

**CALL TO ORDER**

Mayor George Piazza called the meeting to order at 7:00 p.m. and stated that in compliance with the “Open Public Meeting Act” this is a Regular Meeting of the Township Committee as published in the Hunterdon Review, the agenda has been posted at the Municipal Building and distributed to the Hunterdon Review, Courier News, the Express Times, the Hunterdon County Democrat and the Star Ledger.

**FLAG SALUTE**

Mayor George Piazza asked everyone to stand for the Flag Salute and for a Moment of Silence.

**ROLL CALL**

Present -	Patricia Schriver	George Piazza	Francis Morrison
	Brian Wunder	Ron Milkowski	

Absent

Also Present - Attorney Dick Cushing, Clerk Karen Sandorse and 8 members of the public.

**PRESENTATION OF MINUTES**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the regular meeting of July 6, 2011.*

*Motion by Mr. Wunder, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the executive session of July 6, 2011.*

**PUBLIC COMMENTS – for agenda items only.**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee opened the public comment portion of the meeting.*

There were no comments from the public

*Motion by Mr. Wunder, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting.*

**RESOLUTIONS**

**Resolution No. 56-2011 – Authorize the Lease-Purchase of a 2011 Chevy Tahoe  
(Amending Resolution No. 54-2011)**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 56-2011 as written below.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 56-2011  
AMENDING RESOLUTION NO. 54-2011  
LEASE/PURCHASE OF A POLICE VEHICLE

WHEREAS, the Township of Lebanon wishes to lease/purchase a Police Vehicle from an authorized vender under State Contract;

WHEREAS, the purchase of goods and services by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A. 40A:11-12; and

WHEREAS, Mall Chevrolet Inc. has been awarded the State Contract No. 78763, expiring on March 22, 2012; and

WHEREAS, the actual cost for the Police Vehicle is expected not to exceed \$38,497.00; and

WHEREAS, the Chief Financial Officer has certified the availability of \$12,832.36 under the 2011 Police Department Current Budget and the balance pending funding in subsequent budgets.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Committee of the Township of Lebanon, that Mall Chevrolet Inc. be awarded a contract for the lease/purchase of a Police Vehicle.

**Resolution No. 57-2011 – Chapter 159 – Recycling Tonnage Grants**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 57-2011 as written below.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 57 -2011  
CHAPTER 159

WHEREAS, N.J.S.A 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

SECTION 1,

NOW, THEREFORE BE IT RESOLVED that the Township of Lebanon, Hunterdon County, hereby requests the Director of the Division of Local Government Services to approve the increase of \$ 2,530.62 for an item of revenue in the budget of the year 2011 as follows:

Miscellaneous Revenues –  
Revenue Offset with Appropriations – Recycling Tonnage Grant  
Total with increase to be \$ 2,530.62

SECTION 2,

BE IT FURTHER RESOLVED that a like sum o \$ 2,530.62 be and the same is hereby appropriated under the caption of:

General Appropriations -  
Public & Private Programs Offset by Revenues – Recycling Tonnage Grant  
State/Federal Share       \$ 2,530.62  
Non State Share               \$  
Total with increase to be \$ 2,530.62

FURTHER RESOLVED that two certified copies of this resolution with a copy of the appropriate documentation be forwarded to the Division of Local Government Services.

**Resolution No. 58-2011 – Amending the Capital Budget**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 58-2011 as written below.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
A RESOLUTION NO. 58-2011

WHEREAS, the Township of Lebanon desires to constitute the 2011 Capital Budget of said municipality by inserting therein Various Capital Projects:

*DPW Vehicle and Apparatus, Road Resurfacing of Various Township Roads, Supplemental Funding of DPW Garage, Amendment of Ordinance #2007-10 for Inclusion of Fire Department ATV and Ambulance Equipment.*

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lebanon as follows:

Section 1. The 2011 Capital Budget of the Township of Lebanon is hereby constituted by the adoption of a schedule to read as follows:

PROJECT NO. 2  
CAPITAL BUDGET OF THE  
TOWNSHIP OF LEBANON, COUNTY OF HUNTERDON,  
NEW JERSEY

Projects Scheduled for 2011  
 Method of Financing

<u>PROJECT</u>	<u>ESTIMATED COST</u>	<u>BUDGET APPROP.</u>	<u>CAPITAL IMPROVEMENT FUND</u>	<u>CAPITAL SURPLUS</u>	<u>GENERAL BONDS</u>
As Stated Above	\$485,000.00		\$24,175.00	NONE	\$460,825.00

Section 2. The Clerk is authorized and directed to file a certified copy of this resolution with the Division of Local Government Services, Department of Community Affairs, State of New Jersey, within three days after the adoption of this project to be included in the 2011 Permanent Capital Budget as adopted.

**ORDINANCE**

**Introduction**

**Ordinance No. 2011-07 - Bond**

*Motion by Mr. Wunder, seconded by Ms. Schriver, and carried by favorable roll call vote, the Township Committee approved Ordinance No. 2011-07 on first reading. AYES: Morrison, Schriver, Piazza, Wunder ABSTAIN: Milkowski (As entitled below).*

TOWNSHIP OF LEBANON  
 COUNTY OF HUNTERDON  
 STATE OF NEW JERSEY  
 ORDINANCE 2011-07

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF A NEW AUTOMOTIVE VEHICLE, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE TOWNSHIP OF LEBANON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$450,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION, TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS AND TO AMEND BOND ORDINANCE NO. 2007-10 ADOPTED ON JUNE 20, 2007.

**Public Hearing to be held on August 3rd, 2011**

Mr. Milkowski stated that he had asked for a plan to be put together to eliminate the high numbers of hours that the DPW employees are driving during winter storms. DPW Manager, Warren Gabriel stated that he will need a guideline from the Township Committee as to what they are looking for and the amount they are willing to spend for this plan. Mr. Gabriel asked how many hours the Township Committee would like the employees to be on the road during a storm. Mr. Milkowski stated that if Mr. Gabriel informs the Township Committee of the numbers of drivers he will need then the Committee will come up with the numbers. Mr. Wunder thanked Mr. Gabriel for providing the Committee with an inventory of the DPW vehicles.

## **OLD BUSINESS**

### **Maple Lane Drainage**

Mayor Piazza stated that Mr. Gabriel provided the Township Committee with the estimated cost of approximately \$24,000.00 for labor and equipment to complete the drainage project. The cost for materials is estimated at \$18,000.00, with a total project cost of approximately \$42,000.00. Two residents have stated that they are willing to contribute 1/3 of the cost for materials, at \$6,000.00.

Attorney Cushing has a conflict with the project therefore, the Clerk and DPW Supervisor will request that Attorney John Gallina prepare an agreement and to negotiate with the other parties.

*Motion by Mr. Wunder, seconded by Mr. Morrison and carried by favorable roll call vote, the Township Committee authorized Attorney Gallina to draft an agreement and to negotiate with the principal parties. AYES: Morrison, Piazza, Milkowski, Wunder ABSTAIN: Schriver*

### **Mayor Statements**

Mayor Piazza stated that he and Mr. Milkowski attended the Planning Board meeting last night. Discussion was held on Outside Wood Boilers along with a request from the Zoning Officer relative to such. The Board also discussed Solar Panels. There will be an expert at the next Planning Board meeting to provide the Board with information on solar panels. The application for the Cell Tower was turned down.

Mr. Milkowski stated that the Alternative Energy Ordinance was fine tuned relative to the Outdoor Wood Boilers. The Ordinance will be sent to the Township Committee for their consideration

## **NEW BUSINESS**

### **Municipal Alliance Renewal Application 2012**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by favorable roll call vote, the Township Committee approved the Municipal Alliance Renewal Application for the 2012 and authorized the Mayor to sign.*

### **Raffle Applications (2) – St John Neumann Church – October 14, 2011 – November 5, 2011**

*Motion by Mr. Wunder, seconded by Ms. Schriver and carried by favorable roll call vote, the Township Committee approved two (2) Raffle Applications for St John Neumann Church for events to be held on October 14, 2011 and November 5, 2011.*

## **PRESENTATION OF VOUCHERS**

Committee Members provided a description of vouchers exceeding \$1000.00.

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved the July 20, 2011 bill list in the amount of \$571,420.45.*

## **CORRESPONDENCE**

- a. Notification – 4 Day Walking Pilgrimage

## **PUBLIC COMMENTS**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting.*

Ms. Nancy Darois inquired on the status of the Township DPW Garage project and the status of the Rescue Squad Bankruptcy.

Mr. Brain Plushanski, a local excavating contractor, informed the Township Committee that he has preformed work for the Township Garage project and stated that he has been informed that there is a possibility that the building contractor will no longer be on the job. Mr. Plushanski asked what will happen to the sub-contractors. Attorney Cushing stated that the matter will be discussed in Closed Session and will be further discussed when the public meeting resumes.

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting.*

## **EXECUTIVE SESSION**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No.59-2011 and convened in executive session at 7:45 p.m. It is not anticipated that action will be taken at the close of the meeting.*

### **TOWNSHIP OF LEBANON RESOLUTION NO. 59-2011**

BE IT RESOLVED by the Mayor and Township Committee of the Township of Lebanon, that in compliance with N.J.S.A. 10:4-12, this meeting will be closed to the Public to discuss the following matters:

Contract Negotiations  
Potential Litigation  
Existing Litigation -Tilcon  
Personnel  
Collective Bargaining

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee reconvened the Regular Committee meeting at 8:35p.m.*

Attorney Cushing stated that during the Executive Session the Township Committee discussed the matter of the DPW Garage Project. Attorney Cushing stated that the Township Committee will be voting on a Resolution entitled; Resolution Terminating Contract for DPW Garage and Salt Storage Building and Authorizing the Letting of New Bids for the DPW Garage and Salt Storage Building. Attorney Cushing stated that there were bids let for this project a period ago. The original low bidder could not carry out the project for various reasons therefore, the Township engaged with the second low bidder, Walter H. Poppe Contracting to construct the DPW Building and Salt Storage Building. The contract and the bid specifications required Poppe to provide a Performance Bond and certain insurance documents. Poppe began construction prior to the Township realizing that they had not received the Performance Bond or a Builders All Risk Policy in a form that is acceptable to the Township's Insurance Agent. Attorney Cushing noted that a Performance Bond is a very important element on a construction project. The Township has made a demand to Poppe to attain and provide the Performance Bond to the Township on a number of occasions. Attorney Cushing stated that there have been discussions between his office and Mr. Poppe. Mr. Poppe made promises that the Performance Bond would be supplied however, it never materialized. Attorney Cushing stated that he wrote to Mr. Poppe's attorney stating that Mr. Poppe had to provide a Performance Bond by July 5, 2011 or he would be terminated. There was no Bond provided and the Township Committee authorized Attorney Cushing to write to Mr. Poppe to inform him that if he did not provide the Performance Bond by this meeting he would be terminated effective July 28, 2011. The difference between the meeting being held on July 20, 2011 and the July 28, 2011 due date, is a requirement in the contract of seven (7) days notice to actually terminate. Attorney Cushing stated that there were discussions between the Township Architect and Mr. Poppe's office today and the Architect was again told that Mr. Poppe will probably be obtaining a Performance Bond to submit at this meeting. At six o'clock this evening, the Architect spoke to Mr. Poppe and was informed that he does not have the Performance Bond and that he would not be in attendance at the Committee meeting to respond. Attorney Cushing advised all sub-contractors to submit a lien claim to the Township. The Township is holding funds that would have been due to Mr. Poppe for work that has been completed to date. The money will not be paid over to Mr. Poppe until such time as the Township is made whole and until the lien holders are paid out of any proceeds which the Township has left over in connection with this particular project.

**Resolution No. 60-2011**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 60-2011. (As written below)*

**TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 60-2011**

**RESOLUTION TERMINATING CONTRACT FOR DEPARTMENT OF PUBLIC WORKS  
GARAGE AND SALT STORAGE BUILDING AND AUTHORIZING THE LETTING OF  
NEW BIDS FOR THE DEPARTMENT OF PUBLIC WORKS  
GARAGE AND SALT STORAGE BUILDINGS**

**WHEREAS**, the Township of Lebanon ("Township") went out for bids for the construction of a New Public Works Garage and Salt Storage Building on November 4, 2009; and

**WHEREAS**, the original low bidder could not carry out the project; and

**WHEREAS**, the Township then engaged the second low bidder, Walter H. Poppe General Contractors, Inc. ("Poppe") to construct the New Public Works Garage and Salt Storage Building; and

**WHEREAS**, the Contract with Poppe and the bid specifications required it to provide a Performance Bond and to comply with certain insurance requirements; and

**WHEREAS**, Poppe began construction, but it was then discovered that it did not have a Performance Bond as required by the Contract, and Poppe has not yet complied with all the insurance requirements, i.e., it has not supplied a Builders All Risk Policy in a form agreeable to the Township's insurance agent; and

**WHEREAS**, a Performance Bond includes the obligation by the issuer of the bond to complete the work on the project and to pay material men and subcontractors, if the contractor does not do so; and

**WHEREAS**, the bid specifications called for Builders All Risk coverage which would protect the interest of the Township under certain circumstances; and

**WHEREAS**, Poppe has been given the opportunity to supply a Performance Bond and the insurance, but has failed to do so; and

**WHEREAS**, the architect, in accordance with the terms of the Contract, has certified that a Performance Bond and compliance with the insurance contracts are material terms of the Contract; and

**WHEREAS**, it is the best interest of the Township not to allow the contractor to proceed with the work without a Performance Bond and without supplying the required insurance; and

**WHEREAS**, Poppe has done certain work and the architect has certified that certain sums are due to Poppe; and

**WHEREAS**, the Township is currently unaware of whether all of material men and subcontractors have been paid any amounts due to them; and

**WHEREAS**, material men and subcontractors may have a lien for any unpaid amounts; and

**WHEREAS**, the Township is currently unaware of whether the New Public Works Garage and Salt Storage Building can be reconstructed for the Contract sum and will not know this until after new bids are met and awarded; and

**WHEREAS**. It is in the best interest of the Township to hold all sums that may be due to Poppe until such time as the Township determines the consequences of the breach of contract by Poppe; and

**WHEREAS**, it is necessary for the New Public Works Garage and the Salt Storage Building to be constructed as soon as reasonably possible so that the Township's public works operations can be relocated to the new facilities and Township equipment stored in the new facility; and

**WHEREAS**, it is, therefore, necessary to authorize the Township engineer and architect to prepare new bid specifications to complete the New Public Works Garage and Salt Storage Building.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Committee of the Township of Lebanon, County of Hunterdon, New Jersey, as follows:

1. Walter H. Poppe General Contractors, Inc. is terminated as the contractor under the Contract between it and the Township for the construction of a New Public Works Garage and Salt Storage Building in accordance with a letter of the Municipal Attorney, Richard P. Cushing, dated July 11, 2011, and effective July 28, 2011.
2. The Township's Chief Financial Officer is authorized to hold all sums that may be due to Walter H. Poppe General Contractors, Inc., as previously certified by the architect, until such time as it has been determined, based on the advice of the Township engineer and architect, that all subcontractors, laborers and material men have been paid any amounts

- due and have released the Township from any liability and until such time it has been determined that the Township has not incurred any damages as a result of the breach of contract by Walter H. Poppe General Contractors, Inc. or until such time as the Township has been compensated fully for any damages that it has incurred.
3. The Township professionals (architect, engineer and attorney) are hereby authorized to prepare or assist in the preparation of new bids for the construction of the New Public Works Garage and Salt Storage Building.

Attorney Cushing stated that discussion relative to the Rescue Squad Bankruptcy was held in Executive Session as well as PBA and CWA Negotiations and a contractual personnel matter.

Having no further business to come before the Committee a motion was made by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote to adjourn the meeting at 8:35 p.m.

Respectfully submitted

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Karen J. Sandorse, RMC/CMC  
Municipal Clerk

Approved: August 3, 2011

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George Piazza, Mayor