

**Lebanon Township Committee
December 2, 2009**

Minutes of Regular Meeting

CALL TO ORDER

Mayor Patricia Schriver 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 Schriver asked everyone to stand for the flag salute.

ROLL CALL

Present - Patricia Schriver Ed Post Francis Morrison

Absent- Jay Weeks George Piazza

Also Present - Attorney Eric Bernstein and Clerk Karen Sandorse and 16 members of the public.

PRESENTATION OF MINUTES

Motion by Mr. Post, seconded by Ms. Schriver and carried by favorable roll call vote, the Township Committee approved minutes of the Regular Meeting of November 4, 2009. AYES: Post, Schriver ABSTAIN: Morrison

Motion by Mr. Post, seconded by Ms. Schriver and carried by favorable roll call vote, the Township Committee approved minutes of the Executive Session of November 4, 2009. AYES: Post, Schriver ABSTAIN: Morrison

RESOLUTIONS

**Resolution No. 83-2009- Plan Conformance to the Highlands Water
Protection and Planning Council**

Township Planner Mike Bolan was present. Mr. Bolan stated that as part of the Highlands process, there is a requirement that a public meeting be held on the draft Masterplan. It is in a draft format and will not be adopted until May of 2010. Last night, the Planning Board held the required public meeting. Mr. Bolan stated that he went though a presentation of the Masterplan and what had been changed and his recommendations for some of

the different standards that were contained within the Plan. Comments were then made by the Planning Board which included there being inconsistency within the Plan itself. There were comments concerning the fact that the Plan would make it difficult for a home occupation to exist in the Township and that it precludes development. There were concerns raised about the possibility of lawsuits made against the municipality should the municipality conform with the Highlands Plan. There were comments relative to the bureaucratic mess that has been created through the Highlands Act and having to deal with the DEP and now with the Highlands Council. There were statements made relative to the future of the community and what this might mean to the future of the community. There were comments about the Stormwater Management rules and the cost of those rules to a homeowner. There were pros and cons relative to lawsuits as to whether that it is real or supposition. There were statements made that the Act exists and since it exists, deal with it.

There were then comments from the public from about five people in attendance. There was a comment relative to the septic system ordinance and requirements for the maintenance for septic systems. There were concerns raised about the loss of development potential and the impact on property owners. A statement was made regarding the Build Out reports issued by the Highlands Council and how it would limit growth in the Township. Concerns were also raised as to the potential for lawsuits and that the Act itself is corrupt. The way that the Act puts responsibility on the municipality, ultimately the municipality has to be the bad guy. There were statements made relative to the down zoning that has occurred over the years in the Township and how it has effected the property owners.

Discussion was then held by the Planning Board based on the Board comments and the public comments and the disposition was that the Planning Board voted on a recommendation to the Township Committee not to submit the petition for Plan conformance. It was a 5-2 vote in support of not submitting the petition.

Mr. Post asked Mr. Bolan what the ramifications would be in not petitioning for conformance. Mr. Bolan stated that it is the law. The Highlands Act requires the Township to submit the petition. Relative to a municipality like Lebanon Township, in which all but six acres are in the preservation area, it is the Act and the DEP which has created the situation as it is today. Mr. Bolan thinks that the Highlands Council is trying to work things into the Plan and Ordinance that would possibly help out municipalities. There are different ramifications, under the Highlands Act, municipalities who do not conform in the preservation area can exercise all of the powers that the municipalities has under the Municipal Land Use Law. It would be assumed that the municipality would still be required to go through the development review process, however, that is down the line to consider. There is a difference in affordable housing obligations that have been established by the Council on Affordable Housing, which are 35 affordable units as opposed to the Highlands Council's 11 affordable units. Mr. Bolan stated that anything that would come before the Township Planning Board can be overruled by the Highlands Council. Mr. Bolan stated that the Township must still conform with the Highlands Act even if it should choose not to conform. Mr. Post asked Mr. Bolan if the Township were preempted by the Highlands, would that require extra steps for residents going before the Planning Board? Mr. Bolan stated that that would probably be the case, however, there are no rules set as to what would happen in that instance. The residents would probably be bounced back and forth

between the Highlands and the local boards, depending on how the rules come out. Mr. Post asked if not conforming with the Act has any benefit to the Township other than making a symbolic gesture. Mr. Bolan stated that it would be more of an act of defiance or civil disobedience.

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 83-2009. (as written below)

**RESOLUTION NO. 83-2009
TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
SUBMISSION OF PETITION FOR PLAN CONFORMANCE
TO THE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
FOR LAND IN THE PRESERVATION AREA AND IN THE PLANNING AREA**

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act), N.J.S.A. 13:20-1 *et seq.*, finds and declares that protection of the New Jersey Highlands is an issue of State level importance because of its vital link to the future of the State's drinking water supplies and other significant natural resources; and

WHEREAS, the Highlands Act creates a coordinated land use planning system requiring the Highlands Water Protection and Planning Council (Highlands Council) to prepare and adopt a Regional Master Plan for the Highlands Region; and

WHEREAS, the Highlands Act requires that within nine to 15 months after the effective date of the Regional Master Plan, or September 8, 2008, each municipality located wholly or partially in the Preservation Area shall submit revisions to the municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, as may be necessary to conform them with the goals, requirements and provisions of the Regional Master Plan (Plan Conformance); and

WHEREAS, Section 13:20-15.a, of the Highlands Act states that for the portion of a municipality lying within the Planning Area, the municipality may, by ordinance, petition the Highlands Council of its intention to revise its master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, to conform them with the goals, requirements and provisions of the Regional Master Plan, and:

WHEREAS, Lebanon Township is located in the Highlands Region with lands lying within the both the Preservation Area and Planning Area, as defined by section 7 of the Highlands Act; and

WHEREAS, the Highlands Council prepared and distributed to the Highlands municipalities Plan Conformance Guidelines outlining the process and procedures for petitioning the Highlands Council for Plan Conformance; and

WHEREAS, the Highlands Council's Plan Conformance Guidelines require that a Petition for Plan Conformance be filed with the Highlands Council no later than December 8, 2009 for Preservation Area lands, which includes a comprehensive package of draft planning and implementation documents that meet the requirements of the Highlands Act, the Regional Master Plan and the Highlands Plan Conformance Guidelines; and

WHEREAS, in accordance with the Highlands Act and Plan Conformance Guidelines, the Highlands Council shall consider a Petition for Plan Conformance, and accept, reject or accept with conditions, a Petition for Plan Conformance, as it deems appropriate, to conform them to the Regional Master Plan; and

WHEREAS, since Plan Conformance by the municipality is strictly voluntary for lands in the Planning Area, Lebanon Township may at any time voluntarily revise its master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, to conform them with the Regional Master Plan; and

WHEREAS, at any time during the Plan Conformance process, Lebanon Township may choose not to obtain conformance with the Regional Master Plan for the lands lying within the Planning Area, and any approvals, rejections or approvals with conditions of the revised municipal master plan and development regulations recommended by the Highlands Council during the Plan Conformance process will not be binding on Lebanon Township as they relate to the development and use of land in the Planning Area; and

WHEREAS, should Lebanon Township choose to conform its master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, with the Regional Master Plan and Plan Conformance Guidelines, in accordance with a decision of the Highlands Council, Lebanon Township is required under the Highlands Act to enact an ordinance setting forth such intention; and

WHEREAS, upon application of Lebanon Township into the Plan Conformance Grant Program, the Highlands Council has made, or will make, grant funding and other financial and technical assistance available to Lebanon Township for the reasonable costs associated with the revisions of the master plan, development regulations or other regulations, as applicable to the development and use of land in the Preservation Area and the Planning Area, which are designed to bring those plans and regulations into conformance with the Regional Master Plan; and

WHEREAS, the Highlands Council shall make grant funds available for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant Program, and shall also make available grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council; and

WHEREAS, should Lebanon Township formally withdraw from the Plan Conformance process with regard to the Planning Area, grant funding awarded to Lebanon Township up to the date of withdrawal that has been appropriately utilized in accordance with the Plan

Conformance Grant Program and applicable grant agreement shall not be reimbursable to the Highlands Council.

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of Lebanon Township hereby submits this Petition for Plan Conformance to the Highlands Council, as it relates to the development and use of land for the entire municipality, in accordance with the Highlands Act, the Regional Master Plan, and the Highlands Plan Conformance Guidelines; and

BE IT FURTHER RESOLVED, should Lebanon Township choose to conform its master plan, development regulations, and other regulations, as they relate to the development and use of land in the Planning Area, with the Highlands Regional Master Plan in accordance with the Highlands Council's decision regarding a Petition for Plan Conformance, Lebanon Township shall enact an ordinance setting forth such intention, as required by the Highlands Act.

Resolution No. 84-2009- Authorizing the Award of a Rock Salt Contract

Motion by Mr. Morrison, seconded by Mr. Post and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 84-2009. (See written below)

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 84-2009
RESOLUTION AWARDDING A CONTRACT FOR
ROCK SALT**

WHEREAS, the Board of Chosen Freeholders awarded a master contract to Atlantic Sale, Inc (Rock Salt) on October 20, 2009 to provide rock salt for the County and members of the Cooperative Pricing System for Ice Control Materials Bid No. 2009-19 for the 09/10 season, and

WHEREAS, the Township Committee has requested to participate in the Cooperative Pricing System for Snow and Ice Control Materials with the anticipation of purchasing 2000 tons of Rock Salt, and

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 October 20, 2009 to October 19, 2010.

COMPANY	ITEM	PRICE
Atlantic Salt, Inc.	Rock Salt	\$52.00 per ton

Resolution No. 86-2009 - 2010 Recreational Trails Program Grant

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 86-2009. (as written below)

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 86-2009**

**A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
LEBANON SUPPORTING MUNICIPAL APPLICATION FOR A 2010
RECREATIONAL TRAILS PROGRAM GRANT**

WHEREAS, the New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural Lands Management, through its New Jersey Trails Program, administers federal Recreational Trails Program grants to develop, maintain and restore trails and trail-related facilities; and,

WHEREAS, the New Jersey Trails Program will award grants of up to \$25,000 to a municipality for non-motorized trail projects located on publicly owned land, with said grants requiring a 20% total project matching fund that can be in the form of cash and/or the fair market value of labor or materials; and,

WHEREAS, the Township of Lebanon recognizes that connecting Township and Hunterdon County park system hiking trails within Lebanon Township will further the public interest by providing local and county residents with the opportunity for extended recreational opportunities allowing users to more easily access and appreciate the beauty and ecological value of the Township's extensive open spaces; and,

WHEREAS, the Township of Lebanon desires to apply for and obtain a 2010 Recreational Trails Program grant through the New Jersey Trails Program for approximately \$25,000 in order to implement a trail connectivity and improvement project;

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

1. The Township Committee of the Township of Lebanon hereby supports the submission of a 2010 Recreational Trails Program grant application in the amount of \$25,000; and,
2. The Township Committee of the Township of Lebanon hereby supports the provision to provide a 20% total project matching fund that can be in the form of cash and/or the fair market value of labor or materials, including volunteer labor and donated materials; and,
3. The Township Committee of the Township of Lebanon hereby authorizes the Lebanon Township Environmental and Open Space Commission to submit the trail grant application on behalf of the Township.

Resolution No. 87-2009- Appointing the DPW Supervisor

Motion by Mr. Morrison, seconded by Mr. Post and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 87-2009. (See written below)

**RESOLUTION NO. 87-2009
TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION APPOINTING WARREN GABRIEL AS
DEPARTMENT OF PUBLIC WORKS SUPERVISOR**

WHEREAS, as of October 1, 2009, there was a vacancy in the position of Supervisor for the Township of Lebanon's Department of Public Works; and,

WHEREAS, Warren Gabriel was appointed as Acting Department of Public Works Supervisor as of October 1, 2009; and,

WHEREAS, the Township of Lebanon now wishes to officially appoint Warren Gabriel as the Department of Public Works Supervisor, retroactive to October 1, 2009 at a salary of Fifteen Thousand Dollars (\$15,000.00) per year above his current salary from the Township, which, in 2009, is Sixty-One Thousand Three Hundred Five Dollars and Nine Cents (\$61,305.09) His salary as Department of Public Works Supervisor shall be retroactive to October 1, 2009.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey, that Warren Gabriel is hereby appointed as the Supervisor of the Department of Public Works as of October 1, 2009 at a salary for 2009 of Seventy-Six Thousand Three Hundred Five Dollars and Nine Cents (\$76,305.09). retroactive to October 1, 2009. His 2010 salary shall be established by the Township Committee during calendar year 2010.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Mayor and Township Clerk are hereby authorized to execute any Agreement between the Township and Mr. Gabriel relative to his position as DPW Supervisor through December 31, 2010.

ORDINANCES

Public Hearing

Ordinance No. 2009-13 AMENDING AN ORDINANCE CREATING THE MCNH

Since November 4, 2009, at which time this ordinance was introduced, Lebanon Borough has notified the Joint Court of its intentions to leave the Court system. Due to their decision the ordinance had to be amended to reflect such a change. Attorney Bernstein stated that the modification is not great enough to deter the Township Committee from moving forward with the public hearing and adoption.

Motion by Mr. Post, seconded by Ms. Schriver carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2009-13 was opened.

Mr. Anthony Casale inquired on what the financial impact of Lebanon Borough pulling out of the Agreement. Mr. Casale was informed that the Court is making every effort to keep costs down.

The public hearing was closed on a motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote.

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee adopted Ordinance No. 2009-13 as written below.

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
ORDINANCE NO. 2009-13
AN ORDINANCE AMENDING THE ORDINANCE CREATING THE
MUNICIPAL COURT OF NORTH HUNTERDON EFFECTIVE 2010**

WHEREAS, the Town of Clinton, the Boroughs of Glen Gardner, High Bridge, Hampton and Lebanon, and the Townships of Franklin, Lebanon and Tewksbury (“Member Towns”) currently are members of the joint municipal court know as the Municipal Court of North Hunterdon (“the Court”); and

WHEREAS, the Borough of Hampton and the Township of Tewksbury wish to withdraw from the Court effective December 31, 2009; and

WHEREAS, the Borough of Lebanon has given late notice of its intention to withdraw from the Court effective December 31, 2009; and

WHEREAS, the Town of Clinton, the Boroughs of Glen Gardner and High Bridge, and the Townships of Franklin, and Lebanon (“the remaining Member Towns”) wish to amend the Ordinance creating the Municipal Court of North Hunterdon (“the Ordinance”) to reflect that the Boroughs of Hampton and Lebanon and the Township of Tewksbury have left the court, to alter the method of allocating expenses and revenues among the Member Towns, and to eliminate the ability of a Member Town to withdraw; and

WHEREAS, a Second Amendment to the Interlocal Services Agreement effective January 1, 2008 required by the Borough of Lebanon’s late withdrawal has been adopted by the remaining Member Towns governing participation by each of the municipalities in the Municipal Court; and

WHEREAS, the remaining Member Towns have agreed to amend the Ordinance consistent with the terms of the Second Amendment to the Interlocal Services Agreement.

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

1. Paragraph 1 of the Ordinance is amended to read as follows:

1. Creation of Court: Effective January 1, 2010 the Municipal Court of North Hunterdon shall be composed of the Town of Clinton, the Boroughs of Glen Gardner and High Bridge, and the Townships of Franklin and Lebanon.

2. Paragraph 4 of the Ordinance is amended to read as follows:

4. Jurisdiction: The jurisdiction of the Municipal Court shall be coextensive with the territory of the Town of Clinton, the Boroughs of Glen Gardner and High Bridge, and the Townships of Franklin and Lebanon.

3. Paragraph 12 of the Ordinance is amended to read as follows:

12. Withdrawal by Member: A member may not withdraw from the Court prior to December 31, 2012.

4. Paragraph 18 of the Ordinance is amended to read as follows:

18. Contribution Requirements/Revenue Distribution:

(a) The legally permitted municipal share of all fines levied on summons/warrants/tickets or other charges issued by a municipality's police department or other municipal department and the court costs attributable to such summons/warrants/tickets or other charges shall be forwarded monthly by the Municipal Court to the issuing Municipality.

(b) All fines levied on summons/warrants/tickets issued by the State Police or any other non-member law enforcement agency shall be distributed as required by law.

(c) The yearly operating costs and other expenses of the Municipal Court shall be divided among the participating municipalities as follows: (1) each Member Town shall pay an annual base operating expense ("base operating expense") ; (2) to the extent that yearly operating costs and other expenses exceed the amount collected from each Member Town as base operating expense, each Member Town shall be responsible for a percentage of the excess operating costs and other expenses ("excess operating expense"). The base operating expense shall be \$18,000 for the term of this agreement Each municipality's percentage share of excess operating expense shall be the same as the percentage derived by dividing the total amount of Municipal Court revenue from court costs attributable to a particular municipality for that year by the total amount of Municipal Court revenue from court costs generated by all participating municipalities for that same year. For example, if the Town of Clinton generates \$30,000 in court costs during a year and all the participating municipalities, including the Town of Clinton, generate \$300,000 in court costs during a year than the Town of Clinton would be responsible for 10% (\$30,000 divided by \$300,000) of the operating costs and other expenses of the Municipal Court. For the purpose of this Agreement, court costs mean the amount of costs imposed upon defendants by the Municipal Judge retained by the Municipal Court. One twelfth of each municipality's share of the base operating expense and the excess operating expense shall be billed monthly

(d) The Municipal Court staff shall calculate each participating municipality's percentage share of Municipal Court excess operating expense as provided in subsection

(c) above on a yearly basis (September 1 to August 31). The calculation shall be completed by September 15 of each year and the percentages established shall be applicable for the following calendar year. In establishing percentages for 2010, that being the first year after the withdrawal of the Boroughs of Hampton and Lebanon and the Township of Tewksbury, the Municipal Court Staff shall calculate the total amount of Municipal Court revenue from court costs generated by participating municipalities excluding Hampton, Lebanon and Tewksbury.

(e) Notwithstanding anything to the contrary herein, the minimum percentage applicable to the Member Towns under subsection (c) above shall be three percent (3%).

5. Paragraph 20 of the Ordinance is amended to read as follows:

20. Uniform Shared Services and Consolidation Act: The governing body of the Township of Lebanon, having authorized the 2008 Interlocal Services Agreement pursuant to the Interlocal Services Act, *N.J.S.A. 40:8A-1 et seq.*, hereby ratifies the Amendment to the 2008 Interlocal Services Agreement pursuant to the Uniform Shared Services and Consolidation Act, *N.J.S.A. 40A:65-1, et. seq.*, in accordance with the terms of that Act. In the event of any discrepancy between this Ordinance and the provisions of the Uniform Shared Services and Consolidation Act, the Act shall take precedence.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such hold shall not affect the validity of the remaining portions hereof.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon final passage and publication according to law, and the passage of an ordinance similar to this one by the remaining Member Towns.

Resolution No. 85-2009- Amendment to Municipal Court Interlocal Agreement

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 85-2009. (as written below)

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 85-2009**

**AUTHORIZING SECOND AMENDMENT TO INTERLOCAL SERVICES
AGREEMENT FOR THE MUNICIPAL COURT OF NORTH HUNTERDON**

WHEREAS, the continuing members of the Municipal Court of North Hunterdon have agreed to a second amendment to the Interlocal Services Agreement for the Municipal Court of North Hunterdon effective January 1, 2010 to reflect that the Boroughs of Hampton and Lebanon and the Township of Tewksbury have left the court, to alter the method of allocating expenses and revenues among the Member Towns, and to eliminate the ability of a Member Town to withdraw;

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

The Second Amendment to the Interlocal Services Agreement for the Municipal Court of North Hunterdon, in the form attached hereto, is agreed to by the Mayor and Township Committee of the Township of Lebanon, and the Mayor and Clerk are hereby authorized to execute the Second Amendment;

AND, BE IT FURTHER RESOLVED:

That upon the execution of the Second Amendment to the Interlocal Services Agreement, the Township of Lebanon will amend the Ordinance creating the Municipal Court of North Hunterdon to reflect the changes made to the Interlocal Services Agreement by the Second Amendment.

Public Hearing

Ordinance No. 2009-14- Prequalification of Bidders

Motion by Mr. Post, seconded by Mr. Morrison carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2009-14 was opened.

Mr. Ed Gagne asked if this ordinance would be applied to the Township Garage Project. Mr. Bernstein stated that it would not.

The public hearing was closed on a motion by Mr. Morrison, seconded by Mr. Post and carried by unanimous favorable roll call vote.

Motion by Mr. Post, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee adopted Ordinance No. 2009-14 as written below.

**ORDINANCE NO. 2009-14
TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**AN ORDINANCE AUTHORIZING THE TOWNSHIP OF LEBANON
TO REQUIRE THE PREQUALIFICATION OF BIDDERS FOR CONTRACTS FOR
GOODS OR SERVICES TO BE PROVIDED TO THE TOWNSHIP**

WHEREAS, under the Local Public Contracts Law, *N.J.S.A. 40A:11-1, et seq.*, the Township of Lebanon is empowered to advertise for and enter into certain contracts for goods and services with or without competitive bids, depending on various circumstances and the nature, character and source of such goods or services; and,

WHEREAS, pursuant to *N.J.S.A. 40A:11-25* and *N.J.S.A. 40A:11-26*, the Township of Lebanon may adopt an Ordinance requiring bidders and/or candidates for such contracts to provide information regarding their financial ability and experience in performing the said contract; and,

WHEREAS, the Township of Lebanon finds that a review of the financial and experience qualifications of bidders and/or candidates for such contracts is the most efficient and beneficial method for allowing a choice to be made from bidders and/or candidates who are responsible and qualified; and,

WHEREAS, a provision requiring the prequalification of bidders would be in the best interests of the citizens of the Township of Lebanon.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey that Section 14 of the Ordinances of the Township of Lebanon is hereby supplemented by the addition of Section 14-10 as follows:

Section 14-10: The Township of Lebanon may require that bidders for certain projects or a class of projects submit financial and experience information as part of any submission of qualifications and/or proposals for any contract for goods and services to be entered into with the Township and that only bidders submitting such qualifications shall be permitted to receive contracts. As used herein, "bidder" shall mean any person or entity who submits, or intends to submit, a response to any request for proposal, request for qualifications or solicitation or request to provide goods or services to the Township of Lebanon, with the exception of potential applicants for regular employment with the Township of Lebanon.

Section 14-10(a) In determining the contracts on which such qualification shall be required, the Township Committee shall consider some of the following standards:

1. the importance of the contract to the Township of Lebanon;
2. the harm which could be done to the Township of Lebanon through an improper or untimely performance;
3. the number of bidders without adequate qualification who could be expected to bid;
4. the existence of objective criteria which could be set out in a prequalification questionnaire.

Section 14-10(b) In the event that the Township Committees determines that such qualifications shall be required for any contract, in order to be determined to be qualified, bidders must complete a set of qualification materials to be prepared and distributed by the Township of Lebanon. A standard set of qualification materials is annexed to this Ordinance as a form of qualifications, which may be amended from time to time.

Section 14-10(c) In addition to any other statutory or common law reason for rejection of bids, proposals and/or qualifications, qualification may be denied for the following reasons:

1. A bidder submits a false statement in the prequalification materials.
2. A bidder fails to comply with the prequalification rules.
3. A bidder fails to complete each applicable item of the prequalification materials.
4. Lack of competency, experience, facilities and/or personnel are revealed by the prequalification materials.
5. Uncompleted work which might hinder and/or prevent the prompt completion of additional work if awarded.

6. Failure to pay, or satisfactorily settle, all bills due for labor and material on former contracts.
7. Failure to comply with any prequalification regulations of the Township of Lebanon.
8. Default under previous contracts.
9. Unsatisfactory performance record as shown by past work judged from the standpoint of workmanship and progress.
10. The submission of misleading information on previous bid proposals.

Section 14-10(d) The Township of Lebanon reserves the right to waive technicalities which do not materially affect the qualifications of any bidder, so long as the technicalities are not a material defect as set forth in Section 14-10(c).

Section 14-10(e) The Township of Lebanon reserves the right to select the bidder it deems the lowest responsible bidder at the time the contract is awarded. The Township of Lebanon reserves the right to reject any and all bids.

Section 14-10(f) This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law, subject to the approval of the Director of Local Governmental Services in the New Jersey State Department of Community Affairs, as set forth in *N.J.S.A. 40A:11-25* and *N.J.S.A. 40A:11-26*.

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 Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.
3. This Ordinance shall take effect immediately upon final passage and publication as required by law.

Introduction

ORDINANCE NO. 2009-15 – AMENDING “PARKING IN RESIDENTIAL ZONES”

Motion by Mr. Piazza, seconded by Mr. Post and carried by unanimous favorable roll call vote, the Township Committee approved Ordinance No. 2009-15 on first reading. (as entitled below).

**ORDINANCE NO. 2009-15
TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
AN ORDINANCE TO
REVISE, AMEND AND SUPPLEMENT**

**THE CODE OF THE TOWNSHIP OF LEBANON
SECTION 400-46, ENTITLED “OFF-STREET PARKING”,
SPECIFICALLY SECTION 400-46B, ENTITLED “PARKING IN RESIDENTIAL
ZONES”**

Public Hearing to be held on December 16, 2009.

OLD BUSINESS

Request for Release of Maintenance Bond – Hickory Developers, LLC

Motion by Mr. Morrison, seconded by Mr. Post and carried by unanimous favorable roll call vote, the Township Committee approved the release of the Stone Row at Hickory Run Maintenance Bond in the amount \$180,076.35 at the recommendation of the Township Engineer Steve Risse.

Fire Tank Apparatus Bid Submission

Held for executive session.

OEM Coordinator Request to Purchase Firelite Skid Mount Unit

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee approved the OEM Coordinator’s request to purchase a Firelite Skid Mount Unit in the amount of \$7,800.00 from North Jersey Fire Equipment.

Police Chief’s Request to Purchase a 2010 Police Vehicle

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee approved the Police Chief’s request to move forward with the lease purchase of a new vehicle. The new vehicle will replace the 2005 Ford Crown Victoria.

NEW BUSINESS

DPW Acting Supervisor’s Request to Advertise for Sale of Surplus Vehicles

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee approved the DPW Acting Supervisor’s request to advertise for the Sale of Surplus Vehicles.

Approve Voorhees High School PTSA Raffle Application – April 28, 2010

Motion by Mr. Morrison, seconded by Mr. Post and carried by unanimous favorable roll call vote, the Township Committee approved a Raffle Application for the Voorhees High School PTSA for an event to be held on April 28, 2009.

DPW Acting Supervisor's Request to Purchase (3) Parking Lot Lights and Poles

Motion by Mr. Morrison, seconded by Mr. Post and carried by unanimous favorable roll call vote, the Township Committee approved the DPW Acting Supervisor's request to purchase (3) parking lot lights and poles for the municipal building parking lot at a cost of \$1,617.00 from Hesco Lighting.

DPW Acting Supervisor's Request to Purchase a Toro Z-Master 580 D Mower

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee approved the DPW Acting Supervisor's request to purchase a Toro Z-Master 580D Mower at a cost of \$11,400.00 from Frank Rymon and Sons.

PRESENTATION OF VOUCHERS

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

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee approved the December 2, 2009 bill list in the amount of \$453,133.21.

CORRESPONDENCE

State of New Jersey Dept. of Agriculture – Gypsy Moth Egg Mass Survey
Statewide Loss Control Service Visit Report

PUBLIC COMMENTS

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

Many comments were passed by the public relative to the Highlands Resolution. Statements were made regarding the Township Committees decision to move forward with the Plan notwithstanding the Township Planning Board's recommendation.

The Township Committee was asked to reconsider their decision on filing the Petition for the Plan.

Concerns were raised on the potential for lawsuits, the benefits and negative aspects of the Plan relative to the Township. Statements were made as to the impact this Plan has on the farmers of the Township and the loss of property value for the residents. A request was made for the Township Committee to incorporate additional language in the Plan resolution stating the weaknesses in the Plan and the dreadful impact it has on the Township residents.

Suggestions were made to hold two public hearings during the Township Committee meetings, one at the start of the meeting and one at the close.

Mr. John Locker of Route 513 stated concerns with the rate of speed in which people travel on Route 513 and recommended that the Township request that the County look into lowering the speed limit. The Clerk will ask the Police Chief to look into the matter.

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

EXECUTIVE SESSION

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 88-2009 and convened in executive session at 8:37 p.m.

TOWNSHIP OF LEBANON RESOLUTION NO. 88-2009

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:

Anticipated or Pending Litigation-
Hyland
Tilcon

Possible Litigation – Fire Department Tanker
Fire Station No. 1

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee reconvened the Regular Committee meeting at 9:21 p.m.

Attorney Bernstein stated that all members of the Governing Body present at the commencement of the executive session were present at the recommencement of the open session as well as the Township Clerk and the Township Attorney. Tom Groendyke of Groendyke Insurance and the Township Planner Mike Bolan were present for a portion of the executive session. There was discussion the on Hyland litigation. Attorney Bernstein will be consulting with the Township's insurance carrier representative on this matter and the Committee will be advised as to the outcome of the discussion at the next meeting. The Committee was updated on the ongoing

issues with the Tilcon litigation. The Township Committee has authorized Mr. Bolan to come back with a resolution for their consideration at December 16, 2009 meeting to address some of the issues raised by members of the public involving the Highlands Act matters. When submitting Resolution No. 83-2009 to the Highlands Council, Mr. Bolan is to notify the Highlands Council that a supplemental resolution will be forthcoming.

Motion by Mr. Post, seconded by Mr. Morrison and carried by unanimous favorable roll call vote, the Township Committee moved to reject the bid from Pierce relative to the Fire Tanker due to a defect in the bid submission, according to the Local Public Contracts Law, and authorized the Clerk to advertise for new bids.

ADJOURN

Having no further business to come before the Committee, a motion was made by Mr. Post, seconded by Ms. Schriver and carried by unanimous favorable roll call vote to adjourn the meeting at 9:39 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: December 16, 2009

Patricia Schriver, Mayor