

# MEETING MINUTES

## TOWNSHIP OF OCEAN COUNTY OF OCEAN BUSINESS MEETING June 11, 2015

### Call to Order

ROLL CALL: LACHAWIEC   X   TREDY   X   WETTER   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 – Tina Wetter

Founder's Day was a success. Many vendors participated and everyone was pinked-out for Paint the Town Pink. Adults and children had a great time. The food was excellent. The entertainment and K-9 demonstration was great and the weather was beautiful.

#### **1. Coffee with a Cop**

In a continuing effort to reach out to the community, the Ocean Township Police Department held "Coffee with a Cop" at Dunkin Donuts. It was a great success. Thank you all for attending.

With all of the negative news lately about law enforcement, it was very nice to see the residents come out and support our local police department. The Ocean Township Police Department is committed to the well-being of Waretown. We all thank them for their hard work and dedication to our community.

#### **2. Waretown Lake Tennis Courts**

In February, 2015, the Township awarded a contract for the reconstruction and renovation of the tennis and basketball courts at the Waretown lake along with reconstruction of the hard playing surfaces at Tuomey Park.

The work will be completed as of tomorrow, June 12<sup>th</sup>. There are still a few punchlist items that need to be taken care of prior to final payment. They will be ready for the residents to use them.

It is important that Waretown maintain and expand recreational opportunities in order to enhance the quality of life and overall property values of the Waretown community.

Deputy Mayor – Dennis F. Tredy

**1. Bryant Road**

At the February, 2015 Township Committee meeting, the Township awarded a contract for the reconstruction of the Bryant Road bulkhead and dock that was severely damaged by Superstorm Sandy.

These waterfront improvements will be funded by a combination of FEMA reimbursement, insurance proceeds and Township bonding. The project will greatly enhance the municipal bayfront facility at the end of Bryant Road and is consistent with the state direction of expanding and improving upon public access to the ocean and bay areas of the state.

The project is progressing and they are laying decking on the new T-Dock. The work is scheduled for completion before July 4, 2015.

**NJEIT – Skipper’s Cove/Pebble Beach – Water Sewer Replacement**

The contractor will be starting on Monday, June 15, 2015 in Pebble Beach, on Bayshore Drive.

**NJEIT – Emergency Generator Project**

There are 2 change orders on the agenda tonight for small changes in the contract. This project is moving forward and is almost complete at this time.

**Lightning Protection for Various Water/Sewer Treatment Plants**

The contractor has received the notice to proceed. The contractor will start work on Monday, June 15, 2015.

Deputy Mayor Tredy discussed Resolution 2015-206, Volunteer Tuition Credit Program. This program was presented a week ago by a fellow firefighter, Mike Roche. It is possible for a volunteer, their spouse and even their children to get a \$600 credit per year, if they attend a County college or vocational school after high school.

Diane Ambrosio, Municipal Clerk, researched the law and prepared a resolution to be voted on tonight. The requirements are minimal. The volunteer has to be considered a member in good standing in a particular squad or department. The money used to fund tuitions does not come from the Township. The college deducts the amount from your bill.

Committeeman – Joseph Lachawiec

Committeeman Lachawiec discussed having questions to ask Township Administrator Breeden, however the Administrator is not present tonight due to being ill.

Committeeman Lachawiec discussed the State Supreme Court threw out Chapter 78. The Governor does not have the authority to place funds into the pension system for public employees. If that is what the Supreme Court determined, Committeeman Lachawiec inquired why public employees have to continue putting in the extra 2-4% required under that same law and what happens to the money.

Committeeman Lachawiec discussed the money should be put in a restricted revenue account of some kind until this matter is settled.

Township Attorney McGuckin discussed the Supreme Court did not strike down the entire statute, although they had a chance to do so, they chose not to. The argument before the Supreme Court was the whole statute is illegal and the whole statute should be thrown out. The Court did not do that. The Court ruled and decided strictly on state constitutional grounds that the contract, which is embodied in the law, cannot require the state to incur future indebtedness. As a result, it is always subject to the budget process, therefore, the state does not have to make additional payments into the pension fund, in accordance with the statute.

As to whether or not the Township can withhold those funds from your pension payment, Township Attorney McGuckin does not believe the Township can, legally as a matter of law. By statute, those deductions are made just like the other pension payments, and are paid directly to the state. The Township receives a pension bill every month and is payable to the state. If the Township starts changing that amount and not paying what is required, the state will send a bill and if it is not paid, will deduct it from any state aid the Township receives.

The statute is still in effect. Employees are upset the state is not doing what is required in the statute. The Supreme Court did not throw out that statute and did not say the payments do not have to be made. The Supreme Court simply said the Governor and the state do not have to make additional pension payments in accordance with the statute, as that violates the state constitution.

Committeeman Lachawiec discussed putting into the budget \$50,000-\$75,000 for reviewing whether or not it would be viable to rework the solar farm at the landfill. The cost of installing solar from 2010 has gone down over 50%. There is a big push at the Pinelands Commission to allow South Jersey Gas to go through the Pinelands with part of their pipeline. If it does pass, the Township will have a better shot at going to the Pinelands Commission to allow the Township to put underground lines from the landfill to where the electric poles begin again at Wells Mills Park. The cost would probably only be a few million dollars versus the \$21 million Atlantic City Electric charged to send electric wires to Route 72 and back again and Route 559 to Savannah Drive. Atlantic City Electric received permission from the Pinelands Commission 10 years ago to run high tension lines along the parkway. If the Township can get permission from the Pinelands Commission to continue those lines to that point, then the cost of a small substation to get the electric into the power lines would only be a few million dollars.

Electric costs for the Township for Municipal uses is around \$400,000-\$500,000 per year. If the Township can build the solar field and lease it to the electric company for the amount of the Township's electric costs, the Township can save \$500,000 a year.

Committeeman Lachawiec inquired if \$50,000-\$75,000 could be inserted into the budget to review the whole solar matter and see if it would be worth it for the town to pursue this.

Deputy Mayor Tredy reminded Committeeman Lachawiec that at the last meeting, Deputy Mayor Tredy requested documentation to review from Committeeman Lachawiec. Mayor Wetter and Deputy Mayor Tredy never received the documentation and therefore cannot make a decision on this matter.

Mayor Wetter discussed the solar landfill has been off the table for years. More information on the matter is needed.

Committeeman Lachawiec is asking permission to hire a professional to write a report for their review and see if the Township can move forward.

Township Attorney McGuckin discussed inquiring with the Pinelands Commission to see if they will actually grant the pipeline. If they don't, the Township would not be spending money wisely. If they do, the Township might want to revisit it. If the Pinelands Commission does not grant the pipeline issue, the Township should wait.

Committeeman Lachawiec discussed if the Pinelands Commission allowed Atlantic City Electric to run high tension lines 30 miles through the forested areas, they will not deny the small amount the Township is asking for.

Deputy Mayor Tredy discussed his answer is no, to insert \$50,000 into the budget for this matter. If Committeeman Lachawiec would like to visit with the Pinelands Commission as an elected official and come back with a report as to how they feel about it, that's is a different story. Mayor Wetter suggested Committeeman Lachawiec start with a phone call to the Pinelands Commission.

### **Ordinance 2015-2 – Second Reading – Public Hearing**

Ordinance of the Township of Ocean, County of Ocean State of New Jersey Repealing and replacing Chapter 289 of the Township Code to be Entitled "Secondhand Dealers"

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

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

Joseph D. Coronato, Ocean County Prosecutor, discussed the second reading of Ordinance 2015-2 regarding Pawn Shops and Secondhand Dealers. Prosecutor Coronato requested the Township Committee adopt this ordinance tonight. This ordinance has been submitted to every municipality in Ocean County. Many municipalities in Ocean County are up and running with regard this ordinance. The information collected, as a result of this ordinance, has allowed the Prosecutor's Office to track individuals who have shoplifted or who have stolen property. It provides an opportunity for the items to be returned to the owners. In years prior, Police Officers would call other Police Officers in other towns to share the information. Now the information is shared through a computer generated program. When a

person wants to sell something of value to the shop, the seller's drivers license information is recorded and reported into the computer system.

The shop owner in Waretown has cooperated for many years with the Ocean Township Police Department and they have a very good relationship. The new procedure is more modern and sophisticated and will be shared with other police departments without officers having to physically go to other police departments.

Prosecutor Coronato highly recommends the Governing Body adopt this ordinance. It has become a valuable tool in Ocean County and will spread throughout the state of New Jersey. This system currently exists in Maryland and Delaware.

Committeeman Lachawiec discussed hypothetically selling \$5,000 worth of silver dollars to the pawn shop. The pawn shop gives Committeeman Lachawiec whatever the market value is and keeps a record of the transaction. Committeeman Lachawiec inquired if any Police Department in Ocean County can have access to that information.

Prosecutor Coronato discussed yes.

Committeeman Lachawiec inquired why, when he didn't do anything wrong.

Prosecutor Coronato discussed the seller didn't do anything wrong. It is no different if a car was sold or selling your house. If you sell your house, you can go online and see who the house was transferred to and the selling price.

Committeeman Lachawiec discussed that is a collection of data similar to what the NSA collected.

Prosecutor Coronato discussed let's assume Committeeman Lachawiec owned a coin collection that has been in the family for 100 years and someone comes in your house and steals it along with your mother's wedding ring. If the burglar sold those items to a shop in Lacey Township, at least you have a chance to get the items back or at least locate them.

If a person steals a Kurig coffee machine from Macy's, returns it to JC Penny for a gift card, they can then sell the \$120 gift card to a pawn shop for \$75.00. Now, that transaction will be able to be tracked. If someone sells 30 gift cards to a pawn shop every other day, that will raise a concern, and gives the Prosecutor an opportunity to see what's going on.

Township Attorney McGuckin discussed the database already exists. Under current law, that information is maintained by the property owner and provided to our Police Department anyway. This allows the information to be uploaded into a computer system so Police Departments can access it without driving to other towns.

Prosecutor Coronato discussed this also means the same information will be shared. Lacey Township might have just taken a picture of the drivers license. Now there are requirements of certain information so every Police Department will get the same information.

Mayor Wetter inquired if this includes all Police Departments in New Jersey.

Prosecutor Coronato discussed only Ocean County Police Departments will have access but he is hopeful to include other Counties. The system is already being implemented in Atlantic City and Egg Harbor Township. Other County Prosecutors are talking about implementing the system as well.

Brian Pizza, Waretown Stamp & Coin, Secretary to the Libertarian Party, discussed there is already an existing ordinance. The Police get this information anyway. The Prosecutor is talking about central-data basing this information. This information is going to a central database in Washington D.C. somewhere or in Maryland or Delaware. This information is going to be transported every day to a central database. These are the same Federal Supreme Court arguments that are being made about the bulk collection data. There is a clause at the end of this ordinance that actually says parts of this may be unconstitutional, Section 5 on Page 13.

Township Attorney McGuckin discussed that provision is included in every ordinance that is adopted by this Township or any other Township in the state. If there is a part of the ordinance that is held unconstitutional by a court, that statement says the rest of the ordinance remains valid.

Mr. Pizza inquired how this is not a violation of New Jersey citizens' privacy rights by sending this information to a central data base in Washington D.C.

Township Attorney McGuckin is not aware of any constitutional right that an individual has that provides protection of their sale of personal property to a pawn dealership, when the state has a corresponding interest of routing out crime on those issues. That is why the ordinances that are in place currently have already been held valid and constitutional.

Committeeman Lachawiec inquired if this ordinance is going to cost Mr. Pizza more money.

Mr. Pizza discussed it is going to cost more time. The original ordinance costs the pawn shop time. Every item is photographed per invoice. The ordinance reads that every coin in a coin collection will have to be photographed.

Prosecutor Coronato discussed the ordinance has no objection to one photograph of an entire coin collection, laying out all coins together. If one coin is worth \$1,000 in that collection, a separate photo is required. If a nickel collection is worth \$100-\$500, take one picture of all the coins laid out, which is what pawn shops have been doing. Mr. Pizza has been doing exactly what the Prosecutor's office wants. The only issue now is that it is going to be put into a database to be shared. That is a way in which the stolen property can be returned to the owners. In the four months this system has been implemented, the

Prosecutors office has been extremely successful. That is why Prosecutor Coronato is standing here today asking the Governing Body to adopt this ordinance.

Mayor Wetter discussed this ordinance actually protects the residents one step further.

Mr. Pizza discussed this ordinance will be trampling over the rights of thousands of people every day. Waretown Stamp and Coin submits thousands of invoices.

Township Attorney McGuckin discussed the ordinance that sits in place now is exactly the same as this ordinance as far as constitutional rights. There is no difference from a constitutional perspective on what Waretown Stamp and Coin does now.

Mr. Pizza discussed the current ordinance is trampling over people's rights now.

Township Attorney McGuckin discussed that is your opinion. The state and local government are allowed to require this information from pawn shops. The photographing of each individual item is different from the current ordinance. The Prosecutor interpreted that portion.

Mr. Pizza discussed the ordinance is left open ended, as far as where this information goes. It is at the discretion of the Chief of Police. One day the Chief of Police could say the information is going to a DHS or NSA data base. That should be a decision for the Committee to make.

Committeeman Lachawiec discussed the Prosecutor discussed this is only in Ocean County. This could possibly be the lead for the rest of the state. Committeeman Lachawiec inquired when the Prosecutor proposed this, if Waretown Stamp and Coin received a copy and a chance to make comments.

The Township of Ocean Police Department had a meeting with all affected business owners. The software company attended the meeting and explained the software. Business Watch International is the front end software that would be placed on the shops' computers and would be the gateway to the database. Waretown Stamp & Coin did not have a discussion about how this ordinance could be workable. It is mandated the shops use this software. Waretown Stamp & Coin would have to pay for the software.

Deputy Mayor Tredy discussed it is the cost of doing business. Deputy Mayor Tredy discussed knowing people who have experienced terrible loss. This ordinance would have saved them that loss. In this day and age, there is a heroin problem in Ocean and Monmouth County. Heroin addicts steal from their relatives. Under the old system, these family heirlooms end up being sold in New York or melted down so that it cannot be identified to the original owner.

Mr. Pizza's arguments about information being stored is invalid. Information is kept in Trenton from people's drivers licenses. That's the way it is today. That information protects people suffering personal loss, materials that have meaning to them or a lifesavings in gold coins. This is a good ordinance that should be supported. Waretown Stamp & Coin should support this ordinance. If every pawn shop in the

County gets on board, no one will have an advantage. It will not put Waretown Stamp & Coin in a disadvantage in a business sense. All shops will have to do the extra work.

Mr. Pizza discussed his customers know their personal information is going to be transferred to the police. The customers could go to a different Township or state that does not transfer their personal information. All this ordinance is going to do is chase people out of the Township.

This is a statistical game by the Prosecutors Office. This will show there are less stolen items being sold within Ocean County. While the Prosecutors Office is catching that one person, there are thousands of people whose information is now in that data base and will be made public record.

Township Attorney McGuckin discussed Waretown Stamp & Coin is licensed in the Township of Ocean. There is nothing requiring persons to go to Waretown Stamp & Coin. If Committeeman Lachawiec had items to sell, he could sell them on the internet or put an ad in the paper and not have to provide information. Waretown Stamp & Coin is licensed by the Township of Ocean because there is a public, criminal problem here that has to be addressed. That does not violate any person's constitutional rights, if the person goes to a pawn broker, knowing the requirements to sell something. That is the individual's choice.

Mr. Pizza discussed there is nothing in the ordinance that says shop owners should specify to people that the information is going to a data base in Washington D.C.

Township Attorney McGuckin discussed shop owners are going to ask for the customer's information and take photographs. Shop owners can tell them or not tell them their information is going to be shared. If their photograph is being taken, they should understand that the information is going somewhere.

Mayor Wetter discussed if a burglar brought stolen items in to sell and their picture was being taken, they would probably run the other way. Lt. Thompson sat down with Mr. Pizza at the Waretown Stamp & Coin business and discussed the ordinance.

Mr. Pizza discussed this ordinance will not guarantee that a lawsuit will not be brought against the Township or Waretown Stamp & Coin.

Township Attorney McGuckin discussed anyone can sue anyone and guarantees that the Township will not be found liable in any respect for adopting this ordinance from a monetary perspective nor will Waretown Stamp & Coin be found liable, as Mr. Pizza will be complying with the law.

Matthew Pizza, Waretown Stamp & Coin, discussed the functionality of the ordinance. Prosecutor Coronato discussed spreading out the coins. Sometimes Mr. Pizza can receive 500 bags of coins at one time. Stamps, baseball cards and wheat pennies come in large groupings. The ordinance says photograph each item.



Deputy Mayor Tredy discussed the ordinance gives the Chief of Police or designee a certain amount of latitude in the way the ordinance requirements take place.

Mr. Pizza did not interpret the ordinance that way and would like to take photos of the items in groups.

Township Attorney McGuckin discussed that discussion was had with Mr. Pizza and Lt. Thompson. If the Township of Ocean Police Lieutenant is fine with it, the Township Committee is fine with it.

Mr. Pizza discussed there are a few effective dates in the ordinance, Section 289:10 states July 1<sup>st</sup> for existing licensees, Section 289:11 states any dealer shall conform to the provision within 90 days and another Section states this ordinance will become effective after the second reading.

Township Attorney McGuckin discussed the second reading is tonight so assuming it will be adopted tonight, it will become effective in 20 days. New businesses will have to apply for a license within 90 days. Waretown Stamp & Coin is an existing business and will have to comply by July 1<sup>st</sup>.

Mr. Pizza discussed the ordinance does not mention anything about buying existing items back that the pawn shop sold to people. Obviously, the items are not stolen. It wouldn't be fair to make the people submit to all the requirements a second time. Mr. Pizza is sure the records being kept will be audited one day by the IRS.

Deputy Mayor Tredy discussed if a person brought ten \$10.00 bills to a bank to convert to a \$100.00 bill, there would not be a tax on that. There would not be a tax if someone sold there silver bars to Waretown Stamp & Coin and were paid an amount for them.

Township Attorney McGuckin discussed Mr. Pizza is saying the Township should not adopt the ordinance because people may have to pay taxes on income that is supposed to be reported anyway as a matter of law.

Mr. Pizza discussed that he did not say that but a cost basis has to be kept. Not everyone keeps a cost basis.

Committeeman Lachawiec inquired if this ordinance is the same exact ordinance, with no changes, for all 33 municipalities in Ocean County.

Prosecutor Coronato discussed he believes so.

Committeeman Lachawiec inquired if a municipality made changes to the ordinance.

Prosecutor Coronato discussed in some municipalities, there is a choice which the pawn shop can pick, per transaction, or a set fee for the entire year. Some municipalities have changed what that amount is going to be. It's \$250 for the entire year and each transaction would be \$0.25 or \$0.15.

Committeeman Lachawiec inquired how many municipalities have passed this ordinance.

Prosecutor Coronator discussed the ordinance was presented to every municipality in Ocean County. At least 30 municipalities have adopted the ordinance. Toms River, Manchester, Stafford and Brick have adopted the ordinance. The ordinance is also spreading to Burlington County and Atlantic County. People trying to pawn stolen merchandise are going to find it very difficult. The pawn shop will also be protected.

Committeeman Lachawiec inquired if Waretown Stamp & Coin is not up and running by July 1<sup>st</sup>, is it up to the discretion of the Police Department to enforce compliance.

Prosecutor Coronato discussed yes, it is up to the Lieutenant of the Police Department. It is important for the Police Department to cooperate with the local businesses.

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

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

**Motion to approve Ordinance 2015-2** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

### **Ordinance 2015-3 – Second Read– Public Hearing**

Ordinance of the Township of Ocean, County of Ocean State of New Jersey establishing Chapter 290 of the Township Code to regulate Scrap Metal Dealers

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

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

Prosecutor Coronator discussed this ordinance is for tracking metals, copper tubing or stolen metals. This ordinance goes together with the Secondhand Dealers ordinance and does make a difference in tracking stolen precious metals.

Committeeman Lachawiec discussed having three bicycles stolen in the last 10 years and inquired if the pawn shops would have to take a picture and record the serial number of each bike.

Prosecutor Coronato discussed there is a data base that will report weighted metals. The answer is yes but it is not positive it will be able to track stolen bikes. This system does cover many things. For an example, Prosecutor Coronato bought three iPhone 6 for his family members over the holidays. A family member sold the old iPhones to Best Buy in Brick. Since Brick adopted the ordinance, the Best Buy in Brick tracked the iPhone and the family member's name came up in the system. Obviously, nothing was

done illegally, but your name does go into a database and can be tracked. The same thing will happen with metals.

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

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

**Motion to approve Ordinance 2015-3** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

Rob Clifton, Senior Director of Comcast Government Affairs, discussed this ordinance is nearing the end of a mandated process. The current Certificate of Approval (C.O.A.) expired on October 10, 2011. The COA is a document that a cable company needs in order to operate a cable television system in New Jersey. The Board of Public Utilities issues it after municipal consent and the cable company application has been reviewed for compliance with State and Federal law. This process began in November 2008, when Comcast set forth a 626 Letter, which is Section 626 of the FCC Guidelines for cable television renewal.

Upon close of the public hearing, the Governing Body will issue a consent ordinance or a resolution of denial. If consent is granted, the certified ordinance will be presented as a petition to the state of New Jersey Board of Public Utilities for the renewal of the COA. The consent ordinance that Comcast is seeking is a simple right of way for the renewal of the certificate of approval. It is not a contract that obligates the municipality to do anything, except allow Comcast to continue to run the plant along municipal rights of way where they currently are.

It is nonexclusive, which means any other cable provider could come before the Township Committee and offer the same services Comcast does. About five years ago the law was changed to give cable operators the option of either continuing the process or to file for a statewide franchise, which would allow Comcast to avoid the municipal process and have the state grant Comcast a COA to operate in the municipality. Comcast has chosen to stay with the traditional way. Every municipality is different and everyone's cable needs are different.

There are four criteria in which the Governing Body must use to approve or deny. 1. Has the cable operator complied with the existing franchise. 2. Has the operator service been reasonable. 3. Does the operator have the financial and technical ability to provide services. 4. Is the operator's renewal proposal sufficient to meet the future cable needs of the municipality.

There are two areas in which the Township cannot deny, rates and programming. Rates are governed by the state. The Channel lineup is protected under the first amendment, such as newspaper content.

Mr. Clifton had meetings with Township Administrator Breeden in the past and looks forward to continuing discussions. The current franchise expired four years ago.

Committeeman Lachawiec discussed the franchise was approved four years ago.

Township Attorney McGuckin discussed the Township negotiated with Comcast. There was never a final resolution.

Mr. Clifton discussed the municipality never had a public hearing, which is a requirement. Comcast and the municipality have been in discussions.

Township Attorney McGuckin discussed this public hearing was going to be held six months ago, but could not be heard at that meeting. The next meeting it was scheduled for was cancelled due to snow. The statute requires a specific notice. All of that had taken place in addition to discussions regarding what Comcast may or may not be able to do.

Committeeman Lachawiec discussed this is about franchise fees.

Mr. Clifton discussed the municipality will continue to receive its franchise fees. The franchise fees are 2% of the reoccurring basic revenue. The municipality receives a check every January 25<sup>th</sup> and one free cable outlet in each municipal building, each school and each library and one free internet outlet in each school and each library. This franchise only governs cable television and does not oversee internet or the phone product. For education institutions Comcast provides free internet to one non-network computer.

Committeeman Lachawiec inquired how Comcast separates television, internet and telephone when it comes through the same line.

Mr. Clifton discussed the television fiber optic cable that runs down is used for cable television for internet for phone and home security, which is part of the internet product. Federal law does not regulate internet. The state of New Jersey regulates the telephone product. The only thing discussed with Municipalities is the cable portion of it.

Committeeman Lachawiec discussed paying for 100MB per second internet speed, but is only getting 40MB.

Mr. Clifton discussed Committeeman Lachawiec should call Comcast to schedule a technician to come out to find out what the problem is. There should not be a degradation signal like that. Comcast monitors nodes, which is a piece of equipment out in the field that feeds all video, phone and internet traffic to 500 homes in an area. If the speeds are dropping off significantly, then repairs are made to the node. It may be local or a wiring problem in your house. If Committeeman Lachawiec and his neighbors are seeing it, it is a wider issue and that area needs to be addressed.

Township Attorney McGuckin discussed this is a Public Hearing on the cable issue. Committeeman Lachawiec can ask Mr. Clifton about wifi another time.

Committeeman Lachawiec discussed there are Comcast cables that bring wifi and telephone into a consumer's home. The Township is introducing an ordinance regarding that cable, which is also used for wifi and telephone.

Mr. Clifton discussed Comcast's main competitor is Verizon Fios. The fiber used by Comcast is more than sufficient to run the signals through that one piece of fiber for all the products. Comcast does not have control over every Netflix subscriber going on the internet at one time. Comcast has been working with Amazon, Netflix and Google to make sure that those degradations do not happen.

When Comcast took over from Adelphia 14 years ago, \$25 million was spent in the southern part of Ocean County to upgrade the system. On Long Beach Island and in the southern part of the County, Comcast put about \$20 million into the ground and in the air to upgrade the system. The system here is the same system in the suburbs of Philadelphia. Verizon uses almost the same type of infrastructure. It is more than sufficient. Any major issues are probably localized and can be addressed. Mr. Clifton cannot say it will work at 100% optimal speed every single time. There will be times when traffic is heavy and low. Comcast does its best to make everyone's internet as fast as possible.

Deputy Mayor Tredy discussed not being happy with Comcast Customer Service. After comparing his Comcast bill with a neighbors, Deputy Mayor Tredy discovered he was paying more than the neighbor and getting less services. Deputy Mayor Tredy called customer service and was promised additional free channels and was instructed to make an appointment. Customer service also informed Deputy Mayor Tredy that his cable boxes needed to be upgraded. The first technician installed all new boxes and then realized the wiring in the house does not support the new boxes. The technician removed all the boxes and changed them. Before the technician left, only four of the 5 televisions worked. The technician worked on the one television for an hour and could not fix it. The technician discussed Deputy Mayor Tredy will get a call from a Supervisor the next day. The Supervisor never called. A few days later, Deputy Mayor Tredy called Comcast and a new technician was scheduled. The new technician was unable to locate the junction box or where it connects to the house and was unable to fix it.

Deputy Mayor Tredy called Comcast again and was told by a Supervisor that a technician will be out Saturday and will fix everything. No one showed up on Saturday. Deputy Mayor Tredy called on Monday and Comcast said there was no record of a technician scheduled on Saturday. A few days later, another technician arrived and told Deputy Mayor Tredy the cables were no good and he would have to pay for an electrician and new cables and someone would get back to him. Many people are not compensated for their hours on the phone with customer service or hours waiting for a technician.

Mr. Clifton discussed about three or four months ago, Comcast implemented a new customer service software system, which better identifies the correct technician to be dispatched. CEO Brian Roberts, whose father founded the company, made an announcement last week that Comcast is hiring 5,500 new customer service representatives who work here in the United States. There will also be roving

technicians, when a technician has an issue, they will call a Supervisor already on the road, who will be dispatched to assist that technician. Comcast will be working to create “uber-technology” for customers, where customers can see a picture of the technician and monitor when the technician is going to arrive. If the technician misses the appointment, it will automatically generate a \$20.00 credit to your bill. Customers will have a name, face and a number of who is coming to the house. Also, the technician will call if they are running five minutes late.

Mayor Wetter inquired about lowering the rates and HBO programming.

Mr. Clifton discussed except for NBC or the NBC companies, like Bravo or MSNBC, Comcast has no control over programming. Comcast merged with NBC and buys channels from the other network providers. The rate base is negotiated on how many customers are in New Jersey and how many channels are purchased. When a channel is purchased, it comes with other channels. The network providers set the rates for their channels. The rates are all based upon the negotiated contracts with these providers. Comcast only receives revenue from its customers. In order for Comcast to provide the programming, Comcast has to pay the programmers. Comcast’s cable rate increases have been approximately 2% every year. Internet and telephone are different.

Committeeman Lachawiec inquired why Comcast does not provide a service similar to utility, where customers can pick which channels they want.

Mr. Clifton discussed if a customer picked the Fox channel, based on 1.1 million customers, if Comcast only sells to the customers that want it, that number may drop down to 200,000 customers. The price now at the rate per 1.1 million customers, will jump because Fox will sell it for the same amount.

Township Attorney McGuckin discussed this is the Comcast Public hearing. Mr. Clifton has given the public Comcast’s position on their cable franchise renewal.

Mr. Clifton discussed sending the Township an offer for a 25 year franchise, which is a 15 year franchise with an automatic 10 year renewal. The ten year renewal begins only if Comcast has met all the requirements within the franchise. The other offers were a 15 year franchise or a 12 year franchise.

The offer was a 15 year franchise plus 10 years-\$30,000 one-time municipal grant, for 15 years-\$22,000 one-time municipal grant, and for 12 years-\$17,500 municipal grant. It is based on the Township’s subscriber base, which is approximately 2,300 customers. Gloucester, Pine Hill and Stone Harbor were given the same offers. The offers will continue to include free cable television for the municipal buildings.

Township Attorney McGuckin discussed the Township could agree to a shorter franchise but the Township doesn’t know where cable television is going to be 25 years from now. Twelve years from now, customers may be getting all their television from the internet or free.

Mr. Clifton discussed all the franchises in the last five years average about 22 years.

**Ordinance 2015-6 – First Reading – Title Only – Comcast Cable Franchise**

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST OF NEW JERSEY. TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN OCEAN TOWNSHIP, NEW JERSEY

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

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

Dan Collamer, 24 Bay Parkway, inquired if there are other cable companies interested in coming to the Township.

Township Attorney McGuckin discussed Verizon received a statewide franchise based on certain promises that there would be Verizon Fios available throughout the state by now. Verizon has not met that promise.

Mr. Collamer inquired if there is any real expedience that benefits the Township to move forward or should the Township solicit other providers to submit proposals.

Mr. Clifton discussed it is not exclusive, which means another provider could come in. If Comcast fails to come up with an agreement, Comcast would go in front of the Board of Public Utilities (BPU) and the Board would not expect Comcast to rip the lines and the plant out of the Township. BPU would work out some sort of agreement or impose one on Comcast to operate.

Mr. Collamer discussed there is nothing limiting the Township from talking to other providers.

Township Attorney McGuckin discussed the Township could do that at any time and will continue to do so, no matter what happens here. The franchise expired a number of years ago, so the Township is under a little bit of pressure. The Township is still receiving its cable fee check every January 25<sup>th</sup>. If the BPU takes control over the matter, the \$25,000 could be removed from the offer. That is the incentive to get this done.

Mr. Collamer requested the Township consider those items in making their decision and suggested going with a shorter term.

Deputy Mayor Tredy discussed if the 2% is a standard in all Townships.

Mr. Clifton discussed yes, it is 2% on the basic, which is approximately \$15 per month, reoccurring revenue. Under the law that gave Verizon the opportunity to operate here as a video service, when they started construction, they had to pay 3.5% franchise fees on the total cable bill, which is a much larger percentage than on the basic cable bill. When Verizon is able to service 60% of a community, the incumbent cable operator, which is Comcast, would also have to provide 3.5% of the total bill. That is

state law. Toms River went from \$100,000 to \$580,000, because Comcast had to pay a higher percentage on now a larger bill.

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

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

Committeeman Lachawiec discussed the Township should negotiate a better deal. The Township had a similar situation with New Jersey Natural Gas.

Mr. Clifton discussed if the Township or Comcast cannot agree, BPU would have Mr. Clifton and Township Attorney McGuckin sit in the BPU offices in Trenton with a BPU representative, probably Nancy Wolfe and try and come to an agreement. There will be no going to court or talking to judges. Comcast has never gotten to that point.

Township Attorney McGuckin discussed assuming the Committee wishes to introduce the ordinance tonight, before there is a public hearing and before you vote on the adoption of the ordinance, the hearing would be concluded tonight and the Township Committee can decide if the ordinance should be introduced tonight. If the Township Committee chooses not to adopt or delay that ordinance at the time of the public hearing, that is the choice of the Township Committee.

The Township Committee's options are to do nothing and keep the matter open, introduce the ordinance and finalize negotiations before it is adopted, or tell Comcast no, and ask for the BPU to intervene. Township Attorney McGuckin discussed those are the three options at this point.

Mr. Clifton will email Township Attorney McGuckin the offer that was sent a while back and a draft ordinance that has been used in 250 municipalities and has been approved by the BPU, for your review.

Comcast bases its grants on the amount of customers in the municipality. Comcast will not give the Township of Ocean \$100,000 based on their subscribers and the town next door with the same amount of subscribers \$25,000.

**Motion to approve Ordinance 2015-6** was moved by Deputy Mayor Tredy, seconded by Mayor Wetter.

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

### **PUBLIC PORTION:**

**Motion to open Public Comment** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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



No comment from the public.

**Motion to close Public Comment** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

**Resolution 2015-205** Payment of Claims – as presented to the Township Committee for payment thereof in the amount of \$8,245,383.90

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

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

**Ordinance 2015-4 – Second Reading – Public Hearing**

An Ordinance of the Township Committee of the Township of Ocean, County of Ocean, State of New Jersey amending Chapter 410-8, Definition of “Building Height” of the Township Code

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

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

No comment from the public.

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

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

**Motion to approve Ordinance 2015-4** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

**Ordinance 2015-5 – Second Reading – Title Only**

Ordinance of the Township of Ocean, County of Ocean State of New Jersey amending Chapter 135-25 “fees for Permits” of the Township Code to Comply with recent changes to the Uniform Construction Code

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

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

No comment from the public.

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

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

**Motion to approve Ordinance 2015-5** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

**Ordinance 2015-7 – First Reading – Title Only**

AN ORDINANCE OF THE TOWNSHIP OF OCEAN, OCEAN COUNTY, STATE OF NEW JERSEY AMENDING THE CODE OF THE TOWNSHIP OF OCEAN, BY ADDING A SECTION ENTITLED WATER CONSERVATION.

**Motion to approve Ordinance 2015-7** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

**Resolution 2015-206**

Resolution authorizing the Volunteer Tuition Credit Program as set forth the P.L. 1998, c 145 is herewith adopted for the volunteer firefighters and emergency medical volunteers in the municipality

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

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

- 2015-207 Resolution authorizing Ken Dean to be as designee for the Pineland Municipal Council for the year 2015
- 2015-208 Resolution authorizing Lifeguard/Recreation Aides for 2015
- 2015-209 Resolution authorizing Seasonal Employee for Department of Public Works
- 2015-210 Resolution authorizing Disposal of surplus property of the Township of Ocean, County of Ocean, State of New Jersey
- 2015-211 Resolution authorizing emergency temporary appropriation to the 2015 Temporary Operating Budget in the amount of \$1,555,000.00
- 2015-212 Resolution authorizing emergency temporary appropriation to the 2015 Temporary Open Sapce Operating fund in the amount of \$70,000.00
- 2015-213 Resolution authorizing emergency temporary appropriation to the 2015 Water Utility Operating Budget in the amount of \$1,010,000.00
- 2015-214 Resolution authorizing a Utility Credit for 17 Bayview Drive in the amount of \$234.50

- 2015-215 Resolution authorizing a Utility Credit for 99 Bonita Road in the amount of \$144.08  
2015-216 Resolution authorizing a Utility Credit for 110 Whippany Road in the amount of \$102.66  
2015-217 Resolution authorizing the Township of Ocean to donate cellphones and accessories to Cellphone for Soldiers Program and/or Ocean County Prosecutor's office for Domestic Violence
- 2015-218 Resolution authorizing the return of escrow to 48 Illinois Ave in the amount of \$50.50  
2015-219 Resolution authorizing the return of escrow to 372 Route 9 in the amount of \$438.00  
2015-220 Resolution authorizing the return of escrow to block 195, Lot 8 in the amount of \$93.85  
2015-221 Resolution authorizing the return of escrow to 22 Shore Road in the amount of \$93.65  
2015-222 Resolution authorizing the return of escrow to 16 One Eye Way in the amount of \$153.98  
2015-223 Resolution authorizing the return of escrow to Block 272, Lot 361 in the amount of \$63.00  
2015-224 Resolution authorizing the closing of TD Bank Account for the Robin Hood Foundation  
2015-225 Resolution authorizing a Utility Leak Credit for 275 Bayshore Drive in the amount of 1,140.89
- 2015-226 Resolution authorizing a Utility Leak Credit for 241 Montclair Road South in the amount of \$164.44
- 2015-227 Resolution authorizing a Utility Leak Credit for 32A Denville in the amount of \$177.96  
2015-228 Resolution authorizing and supporting New Jersey Wildlife Action Pledge  
2015-229 Resolution authorizing and supporting Sustainable Land Use Pledge  
2015-230 Resolution recognizing May 2105 as Older American's Month  
2015-231 Resolution authorizing a property maintenance lien on 2 Chickasaw in the amount of \$53.23
- 2015-232 Resolution authorizing a property maintenance lien on 32 Laurelwyck in the amount of \$957.20
- 2015-233 Resolution authorizing change order #1 for Emergency Generator Installation and Electrical improvements at Water Treatment Plants in the amount of \$32,129.00 – Sanitary Sewer
- 2015-234 Resolution authorizing change order #1 for Emergency Generator Installation and Electrical improvements at Water Treatment Plants in the amount of \$3,187.20 –Potable Water
- 2015-235 Resolution authorizing appointment of Assistant Code Enforcement Officer for the year 2015
- 2015-236 Resolution authorizing execution of Right-of-Way use Agreement with Cross River Fiber, Inc.

**Motion to approve Resolutions 2015-207 through 2015-236** was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

**Resolution 2015-237**

**Resolution authorizing the adoption of the Floodplain Management Plan that was prepared in accordance with the requirements outlined in the National Flood Insurance Program Community Rating System coordinator's manual and adopted at the May 7<sup>th</sup> Planning Board Meeting**

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

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

**Resolution 2015-238**

**Resolution authorizing emergent basic life support services for Quality Ambulance Service**

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

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

**Resolution 2015-239**

**RESOLUTION AUTHORIZING REQUEST FOR PROPOSALS FOR PROVISION OF BASIC LIFE SUPPORT / EMERGENCY MEDICAL SERVICE.**

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

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

**Motion to approve the below listed dates in 2015 for the use of the Community Center and Waretown Memorial Recreation Park:**

1. Barnegat Recreation Summer Camp – June – August
2. Warren and Jessica Sutton – July 4, 2015
3. L.E.A.D. Inc – Law Enforcement Against Drugs – July 13, 2015
4. Kathleen Ruprecht – April 25, 2015
5. Susan Appleton – June 13, 2015
6. Erica Kelly – June 20, 2015
7. Kimberly Howcroft – June 21, 2015
8. Tim & Kathy Toumey – July 19, 2015
9. Pamela O’Cone – August 2, 2015

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

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

**Motion to approve: Pet Shop License – Pat’s Pups**

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

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

**Next Scheduled Meeting - July 9, 2015 at 6:30 pm**

**Adjournment:**

Motion to adjourn was moved by Committeeman Lachawiec, seconded by Deputy Mayor Tredy.

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

Signed and Submitted:

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Diane B. Ambrosio, RMC

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Date

Municipal Clerk