

Meeting audio can be found at lebanontownship.net.

**Lebanon Township Committee
August 4, 2021**

Minutes of Regular Meeting

CALL TO ORDER

Mayor Mike Schmidt called the meeting to order at 7:00 p.m. and stated that in compliance with the “Open Public Meeting Act” this is a Regular Meeting of the Township Committee as published in the Hunterdon Review, the agenda has been posted at the Municipal Building and distributed to the Hunterdon Review, Courier News, the Express Times, the Hunterdon County Democrat and the Star Ledger.

FLAG SALUTE

Mayor Schmidt asked everyone to please stand for the Flag Salute and for a moment of silence in honor of the First Responders and Servicemen and Women.

ROLL CALL

Present - Mike Schmidt Thomas McKee Marc Laul
 Beverly Koehler Abe Abuchowski

Absent-

Also Present - Attorney Matt Lyons, Administrator James Barberio, Clerk Karen Sandorse and 6 members of the public.

PRESENTATION OF MINUTES

Minutes of the July 21, 2021 Regular and Executive Session Meetings

Motion by Mr. Abuchowski, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the July 21, 2021 Regular and Executive Session Meetings.

PUBLIC COMMENTS – for agenda items only.

Motion by Mr. Abuchowski, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 7:03 p.m.

Mr. Darryl Schmidt addressed the Committee as a member of the Planning Board and a resident regarding the proposed Sign Ordinance. Mr. Schmidt does not feel that the Planning Board had

enough background on the ordinance in order to make a recommendation to the Committee. Mr. Schmidt stated that as a resident he does not think the ordinance is necessary.

Motion by Ms. Koehler, seconded by Mr. Abuchowski and carried by unanimous favorable roll call vote, the Township Committee closed the Public Comment portion of the meeting at 7:08 p.m.

RESOLUTIONS

Resolution No. 70-2021- DEP Grant Application – Non-Road Equipment Replacement- DPW Loader

Motion by Mr. Abuchowski, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 70-2021 as attached and authorized the Township Administrator to sign.

Lebanon Township
and the State of New Jersey
by and for
The Department of Environmental Protection
Grant Identifier: AQ21-122
Governing Body Resolution # 70-2021

Resolution No. 71-2021- 2022 DOT Grant Application – Little Brook Road Project

Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 71-2021 as attached.

Township of Lebanon
Resolution No. 71-2021
Approval to Submit a Grant Application and
Execute a Grant Contract with the
New Jersey Department of Transportation
for the Little Brook Road Resurfacing Project

Resolution No. 72-2021- Awarding a Contract for Rock Salt

Motion by Ms. Koehler, seconded by Mr. Abuchowski and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 72-2021 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 72-2021
RESOLUTION AWARDING A CONTRACT FOR
ROCK SALT

WHEREAS, the Board of Chosen Freeholders awarded a two-year master contract to Morton Salt (Rock Salt) on June 20, 2021 to provide rock salt for the County and members of the

Cooperative Pricing System for Ice Control Materials, Bid No. 2020-12 for the 2021/2022 season, and

WHEREAS, the Township Committee has requested to participate in the non-binding anticipation of purchasing 2000 tons of Rock Salt.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey that the following contract be awarded for a contract period of September 19, 2021 to September 18, 2022.

COMPANY	ITEM	PRICE
Morton Salt	Rock Salt	\$ 48.51 per ton

Resolution No. 73-2021- Chapter 159- America Rescue Plan Act of 2021

Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 73-2021 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 73-2021
CHAPTER 159

WHEREAS, N.J.S. 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

SECTION 1,

NOW, THEREFORE BE IT RESOLVED that the Township of Lebanon, Hunterdon County, hereby requests the Director of the Division of Local Government Services to approve the increase of \$ 318,244.00 for an item of revenue in the budget of the year 2021 as follows:

Miscellaneous Revenues –
Revenue Offset with Appropriations – American Rescue Plan Act of 2021
Total with increase to be \$ 318,244.00

SECTION 2,

BE IT FURTHER RESOLVED that a like sum of \$ 318,244.00 be and the same is hereby appropriated under the caption of:

General Appropriations -
Public & Private Programs Offset by Revenues – American Rescue Plan Act of 2021
State/Federal Share \$ 318,244.00
Non State Share \$
Total with increase to be \$ 318,244.00

FURTHER RESOLVED those two certified copies of this resolution with a copy of the appropriate documentation be forwarded to the Division of Local Government Services.

OLD BUSINESS

Municipal Office Doors

Ms. Koehler asked for a status update on the replacement of the Municipal Office doors. Mayor Schmidt stated that the vendor restructured the order and is holding to the price. The price for the installer may change once the doors are received. Mayor Schmidt said that the doors were supposed to be delivered mid-July; however, they are waiting for frame metal that is placed inside of the doors. There have just been a series of glitches that have occurred and now it is a week to week waiting period.

Sign Ordinance - Planning Board Feedback

Mayor Schmidt stated that when the Sign Ordinance was introduced the Public Hearing was scheduled for August 18th. There will be no action taken on the ordinance until that time. Mr. Laul stated that in 2016 the Township Attorney advised that the current political sign ordinance was defective and unenforceable. The Committee will need to take action to correct the problem to avoid litigation.

Mayor Schmidt stated that the pending ordinance was prepared by the Township Attorney based on 1st Amendment litigation that has been going on in the State. He wrote the ordinance so that it will hold up in court. Mayor Schmidt noted that in the Committee taking action it will put some controls in place, with no action there are no controls on political speech.

Attorney Lyons said that the primary defect in New Jersey towns is the 28- or 30-day limitation. This is the most contested item with the American Civil Liberties Union (ACLU). Attorney Lyons noted that even though the Township has not enforced the current ordinance it is still in effect and includes the limitation.

Mr. Abuchowski stated that there were a lot of questions raised by the Planning Board. They would like to know what the minimum limitation would be for the ACLU to agree. Attorney Lyons stated that he would not speak to that; however, he suggested removing from Section D-1 of the existing ordinance; that signs may be erected not more weeks than 4 weeks before an election.

The Planning Board questioned if banners are included in the ordinance. Attorney Lyons stated that if a banner relates to political speech, it will be subject to the most protection under the law.

Mr. Abuchowski stated that the Planning Board does not want any political signs on municipal properties or schools. Attorney Lyons stated that the Township has more ability to regulate in those areas; however, it has been a practice in the Township to permit such. The right for the Township to regulate signs on Township property is absolute. It is permissible and defensible.

Mr. Abuchowski said that the Planning Board also questioned who will enforce the ordinance. Attorney Lyons stated that when the Committee adopts an ordinance it should be with the intent that it will be enforced, whether it be the zoning officer, code enforcement or the police. Mayor Schmidt stated that the Zoning Office provides enforcement for signs in the Township.

Mr. McKee stated that his concern is when someone has a sign relating to a purpose or a cause and another individual feels that it is a temporary political sign in nature. Attorney Lyons stated that the right to have such a sign on private property is a 365 day right.

Mr. Abuchowski suggested bifurcating the ordinance to define the difference between private property and public property.

NEW BUSINESS

Shared Services Agreement – Lebanon Township School District for Special Law Enforcement Officer

Motion by Mr. Laul, seconded by Mr. Abuchowski and carried by unanimous favorable roll call vote, the Township Committee approved the Shared Services Agreement with the Lebanon Township School District for Special Law Enforcement Officer and authorized the Mayor to sign.

Shared Services Agreement – Lebanon Township School District for Various Services

Motion by Mr. Abuchowski, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved the Shared Services Agreement with Lebanon Township School District for Various Services and authorized the Mayor to sign.

Friends of Memorial Park – Letter of Appreciation

Mr. Eric Petrik said that a few months ago he and Drew DePalma came to talk about work to be done in the park and the DPW Manager offered to provide assistance with the projects. Mr. Petrik stated that Warren Gabriel and the DPW has always been good to Friends of Memorial Park and they thought it would be nice to recognize them at a public meeting. Mr. Petrik read a letter of commendation into the record for the DPW.

County Chip and Seal Project – CR 513

Mayor Schmidt stated that there has been a lot of discussion between residents regarding the County's Chip and Seal work being conducted on Route 513. Mayor Schmidt spoke to Mr. Gabriel and was informed that when tar is placed and then stone there needs to be a two-week timeframe for the stones to adhere. Mayor Schmidt said that he understands that there is nothing being done wrong but the drivers need to drive slowly.

PRESENTATION OF VOUCHERS

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

Motion by Ms. Koehler, seconded by Mr. Abuchowski and carried by unanimous favorable roll call vote, the Township Committee approved the August 4, 2021 bill list in the amount of \$1,434,202.27.

CORRESPONDENCE

- a. Curator's Report

PUBLIC COMMENTS

Motion by Mr. Abuchowski, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 8:03 p.m.

Mr. Ron Milkowski inquired on what happened to the front of the DPW building as it appears to have damage. Mr. McKee will look into.

Motion by Ms. Koehler, seconded by Mr. Abuchowski and carried by unanimous favorable roll call vote, the Township Committee closed the Public Comment portion of the meeting at 8:03 p.m.

EXECUTIVE SESSION

Motion by Ms. Koehler, seconded by Mr. Abuchowski and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 74-2021 and convened in executive session at 8:04 p.m. Action may be taken.

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 74-2021**

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;

X Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection; **Masking Requirements**

_____ 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): 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 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.); The general nature of the matter is:

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: And whereas the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists. **DPW Mechanic Position**

_____ 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 public meeting was reconvened at 9:12 p.m.

Motion by Ms. Koehler, seconded by Mr. Abuchowski and carried by unanimous favorable roll call vote, the Township Committee established that the Township will return to a previous policy where employees are required to wear masks if they cannot social distance and when in common areas. This regulation will be lifted when the County lifts their requirement.

ADJOURNMENT

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

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: August 18, 2021

Mike Schmidt, Mayor