

## Regular & Work Session Meeting Minutes - April 4, 2011

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on April 4, 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

### Proclamation - Autism Month

Mayor Beck spoke about Autism Awareness and asked Jason Bryant to read his prepared speech about his experiences living with autism.

## **WORK SESSION**

### Budget Presentation

Mayor Beck said Leon Costello, the Township Auditor was present to speak regarding the budget situation. Mr. Costello said they had been through months of working on the budget for presentation. He said as it stood it would be a 1.7 cent tax increase and a 4.1% levy increase. He said the Township was \$149,000.00 under what the levy cap allowed and 1.4 million under what could be spent. He added the budget was legal and met all the caps. He said there was a slight decrease in rateables. He said the fund balance going forward was almost what they ended with last year. He stated there was \$59,000 available in fund balance if they chose to use it. He said salaries were \$338,000 less than last year. He said grants started out low and they came in as the year went on. He went over deferred charges which were statutory and that included pension and social security. Mr. Costello said they had been keeping track of expenditures every year. He presented a chart of the salary, pension and healthcare which had risen at a sharp increase over the past few years while other expenses had stayed around the same. He said this year there was a little bend back in the line due to a small decrease in salaries and wages. He reviewed the pension cost and said the 2011 pension contribution cost of the Township was 29.36% of the salaries, he added the only way to control that cost was to have fewer salaries. He mentioned there were a few bills in Trenton that were attempting to change pensions and health care. He said it was a good thing for the Municipalities and bad things for the employees. He said the debt service had always been handled well. He explained how bonds were handled by the Township. He said projects were under control and there would be a bond sale in 2015. He said the latest the budget could be adopted was May 15<sup>th</sup> because the tax bills had to get out.

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Mayor Beck asked for Council comments.

Deputy Mayor Lare asked Mr. Costello to describe the overall financial health of the Township.

Mr. Costello said it was good, the Township had a slowing of expenditures, pension costs slowed down, a relatively stable fund balance and the collection rate was holding.

Deputy Mayor Lare asked Mr. Costello what the MUA's annual budget was?

Mr. Costello said the budget combined (sewer and water) was a little more than eight million.

Deputy Mayor Lare asked what was the amount of surplus for the MUA.

Mr. Costello said the surplus in November 2009 was a little less than four million, he said that was the unrestricted fund balance. He said there were reserves that had to be kept for debt service which the Township wasn't required to do.

Mayor Beck said the Township had a dedicated fund for accumulated leave and he knew they were tied up with the surplus because of the \$900,000.00 emergency, but asked if there was any way to use some of that money to free up the fund balance.

Lauren Read, CFO said there were so many people leaving at the same time the \$900,000.00 was necessary.

A discussion ensued on ways if possible to use some of the fund balance.

Mr. Costello said what he was asking could be done.

Mayor Beck said he wanted to bring the 1.7 cents down to one cent.

Lauren Read said to keep in mind what was taken out of fund balance had to be replaced.

Mayor Beck said he felt part of the toolkit would come into play this year.

Lauren Read said her concern was what would happen with the state aid.

Mayor Beck said he wanted to bring it down to one cent and it was an avenue he would like to take. He brought up the tipping fees on what was collected last year and the grants that were included.

Lauren Read said the recycling tonnage grant was in the budget but the other one was an unknown. She said the cost last year was \$827,000.00.

Mayor Beck said there would be a reduction in that amount because of the commercial trash. He said another issue was the reserve for uncollected taxes and asked if they went back to where they were last year and how much would that generate?

Mr. Costello said it would be a savings of \$162,000.00.

Mayor Beck said he was trying to get it down to a one cent increase, he said to take \$50,000 from the landfills, \$45,000 from Fire, RUT - \$40,000.

Deputy Mayor Lare asked if the \$84,000 for recycling was in the budget.

Lauren said not yet, the recycling tonnage money was but the clean community wasn't.

Deputy Mayor Lare said he spoke to Lauren about the notice of the \$84,000 from the County and asked if that was included.

Lauren said it wasn't a revenue that was received every year.

Mayor Beck asked if Council was in agreement with a 1cent increase.

Deputy Mayor Lare asked if they could review the figures again.

Mr. Costello said it was \$50,000 landfill, \$45,000 Fire, \$40,000 fund balance and \$162,000 and change from RUT and all of those together would get one cent.

Deputy Mayor Lare said he would like to see them diminish the overtime budget by cutting DPW by \$25,000 and the Police by \$25,000.00 and that would be \$50,000 and lessen the amount from RUT.

Mr. Costello said that could be done.

Deputy Mayor Lare said to take \$59,000 from the surplus which they could legally do.

Mayor Beck asked the Manager if they could take \$25,000.00 overtime from the police and DPW?

Manager Voll said they would make it work.

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Deputy Mayor Lare said he would like Council to consider postponing adoption until the May meeting because there were two collective bargaining unit agreements that had expired and the PBA had opened up their contract to renegotiate. He felt there was potential for those contracts to impact this years budget.

Mr. Costello reviewed the procedure for the adoption of the amended budget. He said it could be scheduled for May 2<sup>nd</sup>. He said he would formalize the document and give it to the Clerk and it would be advertised in the paper.

Councilmember Douglass asked the CFO about the recycling rebate.

Lauren Read again stated recycling tonnage was in the budget not the rebate.

Deputy Mayor Lare said the \$84,000 that was received was in addition to \$52,000 received from the State. He said the tipping fees had gone down since weekly recycling was implemented.

### Review of Consent and Regular Agenda Items

Mayor Beck asked Solicitor Donohue to explain briefly Resolution #2011-106 (Conflict Attorney).

Solicitor Donohue said the Township sued Remington and Vernick, since he also represented Stone Harbor and had dealt with Remington Vernick that would be a conflict.

Councilmember Simonsen commended Margaret Vitelli and Mitch Plenn for their work in providing rides for the Independence Day Festival and thanked the MUA for their donation.

### Public Questions on Consent Agenda and/or Regular Agenda Items

#### Conflict Attorney

Joe Winters said when he asked Councilmember Conrad about the Solicitor he was told there wouldn't be a problem with conflicts.

Councilmember Conrad said with the last Solicitor they had to bring in someone for conflict situations.

Ed Butler said there was a retainer fee for the Solicitor and asked where the \$15,000.00 was coming from the actual cost or was everything done additionally.

Solicitor Donohue said all municipalities had conflict attorneys. He said there was a line item for legal costs in the budget and he would not be adding to that.

Mr. Butler wanted to be clear that nothing was being added.

#### Lower Township MUA

Deputy Mayor Lare said he found it fascinating that they were fixated on the conflict attorney issue and there was no concern that the municipality was in active litigation with an engineering firm that was now the engineer of record for the MUA and there was no outrage there.

Mr. Butler said he felt people cared and thought it was part of a grant and if the engineer was changed it could jeopardize the grant.

Deputy Mayor Lare said he was incorrect. He said the firm was hired to do the work in Townbank after they had taken office. He said that story was told to him about the water tower in the Villas if engineers were changed midstream they would lose the funding and that was incorrect. He had confirmation from USDA that engineers could be changed on that project.

Mr. Butler said the MUA was an autonomous operation and were running smoothly and the rates were the lowest in the state.

Deputy Mayor Lare said the Township budget was three times the size of the MUA budget and the Township had half the surplus they did.

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### **Consent Agenda**

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- Approval of Minutes            March 21, 2011  
Res. #2011-90,                Rejection of Proposals for concession for 2011 Independence Day Festival Rides  
  **(WITHDRAWN)**
- Res. #2011-98,                Payment of Vouchers, \$1,461,184.07  
Res. #2011-99,                Authorizing Special Item of General Revenue (\$15,000 from each of the 3 fire  
  districts to be added to Misc. Revenue Section of the budget for Uniform Fire  
  Safety Act)
- Res. #2011-100, Click It or Ticket 2011 Mobilization (annual application for funds, \$4,000)  
Res. #2011-101, A Resolution Requesting Release of Performance Guarantee for CVS Pharmacy - Feinberg &  
  McBurney Realty; Block 216, Lot 32-34 Escrow #P08-08-02 (Releasing Perf. Guarantee &  
  retaining Maintenance Guarantee)
- Res. #2011-102, Renewal of 2011 Campground Licenses (Annual renewal - 6 licenses)  
Res. #2011-103, A Resolution Requesting Release of Performance Guarantee for Conifer Realty, LLC; Block 741,  
  Lot 2.07, Escrow #Z05-01-06 (Releasing Perf. Guarantee & retaining Maintenance Guarantee)
- Res. #2011-104, Authorization for Refund of Taxes  
Res. #2011-105, Award of Contract for Concession for 2011 Independence Day Festival Rides  
  (Wizard's Festival of Fun - \$10,000 total - \$5,000 of which is from MUA donation)  
Res. #2011-106, Resolution authorizing a Professional Services Contract with Jon Batastini, Esquire of Loveland &  
  Garrett, P.A. (Not to exceed \$15,000)

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. #2011-07,                An Ordinance to Exceed the Municipal Budget Appropriation Limits and To Establish a Cap Bank (N.J.S.A. 40A:4-15.14) (Annual resolution done with budget introduction), was presented for 2<sup>nd</sup> reading and final adoption.

Mayor Beck opened the meeting for comment on the ordinance.

Joe Winters asked if the money was to hold the Township over.

Mr. Costello said it created a bank and there were two cap laws 2% on spending and 3 1/2% on the levy. He explained the ordinance and said it was something that had to be done and it didn't raise taxes.

Mr. Winters asked if it was an increase.

Mr. Costello said there was no physical money being spent.

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.

Ord. #2011-08,                An Ordinance Amending Chapter 90, Article II of the Code of the Township, Entitled, Police Department (Permitting increase in Class II officers from 10 to 12), was presented for 2<sup>nd</sup> reading and final adoption.

Mayor Beck opened the meeting for comment on the ordinance.

There were no comments on the ordinance.

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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 .

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, (Donation of .038 acres on Beach Drive) was presented for second reading and final adoption.

Mayor Beck opened the meeting for comment on the ordinance.

There were no comments on the ordinance.

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 .

### Public Hearing - 2011 Municipal Budget

#### Employee Contracts

Bill Greenfield asked the Auditor if any changes made to the health care at the State level it would not apply to current contracts.

Mr. Costello said that was correct, he said there was a Senate Bill presented that changed health care and pension.

#### Budget

Fred Long of Cold Spring said it was great that Council considered the reserve for uncollected taxes. He said it was a change in the 96.53 in the original budget to 96.72 which produced the \$112,000.00. He said last years actual number was 97.77 and the average number of actual numbers from the annual financial statement was 97.93 over the last five years. He felt what was being done with the reserve for uncollected taxes was faint.

Mr. Long said if they took the average of what was actually done and used that average they would have approx. 3/4 million to be taken off the budget by using the actual experience over the last five years. He was suggesting the estimate be based on the actual experience would produce a greater reduction in taxes that they needed to ask the taxpayers to pay.

Mr. Costello said it was a specific calculation mandated by the State. He said they were only allowed to use what the previous year was.

A brief discussion ensued on the reserve for uncollected taxes.

Mayor Beck closed the public portion.

Mr. Costello read the proposed amendments to the budget which were \$40,000 fund balance, \$45,000 from the three Fire Companies, \$25,000 each in overtime from Police and DPW, \$50,000 tipping fees and \$112,000 reserve for uncollected taxes.

#### Res. #2011-107, Amending the 2011 Municipal Budget

Deputy Mayor Lare motioned to adopt the amendments and read the following reductions to the budget: \$45,000 Fire, \$50,000 Landfill, \$40,000 surplus, \$25,000 overtime in DPW, \$25,000 overtime in Police, \$112,000 reserve for uncollected taxes and motion to adopt at the May 2<sup>nd</sup> meeting 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 .

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### Administrative Reports

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Department Reports      January - Police, February - CFO & Police  
1<sup>st</sup> Quarter Auction Report

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### **Council Comments**

#### Austim Awareness

Councilmember Simonsen said as a teacher of special needs students and young adults with autism there would be programs going in the community and asked the public to support them it was a great cause.

#### High School

Councilmember Douglass said a School Board member from Cape May Mr. Nelson had passed away and it was a big loss for the board.

Deputy Mayor Lare congratulated Lower Township Recreation Center and the High School for putting on a great athletic event it was a double header in La Crosse for the boys and girls. He was sad to say Middle Township won both games.

#### Lower Township MUA

He said there was a lot of talk about ratepayer vs. taxpayers. He said the Lower Township MUA would not exist without the Township's financial support. He said the Township secured all debt for the MUA.

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### **Call to the Public**

#### Township Vehicles

Joe Winters asked if anything had been done about the cars being taken home?

Councilmember Simonsen said he had done a little research, six officers were taking home cars and the overall total of mileage was 18.8 miles a day. He said several studies had been done and it was a benefit to the Township due to quicker response time and lower crime rates where the cars were. He said most lived within a mile to the police station.

Mr. Winters asked if anyone contributed toward the fuel?

Councilmember Simonsen said that was a question for the Police Department.

Councilmember Conrad asked Mr. Winters if he knew anything about the ICS or the command structure. He said it was helpful to the Township and the insurance rates. He said they could get called out in the middle of the night and a quick response was important.

Mayor Beck said he felt it was excessive they previously had three cars taken home and now there were nine.

Robert Rizzo asked Councilmember Simonsen if the Township had a blanket insurance policy.

Manager Voll said the Township had fleet coverage and were self-insured so it didn't matter if they added 10 more cars.

#### Lower Township Taxpayers Association

Jack Sparks 53 Croydon Drive read a prepared statement. He said an organization called the Lower Township Taxpayers Association which consisted of 10-15 members didn't represent the 23,000 residents or the 8,000 residents of the Villas. He said Ed Butler had made some outlandish statements that school teachers were getting rich and the kids weren't learning anything in school. He said he never apologized and now the group claims to speak for the ratepayers of Lower Township MUA. He said he was a taxpayer and a ratepayer they didn't speak for him at any time. He knew of many people who have moved here from the Philadelphia area and yet he hadn't seen anyone from here move to Philadelphia. He said Lower Township wasn't such a bad place to live so he asked the group of 10 who had found fault with almost everything Council tried to do, almost every Township department so why were they still here. He said they were entitled to their opinion and since they hardly ever offered positive

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solutions to the problems they lost credibility and few took them seriously.

Ed Butler said he felt it was a personal attack on him and he did represent people who couldn't attend and felt it was uncalled for.

### Police Department

Bill Howard of Villas said he lived here all his life and was a volunteer firefighter. He spoke about an incident that happened two Saturdays ago and stated the Township had to find a way to get more police to the scene. He said it was one of the few times he was scared. He said it was bad when the fire company had to back up the police. Deputy Mayor Lare asked Mr. Howard did the ability for the command staff to make it there quicker make a difference.

Mr. Howard said once the senior officers were on scene they made calls to the County Swat Team and if it had taken longer it could have escalated even more.

Mayor Beck said a command officer coming from his house wasn't going to help the officer who responded to the incident other officers on the street would. He said there was a 2% CAP and a couple years ago they said 50 officers at \$80,000 or 40 officers at \$100,000 he said it was the same price. He said that was all the Township could afford. He said it came down to a reduction in service and the toolkit hadn't helped. He said he would love to have more officers on the street but they couldn't afford it at the price.

Mayor Beck said they had a study done years ago and it said one car was going home and they raised it to three and now there was nine and that was excessive. He said they had a lot of low income and senior citizens here and that was who footed the bill.

Manager Voll said he wanted to thank the Villas Fire Company for assisting the officers and said Officer Edwards was to be commended for his action. He said the PBA had been open minded of the economic times and they would try and meet the goal of having more officers at a reasonable price.

### Lower Township MUA

Nels Johnson said he was present as a taxpayer and the MUA Chairperson and it was good to see positive things come out of a meeting. He said the attacks the MUA had been getting were not warranted. He said they were not sitting on the surplus it was being used to replace aging infrastructure that was 30 - 40 years old. The MUA had a 10 million dollar low interest loan for the Townbank water project that the Township had helped them with. He said if the project wasn't done in time they wouldn't get the money. He said the MUA had a five year business plan and part of the new water hookups were going to generate revenue and water to the residents. He said the hookups were lowered to \$1,600.00 with five year payback and zero interest. He said they were there to serve the community. He said they were not going to sit on the money it was to be used for additional services in the community.

Deputy Mayor Lare said they had an eight million dollar budget with four million in surplus and were asking the MUA for some of that money was to provide relief to the taxpayers. He said with four million in surplus he didn't know if he would have voted for an ordinance that required people to pay \$1,600.00 hookup or vote for a rate increase.

John Skrowski of North Cape May said he was glad the MUA turned down the request for the money. He didn't think it was fair that the ratepayer's money be used for the Township. He said the MUA had really cleaned up their shop and it was time for the Township to do the same.

Manager Voll said it was common practice where there were Municipal Utility Authorities in Hamilton Township, Atlantic County, Galloway Township and Deptford Township where the former MUA Executive Director was from the Deptford Township Council was given \$500,000 to \$600,000 a year from the MUA.

Mr. Skrowski said Lower Township wasn't as rich as some of those areas were.

Deputy Mayor Lare said again, the MUA had four million in the bank and doing nothing with it. As far as ratepayer vs. taxpayer, if you didn't use the service you didn't pay therefore it was a user fee. He said the Township had user fees such as mercantile license fees, slip fees, registration fees that everyone benefitted from. He said the

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Townbank water project would not exist unless the Township passed a controversial water connection ordinance. He said they did it because it was a great good issue just like the Township asking them for money to help relieve the burden of taxes to the residents.

Mr. Winters asked the Manager if the Township had a spending plan.

Manager Voll said they didn't have anything in place, they were working on one.

Deputy Mayor Lare asked Mr. Winters if it concerned him that the MUA Director now drove a vehicle back and forth to Linwood every day on the MUA's dime, they paid gas, tolls etc. and the previous Director drove to Deptford. He asked if he raised those same concerns to the MUA as he did to Council.

Mr. Winters said he thought it was a good idea.

Deputy Mayor Lare said maybe it was just him, but he felt it was slightly hypocritical.

Mr. Winters said originally it was the Chief's vehicle taken home.

Deputy Mayor Lare said one trip to Linwood was more mileage than all nine vehicles that were taken home.

Jack Sparks said the last meeting the Mayor said he would get it down to zero.

Mayor Beck said he wasn't sure he said that.

Jack Sparks said for more than six months the Mayor had been stating the Township was a million over the CAP.

Lauren Read said that was a projection from last year and not anticipating on as much state aid.

Res. #2010-109, A 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

Councilmember Douglass motioned to adopt the resolution, seconded by Deputy Mayor Lare. 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.

Councilmember Conrad motioned to adjourn the closed session, seconded by Councilmember Douglass the meeting was adjourned by verbal ayes.

Councilmember Simonsen motioned to authorize the Manager and Solicitor to proceed as discussed in closed session seconded by Councilmember Douglass. The motion was carried by verbal ayes.

There being no further comment, Councilmember Douglass motioned to adjourn the meeting, seconded by Councilmember Simonsen the meeting unanimously adjourned by verbal ayes at 9:26 p.m.

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Mayor

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Township Clerk

Approved: May 2, 2011