

**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 Troops.

**ROLL CALL**

Present - Tom McKee Patricia Schriver Francis Morrison  
Ron Milkowski Bernie Cryan

Absent-

Also Present - Attorney Dick Cushing, Clerk Karen Sandorse and 8 members of the public.

**PRESENTATION OF MINUTES**

**Minutes of the Regular Meeting of March 20, 2013**

Tabled to the April 17, 2013 meeting.

**Minutes of the Executive Session of March 20, 2013**

Tabled to the April 17, 2013 meeting.

**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.*

Mr. Anthony Casale expressed his concern with Ordinance No. 2013-05 and asked if the Committee has an understanding of the ordinance amendments. Mayor McKee stated that Planner Michael Bolan had provided a memo to the Committee detailing the purpose of the changes that are being considered. Mayor McKee stated that the Planning Board did have a discussion, at their last meeting, concerning the ordinance. Mayor McKee provided an overview of the proposed amendments. Discussion was held on Mr. Casale's apprehensions with the proposed ordinance.

Mr. Casale stated his concern with Nextel, not paying rent as the Co-locator on the Municipal Cell Tower. Mr. Casale stated that permits have been issued and Nextel has entered into a Development Fee with the lead bidder to put up the tower. Mr. Casale stated that Nextel occupies the premise, electric has been installed and their name appears on the permit which was obtained by the lead bidder. Mr. Casale stated that Verizon built the deck for Nextel and therefore they have occupied a place on the tower. Mr. Casale stated that the Co-locator Agreement has been partially executed and it did not provide for a grace period in the commencement of rent. Attorney Cushing stated that the agreement is set up that the Co-locator begins paying the later of either the execution of the agreement or when the building permits are obtained. Attorney Cushing stated that Verizon received a building permit for its operation. The Construction Code Official informed Attorney Cushing that as far as he knows, Nextel has not moved forward with their permits. Attorney Cushing stated that Nextel will probably not need a building permit; they will only need an electrical permit. Attorney Cushing stated that he spoke to Nextel's attorney and he stated that Nextel has not yet obtained the electrical permit. Attorney Cushing stated that Nextel is now ready to execute the necessary agreements. This will hopefully trigger the obligation of paying the \$2000.00 per month rent, with the Township receiving \$1000.00 of it. Attorney Cushing stated that the Committee needs to decide if they want to move forward in executing the agreement and receiving the rent or do they want to argue the point of past rent which could take some time and create additional legal costs. Mr. Casale stated that each Co-locator should provide for their individual insurance. Mr. Casale asked that the Committee negotiate a good contract.

Mr. Casale stated that he does not understand why the red light application was denied for the Fire Chief.

Mr. Casale stated that his opinion is to deny the request of the prior squad to store the EMS records.

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

## **ORDINANCE**

### **Ordinance No. 2013-04- HIGHLANDS COUNCIL FOR PLAN CONFORMANCE FOR THE PLANNING AREA**

*Motion by Ms. Schriver, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2013-04 was opened.*

Ms. Laurie Hoffman asked for an explanation of the ordinance.

*Motion by Ms. Schriver., seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2013-04 was closed.*

*Motion by Ms. Schriver, seconded by Mr. Milkowski and carried by unanimous favorable roll call vote, the Township Committee adopted Ordinance No. 2013-04 as written below.*

### **ORDINANCE NO. 2013-04 TOWNSHIP OF LEBANON**

**COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
AN ORDINANCE TO PETITION THE HIGHLANDS COUNCIL FOR PLAN  
CONFORMANCE FOR THE PLANNING AREA**

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Lebanon:

**Section 1 Purpose**

The Township of Lebanon is located partially within that portion of the New Jersey Highlands Region defined by the Highlands Act, as the “Planning Area” (see definitions, below). This Ordinance is enacted pursuant to Section 15.a. of the Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20-1 et seq.), which provides that a municipality may choose to conform its master plan, development regulations, and other regulations to the provisions of the Highlands Regional Master Plan, with respect to lands located within the Planning Area, and by Ordinance, petition the New Jersey Highlands Water Protection and Planning Council (Highlands Council) for Plan Conformance approval of such planning and regulatory documents.

By adoption of this Ordinance, the Township Committee of the Township of Lebanon establishes that the municipality shall conform its master plan, development regulations, and all other regulations applicable to the use and development of land within the Planning Area of the municipality, to achieve consistency with the goals, requirements, and provisions of the Highlands Regional Master Plan. Said conformance shall be in accordance with the provisions of Highlands Council approval of the municipality’s Petition for Plan Conformance, which was previously submitted to the Highlands Council by Resolution adopted by the Township Committee on January 20, 2010, and which the Highlands Council approved with certain conditions by Highlands Council Resolution No. 2011-36, adopted on October 13, 2011. Further, this Ordinance specifically reserves the rights of the municipality as specified by the Highlands Act, with respect to the voluntary nature of Plan Conformance for the Planning Area.

**Section 2 Basis and Background**

The Highlands Act finds and declares that protection of the Highlands Region is an issue of State level importance because of its vital link to the future of the State’s drinking water supplies and other significant natural resources. The Highlands Act creates a coordinated land use planning system requiring the Highlands Council to prepare and adopt a Regional Master Plan that serves to protect, restore and enhance the significant resources of the Highlands Region. The Highlands Act sets forth a bifurcated system for municipal conformance with the goals, requirements and provisions of the Regional Master Plan. Pursuant to Section 14.a. of the Highlands Act, a municipality located wholly or partially in the Preservation Area was required to submit by December 8, 2009 a revised municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, to conform them with the Regional Master Plan.

Pursuant to Section 15.a. of the Highlands Act, for a municipality located wholly in the Planning Area or for any portion of a municipality lying within the Planning Area, the municipality may submit at any time a revised master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, that conforms with the Regional

Master Plan. Plan Conformance by a municipality is strictly voluntary for lands in the Planning Area.

Consequently, the Township of Lebanon, having lands in the Planning Area of the Highlands Region, did submit as part of a Petition for Plan Conformance to the Highlands Council on January 20, 2010, proposed revisions to the master plan, development regulations and other regulations that relate to the development and use of land in the Planning Area. On October 13, 2011 the Highlands Council adopted Resolution No. 2011-36 approving Lebanon Township's Petition for Plan Conformance. The approval was conditioned upon Lebanon Township's adoption of an ordinance pursuant to Section 15a of the Highlands Act, formally petitioning the Highlands Council for Plan Conformance for lands within the Planning Area.

### **Section 3 Applicability**

This Ordinance applies to the development and use of land located in the Planning Area of Lebanon Township, as defined by Section 7 of the Highlands Act.

### **Section 4 Definitions**

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**Highlands Council** – means the New Jersey Highlands Water Protection and Planning Council.

**Highlands Act** – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 *et seq.*

**Highlands Region** means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

**Planning Area** - means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

**Plan Conformance** – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Guidelines.

**Preservation Area** – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

**Regional Master Plan**– means the Highlands regional master plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

**Section 5 Petition for Plan Conformance**The Township of Lebanon hereby formalizes its Petition for Plan Conformance to the Highlands Council, declaring it fully effective for lands in the Planning Area of the municipality, said Petition having been approved by the Highlands Council subject to the conditions as set forth in Highlands Council Resolution No. 2011-36, adopted on October 13, 2011.

### **Section 6 Reserved Right of Withdrawal for Planning Area**

At any time, the Township of Lebanon may withdraw its Petition for Plan Conformance for the Planning Area. In such event, any approvals, rejections or conditions of the revised municipal master

plan, development regulations or other regulations that pertain to the Planning Area, as set forth by the Highlands Council in approving Resolution No. 2011-36, will not be binding upon the Township of Lebanon. Any such withdrawal, should it occur, shall require repeal of this Ordinance, and shall be followed by formal notification to the Highlands Council, sent within ten (10) days of adoption by certified mail and including a certified copy of such repealing ordinance.

**Section 7 Planning Grants and Technical Assistance** Upon application of Lebanon Township, the Highlands Council has made, or will make, grant funding and other financial and technical assistance available to the Township for the reasonable costs associated with the revision of the master plan, development regulations or other regulations, which revisions are designed to bring those plans and regulations into conformance with the Regional Master Plan. The Highlands Council shall provide grant funds for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant Program, and may also provide grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council. As Plan Conformance for lands in the Planning Area is strictly voluntary, Lebanon Township retains the right to withdraw the Petition relating to lands lying in the Planning Area from the Plan Conformance process at any time.

**Section 8 Effective Date**

This ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

**NOW, THEREFORE, BE IT FURTHER ORDAINED** that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

**Introduction**

**Ordinance No. 2013-05- Affordable Housing Residential Development**

**ORDINANCE NO. 2013-05  
TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
AN ORDINANCE TO  
REVISE, AMEND AND SUPPLEMENT  
THE CODE OF THE TOWNSHIP OF LEBANON  
CHAPTER 110, TITLED “AFFORDABLE HOUSING”, SPECIFICALLY  
SECTION 110-3, TITLED “RESIDENTIAL DEVELOPMENT FEES”, SECTION 110-5,  
TITLED “ELIGIBLE EXACTION, INELIGIBLE EXACTION AND EXEMPTIONS”, AND  
SECTION 110-10, TITLED “DEFINITIONS”**

Mayor McKee stated that the Committee will be considering Ordinance 2013-05 due to difficulties in collecting COAH fees through renovations and the redevelopment of existing homes. Essentially,

complete new dwellings were being built connected to existing small homes and no development fees were collected. To insure that the Township does not lose out on development fee payments, for substantial renovations, the residential addition cost threshold has been lowered to \$10,000.00 for increased square heated living space. The ordinance also provides for the increase in residential development fees on new houses, from 1% of assessed value to 1½ %.

Mr. Cryan stated that he feels that the term “Developer” is somewhat misleading as it sounds to be only for new construction or new developments. Mr. Cryan questioned what impact the ordinance will have on the residents in doing upgrades to their homes. Mr. Cryan stated that the \$10,000.00 cost for an addition seems low as there is not much you can do with that amount of money. Mr. Cryan asked what items would be included the \$10,000.00 cost. Attorney Cushing stated that fees for the project would possibly be determined by the way the Construction Code Official measures it. Attorney Cushing provided the Committee with the definition of a “Developer” as stated in the Municipal Land Use Law. Mr. Cryan stated his concerns with increasing costs for the residents.

Mayor McKee stated that in the future, in Highlands areas, development will consist of homes being knocked down and rebuilt or major additions will be constructed in the future. This is where the residents will have to pay the builder’s fees. Mayor McKee questioned how to fund COAH when there are so few new homes being built in the Township. Mr. Cryan stated that the ordinance appears to penalize the residents who are trying to improve their homes. Mr. Milkowski stated that the residents will only have to pay the fee if they increase the size of their home. Ms. Schriver stated that she questions if the amended ordinance will correct the problem of fees not being paid.

Mayor McKee stated that the concept of the ordinance is correct a problem, however; the \$10,000.00 figure may be too low of an amount. Possibly the percentage of the increase of the square footage of the house needs to be considered as opposed to the cost.

Ordinance 2013-05 was tabled to a later meeting for reconsideration.

## **OLD BUSINESS**

### **Municipal Complex Cell Tower – Co-Locator Agreement**

Mayor McKee stated that during Public Comment Mr. Casale stated his concerns with the Co-locator’s payment of rent and the insurance coverage for the Municipal Complex Cell Tower. Mayor McKee asked Attorney Cushing if the Township is protected by Verizon’s insurance. Attorney Cushing stated that Verizon is required under the lease to provide a minimum of coverage for an entire series of events that may arise in connection with the tower. Attorney Cushing stated that Verizon listed the Township as additionally insured.

Attorney Cushing stated that there is a lease with the primary tenant and the Township. There is also a lease between the tenant and the Co-locator which the Township does not see. In order to bridge the two leases there is a Co-locator Telecommunications Site Lease Agreement which acknowledges the history of the matter. This lease establishes an obligation for the Co-locator to pay a 3% rent increase annually, which needs to be verified. The lease also states that all of the terms in connection with the relationship between the co-locator and the Township are governed by the master lease between the Township and the primary tenant. Attorney Cushing stated that the

document also refers to a “license supplement” which alters some of the terms between Verizon and the Co-locator.

Attorney Cushing stated that question is now; does the Township receive rent from the tenant and when does it begin?

Attorney Cushing noted that he has tremendous respect for the contributions that Mr. Casale has made on this subject matter and stated that has been a true asset to the Township, however, Attorney Cushing recommended that the Township Committee move forward with the Co-locator Agreement. Attorney Cushing stated that it would most likely be very time consuming and costly in making an attempt to receive past rent from Nextel.

Mr. Milkowski stated that he is concerned with a Co-locator not obtaining their electrical permits with the purpose of freezing out the competition. Mr. Milkowski asked if there is a way to prevent this from happening by changing the language to read that rent is due when the approval is issued. Attorney Cushing stated that if the agreement is signed and the Co-locator just has to pull the electrical permit, he feels that the Township is in a practical position to say that, with due diligence, the permit must be pulled in 30 days. Mr. Milkowski wants to be sure that it does not drag out.

Ms. Schriver stated that she would like to see the Township attain the rent, however, at this point she agrees with Attorney Cushing in moving forward and recommended that Nextel work fairly with the Township.

Mayor McKee stated that he feels that the Committee needs to take a position and would like to see Nextel do their due diligence in obtaining their electrical permit. Mr. Milkowski and Mr. Morrison agreed.

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee authorized the Mayor and Clerk to execute the Co-locator Telecommunications Site Lease Agreement stating the rent will start on May 3, 2013.*

### **Request for a Red Light/Siren Permit – Edward Schaffer**

Mayor McKee stated that this matter is back on the agenda as there was some confusion in the motion that was made at the last meeting. Ms. Schriver stated that based on the discussion at the last meeting it appeared that the request should be denied due to the vehicle not being a Township vehicle and that it can be driven by any individual. Ms. Schriver also noted that a red light permit has never been approved by the Township in the past.

Mr. Milkowski stated that he would vote one way as a fire chief and another way as a Committee member; therefore, he would be abstaining on the vote.

*Motion by Ms. Schriver, seconded by Mayor McKee and carried by favorable roll call vote, the Township Committee denied a red light permit for Edward Schaffer. AYES: Schriver, McKee, Morrison ABSTAIN: Milkowski, Cryan*

### **Tino DeSantis – Request to Store EMS Patient Records**

Attorney Cushing stated that the prior Rescue Squad had EMS records which were generated in connection with their procedures. When the Squad filed for bankruptcy the records were transferred to the Bankruptcy Trustee and the Trustee has had possession and supervision of the records since that time. The bankruptcy is still ongoing, however; it is winding down. The Trustee feels that he should now be able to turn the records over to the Township. The Township has concerns with the volume of records and the ability to store them, as well as, apprehensions with HIPA issues. The administrative burden and having to deal with OPRA requests is also something to consider. Attorney Cushing stated that his firm has reached out to the Attorney for the Bankrupt and he was unaware of the issue and will be looking into it. Consequently, Attorney Cushing does not have an answer as to the quantity of documents. Attorney Cushing stated that relative to OPRA requests, normally it would be a plaintiff or a defendant in a lawsuit who would request EMS records. Normally the practice would be to produce a subpoena or court order to obtain a record and due to confidentiality issues, the records would not be release without that type of document. Attorney Cushing stated that the Fire Department is now collecting the same records with its operations. Attorney Cushing noted that as time goes on demand for the records will decrease. Attorney Cushing stated that the bankruptcy lawyer is bound by law to do something with the records and is hoping to receive information that there is not a large quantity of records. Then, possibly the Township can consider legally disposing of what can be disposed of and storing the remaining documents.

Mr. Milkowski stated that if the bankruptcy attorney is able to purge the records, which can legally be disposed of, he would like that to be accomplished prior to the records coming to the Township. Mr. Milkowski stated that he feels that this could be a burden to the Township.

Once the Committee is informed of the volume of records the request will be considered again.

### **Township Historians – Facebook Page**

Ms. Laurie Hoffman stated that she is present to request that the Historians and Museum have a Facebook page. Ms. Hoffman stated that the logo has been removed from the original page and the name has been changed to the Friends of Lebanon Township Museum. Ms. Hoffman stated that they reached out to Webmaster Karen Newman to see if she would be the administrator of the page. Ms. Newman can then sensor the comments placed on the page. Attorney Cushing stated that his concern is that Township is subject to the Constitution and the First Amendment creates certain rights. Attorney Cushing provided his apprehensions with a public bulletin board. Attorney Cushing stated that controls need to be considered on restricting outsiders from commenting on the site. Ms. Hoffman stated that at this time the page has controls in place but there is less interest being shown because people want to be able to ask questions. Attorney Cushing stated that since the page is under a Township Committee it cannot sensor comments under the First Amendment. Attorney Cushing stated that there can be a page established by a parallel but private entity as long as there is a statement on the page that notes that the group is a private organization and not part of the Township.

### **Keith Chambers – DPW Garage Project**

Architect Keith Chambers stated that he requested to be placed on the agenda to discuss the status of the Temporary Certificate of Occupancy which was issued by the Construction Code Official on

March 15, 2013. The DPW was able to occupy the building as of that time. There were issues for the contractor to address and they are working on the punch list at this time. The Certificate of Substantial Completion has been provided to the Committee for consideration at this meeting and once it is signed the contractor will have 5 days to finish punch list. Mayor McKee asked what happens after the 5 days, if the punch list is not complete. Mr. Chambers stated that the Township Attorney will then need to get involved and write letters. Mr. Chambers stated that the Township is still holding \$100,000.00 of the contractor's money and would think that he wants to get his money. The DPW has been in the building since March 18, 2013 and all issues are being addressed. Mr. Cryan stated that there was a commitment from the contractor that the building would be done by February 28, 2013 and it is now April. Mr. Cryan questioned why the contractor is not just finishing up. Mr. Chambers stated that at the end of a project it is always a chore to get the subcontractor's back to finish the job. Mr. Chambers stated that tomorrow is the plumbing inspection, if it passes, the CSC will be issued and the contractor will have 5 days to complete the remaining items.

Mr. Milkowski asked about the "liquidated damages" clause in the contract. Attorney Cushing stated that there is a completion date listed in the contract and periodically there may be a need for extensions to be granted. Discussion was held on liquidated damages, the project timeline and the punch list of remaining items to be completed.

Mr. Chambers is to write a letter to the contractor stating the areas of concern that he has and should inform the contractor of the interference they are causing in the Township conducting business by having to move things around to accommodate the contractor. The TCO is essentially; occupancy with limitations. Attorney Cushing stated that he will review the liquidated damages clause in the contract. Mr. Cryan stated that he would like Attorney Cushing to look at the contract to see if there is the option to hire someone else to complete the project with the contractor's remaining funds.

### **DPW - Brush Plan**

Mr. Milkowski stated that during the storms the Committee discussed creating a policy for brush removal for future storms. Mr. Milkowski requested that Mr. Cryan meet with Mr. Gabriel to discuss a proposed policy. Mr. Cryan will meet with Mr. Gabriel.

### **March 6, 2013 Meeting Minutes**

At the March 20, 2013 meeting Mr. Milkowski had asked for two corrections to be made to the March 6, 2013 meeting minutes. Mr. Milkowski stated that in the minutes it read that Attorney Staples asked him if the Township purchased the block from the DPW building and Mr. Milkowski responded "no". Mr. Milkowski stated that he is not sure why he would have stated "no" since he would assume that anything the Township owns they would have had to be purchased. Mr. Milkowski stated the he was only going by memory in making the correction.

Mr. Milkowski stated that in regard to the Lighting Plan for the DPW building, he understood that Engineer Risse, who designed the site plan, had to step aside and allow another engineer to review the plan. Mr. Chambers stated that the engineer provided a waiver of completeness on the lighting plan. Mr. Chambers stated that he then presented to the Township what the lighting would be on the building and the Planning Board passed it. Mr. Milkowski stated that the lighting plan was done in accordance but it was not required because of the waiver.

Mr. Chambers asked what is happening with the lighting on the building at this time. Mr. Milkowski stated that it was decided not to have the lights on in the evening unless they are needed. Mr. Chambers stated that he has heard that the Police are complaining about fueling the vehicles in the dark. Mr. Milkowski stated that he understands that there was supposed to be a small motion detector installed to light the way to the main light switch.

*Motion by Ms. Schriver, seconded by Mayor McKee and carried by favorable roll call vote, the Township Committee authorized the minutes to be amended, back to their original content, as there was additional clarification provided based on a review of the meeting tape and it was determine that the original minutes were correct. AYES: Schriver, McKee, Morrison, Cryan ABSTAIN: Milkowski*

### **Maxwell Property Lot Line Adjustment**

Mr. Milkowski stated that there was a resolution adopted by the Township Committee relative to the acquisition of the Maxwell property. Mr. Milkowski stated that the Committee needs to approve hiring the surveyor to conduct the lot line adjustment. The Township Committee will cover the cost of the survey. Attorney Cushing will prepare professional services resolution for the next meeting.

### **DPW Sign**

Ms. Schriver provided a copy of a picture of a proposed sign for the DPW building. Ms. Schriver stated that the sign is  $\frac{3}{4}$  inch MDO which is made for signs. It is guaranteed for 5 years and will usually last 10 years. Ms. Schriver stated that pressure treated lumber shrinks and warps, therefore; it is not made for signs. Ms. Schriver stated that the cost for the sign is \$500.00.

## **NEW BUSINESS**

### **SADC Application – Block 18 Lot 28 - Farmland Preservation**

Mayor McKee stated that a letter was received from the SADC stating their intent to purchase Block 18 Lot 28, on Califon-Cokesbury Road, for Farmland Preservation. The SADC is asking for a response from the Committee stating their support for the acquisition or to provide other comments relative to such.

*Motion by Ms. Schriver, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee endorsed the SADC application for Farmland Preservation for Block 18, Lot 28, contingent on there being no financial burden to the Township.*

## **PRESENTATION OF VOUCHERS**

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

*Motion by Ms. Schriver, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee approved the April 3, 2013 bill list in amount of \$30,570.00.*

## **CORRESPONDENCE**

- a. Township Historians March 7, 2013 Meeting Minutes
- b. Assemblyman Erik Peterson – Senate Bill No. 2511

## **PUBLIC COMMENTS**

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

Mr. Brian Wunder stated that there were two storms in the last two years and he has a list of more than 20 volunteers that would like to be involved in helping out during storms or emergencies. Mr. Wunder suggested a CERT type program and stated that the biggest complaint he had last year was neighbors not being able to check on neighbors.

Mr. Wunder suggested yearly employee evaluations as the government should be run more like a business. Mr. Wunder stated that the DPW matter should have possibly been discussed in executive session. He does not know where the line was with the contract. Attorney Cushing stated that there has been so much public interest in the DPW project that he did not see a need to hold the discussion in executive session as the subject was better to be discussed publically. Mr. Wunder asked if there is an update on the LOSAP review. Attorney Cushing stated that he called auditor today, however; he was unavailable. Attorney Cushing left a message stating that the report must be ready for the April 17, 2013 meeting. Mr. Wunder asked if there was a cheaper alternative in demolishing the structures on Route 31, he feels that the Committee jumped too quickly. Mr. Wunder stated that in his opinion the professionals should have to chip in to cover the cost to correct the water tank error. Mr. Wunder stated that he thinks that it is odd that the Committee did not approve the red light permit for the Fire Chief's personal vehicle as he is a responsible person. Mr. Wunder asked if the Committee attended ethics classes and asked if the Township paid for the classes. Mr. Wunder stated that he was surprised at the last meeting when Mr. Milkowski's brother asked the Committee if he could bid on the demolition work. Mr. Wunder stated that he did not agree with the Township Attorney in his advice to the Committee relative to such as Mr. Milkowski and his brother are in business together. Attorney Cushing stated that his firm provided the Committee with a written memo stating that it is not unethical for an individual, even if he is on the Governing Body, to do business with the Township as long as he does not vote on the matter. Attorney Cushing stated that it could be a different issue on a political level and on an appearance level. Attorney Cushing stated that he does not give advice to the Governing Body on wisdom issues, he only provides advice on legal issues. Attorney Cushing stated that the voters choose the wisdom of the Governing Body. Mr. Wunder told Mr. Cryan that he feels that he brings good sense to the Committee and that he appreciated his statements on being fair to the taxpayers.

Mr. Anthony Casale stated that he understands the position the Committee took on the cell tower decision. Discussion was held on the electrical permits for the cell tower.

Mr. Casale stated that he understands why the Committee voted the way they did on the red light permit based on the comments made by the Committee.

Mr. Casale stated that he does not believe that the Township is successors to the prior Squad and asked Attorney Cushing that if a private doctor dies, where the records go? If there is a place for these sorts of files to be kept, Mr. Casale suggested sending the prior Squad records there also.

Mr. Casale asked what happens with the TCO for the DPW building, on April 14, 2013, if everything is not in place. Mr. Chamber stated that the Construction Department will fine the contractor.

Mr. Casale thanked the Committee for tabling Development Fee Ordinance and noted areas of concern that he has. Discussion was held on the recommendations Mr. Casale had on the proposed ordinance.

Mr. Victor Hoffman asked the Committee, relative to Ordinance 2013-05; if there is an increase in square footage of a building wouldn't that give an idea as to how much money is involved with the improvement? Mr. Hoffman suggested having rates or steps. Mr. Hoffman noted that taxes will increase with the improvements. Mr. Hoffman asked if there have been many situations in the Township where it is necessary for the Committee to consider the ordinance. Mayor McKee stated that there have been a few. Mr. Milkowski stated that there were two instances provided to the Committee with one costing the Township, through attorney fees. Mr. Milkowski stated that the Committee is addressing this matter based on the recommendation of the Township Planner. Mr. Hoffman asked if it would be necessary to obtain a CO for any work that is done. Mayor McKee stated that it would be necessary to receive a CO. Mr. Hoffman asked why the CO could not be held until the fees are paid.

Ms. Nancy Darois stated that she is disgusted with the Township Garage project and said that the contractor should be fined. Ms. Darois stated that she feels that the lights should be on at the garage because it is too dark.

Mr. Wunder stated that he sent a text message to Tino DeSantis to see what the volume is of the squad records. Mr. Wunder stated that most of the patients were Township residents and the Township is better to have the records here rather than to store them with someone else.

Mr. Casale stated that that the Township does not need a new Development Fee Ordinance, the parties' involved just need to pay attention and follow through.

Mr. Casale informed the Committee that he questions if he would have chosen to demolish the buildings on Route 31 and explained why.

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

*Motion by Ms. Schriver , seconded by Mr. Milkowski and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 49-2013 and convened in executive session at 9:45p.m.*

**RESOLUTION NO. 49-2013**  
**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: \_\_\_\_\_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.);

X   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.

The Township Committee reconvened the Regular Committee meeting at 10:08 p.m.

Attorney Cushing stated that during the executive session the Committee discussed a personnel item and the status of the property on Route 31 that was the subject of the demolition and what, if any, next steps to take. The Committee took no action and is still considering what to do in that regard.

Having no further business to come before the Committee a motion was made by Mr. Milkowski, seconded by Ms. Schriver and carried by unanimous favorable roll call vote to adjourn the meeting at 10:10 pm.

Respectfully submitted,

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Karen J. Sandorse, RMC/CMC  
Municipal Clerk

Approved: April 17, 2013

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Thomas McKee, Mayor