

**Lebanon Township Committee
September 16, 2015**

Minutes of Regular Meeting

CALL TO ORDER

Mayor Thomas McKee 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 McKee asked everyone to please stand for the Flag Salute and for a Moment of Silence in honor of our servicemen and women.

ROLL CALL

Present - Thomas McKee Ronald Milkowski Bernard Cryan
 Brian Wunder Marc Laul

Absent-

Also Present - Attorney Dick Cushing at 7:10 p.m., Clerk Karen Sandorse and 3 members of the public.

PRESENTATION OF MINUTES

Minutes of the Regular Meeting of September 2, 2015

Motion by Mr. Wunder, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the regular meeting of September 2, 2015.

Minutes of the Executive Session Meeting of September 2, 2015

Motion by Mr. Laul, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved the minutes of the executive session meeting of September 2, 2015.

PUBLIC COMMENTS – for agenda items only.

Motion by Mr. Cryan, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee opened the public comment portion of the meeting.

Ms. Laurie Hoffman asked what an Insurance Fund Commissioner is.

Ms. Hoffman asked for an explanation of the Affordable Housing item that is listed on the agenda.

Motion by Mr. Cryan, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting.

RESOLUTIONS

Resolution No. 63-2015 – Redemption of Tax Sale Certificate

Motion by Mr. Cryan, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 63-2015 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 63-2015
REDEMPTION OF TAX SALE CERTIFICATE

WHEREAS the Tax Collector did sell a Tax Sale Certificate #201208 on October 12th 2012 to US Bank Cust for Crestar Capital, and,

WHEREAS the amount of \$30,055.88 has been collected from PNC Bank for Renee Goerner, owner of this property, known as Block 59, Lot 67, 60 Hollow Road Lebanon Township, for redemption of Tax Sale Certificate #201208,

THEREFORE BE IT RESOLVED that the Treasurer be authorized to prepare and the Mayor, Treasurer and Clerk be authorized to sign a check in the amount of \$30,055.88 and,

THEREFORE BE IT FURTHER RESOLVED that an additional check in the amount of \$5,800.00 representing the amount of the premium paid for Certificate #201208 be prepared, and that these checks be mailed to the lienholder:

US Bank Cust for Crestar Capital
US Bank Cust Tax Lien Services
2 Liberty Place
50 S 16th Street Suite 1950
Philadelphia PA 19102

Resolution No. 64-2015 –Appointing a Fund Commissioner

Motion by Mr. Laul, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 64 -2015 as written below.

**STATE OF NEW JERSEY
COUNTY OF HUNTERDON**

**TOWNSHIP OF LEBANON
RESOLUTION NO. 64-2015
APPOINT FUND COMMISSIONER**

WHEREAS, the Township of Lebanon (hereinafter "Local Unit") is a member of the Statewide Insurance fund (hereinafter "Fund"), a joint insurance fund as defined in N.J.S.A. 40A:10-36 *et seq.*; and

WHEREAS, the Fund's Bylaws require participating members to appoint a Fund Commissioner;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Township of Lebanon that Thomas McKee is hereby appointed as the Fund Commissioner for the Local Unit; and

BE IT FURTHER RESOLVED that Karen Sandorse is hereby appointed as the Alternate Fund Commissioner for the Local Unit; and

BE IT FURTHER RESOLVED that the Local Unit's Fund Commissioner is authorized and directed to execute all such documents as required by the Fund.

Resolution No. 65-2015 - Agreement with United Telephone Company of New Jersey, Inc.

Motion by Mr. Milkowski, seconded by Mr. Laul and carried by favorable roll call vote, the Township Committee approved Resolution No. 65-2015 as written below. AYES: Wunder, McKee, Milkowski, Laul ABSTAIN: Cryan

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 65-2015

Resolution Authorizing the Township Special Tax Appeal Attorney to enter into an Agreement with United Telephone Company of New Jersey, Inc. Business Personal Property Tax Appeals captioned Lebanon Township v. United Telephone Company of New Jersey, Tax Court of New Jersey, Docket Nos. 010781-2013 and 008729-2015.

WHEREAS, Lebanon Township filed appeals of the 2013 and 2015 assessments in the Tax Court of New Jersey, Docket No. 010781-2013 (the "2013 Appeal) and 008729-2015 on business personal property owned by United Telephone Company of New Jersey, Inc. ("United Telephone"), located in the Township and designated as Block 600, Lot 1; and

WHEREAS, the constitutionality and applicability of the business personal property tax, N.J.S.A.54:4-1 et seq., is the subject matter of numerous tax appeals between municipalities and local telephone exchange companies in New Jersey, the original case being filed in 2009 by Verizon New Jersey against Hopewell Borough, which case is still pending before the New Jersey Tax Court (the "Hopewell Matter"); and

WHEREAS, the local telephone exchange company servicing Lebanon Township, United Telephone Company of New Jersey, Inc. ("United Telephone") likewise contests the

constitutionality and applicability of the business personal property tax in the municipalities it serves; and

WHEREAS, United Telephone has requested and it is in the best interests of Lebanon Township that the pending matters in Lebanon Township be stayed and put in abeyance until the Hopewell Matter is decided in order to avoid continuing litigation fees and costs being incurred by the parties; and

WHEREAS, United Telephone has agreed that if Lebanon Township is successful in the 2013 appeal it will pay the municipal portion of the tax to the Township due in 2014 even though that year was not appealed if the Township agrees to stay and put in abeyance these appeals until the Hopewell Matter is decided; and

WHEREAS, the attached agreement was negotiated between the attorneys for the parties and has been reviewed and approved by the Lebanon Township Tax Assessor; and

WHEREAS, the Township Committee of the Township of Lebanon having reviewed the attached agreement and the recommendations of the Township Special Tax Appeal Attorney and Township Tax Assessor hereby finds it to be in the best interests of the Township to enter into the annexed Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey, that the Township Special Tax Appeal Attorney is hereby authorized to execute on behalf of the Township the annexed Agreement with United Telephone Company of New Jersey.

Resolution No. 66-2015 –Retail Consumption License – Onorosa Inc.

Motion by Mr. Cryan, seconded by Mr. Laul and carried by favorable roll call vote, the Township Committee approved Resolution No. 66-2015 as written below. AYES: McKee, Milkowski, Laul Cryan, ABSTAIN: Wunder

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 66-2015
RESOLUTION RENEWING PLENARY
RETAIL CONSUMPTION LICENSES

WHEREAS, each of the listed Plenary Retail Consumption Licensees have submitted application forms that have been completed in all respects; and

WHEREAS, the applicants are qualified to be licensed according to all statutory, regulatory and local government ABC Laws and regulations; and

WHEREAS, each have paid a filing fee of \$200.00 to the State of New Jersey and a Township License Fee of \$2,500.00

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Lebanon, in the County of Hunterdon, State of New Jersey, that the listed Licenses be granted a renewal for the 2015-2016 year:

**Resolution No. 67-2015 - Addendum to Municipal Shared Services Defense Agreement
(Affordable Housing)**

Motion by Mr. Cryan, seconded by Mr. Laul and carried by unanimous favorable roll call vote,
the Township Committee approved Resolution No. 67-2015 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 67-2015
RESOLUTION AUTHORIZING EXECUTION OF ADDENDUM TO SSA

WHEREAS, the Township of Lebanon (the “Township”) has filed a Declaratory Judgment Action in the Superior Court of New Jersey, Hunterdon County in furtherance of the Supreme Court’s March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

WHEREAS, the Township of Lebanon entered into a Municipal Shared Services Defense Agreement (hereinafter “MSSDA”) in order to hire Dr. Robert W. Burchell via Rutgers University to produce an expert report in order to establish the Township’s affordable housing obligation; and

WHEREAS, Dr. Burchell is unable to perform his duties under the MSSDA due to health issues; and

WHEREAS, Rutgers seeks to terminate the MSSDA; and

WHEREAS, it has been proposed to the member municipalities to hire Econsult Solutions, having an address at 1435 Walnut Street, Suite 300, Philadelphia, PA 19102, to replace Dr. Burchell because Econsult appears to be the only qualified expert in the area of New Jersey affordable housing obligations.

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

1. The Township of Lebanon hereby authorizes the substitution of Econsult as an expert under the MSSDA
2. The Mayor be and is hereby authorized to execute an addendum to the MSSDA to that effect subject to approval of the Township Attorney.
3. This Resolution shall take effect immediately.

OLD BUSINESS

Township Historian’s Request for Capital Improvements Funds

Mr. Laul stated that this is the second request for funds received from the Historians to pay for the installation of restroom facilities at the Museum. Mr. Laul feels that there may be a liability in having a public building with an outhouse. Mr. Laul said that not having a restroom limits

some members of the public, such as the school children, from being able to utilize the museum. Having adequate restrooms will open the building to more functionality. Mr. Milkowski noted that the Historians attempted to obtain grant funds but did not have luck. He does not feel that there is a choice. Mr. Cryan stated that aside from visitors using the building, there are employees who are there that need the basic necessity of a proper restroom. Mr. Cryan supports providing the funds. Mr. Wunder stated that he agrees completely.

Motion by Mr. Wunder, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved the Township Historian's request for Capital Improvement Funds in the amount of \$60,000.00 for a new bathroom facility in the Museum.

Food Pantry

Mr. Cryan stated that he talked to Ruth from the Food Pantry and they have moved. There is cardboard to be moved out of the Squad building this weekend but will be dropping the key off to the Township Clerk. The Food Pantry should be ready for business by October 23, 2015. Ruth thanked the Committee for their support and assistance. Mayor McKee thanked Mr. Cryan for his efforts.

NEW BUSINESS

Historian Resignation – Thomas Burrell

Motion by Mr. Wunder, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee accepted the resignation of Thomas Burrell from the Township Historians with regret. A letter is to be sent to Mr. Burrell to thank him for his contribution to the Township.

Raffle License Application - St. John Neumann Church- October 16, 2015

Motion by Mr. Laul, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved a raffle license application for St. John Neumann Church for an event to be held on October 16, 2015.

Appoint Environmental & Open Space Commission Member

Motion by Mr. Laul, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee appointed Kathryn L. Koch to the Environmental Open Space Commission as Alternate #1.

Mr. Laul stated that the Environmental & Open Space Commission is still lacking two other members to have a full board. The Commission will be working to develop better directive goals and will be appointing a new chairman.

High School Turf Field

Mr. Laul informed the Committee that he received a call from a community member regarding the proposed turf field at the high school. They are concerned with the environmental impact the turf field may have as well as the intended use of the field in the future. The residents will be attending the October 7th Township meeting to discuss their concerns with the field.

The Clerk will send a letter to the Board of Education to inform them of the residents request to make a presentation to the Committee regarding the proposed field and to invite them to be in attendance to provide their remarks.

PRESENTATION OF VOUCHERS

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

Motion by Mr. Laul, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved the September 16, 2015 bill list in the total amount of \$169,154.94.

CORRESPONDENCE

- a. Tax Collector's Report for the Month of August 2015

PUBLIC COMMENTS

Motion by Mr. Laul, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee opened the public comment portion of the meeting at 7:34 p.m.

Ms. Laurie Hoffman asked who will be plowing the road at the Hagedorn facility now that the Food Pantry is located there. Ms. Hoffman stated that the NHVRHS Board of Education will not come to the Township's meeting because when you go to their meetings they do not listen to what you have to say. Ms. Hoffman thanked the Committee for approving the funds to cover the cost of the bathroom at the museum. Ms. Hoffman stated that she is sorry that Tom Burrell is leaving because he put a lot of time into the bathroom. Ms. Hoffman noted that part of Buffalo Hollow was paved and it is a nice job but questioned where the speed bumps are.

Mr. Gary Milkowski asked who to contact about a street light being out.

Motion by Mr. Wunder, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 7:36 p.m.

Resolution No. 68-2015 –Executive Session

Motion by Mr. Milkowski, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 68-2015 and convened in executive session at 7:37 p.m.

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 68-2015
RESOLUTION AUTHORIZING EXECUTIVE SESSION**

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Mayor and Committee find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Mayor and Committee will reconvene in public session at the conclusion of the executive session;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

_____A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public (Provision relied upon:

_____);

_____A matter where the release of information would impair a right to receive funds from the federal government;

_____A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

X _____A collective bargaining agreement, or the terms and conditions thereof (Specify contract: _____);

_____A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed; Real Estate Acquisitions

_____Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____Investigations of violations or possible violations of the law;

_____Pending or anticipated litigation or contract negotiation in which the public body is or may become a party; (The general nature of the litigation or contract negotiations is: Affordable Housing. _____ Professional Service Contracts_____. The public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this

information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.)

Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: _____
_____ OR _____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.);
 Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is: _____ Union Contract _____ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.);
_____ Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Mayor and Committee hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Township Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Township or any other entity with respect to said discussion.

BE IT FURTHER RESOLVED that the Mayor and Committee, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

Reconvened of the Public Session at 7:45 p.m.

ADJOURNMENT

Having no further business to come before the Committee a motion was made by Mr. Wunder seconded by Mr. Cryan and carried by unanimous favorable roll call vote to adjourn the meeting at 7:45 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: October 7, 2015

Thomas McKee, Mayor