beck thanked Mr. Morey for his attendance at the public meeting and they both agreed that Stu Farrell deserved a thank you for his time and effort.

Paulann Pierson, resident and Disabilities Coordinator in the Department of Aging and Disabilities Services, warned of the claims in favor of ADA Access with the project.

Kathy Healy, Villas, thanked the Township for listening.

Joe Ganci, of North Cape May, member of the Property Owner's Association, thanked the Recreation Advisory Board for their work on the project, but based on his research, he remains firm in his opposition.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD				X		
NEVILLE	X		X			
SIMONSEN				X		
CLARK		X	X			
BECK			X			

Res. #2014-183

A Resolution of the Township of Lower, County of Cape May, NJ Approving the findings of Phoenix Advisors, LLC, As Related to the Dissolution of the Lower Township Municipal Utilities Authority

Manager Voll invited Robert Shwartz to explain the requirements of the Local Finance Board when debt is involved with a utility authority that is being considered for dissolution. Mr. Shwartz informed that an analysis and certification are required upon choosing the best method of debt, either assuming the debt or refunding the debt. Based on his reports and the detailed analysis from Phoenix Advisors, LLC, it has been determined that assuming the debt of the MUA would be the best option for the Township if deciding to proceed with dissolution.

Alexis Batten with Parker McCay, explained the legal requirements with the dissolution which include a resolution by the governing body stating the most cost effective means of dissolution. Based on Phoenix Advisors analysis of the outstanding MUA debt and interest rates, it was clear that assuming the MUA debt is the more cost effective option. Mayor Beck asked if this will have an impact on the Township's finances. Mr. Shwartz and Ms. Batten explained. Councilmember Conrad asked who authorized Phoenix Advisors, LLC to run the report and what the cost was. It was ascertained that Council unanimously authorized the investigation by the manager, but the report was required in order to move forward with the Local Finance Board. The cost was approximately \$4,000.

Councilmember Simonsen asked if we are assuming the MUA debt without first taking over the MUA. Manager Voll replied no and informed that this is part of the investigation.

Mary Reader addressed Council to express her disbelief with the proposed \$1 million dollar savings. She asked many questions regarding the data and dissolution as well as shared services.

Tom Frisoli of Villas and MUA Board Member, asked Council how Pheonix Advisors obtained their information. Mayor Beck & Deputy Mayor Clark explained. Mr. Frisoli made a statement about educating the Township before dissolving the MUA.

Jack Sparks, North Cape May, addressed Council in support of dissolution. He stated that it would be irresponsible not to dissolve the MUA, based on the figures presented and the push from Governor Christie to consolidate services. He also commented on the political tactics.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD				X		
NEVILLE		X	X			
SIMONSEN				X		
CLARK	X		X			
BECK			X			

Res. #2014-184

Person To Person Transfer of Liquor License 0505-33-004-004 to Spicer Creek North, Inc (From Cape May Two Brothers, Inc t/a Mayer's to Spicer Creek North)

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD		X	X			
NEVILLE	X		X			
SIMONSEN			X			
CLARK			X			
BECK			X			

Res. #2014-185

Appointment to the Zoning Board of Adjustment.
Councilmember Conrad motioned to nominate Ernest Utsch.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
NEVILLE		X	X			
SIMONSEN			X			
CLARK			X			
BECK			X			

Res. #2014-186

Appointments to the Planning Board
Councilmember Conrad motioned to nominate Daniel Senico, Paul St. John, and Christopher McDuell.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD	X		X			
NEVILLE		X	X			
SIMONSEN			X			
CLARK			X			
BECK			X			

Res. #2014-187

Resolution Determining Whether To Authorize Submission of Question to Nonbinding Referendum Concerning Public Safety Building

Councilmember Simonsen initiated a discussion about the public safety building at the Cape May County Airport. He informed that Freeholder Director Gerald Thornton recently toured the building with a possible interest in sharing space and refurbishing costs to house the County Office of Emergency Management and central dispatch. Councilmember Simonsen implied that this option could resolve problems and save the township millions of dollars. He believes a referendum should be put on the November ballot for the voters to decide.

Councilmember Conrad agreed to support the referendum.

Mayor Beck expressed his frustration with not being informed of the county's intentions. Manager Voll said there is an intended meeting with the County Administrator. Mayor Beck stressed that it is not an essential building and the County has not brought forth any proposals. He expressed his anger with what he feels is obstructionism.

Deputy Mayor Clark inquired about the last time the Township had a referendum on the ballot. Clerk Picard replied that a binding referendum was on the ballot in 1984 for the Charter Study Commission. There has been a non-binding referendum since then, but the date has not been determined.

Councilmember Neville reminded Councilmember Simonsen that they are elected to make decisions on behalf of the voters. He said that he refuses to condemn the police to another generation in a building that is full of mold.

Discussion ensued about the public safety committee.

Deputy Mayor Clark reminded that three members of Council ran for office with a goal to move the police back to the municipal complex.

Mayor Beck pointed out the three main components to moving the police back: the economic component, the administrative component, and the public transportation component.

Dan Anderson, Townbank Road, suggested Council postpone the vote until the next meeting.

Jack Sparks, North Cape May, expressed his discontent with the referendum and the political games.

Mayor Beck commented on his disfavor with the opposition.

Frank Soracco, Villas, provided a report of utility expenses for the public safety building from December, 2004. He reminded Councilmember Simonsen that he was involved with the public safety committee.

John Louderback, member of the public safety committee, disagreed with the referendum and communicated the many adversities with the current public safety building.

Betty Somers, Atlantic Avenue, voiced her disapproval with the political strategies of the Republican Party.

Johnny Walker, 116 W. Pacific Avenue, expressed his disappointment with Councilmember Conrad for not taking leadership in getting the police moved back to Ward 1.

Glenn Douglass, North Cape May, disagreed with the referendum, but suggested Council do something constructive with the County's proposal to take over the current public safety building. He believes the public safety complex should be located at the municipal complex.

There was further debate from Council about the referendum.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD		X	X			
NEVILLE				X		
SIMONSEN	X		X			
CLARK				X		
BECK				X		

Ordinance #2014-08

Bond Ordinance Authorizing the Assumption of Responsibility For and Payments Of the Lower Township Municipal Utilities Authority's Outstanding Debt in A Principal Amount Not to Exceed \$17,873,521 by the Township of Lower, County of Cape May, NJ; Making Certain Determinations and Covenants; and Authorizing Certain Related Actions in Connection With The Foregoing (First reading. 2nd reading and public hearing will be scheduled after approval from Local Finance Board)

Manager Voll explained that information was obtained from the MUA Board and Administration. He and Mayor Beck dispelled rumors of privatization and reiterated the Township's intention with dissolution.

Mr. Shwartz clarified his mission to collect data and perform a financial analysis of the Municipal Utilities Authority (MUA), providing a breakdown of his findings and the logic to support the same. He also stated his qualifications.

Upon Mayor Beck's request, Lauren Read, CFO assured that there will be two separate funds so that moneys will not be co-mingled. Manager Voll explained the shared services.

Councilmember Conrad inquired about the legal ramifications of Mr. Frisoli speaking as an MUA Commissioner. Solicitor Gelzunas replied that the ethical obligation is up to Mr. Frisoli, the MUA Board and the MUA Solicitor.

Deputy Mayor Clark summarized his understanding of separate funds and the process necessary to increase rates. Mr. Shwartz informed that a rate increase would require an ordinance by the governing body with proper advertising and a public hearing. Solicitor Gelzunas confirmed the information and

informed that the MUA rates are currently adjusted by resolution.

Mayor Beck inquired about obtaining minutes and resolutions from the MUA. Solicitor Gelzunas informed that requests have been made but not all have been satisfied. Clerk Picard commented that only the agendas have been obtained. Discussion ensued about the MUA's obligation to put information online.

Councilmember Neville asked about using the utility budget for road repairs that the MUA failed to do. Manager Voll explained the intent of the utility budget. He also spoke about the advantages of consolidation. Mayor Beck reiterated his feeling about the savings involved.

Manager Voll invited Tom Frisoli to challenge the numbers.

Mr. Frisoli, MUA Board Member, gave Mr. Shwartz a report from the MUA. Discussion ensued about the failed attempts to retrieve minutes and agendas from the MUA meetings. Mr. Frisoli agreed to get the information requested. He also commented on the road repairs having been put out to bid. Conversation continued. Manager Voll also pointed out that phones are not being answered at the MUA.

Mark Johnson, MUA Water & Sewer Supervisor, addressed Council with his concerns about the MUA being dissolved. Manager Voll assured him that the focus is on administration. Mayor Beck agreed and reiterated the savings. Councilmember Neville discussed the expertise of Mr. Johnson's guys. Discussion ensued about the rumors at the MUA. Mayor Beck and Manager Voll agreed to address any further concerns that he may have.

Jacqueline Henderson, Mickel's Run, inquired on behalf of the people who are not in a specialized field, if their jobs are in jeopardy. Manager Voll again assured that the focus is on the administration.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CONRAD				X		
NEVILLE		X	X			
SIMONSEN				X		
CLARK	X		X			
BECK			X			

Administrative Reports

Personnel Action Report

Monthly Reports - Clerk, Construction, Dog, Police, Tax Collector, Vital Statistics

Council Comments

Councilmember Conrad commented on items in the Herald and suggested resolutions be drafted in support of Assembly Bill 2622, 2831/A783 and a change of ordinance for Assembly Bill 2299.

Councilmember Neville announced the July 3rd fireworks. He pointed out the article in the Atlantic City Press pertaining to the school funding issue.

Councilmember Simonsen commented on the success of the triathlon, thanked the volunteers involved and reminded that the Township benefits from the event but does not pay for it. He also communicated the success of other local events including Rock for Kids Music Festival, Runway 5K, and Life Rolls On.

Deputy Mayor Clark recapped what just took place and voiced his discontent with the vote. He urged Council to put politics aside and consider doing what is best for the citizens of this township.

Mayor Beck announced the Independence Day Festival and Fireworks.

Councilmember Neville announced the Whale of a Day Festival.

Call to the Public

Ed Wuerker addressed Council with a bucket of dirt to demonstrate a dust problem near his home. Manager Voll gave insight into the problem. Solicitor Gelzunas informed that according to Mr. Wuerker's attorney, there is a settlement agreement in place. In an attempt to resolve the problem, Manager Voll agreed to arrange a meeting with all parties involved.

Adjournment

There being no further business to address, motion to adjourn moved by Councilmember Neville, seconded by Councilmember Conrad. Motion to adjourn unanimous. Meeting adjourned at 9:04 p.m.



Mayor



Township Clerk

Approved: *July 7, 2014*