

CALL TO ORDER

Deputy Mayor Francis Morrison 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

Deputy Mayor Morrison asked everyone to stand for the flag salute.

ROLL CALL

Present - Patricia Schriver George Piazza
 Francis Morrison Brian Wunder

Absent Jay Weeks

Also Present - Attorney Eric Bernstein and Clerk Karen Sandorse and 10 members of the public.

PRESENTATION OF MINUTES

Motion by Ms. Schriver, seconded by Mr. Piazza and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the Reorganization Meeting of January 6, 2010.

Motion by Mr. Piazza, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved minutes of regular meeting of January 20, 2010.

Motion by Ms. Schriver, seconded by Mr. Piazza and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the Executive Session of January 20, 2010.

ORDINANCES

Motion by Mr. Piazza, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved Ordinance No. 2010-03 on first reading. (As entitled below).

Introduction

TOWNSHIP OF LEBANON

COUNTY OF HUNTERDON

STATE OF NEW JERSEY

ORDINANCE NO. 2010-03

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY AND A NEW FIRE TRUCK AND NEW AUTOMOTIVE VEHICLES, 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 \$695,000 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.

RESOLUTIONS

Resolution No. 24-2010 – Award 2010 Road Materials Bid

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 24-2010. (as written below)

TOWNSHIP OF LEBANON

COUNTY OF HUNTERDON

STATE OF NEW JERSEY

RESOLUTION NO. 24-2010

RESOLUTION AWARDING A CONTRACT FOR
2010 ROAD MATERIALS

WHEREAS, bids were received on December 15, 2009 for 2010 Road Materials, and

WHEREAS, the Township Committee has reviewed the recommendations made by the Township Superintendent of Public Works on said bids.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey that the following contracts be awarded based on the recommendation of the Township Superintendent of Public Works.

COMPANY	ITEM	PRICE
Tilcon New York for	Bituminous Concrete Mix I-5 (Top)	\$ 50.25 a ton
Tilcon New York for	Bituminous Concrete Mix I-1 (Base)	\$ 50.25 a ton
Tilcon New York for	Dense Grade Aggregate	\$ 10.00 a ton
Tilcon New York for	1 ½ Crushed Stone	\$ 10.00 a ton
Campbell Foundry	Type E Catch Basin	\$ 690.00 each
	Type A Catch Basin	\$ 360.00 each
Brent Materials	Corrugated Polyethylene Pipe – 15”	\$ 5.30 L.F.
	Corrugated Polyethylene Pipe – 18”	\$ 7.45 L.F.

Corrugated Polyethylene Pipe – 24” \$ 12.50 L.F.

BE IT FURTHER RESOLVED that the Mayor and Township Clerk are hereby authorized and directed to execute the contracts for same.

Resolution No. 25-2010 – Designating A \$637,625.00 BAN

Motion by Mr. Piazza, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee adopted Resolution No. 25-2010. (as written below)

Member Piazza introduced and moved the adoption of the following resolution and Member Schriver seconded the motion:

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 25-2010

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF LEBANON, IN THE COUNTY OF HUNTERDON, NEW JERSEY, COVENANTING TO COMPLY WITH THE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, APPLICABLE TO THE EXCLUSION FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES OF INTEREST ON OBLIGATIONS ISSUED BY THE TOWNSHIP OF LEBANON AND AUTHORIZING THE MAYOR, TOWNSHIP CLERK, ACTING CHIEF FINANCIAL OFFICER, AND OTHER TOWNSHIP OFFICIALS TO TAKE SUCH ACTION AS THEY MAY DEEM NECESSARY OR ADVISABLE TO EFFECT SUCH COMPLIANCE AND DESIGNATING A \$637,625 BOND ANTICIPATION NOTE, DATED FEBRUARY 5, 2010, PAYABLE FEBRUARY 4, 2011, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b) (3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

WHEREAS, the Township of Lebanon, in the County of Hunterdon, New Jersey (the "Township") from time to time issues bonds, notes and other obligations the interest on which is excluded from gross income for Federal income tax purposes and desires to take such action as may be necessary or advisable to establish and maintain such exclusion; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), contains provisions with respect to the exclusion from gross income for Federal income tax purposes of interest on obligations, including provisions, among others, which require issuers of tax-exempt obligations, such as the Township to account for and rebate certain arbitrage earnings to the United States Treasury and to take other action to establish and maintain such Federal tax exclusion; and

WHEREAS, the Township intends to issue a \$637,625 bond anticipation note, dated February 5, 2010 and payable February 4, 2011 (the "Note"); and

WHEREAS, the Township desires to designate the Note as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code;

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

SECTION 1. The Township Committee hereby covenants on behalf of the Township, to the extent permitted by the Constitution and the laws of the State of New Jersey, to do and perform all acts and things permitted by law and necessary to assure that interest paid on bonds, notes or other obligations it issues (including the Note) be and remain excluded from gross income of the owners thereof for Federal income tax purposes pursuant to Section 103 of the Code.

SECTION 2. The Mayor, Township Clerk, Acting Chief Financial Officer and other officials of the Township are hereby authorized and directed to take such action, make such representations and give such assurances as they may deem necessary or advisable to effect compliance with the Code.

SECTION 3. The Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Code.

SECTION 4. It is hereby determined and stated that the Note (1) is not a "private activity bond" as defined in the Code and (2) the Township and its subordinate entities, if any, do not reasonably

anticipate issuing in excess of \$30 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2010.

SECTION 5. It is further determined and stated that the Township has not, as of the date hereof, issued any tax-exempt obligations (other than the Note) during the calendar year 2010.

SECTION 6. The Township will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, said Township does not covenant to do so, and hereby expressly states that a covenant is not made hereby.

SECTION 7. The issuing officers of the Township are hereby authorized to deliver a certified copy of this resolution to the original purchaser of the Note and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2010 dated as of the date of delivery of the Note.

SECTION 8. This resolution shall take effect immediately upon its adoption.

The foregoing resolution was adopted by the following roll call vote:

Ayes: Wunder, Schriver, Morrison, Piazza

Nays: 0

OLD BUSINESS

Mr. Piazza stated that he spoke to the Police Chief and was informed that he did meet with the Baluta's of East Hill Road regarding their concerns with speeding on East Hill Road.

Mr. Piazza stated that at the Planning Board meeting a proposed Alternative Energy Ordinance, which concerns windmills and outdoor woodburning stoves, was discussed. There are a few changes which need to be made Planner Michael Bolan then it will be provided to the Committee for their consideration.

Mr. Piazza stated that Fire Chief Warren Gabriel was present at the meeting to voice his concerns with the water tanks, which are required by Township ordinance to be buried on certain

construction sites for fire protection. The Fire Chief wants to be sure that the requirement for the fire tank is listed on the Checklist so that someone does not receive an occupancy permit without having the tank installed on the property.

Mr. Piazza said that the Planning Board also discussed COAH obligations. Michael Bolan is completely onboard and has everything in order to meet the deadline.

Mr. Piazza asked Attorney Bernstein what the next step is regarding the road department garage. Attorney Bernstein stated that his office is in process of drafting a contract at this time along with the Library Heating System contract.

Mr. Piazza asked if the Clerk had sent a letter to the County stating the Township Committee's interest in participating in the County Recycling Shared Service.

NEW BUSINESS

Peter Schroder – Farmland Preservation Funding

Mr. Peter Schroder of 142 Dutch Hollow Road was present to request that the Township participate in the acquisition of his property along with the State and the County. Mr. Schroder stated that the Township received a letter from the State on November 20, 2009 requesting that the Township contribute \$47,530.00 toward the preservation of the property. The Township responded in saying that they did not have the funds available. Mr. Schroder asked when the Township would have the funds available and do they still participate with the State and County when it comes to land preservation. Discussion was held. The Township Committee explained to Mr. Schroder that the tax dollars collected by the Township is to pay down existing debt for properties already preserved. The Township Committee decided not to continue with farmland preservation programs since the Highlands Act put restrictions on the land development itself.

Mr. Schroder stated that there are 8 or 9 Ash Trees in the area of Dutch Hill Road and Dutch Hollow Road that are close to being dead. He asked if it were possible for the DPW to do something about them. The DPW Supervisor will look into the matter.

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 February 3, 2010 bill list in the amount of \$1,046,031.84.

CORRESPONDENCE

- a. Lebanon Township Volunteer Fire Department – List of 2010 Officers
- b. Township Historians January 7, 2010 Meeting Minutes
- c. Highlands Information Provided by Mr. David Shope

PUBLIC COMMENTS

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

Mr. Larry Marino, Mr. Enzo Columbro and Mrs. Karen Columbro were present at the meeting to inform the Committee of an issue they are having with the Board of Adjustment. They are concerned with a welding business in the Township that is operating illegally in a residential zone. The business is located at 417 Little Brook Road. Mr. Marino stated that the neighbors have tried to be patient. The Township has been formally aware of the operation since March 2008 when neighbors raised the issue to Township officials due to daily disturbances from the operations of the business at all hours of the day, night, weekdays and weekends. There is noise from clanging metal, ripping metal, outside burning, moving of metal with forklifts and large trucks coming in and out. The issue has been before the Township Board of Adjustment for quite some time, without a timely resolution. The action of the BOA and the admission of the Zoning Officer, Mr. Flemming, forced the neighbors to hire their own attorney so that their concerns could be raised and to professionally contest the information which was being given to the Board by the applicant, his attorney and his planning and engineering representatives.

Mr. Marino stated that the neighbors feel that they have been very patient as the business has been permitted to grow and operate illegally while the Township tried to address the issue. Mr. Marino stated

that there have been many other violations that have been cited on the property by the construction code official and the zoning officer. Those items have been taken care of by the property owner, however, there are still additional issues.

The matter which caused Mr. Marino and the Columbro's to attend this Township Committee meeting is that the applicant's attorney has now delayed the hearing for three consecutive months. The first cancellation was on November 12, 2009 because the secretary of the Board could not be present and the applicant's attorney did not think that the Zoning Officer was an acceptable substitute to fill in for Gail Glashoff for the meeting. The second meeting which was scheduled for December 15, 2009 was canceled because the applicant's attorney had a conflict with his duties at the Washington Township BOA meetings. This date was canceled the day of

the meeting. The third date was scheduled for January 27, 2010, however, was canceled the day before the meeting, again, due to a conflict with the applicant's attorney. The neighbors feel that since everyone was aware of these meeting dates ahead of time they can only view this as a delay tactic, to continue to allow this business to run illegally.

The Zoning Officer, John Flemming, has informed the residents that this is an illegal business and asked for the neighbor's patience in letting the Township BOA address the matter.

Mr. Marino stated that the only people benefiting from these delays and close to a two year process to address the issue, is the applicant, as he is able to continue with his business operations. The neighbors have had to deal with the disturbances from the business as well as the fact that the Township has knowingly permitted this illegal operation to continue.

Mr. Marino asked the Township Committee to work with the Zoning Officer to resolve the issue of the illegal welding business.

Mr. Columbro stated that it is distressing and unsettling to him that the application was accepted as a conditional use variance, a D Variance. The ordinance is written that 20 % of the gross floor area is permitted for a home occupation. This operation is located in an accessory building which is twice the size of the residence. The notion that this is a conditional use is plainly absurd. Mr. Columbro stated that the BOA accepting the application as such is bordering on scandal. The residents expect the BOA to present themselves in a professional way and to keep to the spirit of the ordinances. Mr. Columbro questions how the application has even "seen the day of light". Mr. Columbro stated that he would like

to see the Township Committee look into the matter to see how this application has come to this point. Mr. Columbro stated that he has lived in the Township for 20 years and feels violated as a resident. It appears that there are dissimilar standards being applied in this situation, depending on who you are and who you know.

Attorney Bernstein reminded the Township Committee that this is a pending application before the Board of Adjustment and he advised the Committee to have no comment on an issue before the Board which may also potentially come before the Township Committee in an appeal.

The Clerk is to advise the Zoning Board Secretary and the Zoning Board that the residents have come before the Township Committee to voice their concerns and to provide the Board with a copy of the minutes of the meeting.

Mr. Marino stated that their frustration is that the applicant's attorney can hold up this application three times just because of his schedule. There is something with process and procedure. Attorney Bernstein suggested that the neighbor's attorney contact the Board Attorney, John Gallina to inquire on why the Board is continuing to grant postponements. Postponements are in the prevue of the Board to grant or deny as they see fit. Mr. Marino stated that they have tried Attorney Bernstein's suggestion and have received no satisfaction. He stated that as townspeople they have received no respect at all. Mr. Marino stated that the way he has been treated at the BOA meetings is "sinful". He and Mr. Columbro and Mrs. Columbro have been embarrassed at the meetings. Mrs. Columbro was strongly crossed examined by the Board for representing the neighbors. Mrs. Columbro was grilled harder than the applicant who is running the illegal operation. Mr. Marino stated that he understands that the Township Committee

cannot do anything at this time, however, they need to be aware that there is something not going well in this Township.

Mrs. Columbro stated that along with having to deal with this business, a huge concern she has is that there are chemicals stored on the property. The applicant admitted to having a 3 to 4 month supply of acetylene on the property in addition to other chemicals. The acetylene is stored within 20 ft. of 300 gallons of gasoline and 300 gallons of diesel fuel and another 300 gallon tank which is for storing waste oil. Acetylene is considered a Class A chemical. It is the only Class A chemical there is and it means that it is the most flammable chemical known. The chemical is being stored 50 ft. from Mr. Marino's property and 200 ft. from the Columbro's. Mrs. Columbro stated that this not only a nuisance it is a safety problem. Mrs. Columbro asked that the Township Committee have the business closed and cleared of all chemicals until and if they get approval.

Mr. Marino stated that the Zoning Officer was uninvited to the BOA meetings. He is the only person that the neighbors spoke to for two years. Mr. Flemming was very good to them. He explained what was happening and he gave great coaching about being patient during the process. The neighbor's attorney had to send a letter to the BOA requesting Mr. Flemming's presence at the meetings in order to have him in attendance. The BOA made it clear to Mr. Marino that Mr. Flemming does not report to the BOA he reports to the Township Committee. Mr. Flemming is the individual who has to uphold any zoning violations. Mr. Flemming has told them that the business is illegal. Mr. Marino stated that the business owners are good people and that is why the neighbors have been patient but the circumstances are what they are.

Mr. Marino reiterated that the reason they are before the Township Committee is that the BOA has allowed the applicant's attorney to cancel testimony three months in a row. The BOA would not even give Mr. Marino the courtesy of scheduling the next meeting when he was available to attend, because "he didn't count". Mr. Marino stated "in fact I was told to sit down and be quiet and if I didn't like what was going on, to talk to my attorney".

Mr. and Mrs. Columbro stated that they cut a family vacation short to come home and be in attendance at the meeting to then find out that the applicant's attorney canceled the testimony.

Attorney Bernstein asked for the Clerk to have Mr. Flemming call him and requested that the Attorney for the objectors call him also.

Mr. Marino stated that the last thing he wants to hear is that he made the Township shut down the business. He wants to hear that the Township did what it is responsible to do. He wants the Township to uphold the regulations that they have established and if not, he would like that justified.

Mr. Marino stated that if something happens on that property the Township is liable.

Mr. Anthony Casale has a concern with a sign located on his property. The Schaaf property, which is located next to Mr. Casale's property, was preserved a few years ago. The preservation sign was placed on Mr. Casale's property in error. The DPW Supervisor will look into the relocation of the sign.

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

EXECUTIVE SESSION

Motion by Ms. Schriver, seconded by Mr. Piazza and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 26-2010 and convened in executive session at 7:55 p.m. Action may be taken at the end of the meeting.

TOWNSHIP OF LEBANON

RESOLUTION NO. 26-2010

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:

Attorney Client Privilege-First Aid Squad
Pending or Anticipated Litigation – Tilcon & Hyland
Personnel – Treasurer

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee reconvened the Regular Committee meeting at 8:56p.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. Members of the Rescue Squad were also present during a portion of the executive session regarding the squad. There was a discussion involving ongoing litigation matters. The Governing Body was briefed by the Township Attorney. No formal action needs to be taken. There was discussion about replacement of an existing position in the Township. The Township Clerk has been given additional direction regarding the matter at hand. There was discussion of a conversation that Attorney Bernstein has to have with the Zoning Officer regarding an issue which was raised. Attorney Bernstein will report back to the Township Committee based on what he hears from the Zoning Officer. There was further discussion with the Squad members regarding another meeting with the Squad which will most likely occur in two weeks.

ADJOURN

Having no further business to come before the Committee a motion was made by Mr. Piazza, seconded by Ms. Schriver and carried by unanimous favorable roll call vote to adjourn the meeting at 8:57p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC

Municipal Clerk

Approved: February 17, 2010

Francis Morrison, Deputy Mayor