

Regular & Work Session Meeting Minutes -February 7, 2011

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on February 7, 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: Michael Donohue, Solicitor, Michael Voll, Manager and Asst. Clerk Horwath

Presentation - Certificates of Recognition for Arrow of Light - Joshua Long & Joshua Kampmeier

Mayor Beck presented the Arrow of Light Certificates to Jason Long and Joshua Kampmeier and said he would see them again when they made Eagle Scouts.

WORK SESSION

Review of Consent and Regular Agenda Items

Mayor s Advisory Board

Councilmember Conrad said he had changes presented to Council which were a name change and changing to two members from each ward. He said it would be two year terms and staggering expiration dates.

Councilmember Simonsen said he had no comment because it was the first he was seeing it.

Councilmember Douglass said he was good with the changes and felt it was self explanatory.

Mayor Beck said it was a shock to him and he asked where the ordinance came from?

Councilmember Conrad said it came from a discussion at the last meeting and they approached the Solicitor to make the change.

Mayor Beck asked who knew about it?

Councilmember Conrad said he believed they all did.

Mayor Beck said they had an open meeting and at no time was a vote taken to draw up an ordinance. He asked who on Council knew the ordinance was being prepared.

Councilmember Conrad said only he did.

Mayor Beck asked who else had dialogue with the Solicitor. He said it should be removed from the agenda and done correctly.

Councilmember Conrad said how much more open did they have to be.

Mayor Beck said he and Councilmember Simonsen were reading it for the first time, it had been nineteen days since

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the last meeting and he saw it in his email two hours before the meeting. He said Council must act as a body. He felt it should be removed and put on the next agenda. He said they would get their way.

Councilmember Conrad said there was a consensus of Council to make the changes and done at an open meeting.

Mayor Beck said by doing that it removed his right to argue against moving forward with the ordinance.

Mayor Beck again said it should have been done the right way and polled Council to see if they wanted to move forward.

Deputy Mayor Lare said he did poll Council at the last meeting and there was ample discussion at the last two meetings.

A brief discussion ensued on the ordinance being placed on the agenda.

Deputy Mayor Lare said he didn't speak to the Solicitor and said there were three other ordinances on the agenda and how did they get there?

Mayor Beck said certain things were on there that were discussed and it could be another department had it put on. He did agree there had been ample time and even the paper said no decision had been made. He said he wanted it moved off the consent agenda.

Councilmember Conrad referred to Resolution #2011-62 that the Mayor said he would go back and discuss it with Council and it was in the minutes if agreed it would be put on the agenda. He said it was the same thing, if he did it that was wrong, but if the Mayor did it that was fine.

Deputy Mayor Lare said they were splitting hairs, the last meeting it was discussed for about an hour. The Mayor then took a straw vote and he knew there was a consensus among Council or at least the majority.

Mayor Beck said he could infer that, but there was never a decision to reach out to the Solicitor and have him start to work on the ordinance. He again said he would like it moved off the agenda and he wouldn't vote for it. He said there was no need to rush on it.

Councilmember Douglass felt the consensus was there to move forward.

Mayor Beck said he would say what he had been say and that was they had the votes; just do it the right way and wanted it moved off the consent agenda.

Councilmember Simonsen agreed with the Mayor as far as needing more time and he was for adding people. He didn't understand some of the wording and he didn't know anything about it. He said he felt like he was put on the spot and wanted more time to do his homework.

Mayor Beck said he would like it off the agenda.

Public Questions on Consent Agenda and/or Regular Agenda Items

Joe Winters of Florida Avenue said Council should read what the Township law stated, the agenda should be ready four days prior to the meeting. He said he went to the meeting and there were others changes.

Mayor Beck said if there was a need for something, he said there had been an effort to reach out to the department heads to have their agenda items to the Clerk ahead of time.

Mr. Winters said if there were an emergency he understood that. He asked the Manager for an explanation on Resolutions 47 & 48

Manager Voll said they were requested by the engineer for additional engineering services related to the Delaware Outfall Extension project.

Councilmember Conrad said the contract used the wrong wood and it had to be replaced.

Manager Voll said the contractor would pay for the repairs.

Mayor Beck said they needed additional pilings because the pipe went from 42" to 48".

Ed Butler asked if there was any grant money allocated for the outfall work.

Colleen Crippen, Grants Coordinator said there was a pending application for additional outfalls, but those outfalls were not under grant money.

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Frank Serraco of Tampa Avenue asked why the outfall pipe on St. Johns Avenue wasn't included.

Mayor Beck said they would find out for him.

Mr. Serraco asked for an explanation of Res. #2011-52.

Colleen Crippen said the Energy Efficiency Block Grant was part of the stimulus money. She said in order to participate in the grant you had to be involved in the Direct Install Program and other programs. She further explained the program and said they would be getting thousands of dollars worth of work for about \$80,000.00.

Joe Winters asked about the ordinance pertaining to the barges and thought it was done last year.

The Clerk said it was never adopted.

Mayor Beck closed the public portion.

Consent Agenda

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|---------------------|---|
| Approval of Minutes | January 19, 2011 |
| Res. #2011-45 | Payment of Vouchers, \$4,277,512.95 |
| Res. #2011-46 | Resolution Amending Resolution #2011-10 Entitled Confirmation of Officials for Joint Insurance Fund and Municipal Excess Liability Fund (Change in Alt. Fund Commissioner to current Manager) |
| Res. #2011-47, | Resolution Approving Project Proposal Amendment Between Hatch Mott MacDonald and the Township of Lower for Additional Engineering Services Related to Delaware Bay Shore Outfall Extensions, Contract M-3 (\$5,000 increase to original contract for additional inspections which will be paid for by the contractor) |
| Res. #2011-48, | Approval of Change Order #1, Delaware Bay Shore Outfalls, Contract M-3 (\$6,000 for removal and replacement of six additional piles) |
| Res. #2011-49, | Appointing Contact Person for the Employment Practices Liability Helpline Atlantic County Municipal Joint Insurance Fund (Authorizing Manager & Clerk as contact persons) |
| Res. #2011-50, | Renewal of Trailer Park Licenses for the Year 2011 (Annual renewal 5 Trailer Park Licenses) |
| Res. #2011-51, | A Resolution Requesting Release of Demolition Bond for Block 289, Lot 20, 141 Woodland Avenue, Villas, NJ 08251 (Project completed, \$3000 bond to be released) |
| Res. #2011-52, | Submission of an Energy Efficiency and Conservation Block Grant Application, \$50,000 |
| Res. #2011-53, | A Resolution Authorizing an Application to the 2011 Direct Install Program |
| Res. #2011-54, | Issuance of 2011 Limousine, Taxi & Operator s Licenses (Annual renewal) |
| Res. #2011-55, | Approval of 2011 Rotary Towing Licenses (Annual renewal of 7 vendors, used for Police towing) |
| Res. #2011-56, | Transfer of Appropriations, \$5,100.00 (From Fire Safety, Assessor, Planning & BOCA OE to Salary & Wage Line for each) |
| Res. #2011-57, | Authorization for Refund of Taxes (3 properties - 2 received veteran s deduction & 1 duplicate payment) |

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- Res. #2011-58, Resolution Supporting Continued Open Space PILOT Funding (Payment in Lieu of Taxes program)
- Res. #2011-59, Grant Agreement , PF11-065 Between Lower Township and the State of New Jersey Department of Environmental Protection (\$3,000 Community Forestry Management Plan)
- Res. #2011-60, Resolution Requesting the NJ DOT Continue the Northbound No Passing Zone on Route 9 South to Cold Spring Village
- Res. #2011-61, Resolution Approving contract with Blue Cross/Blue Shield Dental for Extraordinary Unspecifiable Services (2 yr. Contract for employee dental insurance - change in carrier for a cost savings of \$9,337.44)
- Res. #2011-62, A Resolution Supporting SCR60 A Concurrent Resolution Memorializing the Congress and President of the United States to Enact H.R.2429, the Consumer Price Index for Elderly Consumers Act of 2009"
- Ord. #2011-05, An Ordinance Amending Chapter 340 of the Code of the Township of Lower to Provide for the Inspection of Fireworks Loaded Onto Barges or Vessels In the Township of Lower, 1st rdg. (2nd rdg. Feb. 23)
- Ord. #2011-06, An Ordinance of the Township of Lower Amending Chapter III Administration of Government Article VII, Section 3-41 of the Code of the Township of Lower (2nd rdg. Feb. 23) **TABLED**

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

- Ord. #2011-01 Salary and Benefit Ordinance for the Township of Lower, 2nd rdg. (Annual ordinances establishing salary ranges, longevity, reimbursement for use of private cars, benefits etc.) was presented for second reading and final adoption. The

Clerk announced the ordinance was posted and published to law and copies were available in the Clerk s Office.

Mayor Beck opened the meeting for comment on the ordinance.

Joe Winters asked about non-union Police Personnel and the Chief s salary was \$11,000.00 more than the prior ordinance. He said they were asking the people in the Township to take cuts and hold down the salaries.

He mentioned he wanted the Director of Personnel removed from the ordinance since the Manager was supposed to be the Director of Personnel.

Mayor Beck said it didnt cost to sit there.

Councilmember Conrad said if it was taken off it couldn t be filled.

The Clerk said the person holding the title was still on the payroll.

Mayor Beck closed the public portion.

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

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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. #2011-02, An Ordinance of the Township fo Lower Amending Chapter 345, Fire Zones, Lanes and Areas, of the Code of The Township of Lower, (Increase in for Plan Review by Fire Safety Bureau) was presented for second reading and final adoption. The Clerk announced the ordinance was posted and published 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.

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

Ord. #2011-03, An Ordinance of the Township of Lower Amending Chapter 340, Fire Prevention, of the Code of the Township of Lower, (Increase in fees for fire inspection by Fire Safety Bureau) was presented for second reading and final adoption. The

Clerk announced the ordinance was posted and published 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.

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 .

Ord. #2011-04, An Ordinance of the Township of Lower Amending Chapter 3, Administration of Government, of the Code of the Township of Lower, (Amendment to Section 3-15 which permits Council to waive requirement that Solicitor maintain an office or residence in the Township) was presented for second reading and final adoption.

The Clerk announced the ordinance was posted and published to law and copies were available in the Clerk s Office.

Mayor Beck opened the meeting for comment on the ordinance.

Joe Winters said he had a problem with Council appointing a Solicitor instead of changing the ordinance first prior to appointing him according to Township law. He said the code books were available at the library and Township building for them to read.

Solicitor Donohue said he had gone over the provisions that dealt with appointment of non residents and a one year time limit to comply and within the Township ordinances there was an exception to the residency requirement for anyone who held a state certificate.

Mr. Winters asked why was it Township law.

Solicitor Donohue said he didn t know, he said most of the residency ordinances went back generations to when towns were much smaller.

Mr. Winters said they violated the laws they passed.

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Mayor Beck said it looked like that on paper but there was another section in the ordinance that exempted him from that. He felt it was settled and they were going to move ahead. He said the ordinance needed to be clarified so they don't keep going over it. He said Mr. Winters point was well taken.

Mayor Beck closed the public portion.

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

Ord. #2011-06, An Ordinance of the Township of Lower Amending Chapter III Administration of Government Article VII, Section 3-41 of the Code of the Township of Lower (2nd rdg. Feb. 23)

Deputy Mayor Lare said in an effort to satisfy everyone he offered to table the ordinance, seconded by Councilmember Conrad.

Councilmember Conrad asked if they had a consensus to put it on for the next meeting.

Deputy Mayor Lare said he wanted to amend his motion that it was tabled that night and put on the agenda for the next meeting. He asked how to handle changes to the ordinance.

Solicitor Donohue asked if it was Council's policy that no ordinance be put on the agenda before a vote was taken.

Deputy Mayor Lare said no.

Mayor Beck said there were a couple issues with it. He said the ordinance was received a couple hours before the meeting and the second issue was there was a long discussion at the last meeting and ample opportunity and clarification. He said the Solicitor needed clear direction from Council as to what they wanted.

Solicitor Donohue said assuming the ordinance was on the agenda as it was, a member of Council could suggest some changes after it had a motion and second it could move forward with the amendments to it. He said it could be done from the start and sometime it could be complicated, but it could be done.

Deputy Mayor Lare wanted to motion to table it and reintroduce it next meeting with any changes taken place at the next meeting.

Councilmember Douglass motioned to adopt the resolution, seconded by Councilmember Conrad. The resolution was adopted by the following roll call vote: Councilmember Conrad, yes, Councilmember Simonsen, no, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck no.

Mayor Beck said the no part was the reintroducing it next meeting, the tabling part was he just wanted it to go away.

Councilmember Simonsen said the ordinance should be worked out ahead of time and not brought up there and wasting people time by arguing about it. He felt they should rework it between now and the next meeting.

Solicitor Donohue said Council had to be careful of not having an unofficial meeting where three of them were discussing business. He said they could send their changes to him and he could draft something up.

Mayor Beck said it could be done at a work session and at the end of it they take a vote to move forward or not.

Deputy Mayor Lare said the inference that Councilmember Conrad violated the law was patently dishonest. He said things in the proposal were discussed last month. He said he took objection to him inferring he did anything wrong.

Mayor Beck said he didn't think anyone inferred he broke any laws. He said there was ample time to take a vote and it was never taken. He said there was no direction given to the Solicitor to draw up any kind of ordinance. He said there had been nineteen days since the last meeting and why did he get the copy two hours before the meeting. Councilmember Conrad said he would take the blame for it.

Deputy Mayor Lare asked if anyone had the email the Solicitor had sent that day.

Mayor Beck said to Deputy Mayor Lare he would point out anytime he felt something had gone wrong in the building.

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Councilmember Conrad said that was his opinion, he sent something to the Solicitor two weeks ago and it was sent to the wrong email and it didn't get to him in time. He had wanted it on the consent agenda last Thursday and it was his fault.

Mayor Beck said if it was something that was an emergency or something relevant that would be alright. He said he spent a lot of time preparing for the meetings and to receive the ordinance two hours ahead wasn't enough time to compare to the old ordinance. He said he would never give up his right to fight.

Administrative Reports

Department Reports 2010 YE Tax Collector

Manager Voll gave his Manager's Report and said the road construction from Weber to Miami Avenues which was a County project would be starting soon and the utilities would be put in first before the paving. He said the work on Seashore between Breakwater and Route 9 also Tabernacle and Seashore Rds. had been started and should be completed by July 2012. He said Sally Marshall Crossing and Bennetts Crossing would be closed.

Manager Voll said Court days would be moved from Tuesday to Thursday. He said Lower Township's population was now 22,866 up 1,317 residents over the 2000 Census.

Council Comments

Councilmember Conrad said Mike Force had earned his Eagle Scout Award and he was a local resident. Councilmember Simonsen congratulated the LCMR Wrestling Team who at the moment was wrestling against Buena. He also congratulated the Jersey Cape Shore Thing a dance group who made it on national TV. He said they did a great job and commended the parents, kids, coaches and all others who gave their support to the group.

Councilmember Douglass said it was great to see the project on Seashore and Tabernacle Rds. begin and he asked the people to be patient with the traffic changes as it would take care of the bad intersections at the crossings.

Mayor Beck said he had been at Conifer Village for the dedication and what a great development it was.

Call to the Public

Mayor's Advisory Board

Ed Butler said he was concerned about what had been happening over the MAB. He said they did violate Township law regarding the agenda changes. He said it would be nice for transparency and open government to let the residents come and speak about it. He said it wasn't a good thing, they weren't showing unity and it was going to ruin the Township and the taxpayers were paying the freight. He said he spoke for himself and a lot of other residents in the Township.

Township Budget

Mr. Butler also commented that no one even mentioned the budget.

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Mayor Beck said they had been working hard on the budget.

Mr. Butler asked what the shortfall was?

Deputy Mayor Lare said they didn't have the state figures yet.

Councilmember Simonsen said they couldn't give any figures until they receive the state aid figure from the state.

Open Public Meetings Act

Mr. Winters asked if using email or computers violate the OPMA.

Mayor Beck said if three people were together discussing an issue or have a meeting it was a violation.

Solicitor Donohue said a law was being developed that the same rules applied as meeting in person or by phone and email.

South Jersey Gas Company

Mr. Winters asked if the Township received money from South Jersey Gas for putting in the gas mains.

Mayor Beck said he would find out.

Mr. Winters said they never sealed around the openings.

Ponder Lodge

Mr. Winters asked for an update on Ponder Lodge.

Mayor Beck said they accepted a bid to start tearing down the buildings.

Councilmember Douglass said it was projected for the work to begin around March.

Manager Voll said the first bid was thrown out.

Ponder Lodge Wetlands

Steve Sheftz of Town Bank said last week Barbara Skinner of Cape May wrote a letter to the editor in the Herald about creating wetlands at Ponder Lodge so land could be developed in Cape May. He said they should be very opposed to it and people should be vocal about it. He said many people here had wetland and couldn't build. He said back in 1950 Cape May's population was 3,709 and the Township's was 2,739. He said in 1980 Cape May's population reached 4,853 they grew 1,100 but in that time frame Lower Township grew 15,000 to 17,105. He said in 2000 Cape May was at 4,034 and Lower Township was at 22,945 and this year there was a reduction in our population to 22,866.

Mr. Sheftz said Cape May had more houses than residents and they were people who had great wealth. He showed a chart going back a few years showing the PCI and school taxes. He said the Township could not afford to take on more poor people and more children without some sort of relief. He said taxes should be based on the ability to pay.

Councilmember Douglass said Mrs. Skinner came in to see him and was going to check into the issue with Cape May.

Mr. Sheftz said many people in the area of Ponder Lodge were having trouble with flooding as it was.

Mayor Beck said they were working on the Cox Hall Creek project to alleviate the flooding.

Councilmember Conrad said he spoke to Lee Widgeskog and he said the project wasn't approved yet.

Mayor Beck said they did express their concerns to him when they met.

Council Meeting

Dan Anderson said he was upset from the things that transpired from the meeting in January that he had been a republican for 47 years and he was no longer a republican or a democrat he said he hoped they learned from their mistakes.

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Lee Marcott of Beach Drive said he paid \$9,000.00 in real estate taxes and was upset to see Council going in two different directions.

Closed Session

Res. #2011-63 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. (Matters related to Collective Bargaining & Purchase, Lease & Acquisition of Real Property)

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

Open Session

Res. #2011-64 Appointment of Fallon Associates (Investigative and Consulting Firm)
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 .

Council returned to open session and there being no further comment, Councilmember Conrad motioned to adjourn the meeting, seconded by Councilmember Douglass the meeting unanimously adjourned by verbal ayes at 9:12 p.m.

Mayor

Township Clerk

Approved: February 23, 2011