

**Lebanon Township Committee
March 5, 2014**

Minutes of Regular Meeting

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.

FLAG SALUTE

Mayor McKee 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 - Thomas McKee Patricia Schriver Ronald Milkowski
 Bernard Cryan Brian Wunder

Absent-

Also Present - Attorney Dick Cushing, Clerk Karen Sandorse and 13 members of the public.

PRESENTATION OF MINUTES

Minutes of the Regular Meeting of February 19, 2014.

Tabled.

PUBLIC COMMENTS – for agenda items only.

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

No comments from the public.

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

ORDINANCES

Introduction

Ordinance No. 2014-02 – Amend Chapter 400(Zoning)

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Ordinance No. 2014-02 as entitled below.

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
ORDINANCE NO. 2014-02**

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCE OF THE
TOWNSHIP OF LEBANON, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, AND
MORE SPECIFICALLY CHAPTER 400(ZONING)**

Public Hearing to be held on April 2, 2014.

Ordinance No. 2014-03 – Emergency Management

Introduction

Motion by Mr. Wunder, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved Ordinance No. 2014-03 as entitled below.

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
ORDINANCE NO. 2014-03**

**ORDINANCE ADDING CHAPTER 78 ENTITLED “EMERGENCY MANAGEMENT” TO
THE GENERAL ORDINANCES OF THE TOWNSHIP OF LEBANON, COUNTY OF
HUNTERDON, AND THE STATE OF NEW JERSEY**

Public Hearing to be held on March 19, 2014.

RESOLUTION

Resolution No. 25-2014 – SUPPORTING A “NO PASSING ZONE” NJ ROUTE 31

Motion by Mr. Cryan, seconded by Ms. Schriver and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 25-2014 as written below.

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 25-2014**

**SUPPORTING A “NO PASSING ZONE”
NJ ROUTE 31**

WHEREAS, the New Jersey Department of Transportation (NJDOT) recently completed a traffic investigation on Route 31 in Lebanon Township; and

WHEREAS, NJDOT investigation revealed the current centerline pavement markings on Route 31 meet and conform to current design standards; and

WHEREAS, NJDOT will update existing records to reflect current No Passing Zone conditions along NJ Route 31.

NOW THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lebanon, Hunterdon County, in the State of New Jersey, that it supports the use of a “No Passing Zone” on Route 31 in Lebanon Township as recommended by the NJDOT.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be forwarded to the NJDOT as requested.

Resolution No. 26-2014 – Urging the Legislature to Implement a Water Usage Tax

Motion by Mr. Cryan, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 26-2014 as written below.

**STATE OF NEW JERSEY
COUNTY OF HUNTERDON
TOWNSHIP OF LEBANON
RESOLUTION NO. 26-2014
OF THE TOWNSHIP OF LEBANON, HUNTERDON COUNTY
URGING THE LEGISLATURE TO IMPLEMENT A WATER USAGE TAX**

WHEREAS, The Highlands Water and Protection Act was passed by both houses of the New Jersey Legislature and signed into law on August 10, 2004 by Governor James McGreevy; and

WHEREAS, The Highlands Water and Protection Act designated areas to be in the “preservation” or “planning” areas; and

WHEREAS, the Act reads, “ The legislature finds and declares that the national Highlands Region is an area that extends from northwestern Connecticut across the lower Hudson River Valley and northern New Jersey into east Central Pennsylvania; that the national Highlands Region has been recognized as a landscape of special significance by the United States Forest Service; that the New Jersey portion of the national Highlands Region is nearly 800,000 acres, or about 1,250 miles, covering portions of 88 municipalities in seven counties; and

WHEREAS, The Act additionally reads, “The Legislature further finds and declares that the New Jersey Highlands is an essential source of drinking water, providing clean and plentiful drinking water

for one-half of the State's population, including communities beyond the New Jersey Highlands, from only 13 percent of the State's land area"; and

WHEREAS, the Township of Lebanon, County of Hunterdon is located in both the Preservation and Planning Areas; and

WHEREAS, the value and equity of the land has decreased dramatically for those property owners in the Township and Highlands Act region; and

WHEREAS, the Township also is restricted in bringing economic opportunity, jobs and growth forcing existing taxpayers to pay higher amounts due to lack growth and smart development; and

WHEREAS, areas located outside of the "Highlands Area" are using highlands resources without paying or compensating those affected communities:

NOW, THEREFORE, BE IT RESOLVED; that the Mayor and Township Committee of the Township of Lebanon, County of Hunterdon, strongly urge the New Jersey State Senate and General Assembly to craft a bill which would charge those who use Highlands Area water to compensate those communities impacted by the Act,

AND BE IT FURTHER RESOLVED; that the Mayor and Township Committee of the Township of Lebanon, County of Hunterdon will forward this resolution to every municipality located within the territory of the Highlands Water and Protection Act Region.

Resolution No. 27-2014 – Governor's Council on Alcoholism and Drug Abuse Fiscal Grant Cycle

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 27-2014 as attached.

OLD BUSINESS

Schedule Township Dinner

Motion by Mr. Wunder, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee scheduled the Township's Volunteer Dinner for May 10, 2014 to be held at the Bloomsbury Hose Company.

DPW Garage Floor

Mr. Wunder asked for an update on the DPW garage floor issue. Mr. Cryan stated that the Township Engineer is going to shoot the floor for levels and will be providing budgetary pricing but he has not heard from him to date.

Squad Building Lease

Mr. Wunder asked about the status of the lease with the Fire Department for the Squad building. Mr. Cryan stated that the Fire Department is in process of reviewing the lease.

Cell Tower Matter

Mr. Wunder asked about the status of the Cell Tower matter. Attorney Cushing stated that he spoke to the Nextel attorney today and he thought that the matter was resolved. He informed Attorney Cushing that he would be following up with his client. Attorney Cushing stated that he made it clear that the Township takes the position that rent began commencing when the Township wrote them a letter. Attorney Cushing stated that he will provide the Committee with an update once he hears back from the Nextel attorney.

Wolek Property Acquisition

Attorney Cushing stated that the property owner had been sent the Form of Agreement 6 or 8 months ago. Their attorney raised the question as to whether or not there needed to be an adjustment with their mortgage company. Attorney Cushing's office redrafted the proposal to take the mortgage company into account. Attorney Cushing sent the agreement back to the Wolek's attorney who then sent it on to Woleks. The attorney informed Attorney Cushing that he has not heard from the Woleks in a while and suggested that someone from the Township reach out to them. Mr. Milkowski will speak to the Woleks.

LOSAP

Attorney Cushing provided all with the history of the LOSAP issue, which began in 2012, and has not yet been resolved. A dispute had developed between Fire Department members as to what an active member is. Attorney Cushing stated that either perspective could be argued. There was an additional dispute, which occurred at the same time, as to whether a Township Committeeman's actions were improper with respect to voting on a matter. The then, Mayor Wunder, took the matter to the prosecutor's office for investigation. There was no criminal activity found, however; it was recommended that a review of the LOSAP program be conducted by an independent agency. The matter was sent to the Department of Community Affairs. Attorney Cushing does not believe that the Department ever commented in any way. Attorney Cushing stated that in order to address the issue the Township hired an accounting firm, who was recommended by the DCA, to conduct a review of the Township's LOSAP program. The auditing firm did a very detailed review of a number of years and concluded that there were a number of issues that had to be addressed. In response to the auditor's report the Township decided that they needed a way to implement the conclusions reached by the auditor and guidance on how to do so. The Committee obtained quotes from the auditor who conducted the review as well as the Township's auditor, Anthony Ardito. Mr. Ardito's quote was substantially lower than the outside auditor. The Township appointed Mr. Ardito to figure out a way to move forward with the program, by rectifying any miscalculations that may have been made, and to assist with the proper application of the LOSAP requirements. Mr. Ardito was engaged to move forward with the process and he has.

Attorney Cushing stated that the State Comptroller's office had also begun an examination of LOSAP procedures in Lebanon Township and around the State. It appears that there are inconsistencies as to how the LOSAP program is being applied. Attorney Cushing stated that it is his understanding that the Comptroller's office is attempting to see if there is a more uniform way to apply the LOSAP rules. Attorney Cushing stated that, at the request of the Comptroller's office, documents have been collected

by the Clerk's office and the Fire Department and interviews have been conducted in Township as well as other municipalities in the State.

Attorney Cushing stated that due to the investigations the Township has not paid into the accounts of the Fire Department volunteers for the 2011-2013 years. Therefore, the program is not being applied and the emergency service volunteers are not receiving the very small reward that the program provides for. Attorney Cushing stated that the Township is now in a "holding pattern". Respectively, they did not want to have the Township Auditor proceed with the audit and interfere with the Comptroller's investigation. There is also the possibility of receiving different recommendations from the Comptroller and the Township Auditor which may cause the need to go through the process again. Ordinances may need to be changed and the Fire Department by-laws may need to be amended. The Township Committee would like to do it correctly the first time.

Attorney Cushing asked a representative from the Comptroller's office if it would be acceptable to proceed with the Township's audit and asked when their investigation would be complete. Attorney Cushing was only informed that the investigation is ongoing.

Attorney Cushing suggested to the Committee, that a letter be sent to the State Comptroller asking if their investigation is going to be finalized soon and to also ask if they have any issues with the Township proceeding with the audit to be conducted by Mr. Ardito. This way the emergency service volunteers can receive what they rightfully deserve.

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by favorable roll call vote, the Township Committee authorized Attorney Cushing to write a letter to the State Comptroller's office indicating the Committee's concern in completing the Township's LOSAP audit and requesting a timeframe for the completion of their investigation. AYES: Schriver, McKee, Wunder ABSTAIN: Milkowski, Cryan

NEW BUSINESS

Raffle License Applications (2) – St. John Neumann Church – June 7, 2014

Motion by Ms. Schriver, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee approved two Raffle License Applications for St. John Neumann Church for an event to be held on June 7, 2014.

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 March 5, 2014 bill list in amount of \$2,819,162.39.

CORRESPONDENCE

- a. HART Commuter Information Services – Thank you to Road Crew
- b. Mr. Rob Whiteley – Bunnvale Library

PUBLIC COMMENTS

Motion by Mr. Cryan, seconded by Ms. Schriver, and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 7:43p.m.

Ms. Laurie Hoffman stated that in the past the Township Committee discussed establishing service awards for the employees and questioned the status of the subject. The Committee has not moved forward with the service awards at this time.

Ms. Hoffman asked for clarification on the proposed Zoning Ordinance amendments.

Mr. Joe Maruzio, member of the Board of Adjustment commended the Committee on the proposed Zoning Ordinance.

Motion by Mr. Wunder, seconded by Mr. Cryan and carried by unanimous favorable roll call vote, the Township Committee closed the public comment portion of the meeting at 7:48 p.m.

Resolution No. 28-2014 –Executive Session

Motion by Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 28-2014 and convened in executive session at 7:49 p.m.

TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION NO. 28-2014
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 purchase, 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

_____ 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: **Centurion, Quarry Matter and EJ Skidmore OPRA**

_____ 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.; **Kiley**

_____ 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 Ms. Schriver, seconded by Mr. Wunder and carried by unanimous favorable roll call vote to adjourn the meeting at 9:46 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: March 19, 2014

Thomas McKee, Mayor