

**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.

Mayor McKee welcomed the Boy Scouts to the Committee meeting.

**FLAG SALUTE**

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

**ROLL CALL**

Present -                    Tom McKee                    Patricia Schriver  
                                      Ron Milkowski                Bernie Cryan

Absent-                    Francis Morrison

Also Present - Attorney Dick Cushing, Clerk Karen Sandorse and 7 members of the public.

**PRESENTATION OF MINUTES**

**Minutes of the Regular Meeting of March 20, 2013**

*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 March 20, 2013.*

**Minutes of the Executive Session of March 20, 2013**

*Motion by Mr. Cryan, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the executive session of March 20, 2013.*

**Minutes of the Regular Meeting of April 17, 2013**

*Motion by Mr. Cryan, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the regular meeting of April 17, 2013.*

**Minutes of the Executive Session of April 17, 2013**

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by favorable roll call vote, the Township Committee approved minutes of the executive session of April 17, 2013. AYES: Schriver, McKee, Cryan ABSTAIN: Milkowski*

**PUBLIC COMMENTS – for agenda items only.**

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

Ms. Laurie Hoffman asked for an explanation of Ordinance 2013-07.

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

**ORDINANCE**

**Public Hearing**

**Ordinance No. 2013-06- To Include Ordinances Inadvertently Omitted From Recodification**

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2013-06 was opened.*

There were no comments from the public.

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2013-06 was closed.*

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by favorable roll call vote, the Township Committee adopted Ordinance No. 2013-06 as written below. AYES: Schriver, McKee, Cryan ABSTAIN: Milkowski*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
ORDINANCE NO. 2013-06

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF LEBANON  
TO INCLUDE ORDINANCES INADVERTENTLY OMITTED FROM THE 2007  
RECODIFICATION

WHEREAS, the Township of Lebanon (“Township”) in Ordinance 2007-07 approved the codification of the ordinances of the Township of a general and permanent nature into the Code of the Township of Lebanon; and

WHEREAS, the codification approved by the Township in 2007 inadvertently omitted five ordinances from 2004 which ordinances were intended to be included in the codification; and

WHEREAS, the Township Committee wishes to amend the Code as of the date of its adoption in 2007 to include these omitted ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lebanon, Hunterdon County as follows:

Section 1. The following ordinances are to be added to the Township Code effective as of the date that they were originally adopted:

Ordinance No.	Title
2004-02	An Ordinance to Supplement Chapter VII, Schedule XVII of the Code of the Township of Lebanon
2004-03	An Ordinance Amending an Ordinance Entitled “Retirement Benefits for Volunteer Fire Fighters and Volunteer Rescue Squad Personnel and Providing for Benefits Permitted Under LOSAP”
2004-04	An Ordinance to Revise, Amend, and Supplement Chapter 2, Section 2-7 of the Township of Lebanon Code Providing for the Defense and Indemnification of Elected Officials and Certain Appointed Officials in the Performance of Their Duties
2004-05	An Ordinance to Amend, Revise, and Supplement Chapter VII of the Revised General Ordinances of the Township of Lebanon, Titled “Traffic,” To Prohibit Parking in Certain Designated Areas Along Hoffmans Crossing Road
2004-11	An Ordinance to Supplement Chapter VII, Schedule VI of the Code of the Township of Lebanon.

Section 2. The Township Clerk is directed to provide General Code with copies of the ordinances listed above and to request General Code to prepare a supplement to the Code including the ordinances.

Section 3. All ordinances and resolutions inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies.

Section 4. This Ordinance shall be effective following passage and publication in accordance with law.

**Introduction**

**Ordinance 2013-07 - Acquisition of Real Property – Block 64, Lot 7.03**

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved Ordinance No. 2013-07 as entitled below.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
ORDINANCE NO. 2013-07  
AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL  
PROPERTY KNOWN AS A PORTION OF BLOCK 64, LOT 7.03 ON THE TAX MAP OF THE  
TOWNSHIP OF LEBANON

**Public Hearing to be held on May 15, 2013**

**OLD BUSINESS**

**DPW Sign**

Mr. Cryan stated that at the last meeting he was asked to meet with the DPW Manager to see what he would like in a sign for the new DPW building. Mr. Cryan stated that he did meet with Mr. Gabriel and they looked at the options they have. Mr. Cryan stated that they would like the Committee to consider placing the sign on the building. Mr. Cryan stated that there are concerns with a wood sign being placed in the medium strip, in front of the building, as there may be issues with snow plows and other possible hazards. The ongoing upkeep of the sign, in the future, was also considered and Mr. Cryan and Mr. Gabriel feel that the form letters may be more maintenance free. Mr. Cryan stated that they looked at two options and are interested in the 15" formed letters with a total length of 22'9", at a cost of \$2550.00, installed. Mr. Cryan stated that Mr. Gabriel will search for better prices and asked if the Committee would approve moving forward with a sign as long as it does not to exceed \$2550.00. Discussion was held on the materials of the letters and the color. Mr. Cryan will verify what the letters are made of and will look into possible color options for the Committee's consideration.

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee authorized the DPW Manager and Mr. Cryan to obtain quotes for a sign for the DPW building with an amount not to exceed \$2550.00.*

**NEW BUSINESS**

**Township Garden Beds**

Ms. Schriver stated that for the past five years Georgia Cudina has taken care of the municipal flower gardens at the Municipal Office, the Library and in the Park. Ms. Cudina will no longer be caring for the gardens, with the exception of the 911 Memorial; therefore, there is need to look for volunteers who may be interested in the task. Ms. Schriver stated that in the past the Township paid a master gardener to maintain the gardens. The Clerk will have a notice placed on the webpage seeking anyone is interested in caring for the Township's flower gardens.

### **Road Materials – Black Top**

Mr. Cryan stated that it is time to purchase asphalt. The DPW Manager has found a source who can supply the asphalt at a cost of \$3.00 per ton less than the co-op price. The source is not part of a state bid or a co-op. Attorney Cushing stated that the purchase will need to be put out for bid.

*Motion by Mr. Cryan, seconded by Mr. Milkowski and carried by unanimous favorable roll call vote, the Township Committee authorized the DPW Manager to prepare bids for asphalt acquisition.*

### **DPW Garage**

Mr. Milkowski stated that the asphalt will be laid at the DPW site this month and the DPW project will be complete. Mr. Milkowski stated that he spoke with the architect and the building is complete with the exception of some mulching and seeding.

Mayor McKee asked if the pick-up pump issue has been solved. Mr. Milkowski stated that he does not believe so. Mr. Milkowski stated that he was informed that there was a line leaking and he is not sure if it is a result of the pump or not. Mr. Milkowski stated that the last he heard is that they were waiting for the fuel line to go down so they can see that it will pick up at the lowest level. Mr. Milkowski has heard nothing further and they have not requested a payment on it. Mr. Cryan stated that the architect came to the garage today, at the request of Mr. Gabriel, because there is a leak in the day tank line. Mr. Cryan stated that Mr. Gabriel informed the architect that there is an expectation that the insulation will be replaced and the building will be cleaned where the line leaked. Mr. Milkowski stated that there are two different contractors involved; one contractor supplies to the day tank and the other one supplies to the burners.

Mr. Cryan stated that it has been a long endeavor in bringing the building to completion and commended Mr. Milkowski for all of his efforts

Mayor McKee asked if there will be an exit meeting with the contractor relative to warrantees, etc. Mr. Milkowski will speak to the architect about such.

### **Communication Between Schools and Committee**

Mr. Cryan stated that he feels that a phone call should have been made to the Mayor when there was a bomb scare at the Woodglen School. Mr. Cryan stated that he was disappointed that no one from the Committee was informed of what was happening in the Township. Mr. Cryan stated that he understands that it was a school matter; however, feels that a call should have been made to the Mayor of the Committee. Mr. Cryan has received complaints from residents on how the information was handled and the way it was released to the media. Mr. Cryan questioned if it is possible to ask the Board if they have since addressed some sort of order in which they will make notification in the future. Likewise, who is authorized to release information to the media and what type of information is to be released? Mr. Cryan stated that he is not putting the fault anywhere because things such as this do not happen often; however, now that it has, he questions if there been a plan put in place. Mayor McKee asked Attorney Cushing if he would assist him in sending a letter to the Board of Education stating the points that Mr. Cryan stated. Attorney Cushing asked if the Emergency Management Coordinator was contacted about the matter. Attorney Cushing stated that it is a perfectly proper to want to get information from the school to the Mayor and suggested

speaking to the EMO to see how he would like to receive information on such an incident also. Ms. Schriver suggested obtaining a copy of their procedures.

## **PRESENTATION OF VOUCHERS**

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

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved the May 1, 2013 bill list in amount of \$ 119,060.75 and the payment to Riverview Banquet Hall for the Township Dinner.*

## **CORRESPONDENCE**

- a. County Administrator Cynthia Yard- Hunterdon County's 300<sup>th</sup> Celebration

## **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 7:41.*

Ms. Laurie Hoffman stated that if the Committee adds items under new business and old business the public does not have an opportunity to speak about the subject. Ms. Hoffman questioned the change and the cost for the DPW sign. Ms. Hoffman stated that she already spoke to the County about the 300<sup>th</sup> Anniversary event. Ms. Hoffman stated that she spoke to a school board member about the bomb scare and was informed that they had a communication breakdown and the school is looking into it. Ms. Hoffman asked what needs to be done in the municipal gardens? Ms. Schriver stated that there needs to be planting done, mulching, maintenance through the summer and weeding. Ms. Hoffman stated that the Committee should be able to find volunteers to do it. Ms. Hoffman stated that at the last meeting, in executive session, the Committee discussed the lease of the squad building and asked if there will be public discussion on the matter. Mayor McKee stated that the Committee is looking at the lease and will again discuss the matter in public. Ms. Schriver asked Ms. Hoffman what the Day in the Park will have to do with the 300<sup>th</sup> Anniversary. Ms. Hoffman stated that the Celebration Committee will be selling magnets and t-shirts and informing the public of the upcoming events. They will set up at the Historian's table.

Ms. Nancy Darois asked if there will be an open house for the garage. Mayor McKee stated that an open house is something that the Committee would like to do and said that they need to plan something with the DPW Manager. Ms. Darois volunteered to help with the municipal gardens.

Mr. Victor Hoffman asked if there will be a warrantee that comes with the signs for the DPW building. Mr. Cryan will look into the warrantees. Mr. Hoffman asked if the FFA, from Voorhees or North Hunterdon, could help with the gardens. Mr. Hoffman suggested that possibly the boys group home, on Route 513, might be able to help also. Mr. Hoffman asked what will be discussed in Executive Session.

Mayor McKee thanked the Boy Scouts for attending the meeting.

*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 at 7:55.

Ms. Schriver stated that she has asked for a regular reports from the Fire Department and has not received one. Mayor McKee stated that he will follow up on the report.

Mr. Milkowski stated that he read in correspondence from the League of Municipalities that if they are not contacted the will discontinue fax notices to the Municipal Office. Mr. Milkowski requested that the Clerk contact the League to ensure that notices will still be received.

*Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote*, the Township Committee approved Resolution No. 54-2013 and convened in executive session at 7:56 p.m.

**TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 54-2013  
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; **Maxwell Acquisition**

\_\_\_\_\_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: **DPW Garage Project 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.; **LOSAP Matter**

\_\_\_\_\_ 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.

**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.

The Township Committee reconvened the Regular Committee meeting at 8:38 p.m.

Attorney Cushing stated that during the Executive Session the Committee discussed the issues regarding the DPW Garage and a question of if there was any claim against the contractor for liquidated damages. Based on calculations prepared by the Architect he felt that there was no basis for moving forward with it. The Township is limited in being able to proceed based on the Architects judgment. The Committee discussed getting a Maintenance Bond from the Architect. The Committee spoke about the Maxwell acquisition and are waiting for the Maxwell property to close so the Township can proceed with the lot line adjustment. The Committee also discussed the LOSAP issue. Attorney Cushing stated that two Committee people, Mr. Milkowski and Mr. Cryan, determined that they need to disqualify themselves from discussion of the matter. Attorney Cushing noted that the Committee can take no formal action at this time as they lost a quorum on the issue. Attorney Cushing stated that the LOSAP report was received from the Auditor, who reviewed the years of 2007 through 2011. The Auditor detected a number of different observations in which some of the assignments of LOSAP credit or non-assignment of LOSAP credit may not have been consistent with LOSAP Rules and Regulations and may not have been consistent with the Township’s ordinance. Attorney Cushing stated that in some years certain participants were added



to the qualifying list and should not have been, as they did not qualify, and then there were some individuals who should have been on the list, as they did qualify, but were not added and did not receive a contribution. This determination was based on the Auditor's understanding of the law and how it should have been applied. Attorney Cushing stated that the report will be made public at this time; however, it does not provide the names of the individuals mentioned in the report. Attorney Cushing sent communication to the Auditor to request the names of the individuals so the matter could be dealt with. The Auditor has since provided a letter with the information requested. Attorney Cushing stated that the Committee has determined that a copy of the report and the Auditor's letter, naming the individuals, will be sent to those named prior to the letter being made public so the person knows in advance of the findings. The intention of the Township Committee is to release the letter, to the public, at the next meeting. At this time the letter would be considered Advisory, Consultative or Deliberative. The Committee will ask Mr. Vinci to advise them on the steps that the Township should take in correcting the misapplication of the regulations that occurred. This way those who are entitled to receive more will receive it, and those who received too much will have their accounts debited. Everyone will receive the fair amount that they are entitled to. Attorney Cushing stated that it is complicated in applying the rules and regulations which is why the Committee had to engage Auditor Vinci to review the reports. Attorney Cushing stated that it is the Township's goal that this system should be operated in accordance with the regulations and should be applied fairly to all. The rules should be clarified so the members of the Fire Department know how to apply them and so that the Fire Department is not placed in an awkward position of having to applying rules that are complicated.

Attorney Cushing stated that the Auditor's report will be provided to the Prosecutor's office so he can close his file and the matter can be moved forward.

Attorney Cushing stated that a few weeks ago the Committee voted to engage Eldon Allen to survey the Maxwell property. At that time the Committee did not have the formal resolution and the proposed form of agreement. The proposed form of agreement was prepared by Attorney Cushing's office which is a standard professional services agreement and contains standard language with respect to insurance. The language requires certain levels of insurance from the professionals. In reviewing the contract Mr. Allen realized that there were insurance requirements that he could not meet. The Committee has discussed the matter and the suggestion was made to waive the insurance requirement. Attorney Cushing stated there was another concern triggered, based on the discussion of the insurance, for the reason that Eldon Allen is an active surveyor in the Township and a couple of the Committee members have used him. The Committee looked into quotes from other surveyors and discovered that the cost would be ten times more than Mr. Allen for the survey. The Committee will check with Mr. Allen to find out exactly what insurance he has and at next meeting, if there are three Committee members who have not used Mr. Allen, they will vote on the appointment. Attorney Cushing stated that if there are only two members who have not used Mr. Allen's services there is the Doctrine of Necessity which can be applied, if the Committee is willing to go along with the waiver of the insurance.

**ADJOURNMENT**

Having no further business to come before the Committee a motion was made by Mr. Milkowski, seconded by Ms. Schriver and carried by unanimous favorable roll call vote to adjourn the meeting at 8:56 pm.

Respectfully submitted,

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Karen J. Sandorse, RMC/CMC  
Municipal Clerk

Approved: May 15, 2013

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Thomas McKee, Mayor