

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 George Piazza asked everyone to stand for the Flag Salute and for a Moment of Silence.

ROLL CALL

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

Absent

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

PRESENTATION OF MINUTES

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 August 17, 2011.

Motion by Mr. Wunder, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the executive session of August 17, 2011.

PUBLIC COMMENTS – for agenda items only.

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

There were 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.

ORDINANCES

Public Hearing Ordinance No. 2011-08 – Accessory Uses and Structures – Alternative Energy

Mayor Piazza stated that the Planning Board and Township Committee has discussed this ordinance for 2 ½ years. They tried to do their best so everyone’s rights were considered; especially those who were attempting to install a wood burning stove. Land sizes were considered in attempt to accommodate all. Mayor Piazza stated that he feels that the Planning Board and the Township Committee bent over backwards for the residents who want stoves and their rights. However, the residents who did not want the stoves were really not discussed, which is many more. Mayor Piazza noted that this is what this ordinance is about. It is to keep everyone at a safe distance from each other, which is what the Township Committee is supposed to be doing; looking out for what is best for everyone.

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2011-08 was opened.

There were no comments from the public.

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2011-08 was closed.

Motion by Ms. Schriver, seconded by Mr. Milkowski and carried by favorable roll call vote, the Township Committee adopted Ordinance No. 2011-08 as written below. AYES: Schriver, Piazza, Milkowski NAYS: Morrison, Wunder

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
ORDINANCE NO. 2011-08
AN ORDINANCE TO
REVISE, AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF LEBANON
CHAPTER 400, TITLED “ZONING”, SPECIFICALLY
SECTION 400-10, TITLED “ACCESSORY USES AND STRUCTURES”

WHEREAS, the Township Committee of the Township of Lebanon, Hunterdon County, New Jersey has reviewed the Township Code and believes that some amendments to the Zoning Ordinance are necessary; and,

WHEREAS, the Township Committee believes such amendments are necessary to update, supplement, clarify and/or explain certain provisions in the Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey that Chapter 400, titled “Zoning” of the Code of the Township of Lebanon is hereby amended, revised and supplemented as follows:

Section 1. Add the following definitions to Section 400-4:

INHERENTLY BENEFICIAL USE – A use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such

a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.

SMALL WIND ENERGY SYSTEM – A wind energy conversion system, consisting of a wind turbine, a tower, and associated control or conversion electronics, that is used to generate electricity and has a nameplate capacity of 100 kilowatts or less.

SYSTEM HEIGHT – For a small wind energy system, the height above grade of the tower plus the wind generator.

TOWER HEIGHT – The height above grade of the fixed portion of the tower, excluding the wind generator.

WIND GENERATOR – The blades and associated mechanical and electrical conversion components mounted on top of the tower.

WIND, SOLAR OR PHOTOVOLTAIC ENERGY FACILITY OR STRUCTURE – A facility or structure for the purpose of supplying energy produced from wind, solar, wood or photovoltaic technologies, whether such facility or structure is a principal use, a part of the principal use, or an accessory use or structure.

Section 2. Add the following subsection D to Section 400-10, “Accessory uses and structures; personal recreational facilities; fences and walls”:

D. Standards for solar, wind and outdoor wood-burning facilities as permitted accessory uses and structures. Small wind energy systems shall require minor site plan approval.

(1) Solar energy facilities.

- (a) Solar energy facilities are permitted on the roof of buildings.
- (b) Ground-mounted solar energy facilities are permitted and shall comply with the required setbacks for a principal building.
- (c) The maximum height of a ground-mounted solar energy facility shall be 15’.
- (d) In order to provide notice to emergency services personnel, dwellings with solar energy facilities shall have posted in a conspicuous place a permanent, reflective sign indicating that an alternative power supply is located on the property. The sign and its location shall be as approved by the Construction Code Official.
- (e) Abandonment.

[1] A solar energy facility that is out-of-service for a continuous 12-month period will be deemed to be abandoned. The Zoning Officer shall issue a Notice of Abandonment to the owner of a solar energy facility that is deemed to be abandoned. The notice shall be sent return receipt requested.

[2] The property owner shall have 30 days to respond to the Notice of Abandonment from the receipt date of the Notice.

[3] If the property owner provides information that demonstrates the solar energy facility has not been abandoned, the Zoning Officer shall withdraw the Notice of Abandonment and notify the property owner that the Notice has been withdrawn.

[4] If the Zoning Officer determines the solar energy facility has been abandoned, the property owner shall remove the facility in its entirety at the owner’s sole expense within 3 months after the owner receives the Notice of Abandonment.

[5] If the property owner fails to remove the facility in the time allowed under [4] above, then the Township may remove such system and place a lien on the property for the cost of the removal.

(2) Outdoor wood-burning furnaces/boilers.

- (a) The minimum height of the chimney shall be 16' from ground level, and the maximum height shall be 2' above the peak of the residence.
- (b) The minimum required setbacks for the wood-burning furnace/boiler shall be as follows:
 - [1] The wood-burning furnace/boiler shall be located to the rear of the principal residence on the property, and in no case shall the minimum front yard setback for the furnace/boiler be less than the minimum required in the zoning district plus 20'.
 - [2] The minimum side and rear yard setbacks shall be 160' from the boiler to the property line. If these setbacks cannot be met, an outdoor wood-burning furnace/boiler may be installed provided that the minimum setback from the boiler to a residence located on an adjoining property shall be 275'.
- (c) The period of operation shall be limited to October 1 to April 30.
- (d) Only seasoned wood may be utilized.
- (e) The wood-burning furnace/boiler shall be certified by the U.S. Environmental Protection Agency (EPA) as meeting or exceeding the most current applicable EPA emission standards.
- (f) Legally existing wood-burning furnaces/boilers that were compliant at the time of installation may be repaired and replaced, provided that the standards in subsections (a), (d) and (e) above are complied with.
- (g) In order to provide notice to emergency services personnel, dwellings with outdoor wood-burning furnaces/boilers shall post in a conspicuous place a permanent, reflective sign indicating that an alternative power supply is located on the property. The sign and its location shall be as approved by the Construction Code Official.

(3) Small wind energy systems.

- (a) Minimum lot area.
 - [1] For small wind energy systems with a system height of 35' or less, the minimum lot area shall be the minimum lot area permitted in the zone.
 - [2] For small wind energy systems with a system height of 65' or less, the minimum lot area shall be 5 acres.
 - [3] For small wind energy systems with a height greater than 65', the minimum lot area shall be 10 acres.
- (b) The maximum height shall be 120'.
- (c) Setbacks.
 - [1] For small wind energy systems with a system height of 65' or less, the minimum setback from any property line shall be 120 percent of the system height.
 - [2] For small wind energy systems with a system height greater than 65', the minimum setback from any property line shall be 150 percent of the system height.
- (d) The wind generator and the tower shall remain painted or finished in the color or finish that was originally applied by the manufacturer, unless a different color or finish is

- approved by the approving authority.
- (e) There shall be no signs that are visible from any public road or neighboring property posted on a small wind generator system or any associated building, except for the manufacturer's or installer's identification, appropriate warning sign, or owner identification.
 - (f) Sound levels of the wind energy system shall not exceed 55 decibels as measured at the site property line.
 - (g) In order to provide notice to emergency services personnel, dwellings with small wind energy systems shall have posted in a conspicuous place a permanent, reflective sign indicating that an alternative power supply is located on the property. The sign and its location shall be as approved by the Construction Code Official.
 - (h) Abandonment.

[1] A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to be abandoned. The Zoning Officer shall issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to be abandoned. The notice shall be sent return receipt requested.

[2] The property owner shall have 30 days to respond to the Notice of Abandonment from the receipt date of the Notice.

[3] If the property owner provides information that demonstrates the small wind energy system has not been abandoned, the Zoning Officer shall withdraw the Notice of Abandonment and notify the property owner that the Notice has been withdrawn.

[4] If the Zoning Officer determines the small wind energy system has been abandoned, the property owner shall remove the facility in its entirety at the owner's sole expense within 3 months after the owner receives the Notice of Abandonment.

[5] If the property owner fails to remove the facility in the time allowed under [4] above, then the Township may remove such system and place a lien on the property for the cost of the removal.

- (i) The small wind energy system shall not cause flickering shadows on adjoining properties.
- (j) The wind generator blades shall extend no closer to the ground than 12' from ground level.
- (k) All components of the small wind energy system shall be enclosed within a 6' high fence, unless the system is located on the roof of a building.

Section 3. Subsections 400-11B(6)(b) and 400-11B(6)(c) shall be re-numbered as subsections 400-10E and 400-10F, respectively.

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

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Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

Public Hearing

Ordinance No. 2011-09 – Ratifying the Open Space Trust Fund

Motion by Mr. Wunder, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2011-09 was opened.

There were no comments from the public.

Motion by Mr. Wunder, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2011-09 was closed.

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by favorable roll call vote, the Township Committee adopted Ordinance No. 2011-09 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
ORDINANCE NO. 2011-09
AN ORDINANCE RATIFYING THE OPEN SPACE TRUST FUND

WHEREAS, the voters of the Township of Lebanon (the “Township”) authorized an Open Space Tax by referendum pursuant to *N.J.S.A. 40:12-15.1 et seq.* in 2001 at a maximum rate of \$0.02 per \$100 of assessed value; and

WHEREAS, in 2002 the voters authorized an increase in the maximum amount of the Open Space Tax to \$0.04 per \$100 of assessed value; and

WHEREAS, currently, the Open Space Tax is \$0.01 per \$100 of assessed value; and

WHEREAS, all funds collected pursuant to the Open Space Tax have been deposited by the Township in a trust fund and used exclusively for the purposes authorized by the voters ; and

WHEREAS, the Township wishes to ratify its past treatment of open space funds and formalize the procedures for future treatment of such funds through the adoption of an Open Space Trust Fund ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lebanon, in the County of Hunterdon, and State of New Jersey, that the following provisions shall be added to the code of the Township of Lebanon:

OPEN SPACE TRUST FUND

Trust Fund Established.

There is hereby established a reserve in the General Capital Fund which shall be known and designated as the “Open Space Trust Fund.” A special bank account shall be opened and maintained for this purpose. Funds from the Open Space Trust Fund may, as directed by the Mayor and Township Committee, be utilized for the following purposes, or any combination thereof:

- A. Acquisition of lands for recreation and conservation purposes;
- B. Acquisition of farmland for farmland preservation purposes;

- C. Payment of debt service on indebtedness issued or incurred by the township of Lebanon for any of the purposes set forth in A. or B. above.

Acquisition shall include by gift, purchase, or by eminent domain proceedings pursuant to N.J.S.A. 20:3-1 et seq. and shall include development easements, or other easements, vacant land, as well land which has improvements upon it at the time of acquisition, where the principal purpose of the acquisition is for any or all of the purposes, or any combination of them, set forth above.

Apportionment and Allocation of Fund.

The Mayor and Township Committee, annually, after the holding of one public hearing thereon, shall apportion and allocate the use of such tax receipts among the purposes set forth above.

Funding.

The Open Space Trust Fund shall be funded through the dedication to the fund of an amount not to exceed \$0.04 per \$100 of assessed valuation of each annual tax levy. The fund shall also be permitted to accept donations and testamentary bequests. The accumulated receipts and deposits with the fund may be utilized for the purposes set forth herein. All monies set aside for open space as of the effective date of this ordinance shall be deposited in the fund.

Sale of Property.

- A. No property acquired with these funds shall be leased or sold, unless such action has been authorized by the Mayor and township Committee in a manner as prescribed by law.
- B. The Mayor and Township Committee, after at least one public hearing thereon, and upon a finding that the purposes of this ordinance might otherwise be better served or that any land acquired by the Township pursuant to this ordinance is required for another public use, may by ordinance convey, through sale, exchange, transfer or other disposition, title to, or a lesser interest in, that land, provided that the Township shall replace any land conveyed under this section by land of at least equal fair market value and of reasonably equivalent usefulness, size quality and location to the land conveyed. Any money derived from the conveyance shall be deposited into the fund created hereunder.
- C. Any conveyance made pursuant to this section shall be made in strict accordance with the Local Lands and Buildings Law (N.J.S.A. 40A:12-1 et seq.). In the event of conveyance by exchange, the land or improvements thereon to be transferred to the trust shall be at least equal in fair market value and of reasonable equivalent usefulness, size, quality and location to the land or improvements transferred from the trust.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon the publication of notice of final passage of this ordinance, following final adoption, as provided by law.

RESOLUTIONS

Resolution No. 66-2011– Designating a \$3,831,962.00 Bond Anticipation Note

Motion by Mr. Milkowski, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 66-2011 as attached.

Resolution No. 67-2011– Renewal of Morris County Co-op Agreement

Motion by Mr. Milkowski, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 67-2011 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 67-2011

AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE MORRIS COUNTY
COOPERATIVE PRICING COUNCIL TO RENEW MEMBERSHIP THEREIN FOR THE
PERIOD OF OCTOBER 1, 2011 THROUGH SEPTEMBER 30, 2016

WHEREAS, the Morris County Cooperative Pricing Council (“MCCPC”) was created in 1974 to conduct a voluntary cooperative pricing system with municipalities, boards of educations, and other public bodies located in the County of Morris and adjoining counties; and
WHEREAS, the purpose of the MCCPC is to provide substantial savings on various goods and services to its members through the cooperative public bidding process; and
WHEREAS, the Township of Lebanon desires to enter into an Agreement with the MCCPC, which is administered by Randolph Township as Lead Agency to renew its membership in the MCCPC for the period of October 1, 2011 through September 30, 2016.
BE IT RESOLVED, by the Township of Lebanon, County of Hunterdon, State of New Jersey as follows:

1. Township Committee of the Township of Lebanon hereby authorizes the execution of an Agreement with the Morris County Cooperative Pricing Council by the Township of Randolph as Lead Agency dated October 1, 2011 pursuant to N.J.S.A. 40A:11-11(5). Said Agreement is for renewal of membership in the MCCPC for a five (5) year period from October 1, 2011 through September 30, 2016.
2. The Township of Lebanon Clerk is hereby directed to submit a copy of this adopted Resolution, along with an executed Agreement, to Randolph Township as Lead Agency of the MCCPC.
3. This Resolution shall take effect immediately upon final passage according to law.
4. All appropriate Township of Lebanon officials are authorized and directed to perform all required acts to affect the purpose of this Resolution.

OLD BUSINESS

Purchase of a Generator

Attorney Cushing stated that as part of the lease of the land to Cellco for the construction of a cell tower there were negotiations regarding the sharing of a generator. The Township has a need for eighty (80) kilowatts of power and Cellco needs approximately forty (40). There was an agreement entered into between the Township and Cellco which outlined the mutual use of a generator. Attorney Cushing stated that there have been issues raised at meetings regarding the terms of the negotiations. Attorney Cushing’s office has been negotiating with Cellco in connection with the terms of the agreement. Attorney Cushing noted that based on the recent storm and power loss for over a week, the need for a generator has escalated. The details of the discussion with Cellco will be discussed in closed session.

The Committee stated their concerns with not having a generator at this time and the need to obtain one promptly.

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Attorney Cushing stated that the Township can begin to look into purchasing a generator if it is their desire. Bid specifications will need to be drafted.

Mr. Wunder asked for an update on the snowplow issues. Mr. Milkowski stated that there needs to be a plan in place.

Parking on County Roads During Snow Storms

Attorney Cushing informed the Committee that he spoke to Tim Matthews, Assistant County Engineer regarding his requests for a language change in the Township's ordinances regarding the parking on County/Township roads during snowstorms. Mr. Matthews was of the opinion that in order to enforce "no parking" restrictions in snow on county roads, the Township would have to pass an ordinance. Attorney Cushing stated that the Township has no jurisdiction over County Roads and usually this matter is addressed with a County resolution. Mr. Matthews informed Attorney Cushing that the practice in the County is to have a parallel resolution from a municipality. Mr. Matthews stated that there is a certain area of the Township in which there is a problem with plowing and vehicles being parked on the roadway. Mr. Matthews would like to see "no parking at any time on County Roads". Attorney Cushing informed Mr. Matthews that he did not think that the Township would approve that request but asked Mr. Matthews to submit to the Township the area which he feels there should not be parking, including the dimensions. The Township Committee can then evaluate the request and if agreed too, a parallel resolution can be adopted. The Chief will be provided with a copy of the request for his recommendation.

NEW BUSINESS

Correspondence Posting

Mr. Milkowski asked that correspondence received by the Township Committee be posted on the bulletin board for the public's viewing.

Senator Lance

Mayor Piazza stated that he stopped to see Senator Leonard Lance who was visiting residents on Musconetcong River Road. Senator Lance met with the residents to discuss storm damage and FEMA help that is available to them.

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 September 7, 2011 bill list in the amount of \$54,792.52.

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CORRESPONDENCE

- a. Meeting Minutes of the Township Historians – June 2, 2011
- b. Tax Collector’s Report for the Month July 2011

PUBLIC COMMENTS

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

Ms. Nancy Darois asked if the squad matter is completed yet. Attorney Cushing stated that they are making a lot of progress with the settlement in principal, but need to finalize the issue related to the property which can be complex.

Ms. Nancy Darois also inquired on the status of the Township Garage Project. Ms. Dorois was informed that there was a pre-bid meeting held. Bids will be received on September 14, 2011.

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. Wunder, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No.68-2011 and convened in executive session at 7:28 p.m. It is not anticipated that action will be taken at the close of the meeting.

**TOWNSHIP OF LEBANON
RESOLUTION NO. 68-2011**

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:

Motion by Ms. Schriver, seconded by Mr. Milkowski and carried by unanimous favorable roll call vote, the Township Committee reconvened the Regular Committee meeting at 8:39 p.m.

Attorney Cushing stated that during the Executive Session the Township Committee discussed:

The Status of the First Aid Squad Matter
Collective Bargaining – PBA
Crusader – Boyer Matter
Cellco Negotiations

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Motion by Mr. Wunder, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee moved to obtain prices for a generator.

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 8:40 p.m.

Respectfully submitted

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: September 21, 2011

George Piazza, Mayor