

Regular & Work Session Meeting Minutes - June 6, 2011

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on June 6, 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 - Officer David Adams

Mayor Beck presented Officer Adams with a plaque from the Township for his 25 years of service to the Township and wished him well in his retirement.

Oath of Office - Officer Brian Donahue & Sergeant William Priole

Mayor Beck swore in Officer Donohue who came back on the force and Officer Priole to his new position as Police Sergeant.

WORK SESSION

Review of Consent & Regular Agenda Items

Deputy Mayor Lare asked if Council needed to go into closed session to discuss Ordinance #2011-12, salary ordinance amendment? He asked the other Councilmembers if they wanted to do that and if so it should be pulled. He also questioned about the Redwood Avenue agreement and said it hadn't been returned by the residents attorney so that resolution should be pulled from the agenda.

The Clerk asked to replace the resolution that was pulled with an application for a Taxi License and drivers.

Deputy Mayor Lare motioned to table Res. #161 and substitute it with the taxi resolution, seconded by Councilmember Simonsen. The motioned was carried by verbal ayes.

Mayor Beck opened the meeting for comment on the consent agenda.

John Skrowski of Arctic Avenue asked about the resolution for the purchase of a Tahoe vehicle for the police department.

Manager Voll said it was to replace the Sergeants vehicle that had high mileage on it.

Joe Winters questioned Resolution #2011-147, engineering services and what was being investigated?

Manager Voll said at Douglass Park the hockey rink had damage and there were cracks on the tennis court.

Mayor Beck closed the public portion

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Consent Agenda

- Approval of Minutes May 16, 2011
Application Jeffrey S. Harkins, Town Bank Volunteer Fire Co. NJ State Fireman s Association
Res. #2011-146, Payment of Vouchers, \$635,123.66
Res. #2011-147, Resolution Approving Project Proposal Between Hatch Mott Mac Donald and the Township of Lower for Engineering Services Related to The Investigation of Existing Hard Court Surfaces at Freeman Douglass Jr. Memorial Park (\$2500)
Res. #2011-148 Resolution Requesting the Board of Chosen Freeholders Investigate Establishing a County Wide Public Safety Dispatch Service
Res. #2011-149, Insertion of Special Item of Revenue Pursuant to N.J.S.A., Chapter 159 (JIF Grant, \$5,050)
Res. #2011-150, Cancellation of Tax Sale certificate 11-00072 & Refund of Taxes (Property listed in error & payment rec d. in error)
Res. #2011-151, Authorizing Pay Out of Terminal Leave (B. Camp \$8,203.62 Retirement)
Res.#2011- 152, Authorizing Pay Out of Terminal Leave (D. Adams, \$89,222.61, Retirement)
Res. #2011-153, Authorizing Pay Out of Terminal Leave (Z. Zelwak, \$17,150.42 Retirement)
Res. #2011-154, Acceptance of Bid & Award of Contract for Two (2) 2011 Dodge Chargers with Police Package, (Hertrich Fleet Services, \$50,146 Total)
Res. #2011-155, Acceptance of Bid & Award of Contract for Auto Parts for 24 Months (South Jersey Auto Supply Inc. Primary & Val-U Auto Parts, LLC - Secondary)
Res. #2011-156, Resolution Accepting Bids & Awarding the Contract to Supply Asphalt for 24 Months (Arawak Paving Co., Itemized List)
Res. #2011-157, Acceptance of Bid & Award of Contract for Station Road Improvements (Charles Marandino LLC, \$119,361)
Res. #2011-158, Issuance Ice Cream Salesman Licenses for the Year 2011 to Fudgy Wudgy Ice Cream
Res. #2011-159, Approval of Cold Spring Presbyterian Church s Application to Conduct a Flea Market on May 28, 2011
Res. #2011-160, Acceptance of Bid and Award of Contract for One Chevy Tahoe (Mall Chevrolet, \$29,600)
Res. #2011-161, Approval of Taxi License and Operator Licenses for # 1 Taxi
Ord. #2011-12, An Ordinance Amending Ordinance #2011-01, Entitled Salary and Benefit Ordinance for the Township of Lower , 1st rdg. (2nd rdg June 20th) (Adding new titles & ranges that may be needed)

Councilmember Conrad motioned to adopt the consent agenda, seconded by Councilmember Douglass. 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.#2011-11, An Ordinance Authorizing Execution of a Lease of Certain Property for Use by the Lower Township Rescue Squad in Connection with Providing Emergency First Aid Services to the Township of Lower, 2nd rdg. (Renewal of 10 year lease for Rescue Squad office at Public Safety Complex)

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

Mayor Beck opened the meeting for comments on the ordinance.

Deputy Mayor Lare said he had spoken with the Rescue Squad and had looked all their financial data and felt it was in order.

Mayor Beck said he wished it had never happened what started out as code violations lead to looking at financial

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records. He had questions on the lease and asked if the Rescue Squad was a 5013c or 501c4?

Attorney for the Rescue Squad, Frank Corrado said he could have the information tomorrow, but felt they were a 5013c.

Mayor Beck asked if there was an escape clause in a 10 year lease?

Solicitor Donohue said if the Rescue Squad discontinued providing service to the Township then the lease would terminate.

Mayor Beck said suppose 3 years from now they were to get out of the public safety building or a flood came and the building had to be closed would they have to rent office space for them?

Solicitor Donohue said the application of contract law would apply to the contract so if a tornado eliminated the building and the Township didn't have the resources to rebuild then it was impossible for the Township to perform under the contract.

Mayor Beck said couldn't they put something in that said with a years notice they would like to get out from under it.

Solicitor Donohue said they could propose that, but Mr. Corrado would have to take that back to the Rescue Squad.

Mayor Beck said he also went and looked at their books and that wasn't an issue with him. His issue was code enforcement and he felt they needed an escape clause in the lease. He also said he needed to know if they were a c3 or c4.

Mr. Corrado said they were a c4.

Solicitor Donohue said as part of the motion it could be to correct it to a c4.

Mayor Beck asked if it was a major issue to put an escape clause in.

Solicitor Donohue said it should really go back to them.

Mayor Beck said he didn't want to lock in a Council 6 years from now if a Council wanted to redo the area the way it should have been done to begin with. He said the worst decision every made by far was the Public Safety Building. He said the police should be back here in the neighborhood that needed them.

He said if they gave a 10 year lease with no escape clause and in 5 years the opportunity came up to bring the workforce together how would the lease be handled. He said he would like to see an escape clause in the lease.

Deputy Mayor Lare asked if wording could be added to say as long as the Township occupied the building.

Solicitor Donohue said they could do that, but again it would have to go back to the Rescue Squad. He said that wasn't the cleanest way to do it. He said it did have to be taken care of. He said it could be tabled until next meeting and go back and try to negotiate the clause or they could put the clause in and send it back to the Rescue Squad.

Deputy Mayor Lare said he was at the point of an up or down vote.

A discussion back and forth on the language to put in the ordinance.

Solicitor Donohue said the options were to adopt as is, amend the lease or table it.

Mayor Beck said it wasn't an immediate issue but it was a 10 year lease. He was in favor of putting the language in as an amendment. He asked Councilmember Douglass his feelings on the lease.

Councilmember Douglass said he was fine with it.

Councilmember Simonsen said he agreed to putting in the language.

Mr. Corrado suggested Council allow him and Solicitor Donohue to confer on the language for first reading at the next meeting.

Solicitor Donohue agreed with Mr. Corrado's suggestion.

Deputy Mayor Lare motioned to table the ordinance until June 20th meeting, seconded by Councilmember Simonsen.

The ordinance was tabled by the following roll call vote: Councilmember Conrad, abstain, Councilmember Simonsen, yes, Councilmember Douglass, yes, Deputy Mayor Lare, yes, Mayor Beck, yes.

Administrative Reports

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Personnel Action Report

March & April Report Animal Control - ACO Flitcroft

Council Comments

Councilmember Conrad said he was sorry to see Officer Adams retire. He said last Wednesday LCMR had a great pops concert and also mentioned on June 11th there would be a beach cleanup hosted by the Republican Party.

Cape May Winery and NASW

Councilmember Simonsen wanted to thank the Cape May Winery for their recent event a lot of the local fishing industries were there as well as the Wetlands Institute. He also thanked Dr. Salvatore and his crew for the recent event at the airport for flying in the F18 plane.

NASW

Councilmember Douglass said he also attended the event at the NASW and Dr. Salvatore did a nice job.

Citizens Advisory Board

He said last week he and Councilmember Simonsen attended the first Citizens Advisory Board meeting and they were going to announce the new member or did they want to wait until they could all be present to introduce them. Mayor Beck said to wait until they all could be here.

Employee Picnic

Deputy Mayor Lare thanked Eileen Kreis for the wonderful job with the employee picnic. He thanked Seashore Campground for hosting the picnic and also thank Manager Voll for the new sign at Township Hall.

Township Sign and Landscaping

He said John McNulty of Bayshore Landscaping donated the landscaping and flowers that surround the new Township sign.

He said the LCMR baseball made it to the semi-finals baseball play-off.

Frank Corrado - Lower Township Rescue Squad

Frank Corrado, Attorney for the Rescue Squad said he was present to address some of the recent questions raised about the squad. He said he had watched the last council meeting and he was present in spirit of cooperation and good neighborliness. He said some comments about the Rescue Squad were the Township wasn't getting the right bang for the buck.

Mr. Corrado handed Council a chart of the basic rates. He said it was true that Lower Township had the highest basic rate on paper, \$750.00 a ride and \$11.50 a mile. He said Lower Township was among the lowest of municipal contributors and read what some other Townships paid. He said like doctors the rates were established to get higher reimbursement from Medicare and Medicaid.

Mr. Corrado said the Rescue Squad only collected 49 cents on the dollar what was billed and explained how insurance paid and it wasn't 100%. He said Lower Township was getting 24 hours a day service seven days a week 365 days a year for the lowest rate. He said questions were raised about the salaries and they were comparable with most throughout the County. He said mistakes were made on the 990's in 2009 and it reflected the salary and mistake. He mentioned he could invite the auditor to attend a meeting if Council felt necessary.

Mr. Corrado said the Rescue Squad invited members of Council to review their books and they also provided an annual audit and they would allow the W2's to be viewed by Council. He said they didn't feel it was appropriate to open the books to anyone or to view the W2's.

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Mr. Corrado said another issue was the operations and the clearing of the lot. He said the Squad tried to be a good neighbor and one reason they moved to the Public Safety Building was to accommodate the neighbors on the hours. The clearing of the lot was in response to some of the complaints from the neighbors. Some things may not have been done as good as they could have been but attempts were being made to bring things into compliance.

Mr. Corrado said it was a two way street. A notice of violation was received from the Soil Conservation Service for not obtaining a permit and that was being worked on. He said the original Certificate of Incorporation was dated 1959 and it did state the Rescue Squad would pick people up for free. In 1961 the VFW deeded the Georgia Avenue property to the squad and it contained a contingent reverter. It stated that if the squad ever charged people the land would revert to the Township.

Mr. Corrado said in 1985 the Rescue Squad amended the Certificate of Incorporation and their bylaws to be non-profit and not charge more than the cost. He said there were legal issues raised by the deed and those were things he and Solicitor Donohue would have to talk about. He suggested the easiest way to resolve the issue was the Township to quickly claim its interest in the property back to the Rescue Squad. He said the Rescue Squad wasn't there to argue, they were there to fix the problem with the squad and the neighbors. He said he felt the squad did a good job and they wanted to be public servants.

Mayor Beck said he and the Manager have been trying to get a meeting together with the rescue squad, the Township and the neighbors.

Mr. Corrado said to name the time and place.

Call to the Public

Rescue Squad

Walter Miller of Villas asked if they could speak as long as Attorney Corrado did.

Maureen Serrato of Cardinal Avenue said she agreed the Rescue Squad did not do the best job on cleaning up the lot. She asked why wasn't Mr. Corrado aware of the soil violation. She said the soil erosion was a problem and the lot was still a mess. She asked Councilmember Douglass if he would be the designated representative and if so what did he think.

Councilmember Douglass said he had been to the property and felt progress was being made. He said it looked like everything had been cleaned up around the building.

Mrs. Serrato said a good neighbor shouldn't have to get violations to comply.

Redwood Avenue

Mary Packer of Redwood Avenue asked why the Redwood resolution.

Deputy Mayor Lare said the Mayor, Manager and he met with the neighbors concerned on the bulkhead. He said the resolution and agreement were drafted for review by the owners and their Counsel but it wasn't returned in time for the meeting so it would be scheduled for the June 20th meeting.

Deputy Mayor Lare said the Township would do their due diligence to see that the steps were installed.

Ponder Lodge

Lorinda Desrosiers said she had long followed the saga of Ponder Lodge and felt it was a wonderful place for people who walked and birders. She mentioned that four plastic bags had been by the gate for about four weeks and asked for it to be cleaned up. She wanted to compliment the Mayor when all of the articles were in the paper about Ponder Lodge his comments and how he handled it; he was a true gentleman.

Mayor Beck said it was a team effort.

High Grass and Weeds

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Ms. Desrosiers said there was a lot of properties in the Township where no one was living and the lawns weren't being taken care of and asked if anything could be done about it.

Councilmember Douglass said Code Enforcement had been working on the matter and approximately sixty letters had gone out.

Manager Voll said it had been tough times and some people had walked away from their properties. He said they were trying to get compliance and if the Township cleaned the property they would have to put a lien against it.

Ms. Desrosiers asked why could the Township get a few high school kids or volunteers to cut the grass on those properties.

Mayor Beck said the reason was insurance and liability.

Ms. Desrosiers said she read in the paper about the dissension among Council and said the art of dialogue was becoming a thing of the past. She said she would like to see Council dialogue among themselves without the bad feelings.

Rescue Squad

Bob Weber of Cardinal Avenue said he wanted to address some of the things Mr. Corrado said. He asked when could they expect to see the 990's for 2010. He said he didn't see the harm in seeing the W2's since they were a non profit organization. He said as far as the lot clearing that was for their own benefit; he didn't find any police reports or animal control reports of calls about the lot. He wanted to know where Mr. Corrado got his numbers from. Mr. Weber had copies for Council of the 990's from 2005 thru 2009. He said the revenue and expenses had remained relatively flat for the past five years at about two million. He said in 2008 the salary expense jumped to 64.1% of their expenditures. He said he didn't know why the salaries increased so dramatically and the revenue income and expense had remained relatively flat. He said they were spending less money running the rescue squad and spending more on salaries.

Councilmember Simonsen said he looked at the books and said 2008 was the year the auditor asked them to cash in vacation time.

Mayor Beck asked if it was \$236,000.00.

Colleen Hughes, Rescue Squad Treasures said the paperwork she show the Mayor was all the time and what was paid out.

Tony Kapurelos, LT Rescue Squad said he didn't see the charts Mr. Weber had but he said it seemed the complaint was the operating expenses were down and payroll was up and wasn't that good business.

Colleen Hughes said the payroll hadn't significantly gone up. In the past five years it had increase \$234,000.00.

She said the squad had 35 certified EMT's which made them the largest in the County. She said the squad covered all the Township functions requested of them and on the night of the fireworks they had 34 employees working.

Ms. Hughes said the squad billed out in services \$ 3,278,000.000 in 2010 and in the same year they had adjustments or write-offs. They were paid \$1,611,000.00 which was mostly medicare and medicaid. She gave an example of when they transport a patient who received Medicaid they were paid \$58.00 and out of that they were paid \$1.50 per mile so they receive a total of \$76.00 which was a 90% write-off.

Rescue Squad Meeting

Bill Ludlam said he wasn't aware of the neighbors meeting with the Rescue Squad. He also mentioned that people weren't cleaning up after their dogs along the bay.

Rescue Squad

Joe Winters of Florida Avenue asked if the Rescue Squad ever showed the Township a hardship to receive the \$105,000.00.

Mayor Beck said he would have to pull the ordinance for that.

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Mr. Winters said that State statute stated in order to receive money from the Township they were required to file a letter for a hardship.

Deputy Mayor Lare said the Rescue Squad wasn't the only organization the Township donated to. He said the Township gave to the Lower Township Chamber of Commerce and the Volunteers in Medicine.

Mr. Winters asked if the ordinance listed for the Rescue Squad lease would have any amendments?

Mayor Beck said it was pulled and it would be changed.

Deputy Mayor Lare said when they agreed to cover Diamond Beach Wildwood Crest was proposing to provide EMS for an amount greater than \$200,000.00. He said they had to look and if there was a better way show them, the Township had a large population and a lot of that was elderly people who needed service frequently. He said the Township received emergency medical services for \$105,000.00 and if there was a better way he was opened to suggestions.

Mayor Beck said the Rescue Squad wasn't going anywhere. He said the Township had a responsibility to ensure the money was being used. He said Deputy Mayor Lare was correct about the Diamond Beach issue but wasn't sure it was that high and felt it was due to the Grand being built.

Bayshore Road Flags

Colleen Hughes asked Deputy Mayor Lare to contact the Chamber about the flags along Bayshore Road.

Redwood Avenue

Kathleen Gula of Redwood Avenue said she realized the Redwood Avenue matter was table but who would be the best person to contact at Township Hall.

Mayor Beck said to contact Manager Voll.

Rescue Squad

Tom Frisoli of Villas said the Township was going to try and build a sub-station in Diamond Beach and at the time there was an agreement with Wildwood Crest. Things never happened and Wildwood Crest got frustrated and raised the cost so everything was thrown back to the Rescue Squad.

Mayor Beck closed the public portion.

Res. #2011-162, 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, (Litigation - Martinelli & Remington & Vernick & Personnel)

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.

Return to Open Session

Res. #2011- 163, Resolution to Authorize Settlement of Litigation

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

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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 Douglass motioned to adjourn the meeting, seconded by Councilmember Conrad the meeting unanimously adjourned by verbal ayes at 9:00 p.m.

Mayor

Township Clerk

Approved: June 20, 2011