

**CALL TO ORDER**

Mayor George Piazza 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 Piazza asked everyone to stand for the flag salute.

**ROLL CALL**

Present - Patricia Schriver George Piazza Brian Wunder  
Francis Morrison Ron Milkowski

Absent -

Also Present - Attorney Richard Cushing and Deputy Clerk Kim Jacobus and 12 members of the public.

**PRESENTATION OF MINUTES**

The Minutes of the Regular Meeting of May 18, 2011 were tabled to the June 15, 2011 Meeting and the Minutes of the Executive Session of May 18, 2011 were also tabled to the June 15, 2011 Meeting.

**PUBLIC COMMENTS – Agenda Items Only**

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

There was no comment from the public.

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

**2010 AUDIT-Corrective Action Plan**

Mayor Piazza read what the corrective actions were going to be for the 2010 audit. One additional correction that needed to be made was the changing of the Police Chief's name.

Attorney Cushing did not feel that this would affect the audit since it was in 2010.

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee accepted the Corrective Action Plan.*

## **RESOLUTIONS**

### **Resolution No. 45-2011 – Certification of the Annual Audit**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by favorable roll call vote, the Township Committee adopted Resolution No. 45-2011 as written below.*

**TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 45-2011**

#### GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2010 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and,

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and,

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled “Comments and Recommendations, and,

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled “Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and,

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and,

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, That the Township Committee of the Township of Lebanon, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

#### **Resolution No. 46-2011 - Renewing Plenary Retail Consumption Licenses**

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by favorable roll call vote, the Township Committee adopted Resolution No. 46-2011 as written below.*

#### **RESOLUTION NO. 46-2011 RESOLUTION RENEWING PLENARY RETAIL CONSUMPTION LICENSES**

WHEREAS, each of the listed Plenary Retail Consumption Licensees have submitted application forms that have been completed in all respects; and

WHEREAS, the applicants are qualified to be licensed according to all statutory, regulatory and local government ABC Laws and regulations; and

WHEREAS, each have paid a filing fee of \$200.00 to the State of New Jersey and a Township License Fee of \$2,500.00

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Lebanon, in the County of Hunterdon, State of New Jersey, that the listed Licenses be granted a renewal for the 2011-2012 year:

1019-33-003-004 RADGNA, L.L.C. 2012 Route 31

1019-22-007-001 LEDYARD B. SCHUYLER, JR - RIVER STYX INN –374 Vernoy Road

1019-33-005-002 THE NEW HAMPTON INN, INC. t/a New Hampton Inn  
23 Musconetcong River Road

#### **Resolution No. 47-2011 - Renewing Plenary Retail Distribution License**

*Motion by Ms. Schriver, seconded by Mr. Morrison and carried by favorable roll call vote, the Township Committee adopted Resolution No. 47-2011 as written below.*

**RESOLUTION NO. 47-2011  
RESOLUTION RENEWING A PLENARY  
RETAIL DISTRIBUTION LICENSE**

WHEREAS, the listed Plenary Retail Distribution License has submitted an application form that has been completed in all respects; and

WHEREAS, the applicant is qualified to be licensed according to all statutory, regulatory and local government ABC Laws and regulations; and

WHEREAS, the applicant has paid a filing fee of \$200.00 to the State of New Jersey and a Township License Fee of \$2,500.00.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Lebanon, in the County of Hunterdon, State of New Jersey, that the listed License be granted a renewal for the 2011-2012 year:

1019-44-008-002      The Rock Corp. of Tewksbury t/a Bourbon Street Wine and Liquor  
425 Route 513, Califon, NJ

**OLD BUSINESS- Swack Church Correspondence**

Mayor Piazza inquired on the status of the Swack Church. Attorney Cushing stated that they had not finished looking into what the impact would be taking over a graveyard. He felt that it would be worthwhile to reach out to the church to find out if they acknowledge that they were the successor to the NJ Lutheran Church. Reverend Gary Ettlemeyer, pastor of the Spruce Run Lutheran Church spoke regarding the Swack Church. It was not until January, 2010 that he knew where the Swack church was. The big concern of the church is the remains of those who are in the graveyard and the responsibility toward doing whatever can be done to preserve or restore rather than leaving stones leaning against trees and vines all over. In terms of the church, there has not been any deliberate neglect, if there was it is out of no information at all. Mr. Tom Kull had contacted Rev. Ettlemeyer about a month ago for some information regarding the pursuit to see if there ever was a change in the ownership of the property. Mr. Kull informed Rev Ettlemeyer that as far as they understood the records indicate that the title was not transferred; this goes back to 1981. Out of respect for those who are interred there, maintaining the cemetery with dignity should be in order. Mayor Piazza stated that everyone was on the same page, the Township wanted to do something with the church but before the Township can get involved, the Township needs to know who owns it. The Township is not interested in owning it, if the church owns it and wants to work on it there are volunteers that want to work on it as well. Mayor Piazza thinks that this has solved the problem.

Attorney Cushing stated that the Reverend has done a service to the Township and would fully recommend that if the church could be kept in church hands it should be. Attorney Cushing feels that there could not have been a transfer out, because nobody had the right to do it. It is very likely that the NJ Synod of Evangelic Lutheran Churches is probably the successor. Attorney Cushing is not going to do any further research.

**Musconetcong Water Shed**

Mayor Piazza stated that he had received a letter from the Musconetcong Water Shed regarding the 17 municipalities involved with the Musconetcong Water Shed where the management of releasing

water and making the water level go up and down. It's under control and everyone is happy and they were thanking us for getting involved.

### **Maple Lane-Brown's**

Attorney Walter Wilson was present to speak on behalf of Jon and Wendy Brown. Attorney Wilson stated that he had spoke to the Township Engineer, Mr. Risse and had a brief conversation with Attorney Cushing about the issue that exists, water that crosses the property of Mr. & Mr. Brown at 224 Maple Lane. They have seen in the minutes that this has been a long standing issue; the severity of the water that is there now has not been a long standing problem. There have been some recent development changes on the block to other properties. Possible solution to the problem is to have a cross drain installed in a different location that would direct the water flow directly in to the stream rather than crossing their property. Attorney Wilson showed pictures of the property to the committee. The waste water system is not an old system; it had Hunterdon County approval in 1994. They reviewed all the title issues to make sure that there were no water rights of others across the property and there does not appear to be. They are currently waiting for some records from the Hunterdon County Soil Conservation District with respect to plans relating to recent construction on the block that may have been approved and whether the construction was in accordance with those plans. The real issue seems to be the potential for installing a cross drain across the property. They understand budgetary constraints and the concerns in that regard, but it has reached a point that their waste water system becomes inundated, barely functional and at risk of becoming a hazard to them as well as others. Their hope is to generate a general dialogue at this point and to have the committee authorize some further investigation or discussion by either Mr. Risse or Mr. Cushing. The Brown's will supply them with information and documents which they have assembled and then Mr. Risse or Mr. Cushing can report back to the Committee and give a determination or finding toward a suggested conclusion.

Mayor Piazza questioned, does the Township need an easement to get through anybody's property for the cross drain, are we taking water from one spot and dumping on somebody else and causing other problems. Attorney Wilson said that they don't think that it would be causing a water problem any place else. It would not be crossing additional lands of others, so to speak. They believe the only work that will be necessary would actually be within the roadway right-of way. Mayor Piazza stated that he was not familiar with the area. Attorney Wilson stated that it was near the intersection of Trimmer Road and Maple Lane. Mayor Piazza stated that the Township has had the Township Engineer look at it and he drew up some plans and put a number on it. Nothing extra was put in the budget this year. Another problem, is this going to be a water problem that is just been there for many years or is this now something that the Township is taking care of somebody's neighbor problem, because the Township has so many of those problems. People start playing around with their property and they dump water on somebody else and all of a sudden the road department gets involved and if the Township does for one the Township is going to have to do for a lot more. The Committee really needs to make sure that it is a Township problem. Attorney Wilson stated that the Brown's will know more information when they get plans from the recent construction activity, not sure that is going to have the solution, but at least it will be more information for us as far as what may have caused some of the change in direction of the water flow that is by magnitudes greater that it ever was before. Mayor Piazza questioned, what if the Committee decides to take on this project. The Township Engineer has given a quote of \$18,000.00

for materials with the road department doing the work. If the Township decides to do the job, where does the \$18,000 come from, since the Committee did not appropriate the monies?

### **NEW BUSINESS- Cancel July and August Meetings**

The Township Committee decided that they would have both of their regular meetings in July and August.

### **Letter for Hunterdon County Prosecutor's Office**

Mayor Piazza received a letter for the Hunterdon County Prosecutors office recommending that the committee adopt an ordinance on underage drinking by minors. This would address a number of problems related to the dangers of underage drinking under current laws. Possession or consumption of alcohol by minors is only prohibited on public property, thus if police are called to a resident on a complaint of noise and they observe underage persons drinking alcohol, they are powerless to issue any summons unless there is evident of some kind of violation. A violation such as a disorderly conduct would raise concerns of a youth incurring a criminal related charge and the collateral consequences that will follow such as potential interference with their career or education opportunities. If an ordinance was in place, this individual still faces consequences of a fine or license suspension at the discretion of the court, but they would not incur the consequence associated with the conviction of a disorderly person offense.

Mayor Piazza thought that the Township had already adopted an ordinance like this. He would like to know what the chief thinks about it. Attorney Cushing asked what he was to do with the information. Attorney Cushing stated that he would look to see if we had one in place.

### **Application for Planning Board-Marc Laul**

Mayor Piazza stated that he had received an application from Marc Laul for the Planning Board. Mayor Piazza spoke to Mr. Laul and told him that he would pass the information on to the rest of the Township Committee and to the Planning Board.

### **NJ Department of Transportation**

Mayor Piazza received a letter for the NJ Department of Transportation regarding the general review of local projects funded by the NJ Transportation Trust Fund (TTF). The department is examining the projects that were supported by TTF funds obligated in the state fiscal year 2008 or prior and show that they have exhibited little or no actual spending. The TTF grant for Dutch Hill Road in the amount of \$125,000.00 was obligated on the states accounting system fiscal year 2007, given the passage of time and the apparent lack of physical activity it appears as this particular project is dormant. Unless these funds are under contract or a billing occurs within 90 days from the date of this letter, it is NJ intent to declare this project or account closed cancel the obligation or redirect the funds to other local aid projects. Mr. Gabriel will look into this.

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## **PRESENTATION OF VOUCHERS**

Committee Members provided a description of vouchers exceeding \$1,000.00.

Mr. Milkowski commented that Poppe still has not supplied us with some of the paperwork that is required and suggested holding the check until the Township receives all the paperwork that is required. Ms. Schriver asked if the Committee could approve it once the paperwork is received. Mr. Milkowski stated that once the paperwork is determined to be complete by our insurance company, then yes. As of right now the Township does not have a performance bond. It can be released after receiving all the paperwork. Mr. Wunder agreed. Mayor Piazza will call Poppe on Thursday and inquiry as to the problem. Mr. Poppe's secretary had stated that there is no problem, they are getting their insurance straightened out, but it is an issue for us because the Township will not allow anyone on the property until it gets this straightened out. Mr. Milkowski asked if the Committee wanted to put a stop work on the project. Mayor Piazza stated that there would be no outside contractor on that property.

*Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved the June 1, 2011 bill list in the amount of \$3,762,677.44.*

### **Releasing Attorney**

Mayor Piazza stated that in the beginning of the year we kept Attorney Bernstein on board because of three outstanding issues that he was working on. Tilcon, which the judge is supposed to make his decision, the squad issue should be coming to an end soon and the cell tower, the Township now has Attorney Cushing working on the lease. .

Mayor Piazza feels that the Township no longer needs Attorney Bernstein and would like to send him a letter thanking him for the years of service, he knew up front that when all these cases finally were coming to a close the Township would no longer need him as an attorney for the Township.

*Motion by Mayor Piazza, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved relieving Attorney. Bernstein of his service to the Township.*

### **Purchase of New DPW Truck**

Mayor Piazza stated that he had missed the meeting when there was the discussion of the dump trucks. The Township has money in the capital budget for a new dump truck and the committee did pass that. Since then, the Township has had another truck that something major went wrong. When Mayor Piazza came back from Florida he heard about this so he talked to Jim Flynn and was told that the truck was shot, there is no way that he sees the Township spending any money on that truck. Mr. Flynn told him that it is not a regular truck, these trucks see salt every year and it eats away at the metal to a point that it is just gone. There was a request made to replace the truck. It was tabled. Mayor Piazza would like the Township Committee to re-consider it, the Township does not offer many services to the township and the residents are accustomed to having nice roads and snow plowed roads. Mr. Gabriel stated that the Co-op has trucks for about \$90,000.00, complete with plow and spreader. The trucks are paid for over a 10 year period. Mr. Milkowski stated that the

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question was, is the truck only used for snow plowing in the winter, is it needed in the summer, try to justify that. Mr. Milkowski also stated that this past winter the Township had some problems; the guys were working a lot of time. What the Committee has to do is come up with a different program so that our employees are not getting behind the wheel as many hours as they are. Whether the Township buys a new truck or not, the Township still needs to look into either outside drivers or outside contractors. Mayor Piazza said he could understand a driver, if you have the right tool for that person, but you can not if you do not have the truck. Mr. Milkowski stated that he would be willing to look into another truck if the Committee were able to come up with a plan to keep the hours down, he does not want someone to get hurt. Ms. Schriver asked Mr. Gabriel to re-do the request if it is less money and also put in there besides the winter, what else the truck is used for, 24/7. Mr. Gabriel stated that he is trying to work with the money that is already appropriated in the budget and not looking to add another \$150,000.00. There was already \$125,000.00 for a paver that was not purchased; instead use it for the truck. Hopefully the Township will get a better price buying two trucks as opposed to one. Mr. Wunder suggested that the Committee get an inventory list of the road department equipment with the life expectance of them so that the Committee can project replacement needs. Mr. Gabriel told them that it takes time and there is a lot of equipment. Mayor Piazza stated that the Township has a list that is reported to our insurance company. Ms. Schriver thought that the Township may have to rotate vehicles like the police do.

## **CORRESPONDENCE**

### **Lebanon Township Historians Minutes- May 5, 2011**

#### **State of New Jersey-Remediation Fire Station #1**

Mayor Piazza spoke about the contaminated well that the Township has at Fire Station #1. Attorney Cushing explained that the DEP is trying to get out of the day to day monitoring of these situations and they have created the LSRP's, they are licensed site remediation professionals, and what the DEP has said you hire one of these people they are responsible to do the oversight with respect to the well, the DEP is not going to do it any more. This person puts his licenses on the line and agrees that whatever plans have to be developed, he does the reporting to the DEP and the Committee. Ms. Schriver stated that the Committee needs to see if our current consultant is certified. Attorney Cushing stated that the Committee may want to get a game plan from him, a plan of what he is going to do and an estimate of the work and the steps that have to be taken.

#### **Attorney Cushing-Cell Tower**

Attorney Cushing spoke to Richard Snyder, who is the attorney for Cellco and he stated that there is a signed lease. It was signed as of 2010 and Cellco's position is they do not really want to vary from the lease. That is the deal they struck. There are 2 issues that they are concerned with, the beacon and the position taken on it is at the Planning Board. Attorney Gallina pointed out that the wireless ordinance says that no lighting is permitted on the tower unless required by the FAA, and Cellco's position is that they do not want to go back and get a variance for that. They also are not sure whether the FAA would allow them to have a beacon if it is not required. It was not required by the specifications that were prepared by the township. With respect to the generator, Attorney Cushing looked at the original lease and basically the original lease calls for the lessee, which is Cellco, acknowledges that the leaser, meaning the Township, will be purchasing a 125

kilowatt generator in consideration for leasers' purchase and installation of the generator, lessee agrees to be responsible for 36% of the leasers' cost to purchase and installation of same. Attorney Snyder had spoke briefly to his client and yes they are going to go ahead, Attorney Cushing is not sure if he is talking about Cellco or a subcontractor for Cellco, but he said there are two issues, the Wetlands and Highlands approval that they need, they expect to be able to get that, and the other problem with changing the current deal, and with respect to the generator, is that when they did their site design, they did not build in specific area for the generator, it may create problems for co-locaters, because each time we have a co-locater they have to build the little dog houses, they need a certain amount of room, it is possible to argue that it may hurt us too, because for each co-locater we get 50% of the lease amount.

## **PUBLIC COMMENTS**

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

Judy Previti, 141 Mountain Top Road, stated that she is having a problem and she has spoke to Mayor Piazza and Mr. Gabriel this week about it. The issue is that Mountain Top is a steep curvy road and the Township had put a berm across their property to prevent the water on the road from coming onto their property and it has worked for nine years. The road is in need of work, it has been repaved for about a mile, the road is one and a half mile long, and they are in the half mile that needs work. Mrs. Previti stated that Mountain Top Road has settled, there are lots of cracks and the road is tilting toward their property. On Monday there was an amazing rainfall and it has caused such erosion that it is affecting their foundation, the footings to the deck and the retaining wall is now falling over, all in a week's time. A call was made to Mr. Gabriel and he explained that there is a catch basin about 60' up from their house that was plugged. Mrs. Previti's opinion is that the catch basin is too far away from her and she does not see how it could help her. She has an apron drain and a drain in the driveway, and has a drain along the sidewalk; they have a secondary driveway with a drain in it. Everything goes out to the woods. Mrs. Previti is asking for the Township to not let the water from the road or the mountains come onto their property. Mayor Piazza asked Mr. Gabriel what could be done. Mr. Gabriel explained that the catch basin was plugged and the water did go around the corner, where the water would have gone in the basin had it was cleaned out. Mrs. Previti still feels that the catch basin above is too far away, it is not going to do anything with the speed and amount of water that comes down the road. They have sand bags across their driveway. Ms. Schriver questioned how much of Mountain Top Road has not been improved. Mr. Gabriel stated that about a half a mile. The Township paved the dirt part of the road 10 years ago. Mr. Gabriel stated that the Road Department would monitor the catch basin. Mayor Piazza stated that he had no problem having the Township Engineer look at it.

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

## **EXECUTIVE SESSION**

*Motion by Mr. Milkowski , seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 48-2011 and convened in executive session at 8:43 p.m.*

**TOWNSHIP OF LEBANON  
RESOLUTION NO. 48-2011**

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:

Collective Bargaining Negotiations  
Cell Tower  
Rescue Squad Litigation

*Motion by Mr. Milkowski, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee reconvened the Regular Committee meeting at 9:23 p.m. Attorney Cushing stated that there was discussion on the Rescue Squad, Collective Bargaining Negotiations and the cell tower. No action was taken.*

**ADJOURN**

Having no further business to come before the Committee a motion was made by Ms. Schriver seconded by Mr. Wunder and carried by unanimous favorable roll call vote to adjourn the meeting at 9:24 p.m.

Respectfully submitted,

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Kimberly S. Jacobus  
Deputy Municipal Clerk

Approved: June 15, 2011

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George Piazza, Mayor