

CALL TO ORDER

Deputy Mayor Ronald Milkowski 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

Deputy Mayor Milkowski asked everyone to stand for the Flag Salute and for a Moment of Silence.

ROLL CALL

Present -	Patricia Schriver	Francis Morrison
	Ron Milkowski	Tom McKee

Absent- Brian Wunder

Also Present - Attorney Dick Cushing, Clerk Karen Sandorse and 10 members of the public.

PRESENTATION OF MINUTES

Minutes of the Regular Meeting of September 19, 2012

Motion by Ms. Schriver, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the regular meeting of September 19, 2012.

Minutes of the Executive Session of September 19, 2012

Motion by Mr. McKee, seconded by Ms. Schriver and carried by favorable roll call vote, the Township Committee approved minutes of the executive session of September 19, 2012.

PUBLIC COMMENTS – for agenda items only.

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

Mr. Anthony Casale requested that the Committee state the content of the letter from the DPW Garage Project Architect which is listed under Correspondence on the agenda.

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

Ordinance No. 2012-04 - Introduction

Motion by Ms. Schriver, seconded by Mr. McKee, and carried by unanimous favorable roll call vote, the Township Committee approved Ordinance No. 2012-04 on first reading.

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
ORDINANCE NO. 2012-04
AN ORDINANCE AMENDING CHAPTER 67 OF THE CODE OF THE TOWNSHIP
OF LEBANON ENTITLED “OPEN SPACE TRUST FUND” TO PERMIT OPEN
SPACE FUNDS TO BE USED FOR MAINTENANCE OF LANDS ALREADY
OWNED BY THE TOWNSHIP**

WHEREAS, in 2001 the voters of the Township of Lebanon (the “Township”) authorized an Open Space Tax by referendum pursuant to *N.J.S.A. 40:12-15.1 et seq.*; and

WHEREAS, all funds collected pursuant to the Open Space Tax have been deposited by the Township in a trust fund and used exclusively for the purposes authorized by the voters ; and

WHEREAS, the original voter authorization for the open space tax limited the purposes for use of money raised through the tax to acquisition of farmland for farmland preservation, acquisition of lands for recreation and conservation, and the payment of debt service on the indebtedness incurred by the Township in acquiring open space properties; and

WHEREAS, *N.J.S.A. 40:12-15.7(d)* authorizes the Township to submit to the voters a proposition adding or removing purposes for which money raised through the open space tax levy can be spent; and

WHEREAS, pursuant to *N.J.S.A. 40:12-15.7(d)* in November of 2011 the Township submitted such a proposition to the voters requesting authorization to use the money raised through the open space tax levy for maintenance of lands acquired for recreation and conservation purposes in addition to the purposes already authorized; and

WHEREAS, the voters approved the proposition; and

WHEREAS, the Township Committee now wishes to amend the Open Space Trust Fund ordinance to include as one of the purposes for which the Open Space Trust Fund can be used the maintenance of lands acquired for recreation and conservation purposes as approved by the voters.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lebanon, in the County of Hunterdon, and State of New Jersey, as follows:

Section 1. Subsection A. of Section 67-1 entitled “Trust fund established” of Chapter 67 entitled “Open Space Trust Fund” of the Code of the Township of Lebanon is amended in its entirety to read as follows:

A. There is hereby established a reserve in the General Capital Fund which shall be known and designated as the “Open Space Trust Fund.” A special bank account shall be opened and maintained for this purpose. Funds from the Open Space Trust Fund may, as directed by the Mayor and Township Committee, be utilized for the following purposes, or any combination thereof:

- A. Acquisition of lands for recreation and conservation purposes;
- B. Acquisition of farmland for farmland preservation purposes;
- C. Maintenance of lands acquired for recreation and conservation purposes;
- D. Payment of debt service on indebtedness issued or incurred by the Township of Lebanon for any of the purposes set forth in A. or B. above.

Acquisition shall include by gift, purchase, or by eminent domain proceedings pursuant to N.J.S.A. 20:3-1 et seq. and shall include development easements, or other easements, vacant land, as well land which has improvements upon it at the time of acquisition, where the principal purpose of the acquisition is for any or all of the purposes, or any combination of them, set forth above.

Section 2. All ordinances and resolutions inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies.

Section 3. This ordinance shall take effect immediately upon publication following its final passage, in accordance with law.

Public Hearing to be held on October 17, 2012.

RESOLUTIONS

Resolution No. 82-2012 – Refund for Overpayment of Taxes

Motion by Ms. Schriver, seconded by Mr. McKee and carried by favorable roll call vote, the Township Committee adopted Resolution No. 82-2012 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 82-2012
REFUND FOR OVERPAYMENT OF TAXES

WHEREAS there exists an overpayment of \$1,731.44 for third quarter 2012 taxes due to a duplicate payment for Block 77, lot 7.11 10 Rolling Hills Way and,

WHEREAS this amount has been requested for refund by Chase Bank,

THEREFORE BE IT RESOLVED, that the Treasurer be authorized to prepare and Mayor, Treasurer and Clerk be authorized to sign this refund check to Chase Bank and that this check in the amount of \$1,731.44 be refunded.

Resolution No. 83-2012 – Consent to NJDES Permit Application

Tabled to the October 17, 2012 meeting.

Attorney Cushing joined the meeting.

OLD BUSINESS

Swackhammer Church – Attorney Correspondence

Attorney Cushing stated that the last time the Swackhammer Church was discussed the Committee was left to decide if they wanted to investigate the question of the liability and consequences of taking on an old graveyard. It has to be determined what obligations would be imposed on the Township and the cost

associated with such. Attorney Cushing provided the Committee with a report from an engineer, from quite a few years ago, that confirmed that the wall on the property is not safe and anyone working near it may be at risk. Attorney Cushing stated that the Committee should decide if they would want to investigate if the cemetery can be taken over and the consequences and the cost associated with doing so. Ms. Schriver stated that insurance coverage is an important matter.

Best Practices Inventory – Accept and Approve

CFO Greg Della Pia prepared the Best Practices Inventory on behalf of the Township. The Township should receive 100% of the State Aid available based on the requirements of the Inventory.

Motion by Ms. Schriver, seconded by Mr. McKee and carried by favorable roll call vote, the Township Committee approved the 2012 Best Practices Inventory as submitted to the State by the CFO.

Waste Water Management Plan – Update

Attorney Cushing stated that a Waste Water Management Plan is required by all municipalities. In Hunterdon County the County manages the Waste Water Management Planning. Attorney Cushing stated that once the Plan comes into place it is very hard to amend it. Attorney Cushing stated that the Highlands actually take care of the Waste Water Planning for the Township. Attorney Cushing stated that the WWP Resolution, received from the County, is actually under the guidance of the State. The State has informed the County that they have to get the municipalities to adopt the resolution otherwise the State will assume that the municipality agrees with the Plan that has been prepared for them. It appears that the State has forgotten that the Highlands prepare the Plan for the Township. Attorney Cushing stated that the County has to have a public hearing on the Plan however, they do not have any documents to provide to the public relative to Lebanon Township. Attorney Cushing suggested that a resolution be drafted that states that the Township agrees to the Plan subject to the fact that the Township is part of the Highlands and the Township's Plan is being worked on by the Highlands which is still in the draft stages. The resolution will preserve any rights that the Township has because of the confusion between the agencies. Attorney Cushing will draft the resolution for the Committee's consideration at the October 17, 2012 meeting.

Shared Services Agreement – Municipal Court

Attorney Cushing stated that the Township has decided to enter into an agreement with Tewksbury Township for Municipal Court Services. An agreement has been prepared, agreed to by both municipalities and approved by the Administrative Offices of the Courts. Attorney Cushing stated that when the agreement was approved no one knew what was going to happen with the prior cases from the Municipal Court of North Hunterdon. It was unknown if the Lebanon Township cases would be transferred to Tewksbury for processing. It has now been determined that the cases will remain with the Municipal Court of North Hunterdon for the foreseeable future. Due to this, language in the agreement must be modified to reflect the current situation. The amended agreement must now be sent to the AOC for their approval. Attorney Cushing stated that his office drafted an ordinance for the Committee's consideration, establishing that the Township is no longer a part of the Municipal Court of North Hunterdon effective December 31, 2012 and authorizing the Township to have a municipal court whether it is a shared court or the Township owned court.

NEW BUSINESS

Library Committee Recommendation – Substitute Clerical Workers Salary Increase

Tabled to the Executive Session.

Library Committee Recommendation – Appointment for Library Committee Vacancy

Motion by Mr. McKee, seconded by Ms. Schriver and carried by favorable roll call vote, the Township Committee appointed Patricia Wentz to fill the vacancy on the Library Committee.

Township Historians – Request to Conduct a Christmas Tree Lighting Ceremony

Mr. Victor Hoffman of the Township Historian's stated that the Historian's are looking to create more interest in the Community by conducting a Christmas Tree Lighting ceremony. The ceremony will take place on December 5, 2012 at the Municipal Office, prior to the Committee meeting. Mr. Hoffman stated that in the past the DPW has placed the lights on the tree at the Municipal Office and he is hoping that they will again. The Historians will be working with the school and any residents who would like help with decorating the tree. The Historians will be sending requests to the local schools and churches to see if they have interest in singing and making decorations. There will be refreshments served. Mr. Hoffman stated that the Historians are open to suggestions and will accept any help offered.

Mr. Milkowski, Mr. McKee and Ms. Schriver stated that they feel that it is a very good idea for the Community.

COMMITTEE REPORTS

Committeewoman Schriver - Ms. Schriver stated that she is still working on obtaining grant funds for the renovations of the Squad Building. Ms. Schriver informed the Committee that she and the Clerk will be meeting with Mr. Kevin Richardson, Hunterdon County Planning Board/Open Space Administrator, regarding the use of the Township's Open Space Funds for the Memorial Park.

Veteran's Haven has not yet announced when they will be having their Open House.

Deputy Mayor Milkowski- Mr. Milkowski read the DPW Architect's report as of October 3, 2012.

Mr. Milkowski stated that the next Planning Board meeting will be held on October 16, 2012 at the Woodglen School.

Mayor Wunder- Absent

Committeeman McKee- Mr. McKee stated that the Committees are in good standing.

Committeeman Morrison –

Police, Fire and Rescue – Mr. Morrison read the police report for the month of September 2012.

PRESENTATION OF VOUCHERS

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

Motion by Ms. Schriver, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved the October 3, 2012 bill list in the amount of \$92,424.60.

Lebanon Township First Aid Squad Settlement

Attorney Cushing stated that he was in contact with Judge Buchbaum's office this morning and the Judge will be signing the Consent Judgment tomorrow. The LOSAP checks will be prepared for the prior members who meet the criteria. The Deed will then be recorded and the ownership of the building will be back to the Township. The plaque will be acquired and placed at the squad building.

Motion by Ms. Schriver, seconded by Mr. McKee and carried by favorable roll call vote, the Township Committee authorized the Clerk, the Mayor and the CFO to arrange for the LOSAP payments to be made to Laura Bulicki in the amount of \$150.00 for year 2005, Sabatino DeSantis in the amount of \$150.00 for year 2005, William Groff in the amount of \$150.00 for year 2005, Andrea Hutchins in the amount of \$150.00 for year 2005, Gordan Sandalier in the amount of \$150.00 in two increments of \$75.00 for years 2005 and 2008, and Byron Weightman in the amount of \$150.00 for year 2005 . AYES: Schriver, McKee Morrison ABSTAIN: Milkowski

CORRESPONDENCE

- a. Architect Keith Chambers – DPW Project Update as of 10/03/2012
- b. Township Historians – August 30, 2012 Meeting Minutes

PUBLIC COMMENTS

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

Mr. EJ Skidmore asked why the prior Squad will be receiving a LOSAP contribution for the 2005 year. Attorney Cushing stated that there is an obligation for the Township to make LOSAP payments. Due to some confusion, LOSAP payments were not made for the six individuals for the 2005 year. There is one individual who did not receive for 2005 and 2008. The Committee is fulfilling a legal obligation to the individuals. Lincoln Financial informed Attorney Cushing that the Township has the obligation to make the payments even if there is a gap in the time from when the services are performed to the discovery that proper payments were not made. Mr. Skidmore asked how the amount of the payment was determined relative to the settlement. Attorney Cushing stated that it is the way it was worked out.

Mr. Skidmore asked if there has been confirmation from the Local Finance Board that the letters sent to them regarding the Fire Department LOSAP have been received. Attorney Cushing stated that a representative from the Board made contact with his office and the Clerk. Attorney Cushing stated

that the issue is being assessed and the Board will be making a determination as to whether an ethics investigator will be appointed.

Mr. Skidmore asked if the State Comptroller ever stated what it is that they are looking for in their investigation of the Township's LOSAP. Attorney Cushing stated that the Comptroller's office did not provide any information on the investigation however; the Clerk was informed that the investigation does not have anything to do with the specific problem in the Township.

Mr. Anthony Casale asked what the duration will be for the Shared Service Agreement with Tewksbury Township for Court services. Attorney Cushing informed Mr. Casale that the term of the Court Agreement will commence on January 1, 2013 and will terminate on December 31, 2016. The Agreement may be renewed for a four year term upon written agreement. The Agreement may be terminated on 180 days notice to the other party.

Mr. Casale stated that the DPW report submitted to the Committee stated that delivery was expected of certain materials on October 2, 2012, which was yesterday. Mr. Casale asked if the materials were delivered and if the contractors are on schedule. Mr. Milkowski stated that there is a meeting scheduled for tomorrow and he will have more information after the meeting.

Mr. Casale stated that a few months back there was discussion on the renewal of the Comcast Cable Franchise Agreement. The Committee had discussed forming a Committee to work through the process. Attorney Cushing stated that the Mayor was authorized to appoint a Committee. Mr. Casale suggested moving forward with the appointments.

Mr. Casale inquired on the status of the Co-Locator Agreement for the cell tower located at the Municipal Office. Attorney Cushing stated that the agreement is still being worked on. Attorney Cushing stated that he has not received the check for the rent and will be following up on it. The Clerk will see if finance has received the check.

Mr. Victor Hoffman stated that he has done some research at the County regarding the Swackhammer Church. There are records up to 1981. The County suggested that he check the tax records here in the Township. Mr. Hoffman stated that the 1980 tax records show that the Evangel Lutheran Church was the owner of the property at that time. In 1981 the property was transferred to the Township Historians. Mr. Hoffman stated that if the property was transferred to the Historians there should be a deed somewhere. Mr. Hoffman questioned that if there is no deed wouldn't the property be owned by the Township? Attorney Cushing stated that there was a search conducted by Attorney Wesley Lance and there was no deed to the property. Attorney Cushing stated that the transfer to the Historians was a result of a notation made by the tax collector in the records. This does not have any legal significance in terms of ownership. Mr. Hoffman stated that he has a newspaper article from 1981 which stated that there was going to be a transfer of a deed. Mr. Hoffman stated that he will be doing more research on the property and will keep the Committee aware of his findings. Mr. Hoffman asked if the property is the Historians would they be covered under the Township's insurance if they clean up the property and an injury was sustained. Mr. Cushing stated that he is not sure if volunteers would be covered even if the Township owned the property. Mr. Cushing suggested speaking to Insurance Agent Tom Groendyke about the matter. Discussion was held on options for acquiring the property and the Township's responsibilities and obligations in doing so. Ms. Schriver stated that the insurance liability is a big concern and may be

very costly for the Township.

Mr. Hoffman stated that the Historians are looking to reduce the wall to a sitting height. The outside wall can be cemented and a surface can be put on the top. The graveyard can be cleaned up and a fence can be put up possibly.

Mr. Bernie Cryan stated that the Historians are not looking to make a profit with the Church. They are looking to preserve a piece of history for the Township. Mr. Cryan asked if the Township would be liable if someone were to go on the property and get hurt. Attorney Cushing stated that it is private property therefore the Township would not be responsibility. Attorney Cushing stated that there are immunities under the Tort Claims Act that would protect the Township.

Mr. Anthony Casale asked what the rule is in NJ if a property is abandoned. Attorney Cushing stated that if the owner does not pay their taxes then the Township can foreclose on the property. Attorney Cushing stated that the Township is dealing with a property that is not assessed as it is a church and there is no device for foreclosing. Attorney Cushing stated that the Township has to decide if they want to take the property or not. Mr. Casale asked if there is a way to work past the barriers and acquire the property. Attorney Cushing stated that obtaining a deed may be very complicated.

Mr. Milkowski stated that the Committee needs to know what the liabilities are in the Township taking over a property with a graveyard. Mr. Milkowski asked for a motion to have the Township Attorney look into the legal responsibilities. No motion was made. Ms. Schriver stated that she feels that insurance coverage needs to be investigated and the cost associated with it before moving forward. The Committee agreed with Ms. Schriver.

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

LOSAP Audit

Ms. Schriver asked Attorney Cushing if an answer has been received from the Local Finance Board regarding the LOSAP audit request. Attorney Cushing stated that the Board has not responded on whether they would conduct the audit for the Township. The Board has indicated that they will pursue the ethics investigation. Attorney Cushing stated that the ethics investigation is a separate issue from the audit. Attorney Cushing also stated that the ethics investigation will provide an evaluation as to whether the LOSAP procedures were consistent with the Ethics Laws but will not give you a detailed description of the process to be followed for the administration of the LOSAP program. The investigation will not give guidance to the Fire Department for steps to be followed in the future.

Ms. Schriver stated that the Committee had already voted to have the audit conducted, which was held to see what the outcome was with the Local Finance Board. Ms. Schriver stated that this matter has destroyed many things in the Township.

Motion by Ms. Schriver, seconded by Mr. McKee and carried by favorable roll call vote, the Township Committee authorized an administrative review to be conducted on the Lebanon Township Volunteer Fire Department LOSAP for the 2007-2011 years. The review will be

performed by Special Auditor Gary Vinci of Lerch, Vinci & Higgins, LLP at a cost of \$2000.00 per audited year. AYES: Schriver, McKee ABSTAIN: Morrison DISQUALIFIED: Milkowski

EMS COVERAGE

Ms. Schriver stated that she thought that mutual aid would be assisting the Lebanon Township Fire Department in providing EMS for the Township. Mr. McKee stated that it all depends on who you speak to and he had hoped that the EMS Administrator's would be present at the meeting as they have a report from the County stating the calls that they have responded to. The report would verify the calls that they had made. Mr. McKee stated that the Fire Dept. is relying on mutual aid. Mr. McKee noted that there are a group of people who would have been responding on Monday night however they have not started yet because they have to be approved by the Fire Department first. Mr. McKee stated that Tuesday or Wednesday evenings are also covered at this time by Lebanon Township Firemen. Mr. McKee stated that the EMS are trying and getting there. Ms. Schriver asked what the percentages are for calls responded to. Ms. Schriver stated that her information shows that as of the last meeting, Lebanon Township has covered 20% of the calls. Ms. Schriver stated that this is not what she thought was guaranteed in the Fire Department's proposal. She thought that they were ready to roll and that coverage would adequate. Mr. McKee stated that he completely expected that there would be a low percentage of responses, at the start, and it has only been one month. Ms. Schriver stated that being the lone person who voted against the Fire Department's proposal she feels that the Volunteer EMS group would have been covering possibly 80% of the calls as they were ready to roll and she thought the Fire Department was also. Ms. Schriver stated that she finds it to be a disappointment. Mr. Schriver stated that she has heard that people from New Providence will be covering the Township's calls and she feels that is unbelievable. Mr. McKee stated that he does not know about the New Providence people and that the EMS Administrator's will have to answer the question.

Mr. Tom Carlucci and Mr. Al Bauer joined the meeting.

Ms. Schriver stated that she understood in the Fire Department proposal that mutual aid would be secondary to the Lebanon Township EMS coverage however it appears that the Township is relying on mutual aid to cover calls in the Township. Mr. Carlucci stated that the LTEMs is working with mutual aid and stated that they would be having the ambulance that is closest to the call responding to the call as well as an ambulance from the LTVFD. This would be for all calls. Ms. Schriver stated that she has been informed that since the LTVFD/EMS has taken back the EMS they have only responded to 20% of the calls. Mr. Carlucci stated that he does not know where Ms. Schriver received her information from but he is sure that it is more than 20% and he believes that it is closer to 60% for BLS calls. This would not include fire calls which may alter the number. Mr. McKee asked if the 60% is for Lebanon Township calls only; Mr. Carlucci stated yes. Ms. Schriver stated that she understands that people from New Providence will be covering the Township responses. Mr. Carlucci stated that this is not true, as far as he is aware and believes that New Providence is in Union County. Ms. Schriver stated that she is asking the questions as she feels that it is important to receive a report from the LTVFD/EMS on a regular basis. Mr. Carlucci agreed.

Lebanon Township Vol. Fire/EMS Report

Mr. Carlucci provided a progress report stating that they have had a few training classes. An epi pen class was provided for current members and there was a large extrication drill last Sunday with 14Fire. Mr. Carlucci stated that they are working on the by-laws and rules and regulations. He feels that once they are completed things will begin to come together. There are six new members waiting to be voted on by the membership to join the Department. Mr. Carlucci stated that duty crews are being filled as he speaks and the EMS is progressing nicely.

Motion by Ms. Schriver, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 84-2012 and convened in executive session at 8:30 p.m.

**TOWNSHIP OF LEBANON
RESOLUTION NO. 84-2012**

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:

Litigation – Hyland Matter
CWA – Contract Preparation
Possible Litigation

There may be action taken when the Regular Meeting convenes.

The Township Committee reconvened the Regular Committee meeting at 9:11p.m.

Attorney Cushing stated that during the executive session the Township Committee discussed the Hyland Litigation, the status of the CWA Contract, Collective Bargaining discussion with other employees. No action will be taken at this time.

Having no further business to come before the Committee a motion was made by Ms. Schriver, seconded by Mr. McKee and carried by unanimous favorable roll call vote to adjourn the meeting at 9:12 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: October 17, 2012

Ronald Milkowski, Deputy Mayor