

## Regular & Work Session Meeting Minutes - February 21, 2007

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on February 21, 2007 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 Wayne Mazurek  
Councilmember Glenn Douglass  
Councilmember Robert Nolan  
Mayor Walter Craig

Also present: Solicitor Paul Baldini

Mayor Craig read a proclamation regarding Read Across America.

### **WORK SESSION**

#### Review of Consent and Regular Agenda Items

Mayor Craig said Resolution #2007-57 would be moved to the regular agenda.

#### Correspondence & request from Van Cleef Engineering re: Sewer - Lake Laurie Campground

Mr. Belaski from Van Cleef Engineering said Lake Laurie proposed to hook into the public water and sewer. He said they received conditional approval from the MUA. He said they were in the County Water Quality Management Plan as a private area. He said they needed approval from Council.

Bill Galestok said the past practice of Council had been to refer them to the Planning Board. He said He would like to have the Planning Board review it. He said in the State Plan which was being worked on all sewer areas would have to be centers. This was not a proposed as a center and the Planning Board would have to take a look at it and see if they wanted to look at this as a center.

Councilmember Nolan said he would like to have the Planning Board review it before an opinion was given.

Mr. Belaski asked if Council could give approval conditional on the Planning Board review and acceptance.

Councilmember Nolan said that was putting the cart before the horse, he would rather wait until the Planning Board took a look at it.

Mayor Craig said he would like the Planning Board to look at it first. He said they had the recreation complex next door and the Township had spent funds for the septic system. He said they were told they were not permitted to tie in, yet why were there other applications out there pending to tie in.

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### Mandatory Water Connection - MUA

Pete Bitting, Chairman of the MUA said many in the Township with contaminated water in the Villas and North Cape May with salt water intrusion.

Mike Garcia of Ford, Scott & Sidenberg was the Auditor for the Township and MUA went over an analysis prepared on the fees(copy attached). He said it showed if 5,000 new units were added at \$1,200 what the impact would be. He pointed out if they didn't have the mandatory ordinance any not connected they would be losing the ability to raise funds to off-set any cost to pay for the project. He said each unit that didn't hook up was lost revenue. He stated that it would be financially irresponsible not to make it mandatory, it would raise fees to pay for the improvements and not raise the rates.

Mr. Garcia said the important part of the analysis was that any short falls would be picked up by the rate payers. He said if it was mandatory it would raise 18.2 million and keep the rate stable. If the system were to be expanded they needed to have mandatory hook up fees and possibly a time payment plan.

Councilmember Mazurek he said it seemed like there were 2 different groups. He said the people who had lines on the street and haven't hooked up and potential new hook ups. He questioned the impact of hooking up 5,000 more into the aquifer and if a study was done.

Pat Westhoven of Schoor DePalma and Engineer for the MUA did a water monitor plan years ago. He said they did need 3 more wells and couldn't say at the present what the impact would be.

Councilmember Conrad asked how many more could the system handle now.

Mr. Westhoven said they weren't to capacity yet and could take on more hook ups still.

Councilmember Mazurek read from an MUA report and said in reading it there were some comments that made him nervous. He said he would like to see more data to see what the effect would be.

Councilmember Mazurek asked if the MUA could offer incentives to hook up in addition to a 10 year payment plan. He stated there were 500 who didn't have water and wasn't comfortable forcing people to hook up. He questioned the issue of the recharge plant and where that was going. He wasn't sure how he felt about the mandatory hook up. He asked if a survey had been done to see who wanted to hook up to the water system.

Mr. Bitting said if water lines were ran in Mr. Sheftz area along Townbank Road and only 3 hooked in, someone would have to pay those expenses.

Cliff Gall, Lower Township MUA said Townbank had some chemicals in the water as did the Villas. He said in order to do the project they had to bond for it.

Councilmember Nolan questioned water lines that were put in and only 3 people hooked into it.

Mr. Gall said it was outside the grant area.

Councilmember Nolan asked if the people not tied into the system were scattered throughout the Township.

Mr. Gall said yes.

Councilmember Nolan said he wanted to see what would be fair to the people.

Mr. Gall said why run the lines if it wasn't mandatory.

Councilmember Nolan was concerned with the information and wondered if the aquifer could handle it.

Mr. Gall said the State studies showed they had to move the wells inland and commented the water recharge project was being held up at the State level.

Councilmember Nolan asked what the time frame would be.

Mr. Gall said it would be 7 to 8 years from start to finish. He said there was a prioritized list of areas such as Villas, Town Bank.

Councilmember Nolan said they needed to work together to see what could be done to ease the burden.

Councilmember Douglass asked if the hook up fee was based on private contractors and questioned if the MUA

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could do it cheaper.

Mr. Gall said it would be a liability issue for the MUA. He said the work the State did they hired the contractors and the cost was bid out.

Councilmember Nolan questioned if the MUA had a State licensed plumber on staff and suggested maybe someone be sent to school.

Councilmember Douglass asked about more wells.

Mayor Craig said it came down to a financial issue. He didn't want to impose a financial problem on the community and questioned where could the Township and MUA meet to help the burden.

Councilmember Douglass asked about a long term payment plan for the people.

Mr. Gall said they had new users in jeopardy and they do offer a 3 year payment plan.

Bill Thomas said he worked 38 years in the water industry in Pennsylvania. He said he always read articles about the water concerns. He said the Township received grants to help run the water mains in the Villas. He pointed out in the early 90's there used to be a Water Advisory Board and offered to volunteer any assistance.

Mr. Thomas mentioned he rode around the Township with Mr. Sheftz regarding the water lines. He stated if they couldn't get the people to hook up now and the intrusion continued then things would really hit the fan and it would be to late.

Charles Garrison , MUA Member said they had 5,000 homes projected over 8 years or so and it would be done incrementally. He said there were new well locations, and may go to a different aquifer. He said the point was each phase had to be financed. He said the services all had to share the burden, you couldn't live without water.

Mr. Garrison said the contaminants were moving around.

Councilmember Mazurek stated he didn't see how 500 people not hooked into the system would fund water lines for the future.

Mr. Garrison said the analysis showed 600,000 revenue and stated the debt services had to be paid down.

Councilmember Mazurek asked if work would be done in house or would it be outside contractors.

Mr. Garrison said it would be bid out. He said he would like the Township to get 3 good plumbers to do the hook ups that wouldn't overcharge the people.

Discussed back and forth on the hookups.

Councilmember Nolan asked if the ones that didn't hook up would it help if the requirement was made when the property sold.

Mr. Bitting said if the lines ran by your home the banks required you hook in.

Mr. Garrison said that the water added value to the property.

Councilmember Douglass questioned if there were any areas in Ward 3.

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### Discussion on Ordinance permitting 6' foot fence in front yard - Solicitor Baldini

Solicitor Baldini said Bill Galestok and others work on the ordinance. He said the dilemma the Planning Board discussed was how would you get all the property owners to go in the same direction unless made a mandatory 6' fence. He said over time the properties would be 6', when a fence needed to be replace it would have to be 6'.

Councilmember Mazurek said it appeared that there were 2 versions with grandfather clauses.

Solicitor Bladini said that was correct. He went over various situations that it still may not solve the problem. He said they had to make some hard decisions.

Mr. Galestok said presently someone just put up a 4' vinyl picket fence. He said the problem was esthetic.

Solicitor Baldini said who decided what the fence was to be. He said if there was no uniformity the noise and privacy would still be an issue.

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Mr. Galestok said the initial plan was to allow 6' fences.

Mr. Crouthmal said it was discussed with the neighbors and all 4 were going with uniformity.

Solicitor Baldini said maybe just allow it to happen and the uniformity may happen on its own.

Mr. Galestok went over some areas where fences were erected and it seem to be uniform.

John Armbruster, chairman of the Zoning Board said in the past people complained about 6' fences.

Solicitor Baldini explained how the ordinance was and it was intended for properties that were on County and State Roads.

Mr. Galestok went over the areas that would be effected.

Solicitor Baldini said they could prohibit stockade fences.

### Consent Agenda

1. Approval of Minutes February 5, 2007
2. Application Approval NJ State Fireman's Association - Vince C. Howard, Villas Volunteer Fire Co.
3. Resolution #2007-57, Approval of Vouchers, \$1,722,935.79 (**MOVED TO REGULAR AGENDA**)
4. Resolution #2007-58, Authorizing Pay Out of Terminal Leave (M. Marriner)
5. Resolution #2007-59, Cancelling Small Balances on Delinquent Real Estate Tax
6. Resolution #2007-60, Authorization for Refund of Taxes
7. Resolution #2007-61, Transfer of 2006 Appropriations, \$46,150.00
8. Resolution #2007-62, Resolution Designating March 12 as Volunteer's in Medicine Day
9. Resolution #2007-63, Authorization for Waiver of Minor Site Plan Fee for the Forgotten Warriors Vietnam Museum
10. Ordinance #2007-03, An Ordinance Amending Section 235 "Construction Codes, Uniform" of the Code Book of the Township Of Lower, 1<sup>st</sup> rdg. (2<sup>nd</sup> rdg & public hearing March 5, 2007)
11. Ordinance #2007-04, An Ordinance Amending Chapter 340, Entitled "Fire Prevention" of The Code Book of The Township of Lower, 1<sup>st</sup> rdg. (2<sup>nd</sup> rdg. & public hearing March 5, 2007)

Councilmember Conrad motioned to adopt the consent agenda items #1-10 , seconded by Councilmember Douglass. The consent agenda was adopted by the following roll call vote: Councilmember Conrad, "yes", Councilmember Mazurek, "yes", Councilmember Douglass, "yes", Councilmember Nolan, "yes", Mayor Craig, "yes".

### Regular Agenda

Resolution #2007-57, Approval of Vouchers, \$1,722,935.79

Councilmember Douglass motioned to adopt the resolution, seconded by Mayor Craig. The resolution was adopted by the following roll call vote: Councilmember Conrad, "abstain", Councilmember Mazurek, "yes", Councilmember Douglass, "yes", Councilmember Nolan, "yes", Mayor Craig, "yes".

Ordinance #2007-01, Salary and Benefit Ordinance For the Township of Lower was presented for 2<sup>nd</sup> reading and final adoption. The Clerk announced the ordinance was posted and published according to law and copies were available in the Clerk's Office.

Mayor Craig opened the meeting for public comment on the ordinance.

Bob Rizzo of Mickles Run said he probably was the only one who got a copy of the ordinance. He said people didn't know where salaries fell in the range. He said the Township had a Personnel & Township Manager who received

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\$86,500 for the whole package. He said now the Personnel Manager received \$70,000 and the new Township Manager received \$85,000 plus benefits. He said it was a difference of about \$80,000 and hoped he could save the Township that much.

Mayor Craig said he already saved \$75,000 on a self insured prescription plan. He said he did that in 3 weeks. Councilmember Nolan said the past Manager was put there in the interim when Mr. Sturm left due to health reasons. He stated he was not collecting a benefit package and this was why the Township needed a full time Manager.

Mr. Rizzo said it should have been bid out, and he hoped he would save millions.

Councilmember Nolan said the Cape May City Manager was making \$120,000 and Mr. Jackson had proven himself. Ed Boyle of Hollywood Road asked if it was discussed at a meeting and maybe it should have been put out to bid.

Mayor Craig said Mr. Jackson put in an application. He said there were few jobs that Council could appoint, the Manager made most of them.

Councilmember Nolan said the Faulkner Act mandated that the majority of Council appoints the Manager and it was their decision.

Mr. Boyle said when there was to be another appointment it would be fair to let the public know.

Mayor Craig said it was done at Township meetings.

Councilmember Mazurek said he didn't agree with hiring another person. He said they could have got that deal and was not in favor of spending the money.

Councilmember Conrad motioned to adopt the ordinance, seconded by Councilmember Nolan. The ordinance was adopted by the following roll call vote: Councilmember Conrad, "yes", Councilmember Mazurek, "no", Councilmember Douglass, "yes", Councilmember Nolan, "yes", Mayor Craig, "yes".

Ordinance #2007-02, An Ordinance Amending Section 400-67 - "Board of Adjustment Established" Of The Code Book Of The Township of Lower was presented for 2<sup>nd</sup> reading and final adoption. The Clerk announced the ordinance was posted and published according to law and copies were available in the Clerk's Office.

Mayor Craig opened the meeting for comment on the ordinance.

There were no comments from the public.

Councilmember Douglass motioned to adopt the ordinance, seconded by Councilmember Conrad. The ordinance was adopted by the following roll call vote: Councilmember Conrad, "yes", Councilmember Mazurek, "yes", Councilmember Douglass, "yes", Councilmember Nolan, "yes", Mayor Craig, "yes".

### Administrative Reports

Attached and made part of the minutes are the Personnel Action Report.

January Reports for Animal Control, BOCA, Dog Licensing, Fire Safety, Municipal Clerk, Municipal Court, MUA, Vital Statistics.

### Council Comment

Councilmember Conrad said he had a comment regarding safety, anyone who had gas heat needed to have a carbon monoxide detector in their home.

Councilmember Nolan stated he was glad to see the MUA in attendance and said Mr. Garrison made some good statements and put things in perspective. He said everyone deserved to drink clean safe water. He said the people who are already hooked up shouldn't bear the cost of those not.

Mayor Craig thanked the MUA members for attending and said they needed to keep an open dialogue.

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Mayor Craig opened the meeting to the public at 8:30.

### Public Comments

Margaret Schissler of 221 Bentz Ave. said she was one of the ones who didn't hook up. She said some people paid \$600 some paid \$800. She said they were charging \$1,500 to hook up. She said it was available since 1994 and it should be a flat fee for everyone. She questioned why not spread the grant around so everyone benefitted.

Councilmember Mazurek asked if her dispute was the hook up fee.

Mrs. Schissler said yes, it was not fair that others paid less it should be fair for all. She asked why she couldn't have been in the area that got a break.

Councilmember Conrad said the grants areas are through the State.

Mayor Craig said they had been trying to work on the issue.

Councilmember Nolan commented that she couldn't be jealous of people who had contaminated wells and received reduced costs for hook ups.

Mayor Craig and Mrs. Schissler went back and forth on the hook up costs.

Steve Sheftz of Townbank Road said he was only on the MUA Board for 3 years and proud of his service. He said Willow, Crawford and Sheridan properties had raw sewage in their yards. He said in 90 days he developed a plan and in 2 years they had service there. He said there was cooperation with the MUA regarding grants and he put out an end of the year report when he was on the board. He didn't think anyone was going to the DCA for grants. He said he prepared a cost analysis on 8 million expansion not 17 million as quoted. He showed that connections fees could have been \$850-\$950.

Mr. Sheftz said since he had left the board their debt had tripled and suggested every contract be reviewed. He said he saw a lot of dragging feet at the MUA. He said there were 4 levels of contaminants and the VOC's were the most dangerous to health and the community needed to get involved. He said they needed to go back to the first grant that mandated hook up. He mentioned he appeared before the House Appropriations Committee to try and get relief for the people.

Mr. Sheftz said people could now borrow from the State if they had to connect. He said he would be willing to serve in any capacity they needed.

### Reval

Joe Erthel of Atlantic Ave., said as a retired plumber there were a number of options. He said the vocational school could be looked into. He suggested a fee to the developers to put money towards the cost. He said don't think the DCA grants were an option it only sends the value of the town high.

Mr. Erthel asked Solicitor Baldini if he received the list of licensed appraisers.

Solicitor Baldini said he had several calls in to CLT and was still waiting.

Mr. Erthel said CLT was being sued by many groups and read some other potential suits. He said he didn't agree with the appraisal and they reduced it by \$50,000 but felt it should be down by about \$250,000. He stated they couldn't go above the common level to the State.

Mr. Butler read a petition in protest to the reval. He gathered 1,500 signatures in 6 week and stated there was a problem with the reval.

Mayor Craig said the Township was ordered to conduct the reval in 2002. He said there were avenues of appeals first with CLT and then the County Tax Board. He said 30% of the appeals were successful. He stated the Township had to update the tax maps at a cost of \$150,000 for the reval. He said the Township was locked into the contract and to redo the reval it could cost over 2 million. He said it was ordered in 2002 and was to be on the books in 2004.

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Mayor Craig said if it were done according to schedule we would not be looking at the numbers we were now.

Mr. Butler asked what protection CLT gave the Township.

Mayor Craig said the appeal process.

Mr. Butler said many seniors didn't know how to handle the process.

Solicitor Baldini said CLT looked at the communities and neighborhoods and the areas could have been as small as 2 blocks. He said they had to justify their numbers.

Mr. Butler said the land values were the problem.

### Mandatory Water Hook Up

Sal Riggi of 35 E. Miami Avenue said regarding the water hook ups, he spoke awhile back and his well was fine. He said he listened and heard 10 years to pay for hook up. He said the aquifer ran from Maine to Florida and was the sole aquifer. He said salt water intrusion didn't just happen, there was too much development. He said moving the wells inland only prolongs the inevitable. He said Long Island was over developed and 75% of the island was contaminated with TCE. He said if you put in a deeper well you only draw the salt wedge in.

Mr. Riggi said TCE & PCE move like a plume, they needed to get the State to delineate the plume because they would just pull the TCE into other wells. He said if mandatory connection was due to contamination the courts would uphold it. He said they need to get the State and Legislators to get Federal money for the contaminated areas. He said a lot of issues were facing the area regarding water.

Mr. Riggi suggested if DEP did a study the Township should get their own people to overlook it. He said there was money in EPA for funding it was there, they had to get the right people to fight for it.

### Haven House

Jim Chaney of 1107 Maryland Ave., Cape May said he was present to represent a resident of Clay Court who couldn't be at the meeting. He said the project going on behind St. John's Church there seemed to be some discrepancies in the survey and the layout of the site. He said the effect was the limit of disturbance line was moved closer to the residents of Clay Court and had caused trees to be removed that may not have been necessary.

Mr. Chaney said the contractor agreed to have it re-surveyed. He thanked everyone for holding off until the new survey was complete. He said he would like the residents of Clay Court to walk the property line and see that things were alright and the Township enforce the limit of disturbance.

Mayor Craig said he had correspondence from the contractor and Diocese that stated the lines were appropriate. He said they were trying for some compromise to preserve the tree line.

Mr. Chaney said he wasn't sure the survey issue was resolved to the satisfaction of the residents.

### One -Way Sign - Beechwood Avenue

Wayne Weissman of 20 Beechwood asked how the one-way request for his street was going.

Mayor Craig said he spoke to Sgt. Hienkel and was told it had been done and found it was not feasible. He discussed it with the Engineer to see if some signs or other options could help.

Mr. Weissman asked if a 4 ways stop could be put up.

A woman asked about a study along 4<sup>th</sup> Avenue.

Lieutenant Winter said he would take it to the Police to study all along 4<sup>th</sup> Avenue.

### Reval

Bill Thomas of North Cape May said a friend went to CLT and appealed his assessment and was told if he appealed it to the County it would cost \$50.00 and asked if it was true.

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Solicitor Baldini said it may be the filing fee.

Mr. Thomas stated he was told the Assessor, CLT and the Township Attorney would be there.

Solicitor Baldini said they wouldn't be defending CLT. He said CLT would have to defend the assessments.

Bob Rizzo said CLT spoke to 10 people and only 1 was changed. He said he would like to petition Council to tape the meetings again since there wasn't a lot of cost involved.

Mr. Rizzo asked why 500 people didn't hook up and suggested they do a survey and find out why.

Debbie Johns of the Villas said she was 1 of the 500 and it didn't have anything to do with the cost. She stated her well was just fine and didn't want to fix what was not broken. She said if it was contaminated she didn't think anyone would have a problem with it. She mentioned the Township had water and used bottle water.

Mrs. Johns said there wasn't a lot of people on her street that were hooked up and it wasn't an even flow. She said she appealed her assessment and CLT told her it was based on the highest use possible. She said it should be based on what people had not what you could have. She pointed out her house was assessed at \$100,000 and her land was \$200,000 and it was based on the value of the land at the highest use possible.

Solicitor Baldini said the highest use possible on land was not taking into account variances, etc.. He said the issue was people would buy the land and put something bigger there.

Councilmember Mazurek said some people that had homes for sale could tear down the house and get more for the vacant land.

Mrs. Johns said it wasn't right and not fair. She felt the Villas was being targeted. She said give the water to those who wanted it first.

Bob Hartman of Cold Spring said Sal Riggi should be on the board, he was a wealth of information.

Mayor Craig said they were going to have the website overhauled.

Mr. Hartman said he had an appointment with CLT and was told all 62 x 125 lots in North Cape May were assessed the same which was \$159,000. He said they all shouldn't be the same. He said he saw where Senator Asselta sponsored a bill to refund the fee for appeals if you won and the Township should do a resolution of support.

There being no further comment, Councilmember Nolan motioned to adjourn the meeting, seconded by Councilmember Douglass the meeting unanimously adjourned by verbal "ayes" at 9:45 p.m.

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Mayor

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Township Clerk

Approved: