

Reorganization Meeting Minutes - January 3, 2011

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on January 3, 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.

Mayor Beck welcomed everyone including the County Officials in attendance and Officials from other towns.

Oath of Office

Freeholder Gerald Thornton sworn in Councilmember Conrad, Councilmember Simonsen and Councilmember Douglass as Lower Township Councilmembers.

Freeholder Thornton congratulated Erik, Glenn and Tom and wished them well. He wished the residents a Happy New Year and thanked them for their support they had given him over the years.

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: Kathleen McPherson, Manager and Asst. Clerk Horwath

WORK SESSION

Review of Consent and Regular Agenda Items

Councilmember Conrad said he would like to have Chris Gibson for the Public Defender.

Councilmember Simonsen said he would like to move the minutes to the regular agenda. He asked they table Resolution #2011-06 he would like to hold off on the appointment of Municipal Prosecutor and do a little more research. Councilmember Conrad seconded the motion to table the resolution.

Mayor Beck asked about Resolution #2011-01 where did the appointment of Mike Donohue come from? He said at the last meeting they discussed forming a two person committee to seek someone.

Councilmember Conrad said that was what they did, he was the only one who responded and that was where it came from.

Mayor Beck said he needed answers on it. He asked who was contacted and was the Solicitor involved in it?

Councilmember Conrad said they reached out to three law firms. He and Glen contacted two law firms and one was contacted through the Clerk's Office. He said no one responded.

Mayor Beck asked why didn't they have a meeting and discuss what they were going to do after that.

Councilmember Conrad said that was what was done at the reorganization meeting was to appoint a Solicitor.

Mayor Beck felt it could have been delayed for one meeting. He said having it placed on the agenda without discussing it as a body he didn't know if the process had been followed. He said two hours ago he received a copy

Reorganization Meeting Minutes - January 3, 2011

of the Solicitor's contract and he couldn't go through it and sign off on it before a meeting he didn't feel comfortable doing that.

Councilmember Conrad said they were at an open meeting so if he wanted to discuss it they could.

Mayor Beck said they were appointing someone whose brother was the Chief of Police and even the perception of a conflict was something that they needed to avoid. He said a significant part of their litigation had to do with the Police Department. He said why would they put someone in that position, it didn't make sense. He said two years ago he wasn't the only one who saw it as a conflict.

Deputy Mayor Lare said if the Mayor was referring to him and the conflict he had two years ago was when he was Prosecutor and his brother was Chief of Police. He said the Chief had filed his retirement papers so as far as he was concerned there was no conflict. He said as far as any labor conflict Bill Blaney from the firm Grucci & Pepper would handle that.

Mayor Beck said if one member of a firm were conflicted then they all were. He said he wasn't comfortable with the whole thing. He said the second issue with Michael Donohue was his position as the Chairperson of the County Republican Organization. He said that job was to help people raise funds to get elected, he said in the past one of the leading contributors were Remington and Vernick which the Township was involved in litigation against them. He saw that as a conflict as well.

Mayor Beck said the next issue was the handling of the Bennetts Crossing litigation and he read an excerpt of the minutes of February 18, 2009 that referred to the stipulation of settlement. He read a part of an article in the paper that Michael Donohue was one of the leaders that called for change in leadership because some of seats were lost in the State Senate, Assembly and Mayor's seats in Ocean City and Lower Township.

Mayor Beck felt it needed to be tabled and go back to the current Solicitor to discuss it as a Council. He said it wasn't right what was going on. He said he was making a motion to table Resolution #2011-01. There was no second to the motion.

Public Questions on Consent Agenda and/or Regular Agenda Items

Colleen Hughes said she had no problem with Mike Donohue, however, he wasn't from Lower Township. She said they needed jobs for the people in the community and they were elected for the people not a party they needed to think of the residents.

Ed Butler, Villas congratulated those who were elected. He distributed to Council the Code of Ethics and said the political parties were supposed to be second to the people in the Township. He read a section of the Code of Ethics where decisions and policy were to be made through the proper channels. It stated public office wasn't to be used for personal gain and the public have confidence in their government and he didn't see any of that happening.

Mr. Butler read Section 33.2, Responsibility of Public Office which stated public officials hold office for the benefit of the public. He said in his opinion there was a serious problem politically with Council. He said once they were in office it was for the public welfare and they were to help the people they were the ones who paid the tab. He asked Councilmember Conrad what he thought of that.

Councilmember Conrad said that was Mr. Butler's opinion, he didn't agree with him before and he wasn't surprised now.

Mr. Butler said he felt what they were doing by bring people into office without any special meeting wasn't right. He asked the Clerk if there were any meetings since the last Council meeting to discuss the appointments.

Clerk Kammer said there hadn't been any meetings.

Joe Winters, Florida Avenue asked who drew up the contract for the Solicitor.

Clerk Kammer said he did.

Councilmember Conrad said the contract was a \$50,000 retainer to the firm and \$125.00 per hour for any litigation. He said the contract would be available to the public after the meeting.

Mr. Winters asked who paid for the Manager ad.

Reorganization Meeting Minutes - January 3, 2011

Mayor Beck said it wasn't on the agenda.

Mr. Winters said they had to put their heads together and think about the people.

Janet Pitts of Villas, said she hoped that wasn't how things were going to be - four against one.

Councilmember Simonsen asked how did she know it was four against one he said they only received information from one person.

Mrs. Pitts said she hoped they would all work together and not like the County. She felt there were problems here and at the County level.

Deputy Mayor Lare said that was according to her.

Mrs. Pitts said they couldn't run the Township by email or texting she asked where the work session were?

Mayor Beck said he found it difficult to believe that they couldn't find others to apply for the Solicitor's position and he wasn't buying into it. He said he couldn't believe the head of the Republican Organization was going to save the day. He felt it was a sham and they didn't try to find anyone and that was his opinion.

Deputy Mayor Lare asked if it was the same as two years ago?

Mayor Beck said they went through a shame when looking for someone while the whole time they knew who they wanted. He said when he came on he knew who they wanted and agreed Tony Monzo and Kathy McPherson were the best for the job. He said when he left the closed session they were going to have a committee to get names and come back and discuss it.

Ed Butler asked how many applications were received for the Solicitor position.

Clerk Kammer said she hadn't received any.

Bill Greenfield said it was obvious the solicitor was going to be appointed and he didn't think it was a good idea for him to draw up his own contract. He felt it should be tabled until someone could review it.

Mayor Beck wanted to move Resolution #2011-01 off the consent agenda.

Consent Agenda

- | | |
|----------------------|---|
| Resolution #2011-02, | Appointment of Municipal Engineer for the Year 2011 Without Public Bidding (reappointment of Hatch Mott McDonald Engineers) |
| Resolution #2011-03, | Appointment of Municipal Auditor for the Year 2011 Without Public Bidding (reappointment Ford Scott Seidenburg & Kennedy) |
| Resolution #2011-04, | Appointment of Bond Counsel for the Year 2011 Without Public Bidding (reappointment of Mc Manimon & Scotland) |
| Resolution #2011-05, | Appointment of Municipal Judge (Thomas Hillegass replacing David DeWeese who retired) |
| Resolution #2011-07, | Appointment of Municipal Public Defender for the Year 2011 |
| Resolution #2011-08, | Appointment of Emergency Management Council for the Year 2011 (Annual Required Appointments) |
| Resolution #2011-09, | Appointment of Class III Member to the Planning Board (Kevin Lare) |
| Resolution #2011-10, | Appointment of Officials for Joint Insurance Fund and Municipal Excess Liability Fund (Annual Resolution) |
| Resolution #2011-11, | Appointment of JIF Risk Management Consultant, (Marsh & McLennan Agency) |
| Resolution #2011-12, | Establishment of Council Meeting Dates and Times (1 st & 3 rd Mondays except holidays) |
| Resolution #2011-13, | Setting the Interest Rate for Delinquent Taxes (Statutorily regulated) |
| Resolution #2011-14, | Designation of Official Depositories (annual resolution listing all banks, accounts & authorized signatories) |

Reorganization Meeting Minutes - January 3, 2011

Resolution #2011-15,	Designation Of Official Newspapers for Legal Advertising for the Year 2011 (Star & Wave & Herald)
Resolution #2011-16,	Authorizing Payment of 2011 Debt Service
Resolution #2011-17,	Annual Approval of Petty Cash Funds (Police Dept. & Treasurer s Office)
Resolution #2011-18,	Adopting Cash Management Plan (annual adoption)
Resolution #2011-19,	Resolution to Defer The Regional School Tax (annual resolution)
Resolution #2011-20,	Adopting 2011 Temporary Current Budget
Resolution #2011-21,	Approving 2011 Contract with Cape Assist (EAP Program)
Resolution #2011-22,	Authorizing Clerk to Issue Bingo & Raffle Licenses Throughout the Year to Qualified Organizations
Resolution #2011-23,	Designation of Public Agency Compliance Officer for the Township of Lower (annual resolution)
Resolution #2011-24,	Authorization for Public Bidding (Annual resolution for bidding throughout the year)
Resolution #2011-25,	Transfer of 2010 Appropriations, \$2,000 (from Gasoline to Natural Gas)
Resolution #2011-26,	Authorization for the Payout of Accumulated Sick Leave (\$38,221.73)
Resolution #2011-27,	Payment of 2011 Vouchers, \$3,127,057.31
Resolution #2011-28,	Authorizing the Payment of 2010 Vouchers, \$118,742.02

Councilmember Conrad motioned to adopt the resolution, seconded by Councilmember Simonsen. 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 .

Regular Agenda

Resolution #2011-01, Appointment of Municipal Solicitor for 2011 Without Public Bidding (Mike Donohue)
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 no .

Approval of Minutes December 20, 2010

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, abstain , Councilmember Douglass, yes , Deputy Mayor Lare, yes , Mayor Beck yes .

Resolution #2011-29, Resolution Appointing Michael Voll as Manager

Mayor Beck asked where did the Manager s contract come from? He said they never sat down and discussed how the process was to be done. He said he received a call from someone who put in an application and the person said he never saw anything like it and he was embarrassed. He said the opening for the ad was eight days before they closed the deadline. He said it was never discussed in Council how the appointment was to be made and it was sad. He asked who drew up the contract that was on the agenda and who met with him?

Deputy Mayor Lare said Tony Monzo drew it up.

Mayor Beck asked if Tony Monzo negotiated the \$85,000.00.

Deputy Mayor Lare said of course not.

Mayor Beck asked who did?

Deputy Mayor Lare said he negotiate the contract with Mike Voll and said the salary was \$85,000 with a \$7,500 raise for the next two years, no benefits, twenty vacation days and five sick says.

Reorganization Meeting Minutes - January 3, 2011

Mayor Beck said he didn't feel he was involved and he asked if anyone spoke to any other candidates. He said it was a sham from the beginning and was wrong and it had been geared towards someone's pick. He apologized to those who had put in applications. He said it was not right and it was an exercise of the arrogance of power. He said they had three votes so why didn't they do it the right way. He said it was likely they didn't care, the election cycle wasn't for two more years and people forgot. He said they had taken two residents' jobs away from them and given them to two people from out of town. He said he saw qualified Township residents when he went through the resumes. He said a process was never established. He said the whole process wasn't fair and it certainly wasn't fair to the people of Lower Township.

Deputy Mayor Lare told the Mayor he said one important thing and that was it was his opinion. He asked who negotiated the previous contract with Kathy McPherson.

Manager McPherson said she didn't have a contract.

Mayor Beck suggested they table it. He said they had a Manager under contract until March. He said everyone bring five names to the next closed session and they could discuss it. He said they couldn't discuss contracts at Starbucks, etc. it didn't work that way. He said when he came into office Kathy Caputto from the State came down and went over how things should be done as far as the Faulkner Act and Open Public Meetings Act and he felt it was being trampled all over the place.

Mayor Beck asked if any other candidates were interviewed.

Deputy Mayor Lare said a resolution was on the agenda appointing a Manager with compensation.

Mayor Beck said if it was done the fair way he wouldn't be complaining. He said they weren't supposed to negotiate on their own.

Mayor Beck opened the meeting for public comment on the resolution.

Janet Pitts asked if he was being hired strictly as Township Manager and how could they offer him \$85,000 when the pay was \$25,000-\$30,000 under the salary ordinance.

Solicitor Donohue said the salary ordinance would dictate so they would have to amend the ordinance to match the salary.

Deputy Mayor Lare said when the resolution was on the floor he would make a motion to amend it.

Colleen Hughes said they needed local residents employed for the people not the party.

Mr. Winters said Mike Volls salary was \$85,000 and he was getting a \$7,500 raise in 2012 and \$7,500 in 2013 and they were asking the people of the Township to stick with 2%. He said they were giving him a 9% increase.

Mayor Beck said they were asking more out of the employees.

Mr. Winters asked if Mr. Voll was a resident of the Township or Florida?

Mayor Beck said he thought the Solicitor had to be a resident and wasn't sure about the Manager.

Fred Long of Cold Spring asked between January 4th and March 4th were they going to have two Managers?

Mayor Beck said one would be operating out of her house.

Mr. Long said the minutes of December 6th said she would be working until March 4th.

Mayor Beck said unfortunately not, the contract stated if they put someone in her place she would go home.

Deputy Mayor Lare said it wasn't true. He said the Solicitor clarified that and said regardless if a new Manager started she would get paid until March 4th. He said the contract said it was Council's determination of how long through the transition period the existing Manager stayed on.

Manager McPherson said her contract didn't state that.

A brief discussion ensued about paying two Managers.

Deputy Mayor Lare said they would be paying less and the new Manager wasn't asking for health benefits.

Mr. Winters asked who would be the Director of Personnel.

Deputy Mayor Lare said it was his understanding that the Manager would end all be all with personnel.

Solicitor Donohue said Council would fill positions as they deemed appropriate but under the current form of

Reorganization Meeting Minutes - January 3, 2011

government the Manager had discretion with employment decisions.
A brief discussion ensued with Mr. Winters about the salary of the Manager.

Deputy Mayor Lare motioned to adopt the resolution with the stipulation they amend the salary ordinance, seconded by Councilmember Conrad. The resolution was adopted by the following roll call vote: Councilmember Conrad, yes, Councilmember Simonsen said he hadn t been part of the process but had gone through the resumes and spent many hours. He said Mr. Voll s credentials were good and qualified for the job and he agreed with the Mayor about improving the process. yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, no.

Administrative Reports

Personnel Action Report

Council Comments

Councilmember Conrad thanked everyone for attending and for their support and also thanked his family. Councilmember Simonsen wished everyone a Happy New Year and said it had been an interesting one hour. He thanked his family and the people in Ward 2 for their support and said he hoped he would make the right decisions for Ward 2. Councilmember Douglass also thanked his family for their support. He thanked DPW and the Police for their work during the snow storm. Deputy Mayor Lare wished everyone a Happy New Year. He asked Mike Voll to step forward and hoped they could move past the night and look forward to moving the town forward. Mayor Beck said they said all they had to say and there was no need to prolong it, it was a done deal. He also wished everyone a Happy New Year.

Public Comments

Joe Winters thanked Kathy for the job she had done for the Township. Lou Correa said he had applied for the job and had 17 years experience and there was no way the appointment should have been made the way it was done. He said there was no input, no proper advertising and the interview process was non existent. He said it had nothing to do with the selection. He said the Faulkner Act and laws of New Jersey state things were to be done a certain way and with proper invitation and public involvement. He said it should not have happened that way and hope it didn t happen like that in the future. He said hopefully the new Councilmembers now begin to understand the right way and wrong way because he felt they started out the wrong way and hopefully it would get better in the future. Eileen Kries said some of the home town boys had left to go to Afghanistan they were members of the 253rd so keep them in your prayers.

Councilmember Douglass motioned to adjourn the meeting, seconded by Councilmember Conrad the meeting unanimously adjourned by verbal ayes at 8:12 p.m.

Mayor

Township Clerk

Approved: January 19, 2011