

M E E T I N G M I N U T E S

TOWNSHIP OF OCEAN
WORKSHOP/CAUCUS AGENDA
March 26, 2009 – 7:00 pm

NOTICE OF THIS MEETING HAS BEEN PUBLISHED
IN ACCORDANCE WITH THE REQUIREMENTS OF
THE OPEN PUBLIC MEETINGS ACT.

Flag Salute

1. Roll Call Mayor Kraft X Deputy Mayor Reilly X

Also Present: Mr. Mosca X Mr. McGuckin X

2. Administrator's Report

Township Administrator Mosca stated Resolution 2009-145 is the Waretown Lake Dredging. The town has funding in a previous bond, as well as a previous loan that was awarded to the township a number of years ago. CMX has put together materials for the bid, which should go out shortly.

- Magellan Hill – Telecommunications

Resolution 2009-148 is the Magellan Hill proposal. Magellan Hill is a partner with Verizon. Magellan buys the lines from Verizon and resells them, giving the township a savings of 24% approximately \$670 per month, \$8,000 per year.

Resolution 2009-150 Autism Awareness Month. Township Administrator Mosca thanked the Mayor and Deputy Mayor for continuing the tradition of passing this resolution. As a parent of an autistic son, it is important to get awareness out there and understand what autism means to families.

3. Mayor's Report – Robert Kraft

Mayor Kraft inquired if Resolution 1009-151 was a release or posting of a bond.

Township Clerk Ambrosio stated Resolution 2008-319 did release some of the escrows at that time. The town is amending that resolution to incorporate additional escrow fees for that project.

Mayor Kraft stated the bonds are not being reduced, they are adding money.

- Opposition COAH Legislation

Township Attorney McGuckin stated Resolution 2009-141 is a resolution directing the Attorney General to stop providing a defense to the Council on Affordable Housing. Many municipalities and the League of Municipalities challenged the third-round rules of COAH. COAH was required to adopt the third-round rules by December 20, 2004 and they did not. The state took \$2 million to hire outside consultants to implement the rules based on a growth share analysis. Since the suits had been instituted, COAH received a pilot report from Rutgers informing COAH that their analysis was grossly overstated by 16%. COAH failed to disclose that information when they revised the third round rules and failed to disclose the information by request. This type of action is evidence that COAH has lost its way and complicated the efforts to provide affordable housing in this state. COAH has repeatedly shown to be unconstitutional and inapplicable to the Fair Housing Act. This resolution is asking the Governor to stop funding COAH.

Township Attorney McGuckin discussed Resolution 2009-142. The Roberts Bill in July, 2008 established a 2.5% tax on any commercial development. When a town has a COAH obligation that must be satisfied, the town is telling businesses if they want to come to the Township of Ocean, they have to pay an extra 2.5% to fund affordable housing. Pennsylvania, New York, Delaware and Maryland have no such requirement. As a result, there is now an effort pending toward the State Legislature that the 2.5% fee be rescinded, which it has been.

- Opposition to changing Age Restricted Communities

Resolution 2009-149. Township Attorney McGuckin stated a bill came out two weeks ago, where Economic Development succeeded in convincing legislators that taking existing approvals for senior housing and automatically allowing developers to take market rate housing with a 20% set aside for affordable housing and turn those senior developments into market rate. Anyone can purchase these homes that are no longer age restricted. They would be required to make application to the Planning Board to change from age restricted to market rate. The burden then is on the Planning Board to argue why they should not have this happen. This bill takes out that entire zoning plan that has been implemented in many municipalities. It allows market rate housing in age-restricted communities. The individuals need to go back to the Planning Board and indicate why they should be allowed to develop market rate and not keep with the original age restricted community. It takes away the authority of zoning power and the approvals that were granted.

4. Deputy Mayor's Report – Dick Reilly

Deputy Mayor Reilly reminded everyone that the final proposals for the Town Center are due April 2, 2009 by 4:00pm. A decision will be made by mid-May.

Resolution 2009-147 is for the sale of a utility truck and a Dodge truck through GovDeals online auctions. The town has netted about \$20,000 selling unusable material. One of the items sold at last auction was sold to someone from North Dakota and another from South Carolina. The town is going to sell the ATV's and bicycles in the impound yard in the next month or two.

Mayor Kraft stated on Saturday, April 18, the DEP is having their annual Spring Adopt-A-Beach program. It would be nice to have the Environmental Commission involved in that and have the kids clean up all the beachfronts.

The township received Clean Communities entitlement of \$11,474 from the State Department of Environmental Protection. The township also received a check today for \$8,300 from Ocean County for the town's share of recycling revenue.

PUBLIC COMMENT

Motion to open to the public was moved by Deputy Mayor Reilly, seconded by Mayor Kraft.
Roll Call: Reilly: Yes, Kraft: Yes

Michele Rosen, 29 Bradley Beach Way, asked the Township Committee to remove Resolutions 2009-141, 142 & 149 from the consent agenda and vote on them individually. Ms. Rosen inquired if the Township Committee would entertain discussion of the resolutions prior to voting.

Mayor Kraft stated this would be the time to discuss the resolutions, during the workshop prior to the committee voting.

Township Attorney McGuckin inquired why Ms. Rosen requested the Committee to vote on the resolutions individually.

Ms. Rosen stated it does not cause any problems to have the Committee vote on these three items individually and remove them from the consent agenda. Resolution 2009-141 is demanding the Executive Officer of the State government do something that the Township Committee would not do here in Ocean Township.

Township Attorney McGuckin stated in this case the appellate division has already struck down the COAH rules. The Courts have already ruled that COAH has operated inappropriately. The Governing Body would direct the Township Attorney whether to file suit or not.

Ms. Rosen stated she read the court decision, the third round procedure and instruction rules and regulations, and the commentary from the NJ League of Municipalities. Her problem is Mr. Russo has said the court will overturn this. Mr. Russo and Mr. McGuckin cannot say that. They can guess.

Township Attorney McGuckin stated as has COAH, themselves.

Ms. Rosen stated the courts have already said the filtering was appropriate. Now there is a question about the filtering. Mr. McGuckin and the NJ League of Municipalities' interpretation is not quite accurate. It is just as wrong for the Governor to tell the Attorney General not to defend an agent in the state as it is for the Township Committee to tell Mr. McGuckin that he ought not defend an action for which the town has been taken to court.

Township Attorney McGuckin stated that has happened before. If a township employee or official is sued and the governing body believes that individual is responsible or did something inappropriately, they would instruct the Township Attorney not to defend it.

Ms. Rosen inquired what if they thought the individual had not done anything inappropriate.

Township Attorney McGuckin stated then they would authorize the Township Attorney to defend it.

Ms. Rosen stated the Attorney General's position is that there may be a large area in some portions of the model that was used by Rutgers.

Township Attorney McGuckin stated the Governor has the right to direct the Attorney General just as the Governing Body has the right and authority to direct the Township Attorney. The Township Attorney cannot defend an action if the Governing Body does not want it.

Ms. Rosen requested the Township Committee to table the motion for Resolution 2009-141.

Ralph Avellino, Sands Point Harbor, stated he did not hear anything about a budget meeting tonight.

Mayor Kraft stated it was advertised.

Township Clerk Ambrosio stated it was in the Beacon, the Asbury Park Press and the Atlantic City Press. It was not on the calendar.

Mayor Kraft stated it was announced at the last meeting. The town will make sure the meetings get on the TV channel more often.

Mr. Avellino inquired about the new meeting format.

Mayor Kraft stated the public comment was for the Workshop Caucus/Agenda meeting.

Deputy Mayor Reilly stated the resolutions that were commented on were introduced by Mr. McGuckin.

Joe Randazzo, 23 Spring Lake Blvd., inquired if the town wants to send a resolution directing the Attorney General to stop defending something, let the Attorney General defend himself. It is not for the town to argue about that.

Dennis Tredy, 131 Englewood Avenue, thanked the Committee for taking the position on both the COAH legislation opposition and the change on age-restricted communities. In the Town Center there is a possibility of age-restricted apartments that were supposed to go behind the Shop Rite. It would be a travesty to this town if those could be changed immediately to apartments.

Mayor Kraft stated COAH is a well-known issue in this municipality. The town does not need it to the extent the State of New Jersey is saying. COAH does not give this town credit for what it already has on the East side of Route 9. There are plenty of homes that should qualify as affordable housing that do not. Every municipality has a social obligation to provide affordable housing.

Vincent Anepete, 85 Clearwater, stated the Township Planning Consultant suggested that the COAH estimates the town is currently required to meet were conservative. What effect does the Township Committee think this resolution is going to have? It is not going to have any major impact.

Mayor Kraft stated it has been endorsed by the League of Municipalities. The town is signed up to be part of the League of Municipalities lawsuit against COAH.

Motion to close Caucus/Agenda was moved by Deputy Mayor Reilly, seconded by Mayor Kraft.
Roll Call: Reilly: Yes, Kraft: Yes

ADJOURNMENT

Motion to close Workshop/Caucus Agenda Meeting was moved by Deputy Mayor Reilly, seconded by Mayor Kraft. Roll Call: Reilly: Yes, Kraft: Yes.

Signed and Submitted:

Diane B. Ambrosio, RMC
Township Clerk

Date