

BOROUGH OF LAVALLETTE (MINUTES)
REGULAR MEETING OF THE MAYOR AND COUNCIL
LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS
Monday, December 17, 2007 – 7:02 pm

CALL TO ORDER: Mayor Walter LaCicero, presiding

ROLL CALL: Council Members Ardito, Lamb, Wenzel, Zalom, Filippone and Stogdill

Also present: Christopher F. Parlow, Borough Administrator/Municipal Clerk
Philip George, Borough Attorney
Donnelly Amico, Electric Collector

READING OF THE OPEN PUBLIC MEETINGS ACT STATEMENT: Notice of this meeting complies with the Open Public Meeting Act. Public Notice was given to the Ocean County Observer, Asbury Park Press and the Ocean County Gazette and was published in the Ocean Star on January 12, 2007. Notice was posted on the Municipal bulletin board.

Mayor LaCicero stated that Mr. George the Borough Attorney was stuck in traffic and would be here shortly.

MOMENT OF CONTEMPLATION: Mayor LaCicero asked for a moment of contemplation for all the troops overseas that cannot be home for the holidays

PLEDGE OF ALLEGIANCE: Councilman Ardito led the Salute to the Flag.

MAYOR'S WELCOMING STATEMENT: At this time, Mayor LaCicero asked if anyone was in the audience that wished to speak about anything that was not on the agenda they could do so at this time.

There was no public comment.

APPROVAL OF CLERK'S MINUTES:
Minutes of Caucus/Regular December 3, 2007
Minutes of Executive Session December 3, 2007
Bid Opening Municipal Prosecutor December 14, 2007

Councilwoman Wenzel asked that the minutes not be voted on until the Borough Attorney was present.

Mayor LaCicero stated that that was fine and moved onto the reports.

Mr. George arrived at 7:28 pm. The Mayor then moved to the approval of the Minutes. The Mayor asked for Council discussion.

Councilwoman Wenzel questioned what would the consequences be if Council did not abide by the bi-laws they are supposed to follow.

Mr. George stated that each circumstance is different. He would have to see what the nature of the circumstance.

Councilwoman Wenzel questioned who would be the authority that would address the matter. She asked if it would be addressed at the dais, in executive session or with the Department of Community Affairs.

Mr. George stated that it would depend on the situation. If it was a violation that could invalidate a vote it could be brought up civilly. If the violation was the rules of order, the Mayor would make the decision.

Councilwoman Wenzel questioned if there were subsequent legal actions, where would the legal representation be funded from.

Mr. George stated that the public treasury would fund the legal matter in the name of the Borough.

Councilwoman Wenzel stated that she would recommend the minutes of December 3 be held until we have received the transcription minutes of the special meeting. The comments in these minutes that she made in reference to the comments made about her at the special meeting are just summary comments and she would like them to be word for word.

Mr. George stated that the Open Public Meetings Act requires only summary not verbatim for the minutes. Although unusual, you can make a motion to adopt a verbatim transcript instead of just summary.

Councilwoman Wenzel stated that she was primarily concerned about a certain statement made by another Councilperson.

Mr. George stated that the motion would be most appropriate. The minutes should be held until the transcript is received from the special meeting.

He also stated that minutes are summarized and are not word for word and any correspondence as part of the meeting does become part of public record. Ms. Filippone's statement could be summarized in the minutes but any speech she made could be made part of the record.

Councilman Lamb stated that it just doesn't make sense. He stated that there were statements said by both parties, that everyone heard it, that it was put in the paper, and that it is done. He questioned why this matter is being dragged out.

Councilwoman Wenzel stated that the minutes are a public record of our meetings. In the future, people will rely upon these minutes to be the truth. She commented that if something was said

about another Councilperson that was not true that that is not acceptable to the people of this town.

Council President Zalom stated that she thinks what Councilwoman Wenzel is asking for is to have accurate statements on record not untruths.

Councilwoman Wenzel stated that in ten or fifteen years if people of this town look to these minutes as a guide she would like it to be of truthful statements not false.

Councilman Lamb stated that he does not see the point of all of this. He feels it is costing the Borough money.

Councilwoman Filippone asked if certain statements made by Councilwoman Wenzel at the special meeting that were about her and are part of the transcription can be stricken from the minutes.

Mr. George stated that no nothing of that transcription can be stricken from the record. Unless Lenny's Pizza decides to file action then it will be part of that action but not part of our public record. Once the transcription is received we will ask to have it be part of our minutes for that meeting.

Mr. Parlow stated upon receipt of that transcript he will bring forth to the Mayor and Council the transcript with the minutes and ask that this transcript be part of the public record of our minutes.

Councilwoman Filippone stated that she should have the right to have Councilwoman Wenzel's statements removed from the transcript if she could request my statements to be removed.

Mr. George stated that you cannot strike it from the record. The transcript was generated because of the inability to record verbatim. There was not an adequate recording system at the Lavallette School where the meeting was held.

A Motion was made by Councilwoman Wenzel to table the vote on the minutes of December 3, 2007. The Motion was seconded by Councilman Ardito. Council Members Ardito, Wenzel, Zalom, Stogdill and Filippone voted "Yes". Councilman Lamb voted "No". The motion passed.

Mr. Parlow stated that when the transcripts from the special meeting of November 16 are received he will put the minutes from November 16, 19, December 3, and 17 on the agenda at the same time.

A Motion was made by Councilwoman Wenzel to approve the minutes from the Executive Session of December 3, 2007. The Motion was seconded by Council President Zalom. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted "Yes". The motion passed.

A Motion was made by Council President Zalom to approve the minutes from the Municipal Prosecutor Bid Opening of December 14, 2007. The Motion was seconded by Councilwoman

Filippone. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Philippone and Lamb voted “Yes”. The motion passed.

REPORTS:

- a) Police Overtime Report for November 2007-Councilwoman Philippone-read report
- b) Public Works Report for November 2007-Councilwoman Wenzel-read report
- c) Animal Control Report for November 2007-Councilwoman Philippone-read report
- d) Public Affairs Report-Council President Zalom-Council President Zalom welcomed Katherine who is the new reporter from the Ocean Star. She also stated she is still in negotiations with Manchester Township for their ice rink. The tree lighting was wonderful. She thanked Jerry Skinner for being Santa. The Saint Nicholas breakfast sponsored by the Friends of the Beautification Committee was a hit. She thanked John Curcio for being Santa. The Fireman’s Christmas Party for the kids was great. They gave every child a bag of little toys including a fire truck. The town birthday party will be held on December 21st. The three New York bus trips are all sold out.
- e) Municipal Court Report for November 2007-Councilwoman Philippone-read report
- f) Zoning Report for November 2007-Councilwoman Philippone-read report-Mr. Remy requests that unregistered boats be added to Section 39-7 of the Code. She also stated that there was some talk about creating a specific type of permit in a bright color with a line to say what has been approved. Councilwoman Wenzel questioned whether or not Mr. Remy was able to take a look at the fire hydrants in town. Councilwoman Philippone stated that he has looked at them and he could not locate any with plantings around them. Councilman Lamb stated that someone was looking to move a fire hydrant because it is too close to their driveway. Councilwoman Wenzel stated that that should go through the Water/Sewer Department and should be requested in writing. Councilman Lamb questioned what was happening with the construction conversion with certain towns. Mayor LaCicero stated that he will be discussing that at the Re-Organization Meeting.
- g) Tax Account Status Report for November 2007-Tax Collector
- h) Water and Sewer Infiltration 3rd Quarter Report-Councilman Ardito-read report

A Motion was made by Councilwoman Wenzel to receive the Tax Account Status Report. The Motion was seconded by Council President Zalom. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Philippone and Lamb voted “Yes”. The motion passed.

PUBLIC COMMENT ON CONSENT AGENDA/OFF CONSENT AGENDA, AND VOUCHERS:

RESOLUTIONS – ON CONSENT:

- 2007-275 authorizing a contract through the Stafford Cooperative Pricing System for the supply and delivery of natural gas to Pepco Energy Services-Councilman Ardito stated that he went with Mr. Parlow to the Public Power Meeting for electric and thought it was very interesting how it works.
- 2007-276 Certifying to the Local Finance Board of the State of New Jersey that all of the members of the governing body have reviewed, at a minimum, the sections of the

annual audit entitled “Comments and Recommendations”-Councilwoman Wenzel questioned whether or not the Auditor should be present so questions could be asked about the two write ups. Mr. Parlow stated that the Auditor is never here for this but if she would like him here we could arrange it for the next meeting. Councilwoman Wenzel decided that it was not necessary.

- 2007-277 authorizing to enter into an Interlocal Services Agreement with the County of Ocean for the FY 2008 State 966 Reimbursement Program
- 2007-278 authorizing the refund of a 2006 New Jersey Homestead Rebate check to Mrs. Gajewski at 100 New York Avenue that was sent due to a delinquent tax that has recently been satisfied.
- 2007-279 authorizing a transfer between two 2007 Budget Appropriation Accounts-Mr. Parlow stated that this was a very small transfer for animal control. Councilwoman Wenzel questioned whether or not we have to take a wounded animal to the vet or could we just put them down. Mr. George stated that the law reads that you must take care of them for the first 72 hours before euthanization can be done. Councilwoman Wenzel stated that there is a new veterinarian in town maybe we could work some kind of service contract with him for lower fees. Mr. Parlow stated he would check on this for her.
- 2007-280 accepting and approving the Chief Financial Officer’s 2006 Corrective Action Plan
- 2007-281 authorizing the Mayor to renew contract with Bollinger Insurance for Prescription Plan, Fort Dearborn Life Insurance, Genworth Short Term Disability Plan and the Horizon Dental Plan
- 2007-282 modifying the deductible (copay) paid by all non-contractual employees for the prescription plan
- 2007-284 provisionally appointing Vincent Svirnelis to the Lavallette Public Works Department as a permanent part-time building maintenance worker at a rate of \$10.40 per hour

Councilwoman Wenzel asked to have Resolution 2007-283 placed on the Off-Consent Agenda.

A Motion was by Councilwoman Wenzel approve the resolutions On-Consent (with the exception of 2007-283). The motion was seconded by Council President Zalom. Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted “Yes”. The motion passed.

RESOLUTIONS-OFF CONSENT:

- 2007-283 authorizing the purchase of office equipment for the Mayor’s Office / Council

Chambers

A Motion was made by Council President Zalom to approve Resolution 2007-283. The Motion was seconded by Councilwoman Filippone. Council Members Ardito, Zalom, Stogdill, Filippone and Lamb voted “Yes”. Councilwoman Wenzel voted “No”. The motion passed.

APPROVAL OF VOUCHERS:

2007-285 bills list in the amount of \$270,894.04

A Motion was made by Councilwoman Filippone to approve the bills list. The Motion was seconded by Council President Zalom. Council Members Ardito, Zalom, Stogdill, Filippone and Lamb voted “Yes”. Councilwoman Wenzel voted “No” on PO #07-0954 and voted “Yes” on all others. The motion passed.

ORDINANCE ON FOR SECOND AND FINAL READING

Ordinance No. 2007-17(1028) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 24 OF THE BOROUGH CODE, ENTITLED “ELECTRICAL STANDARDS” SO AS TO REVISE SECTION 24-10 ENTITLED “RATES”

A Motion was made by Council President Zalom to adopt Ordinance No. 2007-17(1028). The Motion was seconded by Councilwoman Filippone. Mayor LaCicero opened the public hearing. There was no public comment. Mayor LaCicero closed the public hearing. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted “Yes”. The ordinance passed.

UNFINISHED BUSINESS:

Council President Zalom stated that there is a seminar that the Mel/Jif is holding to reduce our premium by \$250 for each member of Council that attends. She will be attending the January 17 seminar in Beachwood to get that the Borough discount.

Councilwoman Filippone asked if she and Councilman Stogdill could be signed up to attend that seminar as well.

Council President Zalom stated that Andrew Ciesla’s office is helping us out with the traffic light situation.

Councilman Ardito stated that the traffic light on Elizabeth Avenue is causing a problem by it being the only light that turns. All of the other lights are currently set to blink. The light seems to creep up on drivers and there are a lot of accidents because of it. He asked if we could have it blink as well.

Council President Zalom stated that the town has that one turn because it is the last one before the school and the police want to keep the traffic slowed down for that reason.

Councilwoman Wenzel stated that she thinks there are so many accidents there because the lights themselves are positioned on the side of the highway and do not hang directly over the lanes of traffic.

NEW BUSINESS:

Place to Place Transfer Application – Sherman Hospitality, LLC

Mayor LaCicero asked if a Public Hearing on this transfer is appropriate.

Mr. George stated that he doesn't think a special meeting is necessary but a public hearing on the transfer at one of the town's regular meetings is appropriate.

Mayor LaCicero questioned whether the transfer application was complete.

Mr. Parlow stated that the application is complete but the owner of the license would have to public notice in the newspaper when the hearing will be on the transfer.

Councilwoman Wenzel stated that she does not wish to see another circus like what happened with Lenny's She does not think a hearing is necessary. The license is from Lavallette it should stay in Lavallette.

Mayor LaCicero stated that the person has two licenses and would like to only use one of those licenses instead of two.

Councilman Ardito stated that since this is also part of Toms River, the residents of Toms River who reside by the restaurant/bar should be able to speak on this also.

Mayor LaCicero asked when we should have the hearing.

Mr. Parlow suggested the 1st meeting in January which is the 14th.

Councilwoman Wenzel suggested that the first meeting in February looks better.

Mayor LaCicero stated that we will notify the applicant after the calendar of meetings is approved for the New Year.

COMMENTS FROM THE PUBLIC:

Clem Boyers, 20 Kerr Avenue asked why all this discussion about the comments in the minutes if the transcript cannot be changed anyway.

Mayor LaCicero stated that he thinks Councilwoman Wenzel just would like to verify what was said at the special meeting before she approves any minutes after that.

COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:

Councilman Ardito stated he went the Beach Sweeps meeting. Many people all over the state were in attendance. There are many good causes out there.

He also asked if the Rules of Order are the same as last year.

Mr. Parlow stated that there will be one change made to the Rules of Order. The agenda will be changed to add an additional section for public comment at the beginning of the meeting for people who do not plan to remain for the rest of the meeting.

EXECUTIVE SESSION:

A Motion was made by Councilwoman Wenzel to enter into Executive Session with no action being taken. The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted “Yes”. The motion passed.

The Mayor and Council entered executive session at 8:50 pm.

Litigation:

Department of Environmental Protection

Personnel:

Deputy Municipal Clerk / Electric Collector
Professionals

Contract Negotiations:

PBA
Pella Windows and Doors

A Motion was made by Council President Zalom to reconvene the Regular Meeting. The Motion was seconded by Councilwoman Filippone. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill and Filippone voted “Yes”. The motion passed.

The meeting reconvened at 8:48 pm.

Mayor LaCicero and Councilman Lamb were not present due to conflict.

Council President Zalom presiding.

Council President Zalom asked Mr. George to summarize the contents discussed during the executive session.

Mr. George stated that in the matter of Pella Windows and Doors. The Mayor and Council discussed the finalization of negotiations on the Pella Windows and Doors claim. Mr. George stated that Mr. Parlow has received a release that he will be forwarding to the attorney's office for review. This will resolve the matter. Mr. George stated that the PBA contract was discussed and the terms of an agreement have been accepted. Mr. George stated that the Mayor and Council reviewed the professional's responses to the Request For Proposals including the Prosecutor, Auditor and Attorney. Mr. George stated that during the discussion of the attorney's position he was not present due to conflict. Mr. George stated that the Mayor and Council also discussed the present status of the DEP litigation regarding the beach permit and the fact that the Borough was in front of the Court last week. He reported that there were significant discussions regarding the terms of the permit and whether the terms were ambiguous. Mr. George also reported that the positions of Deputy Municipal Clerk and Electric Collector were also discussed with those positions to be filled in January of 2008.

Mr. Parlow stated that Mayor LaCicero and Councilman Lamb were not present during the discussions regarding the PBA contract.

ADJOURNMENT:

A Motion was made by Councilwoman Wenzel to adjourn the meeting. The Motion was seconded by Councilwoman Filippone. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill and Filippone voted "Yes". The motion passed.

The meeting was adjourned at 9:50 pm.

CERTIFICATION

I, **CHRISTOPHER F. PARLOW**, Municipal Clerk of the Borough of Lavallette, County of Ocean, State of New Jersey do hereby attest these to be a true copy of the minutes of the regular meeting of the Borough Council held on the 17th day of December, 2007.

CHRISTOPHER F. PARLOW
Municipal Clerk