Regular & Work Session Meeting Minutes - February 2, 2009

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on February 2, 2009 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 Glenn Douglass
Councilmember Kevin Lare
Mayor Michael Beck

Also present: Anthony Monzo, Solicitor and Kathleen McPherson, Manager
Absent: Councilmember Mazurek

Certificate of Recognition for Arrow of Light

Certificates were presented to Steven A. Miller, Jr., Michael J. Downes and Lawrence F. Ruffo, III for their achievements in the Boy Scouts.

Proclamation - Recognizing SPC Robert J. Andrzejczak

Mayor Beck announced Joe Orlando of the Vietnam Veterans would read the proclamation presented to Robert Andrzejczak's family. Mayor Beck said our hearts go out to him and his family. He said that wasn't all the Township would do for him he said they would paint the town red if he wanted, just get well.
The VFW also presented him with a lifetime membership and named him a Cape May County Hero.

Proclamation - National Wear Red Day for Women, February 6, 2009

Mayor Beck read the proclamation for National Wear Red Day for Women.

Work Session

Discussion & Review to Reestablish Mayor's Advisory Board

Mayor Beck said Council had a draft ordinance and felt it was great for the community and would allow for the best and brightest to get involved. He said it would be an opportunity for the people to help. He said they were going to scrap the old ordinance which called for 25 members and were reviewing the draft ordinance.
Mayor Beck said it would be no cost to the Township and would allow for more citizen involvement and you could never get too much advice.
Councilmember Conrad said it would consist of nine people and each Councilmember would be able to select a person from their ward.
Councilmember Douglass said he felt it was a good idea.
Councilmember Lare said it also was a good idea and they would serve all of Council and it would be a benefit to

everyone.
Mayor Beck said it would be as good as the people on board. He said they would move forward with it.

Determining Information to be Available Online

Mayor Beck said they were moving to open government and were going to lower the copy cost to 15 cents for records. He would like to see all the board members' names online along with the application for membership. He would also like to have on line the salaries which were paid along with the1099 for professionals and vendors so the public could see it.
Councilmember Conrad suggested the Planning/Zoning minutes be put online.
Mayor Beck said they could do that.

Correspondence - Review of Lou Ginsberg Letter re: Request to Permit Outdoor Flea Market in CMC Airport

Mayor Beck said he had a request from Mr. Ginsberg for an outdoor flea market at the CMC Airport. Mr. Ginsberg had sent a letter to Council outlining the plan. Mayor Beck asked Mr. Ginsberg to explain.
Mr. Ginsberg said at this time a wholesale market would benefit the community. He had visited many outdoor markets for the past two years. He said he would provide free space to the Township's non profits to allow them space to sell their goods. He believed the market would be a top class act.
Mr. Ginsberg said he had quotes out for steel and aluminum buildings. He had also contacted the County and DRBA about space and his intention was to make it family friendly. All vendors would be scrutinized. He spoke to vendors about a child's play area. He said he needed Council to change the ordinance to permit this type of activity. He said he would like to have it up and running by May but that depended on the red tape involved. He felt the idea was good and would benefit everyone and there would be more traffic generated in the airport to help the businesses there.
Mr. Ginsberg said this was the starting point.
Councilmember Conrad said he supported the idea, but was concerned with the legality of it.
Councilmember Douglass said he would go along with it.
Councilmember Lare said he supported it and asked if it would be seasonal.
Mr. Ginsberg said it would go for 28 weeks of the year. He did say some markets were year round and others closed as soon as the cod weather hit such as Cow Town. He said he had been in touch with the Small Business Director out of Stockton and hoped in time to create additional jobs as the market grew. He planned to start three days a week from 7:00 a.m. to 3:00 p.m. with hopefully 60 vendors. He mentioned there would be pavilions that would provide protection from the sun and rain.
Manager McPherson said the current ordinance permitted only non profit, and as far as zoning it wasn't a permitted use. She said Bill Galestok, Planning Director was present in case there were any questions.
Mr. Galestok said they would need a site plan and use variance at the present time. If it was outside the industrial zone, it would present other problems. He said they could just apply for a use variance which would need five out of seven votes. He said they would want some buffers and also mentioned that industrial zone was the only permitted adult use area.
Councilmember Lare asked what that was.
Mr. Galestok said the Township had to provide an area for adult use.
Mayor Beck questioned if Mr. Ginsberg set up his own rules.
Mr. Galestok said you couldn't spot zone.
Solicitor Monzo agreed with Mr. Galestok you couldn't deny it, but if the owner of the flea market didn't have permit it.
Councilmember Lare asked if he anticipated cooperation from the County and DRBA. He said he didn't want to go

through the changes if they were not going to be permitted to do so.
Mr. Ginsberg said the type of building could be easily removed so the area could be returned to its original state. He said he was still waiting for feedback from the County. He hoped to be leasing 2 acres from the DRBA which included the parking lot. He said he was trying to work on the project in steps. He had done research on the insurance, bldg. etc.
Manager McPherson said the ordinance could be amended to include nonprofit and also put restrictions on the time.
Mr. Ginsberg said it could end by 3:00 p.m., he wasn't looking to come home at night.
Manager McPherson said they could do 7a.m. to 5p.m. and a permit fee would have to be added.
Mr. Galestok said if it was going to be only one they could go for a use variance. He said a conditional use variance would allow for the hours to be set.
Solicitor Monzo said a conditional use would be best.
Mayor Beck said to keep Council informed on the negotiations with the County and DRBA.
Mr. Ginsberg said he would wait to hear.

Review of Consent and Regular Agenda Items

Councilmember Lare said he would like to submit Nels Johnson's name in for the MUA. He said he was a graduate of LCMR and a small business owner. He said he was open minded and would speak out, he felt he would be a good member.
Mayor Beck said Resolution #2009-63 was the energy audit program.
Manager McPherson said the BPU had an energy audit program if the Township approved it they would fund 75% of the audit cost. If the Township implemented any recommendations, the Township could apply to get 25% of the improvement costs back. She said the County was holding a meeting on February 18th and the QPA, Grants Coordinator and Councilmember Lare would be attending.

Public Questions on Consent Agenda and /or Regular Agenda items

Joe Winters asked who would pick up the trash and what about parking the cars at the flea market. He also asked if police would be needed there for traffic problems.
Mayor Beck said they were good questions. He said the Planning Board would look at the parking and other issues would be addressed by the DRBA.
Councilmember Conrad said he did answer about the trash and parking.
Mr. Winters asked if they would be paying taxes.
Solicitor Monzo said there would be taxes due on the area that was leased.

Consent Agenda

Minute Approval	January 21, 2009
Res. #2009-53,	Payment of Vouchers, $1,375,694.38
Res. #2009-54,	A Resolution Requesting Release of Revegetation and Restoration Guarantee for Dune Site Plan: Block 164.02, Lot 1.04
Res. #2009-55,	A Resolution Requesting Release of Demolition Bond for Block 582, Lot 16; 605 Scott Avenue, N. Cape May
Res. #2009-56,	Resolution Approving A Contract with Delta Dental for Extraordinary Unspecifiable Services (Group Dental Plan for Employees)
Res. #2009-57,	Renewal of Limousine License for Great American Trolley Co., Inc. (Annual license)
Res. #2009-58,	Approval of Contract with Commerce Risk Control Services to Coordinate Alcohol and Drug

Testing Services for the Year 2009 (Mandatory random testing for CDL drivers)

Res. #2009-59, Approval of 2009 Rotary Towing Licenses (Annual licenses for companies used by the Police for emergency towing)

Res. #2009-60, Renewal of Trailer Park Licenses for the Year 2009 (Annual renewal for 4 parks)

Res. #2009-61, Authorization for Vietnam Veterans of America Chapter #602 to Conduct Saturday Flea Markets in 2009

Res. #2009-62, Resolution Authorizing the Award of the Bid for Ten (10) Roll Off Containers (Award to low bidder, Conshohocken Steel, for $44,990),

Res. #2009-63, A Resolution Authorizing an Application to Local Government Energy Audit Program

Ord. #2009-02, An Ordinance Amending Chapter 101, Public Access to Records, of the Code of the Township of Lower, Reducing Photocopying Fees, 1st rdg. (Reduces fee for copies of public records to 15 cents per copy) 2nd rdg. Feb. 18, 2009

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 **Douglass**, "yes", Councilmember **Lare**, "yes", Mayor **Beck** , "yes".

Regular Agenda

Resolution #2009-64, Appointment to the Lower Township MUA filling unexp. term of S. Morey ending Feb. 2013)

Councilmember Lare motioned to adopt the resolution, seconded by Councilmember Conrad. The consent agenda was adopted by the following roll call vote: Councilmember **Conrad,** "yes", Councilmember **Douglass**, "yes", Councilmember **Lare**, "yes", Mayor **Beck** , "yes".

Resolution #2009-65, Final Resolution to Remove Joseph Jackson as Lower Township Manager

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 **Douglass**, "yes", Councilmember **Lare**, "yes", Mayor **Beck** , "yes".

Administrative Reports

December Report - Municipal Judge

Personnel Action Report

Council Comments

Councilmember Conrad said regarding the resolution for the local energy grants it was something that Township employees had been looking into to save money. He said if anyone was interested in the Mayor's Advisory Board from Ward 1 to let him know.

Councilmember Lare welcomed Nels Johnson to the MUA Board and appreciated Council's support.

Mr. Johnson thanked Council for the appointment and appreciated their confidence. He said he was looking forward to addressing some of the pressing concerns.

Councilmember Lare said he felt the windmill ordinance needed to be revisited.

Mr. Galestok said he finished the final draft. He said the limited height was to 50 feet and addressed some other issues. He said it would soon be provided to the Manager and also felt the Township should look at it for

themselves.
Councilmember Conrad asked if the vertical windmills were looked at.
Mr. Galestok said they didn't address specifics, he said verticals were 5 decibels and others were 45 decibels.
He explained the current windmills that were in the Township and said they could address commercial ones later.
Mr. Galestok said it was written as a starting point.
Councilmember Lare asked about the COAH plan.
Mr. Galestok said the Township had a draft copy which was sent out. He said it was sent to the Solicitor for review.
He said the plan was the hard part.
Councilmember Lare asked was the draft plan far enough along and could it be submitted.
Mr. Galestok said the plan part was how to reach COAH's goal. He said senior housing had 150 units and now St. John's and according to COAH you could only have 25% senior. He said you could only have so much of the same.
He said there were only so many rehabs.
Councilmember Lare asked if the Township had the software from the prior engineer.
Mr. Galestok said they only had a draft housing element and it wasn't to the new 3rd round standards and there wasn't any software. He said they paid $10,000 on a $17,000 contract and was it worth going to the end.
Councilmember Lare asked how far along were they to submitting the plan.
Mr. Galestok said he couldn't answer that he said there were current law suits also the State had made the process so complicated they couldn't do it in a 2 hour session. He said it was frustrating for him. He said it was done before in the 90's and the Planning Board spent 9 months working on it and the State rejected 20 pages.
Solicitor Monzo asked if 415 units were signed for round 2 obligations as opposed to round 3. He felt having a plan was a better place with COAH than having nothing which would subject the Township to builder remedy suits.
Mayor Beck said they had to start moving and keep Council posted.
Councilmember Lare complimented the Manager he said she hit the ground running and was off to a good start.

8:00 p.m. Public Comments

Sand Dunes

Jim Riley of Arbor Road, Villas, said he was concerned with the absence of a sand dune at the street end, at high tide the water is right there and it could go right down the street. He said he bought the property back in 1995, he had a sand dune and a nice yard. He said now the sand was taking over the property.
Manager McPherson said they would have to check and see who owned the bay.
Mr. Riley said they needed a dune.
Mayor Beck said there was a lot more to it and the Manager would look into it.
Bill Greenfield said at New Jersey and New York Aves. there was a big drop off and could use some sand there.
Manager McPherson said she would check to see who owned the property.
Mayor Beck said it sounded easy, but there was a process to do anything with the beaches.

South Jersey Gas Project

Mr. Greenfield asked about the Gas Company project.
Manager McPherson said she had been playing phone tag with them.

Dental Plan Resolution

Mr. Greenfield asked about the dental plan resolution.
Manager McPherson said it was bid out, the price was the same but the payout method was better for the Township.

COAH

George Doherty asked how many units the Township was short for COAH.

Mr. Galestok said he didn't have all the numbers in, they keep changing.
Mr. Doherty asked if they had to be in a certain price range.
Mr. Galestok said they were low to moderate income.

Zoning

Elizabeth McGoodwin said she had a problem with a property where the tenant had a fire. The building department said it wasn't a 2 family dwelling and was told she needed a variance.
Mayor Beck said the Manager would look into it.

Resolution #2009-66, 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 (Matters Relating to Employment)
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 **Douglass**, "yes", Councilmember **Lare**, "yes", Mayor **Beck** , "yes".

Council returned to open session and there being no further comment, Councilmember Conrad motioned to adjourn the closed session and regular meeting, seconded by Councilmember Douglass the meeting unanimously adjourned by verbal "ayes" at 8:30 p.m.

Mayor

Township Clerk

Approved: February 18, 2009