

Regular & Work Session Meeting Minutes - March 21, 2011

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on March 21, 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

Certificate of Recognition - Eagle Scout - Steven D. Church, Jr.

Mayor Beck congratulated Steven Church, Jr. on his accomplishment and asked him to explain his project that he did.

Steven said he had done a raised garden so that people in wheel chairs could still enjoy gardening.

WORK SESSION

Discussion - Request to MUA for Funds

Deputy Mayor Lare said in light of the current budget and the goal to get the tax rate lower the proposal was on the table to ask the MUA to provide some assistance with the budget. He said it was an excess surplus fund account and it was 5% of that fund which was \$327,000.00 and the proposal before Council was to ask the MUA board for half of that which was \$163,652.00.

Councilmember Conrad said he didn't like asking but he saw it as a necessary evil.

Councilmember Simonsen said he believed asking for half was reasonable and not taking all of it. He said it would help get the budget down this year.

Councilmember Douglass said it had been discussed a few years ago and knew the possibility was there. He said the request wasn't for the full amount available and it had to go before the MUA board for approval.

Mayor Beck said he wished he could agree and he would list his reason why not. He thought it was a bad idea last year and an easy way to solve the budget not the correct way. He said if they took money out of the MUA it would only cause the water and sewer rates to go up. He said not all taxpayers belonged to the MUA only about half; many people didn't have sewer and water. He said the people who belonged to the MUA would be helping subsidized the taxes of those who didn't. He said the surplus was there for a specific reason and the MUA was a separate authority.

Mayor Beck said the Township was already below the CAP, they were at 1.7 cents and it didn't make sense to do it. He supported what was said in the papers from the people at the MUA and it was said the Township couldn't keep using attrition they had to make some tough choices. He said Mr. DeMarcantonio said the Township needed to

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clean their house like the MUA did. He said the MUA had their first balanced budget in ten years and they worked hard to get there. He said the MUA managed to get their financial house in order even though some people didn't agree with what had taken place. His feeling was it was the Township's house and if there was a budget problem they had to fix it just the same as if the MUA had a budget problem they would fix theirs. He said Council had worked hard over the last few years to bring the budget down. He felt they needed to make decisions and choices to bring the budget down and he didn't think taking the MUA's money was the answer.

Deputy Mayor Lare said he had some counterpoints. He said as far as the taxpayers vs ratepayers the Township had secured over 1.5 million in grants on behalf of the MUA. He mentioned a street restoration grant that the Township provided the cash match on \$880,000 which was \$30,000.00. He said that was real taxpayer money that was put into that grant. He said the MUA wouldn't exist without the Township because the Township guaranteed their bonds. He said as far as Mr. DeMarcantonio's comments he was retiring and it was the board's decision and the goal was to reduce the burden to the taxpayers.

Deputy Mayor Lare said it was \$160,000 and it was done throughout the state and it could provide relief for the taxpayers. He said it was similar to what the Governor had done with the schools last year. He felt it should be considered.

Mayor Beck said the Township didn't need the money they were already under the CAP. He said the MUA hadn't had a balanced budget in ten years and they got that way by making tough decisions. He again said it wasn't necessary to do to balance the budget and bring cost down. He said it was rejected last year and felt it should be rejected this year.

He said public comment on the resolution could be made at the regular meeting part.

Review of Consent and Regular Agenda Items

Councilmember Simonsen asked that Resolution #2011-90 be tabled because there were possible revisions to that. Councilmember Simonsen motioned to table the resolution, seconded by Deputy Mayor Lare the resolution was tabled by verbal ayes.

Deputy Mayor Lare said he had some questions regarding the management agreement for the Fishing Creek School. He thought it was a great idea but he had some questions. He said the Township would maintain the funds for the trust account which had a lot of restrictions on it. He wanted to make sure that was what they wanted to do. He said the trust money was funds that were donated and raised by the Friends of the Fishing Creek School.

Mayor Beck said he thought there had been a trust account for them before.

Mayor Beck asked for a motion to table resolution #2011-93.

Deputy Mayor Lare motioned to table the resolution, seconded by Councilmember Douglass. The resolution was tabled by verbal ayes.

Mayor Beck asked Solicitor Donohue if meeting annually was enough for the Minutes Review Committee.

Solicitor Donohue said it was the minimum, but if Council wanted they could meet quarterly.

Mayor Beck asked if it could be changed to quarterly. He said there was a backlog of closed session minutes that needed to be looked at.

Solicitor Donohue said the resolution should be corrected to state they would meet quarterly.

Public Questions on Consent Agenda and/or Regular Agenda Items

Ed Butler of Villas said since the camera broke at the meeting he requested that Council table everything on the agenda until the camera was fixed except the bill list.

Councilmember Simonsen said it was an open meeting and anyone could be present if they chose and there was no ordinance that stated the meetings had to be taped. He said everyone had the right to be there.

Joe Winters of Florida Ave. asked how many people were on the Minutes Review Committee.

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Mayor Beck said it was the Solicitor, Clerk and Manager.

Mr. Winters asked how much would it cost.

The Solicitor said there was no charge it was part of his duties.

Mr. Winters asked what did the electric and propane cost at the pool. He also asked if the money from the people who leased the concession stand covered the costs to operate it?

Mayor Beck said it didn't the lease was \$1,500.00.

A brief discussion ensued about the pool lease and cost incurred and the potential money that was made there.

Consent Agenda

- Approval of Minutes March 7, 2011
- Res. #2011-86, Payment of Vouchers, \$3,221,623.01
- Res. #2011-87, Authorization for Refund of Taxes (Paid twice in error)
- Res. #2011-88, Resolution Awarding Concession Stand Lease for the Lower Township Swimming Pool(2 yrs. Melo Concession - payment to Twp of \$1500 for 2011 & 2012)
- Res. #2011-89, Authorization for 2010 Incentive Award for Insurance Waiver (J Saunders - \$2,076.92)
- Res. #2011-90,** Rejection of Proposals for Concession for 2011 Independence Day Festival Rides (over budget) **TABLED**
- Res. #2011-91, Resolution Approving Project Proposal Between hatch Mott MacDonald and the Township of Lower for Engineering Services Related to Permitting & Engineering for 2011 Delaware Bay Shore Outfall Extensions (\$99,000 for survey, NJDEP CAFRA/WFD permits, NJ Tidelands App, Army Corps Permit, Permit, Engineering & Construction Documents)
- Res. #2011-92, Authorization for Waiver of Fees for Calvary Chapel Cape May Associated With Their Use Variance Application (Applying to relocate their ministry to a unit in Breakwater Center)
- Res. #2011-93,** A Resolution Approving A Management Agreement by and Between the Township of Lower and Friends of the Fishing Creek School, Inc. **TABLED**
- Res. #2011-94, A Resolution Authorizing the Formation of a Minutes Review Committee (to review Exec. Session Minutes for release on as needed or annual basis)
- Res. #2011-95 Issuance of Ice Cream Peddling Licenses for the Year 2011 to Summer Daze Ice Cream (Annual Renewal)
- Ord. #2011-09, An Ordinance of the Township of Lower Authorizing the Acceptance of Land Donated to the Township of Lower by the Nature Conservancy, 1st rdg. (Donation of .0385 acres on Beach Drive) 2nd rdg. Apr. 4th

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

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Res. #2011-96, Resolution Authorizing Request to the Lower Township MUA

Bob Rizzo, President of Mickles Run Landowners Association said they were all water and sewer ratepayers and understood they wanted to reduce the tax rate. He said the MUA had done some amazing things to keep their increases to a minimum. He said the MUA had received the largest grant in the State which was over 8 million for the Townbank area. He said to take the MUA surplus, which they might need some day to reduce the tax rate was inconceivable. He said to ask the ratepayers to pay for all the taxpayers was unfair. He said to reduce the taxes in another way.

Steve Sheftz said the Association of Municipal Authorities produce a Commissioner s handbook with important information. He said each member of Council had an obligation to know what the responsibility of the commissioners were. He said an intense background check was done on each member. He said the book went over the commissioners responsibility. He said the commissioners had a responsibility to develop long range plans, formulate operating procedures and financial plans, etc.

Mr. Sheftz said Council had a responsibility to protect the taxpayers and the assets of the Township. He said in 1990 the former Executive Director promised water from the northern end of the Villas to Englewood Road in one year. He said that never happened. He said when he was a board member in 1998 he was asked to help people in three areas that had raw sewage in their yards.

Mr. Sheftz reviewed some of the plans and things that had happened while he was a MUA boardmember. He said they had provided water and sewer to 130 homes in less than two years. He said much of the infrastructure was over forty years old. He told Council they were elect officials and there was nothing more important than the health of the residents and water was the lifeline of our being. He wanted to remind Council that many of the residents and senior citizens were on fixed incomes and didn t get raises. Colleen Hughes of Villas said she had contaminants in her water and was still waiting for clean water. She said she spent thousands of dollars every year on purchasing clean water. She asked Council to consider the residents.

Joe Winters said it wasn t a good thing they wanted to do. He said the MUA did what needed to be done and now the Township wanted to take their money. He told Council to get their house in order.

Janet Pitts, Villas said the reasons he gave for denying it last year were still valid. She told Deputy Mayor Lare he was right in saying other towns did it, but it was like an addiction and it would continue until the MUA was dissolved. She brought up that Council wanted to have the budget approved by April 4th, if they were asking the MUA for money their meeting was April 6th after the Township meeting.

Mayor Beck said point well made.

Deputy Mayor Lare said if the resolution passed then the Township would have to adjust their budget approval.

Jack Sparks said Mrs. Pitts brought up the idea to Council last year and you didn t bring things up unless you thought it was a good idea. He said the reason it didn t pass last year was because the budget got to zero so there wasn t any need for it. He said he heard about six months ago that the budget was one million dollars over the CAP. He asked where the money went that they were in the hole for and how did they correct it. He asked if it was a ploy.

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Mr. Sparks said the Township said the MUA had their house in order and where Mr. DeMarcantonio came from in Deptford they took \$500,000 a year from the MUA. He didn't feel the MUA's house was in order, he saw people laid off there.

Mayor Beck said he felt Mr. DeMarcantonio did a good job there. He said if the Township was facing a five cent tax increase, he would join the parade. He said the Township was under the CAP.

Mr. Sparks said \$160,000 wasn't going to clean up the water.

Mayor Beck said the Township had done well as a Council over the years they had been in office. He said they received no help from the toolkit that was promised.

Jack Sparks said going from 4% to 2% was a big deal.

Mayor Beck said it was two years later and they were still waiting for the toolkit. He said they starting cutting sooner than other towns did.

Councilmember Douglass said he thought he recalled the taxpayers group bringing the idea to Council. He said it was a request to the MUA for the funds, they had to approve it. He said he was a ratepayer and taxpayer and it was a matter of helping each other and felt it was a viable option.

Councilmember Simonsen again said it was a request of Council to the MUA. He felt requesting half was reasonable. He said it didn't mean that the rates would go up. He said they were trying to find ways to lower the rate and this was one option.

Councilmember Conrad said he didn't like the idea either. He said he didn't want to see any services cut, but if they made any more cuts in the 1.7 cents some services may be affected. He said he also was buying bottled water and had been promised water since 1993.

Ed Butler, Villas said about three years ago a discussion came up about dissolving the MUA. He said the taxpayers group starting attending the meetings. He said they voted to get a professional in to straighten things out. He said the MUA did what it had to do and worked hard to get to where they were.

Steve Sheftz reminded Council that the plans for expanding the water infrastructure would move quickly and they had to keep in mind there were a lot of poor people in the Township. He said they would have to pay \$1,600.00 plus the plumbers fee.

Bob Rizzo said once they started taking the money from the MUA they wouldn't stop. He said Council appointed the MUA board every year and what was to keep them from appointing people who agreed with them. He said most areas throughout the state the people were both ratepayers and taxpayers.

Jack Sparks said not 100% of the people in Deptford were ratepayers.

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, yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, no.

Ord. #2011-06, An Ordinance Amending Chapter 3 Administration of Government, Article VII, Section 3-41 of the Code of the Township of Lower, 2nd rdg. (Change from Mayor's Adv. Board to Citizen Adv. Board, increasing members & method of appointment)

Councilmember Douglass said he was fine with the ordinance, he reviewed the information from the last two meetings.

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Mayor Beck said they had been around with it and it had been a distraction. He stated his main reasons at the last meeting and stood by his comments. He told the members of the MAB they had done a good job. He had spoken to some of the members and he didn't want them to turn their back on the board and hoped they would reconsider to get involved with the CAB. He said he hoped it would be a success. He said he was against it from the beginning and was now.

Joseph Winters said he would like the same thing done for all the boards.

Tom Conrad said he would agree for the same things for advisory boards.

Joe Winters again said to include every board including planning, zoning and recreation.

Councilmember Simonsen said some of the other boards certifications were needed.

Mr. Winters asked about qualifications for the Recreation Advisory Board.

A brief discussion ensued regarding equal representation for the boards.

Councilmember Conrad said no one said they did a bad job, the problem was communication with Council.

Mr. Winters said Council could have communicated with each other to avoid conflict.

Councilmember Simonsen said everything the MAB had done was very well documented and it wasn't one of the reasons as far as he was concerned.

Janet Pitts said she didn't agree that the other boards were different. She said she didn't see anything in the ordinance that said you had to be involved in sports to be on the RAB. She request Council have the RAB report four times a year as they were asking the CAB to do.

Ed Butler said he felt they were setting a precedent and to keep it away from the political field and go by the qualifications. He said to do it for all the boards it would be a good move.

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

Administrative Reports

Safety Report

February Reports Animal Control, Construction (WCM & Lower) Dog License, Engineer, Municipal Clerk, Municipal Court, Tax Collector, Vital Statistics

Council Comments

Councilmember Conrad congratulated Steve Church for advancing to Eagle Scout. He said he had received a complaint about the leaf pick-up and they had to be more accountable and do a better job.

Councilmember Simonsen asked everyone to keep the Donohue family and the Mayor's family in their prayers.

Councilmember Douglass thanked the Manager for keeping him updated in his absence. He congratulated the Church family on raising a young gentleman.

Request for MUA Funds

Deputy Mayor Lare wanted to reiterate the request was only 5% of the excess surplus that was available. He said whether they received the money or not, there would be additional cuts. He said the Township's house was in order. He took exception to the comments in the paper. He said the Township had done a

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cash match grant for the MUA which provided \$264,00 of taxpayer funds for that grant. He said the Township guaranteed their bonds, the MUA could not borrow money without the Municipality guaranteeing the bonds.

He said the toolkit had not been enacted only five items of the proposed thirty items had been enacted. In his opinion the 2% CAP would restrict the growth in spending in government and that was good. April 1st at the Freeman Douglass Park; Lower Cape May vs Middle Township Boys and Girls High School double header in Lacross.

Mayor s Announcements

Mayor Beck thanked Dominos in the Villas for their participation in a fund raiser for the Fishing Creek School. He announced the patriot flag would be a Wildwood Convention Hall on March 30th.

Call to the Public

David Shank of the Calvary Baptist Church thanked Council for waiving the fees on their variance application.

Township Vehicles

Joe Winters asked about the Township vehicles going home with some employees and said it had been stopped. He asked how many were going home and what was the purpose of that. He asked the Manager if the decal had been put back on the car.

Mayor Beck said originally three cars had been going home until recently he thought there were nine now. Manager Voll said the Chief, Captain and two Lieutenants, two Resource Officers, Manager and DPW Director.

Mr. Winters said it was a waste of money.

Councilmember Conrad said it was a managerial decision.

Mayor Beck said the policy was set by Council and allowing six more vehicles to go home at night. He said the gas budget was up to \$67,000. He said the people who were taking the cars home were at the higher end of the pay scale.

Deputy Mayor Lare said the previous Manager took the cars away on her own.

Mayor Beck said it wasn't who gave them out, they were out. He said after there was a change in Managers the cars were going home and that was his opinion.

Mr. Winters said it became a burden to the taxpayers, if the Township was flushed it would be no problem.

MUA

He said a lot of the sewers were forty years or older and if the MUA had a problem would the Township pay.

Township Vehicles

Doug Henderson of North Cape May, he didn't know all the ins and out of where people lived, but one of the Resource Officers lived near the school. If he had to go to the police station for a car and then back to the school it was a waste of money.

Budget

Janet Pitts had a couple questions on the budget and asked if the Township was at 1.7cents.

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Mayor Beck said yes, it was tentative. He told her to hold her questions on the budget until the next meeting.

Commercial Trash Collection

Mrs. Pitts said last year the Township decided to stop trash collection for businesses so how much money was saved.

Deputy Mayor Lare said they started charging and the savings were in tipping fees.

Councilmember Douglass said they budgeted \$130,000.00 for the year.

Mayor Beck said that was an estimate.

Councilmember Douglass said they hadn't completed a full year yet.

A discussion ensued back and forth on the savings in tipping fees and it wouldn't be known until the end of the year.

Closed Session

Res. #2011-97, 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.a (Employment Matters - Police)

Councilmember Douglass 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.

Council returned to open session.

Deputy Mayor Lare motioned for the Manager and Mayor to proceed as discussed in closed session, seconded by Councilmember Conrad. The motion was carried by verbal ayes.

Solicitor Donohue said if more two members attended a MUA meeting that wasn't a problem.

Deputy Mayor Lare asked if the MUA asked them to attend their closed session was that a problem?

Solicitor Donohue said yes.

Mayor Beck said he didn't want anyone representing Council at an MUA meeting.

Manager Voll said he could send the resolution and request. He said he would attend the MUA meeting and represent the Township.

There being no further comment, Councilmember Conrad motioned to adjourn the meeting, seconded by Councilmember Douglass the meeting unanimously adjourned by verbal ayes at 9:25 p.m.

Mayor

Township Clerk

Approved: April 4, 2011