

Regular & Work Session Meeting Minutes - June 15, 2009

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on June 15, 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 Wayne Mazurek
Councilmember Glenn Douglass
Deputy Mayor Kevin Lare
Mayor Michael Beck

Also present: Anthony Monzo, Solicitor and Kathleen McPherson, Manager

WORK SESSION

Update from Mayor's Advisory Board

Jay Witmoyer said he had a meeting with the Mayor and Township Manager on June 2nd. He said they spoke about a suggestion box and establishing a citizen's volunteer group. He said they discussed some things that the volunteers could possibly help with. He said to create 2 pools of volunteers, one group would be on an as needed basis and the other group would be experts of various things.

Mr. Witmoyer said they also talked about compiling a list of all the organizations in the Township and the possibility of the groups networking.

Update on CMC Library - Lower Township Branch

Kent Schellinger, CMC Engineer's Office said the basic plan was to expand to the east end of the library with a meeting room. He was present to discuss the site improvements and the work to be done.

He said they would rework all the entrances and the parking lot. He said they would also rework Station Road.

Mr. Schellinger also stated they would replace some of the traffic signal devices and would repave Station Road back to Memorial School. The lighting and drainage would be updated and there would be a new front entrance.

Deputy Mayor Lare asked when they would be breaking ground and how long would it take.

Mr. Schellinger said they would break ground around October or November and would work through the winter and be open by Memorial Day.

Deputy Mayor Lare asked if it would be enlarged?

Mr. Schellinger said yes about 25%.

A brief discussion on the changes to Station Road.

Deb Poillon, Library Director said it would be a 2,640 square foot addition with additional meeting rooms, study rooms, reading rooms with seats. She said she was working with the Township Manager to find a temporary facility in the Township.

Joe Winters asked if there would be additional parking?

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Mr. Schellinger said there would be 2 more spots. He said the back lot was to be removed.
Bob Rizzo said the plans were on display at the Library to review.

Review of Proposal for Electronic Sign at Municipal Building

Manager McPherson said the possibility of a sign went back to 2004. She said the sign out front of the building was the original one. She said in 2004 they were looking to change the parking lot, flag pole and a new sign. She said the sign would allow the advertising of events and to put important information on it.

Manager McPherson said now was a good time to do it while other work would be going on. She said she met with the sign contractor and they were all about the same in size. She said they were looking at a sign similar to the one at Cold Spring Church.

Mayor Beck said the sign was not cheap but the money was in a past bond.

Manager McPherson said there were 2 bonds totaling \$50,000.00 and while the Library was doing their project now was the time.

Mayor Beck said a lot of information could be put on the sign and it would dress up the building. He said even though they wanted to hold costs down, they didn't say they wouldn't do upgrades. He said they did make a call to see if they could get some funding for it.

Mayor Beck said he was interested in what Council had to say.

Councilmember Conrad said it was a good idea. He said it was a way to inform the public and the money was there.

Councilmember Mazurek said the money was in the bond, it wasn't free money once you used it you had to pay it back with interest. He said he had some reservations about it since we told employees it was hard times. He said Township Hall wasn't centrally located and the people who benefitted were the ones who rode by.

Manager McPherson said there was a sign out front of DPW.

Councilmember Douglass said they were just discussing it tonight.

Mayor Beck said he was just trying to see who was interested.

Councilmember Douglass said he looked at signs at last years League. He said it was a great way to get the word out and suggested to see if any grant money was available to help with the cost.

Deputy Mayor Lare said overall he was in favor of a new sign. He was against spending \$20,000 to 40,000 on a sign that you would have 3 seconds to read at a busy intersection 100 feet away. He felt the money could be spent in a better way.

Mayor Beck said there were 3 in agreement to move forward.

Informational Discussion - Windmills & Wind Energy

Bill Galestok said he brought a picture of Jay Leno standing next to a windmill so you could get an idea of the size. He said there were locations with wind but many factors to consider. He reviewed some sample photos of vertical and horizontal windmills. He said there were a couple horizontal windmills in the Township. He went over the various types and sizes of windmills and mentioned some of the large ones needed foundations.

Mr. Galestok said vertical windmills were less affected by turbulence. He showed how power was created by wind speed. He said they all had a substantial radius. He said the state required 30' and above for a grant.

Mr. Galestok said a township resident had approval for a windmill from years ago and it would have to be 91' in the air. He explained why height was necessary and turbulence was a factor but the big problem was noise. He said the type that were along the bay rated at 50 decibels and normal conversation was 60-70 decibels and that was 3.5 feet away.

Councilmember Mazurek asked if a study had been done on the noise of a windmill after a period of years.

Mr. Galestok said he wasn't aware of any but it was a machine and things could go bad after awhile. He spoke about the soil and said it was recommended for abnormal soil to have a professional engineer do a soil review.

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Mr. Galestok said the Township applied for a grant for an energy audit and hoped to get the loan from Rutgers. He reviewed the maps and lot sizes where windmills could be put and said the Coast Guard Base was putting up 2 large windmills.

Manager McPherson said the Township was in the process of the energy audit now.

Mr. Galestok said Draft # 3 the Planning Board reviewed and took out the conditional use. He said residential would go for a minor site plan and commercial would go for a major site plan. He also said the setback were changed and the noise was based on the noise ordinance. He continued a review of the ordinance.

Councilmember Conrad said all his questions had been answered. He said he had been pushing vertical windmills and just found out there wasn't any that could be mounted on the roof.

Councilmember Mazurek said they were becoming experts on windmills. He felt Council's job was to balance things, the right of the owner to save energy versus a neighbor's right to safety and noise it was a balancing act.

Mayor Beck said when they had to go to 33 feet to reach a certain kilowatt plus other factors made windmills not likely in the Villas.

Mr. Galestok went over the setbacks involved.

Deputy Mayor Lare asked if the Planning Board approved draft 3.

Mr. Galestok said, yes .

Deputy Mayor Lare asked if the people complied with the ordinance why did they have to go to the Planning Board. He didn't feel that was right. He agreed it was a balancing act and the State set the guideline for rebates. He felt Council should encourage the use of alternate energy and waive the fees.

He also wanted an ordinance that an average person could read.

Mayor Beck asked Mr. Galestok if he thought they could do away with Planning Board approval.

Mr. Galestok said there had to be something and he would rather see an engineer certification.

Solicitor Monzo asked if it would apply to residential and commercial.

Mayor said he felt commercial would be a different story.

Fire District #3 Request to Council for approval to build substation in Diamond Beach on Township Property

Jeff VanMourik Commissioner of Fire District 3 said the Township had property in Diamond Beach. He said the Fire Company and people had concerns for Diamond Beach area. He said federal money was available for a substation and the requirement was to have the property. He asked if the Township would lease the property in Diamond Beach.

Manager McPherson asked if they were asking for all the property?

Mr. VanMourik said they were looking to have 2 bays, office space for police and rescue. He said this had come up in the last 2 weeks.

Councilmember Douglass said the Grand said they would help finance a sub-station.

Mr. VanMourik said if they got the building they still needed a fire truck and hoped the Grand could do that.

Councilmember Lare said it was time to get in touch with the Grand and see what they would do.

Mr. VanMourik said the bridge was an issue.

Councilmember Douglass said they were looking at a fire truck that could go over the Middle Thorofare Bridge.

Council agreed to lease the property.

Water Problems

Steve Sheftz said everyone was aware of the seriousness of the water problems in the Township and the MUA was working hard on it. He said many people were concerned with the cost and how to pay for it. He said there were recent revisions to the program. Housing and Mortgage Finance Agency had a special application for people in Lower Township, it was a 10 year loan and 1% service fee and no interest with a maximum amount to borrow of

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\$10,000.00.

Mr. Sheftz explained the program and said the difference between here and other areas of the State was the other areas had to have the wells tested, Lower Township didn't. He said applications were available at Township Hall and the MUA.

Review of Consent and Regular Agenda Items

Deputy Mayor Lare asked Solicitor Monzo for an overview of COAH.

Solicitor Monzo said there were 2 parts inclusionary zoning for developers and to have a number of affordable housing units based on various formulas in the ordinance. He said it was important to get in place. He said once it was effective the inclusionary zoning would be applicable to all residential developers. The second part was the development fee section that required COAH approval, he said they had a plan certified by COAH and then they could adopt the development fee ordinance.

Solicitor Monzo said with a plan filed with COAH and not yet approved the development ordinance does require approval by COAH. He stated that was why a resolution was needed that included 1.5% development fee for residential development and 2.5% for non-residential development in addition to the inclusionary zoning requirements for residential development. He said the 2.5% for non residential development was important because there was a 2.5% state fee, but there was legislation that may be adopted soon and put a moratorium on that. He stated as far as now based on the State law it went to the State and used by them to determine how affordable housing was to be dealt with without the municipality having control of the funds. He said the non residential fee was discretionary. He suggested that if the Township was not yet imposing the residential development fee he urged the Township to keep in the non residential fee.

Deputy Mayor Lare said it would keep the money in the Township. He asked about the 1.5% residential fee and said what they were doing at the meeting would that obligate the Township.

Solicitor Monzo said no, the ordinance had to be adopted, advertised. He said the provision in the ordinance that the development fee wouldn't take effect until COAH approved that part of the ordinance. He said so if they adopted the ordinance but didn't pass the resolution and sent it to COAH to approve the development fee ordinance, only the other section would take effect and not the development fee.

Deputy Mayor Lare said he was skeptical on imposing another tax on people in today's economy. He said a lot of people in the Township make a living on construction and a tax of 1.5% was a burden.

Solicitor Monzo said it did go into a fund to relieve the Township of its burden.

Mayor Beck said the Township was obligated to do what COAH mandated.

Deputy Mayor Lare said the only problem with COAH was if you wait a week then the rules would change. He said all it did was solidify that New Jersey was the most expensive state to live in.

Mayor Beck said they all felt the same way, but it was a mandate they had to deal with.

Public Questions on Consent Agenda and/or Regular Agenda Items

Joe Winters of Florida Avenue said if they didn't pass the COAH Ordinance then the Township would have to pay.

Deputy Mayor Lare said he wasn't advocating not to pass it.

Mr. Winters asked if Deputy Mayor Lare read the packet and said he had to read the whole thing from when it started. He said there were penalties if it wasn't passed.

Solicitor Monzo said COAH was a voluntary process and if you didn't have a fair share plan approved, in this case the Township did and had protection since it was on file, you would be subject to builders remedy lawsuit.

Ed Butler said the advise of the Solicitor was good and should be considered since something had to be done.

Deputy Mayor Lare said he lead the charge to get the plan done quickly and it was done in record time.

Mr. Butler asked about Resolution #2009-174, regarding the outfall pipes and why was excess money required to be put out.

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Manager McPherson said the scope of work had changed and they ran into some problems because the property was owned by NJ Land Trust. She said the Solicitor and Engineer had been working on it and the Land Trust approval was needed to sign the application and there were additional expenses with the permit.

Mr. Butler said the outfall pipes had to be done.

Manager McPherson said they were trying to get approvals to get the backhoe in to clear out the pipe.

CONSENT AGENDA

Approval of Minutes	June 1, 2009
Res. #2009-171,	Payment of Vouchers, \$2,298,425.22
Res. #2009-172,	Certification of Lot Clearing Charges (4 - properties cleaned up & lien placed for cost of clean up)
Res. #2009-173,	Appointment to the Zoning Board (1 regular member & 2 alternate members)
Res. #2009-174,	Resolution Amending Resolution 2009-76 adopted February 18, 2009 for engineering Services Related to the Extension of Outfall Pipes along the Delaware Bay (additional \$6,100 cost for Francis Avenue)
Res. #2009-175,	Appointment to the Planning Board (2 regular members & 1 alternate member)
Res. #2009-176,	Resolution of the Township of Lower Approving the Submission of the Affordable Housing Ordinance to the New Jersey Council on Affordable Housing for Approval of the Zoning Changes with the Development Fee Provisions (Ord. 2009-7 below)
Ord. #2009-7,	An Ordinance Amending the Code of the Township of Lower County of Cape May and State of New Jersey (COAH & Affordable Housing)

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 Mazurek, yes , Councilmember Douglass, yes , Deputy Mayor Lare, yes , Mayor Beck, yes .

CONSENT AGENDA

Res. #2009-177, Renewal of Liquor Licenses (Annual renewal)

Mayor Beck said Council had some concerns.

Councilmember Conrad said he had received complaints on CJs and when they applied for the license they were told they were going to be a restaurant/bar and good neighbors. He said now Council had received a petition regarding problems there.

Councilmember Mazurek questioned, on the resolution it stated no written objections received did the petition apply to that.

Solicitor Monzo said he didn't view anything submitted as a formal objection to the renewal. He said Council had the right to not consider the license for renewal now. He said if Council had concerns that needed to be addressed and if that was the case adequate notice needed to be given to the applicant.

Councilmember Mazurek said he had received letters along with the petition.

Solicitor Monzo reviewed Council's options regarding not renewing a license and the process of a hearing and imposing conditions on a license.

Mayor Beck asked if they had to hear from the principals.

Solicitor Monzo said they could but it wasn't a hearing under the ABC law.

Deputy Mayor Lare asked if the Township held jurisdiction on the renewal of the license or could ABC override the

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Township.

Solicitor Monzo said the Township was the issuing authority of licenses subject to ABC laws. The Director had the final authority including any special conditions that Council would place.

Councilmember Douglass stated he also received complaints.

Mayor Beck and Council discussed a hearing.

Municipal Clerk Kammer said they could apply for an ad interim permit.

A brief discussion ensued on whether or not it constituted a special hearing.

Solicitor Monzo didn't feel it did.

The Clerk announced they only ones that were not renewed were C J s , Bayshore Inn, Pier 6600 and the Grand Beach Club.

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

Res. #2009-178, Payment of Voucher, \$35,000 (2009 donation to LT Rescue Squad)

Councilmember Mazurek motioned to adopt the resolution, seconded by Councilmember Douglass the resolution was adopted by the following roll call vote: Councilmember Conrad, abstain , Councilmember Mazurek, yes , Councilmember Douglass, yes , Deputy Mayor Lare, yes , Mayor Beck , yes .

Res. #2009-179, Payment of Vouchers, \$11,166.00 (Rustic Garden Landscaping - Shrubs /trees F Douglass Memorial Park)

Councilmember Douglas asked where was it authorized to have the front area redone. He said it wasn't maintained and he wasn't aware of it. He also stated he didn't know of the company.

Manager McPherson asked for proposals and received 3 and that was the lowest.

Councilmember Douglass asked if it was from a construction problem.

Manager McPherson said the trees in the front died.

Councilmember Douglass said it wasn't maintained on the Township's part.

Deputy Mayor Lare said the trees were being watered by self watering bags.

Councilmember Conrad motioned to adopt the resolution, seconded by Councilmember

No Second - the Resolution was removed.

Administrative Reports

Personnel Action Report

Mayor's Advisory Board Appointment - Erik Simonson, named Chairman & Al Flitcroft appt. to fill vacancy

Department Reports May 2009 - Animal Control (Parker), CFO, code Enforcement, Construction Official, Clerk, Dog Licensing, MUA, Tax Collector, Vital Statistics

Council Comments

Councilmember Conrad congratulated the Class of 2009. He said the bike auction was a success. He mentioned Meet Your Councilman Night didn't go well the first time, but the next one would be on July 13th.

Councilmember Douglass said the fireworks would be held on July 2nd.

Councilmember Lare also congratulated the Class of 2009. He said football, cheerleader and soccer sign up was at the recreation center.

Mayor Beck congratulated all the graduates.

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Public Comments

Colleen Hughes of Idaho Avenue asked if Res. #2009-177 went through without renewing CJs.

Mayor Beck said yes, also those that were mentioned without their clearance certificates.

Carol Pagent said she was upset that she had sat for 2 hours knowing they were going to put it off and didn't get to speak.

Mayor Beck said they weren't sure it was going to be put off and they had to be fair to both sides.

Justine Salomoni asked if they had to put up with the problems until July 21st.

Mayor Beck said that someone from the Township could go there and make sure they were following the law.

Mrs. Salomoni said she lived right behind CJs and had no complaints when it was a restaurant. She said now there was loud music, cursing and emptying trash cans late at night and people urinate on the fence.

Mayor Beck said he would schedule a hearing in July.

Manager McPherson said if she was having problems they could send the Police there.

Spyro Spyropolous of 110 Fire Lane, he was a National Association of County Services Officer. He said Senator VanDrew brought to his attention to attend a meeting in Somers Point about a clinic. He said they wanted to build a 10,000 sq. ft. under air clinic and have doctors and specialist from the area. He said if he wasn't mistaken there were 6 clinics in Atlantic County so a building of that size was uncalled for. He said it had nothing to do with Cape May County and was an insult to all the veterans. He said he ran the van that took people to the VA Hospital in Elsmere, DE. He said he received 3 phone calls from veterans who were turned away from the clinic at the Coast Guard Base. He said there were currently 2 doctors at the Coast Guard Base clinic and they were only allowed to see so many veterans and they had to turn the rest away.

Mr. Spyropolous said that wasn't right. He said he was asking for Council's help.

Mayor Beck asked what they could do to help.

Mr. Spyropolous said the Mayors in Cape May County needed to call Elsmere to get additional doctors here.

Mayor Beck asked if they could meet later in the week.

Don Oaks spoke on the windmill issue. He said he hoped to encourage investment in wind energy. He said he lived in Cape May Point and also had property in Lower Township. He said the State approved 10,000 kw and 80' in height for his 4,000 sq. ft. home. He reviewed the application process and said he currently was using propane. He said if the plan was to eliminate fossil fuel then we needed more.

Frank Corrado said he was present on behalf of Diamond Beach Beach Club and Pier 6600 and said they would apply for an ad interim permit.

Windmill Ordinance

Bob Olivio of 300 Woodland Avenue commended Mr. Galestok for his efforts on the windmill ordinance. He said if you were more than 1 or 2 blocks from the bay it wouldn't be worth it. He said he ran his home on under \$500.00 per year. He said they needed to pass a resolution at the State level on renewable energy certificates, he felt they all should be equal.

Res. #2009-180, 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. (Litigation & Personnel - M Vitelli & D. Johns & R Moore)

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

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Council returned to open session and there being no further comment, Councilmember motioned to adjourn the meeting, seconded by Councilmember the meeting unanimously adjourned by verbal ayes at p.m.

Mayor

Township Clerk

Approved: July 6, 2009