

**Lebanon Township Committee  
February 7, 2018**

**Minutes of Regular Meeting**

**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 our Servicemen and Women.

**ROLL CALL**

Present -                    Marc Laul                    Thomas McKee  
   Mike Schmidt                Beverly Koehler

Absent-                    Brian Wunder

Also Present - Attorney Matt Lyons, Clerk Karen Sandorse and 3 members of the public.

**PRESENTATION OF MINUTES**

**Minutes of the Re-organization Meeting of January 3, 2018**

*Motion by Mr. McKee, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the Re-organization meeting of January 3, 2018.*

**Minutes of the Regular Meeting of January 17, 2018**

*Motion by Mr. McKee, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the regular meeting of January 17, 2018.*

**Minutes of the Executive Session of January 17, 2018**

*Motion by Ms. Koehler, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the executive session meeting of January 17, 2018.*

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

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

There were no comments from the public.

*Motion by Mr. McKee, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting.*

**FIRE DEPARTMENT OATHS OF OFFICE - Tabled**

**ORDINANCES**

**Ordinance No. 2018-01 – CAP BANK**

**Public Hearing**

*Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2018-01 was opened.*

There were no comments from the public.

*Motion by Ms. Koehler, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the public hearing for Ordinance No. 2018-01 was closed.*

*Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee adopted Ordinance No. 2018-01 as written below.*

**STATE OF NEW JERSEY  
COUNTY OF HUNTERDON  
TOWNSHIP OF LEBANON  
ORDINANCE NO. 2018-01  
CALENDAR YEAR 2018**

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO  
ESTABLISH A CAP BANK  
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the of the Township of Lebanon in the County of Hunterdon finds it advisable and necessary to increase its CY 2018 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,  
WHEREAS, the Township Committee hereby determines that a 1.0% increase in the budget for said year, amounting to \$ 42,134.34 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,  
WHEREAS the Township Committee hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.  
NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Lebanon, in the County of Hunterdon, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2018 budget year, the final appropriations of the Township of Lebanon shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$ 147,470.19, and that the CY 2018 municipal budget for the Township of Lebanon be approved and adopted in accordance with this ordinance; and,  
BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,  
BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,  
BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

**Introduction - TABLED**

**Ordinance No. 2018-02 – Fair Share Housing -**

STATE OF NEW JERSEY  
COUNTY OF HUNTERDON  
TOWNSHIP OF LEBANON  
ORDINANCE NO. 2018-02

AN ORDINANCE OF THE TOWNSHIP OF LEBANON AMENDING CHAPTERS 199 AND 400 OF THE CODE OF THE TOWNSHIP OF LEBANON PURSUANT TO A SETTLEMENT AGREEMENT BETWEEN THE FAIR SHARE HOUSING CENTER AND THE TOWNSHIP OF LEBANON DATED AUGUST 15, 2017 AS APPROVED BY THE SUPERIOR COURT OF NEW JERSEY, SOMERSET COUNTY LAW DIVISION ON SEPTEMBER 12, 2017

**RESOLUTIONS**

**Resolution No. 23-2018 - Redemption of Tax Sale Certificate**

*Motion by Mr. Laul, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 23-2018 as written below.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 23-2018  
REDEMPTION OF TAX SALE CERTIFICATE

WHEREAS the Tax Collector did sell a Tax Sale Certificate #201709 on October 13<sup>th</sup> 2017 to US Bank Cust BV002 Trst & Crdtrs and,

WHEREAS the amount of \$14,704.66 has been collected from Majestic Title Agency for the owner of this property, Jack P McDougal Estate, known as Block 73 Lot 7, 16 Musconetcong River Road, Lebanon Township for the redemption of Tax Sale Certificate #201709,

THEREFORE BE IT RESOLVED that the Treasurer be authorized to prepare and the Mayor, Treasurer and Clerk be authorized to sign a check in the amount of \$14,704.66 to for this redemption, and,

BE IT FURTHER RESOLVED that an additional check in the amount of \$6,100.00 for the Premium paid for this certificate also be prepared and that these checks be mailed to:

US Bank Cust BV002 Trust & Crdtrs  
50 South 16<sup>th</sup> Street-Suite 2050  
Philadelphia PA 19102-2513

**Resolution No. 24-2018 - Approving Settlement – Mid American Salt LLC Litigation**

*Motion by Mr. Laul, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 24-2018 as written below.*

**TOWNSHIP OF LEBANON  
HUNTERDON COUNTY, NEW JERSEY  
RESOLUTION NO. 24-2018  
RESOLUTION APPROVING SETTLEMENT OF LITIGATION  
IN THE MATTER OF MID-AMERICAN SALT, LLC, v. LEBANON TOWNSHIP, et al. CASE  
NO.2:17-cv-04262**

WHEREAS, Plaintiff filed its initial Complaint in United States District Court against the Defendant Entities, along with approximately 45 other government entities and the Morris County Cooperative Pricing Council (“MCCPC”), alleging claims for breach of contract on or about June 13, 2017; and

WHEREAS, the Defendant Entities, along with over 200 New Jersey local government entities, are members of the MCCPC, a cooperative pricing council established pursuant to *N.J.S.A. 40A:11-11(g)*. MCCPC bids, awards and enter into contracts for products and services on behalf of its members, taking advantage of volume discounts; and

WHEREAS, in July 2016, the MCCPC solicited its members’ interest in jointly purchasing rock salt; and

WHEREAS, the Bid Package, as incorporated into the resulting contract, explicitly stated that the resulting contract was to be “open-ended.” Further the Bid Specifications clearly stated that all amounts listed are estimated quantities and “[t]here is no obligation to purchase that quantity during the contract period;” and

WHEREAS, MCCPC timely submitted a responsive bid and was awarded the contract as to the Hunterdon, Passaic, Somerset, Sussex and Union County members in or about September 2016; and

WHEREAS, said negotiations resulted in a settlement between Lebanon Township and the plaintiff which, upon the advice and recommendation of the Township attorney, resolved the litigation between the parties and resolved and settled all issues related to the complaint; and

WHEREAS, Lebanon Township through Gebhardt & Kiefer filed a motion to dismiss plaintiff's amended complaint returnable on August 21, 2017; and

WHEREAS, the court conducted a settlement conference on January 18, 2018; and

WHEREAS, Lebanon Township has denied the allegations contained in the complaint and the amended complaint and has steadfastly maintained that its actions fully complied with all legal requirements; and

WHEREAS, subsequent to the settlement conference the attorney for the Township of Lebanon and the attorney for the plaintiff continued settlement negotiations; and

WHEREAS, the Township Committee has been advised that in the event that payment of \$11,400 is approved by Resolution then in that event a settlement agreement will be entered into by which the case will be settled for the amount of \$11,400, with neither party admitting fault or legal liability, but reflecting that the Township is entering into the settlement only to avoid the expense and uncertainty of continued litigation; and

NOW THEREFORE BE IT RESOLVED that the Township hereby authorizes entry into a settlement agreement by which the litigation in the matter of Mid-American Salt, LLC, v. Township of Lebanon, et al., will be settled with Lebanon Township making payment in the amount of \$11,400 in exchange for a dismissal by plaintiff, Mid-American Salt, of any and all claims which were filed in the underlying litigation, and any and all claims that could have been filed, and that litigation as among the parties, and that the Township attorney is authorized by this Resolution to execute any and all documents necessary to effectuate the settlement of this litigation.

#### **Resolution No. 25-2018 – Bond Anticipation Note**

*Motion by Ms. Koehler, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 25-2018 as written below.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 25-2018

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, 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 \$3,822,576 BOND ANTICIPATION NOTE, DATED JANUARY 26, 2018, PAYABLE JULY 26, 2018, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

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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 \$3,822,576 bond anticipation note, dated January 26, 2018 and payable July 26, 2018 (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 of the Township (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, 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 (1) the Note 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 \$10 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2018.

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 2018.

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 2018 dated as of the date of delivery of the Note.

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

## **OLD BUSINESS**

### **Volunteer Event**

Mr. McKee stated that input has been received from the volunteers and employees on what type of event they would like to attend; a picnic or a dinner. Mr. McKee provided the history of the volunteer events, through the years, and the cost associated with them. Pros and cons were discussed for holding a picnic

versus a dinner, and the possible venues. Discussion was held on whether the employees would be included in the event. Mr. McKee suggested that the event should be referred to as an "Appreciation Event" and that employees should be included. Mr. McKee and Ms. Koehler will collect additional information on the venues and provide to the Committee, at the next meeting, for a final decision to be made.

## **NEW BUSINESS**

### **Recreation and Open Space Inventory**

*Motion by Mr. Laul seconded by Ms. Koehler and carried by favorable roll call vote, the Township Committee approved the Recreation Open Space Inventory and authorized the Mayor to sign and for the Clerk to file with the County. AYES: Koehler, Laul, Schmidt ABSTAIN: McKee*

### **Municipal Building Sign**

Mayor Schmidt stated that the sign in front of the Municipal Building is decaying. There has been money allocated in a prior Capital Ordinance and there has been discussion, in the past, on whether to replace the sign with a similar wood sign or to purchase an electronic messaging sign. The Committee talked about, where the best location would be to place a messaging sign, for the most visibility. Mayor Schmidt suggested that possibly an effective Facebook page is an option for getting messages out to the community and to purchase a wood sign. Mr. McKee suggested that, in the case of an emergency, perhaps the high school would permit their sign be used by the Township.

The Committee decided that they would like to obtain quotes to replace the wood sign in front of the building as well as the police sign. Mr. Laul will look into.

### **MCSJ Software Support & License Agreement – Finance Program**

*Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved renewing the Edmunds & Associates, Inc., MCSJ Software Support & License Agreement at \$3308.00.*

### **Spring Clean Up Day**

*Motion by Mr. Laul, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee authorized the Recycling Coordinator to hold the Spring Clean Up Day on April 21, 2018.*

### **Temporary Clerical Position**

*Motion by Ms. Koehler, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee authorized the Clerk to interview and hire a temporary clerical employee to perform filing duties at an hourly rate of \$12.55 hour. The CWA is to be notified.*

### **Security Issues**

Mayor Schmidt stated that at the last meeting the Police Chief provided an update on some of the security issues at Veteran's Haven. Mr. Wunder is now asking for the Committee's support in writing a letter to the authorities at Veteran's Haven in an attempt to schedule a meeting to discuss their security as well as the Township's.

*Motion by Mr. McKee, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee authorized a letter to be sent to Veteran's Haven to request a meeting to discuss security.*

### **PRESENTATION OF VOUCHERS**

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

*Motion by Mr. McKee, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved the February 7, 2017 bill list in amount of \$158,244.07. The Hunterdon County Star Gazing event check is to be held until the event date.*

### **CORRESPONDENCE**

- a. Recreation Commission's December 7, 2017 Meeting Minutes
- b. Resident's Request for a Noise Ordinance

### **PUBLIC COMMENTS**

*Motion by Mr. McKee, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee opened the public comment portion of the meeting at 8:01p.m.*

Mr. Michael Smith, of Cannon Road, was present to address the Committee about an ongoing noise issue that is coming from a neighboring property. Mr. Smith said that when they call the police they are informed that there is not much that can be done if the Officer does not witness the actions. Mr. Smith did note that recently the police presence has helped and things have quieted down. However, he is now looking for a tool to assist law enforcement and asked for the Committee to consider adopting an Ordinance. The Committee and Chief Gale discussed, with Mr. Smith, his concerns and decided that, at this time, the best approach would be for Mr. Smith to work with the Chief to see if the problems can be worked out. If Chief Gale then feels that there is a need for an ordinance he will bring the matter back to the Committee for consideration.

*Motion by Ms. Koehler, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 8:15 p.m.*

**Resolution No. 26-2018 –Executive Session**

*Motion by Mr. Laul, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 26-2018 and convened in executive session at 8:16 p.m.*

TOWNSHIP OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
RESOLUTION NO. 26-2018  
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: \_\_\_\_\_);

X 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 – **Pelio 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:

\_\_\_\_\_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.);

  X   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: **Police Chief Contract**     **Union Contract**\_\_\_\_\_ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.;

\_\_\_\_\_Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Mayor and Committee hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Township Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Township or any other entity with respect to said discussion.

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

## ADJOURNMENT

Having no further business to come before the Committee a motion was made by Mr. McKee, seconded by Ms. Koehler and carried by unanimous favorable roll call vote to adjourn the meeting at 8:50 p.m.

Respectfully submitted,

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Karen J. Sandorse, RMC/CMC  
Municipal Clerk

Approved: February 21, 2018

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Mike Schmidt, Mayor