

**TOWNSHIP OF OCEAN
COUNTY OF OCEAN
REGULAR BUSINESS MEETING
May 28, 2009**

Flag Salute

ROLL CALL: **LACHAWIEC** X **REILLY** X **KRAFT** X

STATEMENT: Pursuant to the provisions of the New Jersey Open Public Meetings Act, adequate notice of this meeting was properly provided by sending copies of the Notice of Meeting to two newspapers, The Atlantic City Press and the Asbury Park Press. The Notice was posted at the office of the Township Clerk and on the bulletin board in the Administration Building.

A motion to move into Closed Session was moved by Committeeman Lachawiec. There was no second motion.

MEETING MINUTES:

Approval of the Meeting Minutes of:

Budget Workshop Meeting April 14, 2009

Workshop and Regular Business Meeting April 23, 2009

Workshop and Regular Business Meeting May 14, 2009

A motion to approve the meeting minutes as presented was approved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes

Ordinance

Ordinance 2009-4 Second Reading – Public Hearing

An Ordinance of the Township of Ocean, County of Ocean, State of New Jersey Authorizing the sale of Block 137, Lot 2, Lighthouse Drive, which is Township property not needed for public use

Ordinance No. 2009-4 was read title only and opened to the public on a motion moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Dennis Tredy, 131 Englewood Ave., inquired where this property is and why it is being sold.

Mayor Kraft stated it is on a dead end on Lighthouse Drive that backs up to preserved land. It was offered to the adjacent property owners. The purchase price is \$28,500.

Committeeman Lachawiec inquired if the \$28,500 is included in the budget.

Christine Thorne, CMFO stated that amount will go into the general fund. It will have to go in next year's budget.

A motion to close to the public was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

A motion of approval to adopt Ordinance No. 2009-4 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Ordinance 2009-6 – First Reading – Title Only

An Ordinance of the Township of Ocean, In the County of Ocean, New Jersey, providing for the acquisition of an emergency medical vehicle for the Township of Ocean and appropriating \$152,000 therefore, and providing for the issuance of \$144,400 in bonds or notes of the Township of Ocean to finance the same.

A motion of approval for first reading Ordinance No. 2009-6 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

RESOLUTION No. 2009-185

Resolution authorizing the Township of Ocean eligible to participate in the self-examination of budget program by the Division of Local government Services, and meets the necessary conditions to participate in the program for the budget year of 2009

Committeeman Lachawiec requested a brief synopsis of this resolution.

Christine Thorne stated the Division of Local Government Services chooses towns for self-examination. The town has to comply by a resolution. Ms. Thorne does a certification to that resolution. The auditors help with the self-examination.

Committeeman Lachawiec inquired if an outside company could help with the self-examination.

Ms. Thorne stated the town did not budget for that. This resolution needs to be sent to the Division of Local Government Services.

A motion of approval was moved by Deputy Mayor Reilly, seconded by Mayor Kraft.

Roll Call: Lachawiec: No, Reilly: Yes, Kraft: Yes.

RESOLUTION NO. 2009-156 Second Reading - Public Hearing

Municipal Budget of the Township of Ocean, County of Ocean for the fiscal year 2009. The Budget has been published in The Asbury Park Press. The Public Hearing on the Budget Resolution will be held at the Municipal Building, 50 Railroad Avenue, Waretown, NJ 08758 Meeting Room on May 28, 2009 at 7:00 pm for Final Passage

Motion to open to the public was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Michele Rosen, 29 Bradley Beach Way, the budget hearing was advertised for Saturday, May 23, 2009 at 7:00pm.

Diane Ambrosio, Township Clerk stated that was corrected and republished in the Asbury Park Press.

Ms. Rosen stated the town cannot legally conduct a public hearing on the budget having officially advertised it for Saturday, May 23, 2009.

Township Attorney McGuckin inquired how it was advertised.

Mrs. Ambrosio stated it was incorrect in the Atlantic City Press and was corrected in the Asbury Park Press.

Township Attorney McGuckin inquired if the initial notice was in the Asbury Park Press.

Mrs. Ambrosio stated the initial notice was published in the Atlantic City Press. The correction was in the Asbury Park Press because the deadline passed for the Atlantic City Press. Both papers are the official newspapers of the municipality.

Township Attorney McGuckin stated he is not aware of any legal requirement that both notices have to be in the same newspaper. It just has to be an official newspaper of the municipality. If the correction was published in an official newspaper of the municipality that is adequate notice of a public hearing.

Ms. Rosen discussed items regarding finance and suggested the Township Committee postpone the adoption of the budget.

Kenneth Mosca, Township Administrator stated Ms. Rosen did bring to the town's attention things that needed to be addressed in finance. A corrective action plan was put in place the very next day.

Joan Tredy, 131 Englewood Avenue, inquired about the purchase of gas at the local Sunoco.

Mr. Mosca stated in an emergency situation, power outages and mechanical difficulties at the pump, the police officers need fuel 24/7 and might have to purchase gas at a local gas station.

A motion to close to the public was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Motion to TABLE Resolution No. 2009-156 was moved by Committeeman Lachawiec. There was no second motion.

Deputy Mayor Reilly requested Township Attorney McGuckin to clarify the town's position as far as the advertising.

Township Attorney McGuckin stated the township has more than one official newspaper. The township can advertise its budget in any of those official newspapers. The budget was officially advertised in one official newspaper. Under the law the town can advertise in any of the official newspapers. The correction was advertised in an appropriate time frame in an official newspaper of the municipality, which guarantees circulation will be provided within the timeframe required by statute.

Township Clerk Ambrosio confirmed this was the procedure in which it was advertised.

Committeeman Lachawiec stated the taxpayers do not have enough money to spend more on taxes and asked the Township Administrator to go back to the budget, on a line-by-line basis, except those items that are employment contracts, and reduce the appropriations by 3% on each line item.

Motion to adopt Resolution No. 2009-156 was moved by Deputy Mayor Reilly, seconded by Mayor Kraft.

Roll Call: Lachawiec: No, Reilly: Yes, Kraft: Yes.

RESOLUTION NO. 2009-186: Payment of Claims – as presented to the Township Committee for payment thereof in the amount of \$265,245.56

A motion of approval was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes

CONSENT AGENDA

The below listed items are considered to be routine by the Township Committee of the Township of Ocean and will be enacted by one motion. There will be no formal discussion of these items. If discussion is desired, this item will be removed from the consent agenda and will be considered separately.

RESOLUTIONS

- 2009-187** Resolution authorizing the use of the Home Depot credit card account and authorizing personnel and usage policy
- 2009-188** Resolution authorizing the use of the Home Depot credit card for the Township of Ocean Utility Department and authorizing personnel and usage policy
- 2009-189** Resolution authorizing the use of the Lowe's credit card and authorizing personnel and usage policy
- 2009-190** Resolution authorizing Committeeman Joseph Lachawiec to sign on various Township Bank Accounts for the Township of Ocean
- 2009-191** Resolution authorizing the renewal period of July 1, 2009 – June 30, 2010 for the following Liquor Licenses – Neptune Investment Corporation, C.O. Jones Operations, Inc., Skippers Cove Beach Club, Inc. and Holiday Beach Club Inc.
- 2009-192** Resolution authorizing the Township of Ocean to purchase gasoline and diesel fuel pursuant to bids received by the Stafford Township Cooperative Pricing System

A motion to remove Resolution 2009-191 from the consent agenda for discussion was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.
Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

MOTION TO APPROVE CONSENT AGENDA RESOLUTIONS 2009-187 through Resolution 2009-190 and Resolution 2009-192

A motion of approval was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.
Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes

DISCUSSION:

RESOLUTION 2009-191 Resolution authorizing the renewal period of July 1, 2009 – June 30, 2010 for the following Liquor Licenses – Neptune Investment Corporation, C.O. Jones Operations, Inc., Skippers Cove Beach Club, Inc. and Holiday Beach Club, Inc.

Committeeman Lachawiec inquired the locations of Neptune Investment Corp. and C.O. Jones Operations.

Township Clerk Ambrosio stated those are corporate names. Neptune Investment is the Lighthouse Tavern and C.O. Jones Operations is The Thirsty Mallard.

Committeeman Lachawiec inquired if other liquor licenses are approved at a different date.

Township Clerk Ambrosio stated by law the liquor establishments must renew their license prior to June 30th each year. They must be approved and renewed each year. These are renewals. McKay's Buy Rite Liquor and BE Waretown (Casey's Lobster Pot) are still outstanding.

Committeeman Lachawiec inquired about BYOB and liquor delivery to establishments.

Township Clerk Ambrosio stated one establishment advertised liquor delivery. It was brought to the Police Chief's attention. The Police Dept. did investigate.

Police Chief Flatt stated liquor is not allowed to be delivered to the establishment and they were told that. If there are any further violations they will be turned over to the ATF.

Motion of approval of Resolution 2009-191 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.
Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

RESOLUTION 2009-193: authorizing the Township Committee to retire into Closed Session for the purpose of discussing personnel, public safety, contractual, real estate and litigation - PURPOSE: Litigation, Personnel and Real Estate Contract.

A motion of approval was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.
Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Committeeman Lachawiec stated he would like the Township Committee, Administrator and Attorney to move into Closed Session in another closed room.

Township Attorney McGuckin stated if the Township Committee would like to move into another room it would have to be an adjoining room.

Deputy Mayor Reilly stated he sees no reason to change the way Closed Session has been done in the past.

Motion of Approval for a Raffle License for River of Life Family Church on September 5, 2009 for 2008 Harley Davidson at 4:00 pm

A motion of approval was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Motion of Approval for Raffle Licenses for Greenbriar Oceanaire Men's Club at Greenbriar/Oceanaire Golf and Country Club on September 7, 2009, for afghan with matching pillow

A motion of approval was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Motion of Approval for Raffle Licenses for St. Stephen's Episcopal Church for the following;

- July 17, 2009 (Blueberry Festival) 50/50
- August 1, 2009 – Chinese Auction and 50/50
- September 26, 2009 (Fall Harvest Dinner) Quilt Raffle and 50/50
- October 24, 2009 (October Christmas Celebration) 50/50
- November 7, 2009 (Craft Show) 50/50
- November 7, 2009 – mini Chinese Auction

A motion of approval was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

PUBLIC COMMENT

Motion to open to the public was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Tony Mercurio, 36 Laurelwyck, presented a petition with 95 names for the reconstruction of Country Lane. Mr. Mercurio read his report on the condition of Country Lane.

Township Attorney McGuckin stated if Country Lane is going to be improved, it will have to meet the Township's road standards. The town cannot legally improve a road partially or not to D.O.T.'s standards. In order to do that type of work, an engineer will need to certify the work to be done. The engineer will not certify improvements that do not meet state standards.

Mayor Kraft requested Mr. Mercurio forward the petition and information to the Township Clerk.

Committeeman Lachawiec and Administrator Mosca will schedule a meeting with Mr. Mercurio at Country Lane and report back to the Township Committee.

Joe Randazzo, 23 Spring Lake Blvd., stated that he hoped Committeeman Lachawiec isn't standing in the face of the wind because he is running for election.

Michele Rosen, 29 Bradley Beach Way, stated Resolution 2009-183 awards a lease of portions of the Southern Ocean County Landfill for the construction and operation of a Photovoltaic Generation System to Pepco. Ms. Rosen stated she has asked Mr. Mosca to put ordinances and resolutions on the board in the back of the meeting room, prior to the meeting. The residents were assured that Resolution 2009-183 was a lease of 20 acres so that Pepco could evaluate the project. The resolution actually awarded the contract. That's deception. Who wrote the resolution?

Township Attorney McGuckin stated he wrote the resolution.

Ms. Rosen inquired if the resolution has been sent to the director of Local Government Services.

Township Attorney McGuckin stated no, it has not yet been sent.

Ms. Rosen stated she hopes the township follows the local public contracts law as to what should have been done prior to this resolution.

Township Attorney McGuckin stated that is exactly why the resolution reads the way it does. That is exactly why it is contingent upon the Director of the Division of Local Government Services. It is contingent upon the approvals of the Director of the Division of Local Government Services and conditions of the contract lease agreement to be approved by the Governing Body.

Ms. Rosen stated the resolution authorizes the Township Administrator to enter into negotiations to finalize the terms and to execute, deliver and perform such agreement in accordance to the terms thereof subject to conditions as set forth herein.

Township Attorney McGuckin stated there are two conditions in there. One is the Director of Local Government Services approval and the other is the Governing Body approval.

Ms. Rosen stated the Township Committee answered questions that denied doing anything other than awarding a lease. Ms. Rosen sent a letter to the Director of Local Government Services.

Ms. Rosen called the Division of Local Government Services about the lack of resolutions on the credit card, etc.

Township Administrator Mosca stated he spoke to Mark Pfeiffer, Division of Local Government Services, and discussed the items Ms. Rosen brought forward and the corrective action plan that was implemented the very next day. Mr. Pfeiffer was very satisfied with that. Mr. Pfeiffer stated that if Ms. Rosen or anyone comes forward with items that the township needs to correct or address, the township is to do an immediate corrective action plan.

Ms. Rosen stated Local Government services suggest she go to the prosecutor.

Township Attorney McGuckin stated he spoke with Joe Valenti and that is not what he told him.

Ms. Rosen stated that is what he told her and that is what has been done. Let them determine whether or not there has been official misconduct.

Ralph Avellino, 10 Central Avenue, stated there should be a time limit for speaking at the podium.

Debra Bataglia, 139 Morey Place Road, inquired if the Committee has any answers about how the cul-de-sac was approved on Morey Place Road.

Township Administrator Mosca stated it was approved by the Planning Board.

Ms. Bataglia stated according to the owner, the township forced them to put in the cul-de-sac. There was \$50,000-\$100,000 put in escrow for the owners of that property to maintain the road.

Township Administrator Mosca stated that was to run municipal water. The property owner is not accurate.

Township Attorney McGuckin stated the application was approved by the Planning Board with a cul-de-sac. The only way to determine if it was the Planning Board or the applicant who requested the cul-de-sac is to obtain the minutes or listen to the tape recording of the meeting.

Mayor Kraft stated it is on the site plan.

Township Attorney McGuckin stated proof was provided at the time of the Planning Board hearing that you were notified.

A discussion took place regarding Morey Place Road. The resident can obtain the minutes to that Planning Board hearing by filling out a Government Records Request at the Clerk's office.

John Petrosilli, 11 Vessel Road, inquired if the Township Committee approved for the taping of this meeting.

Township Attorney McGuckin stated the Township Committee was notified that an individual wanted to tape this session. It can be done. The Governing Body can oppose. The Governing Body is going to consider an ordinance setting forth procedures.

Dennis Tredy, 131 Englewood Avenue, inquired if any of the public meetings can be taped.

Township Attorney McGuckin stated taping of the public meetings is allowed. The town can impose reasonable restrictions as to how it will occur. The Governing Body will consider an ordinance in the next few days to do that.

Mr. Tredy inquired if the individual boards can create their own regulations. Planning Board and Zoning Board are allowed to create Board Rules.

Township Attorney McGuckin stated they should be consistent with what is done by the Township Committee. Final regulations will be established by the Clerk, as to where the camera will be located, how many cameras, etc. It would have to be done by ordinance.

A discussion took place between Joan Tredy, 131 Englewood Avenue and Committeeman Lachawiec regarding his status of being retired military and disabled veteran. Mr. Lachawiec is a disabled veteran and pays his taxes even though he qualifies to be tax exempt.

Motion to close to the public was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

RECESS/ADJOURNMENT:

Motion to recess was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Motion to open meeting was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Motion to Approve Closed Session/Executive Session Meeting Minutes:

Township Attorney McGuckin stated there are Executive Session minutes to approve tonight, due to the fact that only one member of the Governing Body is available to vote on three of the meetings, which are May 8, 2008, December 1, 2008 and February 12, 2009. Mr. Kraft was not present on those dates so he cannot vote on the closed session. Mr. Van Pelt is no longer a member of the Governing Body, so he cannot vote on the closed session. Only Mr. Reilly is eligible to approve the Executive Session minutes.

Township Attorney McGuckin inquired if Mr. Reilly has reviewed the Executive Session minutes of May 8, 2008, December 1, 2008 and February 12, 2009 and are they true and accurate.

Deputy Mayor Reilly stated yes.

Township Attorney McGuckin stated that will act as a motion, although only one person votes.

Motion to approve Executive Session meeting minutes of:

March 13, 2008	April 10, 2008	April 28, 2008	July 11, 2008
August 14, 2008	September 11, 2008	September 25, 2008	October 9, 2008
November 13, 2008	December 11, 2008		

was moved by Deputy Mayor Reilly, seconded by Mayor Kraft.

Roll Call: Reilly: Yes, Kraft: Yes

Motion to approve Executive Session meeting minutes of May 14, 2009 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Motion to approve Executive Session meeting minutes of March 26, 2009 and April 23, 2009 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes.

Motion to adjourn meeting was moved by Committeeman Lachawiec, seconded by Deputy Mayor Kraft.
Roll Call: Lachawiec: Yes, Reilly: Yes, Kraft: Yes

Signed and Submitted:

Diane B. Ambrosio, RMC
Township Clerk

Date