

**Lebanon Township Committee
October 15, 2014**

Minutes of Regular Meeting

CALL TO ORDER

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

FLAG SALUTE

Mayor McKee asked everyone to please stand for the Flag Salute and for a Moment of Silence in honor of our Servicemen and Women.

ROLL CALL

Present - Thomas McKee Patricia Schriver Ronald Milkowski
 Bernard Cryan Brian Wunder

Absent-

Also Present - Attorney Dick Cushing, CFO Greg Della Pia, Clerk Karen Sandorse and 16 members of the public.

Mayor McKee welcomed the Boy Scouts to the meeting and thanked them for coming.

PRESENTATION OF MINUTES

Minutes of the Regular Meeting of October 1, 2014

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the regular meeting of October 1, 2014.

Minutes of the Executive Session of October 1, 2014

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the Executive Session of October 1, 2014

PUBLIC COMMENTS – for agenda items only.

Motion by Mr. Cryan, seconded by Mr. Wunder 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. Anthony Casale asked about a letter received from Committeeman Brian Wunder and asked if it would be discussed during the public meeting so he could hear what it is about.

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee closed the Public Comment portion of the meeting 7:04.

ORDINANCES

Introduction

Ordinance No. 2014-08 - Bond Ordinance

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved Ordinance No. 2014-08 as entitled below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
ORDINANCE NO. 2014-08

BOND ORDINANCE TO AMEND SECTIONS 4.A AND 10 OF THE BOND ORDINANCE (ORD. NO. 2008-07) ENTITLED: "BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW INFORMATION TECHNOLOGY EQUIPMENT AND A NEW AUTOMOTIVE VEHICLE, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE TOWNSHIP OF LEBANON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$346,500 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS," ADOPTED SEPTEMBER 3, 2008.

Public Hearing to be held on November 5, 2014.

RESOLUTION

Resolution No. 70-2014 - Fourth Quarter Taxes – Block 36 Lot 27

Motion by Mr. Cryan, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 70-2014 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 70-2014
RESOLUTION FOR FOURTH QUARTER 2014 TAXES

WHEREAS Diane Glass, owner of Block 36, lot 27, 332 Newport Road, Lebanon Township has donated this property to Lebanon Township, and

WHEREAS the amount of \$391.19 is due for fourth quarter 2014 taxes, and

WHEREAS it is the desire of the Township Committee to close on this property as soon as possible without incurring any further expense to Ms. Glass,

THEREFORE BE IT RESOLVED that the fourth quarter taxes for Block 36, lot 27 in the amount of \$391.19 be deemed uncollectible by reason of it being a Township owned property, and that the Tax Collector be relieved of her duty to collect this amount from Ms. Glass.

OLD BUSINESS

Fire Department Request to Utilize Retired Police Patrol Vehicle – Dodge Durango #19-15

Mr. Cryan stated that there seems to be an equal need for the use of the retired Dodge Durango #19-15 for the DPW and the Fire Department. Mr. Cryan would like a written description from each department outlining their intentions with the vehicle, such as, what the vehicle is going to be used for and who will be using it. Tabled to the next meeting.

Award Bid for Surplus Equipment

A letter was received from the DPW Manager stating that bids for Surplus Equipment were opened at 10 am on October 10, 2014. There was one bid being received for the 2010 Ford Explorer which has a blown motor and was the only item advertised for the sale. The sealed bid was received from Warren Gabriel III for \$100.00 dollars.

Warren stated that due to the fact that Warren is his son he did not feel that it was appropriate for him to make a recommendation for the award as he typically would.

Mr. Milkowski stated that he does not see a problem in the DPW Manager's son bidding on the vehicle, however, he is concerned with the bid of \$100.00. Mr. Milkowski stated that there will be another surplus sale coming up and if the vehicles were put together he feels that there would be a better response. Mr. Milkowski thinks that the vehicle should be rebid as the scrap value is much more than \$100.00.

Mayor McKee asked the Clerk if the sale was advertised properly. The Clerk confirmed that it had been and that there was only one bid received.

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. AYES: Schriver, McKee, Wunder, Cryan NAYS: Milkowski

NEW BUSINESS

Public Hearing - Comcast Renewal of Municipal Consent to Construct and Operate a Cable Television System

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

Mr. Charles Smith, Comcast Senior Director of Government and Regulatory Affairs for Northern New Jersey was present.

Mr. Smith stated that Comcast is in the final stages of Cable Franchise renewal process which is governed by Federal and State statutes and regulations. Comcast began the renewal process on or about May 16, 2012 when it sent a letter to the Township stating their intention to seek renewal of their nonexclusive franchise under Section 626A of the Cable Communications Policy Acts of 1984 and 1996. Mr. Smith noted that this was followed by an optional ascertainment period during which the Township had the opportunity to evaluate Comcast's performance, consider community wishes and to provide a report. The report was due to be submitted by April 18, 2014, which is one year prior to the franchise expiration date of April 18, 2015. In following the State's timeline, Comcast filed an application of Renewal of Municipal Consent on or about July 15, 2014. The application is on file in the Clerk's office for public review.

Mr. Anthony Casale stated that he has a list from concerns from someone who was appointed to the Comcast sub-committee but was not able to attend this meeting.

1. Amplifier to be located closer to the municipal building.
2. Lower rates.
3. Slow service.
4. Enhancement of service.
5. Donation of equipment to Voorhees High School.
6. Remote areas not covered or poor service.

Mr. Smith stated that he is not sure about moving the amplifier closer to the municipal building. Comcast follows commercial power as it relies on it for restoration. Some equipment does have battery backup systems, however; if the commercial power should go out it affects Comcast's service. Comcast services are restored once the commercial power is restored. Mr. Smith stated that he will speak to the construction engineer to see where the power supplies are on their lines in the Township. There are booster power supplies that boost the signal and Mr. Smith will see if that would help in maintaining service at the municipal building during power problems.

Mr. Smith stated that rates are established by Comcast's corporate policy. They do offer discount to seniors and the disabled persons who are eligible through the State PAAD program. Otherwise the rates are the rates.

Mayor McKee asked about enhancement of service. Mr. Smith stated that if there is an issue with service going out often and their equipment is the cause of the issue, Comcast will attempt to maintain the system as adequately as possible. Mr. Smith stated that the system in Lebanon Township was upgraded to an all-digital system. The upgrade provided an enhancement to the quality of service, clarity of the picture and the number of channels.

Attorney Cushing stated that the Township has limited areas that they have input in but service is one them. Attorney Cushing suggested that if Lebanon Township could provide the specific issue of service,

possibly Comcast could look into the concerns and make a determination. Mr. Casale will provide the list of concern on service for the Clerk to forward to Mr. Smith.

Mr. Cryan asked Mr. Smith for an escalation list. He would like the Clerk to have a list of the right people to call in case there is an issue that it not being resolved. Mr. Smith stated that if there were issues reported to the Township he would receive calls in that regard. He would then engage the technicians to address the problem. Mr. Smith is a point of contact for the municipality. The release of supervisor's and manager's phone numbers is not company policy. Attorney Cushing stated that an escalation list is something to be listed in the ordinance. This would be an instrument for those who are unsatisfied with the first level of customer service. They can then move up the ladder.

Mr. Smith stated that there are escalations that occur through the customer service process which can be discussed during the renewal procedure.

Mr. Smith stated that regarding donations of production equipment to Voorhees High School; Comcast is not a television production business and they do not have production equipment to donate. There are technology grants that may be utilized and can be discussed during the renewal process.

Mr. Smith stated that if there are areas of Township that are not currently serviced, a plan extension is subject to negotiations during the renewal process.

Mr. Cryan asked if Comcast has any programs which may assist the Township's emergency services. Mr. Smith stated that Comcast provides courtesy video services to schools and libraries. They also provide courtesy internet service to schools and libraries. They do not however provide courtesy service to municipal facilities or emergency management facilities.

Mr. Cryan asked what about wifi hotspots. Mr. Smith stated that wifi is something that can be discussed but would not a part of the franchise agreement.

Mr. Milkowski asked Mr. Smith if there a chance for courtesy service to the fire or DPW departments. Mr. Smith stated that they do not provide courtesy service. Attorney Cushing stated that this was done in other towns.

Mr. Smith stated that the digital service conversion is 100% complete in Lebanon Twp.

Mr. Smith stated that under the current ordinance the ratio for homes per mile is 35 which determine the extension of service. Attorney Cushing asked if Comcast would be willing to consider a more favorable ratio per mile? Mr. Smith stated that this could be discussed during the renewal process.

Attorney Cushing stated that the 2008 East Amwell ordinance provides for cable television on one outlet to their schools at no cost public or private provided that the school is within 200 ft of the nearest active cable distribution plant. Each additional outlet installed in the school shall be paid for materials plus labor by the school requesting the service. Monthly service charges will be waived on all additional outlets. The ordinance also provides for total preferred cable television service, at no cost, on one outlet, to each police, fire, emergency management facility and public library in the municipality. Mr. Smith stated that this is video service, not internet, which Comcast would provide.

Ms. Schriver stated her concerns with Comcast's rate increases. Ms. Schriver asked if Lebanon Township pays more as if it is a rural area. Mr. Smith stated that the rates are consistent in the service area.

Mr. Cryan feels that those who do not have Triple Play get punished as it costs much more for one service as opposed to all three. Mr. Smith stated that marketing bundles packages at promotional rates to encourage their customers to utilize all of their services.

Attorney Cushing stated that sometimes the cable company wants a longer franchise agreement and asked Mr. Smith if Comcast still ties in the amount of the grant with the length of the contract. Mr. Smith stated that negotiations are not conducted in open session, however; Comcast's objective is to secure a longer contract so if there are incentives to encourage that when it may be negotiated.

Ms. Barbara O'Rourke stated that she did call Comcast when her contract was renewed and inquired on senior discounts. Ms. O'Rourke was informed that if you are below the poverty level or disabled they will provide a discount. Attorney Cushing informed Ms. O'Rourke that he does not believe that the Township has the authority to negotiate rates.

Ms. Schriver asked Mr. Smith if he has a map of those not being serviced in Lebanon Township. Mr. Smith stated that they have a map of the service area which was provided to the Township with their application.

Mr. Marc Laul stated that there are many modem boxes that are at the end of their life. A serviceman came to his house and stated that everything was fine. The service still did not work. After a few different calls to Comcast it was stated that Mr. Laul had an "end of life" modem and it needed to be replaced. Everything then worked. Mr. Laul requested that a notification be provided to the customer when items are in need of replacement.

Mr. Smith stated that he will discuss with engineering any possible solutions for sustaining service in the municipal building in the event of a local power outage.

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee closed the public hearing.

Attorney Cushing stated that there is a time period provided for the Township to prepare an ordinance. Comcast can submit a draft of the ordinance to the Township and in turn the Township will review for their input. Mr. Smith stated that he would gladly prepare a draft ordinance and requested that a meeting be scheduled to discuss it.

Soil Log Witness

Mr. Milkowski stated that the appointed Perc Witness, Howard Symonds, passed away and since then the alternate, Engineer Jess Symonds has been providing the service. Mr. Milkowski feels that it is time to appoint a witness who is not associated with an engineering company.

Motion by Mr. Milkowski, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee elected to advertise for the Perc Witness position.

Approval of Best Practices Worksheet

The Best Practice Worksheet was prepared by CFO Greg DellaPia. Mr. Milkowski stated that he had some concerns with the answers on the worksheet and spoke to the CFO about them. Mr. Milkowski noted that the concerns were related to finance committee meetings, a surplus policy and managerial overtime. Mr. Cryan stated concerns with the question of employees approving their own overtime and questioned what encompasses the aggregate of 2% on contracts that expired after 01/01/2011. Employees time records, health benefits and workers compensation were also discussed.

Mr. Cryan stated his disapproval with the responses relative to the aggregate of 2% on contracts, worker's compensation and question #39.

The Committee agreed to send the Best Practices Worksheet to the state with adjustments.

Committeeman Brian Wunder Correspondence

Mr. Wunder sent a letter to the Township Committee stating issues he has with ethics in the Township. The letter was also distributed to all standing committees and employees, at Mr. Wunder' request. Mr. Wunder stated that the letter points out concerns that he and others have. Mr. Wunder stated that he would like the Committee to agree that the issues deserve their attention. Mr. Wunder hopes that the Township can adopt their own ethics rules for all of the committees in the Township to follow. Mr. Wunder suggested holding an ethics class in the Township where all officials receive the same information. It would be in the best interest of the public for all to be on the same page. Mr. Wunder also suggested having a joint meeting with the other Board Chairmen.

Mr. Cryan stated that he is disappointed in the letter as he feels it is a personal agenda. Mr. Cryan defended his attendance at the Glen Gardner meeting where the quarry matter was being discussed. Mr. Cryan attended the meeting at the request of the Mayor to observe the presentation that was being made. Mr. Cryan attended the meeting with the Mayor and when they arrived Mr. Milkowski was present. Mr. Cryan stated that Mr. Wunder also discussed the Republican Party in his letter and he feels that it is a private organization that has no connection with the Township Committee. Mr. Cryan questioned how ethical it was for Mr. Wunder to be texting a question to an individual, during executive session, regarding the subject that the Committee was discussing. Mr. Wunder denied the claim.

Mr. Milkowski stated that he has recused himself from all discussion relative to the quarry. He did not participate in any discussion or vote because he buys materials from the quarry. Mr. Milkowski asked if Mr. Wunder purchases material from the quarry and questioned why Mr. Wunder did not recuse himself also.

Mayor McKee stated that he and Mr. Cryan were asked by the Planning Board Chairman to attend the Glen Gardner meeting. Mayor McKee asked Mr. Cryan to join him and he did. A few Township Planning Board members were present and Mr. Ron Milkowski. Mayor McKee and Mr. Cryan said their hellos and took their seats. Mayor McKee informed all that ethically this should be avoided if at all possible. It could be perceived by the public that it was an error. Mayor McKee stated that there is a chance in society that this can occur. There was no discussion at all. Mayor McKee stated that he does agree with some points made by Mr. Wunder, however, he does not believe that the meeting in Glen Gardner was illegal.

Mayor McKee stated that Mr. Wunder wants a statement from the Township Committee relative to ethics but there is a statement by the Local Finance Board who has the jurisdiction of the Township in ethical compliance. Mayor McKee read the Local Government Ethics Laws aloud.

Mayor McKee stated that the Lebanon Township Regular Republican County Committee should not have been mentioned in the letter. If there was an issue with how the slogan line was attained by a candidate it would have been appropriate for Mr. Wunder to call a meeting with the County Committee to discuss the matter. Mayor McKee stated that in his opinion the issue could have been stricken from the letter.

Mayor McKee stated that because there was no discussion at the Glen Gardner meeting he does not feel that it was a Township meeting. In the future, if two Committee members are asked to attend a meeting, it will be noticed in the newspaper as a precaution.

Ms. Schriver stated that she feels that writing the letter was fine, however, it should have been sent to the Township Committee only. It caused a lot of confusion for the others who received the letter and it may have been interpreted the wrong way. Ms. Schriver stated that the issue with the County Committee should have been discussed with the County Committee.

Mayor McKee stated that the letter was written on personal paper and he has an issue with it being mailed in Lebanon Township envelopes with Lebanon Township stamps. Mayor McKee questioned how this happened. Mr. Wunder stated that he emailed the letter.

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 October 15, 2014 bill list in amount of \$ 2,431,296.02.

CORRESPONDENCE

Tax Collector's Report for the Month of September 2014
JoAnn Fascenelli Memo – Report of Electronics Collection and Paper Shredding Events

PUBLIC COMMENTS

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 at 9:07 p.m.

Ms. Laurie Hoffman informed the Committee that the Freeholders denied the Historic Grant application for the bathroom at the museum. Ms. Hoffman asked for Committee to look into why.

Ms. Hoffman stated that when she was running for Republican County Committee she spoke to County Clerk Mary Melfi and was informed that the Township Committee members can meet as County

Committee members as long as they do not discuss township business. Ms. Hoffman told Mr. Wunder that she feels that instead of trying to build up the Township he is bringing it down.

Ms. Hoffman asked if the Township employees are going to get 100% when injured on the job.

Ms. Hoffman asked what the requirements are for the soil log witness. Mr. Milkowski stated that the requirements will be determined.

Mr. Anthony Casale commended the Committee on the dialog they had during the public hearing for the Comcast franchise renewal.

Mr. Casale stated that he appreciates that the Committee requested proposals from both parties who are requesting the use of the Durango prior to making a decision on where the best place is.

Mr. Casale stated that he gave information and back up documentation to Attorney Cushing and the Township Committee on the Co-locator Agreement. Attorney Cushing will follow up on the matter. Mr. Casale stated that when looking at the information, he remembered that Verizon owes the Township money for the fuel for the generator.

Mr. Casale informed the Committee that he has attended many meetings in the Township and has seen people, who sit on Committees that do not know what Robert Rules are. Mr. Casale stated that he feels that Mr. Wunder was trying to educate and inform everyone so that they are on the same page and he agrees with that. Mr. Casale stated that with regard to Mr. Wunder sending him a text during the executive session; Mr. Casale was unable to make the meeting that night and he sent a text to Mr. Wunder before the meeting. The Committee had asked for Mr. Casale to put something in writing and he texted it to Mr. Wunder because that was the only Committee contact he had in his phone. There was no texting going on during the meeting, which would be unethical. Mr. Wunder was just reading what he received prior to the meeting. Mr. Casale stated that perception is important.

Motion by Mr. Milkowski, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 9:19 p.m.

Resolution No. 71 -2014 –Executive Session

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 71-2014 and convened in executive session at 9:20 p.m.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 71-2014
RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Mayor and Committee find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Mayor and Committee will reconvene in public session at the conclusion of the executive session;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

_____ A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public (Provision relied upon:

_____);

_____ A matter where the release of information would impair a right to receive funds from the federal government;

_____ A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

_____ A collective bargaining agreement, or the terms and conditions thereof (Specify contract: _____);

_____ A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed; Real Estate Acquisitions

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

_____ Investigations of violations or possible violations of the law;

_____ 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.);

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.

LTCM

10/15/2014

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BE IT FURTHER RESOLVED that the Mayor and Committee, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

ADJOURNMENT

Having no further business to come before the Committee a motion was made by Mr. Milkowski, seconded by Mr. Cryan and carried by unanimous favorable roll call vote to adjourn the meeting at 9:41 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: November 5, 2014

Thomas McKee, Mayor