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Timestamp in blue.

Lebanon Township Committee
November 2, 2022

Minutes of Regular Meeting
Woodglen School

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, Servicemen and Women and people of the Ukraine.

ROLL CALL

Present - Mike Schmidt Thomas McKee
 Beverly Koehler Guy R. Wilson

Absent-

Also Present - Attorney Matt Lyons, Clerk Karen Sandorse, and 121 members of the public.

REPUBLICAN COMMITTEE NOMINEES FOR UNEXPIRED TERM

:58

Mayor Schmidt informed the public of the process that is followed in filling the unexpired term of Committeeman Marc Laul who resigned from his seat. Term to expire on December 31, 2023.

Republican County Committee Chair Jay Wojcik provided the names of three nominees for the Committee’s consideration to fill the vacancy, Mr. Mike Falconeri, Mr. Abe Abuchowski and Mr. Bernie Cryan.

Mr. Falconeri and Mr. Abe Abuchowski made statements and answered questions of the Township Committee.

PUBLIC COMMENT – Related to the appointment process only.

16:20

Motion by Mr. Wilson, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 7:19 p.m.

Mr. Jay Wojcik stated that the Committee candidates are not subject to public inquiries unless they choose to participate.

Mr. Ron Milkowski said that any of the three candidates will do a great job serving the Township.

Mr. Victor Hoffman asked if this will be the process followed moving forward, in appointing Committee members to vacated seats.

Motion by Mr. Wilson, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 7:23 p.m.

CONSIDERATION OF COMMITTEE MEMBER APPOINTMENT

23:21

Mr. Jay Wojcik stated that the County Clerk and Attorney Lyons have differing opinions on the actual appointment process. Attorney Lyons and Clerk Melfi will speak tomorrow about the process.

Mr. Wilson moved, Mayor Schmidt second motion to appoint Mike Falconeri to the vacant Township Committee seat. AYES: Wilson, Schmidt NAYS: McKee, Koehler Motion failed.

Mr. McKee moved, Mr. Wilson seconded motion to appoint Bernie Cryan to fill the vacant Township Committee seat. NAYS: McKee, Koehler, Schmidt ABSTAIN: Wilson Motion failed.

Mr. McKee moved, Ms. Koehler seconded motion to appoint Abe Abuchowski to fill the vacant Township Committee seat. AYES: McKee, Koehler, ABSTAIN: Wilson NAYS: Schmidt Motion failed.

With no consensus reached the appointment requirement will be sent back to the Republican County Committee for their selection.

APPRECIATION FOR USE OF SCHOOL

31:24

Mayor Schmidt thanked the Woodgen School Staff, the DPW, the Clerk and Deputy Clerk for their efforts in making the school a viable location for this meeting to be held.

PRESENTATION OF MINUTES

31:59

Minutes of the Regular and Executive Session Meetings of July 20, 2022

Motion by Ms. Koehler, seconded by Mr. Wilson and carried by unanimous favorable roll call vote, the Township Committee approved the minutes of the Regular and Executive Meetings of July 20, 2022, as amended, to change Guy Wilson to Guy R. Wilson.

Regular October 5, 2022 Meeting Minutes - Tabled

Minutes of the Executive Session Meeting of October 5, 2022

Motion by Mr. Wilson, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved the minutes of the Executive Session Meeting of October 5, 2022, as amended, to change Guy Wilson to Guy R. Wilson

PUBLIC COMMENT – Agenda Items Only Except for the Cannabis Ordinance

34:28

Motion by Ms. Koehler, seconded by Mr. Wilson and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 7:34 p.m.

Mr. Bill Bohn asked about the bids and cost for the demolition of the property at 209 Raritan River Road.

Motion by Mr. Wilson, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 7:36 p.m.

ORDINANCES

36:17

Ordinance No. 2022-10 - Public Hearing

Ordinance No. 2022-10 was reviewed by the Planning Board. The Planning Board Clerk submitted a memo with regard to recommendations proposed by the Planning Board with regard to Ordinance No. 2022-10. The following recommendations were considered.

Mr. Wilson moved to strike the last Whereas, on the first page of the Ordinance No. 2022-05. No second, motion failed.

Attorney Lyons advised that if the Whereas is excised from the Ordinance the public hearing will need to be readvertised to ensure it enforceability.

The Committee discussed the Planning Board's recommendation to amend the Third whereas on page one regarding the Highlands.

Attorney Lyons stated that the safest way to proceed is to not alter the document.

Motion by Mr. McKee, seconded by Mr. Wilson and carried by unanimous favorable roll call vote, the Township Committee approved moving forward with the ordinance, as originally written, paying respect to the Planning Board for the comments provided.

Motion by Mr. McKee, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2022-10 was opened at 7:45 p.m.

Mayor Schmidt read a letter from Ms. Leslie Werstein Hann into the record regarding the Cannabis ordinance.

Mayor Schmidt provided comments on the Ordinance.

Mr. Bill Bohn thanked the Committee for their positions on the Cannabis Ordinance. He suggested that the Committee and Planning Board meet to work together to keep the Township beautiful.

Ms. Christine Wojcik stated her concerns with enforcement with regard to the Township's codes and rules.

Mr. Eric Sjogren noted that the Committee should keep in mind that the Federal Government has spoken for many years about decriminalizing Schedule I Marijuana but has not succeeded.

Mr. Christine DeLorenzo provided comments and statistics on crime associated with the cannabis businesses.

Mr. Keith Galloway provided comments on his families anguishes due to a family member dealing and use of drugs.

Ms. Sharon Petzinger made comments on the water usage at the site and noted that one of the Whereas clauses which relates to the Highlands Act is not strong enough. Ms. Petzinger provided possible alternatives.

Mr. Bill Bohn commented on Ms. Petzinger's comments. He requested that the proposed ordinance not be amended and suggested revisiting at a later time.

Mr. Bob Mickle provided comments on the letter submitted by Ms. Leslie Hann, the effect the factory will have on him and the residents, what agriculture is and Farm Assessment.

Ms. Christine Wojcik commented on the two Township letters provided by the State, in response to Ms. DeLorenzo's OPRA, and asked what can be done about the misinterpretation of approval by the CRC.

Ms. Lisa Rivers made comments on the statement made by Ms. DeLorenzo about the crime associated with cannabis businesses and asked for it to be in the forefront of the consideration list. Ms. Rivers recommended the book "Tell Your Children".

Mr. Rich Webb thanked that members of the Committee for putting their differences aside and agreeing to adopt the ordinance in its original form. Mr. Webb also thanked the members of the public for being behind the movement.

Mr. Dan Adickes noted that the growth of marijuana is an industrial use and provided information on the property at 62 Anthony Road.

Motion by Mr. Wilson, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2022-10 was closed.

Motion by Ms. Koehler, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee adopted Ordinance No. 2022-10 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
ORDINANCE NO. 2022-10
PROHIBITING THE OPERATION OF
ALL CLASSES OF MEDICINAL CANNABIS BUSINESSES
AND AMENDING SECTION
OF LEBANON TOWNSHIP CHAPTER 400 "ZONING" - §400--9(A-C)

WHEREAS, the regulation of Alternative Treatment Centers ("ATCs") and other establishments engaged in the cultivation, manufacturing, wholesaling, distribution, retail dispensing and delivery of medicinal cannabis is governed by the Jake Honig Compassionate Use Medical Cannabis Act ("CUMCA"), N.J.S.A. 24:61-1, et seq.; and

WHEREAS, The Highlands Water Protection and Planning Act, ("Highlands") N.J.S.A. 13:20-1 et seq. is a law to preserve open space and protect the state's greatest diversity of natural resources including the water resources that supply drinking water to more than half of New Jersey's families; and

WHEREAS, Lebanon Township is located in the New Jersey Highlands and regulated and governed by the preservation area of the Highlands; and

WHEREAS, it has been established that activities set forth in CUMCA require extensive quantities of water related to their operations and produce significant quantities of wastewater far exceeding the amounts envisioned during the adoption of the Highlands Act; and

WHEREAS, CUMCA (a) did not require Lebanon Township to adopt an ordinance concerning the zoning of ATCs or other medicinal cannabis establishments; and (b) does not restrict Lebanon Township's authority to adopt an ordinance concerning the zoning of ATCs or other medicinal cannabis establishments; and

WHEREAS, the Controlled Substances Act, 21 U.S.C. §§ 801, et seq., prohibits the cultivation, distribution, and possession of marijuana, for any reason, regardless of State law. New Jersey's cannabis regulations conflict with Federal law; and

WHEREAS, the Township Committee of the Township of Lebanon has determined that uses that violate the intent of the Highlands Act should be prohibited uses; and

WHEREAS, the Township Committee of the Township of Lebanon have determined that it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township's residents to amend the Township of Lebanon's zoning regulations to prohibit the following cannabis-related land use development within the Township of Lebanon: "All medicinal cannabis uses related to the cultivation, manufacturing, wholesaling, distribution, retail dispensing and delivery(originating from within the Township) of medicinal cannabis of any kind.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Committee of the Township of Lebanon, in the County of Hunterdon, New Jersey, as follows:

1. All alternative Treatment Centers and other establishments engaged in the cultivation, manufacturing, wholesaling, distribution, retail dispensing or delivery (unless delivery originates outside the boundaries of the Township) of medicinal cannabis as set forth in CUMCA, N.J.S.A. 24:61-1, et seq., are hereby prohibited from operating in any zoning district in the Township of Lebanon.

2. Section 400-9(A-C) of the Township of Lebanon’s Code “Zoning – Use Regulations” is hereby amended by adding to the list as prohibited uses in all zoning districts, the following: “Any Alternative Treatment Centers and other Medicinal Cannabis Establishments engaged in the cultivation, manufacturing, wholesaling, distribution, retail dispensing or delivery (originating from within the Township) of medicinal cannabis.
3. Any article, section, paragraph, subsection, clause, or other provision of Lebanon Code “Zoning” inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.
4. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part there of directly involved in the controversy in which such judgment shall have been rendered.
5. Upon adoption of this Ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of this Ordinance with the County Planning Board, the Highlands Commission and other agencies as required by law.
6. This ordinance shall take effect upon its passage and publication, and as otherwise provided for by law.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage and adoption and publication according to law.

RESOLUTIONS

1:24:15

Resolution No. 94-2022 – Authorizing Demolition of An Unsafe Structure Located at 209 Raritan River Road South in Lebanon Township and Authorizing the Tax Collector to Place a Tax Lien on the Property

Motion by Mr. Wilson, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 94-2022 as written below.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 94-2022

AUTHORIZING DEMOLITION OF AN UNSAFE STRUCTURE LOCATED AT 209
RARITAN RIVER ROAD SOUTH IN LEBANON TOWNSHIP,
AND
AUTHORIZING THE TAX COLLECTOR TO PLACE A TAX LIEN ON THE PROPERTY

WHEREAS, there is an unsafe structure on property identified as Block 16, Lot 2, on the Lebanon Township Tax Map, located at 209 Raritan River Road South (the “Property”); and

WHEREAS, a Shared Service Agreement between the Township of Tewksbury, the Township of Lebanon, and the Borough of Califon, proving construction code permitting and enforcement services to Lebanon Township and Califon Borough, has allowed Tewksbury

Township to secure a judgment pursuant to N.J.A.C. 5:23-2.32(5)(b) against the owner of said Property and permitting them to demolish the unsafe structure thereon; and

WHEREAS, Cedar Ridge Landscaping & Excavating has submitted a two part proposal dated September 19, 2022, for the demolition of the existing dilapidated structure located on the Property in the amount for \$3,500 and for the removal of debris in the amount of \$5,725, in the total amount of \$9,225.00; and

WHEREAS, the Township of Tewksbury has awarded the demolition of the unsafe structure to Cedar Ridge Landscaping & Excavating, in the amount of \$3,500; and

WHEREAS, the Township of Lebanon will award the removal of debris to Cedar Ridge Landscaping & Excavating, in the amount of \$5,725; and

WHEREAS, the judgment further provides that pursuant to N.J.A.C. 5:23-2.32(5)(b), the owner of the Property shall be responsible for the costs of demolition; and

WHEREAS, the Township Committee has determined and authorized the Lebanon Township Tax Collector to place a lien on the Property in the amount of \$3,500 to reimburse the Township of Tewksbury for the demolition of the unsafe structure; and

WHEREAS, Township Committee has determined and authorized the Lebanon Township Tax Collector to place a second lien on the Property in the amount of \$5,725, to reimburse Lebanon Township for the removal of the debris.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey, as follows:

1. The destruction of the unsafe structure located on property identified as Block 16, Lot 2, on the Lebanon Township Tax Map, located at 209 Raritan River Road South is hereby authorized;
2. The Tax Collector is hereby authorized to place a lien on the Property in the amount of \$3,500, to reimburse the Township of Tewksbury for the demolition; and
3. The Township of Lebanon hereby awards a contract to Cedar Ridge Landscaping & Excavating for removal of debris following demolition in the amount of \$5,725; and
4. The Tax Collector is hereby authorized to place a second lien on the Property in the amount of \$5,725 to reimburse Lebanon Township for the removal of the debris.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be forwarded to the Tax Collector and Tax Assessor.

Resolution No. 95-2022 – Return for Overpayment of Taxes

Motion by Mr. McKee, seconded by Ms. Koehler and carried by favorable roll call vote, the Township Committee approved Resolution No. 95-2022 as written below. AYES: McKee, Koehler, Schmidt RECUSED: Wilson

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 95-2022

AUTHORIZING A REFUND FOR THE OVERPAYMENT OF PROPERTY TAXES AND A
CORRECTION OF THE ASSESSMENT RECORDS

WHEREAS, Edward Post is the owner of property located in Lebanon Township known as 30 Point Mountain Road and designated on the Tax Maps as Block 56, Lot 10.01 (the "Property"); and

WHEREAS, since 2020, following a Township-wide revaluation, the Township's tax records have incorrectly reflected the Property as consisting of 63.81 acres; and

WHEREAS, the Property consists of only 32.83 acres, which has been confirmed by the Township Engineer; and

WHEREAS, the additional acreage should have been reflected as part of an adjacent property, designated as Block 56, Lot 10 on the Tax Maps; and,

WHEREAS, Block 56, Lot 10 contains 111.16 acres, but the tax records reflect it as only contained 81.38 acres, which has been confirmed by the Township Engineer; and

WHEREAS, the Property has, therefore, been incorrectly assessed since 2020 and Mr. Post has overpaid his property taxes in the amount of \$1,757.18 for the Tax Year 2020, has overpaid property taxes in the amount of \$1,819.17 for the Tax Year 2021, and has been overbilled for property taxes in the amount of \$1,887.07 for the Tax Year 2022; and

WHEREAS, N.J.S.A. 54:4-54, also known as the "Correction of Errors Statute," provides that "where one person has by mistake paid the tax on the property of another supposing it to be his own, the governing body after a hearing, on five days' notice to the owner, may return the money paid in error without interest and restore the record of the assessment and tax against the property in the name of the true owner"; and

WHEREAS, in Cerame v. Township Committee of the Township of Middletown, 349 N.J. Super. 486, 495 (App. Div. 2002) the Appellate Division applied a three (3) year statute of limitations period to the Correction of Errors Statute; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey, as follows:

1. The Tax Collector be and hereby is authorized to refund Edward Post the amount of \$3,576.35 for the overpayment of property taxes on the Property designated as Block 56, Lot 10.01 for the Tax Years 2020 and 2021 without interest. Such refund shall be provided as a credit to taxes due on the Property designated as Block 56, Lot 10.01 on the Tax Maps of Lebanon Township.
2. The Tax Collector be and hereby is hereby authorized to credit Edward Post the amount of \$1,887.07 for overbilled 2022 property taxes on the Property designated as Block 56, Lot 10.01.
3. Pursuant to N.J.S.A. 54:4-54 the Tax Collector and Tax Assessor are authorized to correct the assessment record for the properties designated as Block 56, Lots 10 and 10.01 on the Tax Maps of Lebanon Township to reflect the correct acreage as noted in this Resolution.
4. A certified copy of this Resolution shall be forwarded to the Tax Collector and Tax Assessor.

UNFINISHED BUSINESS

No unfinished business.

NEW BUSINESS

1:33:56

Shared Services Agreement – Lebanon Township School District for Various Services

Motion by Ms. Koehler, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved a Shared Services Agreement with the Lebanon Township School District for Various Services for the 2022-2023 school year.

PRESENTATION OF VOUCHERS

1:35:22

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

Motion by Ms. Koehler, seconded by Mr. Wilson and carried by unanimous favorable roll call vote, the Township Committee approved the November 2, 2022 bill list in the amount of \$ **2101**

CORRESPONDENCE

1:38:18

- a. Rob Whiteley Correspondence – DPW Commendation

PUBLIC COMMENTS

1:40:15

Motion by Ms. Koehler, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 8:40 p.m.

Mr. Bill Bohn commented on the demolition of the Raritan River Road structure and the Little Brook Road property. Attorney Lyons has spoken to the Attorney for the property owner. Mr. Bohn provided comments on the Federal Government ever legalizing cannabis.

Mr. Bart Lagomarsino, LTSD Board Vice President, questioned the 5% increase for the Shared Services Agreement for Special Services between the Township and the School Board. Mr. Lagomarsino asked for an itemized list of the services being provided.

Ms. Laurie Hoffman stated that the 3 Historians who resigned in 2021 did not resign due to an OPRA request. Ms. Hoffman asked about receiving packet documents prior to a meeting, about water being taken from her aquifer, questioned why the Township did not follow the same process when taking down the home on Route 31 and how the Township was able to change property lines on the tax map without informing the property owner.

Mr. Bob Mickle asked if the Township ever recognized the Woodglen School for the 911 commemorative event they hold each year. Mr. Mickle suggested that a proclamation be done honoring the class who organizes it.

Mr. Darryl Schmidt asked about the reimbursement of taxes for Block 56, Lot 10.01 and questioned if the other property owner is now going to cover the cost.

Ms. Victoria Cervilli asked for an update on the status of the Business Administrator. Attorney Lyons stated that the supplemental legal findings have been completed.

Ms. Linda Ryan asked if there has been any legal action filed by the Business Administrator at this time.

Mr. Bart Lagomarsino asked if there is anything that can be done in the Township with regard to the bear population.

Ms. Theresa Hayth informed the Committee of a bear encounter they had at their home and questioned if the fire hydrants on the corner Boulder Field Road and High View Street can be used for firefighting.

Ms. Sharon Petzinger provided the number to call the DEP for bear complaints. She suggested having the meeting at Woodglen School if the Business Administrator is on the agenda.

Ms. Theresa Hayth suggested using the Station #3 for larger Township meetings or to reconfigure the current buildings to accommodate the numbers.

Motion by Ms. Koehler, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 9:12 p.m.

ADJOURNMENT

2:12:02

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

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: December 21, 2022

Mike Schmidt, Mayor