

- MEETING MINUTES -

**TOWNSHIP OF OCEAN
COUNTY OF OCEAN
REGULAR BUSINESS MEETING
August 13, 2009**

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.

MEETING MINUTES:

Approval of the Meeting Minutes of:

Workshop and Regular Business Meeting June 25, 2009

Motion of approval moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly

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

Workshop and Regular Business Meeting July 9, 2009

Motion of approval moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly

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

Closed/Executive Session Meeting Minutes June 25, 2009

Motion of approval moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly

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

Closed/Executive Session Meeting Minutes May 28, 2009, and July 9, 2009

Motion of approval moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly

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

Ordinance

Ordinance 2009-8 – Second Reading – Public Hearing

An Ordinance of the Township of Ocean, County of Ocean, State of New Jersey, fixing and determining salaries and wages of the Telecommunicators – Teamster Local Union No. 676 of the Township of Ocean for the years January 1, 2009 through December 31, 2013

Ordinance No. 2009-8 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

No comment from the public.

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. 2009-8 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

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

RESOLUTION NO. 2009-231: Payment of Claims – as presented to the Township Committee for payment thereof in the amount of \$4,259,670.04

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

- 2009-232 Resolution authorizing the Tax Collector to be discharged from collecting 2009 taxes from Block 272, Lot 24 as Leroy Hurst is a disabled veteran effective June 5, 2009
- 2009-233 Resolution authorizing an extended due date including the grace period for the payment of the third quarter taxes is August 25, 2009 after which the normal interest rate will be charged back until August 1, 2009
- 2009-234 Resolution authorizing the refund of overpayment of taxes due to an assessment change and/or block and lot change to Block 57.10, Lot 1.01 in the amount of \$203.19
- 2009-235 Resolution authorizing the release of escrow money for Block 177, Lot 1 in the amount of \$219.38
- 2009-236 Resolution accepting and approving the Chief Financial Officers Corrective Action Plan regarding the 2008 Audit
- 2009-237 Resolution authorizing the release of escrow money for Block 41, Lot 39.01 in the amount of \$3,078.75
- 2009-238 Resolution appointing Mr. Paul Granick, Esq. as Alternate Municipal Prosecutor for the year 2009
- 2009-239 Resolution authorizing the Township Committee to forward a request to the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2009 Budget in the sum of \$14,640.63 which is now available as revenue from the Solid Waste Administration FY 2009 Clean Communities Grant
- 2009-240 Resolution authorizing the Township Committee to forward a request the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2009 Budget in the sum of \$1,600.00 which is now available as revenue from the State of New Jersey Department of Law and Public Safety Division of Alcoholic Beverage

- 2009-241 Resolution authorizing the Township Committee to forward a request the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2009 Budget in the sum of \$1,431.84 which is now available as revenue from the Alcohol Education Rehabilitation Enforcement Fund
- 2009-242 Resolution authorizing the release of escrow money held in the name of US Homes – Lennar in the amount of \$85,715.64
- 2009-243 Resolution authorizing to continue services with Delta Dental of new Jersey with a 0% increase for the year September 1, 2009 – August 31, 2010 contract to be signed by the Administrator
- 2009-244 Resolution authorizing hiring Mariann Siciliano as a full-time Police Administrative Secretary starting on August 17, 2009 at the annual salary of \$23,386.00
- 2009-245 Resolution of the Township of Ocean, County of Ocean, State of New Jersey supporting the acquisition of certain properties in the Township of Ocean by the Ocean County Natural Lands Trust Fund for Cold Springs Brook – Block 19, Lot 3 totaling approximately 22.23 acres along Brookville Road
- 2009-246 Resolution appointing Diane B. Ambrosio as the municipal representative to work with Ocean County Planning on projects and outreach for the 2010 Census
- 2009-247 Resolution authorizing a water/sewer credit for 126 Lighthouse Drive in the amount of \$249.01
- 2009-248 Resolution authorizing a water/sewer credit for 85 Holly Drive in the amount of \$181.48
- 2009-249 Resolution authorizing a water/sewer credit for 48 Beacon Drive in the amount of \$206.12
- 2009-250 Resolution authorizing a water/sewer credit for 17 Caribbean Court in the amount of \$454.81
- 2009-251 Resolution authorizing a water/sewer credit for 125 Dune Lane in the amount of \$241.76
- 2009-252 Resolution authorizing a water/sewer credit for 233 Teaneck Road in the amount of \$496.52
- 2009-253 Resolution authorizing a water/sewer credit for 73 Baltic Avenue in the amount of \$130.39
- 2009-254 Resolution authorizing a water/sewer credit for 205 Rahway Road in the amount of \$540.03
- 2009-255 Resolution authorizing a water/sewer credit for 82 Sheridan Street in the amount of \$89.20
- 2009-256 Resolution authorizing disposal of surplus property of the Township of Ocean, County of Ocean, State of New Jersey to be sold on GovDeals pursuant to state contract A-7096/T2581 the items to be sold wire, travan tapes, green bar paper, meter pads, roller, desk organizers, calculators
- 2009-257 Resolution authorizing the Mayor to execute the Agreements for the Ocean County Recycling Center use and Revenue Sharing Agreement for the period from January 1, 2010 through December 31, 2014
- 2009-258 Resolution authorizing a water/sewer credit for 1 Memorial Drive #104 A & B in the amount of \$150.00

- 2009-259 Resolution authorizing the Township of Ocean to guarantee certain indebtedness of the Waretown Volunteer Fire Company #1
- 2009-260 Resolution authorizing a one year extension of an Interlocal Agreement with the Atlantic Utilities Authority to provide certain consulting services to the Township of Ocean at no cost to the municipality
- 2009-261 Resolution authorizing the Township of Ocean to establish a Fixed Asset Inventory account ledger
- 2009-262 Resolution authorizing Mitchell Humphrey Software for programs and maintenance in the amount of \$27,850.00
- 2009-263 Resolution authorizing the Township Committee to forward a request to the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2009 Budget in the sum of \$586,841.00 which is now available as revenue from the United States Department of the Interior Fish and Wildlife Service
- 2009-264 Resolution authorizing hiring Michael S. Cicero as a full-time Patrol Officer starting on August 14, 2009 at the annual salary of \$49,802.00
- 2009-265 Resolution authorizing hiring Jeremy J. Samuel as a part-time Special Police Officer Class II starting on August 25, 2009 at the hourly rate of \$10.00

MOTION TO APPROVE CONSENT AGENDA RESOLUTIONS 2009- 232 through Resolution 2009-265

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

RESOLUTION 2009-266: authorizing the Township Committee to retire into Executive Session for the purpose of discussing personnel, public safety, contractual, and litigation - PURPOSE: Township Attorney McGuckin stated he has a litigation and personnel matter. Committeeman Lachawiec stated he has a real estate matter.

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 Block Party Application

1. Waretown Volunteer Fire Company – Clam Bake
- Saturday, August 15, 2009 Corliss Street

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 use of the Community Center:

1. Nancy Mazzina – September 20, 2009
2. Glenn Avellino – August 30, 2009
3. Republican Club Sub Group – August 17, 2009
4. Township of Ocean Board of Health – Flu Clinic – October 15, 2009

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 use of Waretown Memorial Recreation Park

1. Alper Senman – August 30, 2009
2. Barnegat Bay Assembly of God – September 20, 2009
3. Christine Kraus – September 19, 2009

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

Motion to Approve Tax Collector's Report

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

Motion to Approve Utility Collector's Report

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

Motion to Approve Finance Report

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

Al Delprete, 117 Dollmore, responded to Mr. Tredy's suggestion of the town purchasing the beach from Mr. Delprete. At the end of Bryant Road is a beautiful gazebo and dock area provided by the town. At the end of Clearwater and Atlantic there is another beautiful spot. There is also the Peninsula. These are three places that are available to everyone in the town to see the sunset and sunrise.

Mayor Kraft stated Mr. Delprete has done a beautiful job building houses throughout the town. He has supported the WAA Baseball and Basketball, the Fire Dept. and First Aid. Al Delprete is a good man.

Larry Doan, 146 Bonita Road, stated the bollards are blocking the gravel road making it public open space. It should be treated as public open space. If there were a couple of benches and landscaping, people could sit there and view.

Debra Battaglia, 139 Morey Place Road, requested a "no outlet" sign attached to the Morey Place Road street sign.

Mayor Kraft stated no problem.

Ms. Battaglia met with Michelle Garofalo and was told the lot next to hers is a buildable lot. The township told her it is not buildable, due to not enough frontage. Ms. Battaglia is not happy about the cul-de-sac. It is going to be an issue when she sells her house and is requesting a natural looking privacy fence.

Township Attorney McGuckin stated if Ms. Garofalo received approval for a plan, then Ms. Garofalo received a variance and is allowed to build on it.

Michelle Rosen, 29 Bradley Beach, requested Redevelopment minutes from 2000-2007. The Township Clerk's records indicate there was never a Redevelopment meeting prior to 2005. The original Redevelopment Agreement with Lennar for the Edgemont properties is dated 2004. Why did that agreement not go before Redevelopment?

Township Attorney McGuckin stated it was part of the Redevelopers Agreement with Lennar from 1999. It was amended in 2004 and then again in 2009. The first one was called a Developers Agreement.

Ms. Rosen stated the original Developers Agreement with Lennar was dated 2000. A Redevelopment Agreement was passed in 2004 but never went before the Redevelopment Committee.

Township Attorney McGuckin stated whatever it was labeled, it is an amendment to the original Developers Agreement between the developer based on their 1999 approvals and their amended approvals subsequent thereto. It is not a Redevelopment project. Edgemont is now an area in need of redevelopment. In the 1999 agreement it was contemplated that the Edgemont property would be included within that project in the future.

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

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

CLOSED SESSION

Motion to move into closed session was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

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

OPEN SESSION

Motion to move from closed session into open session was moved by Committeeman Lachawiec, seconded by Deputy Mayor Reilly.

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

Township Attorney McGuckin stated, as a result of discussions in executive session it is understood the governing body wishes to appoint Joseph Corronado as Special Litigation Counsel for the Township of Ocean.

Greg McGuckin informed Mayor Kraft has a conflict on this motion.

RESOLUTION 2009-267 Appointing Joseph Corronado as Special Litigation Counsel for the Township of Ocean.

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

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

Township Attorney McGuckin stated based on discussions in executive session, the Township of Ocean is seeking authorization to enter into a separation agreement and obtain release of any potential claims with a former employee named Jack Layton.

RESOLUTION 2009-268 Authorizing execution of Separation Agreement and obtain release of any potential claims with former employee, Jack Layton.

A motion of approval was moved by Committeeman Lachawiec. There was no second motion.

Township Attorney McGuckin stated based on discussion in the executive session there was a potential consensus for another type of resolution:

RESOLUTION 2009-269 authorizing payment of benefits to Jack Layton under the terms of the personnel policy and carry health insurance benefits to September 30, 2009 and obtain release.

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

Committeeman Lachawiec requested a discussion on this motion and is concerned that the previous motion failed for lack of second motion. Committeeman Lachawiec stated that his time and Jack Layton's time was wasted, as this matter was referred to him by the Mayor for negotiation of a settlement. Committeeman Lachawiec stated that it is very disconcerting that the previous motion failed for lack of a second. Committee Lachawiec did not initiate this matter, as it was a referral from the Mayor to him to meet and negotiate a settlement. Committeeman Lachawiec put forth a plan and now the Township will be placed at risk for a possible lawsuit.

Mayor Kraft stated it was put forth to set a precedence in a way that the Township does not do business, and is not part of the personnel policy and they way it is set up. This is not a private situation. It is a public situation. The public policy does not allow for additional money above and beyond what is owed. Mayor Kraft stated that Committeeman Lachawiec worked hard and represented his side well. Deputy Mayor Reilly has a life of experience in Human Resources and made a compelling argument. It was a difficult decision to make. It is the best decision for the residents of the Township of Ocean.

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

Committeeman Lachawiec stated he would like to introduce an Ordinance by title only. Requested an Ordinance number and the body of the Ordinance will follow.

Mr. Lachawiec read that over the past few months it has become apparent that this thing that is called the Redevelopment Entity has been used by the Township Committee as its own personal tool to decide which developments should prematurely denied or which should go forward or which would even be allowed to proceed along the pathway to completion.

Although the redevelopment authority may have been established as a result of good intentions some ten years ago. The Redevelopment entity has morphed into a process where secret private meetings at diners with developers seem to be the rule. Typically one member of the three member redevelopment entity or one or more of its surrogates would be present at such private meetings with developers. Although it is

unknown how many dozens of times such meetings may have occurred over the years. It is clear that such meetings have occurred without a report or minutes available to the public.

Such secret meetings were held with potential developers in order to determine if the development should move forward through the established process, in other words the Planning Board, Land Use Board or Zoning Board and then on to the final decision by the Township Committee.

Committeeman Lachawiec continued stating in my opinion the Township Committee over the years have corrupted the process by usurping the authority that it should have never granted itself in the first place.

Committeeman Lachawiec stopped reading and expressed his extreme displeasure with Mayor Kraft.

Mayor Kraft asked him to continue you reading his statement.

Committeeman Lachawiec expressed that Mayor Kraft does not show courtesy to people. Committeeman Lachawiec expressed Mayor Kraft's problem is that he intimidates people and he will not be intimidated by Mayor Kraft. Committeeman Lachawiec asked Mayor Kraft to give him the courtesy to listen to his statement.

Mayor Kraft explained he did not interrupt his reading of the prepared statement and to continue reading. Mayor Kraft inquired what he had said to interrupt his reading; Mayor Kraft explained he never said one word.

Committeeman Lachawiec stated in my opinion the Township Committee over the years has corrupted the process by usurping the authority that should have never granted to itself in the first place. In doing so the Township Committee deliberately avoided allowing the Planning Board to completely and publicly examine and determine the quality of such proposed developments.

Committeeman Lachawiec addressed Mayor Kraft several months ago you suggested that we establish a citizens Redevelopment Advisory Board.

Mayor Kraft stated that is correct.

Committeeman Lachawiec stated he had thought about it and made commentary, but none of his comments made the Resolution. In the end Deputy Mayor Reilly and I abandoned that Resolution. At that time what I realized was the Township has a Planning Board consists of 11 members, who are citizens of this various neighborhoods of the town. This is the proper venue for a developer to begin the approval process, not this thing called the Redevelopment Entity. Getting back to these secret meetings or courtesy conferences, as they are called, they permit a developer to present the redevelopment plan without having to pay the filing fee and application which I believe is around \$7,000. It is yet to be determined how many tens of thousands dollars of revenue that the Township has lost by having these Redevelopment Entity secret meetings with developers. Also with the recent recusal of a member that would be you Mayor Kraft on at least two Redevelopment projects. It is clear that although you want the citizens to decide what is to be redeveloped and what isn't and it is clear that these decisions will last a lifetime. It would be left in the hand of two persons in a township of nearly 10,000 residents. There is a conflict there of some kind.

Committeeman Lachawiec continues reading that there is a severe problem in that such private meetings serve only to assist the developer in obtaining approvals. In that developers obtain advise and coaching or

prepping before such developer appears before the full Redevelopment Entity. Now this type of behavior only serves the developer not the will of the public who are not even apprised of such coaching. The public is present at the Redevelopment Entity meeting and a member asks a question and the developer has the answers in an instance. It is not because they are smart it is because they knew the answers before hand.

Committeeman Lachawiec continues stating I have never been involved in such private secret meetings with a developer and I will not do so in the future unless such meeting is held in public Township owned place with the opportunity for public to be present from the beginning of any redevelopment project. It is crucial in today's age of what we have seen happen just recently. The Township be totally transparent with dealing with developers.

Committeeman Lachawiec stated he endorsed Mayor Kraft's call and request the United States Attorney General's office investigate. Mayor Kraft did not say investigate he said review every development Mr. Van Pelt had. Committeeman Lachawiec calls for the Attorney General come and investigate each and every development within the Township whether completed or proposed or in litigation to determine if any such development are corrupted in anyway. In the meantime any and all Redevelopment projects be voluntarily halted by the parties in order to determine if such projects were processed with the best interest of the Township residents in mind or merely to ensure the highest profit to the developer.

Committeeman Lachawiec continued stating that he has requested and received an assurance that Mr. McGuckin will recuse himself from any further legal work on the project known as Ocean Commons North vs. Township of Ocean et. al.

Committeeman Lachawiec continues stating that it his understanding that Mr. McGuckin has been apparently been advising a party with a financial interest in such project every step of the way for the past 10 years.

Mr. McGuckin stated that is incorrect, he has never advised Mr. Kraft on that project.

Committeeman Lachawiec inquired if Mr. McGuckin had provided a four page legal opinion.

Mr. McGuckin stated in response to a request made right now as to whether there was a conflict of interest in Mayor Kraft's voting on Ordinances, Resolution and plans for the redevelopment zone.

Committeeman Lachawiec continued reading therefore it is clear that a conflict exists.

Mr. McGuckin asked Mr. Lachawiec to clarify his statement.

Committeeman Lachawiec stating you recused yourself.

Mr. McGuckin explained he did not recuse himself due to a legal conflict, Mr. McGuckin is recusing himself to avoid any appearance of impropriety and there are to many people that believe it is a conflict and to avoid an argument. Mr. McGuckin does not think it is appropriate or fair to the Township and that is why he has recused himself from the case.

Committeeman Lachawiec continued reading and stating that he is proposing that Ordinance 2000-104 that established the Redevelopment Entity be repealed. Committeeman Lachawiec moves Ordinance

Deputy Mayor Reilly inquired with Mr. Lachawiec that there are two potential developers and Mr. Lachawiec agreed he would meet with one developer and Mr. Reilly was encouraged to meet with the other developer. Based upon what Mr. Lachawiec just said, Mr. Reilly finds this disingenuous.

Committeeman Lachawiec stated you feel that there is some kind of tying arrangement.

Deputy Mayor Reilly stated no Mr. Lachawiec stated that private meetings etc. etc.

Committeeman Lachawiec stated this has been cleared up because everyone knows about it now. He is not in favor of secret private meetings at diners with developers. Mr. Lachawiec did not know about deals that were being made or discussions that were being made until after the fact.

Deputy Mayor Reilly stated no deals have been made in any discussions, all discussions were done on Township property and no deals were made and no prepping of an applicant were done.

Committeeman Lachawiec stated he did ask a lot of questions of a developer and curiously they knew all the answers and in my opinion they did know all the answers. Because they know from somehow and someone what the Township will expect in terms of moving it forward and that is my opinion.

Mayor Kraft stated the applications have been coming to Redevelopment for six years. The project has been here a long time.

Committeeman Lachawiec made a motion to repeal Ordinance 2000-104 Title Only – First Reading.

Diane Ambrosio stated the Motion would be for Ordinance 2009-9.

ORDINANCE NO. 2009-9 – First Reading – Public Hearing

Ordinance repealing Ordinance 2000-104, establishing the Redevelopment entity

A motion of approval for first reading Ordinance No. 2009-8 was moved by Committeeman Lachawiec with no second. Ordinance failed for lack of a second motion.

Deputy Mayor Reilly stated he would like it to go on record that he will not meet with the applicant discussed earlier tonight.

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.

Dennis Tredy, 131 Englewood Avenue, requested the Township Committee prior to going into closed session let the public know that the meeting will be opened to the public and possibly decisions will be made after closed session. He would like for them to consider this.

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


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

REMINDER: The next scheduled Township Committee Meeting is September 10, 2009.

ADJOURNMENT:

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

Signed and Submitted:


Diane B. Ambrosio, RMC
Township Clerk

9/8/09
Date