

**Lebanon Township Committee
April 2, 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
	Bernard Cryan	Brian Wunder	

Absent-

Also Present - Attorney Tara St. Angelo, Clerk Karen Sandorse and 10 members of the public.

PRESENTATION OF MINUTES

Minutes of the Regular Meeting of March 19, 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 March 19, 2014.

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.

There were no comments from the Public.

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

ORDINANCES

Ordinance No. 2014-01 – CAP BANK

Public Hearing

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2014-01 was opened.

There were no comments from the public.

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2014-01 was closed.

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee adopted Ordinance No. 2014-01 as written below.

STATE OF NEW JERSEY
COUNTY OF HUNTERDON
TOWNSHIP OF LEBANON
ORDINANCE NO. 2014-01
CALENDAR YEAR 2014
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40a:4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to .05% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,
WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,
WHEREAS, the Township Committee of the Township of Lebanon in the County of Hunterdon finds it advisable and necessary to increase its CY 2014 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,
WHEREAS, the Township Committee hereby determines that a .05% increase in the budget for said year, amounting to \$20,890.46 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,
WHEREAS the Township Committee hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.
NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Lebanon, in the County of Hunterdon, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2014 budget year, the final appropriations of the Township of Lebanon shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$146,233.19, and that the CY 2014 municipal budget for the be approved and adopted in accordance with Township of Lebanon this ordinance; and,
BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,
BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Ordinance No. 2014-02 –Amending Chapter 400 (Zoning)

Public Hearing

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2014-02 was opened.

There were no comments from the public.

Motion by Mr. Milkowski, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2014-02 was closed.

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee adopted Ordinance No. 2014-02 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
ORDINANCE NO. 2014-02

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCE OF THE TOWNSHIP OF LEBANON, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, AND MORE SPECIFICALLY CHAPTER 400(ZONING)

BE IT ORDAINED, by the Township Committee of the Township of Lebanon, in the County of Hunterdon and State of New Jersey that:

Section 1. Ordinance subsection 400-54,D(5)(h) under “Variances and Appeals” is hereby deleted ;

Section 2. Ordinance subsection 400-54,E(5) under “Other matters” is hereby deleted;

Section 3. A new subsection 400-54F(4), under “Escrow accounts and technical review fees” is hereby adopted to read as follows:

The applicant for any development application requiring a public hearing shall, after the application has been placed on the agenda of a meeting of the Planning Board or Board of Adjustment for more than one (1) agenda after a completeness is declared, and if the matter has been reached, the applicant shall pay from the escrow fees deposited, the costs billed by the professionals for the time expended upon that application starting with the second agenda meeting listing. (This excludes Extensions of Time on an application.) The professionals include the attorney, engineer or engineers, professional planner or any experts required to render a report to the Board. The voucher amounts shall be billed promptly, and if the escrow is insufficient, the escrow must be paid prior to the hearing continuing for the next meeting.

In cases where a matter has been placed on the Board’s agenda for consideration, a request to adjourn or postpone the hearing date must be made to the Clerk of the Planning Board or Board of Adjustment Secretary, as applicable, in writing, and received by the Board Clerk or Board Secretary, by facsimile transmission, mail, or courier, by twelve o’clock noon of the Friday prior to the hearing date. Failure to request an adjournment or postponement within this time period and in the manner prescribed

above will result in the matter being deemed as having been reached and considered for purposes of this subsection.

Section 2. This ordinance shall take effect following passage and publication in accordance with the laws of the State of New Jersey.

OLD BUSINESS

EMEX, LLC – Energy Market Exchange

Mr. Mike Stoller, of the Energy Markey Exchange (EMEX), was present to answer questions or concerns relative to the possibility of the Township holding an Electric Reverse Bid Auction. Mr. Stoller stated that EMEX is a NJDCA approved vendor for energy procurement. In being sanctioned by the DCA the Township is permitted to use EMEX's reverse auction platform in obtaining electric or natural gas without the need to request proposals. Mr. Stoller stated that during a reverse auction they invite third party suppliers into a live auction. The auction takes place on the computer while on a conference call. The bidders are bidding in full transparency and can bid continuously until the bidding is closed. Bidders can repetitively bid to drive the rate down. The auction is five minutes long, however, during the final two minutes, if a bid comes in, the clock starts ticking again for two more minutes. This gives the other bidders more time to consider bidding lower. Rates will come in for different lengths of time; anywhere from 6 to 24 months. The Committee can choose the length of the term that will best suit the Township. Mr. Stoller stated that most municipalities are going with 24 months which is the longest amount of time approved by the DCA. Mr. Stoller said that 140 municipalities in NJ have used EMEX to obtain their energy. Mr. Stoller stated that EMEX does not procure energy for residents at this time. Mr. Stoller informed the Committee that there is no obligation if the auction is conducted and the Committee chooses not to move forward, they do not have to. There is no additional cost for EMEX's services as they are paid by the supplier. The saving that the Township will see comes from the "supply" portion of the Township's energy bill. The delivery portion is not a part of the savings and the Township will retain JCP & L as the utility for that service. Billing will continue to be taken care of by JCP & L with charges from the third party supplier being listed on their bill. Mr. Stoller stated that Township facilities can be added or removed if necessary. All third party vendors are BPU approved and EMEX is a BPU approved consultant.

Mr. Stoller stated that if the Township passes the resolution to hold the auction, the auction will be scheduled and email invites will be sent to the Committee. The auction will be held and results will be distributed. At the following meeting the Township Committee can decide on the timeframe of the contract and adopt another resolution to move forward. There is no contract with EMEX; only with the winning vendor. However, EMEX will always be in the picture to help facilitate any problems or questions the Township may have.

Resolution No. 33-2014 – Energy Market Exchange

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 33-2014 as written below.

STATE OF NEW JERSEY
COUNTY OF HUNTERDON
TOWNSHIP OF LEBANON

RESOLUTION NO. 33-2014

A RESOLUTION OF LEBANON TOWNSHIP AUTHORIZING THE PURCHASE OF ELECTRICITY SUPPLY SERVICES FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

APRIL 16, 2014

WHEREAS, the Lebanon Township has determined to move forward with the EMEX Reverse Auction in order procure electricity for the Township of Lebanon; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) (the "Act") authorizes the purchase of electricity supply service for public use through the use of an online auction service; and

WHEREAS, the Township of Lebanon will utilize the online auction services of EMEX, LLC, an approved vendor pursuant to the Act, waiver number EMEX LLC-1, located at www.energymarketexchange.com; and

WHEREAS, EMEX, LLC is compensated for all services rendered through the participating supplier that a contract is awarded to; and

WHEREAS, the auction will be conducted pursuant to the Act; and be it

RESOLVED, that the Mayor of the Township be and he hereby is authorized to execute on behalf of the Township of Lebanon any electricity contract proffered by the participating supplier that submits the winning bid in the EMEX Reverse Auction.

Mr. William Swartz - Melick's Town Farm Pesticide Violations

Mayor McKee stated that Mr. Swartz came before the Committee at an earlier time to discuss his concerns with pesticide violations at the Melick Town Farm. Mayor McKee stated that the Committee is of the thought that the DEP had stated their position and the Town Farm seems to be in compliance.

Mr. Swartz stated that he sent a follow up letter to the Committee and asked for clarification on their position. He would like the Committee's thoughts in writing so he can pursue the issue further by taking it to residents and other neighbors. Mr. Swartz read his follow up letter to the Township Committee.

Mayor McKee stated that the Committee needs clarity on the first violation. Mayor McKee stated that there was an investigation by the DEP and a notice of violation with a settlement agreement. Mr. Melick is in compliance with the DEP. Mayor McKee stated that he understands that in the second investigation there was a notice of violation but there was no violation given. Mayor McKee noted that the inspector, who met with Mr. Swartz, stated that in his opinion he did not see or detect a drift violation. Mr. Swartz stated that the inspector did however issue a violation to the Melicks that day. Mr. Swartz also stated that the inspector did say in the document, that in his opinion, he did not detect any drifting that day that would pose any threat to people, but what he did not mention, was the possibility of chronic long term affects. Mr. Swartz stated that he can provide the Committee with many reports which state the chronic long term effects of the pesticides. Mayor McKee asked those present who has concerns with the pesticide use. Four residents raised their hands along with Mr. Swartz. Mr. Swartz asked the Committee to investigate the issue to see if they are in agreement with him that there is a possible threat and danger to those living in the Township. Mayor McKee stated that he asked Mr. Swartz to meet with the Zoning Officer if he feels that there is a zoning violation. Mr. Swartz asked for the Committee to put in writing that they have looked at the issue. Mayor McKee stated that the Committee looked at the issue through the DEP's report and the testimony that Mr. Swartz has provided.

In addition the Committee has the first violation, the settlement agreement and the September 21, 2013 investigation and compliance report. Mr. Swartz stated that in the settlement report there are possibly ten areas of compliance and the Town Farm is only compliant in two areas. Mr. Swartz stated that they have not stopped the drift. Mr. Swartz stated that he has repeatedly contacted the DEP as they are not doing enforcement and compliance. In five years, they have been out to the property one time, in 2009.

Mr. Swartz stated that the Melick's typically spray two 500 gallons of pesticide at 62 gallons an acre. Mr. Swartz noted that the pesticides are being shot into the air and questioned how much actually lands on the trees, the ground or floats in the air. Mr. Swartz also feels that the pesticides end up in the river when there is heavy rain and runoff. Mr. Swartz informed the Committee that he has been in touch with the Hunterdon County Health Department relative to this issue also.

Mr. Cryan suggested that the Committee should draft a letter to the DEP to request that they increase their focus on Mr. Swartz's concern. Mr. Melick should be copied on the letter.

Ms. Terry Kinney of Glen Side Trail stated that when they spray the smell is very strong; she cannot open her windows and does not walk her dogs in that area. Ms. Kinney stated that organic is available so there are pesticides that are safe.

Ms. Lynn Jakowski of Glenside Trail stated that if you were to read what problems the pesticides can cause, all of the things listed have happened in her home.

Mr. Dan Kinney, and on behalf of his daughter Abbey Kinney of Glenside Trail, reserved his comments.

Mr. Marc Laul, LTEOS member, stated that at the LTEOS meeting they discussed the pesticide issue with regard to the Raritan Watershed. LTEOS member, Nancy Lawler, had looked into the bracketing testing that was conducted two years ago in the river. The results came back as poor for the first time; downstream from the Town Farm. Upstream from the Farm tested good, and a half a mile downstream did as well. The River will be bracketed and tested again this spring. If it comes back twice with a poor rating questions are raised as to the source. Mr. Laul stated that there is a potential that the pesticides are reaching the river as it has never been poor before. Mr. Laul stated that the Raritan Watershed Authority conducts the testing. Mr. Cryan suggested for the LTEOS to request that the Raritan Watershed Authority work with the residents in determining a date in which the testing should be conducted.

Motion by Mr. Cryan, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee agreed to send a letter to the NJDEP stating the concerns that the Committee has heard and that the Township would like further information on what is transpiring at the Town Farm. The letter is to be sent to the Melick's Town Farm informing them of the Township's actions. Mr. Swartz is to be copied on the letter also.

Cancel Township Volunteer Dinner

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee canceled the Annual Volunteer Dinner due to budget limitations.

Quest Environmental – Fire Station #1 Remedial Action Report

Ms. Schriver stated that she spoke to Quest Environmental and they are working on a draft report from the last sampling that was conducted at Fire Station #1. They would like the Committee to review it prior to them coming to a meeting.

NEW BUSINESS

LTEOS - Request to Appoint a New Member

Mayor McKee appointed Adam Duckwirth to fill the vacancy on the LTEOS.

One Run for Boston Cross-Country Relay – Request for Police Escorts

A letter was received from One Run for Boston requesting police escorts for a non-stop cross-country relay which will pass through our Township on Friday, April 11, 2014. One Run for Boston is a non-stop running relay across America in aid of the One Fund Boston which was set-up to assist and support those impacted by the 2013 Boston Marathon bombings.

The Township Committee authorized Chief Mattson to provide escort support at his discretion as long as there is no additional cost to the Township.

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 April 2, 2014 bill list in amount of \$25,608.14.

CORRESPONDENCE

- a. Historians Meeting Minutes
- b. Resignation from Brian Wunder as OEM Liaison
 - Mr. Wunder stated that he feels that the OEM Coordinator reports to the Mayor-
 - Mayor McKee stated that he established the OEM position because he thought that Mr. Wunder had interest in OEM and that in times where there is no emergency the coordinator could keep in contact with the Committee through the liaison. Mayor McKee accepted Mr. Wunder's resignation. Mayor McKee is to assume the duties.
 - Ms. Schriver stated that she supports and is interested in OEM.

PUBLIC COMMENTS

Motion by Ms. Schriver, seconded by Mr. Milkowski and carried by unanimous favorable roll call vote, the Township Committee opened the public comment portion of the meeting at 8:05 p.m.

Mr. Marc Laul advised the Committee that when they receive the contract for the Energy Auction they make note of what the high and low threshold is. Mr. Laul stated that there are penalties that go with it. If the Township was to remove a facility or add one, they could be penalized for being either too high or too low. Mr. Laul suggested to also be aware that the agreement does not prohibit the Township from being involved with ESCO's, just in case the Committee chooses to look for additional energy savings for the Township facilities.

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 8:07 p.m.

Resolution No. 34-2014 –Executive Session

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 34-2014 and convened in executive session at 8:09 p.m.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 34-2014
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;

X 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.

ADJOURNMENT

Having no further business to come before the Committee a motion was made by Mr. Cryan, seconded by Mr. Milkowski and carried by unanimous favorable roll call vote to adjourn the meeting at 8:24 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: April 16, 2014

Thomas McKee, Mayor