

# MEETING MINUTES

## TOWNSHIP OF OCEAN COUNTY OF OCEAN BUSINESS MEETING August 9, 2012

### Call to Order

ROLL CALL: LACHAWIEC   X   WETTER   X   TREDY   X  

### Flag Salute

**STATEMENT:** Pursuant to the provisions of the New Jersey Open Public Meeting Act, adequate notice of this meeting was properly provided by sending a copy of the Notice of Meeting to two newspapers, The Asbury Park Press and the Press of Atlantic City. The Notice was posted at the office of the Township Clerk

### Committee Reports

Mayor – Dennis F. Tredy

The 3<sup>rd</sup> Annual Patriots Day Remembrance will take place on September 8, 2012 at 11:00am at the Gathering Landing near Waretown Shop Rite.

Deputy Mayor – Tina Wetter

The Historical Society program called “Through Their Eyes”, remembering those who served in World War II, will take place Sunday, August 26, 2012 at 2:00 pm at the Little Red School House. The presenter is Russell Risten who will present life stories of World War II Veterans who played an important role in serving and shaping our country. Military items will be on display to help visualize the veterans’ service and legacy. The program is free. If you would like to attend, please call (609) 693-4187 to reserve free tickets.

Committeeman – Joseph Lachawiec

In addition to the Emergency Management Trailer in the Township parking lot, there is also a Community Emergency Response Team trailer, which was awarded to the Township by the state of New Jersey. The state is also giving the Township \$1,000 for shelving inside the trailer. Deputy Emergency Management Coordinator Scott Murphy assisted with the shopping and determined the shelving could be purchased within budget.

### **Administrator Report**

Administrator – David Breeden

Ordinance 2012-15, Second Reading, Public Hearing, is a bond ordinance for \$600,000 of which the Township will borrow \$575,000. The remaining \$30,000 is a state-mandated 5% down payment. This will increase the overall debt of the Township by \$575,000. The debt position of the Township is well under control. A comparison of the net debt and gross debt of the Township of Ocean between 2007, when the Township assumed the MUA operation, and December 31, 2011 has increased by a \$142,000. Gross debt has decreased by over \$391,000. Even though the Township continues to grow, this Township Committee has embarked on the very aggressive water and sewer infrastructure improvement program. The Township will issue either notes or bonds to raise the cash necessary to fund the following projects: \$250,000 is allocated for the Public Works Garage, \$125,000 will be allocated for the acquisition of radios and other communication equipment needed to comply with FCC regulations, \$100,000 will be used to purchase Public Works trucks in addition to snow plowing equipment for the trucks, \$100,000 will be allocated for an Emergency Management room and necessary equipment and supplies to properly manage that room and \$25,000 will be earmarked for technology upgrades within the Township.

Ordinances 2012-16 and 2012-17 deal with various zoning ordinances of the Township of Ocean.

Township Attorney McGuckin discussed Ordinance 2012-16. The Township Committee reviewed the current definitions and permitted uses under the zone. One of the issues with respect to marinas is whether or not the ordinance included the potential sale of alcoholic beverages. This is an amendment to that ordinance to delineate that the current facilities within the Township have been developed with small luncheonettes on certain marinas. This ordinance clarifies that was the initial intent of the ordinance so there is no question or concern in the future. A reference was also deleted in the general intent section, which discusses townhomes. In 2003, the Governing Body removed townhomes as a permitted use of the WD Waterfront Development Zone. The language in the general intent section was not amended. This cleans it up in accordance with the ordinance adopted in 2003, which deleted townhomes as a permitted use.

Township Attorney McGuckin discussed Ordinance 2012-17, which amends Title 18 and relates to planned retirement development zoning district in a planned retirement community. This refers to bedroom counts. The facilities constructed under the ordinance, which is specifically delineated to the square footage of recreation facilities based upon a 2-3 bedroom unit. This ordinance clarifies what does and does not count as a bedroom. The Land Use Board made a recommendation with respect to a grandfather clause for existing. There may be some houses that have four-bedrooms. The Township Committee can adopt this ordinance tonight and amend it in the future to include bedroom provisions. When the Governing Body and Planning Board review an ordinance such as this, it is to determine whether it is consistent with the Master Plan. The Township Planner recommends it and has indicated he believes it is consistent with the Master Plan. The Planning Board correspondence did not address that issue. If the Governing Body approves this ordinance tonight, Township Attorney McGuckin recommends that the decision include whether or not it is consistent with the Master Plan. If it is consistent, a two-thirds vote is required to adopt the ordinance.

Administrator – David Breeden

Ordinance 2012-19, First Reading, Title Only, is the Uniform Construction Code (UCC) Schedule. Since Ocean and Barnegat share inspectors for UCC, the state mandates the two Townships have the exact same fee schedule.

Resolution 2012-270 The Township Committee approved the audit for 2011. This resolution provides the Governing Body with a Corrective Action Plan that is necessary to address the four comments listed in the audit. The four comments are more administrative in nature and not dealing with internal controls, which is a serious concern.

Resolution 2012-271, 272 and 284 On Saturday, July 7<sup>th</sup> and Sunday July 8<sup>th</sup>, Waretown was impacted by a severe thunderstorm. A lightning strike was experienced at the Town Hall and Police Department. Considerable damage occurred to the communication and technology equipment to a point where cost to repair and/or replace this equipment is approaching \$200,000. The Governing Body declared a purchasing emergency.

Resolution 2012-271 declaring a purchasing emergency. When a town experiences an emergency, the Township can acquire services, materials and parts on an emergency basis, without going through the formal bidding process. Most of the equipment was acquired through state contract with precludes the bidding process. In order to promptly replace the communication and technology equipment that is necessary to operate the Police Department and other Township offices, a purchasing emergency was declared.

Resolution 2012-272 authorizing a purchase of \$50,000 for 911 communication equipment for the Police Department in order to become fully functional.

Resolution 2012-284 authorizing an emergency appropriation in the amount of \$250,000. The Township adopted a budget in July. That budget has a maximum amount of money the Township can spend. In order to exceed that amount, the Township has to do an emergency appropriation, as the Township did not budget a quarter million dollars for a storm. The emergency appropriation will be offset by insurance proceeds as a result of the damage to the equipment. It is the sincere hope of the Township that only the \$2,500 deductible will have to be paid and the balance of the purchases will be paid by the insurance proceeds. The adjuster has been on site and indicated that everything filed is appropriate and the Township should expect reimbursement.

Resolution 2012-280 authorizing the execution of a settlement agreement with Waretown Oaks LLC. Prior to the dissolution of the MUA in February 2007, a private concern wanted to instruct a commercial business in Waretown on Route 9. That private business owner placed water/sewer infrastructure into the ground at their expense. The MUA and that private business owner were supposed to resolve the costs associated with putting that infrastructure in the ground. That never occurred. The issue has been ongoing since then. A priority of this governing body is to resolve and finalize any ongoing extended litigation. The Township has been meeting with Judge Millard in Toms River and reached a settlement that the Judge indicated appears to be fair and reasonable for both parties.

Resolution 2012-281 purchasing two Ford F-350 pick-up trucks off state contract for Public Works. All trucks acquired for Public Works will be four-wheel drive and capable of plowing snow. The two trucks cost \$90,000.

Resolution 2012-283 renewing the dental insurance policy with Delta Dental. The Township secured the same rate that was paid this year for dental insurance for the next two years. The Township's broker, Conner Strong, was successful in negotiating these favorable terms.

Resolution 2012-285 Approximately 4-5 officers will be retiring from the Township of Ocean Police Department. The Township must prepare now to replace the officers. This resolution acknowledges the hire of two officers and their attending the Police Academy in September. The two officers will be paid in accordance with the PBA contract, which was settled a couple months ago. The contract secures significant concession with regards to new officers coming on board.

Resolution 2012-287 awarding a contract for the Public Works garage expansion. The Township received 12 bids. The low bidder was \$426,000. The contract will be awarded to the lowest responsible bidder, Pharos Enterprises, to commence work with expansion of the Public Works complex and garage area. Currently the mechanic has to work outside on a piece of cardboard. That is not acceptable in times of crisis or severe weather.

Mayor Tredy stated another reason to build the addition is to house expensive equipment that should not be kept outside.

**PUBLIC PORTION:**

**Motion to Open to Public Comment** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

Jackie Petrosilli, 11 Vessel Road, does not remember Ordinances 2012-16 and 17 as a first reading on the last agenda.

Township Attorney McGuckin discussed that Ordinance 2012-16 and 17 were introduced after Executive Session at the last meeting, were listed on the agenda on the website, and were advertised in the newspaper.

Spencer Hondros, 65 Pennsylvania Avenue, inquired the total debt of the Township.

Township Administrator Breeden discussed the total net debt is \$16, 281,848.00.

Mr. Hondros requested clarification of Ordinance 2012-16.

Township Attorney McGuckin discussed there are two provisions in Ordinance 2012-16. The first provision deletes the reference to townhomes in the general intent section. In 2003, Ordinance 2003-48 deleted the permitted use of townhomes from the ordinance. The beginning part of that ordinance was never changed, which was the intent of the ordinance. The other change in the ordinance refers to the marinas where restaurants and luncheonettes have been permitted uses in the zone and have always been permitted in the zone. This amends the ordinance to not permit restaurants that serve alcohol in the waterfront development area. Many of the waterfront development areas are adjacent to residential homes in the community.

Mr. Hondros inquired why the Township is not allowing the marinas to do this.

Township Attorney McGuckin discussed the concern of the Governing Body has been and will continue to be that the Township marinas are not separate and apart from residential dwellings and are not appropriate to serve alcohol in the waterfront development zone. Beach clubs are still permitted.

Mr. Hondros inquired if his marina was turned into a yacht club, could he get a liquor license.

Township Attorney McGuckin discussed it would have to be a private club and not open to the public.

Mr. Hondros discussed he would like to at least have the option of a liquor license at his marina.

Township Attorney McGuckin discussed Mr. Hondros could still submit an application and would need approval from the Land Use Board.

Mr. Hondros discussed representing all Township marinas and objected to this option being taking away on their behalf.

Township Attorney McGuckin discussed it is a redevelopment zone and an application could be submitted, which would provide a blanket overlay zoning area. If a marina can establish there are no homes within hundreds of feet, it would be appropriate for the Land Use Board to grant relief, if they chose to do so.

Mr. Hondros discussed the lighting storm damage. Most surge protectors have a UPS feature and manufacturers will pay for the cost of damaged equipment.

Jason Mandia, Stone Mandy LLC, representing Bayfront Group LLC, the sole member of that group is Dr. Paul Dubitsky. Dr. Dubitsky submitted an application for the transfer of a liquor license to one of these marinas. Why is there a blanket restriction being placed on the marinas as opposed to a case-by-case analysis?

Mayor Tredy discussed there is an appeal process.

Mr. Mandia discussed his client would rather work with the town on this. The beach clubs cannot operate with a Club License. Club Licenses only apply for not-for-profit companies.

Township Attorney McGuckin discussed there are a couple of beach clubs that have club licenses. Skipper's Cove Beach Club and Holiday Beach Club are non-profit and have club licenses. Point Pleasant Beach has three separate lawsuits that are going to go on for quite some time. The Township is looking to forestall that from happening. This is a zoning ordinance on the entire waterfront development zone. The Township cannot zone on a piecemeal bases. That would be spot zoning.

Mr. Mandia discussed reviewing each license on a case-by-case basis rather than prohibiting it all together and taking away that business opportunity. The waterfront development was primarily a business district for marinas to operate. That is why it is separated from the residential. It makes more sense to analyze on a case-by-case basis.

Keith Boyce, Bayfront Marina, passing an ordinance that does not allow liquor licenses to the marinas will hurt the value. It should be on a case-by-case basis. Dr. Dubitsky currently has a liquor license contract on Mr. Boyce's property. This law will severely cripple the value of the property if this liquor license cannot be placed. Mr. Boyce contested the restriction of the liquor license.

Mary Dunkley, Marine Road, thanked the Committee for voting against Agenda 21.

John Petrosilli, Vessel Road, inquired if there is a time frame to have a second reading on Ordinance 2012-18.

Township Attorney McGuckin discussed there is not a time frame to have a second reading. The second reading just has to be before the end of the year. The Township Committee is not ready to have a public hearing on Ordinance 2012-18 yet.

Mr. Petrosilli inquired if there is an update on the solar landfill project.

Committeeman Lachawiec discussed the market has dropped dramatically. Project Navigator feels it is not worth continuing and spoke to the Pennsylvania, New Jersey, Maryland Grid (PJM), which controls all transmission lines throughout those states. The Township was told to come up with \$19 million to build a new transmission line from the solar field to Route 72, back to Barnegat and build a new substation there. The solar project is in abeyance.

Ed Covitz, Brookville Road, discussed all ordinances should be put on the agenda, whether it is first or second reading. When the audience leaves for Executive Session, the people feel the meeting is over and do not return.

Mr. Covitz inquired when a quarter million dollars is appropriated, where does the money come from.

Township Administrator Breeden discussed that special emergencies allow the Township to raise the money through borrowing. The loan gets paid off through increasing the tax levy the next year or through insurance proceeds.

Mr. Covitz requested an explanation of the tax rate increase.

Mayor Tredy discussed the tax levy determines how much the Township spends. The Township has spent less in the budget this year than last year.

Township Administrator Breeden discussed the reason why the tax rate went up is due to the reassessment. The total assessed value of the Township went down. When a Township is looking at a reassessment or revaluation, it is difficult to look at the tax rate and render a decision as to whether or not taxes went up or down. The key element is the tax levy and how many dollars does the Township need from the public in order to fund the operation. When comparing the tax levy from 2011 to 2012, the 2012 tax levy went down slightly.

Committeeman Lachawiec discussed the Township was faced with many tax appeals. If a tax appeal is granted, the Township has to come up with the money the school district would be losing due to the tax appeal.

Township Attorney McGuckin stated the Township pays the taxpayer.

Committeeman Lachawiec discussed the Township had to perform a revaluation in order to prevent paying the school district hundreds of thousands of dollars. The town value went down from \$1.4 billion to \$1.1 billion. The assessments that went down will not be paying the Township but the appropriations are the same. Raising the tax rate meets what the Township owes in tax appropriations for the budget.

**Motion to Close Public Comment** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Motion to approve the meeting minutes June 14th, July 12, 2012 and July 27, 2012 and Executive Session Minutes of April 26th, May 4th, May 25th, July 12th, and July 27, 2012.**

Motion to approve was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Resolution 2012-268** Payment of Claims – as presented to the Township Committee for payment thereof in the amount of \$2,113,548.97

Motion to approve was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Ordinance 2012-15 – Second Reading – Public Hearing**

BOND ORDINANCE PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE TOWNSHIP OF OCEAN, IN THE COUNTY OF OCEAN, NEW JERSEY, APPROPRIATING \$600,000.00 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$570,000.00 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

Motion to open Public Hearing was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

No public comment.

Motion to close Public Hearing was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

Motion to approve Ordinance 2012-15 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Ordinance 2012-16 – Second Reading – Public Hearing**

AMENDING TITLE 18 ZONING OF THE TOWNSHIP OF OCEAN TO DEFINE THE TYPE OF RESTAURANT USES PERMITTED AS AN ACCESSORY USE TO MARINAS IN THE WATERFRONT DEVELOPMENT WD ZONE DISTRICT.

Motion to open Public Hearing was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

No public comment.

Motion to close Public Hearing was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

Motion to approve Ordinance 2012-16 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes



**Ordinance 2012-17 – Second Reading – Public Hearing**

AMENDING TITLE 18 ZONING OF THE TOWNSHIP OF OCEAN TO PROVIDE BEDROOM LIMITATIONS WITHIN DWELLING UNITS IN THE PLAN RESIDENTIAL DEVELOPMENT PRD ZONING DISTRICT AND WITHIN A PLANNED RETIREMENT COMMUNITY.

Motion to open Public Hearing was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

Ralph Avellino, 10 Central Avenue, is surprised there are no Greenbriar residents here tonight.

Motion to close Public Hearing was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

Motion to approve Ordinance 2012-17 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Ordinance 2012-19 – First Reading – Title Only**

An Ordinance of the Township of Ocean, County of Ocean, State of New Jersey, Amending and Supplementing Chapter 15 of the Township of Ocean, General Code Book

Motion to approve Ordinance 2012-19 was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: 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**

- 2012-269 Resolution supporting S-380/A-2077, the Jessica Lunsford Act, Which would increase penalties for those who commit sex crimes against minors and for those who harbor or conceal as sex offender
- 2012-270 Resolution authorizing the Corrective Action Plan prepared by the Chief Financial Officer
- 2012-271 Resolution authorizing a declaration of emergency due to an electrical storm that hit the Township Building on July 8, 2012

- 2012-272 Resolution authorizing the updating and fixing of the 911 Emergency Call Systems
- 2012-273 Resolution authorizing the Tax Collector placing a lien on 81 Oak Knoll for failure to maintain property
- 2012-274 Resolution authorizing the Treasurer to refund overpayments for the year 2012
- 2012-275 Resolution authorizing Tax Collector to cancel taxes on Block 39, Lot 9.02 as the Township of Ocean owns the property.
- 2012-276 Resolution authorizing the Tax Collector to cancel taxes for 2012 on properties that were donated during the year 2001/2002
- 2012-277 Resolution authorizing the Tax Collector is discharged from Collecting taxes Block 54.02, Lot 1 as he is a disabled veteran
- 2012-278 Resolution authorizing the Tax Collector placing a lien on 201 Sixth Street for failure to maintain property
- 2012-279 Resolution authorizing that Christopher Grenda, Esq be appointed as Alternate Prosecutor
- 2012-280 Resolution authorizing the resolution of Waretown Oaks, LLC v Township of Ocean through execution of the Mutual Agreement
- 2012-281 Resolution authorizing the purchase of two trucks for the Department of Public Works on State Contract from Winner Ford
- 2012-282 Resolution authorizing Timothy Maguire, Esp. to be appointed Conflict Public Defender
- 2012-283 Resolution authorizing the renewal for 2 years of Delta Dental insurance
- 2012-284 Resolution authorizing an emergency appropriation due to storm in the amount of \$250,000.00
- 2012-285 Resolution amending resolution 2012-195 regarding the Police Department
- 2012-286 Resolution consenting to the Amendment to the Ocean County Wastewater Management Plan
- 2012-287 Resolution awarding the contract for the Township of Ocean Garage Expansion
- 2012-288 Resolution authorizing a performance guarantee reduction for Section 7 A & B Water and Sewer

**Motion to approve Resolutions 2012-269 through 2012-288** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.  
Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Motion to approve the Community Center, Township Ball Fields and Waretown Memorial Recreation Park:**

1. Susan Avellino – August 31, 2012
2. Nancy Matthews – September 2, 2012
3. Barnegat Bay Assembly of God – August 26th with a rain date of September 16th

Motion to approve was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.  
Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Motion to Approve a Social Affair Permit** for the Waretown Volunteer Fire Company on August 24, 2012 for an event at the Fire Company Fire Hall.

Motion to approve was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Motion to Approve a Social Affair Permit** for the We Care Foundation on October 9, 2012 for an event at the Greenbriar Oceanaire Clubhouse and Golf Course.

Motion to approve was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Motion to approve the Tax Collectors report dated June 30, 2012 and Utility report dated July 16, 2012**

Motion to approve was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

#### **ADJOURNMENT**

**Motion to move to Adjourn** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Wetter.

Roll Call: Lachawiec: Yes, Wetter: Yes, Tredy: Yes

**Next Scheduled Meeting – September 13, 2012 at 6:30 pm**

Signed and Submitted:

\_\_\_\_\_  
Diane B. Ambrosio, RMC  
Township Clerk

\_\_\_\_\_  
Date