

**Lebanon Township Committee
October 1, 2014**

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 Patricia Schriver Ronald Milkowski
 Brian Wunder Bernard Cryan

Absent-

Also Present - Attorney Dick Cushing, Clerk Karen Sandorse and 6 members of the public.

PRESENTATION OF MINUTES

Minutes of the Regular Meeting of August 20, 2014

Motion by Mr. Milkowski, seconded by Mr. Cryan and carried by favorable roll call vote, the Township Committee approved minutes of the regular meeting of August 20, 2014 as amended. AYES: Schriver, McKee, Milkowski, Cryan ABSTAIN: Wunder

Minutes of the Executive Session Meeting of August 20, 2014

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by favorable roll call vote, the Township Committee approved minutes of the executive session of August 20, 2014. AYES: Schriver, McKee, Milkowski, Cryan ABSTAIN: Wunder

Minutes of the Regular Meeting of September 17, 2014

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 September 17, 2014 as amended. AYES: Schriver, McKee, Wunder, Cryan ABSTAIN: Milkowski

Minutes of the Executive Session Meeting of September 17, 2014

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 September 17, 2014. AYES: Schriver, McKee, Wunder, Cryan ABSTAIN: Milkowski

PUBLIC COMMENTS – for agenda items only.

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee opened the public comment portion of the meeting at 7:06.

There were no comments from the public

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 7:07.

RESOLUTIONS

Resolution No. 68 -2014 – Grant Application – Anthony Road Pavement Overlay

Motion by Mr. Cryan, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 68-2014 as written below.

Township of Lebanon
Resolution No. 68-2014

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Anthony Road Pavement Overlay project.

NOW, THEREFORE, BE IT RESOLVED that Council of Lebanon formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2015-Anthony Road Improvements-00345 to the New Jersey Department of Transportation on behalf of Lebanon Township.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of (Lebanon Township) and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

OLD BUSINESS

Maintenance of Old Spruce Run Turnpike

Mayor McKee stated that Mr. Shembari and Mr. Stevens attended the September 17, 2014 meeting to state their concerns with Old Spruce Run Turnpike Road. They made valid points as to why the Township should continue to maintain the roadway.

Ms. Schriver stated that she feels that the gentlemen did their homework and that the Township should continue to maintain the road for the residents and the veterans that meet there.

Mr. Milkowski stated that he spoke to the tax assessor several times and was informed that when Route 31 was realigned the roadway was deeded back to the homeowners. On the tax map it shows that the property lines run up to the Route 31 right-of-way. Mr. Milkowski stated that it is a private lane and that is what it amounts to.

Mr. Wunder stated that it had been discussed to send a letter to the State and asked what the status is. Mayor McKee stated that a letter can be sent to the State, however; he is concerned that they may not respond at this time.

Mayor McKee noted that the Township faced this issue in 1970 when due to State budgetary constraints, decided that they would no longer plow Old Spruce Run Turnpike Road. A year passed with the road not being maintained before the residents came to the Township Committee to state their concerns. The Committee thoroughly looked into the matter and was unable to produce a deed that actually claimed who the land belonged to. The Committee then looked to see if there was ever a dedication to the Township but they were unable to find one. Mayor McKee found this information in an article from the Hunterdon County Democrat, dated August 9, 1977. Mayor McKee stated that he feels that the Township should continue to take care of road and possibly reach out to the State.

Mr. Cryan stated that the Township has been providing maintenance for the roadway for quite a bit of time and is not sure that the savings would outweigh the ill feelings of the residents. Mr. Cryan also stated that the safety potential with the school buses picking up the children is also a concern. Mr. Cryan noted that the road is not only used by the property owners, it is also used by the public. Mr. Cryan stated that he feels that the Township should continue to plow the roadway and that the DPW Manager does not feel that there is a problem in plowing it.

Motion by Mr. Wunder, seconded by Ms. Schriver and carried by favorable roll call vote, the Township Committee authorized the DPW Manager to continue plowing Old Spruce Run Turnpike Road. AYES: Schriver, McKee, Wunder, Cryan NAYS: Milkowski

Cell Tower

Mayor McKee stated that a check in the amount of \$6766.67 was received from Sprint/Nextel for the Municipal Complex cell tower rent. The Committee needs to decide if they are going to accept the amount or to seek back rent to March 2013.

Attorney Cushing stated that initially he had suggested that the Township should inform Nextel that they cannot connect on the tower because they have not paid the rent. However, in thinking about it, Attorney Cushing does not think that it is a good idea and feels that a letter should be sent stating the Township's position and providing them with past correspondence showing the history.

Newport Road – Donation of Glass Property

Attorney Cushing stated that his office is sending Ms. Glass the deed and they are attempting to establish a closing date. The question of the payment of taxes has been brought up and Attorney Cushing is trying to resolve that issue also.

Squad Call

Mr. Milkowski stated that he was involved in a squad call in which the local squad responded. Mr. Milkowski stated that they responded promptly and handled themselves well. The patient was very happy with the way she was treated. Mr. Milkowski stated that the crew was very good and second to none.

NEW BUSINESS

Fire Department Request to Utilize Retired Police Patrol Vehicle – Dodge Durango #19-15

Fire Chief, Edd Shaffer, sent a letter to the Committee on behalf of the Fire Department, to request the Police Dodge Durango, #19-15, which is being retired. The Fire Department would like to replace their Dodge Durango as it is going to require extensive repairs in the near future. Chief Shaffer stated that he spoke with Chief Mattson and was informed that a new vehicle has been ordered for the Police Department and that they will be taking #19-15 off the road. Chief Mattson is hopeful that this will happen within the next few weeks.

Mr. Cryan stated that he spoke to the DPW Manager and there is a need for a vehicle in the DPW also. They need a vehicle to pick up parts and so forth without having to take a larger truck. Mr. Cryan stated that he would like to obtain more information and for the Committee to then discuss where the vehicle should go.

Fire Department Request for the Purchase of Radios

Mayor McKee stated that the Fire Department sent a letter to the Committee requesting to use their 2013 donation of \$60,000.00 to purchase new mobile and portable radio equipment. The donation was to be used for generators, however; a grant was obtained through the Township's OEM to acquire the generators. The Fire Department is hoping to now use the funds for the purchase of radios. Hunterdon County is phasing out the use of current low band radios, which have been used for years. All fire departments in the County will be required to use Ultra High Radio Band UHF. The new radios will improve radio communications and as well as safety for the firemen.

Mr. Milkowski stated that the County has been talking about this program for a few years. It is now mandatory for all departments to be switched over to the new radios. The Fire Department was informed that they must be on the Ultra High frequency by January 1, 2015. The radios they have at this

time cannot be converted. Mr. Milkowski stated that if the Fire Department had purchased the radios early they would not have been able to use them until the system was put in. Mr. Milkowski stated that until the County was ready to switch over there was no reason to purchase them. Mr. Milkowski stated that all Fire Departments in the County will need to make the switch in the radios.

The matter will be added to the next meeting agenda.

Cancel November 19, 2014 Committee Meeting Due to the League Conference

The Township Committee canceled the November 19, 2014 meeting due to the NJ League of Municipalities Conference.

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 October 1, 2014 bill list in amount of \$ 80,371.05.

CORRESPONDENCE

- a. Hunterdon County YMCA – Thank You Letter

PUBLIC COMMENTS

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

Ms. Laurie Ann Williams asked how many radios are needed for the fire dept. She explained that she is a member of the CERT Team for Hunterdon County and knows that they have approximately 144 radios. Ms. Williams stated that if there is an emergency in timing for purchasing the Fire Department radios possibly the Township can borrow them from the County. Ms. Williams asked the Committee if they would like her to ask the County. Mr. Milkowski will talk to the Fire Chief to see if he is interested.

Mr. Anthony Casale looked at correspondence from Sprint and they were supposed to provide a Certificate of Insurance for the cell tower, however; they have a memorandum of insurance which the Township would have to view online. Mr. Casale questioned if it is safe in not having the actual certificate. Attorney Cushing suggested that the insurance agent should answer the question. Mr. Casale stated concerns he has with the three different dates for the commencement of rent during the 2013 year. Mr. Casale asked what initiated the interest in obtaining rent back to those specific dates. Attorney Cushing stated that he confirmed with the Nextel attorney that rent would commence May 7, 2014. Mr. Casale questioned why that date was the date agreed upon and stated that he feels that the Township should seek rent back farther. Attorney Cushing asked Mr. Casale to put his points on paper for his and the Committee's review.

Mr. Casale asked what Verizon's thoughts are on the commencement of rent. Attorney Cushing stated that he is not sure.

Mr. Casale asked about the rent increase. Attorney Cushing stated that the Township did receive the rent increases.

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 7:48 p.m.

Resolution No. 69 -2014 –Executive Session

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 69-2014 and convened in executive session at 7:49 p.m.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 69-2014
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;

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: **Centurion**

_____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.

Attorney Cushing stated that during the Executive Session he had a discussion with the Township Committee regarding the Centurion vs. Walter Poppe litigation. The matter was brought on by Centurion Companies, who was a subcontractor for Walter Poppe General Contractors, in connection with the construction of the new DPW garage. Mr. Poppe's company was discharged from the project because it did not fulfill its contractual obligations. Prior to Mr. Poppe being released there were lien claims filed by seven subcontractors. Two payments had been made to Mr. Poppe, based on a certification of the architect that the work had been completed. A third payment, in the amount of approximately \$58,200.00, was certified by the architect but not paid to Mr. Poppe. This was due to the Township receiving lien claims from the subcontractors indicating that they hadn't been paid. The Township was ultimately sued by Centurion who claims to be the largest lien holder. The Township insisted through a legal procedure that Centurion had to join the other lien holders to join as parties. All but two have participated in the litigation. They have come to an agreement, among themselves, as to the allocation of the \$59,290.00. The question was raised, during the lawsuit, as to the role of the Centurion Claimant, however; for economic reasons it makes sense to resolve the matter for the amount being held by the Township for the lien holders. The lien holders who did participate in the litigation were; Centurion, Dumont, Stothoff, Intermark and Rotada Contracting. Those who did not participate were; Tiemeyer and Plushanski.

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee authorized the attorney to pursue the settlement by executing a Consent Order.

This resolution will resolve the case entirely and will remove the Township from the lawsuit. It will not cost the Township any money other than what has been set aside for the lien claimants. This will also terminate the need for the Township to continue to pay attorney's fees for a case that it does not have a great interest in.

ADJOURNMENT

Having no further business to come before the Committee a motion was made by Mr. Milkowski seconded by Mr. Cryan and carried by unanimous favorable roll call vote to adjourn the meeting at 8:22 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: October 15, 2014

Thomas McKee, Mayor