

Regular & Work Session Meeting Minutes - March 1, 2010

The regular meeting of the Township Council of the Township of Lower, County of Cape May, State of New Jersey was held on March 1, 2010 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

Certificate of Recognition -LCMR Mock Trial Team

Mayor Beck read the certificate of Recognition for the team and their coaches.

WORK SESSION

Dave Perry, Fire Official - Request for Ordinance restricting storage, loading & discharging of fireworks in Lower Twp.

Mr. Perry said hopefully everyone had a chance to read the memo he had sent. He said the issue had gone back for some time. He said barges had been loaded at Atlantic Cape Fisheries for years for Lower Township and other municipalities. He said barge fireworks were safe for spectators since the barge was out in the water. He said they had been loaded there for the last ten years. He said since barge shows were popular and safe for spectators, other municipalities had their shows on barges and loaded in Lower Township.

Mr. Perry said it had been approved by resolution and authorized the Fire Official to issue a permit to load the barge and the barge was hauled out to the respective municipalities. He said they ran into a little difficulty in October with a show for Ocean City. He said the barge was loaded in Lower Township and there was a dispute between local enforcement and the State. He said he received a memo from the State and their opinion of the fire code was that a permit may be issued for the discharge not the loading.

Mr. Perry said the loading process of the barge was under the jurisdiction of the State. He said they would be down there watching them to make sure things went safely. He said part of the problem with that was the fireworks company show up early in the morning and it was an all day process. He said in Lower Township they actually went out on a boat to the barge to check things out to make sure it was safe and up to code standards.

Mr. Perry said the memo from the State indicated that they could issue permits for fireworks displays in other municipalities and could load the barges in Lower Township then leave with little or virtually no inspections. He felt it was a very unsafe practice. He said the only way to address this was to create an ordinance stating only fireworks brought into Lower Township were to be discharged in Lower Township only. He said other municipalities could no longer have the barges loaded here because they would be unsupervised.

Mr. Perry stated it needed to be addressed as soon as possible, they were receiving calls from fireworks vendors

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asking about any restrictions. He said there was nothing on the books and he believed they had home rule with it. Solicitor Monzo said he knew you could have an ordinance that restricted and regulated fireworks displays in Lower Township. He said as far as restricting the ability to have them put on a barge and displayed outside the Township outside the boundary lines, he knew once you were out in the bay at a certain point at the commissioners line . He said you were outside the municipal jurisdiction and didn't have the ability to regulate the display of fireworks outside the boundary lines. He said he would have to take a look and see if the Fire Bureau was correct regarding the inability of the Township to regulate the loading of the fireworks display.

Solicitor Monzo asked Mr. Perry what if they were loaded here and taken outside of any municipal jurisdiction in State waters.

Mr. Perry said he didn't know the law, but he did know how it worked in the bay. He said where the DRBA had their barge 1/4 mile off the shore line and working with Marine One boat out of Fire District 2 it was their jurisdiction and they could go out for fire purposes about 8 miles. He said regarding the ocean line he had no idea. He said at times there were three barges being loaded at one time with approximately 1,100 pieces of fireworks on each barge. He said he couldn't imagine this happening without strict enforcement and safety guidelines, it was an accident waiting to happen.

Councilmember Mazurek asked if the State would take jurisdiction over the fireworks.

Mr. Perry was told that the transportation down here was under DOT and when it was on the barge it was the State's jurisdiction. He went over the process from loading to moving the barge.

Mayor Beck asked Mr. Perry if he was saying some of the inspections weren't what they should have been.

Mr. Perry said anytime there was a show and they had written a permit they were there all day. He said they were there from 8:00a.m. until the barge left and if it was all day then it was all day.

Councilmember Mazurek asked if the docks were compensated for their use?

Mr. Perry said he thought they would be, but he wasn't sure.

Councilmember Douglass asked about a memo from the State which mentioned a stand by permit and asked if he was asking for an ordinance restricting it completely.

Mr. Perry said he would like to see it restricted because if they ever saw the process it was dangerous and now it was being done for other towns. He said the danger was when the product was being moved and being wired to an electronic discharge.

Mayor Beck asked what kind of damage could they have?

Mr. Perry spoke about an incident on a barge in Atlantic City, people had to jump in the water to get off the barge. He said there are a few sleepless nights prior to loading the barge thinking of the potential problems.

A brief discussion ensued on when the barge left the dock and if all the fireworks are totally wired.

Councilmember Douglass asked why they used Lower Township dock area opposed to other docking areas as in Atlantic City.

Mr. Perry said he really didn't know and explained the permitting process and said it was getting out of hand and it seemed they weren't just loading for Lower Township it was other municipalities.

Councilmember Mazurek said he was having trouble with a paragraph in a letter from Mr. Lazarus to Mr. Perry. He said he wasn't clear who set the conditions. He recited the paragraph.

Mr. Perry again stated he would rather not have the loading for the other municipalities in Lower Township.

Solicitor Monzo said Rich Braslow the Attorney for the Fire Bureau had an opinion on the matter and he would like to discuss it with him.

Mayor Beck said Council would wait until they had a report from Solicitor Monzo.

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Review of Consent and Regular Agenda Items

Councilmember Conrad said there was some wording he didn't like on the interest arbitration resolution, he didn't like how it was trying to tie the arbitrator to the CAPS. He said most municipalities were having difficulties with the CAPS and Lower Township wasn't. He was concerned if they passed a law that tied it to the CAPS and if we were below, did that mean they would get a higher award against the Township. He said there was some good wording in it though.

Councilmember Mazurek asked where the resolution originated?

Solicitor Monzo said it was the League of Municipalities.

Mayor Beck said he agreed with Councilmember Conrad on the arbitration resolution, he said the saving factor was the last sentence.

Public Questions on Consent Agenda and/or Regular Agenda Items

No public comment on the consent agenda.

Consent Agenda

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| Approval of Minutes | February 17, 2010 |
| Membership Approval | NJ State Fireman's Association - Christopher Karolyi, Erma Fire - Jeremy B. Embs & Eric Hewitt, Town Bank Fire Co. |
| Res. #2010-78, | Payment of Vouchers, \$1,584,580.38 |
| Res. #2010-79, | A Resolution Requesting Reduction of Performance Guarantee for WRK Construction; Block 753.04, Lot 10; Escrow #P04-04-13 |
| Res. #2010-80, | Authorization to Cancel General Ledger Balances (canceling balances from prior years) |
| Res. #2010-81, | Authorization to Cancel Uncashed Prior Year Checks (canceling 11 uncashed checks) |
| Res. #2010-82, | Authorization for the Payout of Accumulated Sick Time (\$724.15) |
| Res. #2010-83, | Authorizing the Pay Out of Terminal Leave (H. Bitting Retirement - \$2,701.01) |
| Res. #2010-84, | Issuance of 2010 Taxi & Operator's Licenses (1 taxi & 1 operator) |
| Res. #2010-85, | Authorization for Refund of Taxes (2 Duplicate Payments) |
| Res. #2010-86, | Resolution Urging the State Legislature to Reform Interest Arbitration |
| Res. #2010-87, | Approval of Change Order #3 for Municipal Building ADA Project (Removal & replacement of exterior doors in meeting room) |
| Res. #2010-88, | Appointment of Additional Deputy Emergency Management Coordinator (Chief Donohue) |
| Res. #2010-89, | Appointment of Census Complete Count Committee (Manager, Planner, Assessor, Clerk, Councilmember & Recording Secretary for Planning/Zoning Boards) |

Councilmember Douglass motioned to adopt the consent agenda, seconded by Councilmember Mazurek. 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.

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Administrative Reports

Personnel Action Report

January Report - Municipal Judge

Council Comments

Councilmember Conrad said the Church of the Nazarene would be hosting a fund raiser for the Shelton family called Barbeque and Blues on March 27th with live music at the Villas Fire Hall from 5:00 p.m. to 8:00 p.m.

Councilmember Mazurek said Bayshore Mall parking lot had pot holes that could swallow people. He said the Township was doing what they could to correct the situation, it was a private parking lot. He did have Code Enforcement go out and issue a notice they had to get it fixed. He said be careful when you went there.

Mayor Beck said the Township would be out on Saturday and Sunday for branch pick up from the storm damage. The Manager added they were collecting during the week also.

Mayor Beck said they needed to be at the curb.

Public Comment

Joe Winters of Florida Avenue said it was a good idea about the branch pick up, but you had to give the people notice so they could get them out there. He suggested maybe do it a week from now.

Mayor Beck said there was enough out there and they probably would have to do this more than once.

Mr. Winters said it cost money to keep going back. He had a question on the fire boat that sank which belonged to Townbank Fire Company and asked who was going to pick up the tab for that?

Councilmember Conrad said that was a question for the fire district.

Mr. Winters said when people buy property for Open Space and Green Acres he said it cost the Township money to change the maps.

Manager McPherson said they charge the owners when they subdivide the property.

Mr. Winters asked where the Township stood on the air quality permit.

Manager McPherson said she would check with Hatch Mott & MacDonald, they were working on the permit.

Deputy Mayor Lare asked about the branch pick up and how it would work.

Manager McPherson said all the trucks would be on the street .

Deputy Mayor Lare said people would have to have them at the curb by 8:00 a.m.

Councilmember Douglass said they could call for a pick up.

County Roads

Robert Rizzo of Mickles Run wanted to asked the Manager about County Roads and said the cedar trees were really bad.

Manager McPherson said they had been trimming the trees in the morning.

Water Problems from the Storm

Ken Bispel asked what was the Township s policy was on a Township Road blocked with two feet of water for five days or so. He also asked how many roads in the Township currently had two feet of water?

Mayor Beck said he wasn t aware of a policy and said there was a lot of water which was ground water and difficult to manage.

Mr. Bispel said school buses couldnt get down the road.

Manager McPherson said the problem was the basins were filled and it was all ground water and it couldn t be

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pumped out. She asked if he had spoken to the Homeowners Association.

Mr. Bispel said why should he asked them when it was a Township Road?

Manager McPherson said because it was the basins were filled and there was no way to remove the water because it would come right back.

A brief discussion ensued on the areas where there was a lot of standing water on properties and the roads.

Councilmember Douglass said the problem was pumping the water it would back flow. He said the common ground in his development was full and people s basements were flooding. He said there was no where for the water to go. The ground was so saturated.

Manager McPherson said they were getting some County maps to see where the elevations were in the different areas, the engineer s office was working on that in case they had to do some flood control.

Budget

Ed Butler of 7 Delaware Bay Drive said the budget was coming up by the end of the month. He said it would be tough and asked what the Township was doing to keep the budget down.

Mayor Beck said they had to see what the State was doing about the State Aid. He said there would be a special budget meeting. He said Council would be presenting their options and he said there was potential for cuts to be minimal and potential for them to be cataclysmic. He said there was Plan A and Plan B, they had to wait and see.

Mr. Butler said he wanted to make sure the Township had a plan. He said it was going to be tough for the taxpayers.

Mayor Beck said the Township had put themselves in a better position last year with positions the Township didn t fill.

Deputy Mayor Lare said his goal was to have a zero tax increase. He said he would not support the budget the way it was right now.

Councilmember Douglass said they were taking recommendations from different groups and needed to empower Supervisors to look at their own departments. He said they would all like to be at that zero point and they would work to that point. They didn t want lay-offs.

Manager McPherson said they made significant changes last year that impacted the budget this year. She said people retiring were not being replaced.

Mayor Beck said there were things being done that hadn t been talked about.

Mr. Butler said he didn t thing Lower Township was different than any other place.

Councilmember Douglass said they had to wait for the State numbers and then move from there.

Mr. Butler said if it came down to hard decisions could Council make them.

Mayor Beck said it had been done before.

Rescue Squad

Mr. Winters asked Councilmember Conrad why there were Municipal tags on the ambulances.

Councilmember Conrad said those were the tag Motor Vehicle issued.

Council returned to open session and there being no further comment, Councilmember Douglass motioned to adjourn the meeting, seconded by Councilmember Mazurek the meeting unanimously adjourned by verbal ayes at 8:48 p.m.

Mayor

Township Clerk

Approved: March 15, 2010