

**Meeting audio can be found at [lebanontownship.net](http://lebanontownship.net).**

**Lebanon Township Committee  
November 4, 2020**

**Minutes of Regular Meeting**

**CALL TO ORDER**

Mayor Mike Schmidt 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 Schmidt asked everyone to please stand for the Flag Salute and for a moment of silence in honor of Veterans Day which will be observed on November 11, 2020.

**ROLL CALL**

Present -	Mike Schmidt	Thomas McKee	Brian Wunder
	Marc Laul	Beverly Koehler	

Absent-

Also Present - Attorney Matt Lyons, Administrator James Barberio  
CFO Greg DellaPia and Clerk Karen Sandorse (via telecom)

**PRESENTATION OF MINUTES**

**Minutes of the Regular Meetings of October 7, 2020**

*Motion by Mr. Wunder, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the Regular and Executive Session Meetings of October 7, 2020, as amended.*

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

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

Mr. Gene Slowinski commented on the OPRA request submitted by Committeewoman Koehler. Mr. Slowinski asked for the Committee to vote on whether they support Ms. Koehler's OPRA request and asked for support from the residents.

Ms. Jan Gibas provided comments on the OPRA request and her support for Ms. Koch.

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

## RESOLUTIONS

### **Resolution No. 79-2020 – Fixing the Stipend of Certain Employees of the Township**

*Motion by Mr. McKee, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 79-2020 as written below.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 79-2020

#### RESOLUTION FIXING THE STIPEND OF CERTAIN EMPLOYEES OF THE TOWNSHIP

WHEREAS, the Township of Lebanon, County of Hunterdon, State of New Jersey fixing Stipends of certain employees of the Township.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of Township Lebanon that this Resolution sets the annual stipend for the Recycling Coordinator.

Recycling Coordinator – Fascenelli	2015 Stipend	\$5547.26
	2016 Stipend	\$5644.34
	2017 Stipend	\$5743.11
	2018 Stipend	\$5846.49
	2019 Stipend	\$5957.57
	2020 Stipend	\$6076.72

NOW THEREFORE BE IT FURTHER RESOLVED, that the annual stipend for the position of Recycling Coordinator shall increase in years 2021, 2022 and 2023 by the same percentage as the increase provided for in the CWA contract.

### **Resolution No. 80-2020 – Interlocal Services Agreement for Qualified Purchasing Agent**

*Motion by Mr. McKee, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 80-2020 as written below.*

TOWNSHIP OF LEBANON  
HUNTERDON COUNTY, NEW JERSEY  
RESOLUTION NO. 80-2020

RESOLUTION OF THE TOWNSHIP OF LEBANON, COUNTY OF HUNTERDON, STATE OF  
NEW JERSEY, AUTHORIZING THE SERVICES OF A  
QUALIFIED PURCHASING AGENT

WHEREAS, the New Jersey Uniform Shared Services and Consolidated Act (N.J.S.A. 40A:65-1, *et seq.*) authorizes shared services between municipalities; and

WHEREAS, Lebanon has a need for the services of a Qualified Purchasing Agent; and

WHEREAS, Lebanon has requested that Holland provide the services of a Qualified Purchasing Agent in accordance with the terms and conditions contained in a Shared Services Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Lebanon, in the County of Hunterdon, that the Township of Lebanon hereby authorizes Holland Township to provide the services of a Qualified Purchasing Agent as set forth in the Shared Services Agreement executed on November 4, 2020.

**OLD BUSINESS**

**OPRA Conflict Counsel – Committeewoman OPRA Request**

Mayor Schmidt said that there are two topics that need to be understood by the Committee in order to take action on this matter. The Committee needs to understand why the volunteers need legal advice and why the Township Attorney cannot provide advice to them. Mayor Schmidt stated that the Township Clerk needs to consult with the Township Attorney, on OPRA matters, from time to time. Mayor Schmidt noted that Ms. Koehler's OPRA request is private. It is not a Township action and has not been voted on by the Committee. Mayor Schmidt noted that both the requestor and the requestee have questioned the objectivity of the Township Attorney based on the relationship between the two parties. Attorney Lyons informed the Committee that due to the concerns raised, an independent attorney should be retained to answer the Clerk's questions relative to this particular OPRA.

Mayor Schmidt stated that the Committee will need to hire a Conflict Counsel to provide the advice needed. It is believed that the cost for the Conflict Counsel will be below \$17,000 which will permit the Administrator to seek proposals without obtaining RFP's. The Administrator will be asked to contact and evaluate qualified Conflict Attorneys with experience in municipal government, principally OPRA. The Administrator is to bring one or more names to the Committee, at their next meeting, for an appointment to be made.

Ms. Koehler asked for the Township Attorney to outline what an OPRA is and what it is not.

Attorney Lyons stated that as the Township has been put on notice of a pending claim he will speak broadly. Attorney Lyons said that there is no threshold or standard necessary for someone to file an OPRA request. It is a statutory right for every citizen to exercise. There is no need to disclose a motive and it is not to be deemed as a criminal investigation in any way.

Attorney Lyons noted that if an individual feels that their Civil Rights are being violated it is for them to address. The Township will provide standards relative to OPRA and will not be providing advice to individuals who file Equal Rights claims against the Township.

Attorney Lyons stated that the conflict in this matter is that he represents the Governing Body, not Committeewoman Koehler directly, but she does play a part in his reappointment. Attorney Lyons stated that due to both parties stating their concerns with his objectivity in the matter it has resulted in a “non-self-imposed inability” for him to provide advice.

Mr. Wunder asked if the hiring of the Conflict Attorney will be educational for all in addition to addressing the OPRA request.

Mr. McKee asked Ms. Koehler if she would consider amending the OPRA request to include the Governing Body specifically and to set aside the request of the boards and volunteers. Ms. Koehler denied the request.

Ms. Koehler asked what the process will be with the interactions between the Conflict Attorney, the Clerk and the volunteers. She also asked where \$17,000 was derived from with regard to costs. Attorney Lyons said that the \$17,500 is a threshold, not to exceed, through the Local Public Contracts Law. Attorney Lyons stated that he cannot estimate what the cost might be for the Conflict Counsel or how the process will be handled.

Attorney Lyons left the meeting room at 7:40 p.m.

*Motion by Mr. Laul, seconded by Mr. Wunder and carried by favorable roll call vote, the Township Committee authorized the Administrator to bring proposals from Conflict Attorney’s to the next meeting. AYES: Wunder, Laul McKee, Schmidt ABSTAIN: Koehler*

### **Revocation of Land Donation**

Mayor Schmidt stated that at the last meeting the Township Committee approved the acceptance of land on Mount Lebanon Road. Unfortunately, the next morning the Township was advised that the owner’s plan had changed and that he had accepted an offer from another individual to purchase the property. The land donation will not take place.

### **COVID-19 Update**

Mayor Schmidt stated that there are now 40 COVID cases in Lebanon Township. Mayor Schmidt stated that Executive Order 192 goes into effect tomorrow at 6:00 a.m. Mr. Barberio said that all of the prior policies and procedures are still in effect with regard to social distancing, etc. In addition, there is now an obligation for employers to conduct temperature checks and for a questionnaire to be completed by each individual when entering the building. Forms are to be submitted to the Supervisors. There are procedures to be followed if anyone has a fever or answers “yes” to any of the questions.

### **Building Maintenance**

Ms. Koehler asked Mr. Barberio if there is an update on the basement remediation. Mr. Barberio stated that he spoke with Mr. McGuinness from R&K Environmental and three remediation companies will be coming to the building to scan the basement. They will be providing quotes for the Committee’s consideration. Ms. Koehler noted that it has to be determined what the DPW’s role will be in the process. The HVAC in the basement will need to be addressed also.

Attorney Lyons returned to the meeting at 7:48 p.m.

### **OPRA Conflict Counsel – Committeewoman OPRA Request**

Ms. Koehler asked about narrowing the scope on retaining the Conflict Counsel. Attorney Lyons said that there should be caution in discussing the merits of the case as the Township has been placed on notice.

Ms. Koehler stated that due to COVID she would expect the documents requested in 21 days and therefore assumes that there will be no additional questions for the Conflict Attorney after that date.

### **NEW BUSINESS**

#### **Email Expansion**

Mayor Schmidt stated that it has been determined that each of the Township volunteers must be provided with Township email addresses to avoid mixing business with personal emails. There is a need to update the Township's email system, as well as, to retain a new IT professional. Mr. Laul said that the OPRA brought up the need for the volunteers to be provided with individual email accounts. There are approximately 60 volunteers and the Clerk will have access to all accounts. Mr. Laul provided two options for the Committee to look into.

Mr. Barberio said that there is an emergent need for an IT professional to be retained. Mr. Barberio spoke with the Tewksbury Township IT individual and requested an hourly quote for the remainder of the 2020 year. Mr. Barberio received a quote of \$100 per hour to get the Township up and running. Mr. Barberio said that he has worked with the IT professional in other towns. He is well versed and reliable. Mr. Barberio will speak with Mr. Lyons on the procurement process.

#### **Best Practices 2020**

CFO Greg DellaPia provided the Committee with an overview of the Best Practice application. Mr. DellaPia said that there have been some changes with the questionnaire. There were 60 questions to be answered this year on varying subjects. The maximum score for the questionnaire is 24.4. Lebanon Township's overall score is 20.

### **PRESENTATION OF VOUCHERS**

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

*Motion by Ms. Koehler, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee approved the November 4, 2020 bill list in the amount of \$ 1,277,266.75.*

### **CORRESPONDENCE**

- a. Curator's Report
- b. Animal Control Officer's Report for the Month of October 2020

**PUBLIC COMMENTS**

*Motion by Ms. Koehler, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 8:08 p.m.*

Mr. Steve Leftly commended the Township Administration on how well Election Day went. Mr. Leftly commented on the OPRA and questioned if there are other communication vehicles that need to be considered.

Ms. Joyce Leftly provided support to Mr. Slowinski and Ms. Koch as requested by Mr. Slowinski. Ms. Leftly is disappointed that the parties did not meet to discuss the matter.

*Motion by Mr. Wunder seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee closed the Public Comment portion of the meeting at 8:11 p.m.*

**EXECUTIVE SESSION - Resolution No. 81-2020**

*Motion by Ms. Koehler seconded by Mr. McKee and carried by favorable roll call vote, the Township Committee approved Resolution No. 81-2020 and convened into executive session at 8:13 p.m. Action will not be taken.*

**TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 81-2020**

**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;

\_\_\_\_\_ 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):

**Professional Services – Tax Appeal Attorney** 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 **Police Sergeant Position – Police employee matter**. And whereas 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.

## ADJOURNMENT

Having no further business to come before the Committee a motion was made by Ms. Koehler, seconded by Mr. Wunder and carried by unanimous favorable roll call vote to adjourn the meeting at 8:58 p.m.

Respectfully submitted,

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Karen J. Sandorse, RMC/CMC  
Municipal Clerk

Approved: December 2, 2020

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Mike Schmidt, Mayor