BOROUGH OF LAVALLETTE (minutes) CAUCUS/REGULAR MEETING OF THE MAYOR AND COUNCIL LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS Monday, December 8, 2008 – 7:00 pm

CALL TO ORDER: Mayor Walter G. LaCicero, presiding

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

Also present: Christopher F. Parlow, Borough Administrator/Municipal Clerk

Philip George, Borough Attorney

Donnelly Amico, Deputy Municipal Clerk

READING OF THE OPEN PUBLIC MEETINGS ACT STATEMENT: Notice of this meeting complies with the Open Public Meetings 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 11, 2008. Notice was also posted on the Municipal bulletin board.

MOMENT OF SILENCE: The Mayor asked for a Moment of Silence for longtime resident Joe LaCava who passed away last week.

PLEDGE OF ALLEGIANCE: Councilman Lamb led the Salute to the Flag

MAYOR'S WELCOMING STATEMENT: At this time, Mayor LaCicero asked if anyone wished to speak could do so now. No one wished to speak at this time.

COMMENTS FROM PUBLIC (Items not listed on agenda / not staying for remainder of meeting)

Mayor LaCicero spoke about an article in the Asbury Park Press which was about an Assemblyman from Mercer County who has proposed legislation that would consolidate all the towns on Long Beach Island. The Mayor reported that in this article it also stated that the Assemblyman has also proposed the merging of Lavallette, Mantoloking, Seaside Heights and Seaside Park into a signal township called Seaside. Please call your Assemblymen and Senator in our district and voice your concerns about this please.

Mr. Parlow stated that he will draft a resolution opposing this piece of legislation for the next meeting.

APPROVAL OF CLERK'S MINUTES

Caucus/Regular Minutes of November 17, 2008 Executive Session Minutes of November 17, 2008 A Motion was made by Councilwoman Wenzel to adopt the Minutes. The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted Yes. The Motion passed.

REPORTS:

- a) Police Overtime Report for November-Councilwoman Filippone-read report
- b) Public Works Report for November-Councilwoman Wenzel-read report
- c) Public Affairs Report-Council President Zalom-The tree lighting ceremony was on December 5th and it was wonderful. There were 150 people that attended. The Oyster Supper was December 6th and there was a big turnout. She asked that everyone not forget about the Senior Lunch and a Movie this Sunday December 14th. This will be the last one for the year. We will only be having one ski trip again this year. It will be on January 26th and we will be going to Wyndam Mountain in New York. Lastly, Recreation is sponsoring Basketball on Mondays and Dodge ball on Tuesdays at the Lavallette Elementary School.
- d) Municipal Court Report for November-Councilwoman Filippone –read report
- e) Animal Control Report for November-Councilwoman Filippone-read report
- f) Planning Board Report for November-Mr. Parlow reported that the meeting was held on December 3, 2008 and three cases were heard. The first two cases were approved and the third case was denied. Councilwoman Filippone stated that the Professional Planner is coming to the December 10th meeting and the public will be able to ask questions.
- g) Zoning Report for November-Councilwoman Filippone-read report
- h) Construction Office Report for November-Councilwoman Filippone-read report
- i) Water and Sewer Infiltration Report for Third Quarter 2008-Councilman Ardito-read report
- j) Tax Account Status Report for November-Tax Collector
- k) Revenue Transaction Report for October-CFO
- 1) Tax Sale Report from November 19, 2008-Tax Collector

A Motion was made by Council President Zalom to approve the Reports. The Motion was seconded by Councilman Lamb. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted Yes. The Motion passed.

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

RESOLUTIONS - ON CONSENT:

2008-300	authorizing the redemption of a tax lien in the amount of \$4,664.92 to D or L Rollo
2008-301	in support of S-1908 and A-2731 to expedite traffic sign approvals
2008-302	in support of S-87 and A-303 to reduce the number of state employees
2008-303	in support of the veteran rental assistance initiative

2008-305 authorizing the adoption of a new Cash Management Plan-Mr. Parlow stated that this was an audit comment. The Auditor suggested updating our plan and putting some additional verbiage in it. 2008-306 authorizing the transfers between budget appropriations accounts-Mr. Parlow stated this transfer is to appropriate funds for the placement of the bulkhead. 2008-307 authorizing the execution of an interlocal service agreement between the County of Ocean and the Borough of Lavallette for the placement of the bulkhead at the street end of Newark Avenue on West Point Island-Mr. Parlow stated that the County agreed to do the labor the Borough will just have to pay for the materials. 2008-308 authorizing the appointment of Christopher Reid, Esq. as Special Hearing Officer for the Borough of Lavallette 2008-309 awarding a contract for park and playground recreation equipment for the Lavallette bay beach play area to Marturano Recreation Company, Inc.-Mr. Parlow stated that our insurance company did a inspection and deemed the Washington Avenue playground unsafe; therefore; we needed to have it replaced. We also received a 50% reduction because of a grant the above vendor received from the state. 2008-310 support of MainStreet stimulus priorities-Councilwoman Wenzel stated that this is for the local governments to collect some funds from the massive bail outs. 2008-311 authorizing the provisional appointment of Ray Huber as fire subcode official

At this time, Mayor LaCicero opened the floor to the public and asked them if they wished to comment on the consent agenda or the bills list. No one wished to speak. Mayor LaCicero closed the floor to the public.

Councilwoman Filippone asked to have Resolution 2008-304 moved to Off-consent.

A Motion was made by Councilwoman Wenzel to approve the Consent Agenda (with the exception of Resolution 2008-304). The Motion was Seconded by Councilman Lamb. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted Yes. The Motion passed.

RESOLUTIONS-OFF CONSENT:

2008-304 requesting support and adoption of legislation pertaining to adoptees' access to a copy of their original birth certificate-Councilwoman Filippone asked that this be pulled and put off consent.

Councilwoman Filippone expressed deep opposition to this resolution. She doesn't feel it is fair to the birth parents if they don't want to be known. She stated that she is the parent of an adopted child and it would not be fair if the law passed and the birth parents didn't want the child to know them and why they had to give them up.

A Motion was made by Councilwoman Wenzel to approve Resolution No. 2008-304. The Motion was seconded by Council President Zalom. Vote: Council Members Wenzel and Zalom voted Yes. Council Members Ardito, Stogdill, Filippone and Lamb voted No. The Motion failed.

APPROVAL OF VOUCHERS:

2008-312 Bills List in the amount of \$573,935.01

A Motion to Approve the Bills List was made by Councilwoman Filippone. The Motion was Seconded by Councilman Lamb. Vote: Council Members Ardito, Wenzel, Zalom, and Filippone voted Yes. Councilman Lamb Abstained on Purchase Order 08-1009 and voted Yes to all others. Councilman Stogdill Abstained on Purchase Order 08-1060 and voted Yes to all others. The Motion Passes

ORDINANCES ON FOR INTRODUCTION/FIRST READING

ORDINANCE NO. 2008-25(1053) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 89 OF THE BOROUGH CODE, ENTITLED "VEHICLES AND TRAFFIC: SO AS TO REVISE SECTION 89-26 ENTITLED "HANDICAPPED PARKING SPACES DESIGNATED".

Mayor LaCicero asked Mr. Parlow to provide a brief summary of intended purpose of the Ordinance.

Mr. Parlow stated that this Ordinance is in reference to a Planning Board application for a property located on the Oceanfront of Philadelphia Avenue. The applicant needed a CAFRA permit to construct a residential home on a vacant piece of property. The Planning Board approved the applicant but CAFRA imposed a condition on the applicant that the Borough would need to be able to maintain the two handicap parking spaces located at the top of Philadelphia Ave. With the tow curb cuts we hand to reconfigure the location of the two parking spaces. This revision to the ordinance provides that reconfiguration.

A Motion was made by Councilman Lamb to Introduce Ordinance 2008-25(1053). The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted Yes. The Motion passed.

Public Hearing and Final Adoption Scheduled for December 22, 2008

FINAL ADOPTION/SECOND READING OF ORDINANCES:

ORDINANCE NO. 2008-22(1050) - ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 90 OF THE BOROUGH CODE, ENTITLED "ZONING" SO AS TO CHANGE

ARTICLE V, RESIDENCE DISTRICT A TO AMEND 90-24.F AND TO CHANGE ARTICLE VII, RESIDENCE DISTRICT C TO AMEND 90-44.F

A Motion was made by Councilwoman Filippone to adopt Ordinance No. 2008-22 (1050) was made by Councilwoman Filippone. The Motion was seconded by Council President Zalom. The Mayor opened the Public Hearing. There was not public comment. The Mayor closed the Public Hearing. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb voted Yes. Ordinance 2008-22 (1050) passed.

COMMUNICATIONS:

Legal:

- a) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq/Gallo v. Borough of Lavallette Water & Sewer Utility/Rescheduled Mediation Dates Available/Received November 24, 2008
- b) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq./Appeal of Civil Administrative Penalty/State Report to DEP Attorney/Received November 25, 2008
- c) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq/Gallo v. Borough of Lavallette Water & Sewer Utility/Mediation Dates Not Available/Received December 1, 2008
- d) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq/Utility Easements for Properties on Former Ocean Avenue/Received December 1, 2008
- e) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq/James Cavanaugh v. Borough of Lavallette/Received December 2, 2008
- f) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq/Appeal of Civil Administrative Penalty Assessment/ADA Compliance Issues/Received December 4, 2008

Engineering:

 a) O'Donnell, Stanton & Assoc./Michael O'Donnell/Miscellaneous Service Lateral Repairs/Project Completion/Received November 24, 2008

New Jersey League of Municipalities:

- a) Volunteers Needed for Community Emergency Response Teams/Received November 14, 2008
- b) A-2243/Time Limits on Mediation and Fact Finding/Received November 17, 2008
- c) Governor's Conference on Workforce and Economic Development/Received November 25, 2008
- d) Pension Payment Deferral Details/Received November 25, 2008-Mr. Parlow stated that this gives the Borough the option to defer its pension payment. He stated that this would not be a good idea for the Borough to do. It would force the municipality to defer a portion of the payment each year. This would be very dangerous for the town.
- e) Appellate Division Strikes Down DEP Rules/Received November 26, 2008
- f) COAH Update, Affordable Housing/Received November 26, 2008
- g) NJLM's 2009 State Legislative Priorities/Received December 1, 2008
- h) Awards Program/Received December 2, 2008

- i) Regulations for the Review Zone of the Delaware and Raritan Canal State Park-Proposed Repeal and New Rules: N.J.A.C. 7:45/Received December 2, 2008
- j) New Jersey Municipalities/Received December 3, 2008
- k) Draft Flood Hazard Area Technical Manual Released with 30-Day Invitation for Comments/Received December 4, 2008
- 1) League Executive Board Adopts Resolution Supporting MAINSTREET Economic Stimulus Priorities/Received December 4, 2008
- m) Important New Information from the Division of Local Government Services/Received December 5, 2008

General With No Action

- a) Association of New Jersey Environmental Commissions/Sandy Batty, Executive Director/2009 Planning Grants for NJ Municipalities and Counties/Received November 14, 2008-Council President Zalom stated that the Environmental Committee is very interested in this grant and her and Councilwoman Wenzel will be looking into it.
- b) County of Ocean/John A. Haas, District Recycling Coordinator/Municipal Certified Recycling Coordinator/Received November 14, 2008-Councilwoman Wenzel stated that the Public Works Department already has a certified Recycling Coordinator who is Robert Van Dorpe so we are already ahead of the game.
- c) State of New Jersey/Kris Kolluri, Commissioner/Funding from the New Jersey Dept. of Transportation's Fiscal Year 2009 Municipal Aid Program for Bond Avenue Road Improvements in the amount of \$155,000/Received November 17, 2008-
- d) Ocean County Utilities Authority/Richard M. Warren, Executive Director/Preliminary Estimate of 2009 Annual Charge/Received November 19, 2008-Mr. Parlow stated that the OCUA has provided the 2009 estimate which is based on 165 million gallons of flow.
- e) Liberty Natural Gas Project/Roger Whelan/Received November 21, 2008
- f) State of New Jersey/Department of Labor and Workforce Development/Re-inspection of Public Works Building has shown hazards were abated/Received November 20, 2008
- g) E. Allen MacDuffie, Jr/Bus-1995 Ford E350/Received November 20, 2008-Councilman Lamb questioned what was going on with the bus. Mr. George stated that he will be preparing a statement to Mr. MacDuffie. Councilman Lamb stated that he wished to speak about this in Executive Session.
- h) Taylor, Wiseman & Taylor/Karen Gruppuso, Senior Environmental Planner/Cafra IP/Ocean Dune Maintenance Activities/Received November 24, 2008-Mr. Parlow asked that this be discussed in Executive Session.
- State of New Jersey/Council on Affordable Housing/Lucy Vandenberg, Executive Director/approaching deadline for submitting affordable housing plans/Received November 24, 2008
- j) State of New Jersey/Department of Environmental Protection/Linda Z. Jordan, Outreach Coordinator/January is Radon Action Month/Received November 24, 2008
- k) Cablevision/Cathy Baker, Assistant for Government Affairs/Tariffs/Received December 1, 2008
- State of New Jersey/Department of Public Advocate/Ronald K. Chen, Public Advocate/IMO Subsidiaries of Cablevision System Corporation Petition For a Determination of Effective Competition in 101 Communities in New Jersey-Application for Review/Received December

- 1, 2008
- m) State of New Jersey/Department of Environmental Protection/Kara Turner, Bureau of Coastal Regulation/Received December 1, 2008
- n) New Jersey American Water/Jason D. Gonzalez, Government Affairs/change in Vice President/Received December 1, 2008
- o) State of New Jersey/Department of Transportation/2009 Municipal Aid for New Brunswick Avenue Road Improvements will not be provided/Received December 1, 2008
- p) Superior Court of New Jersey/Eric R. Muniz, Municipal Division Manager/2008-09 Annual Visitation of Lavallette Municipal Court/Received December 2, 2008
- q) State of New Jersey/Department of Environmental Protection/Guy Watson, Chief/Thirty Desk Audit for 2007 Recycling Tonnage Reporting Year/Received December 3, 2008
- r) Minutes of the October 1, 2008 Environmental Committee/Councilwoman Britta Wenzel/Received December 3, 2008
- s) Minutes of the November 12, 2008 Environmental Committee Meeting/Councilwoman Britta Wenzel/Received December 3, 2008

General With Action:

- a) Christopher Cook and Cynthia Cochran/135 Cambridge Avenue, Jersey City, NJ/requesting to get married on the beach at New Brunswick Avenue on September 12, 2009/Received November 14, 2008-Mayor stated this would be fine.
- b) Regular Republican Club of Lavallette/Rosangela Zaccaria, President/requesting the use of Council Chambers for their 2009 meetings as scheduled/Received November 21, 2008-Mayor LaCicero stated as long as there were no conflicts with the Council Room dates this was not a problem
- c) NJBIA/Philip Kirschner, President/2009 New Good Neighbor Awards Entry Form/Received November 25, 2008-Mayor LaCicero stated he didn't know much about this and he didn't think the town needed to be involved with this.
- d) Piave Corradi/1904 Ocean Front/requesting sand replacement to 1902 and 1906 Ocean Front properties/Received December 4, 2008-Mr. Parlow stated that this needs to be discussed in Executive Session
- e) Lavallette Soccer Camp 2009/Tony Meola/requesting use of the Lavallette field the weeks of August 3rd through the 7th and August 10th through the 14th/Received December 8, 2008-Mayor LaCicero stated that he didn't think it would be a problem to accommodate those dates. Councilwoman Wenzel stated that usually before the season starts for baseball and soccer Councilman Stogdill and Mr. Parlow sit down with both the leagues and they discuss the field time.
- f) Lavallette Democratic Club/Sara Ardito, President/requesting use of the Council Chambers for its monthly meetings/Received December 8, 2008-Mayor LaCicero stated that this is not a problem as long as there are no conflicts with the dates.

UNFINISHED BUSINESS:

Council President Zalom stated that she received a call from Joe Yewaisis from Save Barnegat Bay and he was questioning why he can not place signs on the telephone poles. She advised him that it is a state law and maybe he should get signs like the real estate and business contractors have. He stated that he would have to do that.

She also stated that John from Coast Cities brought the bus down for the mechanic to inspect. She said that the seats are very worn but the bus seems to be running okay. The bus would strictly be used for local events it can not be taken out of state or very far.

Councilman Lamb requested that this matter be discussed in Executive Session because he is not comfortable with purchasing a new bus before matter regarding the bus the Borough lease from Mr. MacDuffie is resolved.

Councilwoman Wenzel questioned the ice cream vendors and the fees. She thinks Council needs to look into increasing the fees.

Councilman Ardito stated that some business owners were complaining they were not obeying the laws.

Councilwoman Filippone suggested that Mr. Parlow speak to neighboring towns on what they charge. She also thinks the construction fees need to be increased also.

Council President Zalom stated that they are only allowed to sell in places of resort.

Councilman Ardito questioned Mr. Parlow on how the energy audit is going.

Mr. Parlow stated that five companies were pre qualified to do this and only two bids were received varying in price. One was \$30,000 and the other was \$125,000. He has consulted with the firm that is overseeing the program on behalf of the State and due some irregularities with the proposals it was agreed that new proposals should be requested. Lavallette will only be responsible for 25% of the fee with the State matching the additional 75%.

Mr. Parlow stated that each ice cream vendor is charged \$1,000.00 and there are no provisions in our code book as to where they can sell the ice cream. The only provision we state is that they cannot park in handicap spots and at a yellow curb. They are allowed to sell from their vehicles from 10am to 8pm.

Council President Zalom stated that she attended the CDBG meeting at the County and we are hopefully going to be receiving \$60,000 for 2009. They are going to be holding two hearings in January and February so she will be meeting with her committee to put together some ideas. They are only giving handicap grants this year so whatever we do has to accommodate the handicapped.

Council President Zalom stated that she would like to know what the outcome is with the two hour parking situation.

Mr. Parlow stated that he was contacted by the State. If they approve the regulation there will be not permit fee associated with the sign placement. The Borough will have to assume the cost of the signs and installation.

Council President Zalom stated that she would like to get this going. The Parking Committee already decided that no one should be charged for requesting a sign.

Mayor LaCicero asked that an Ordinance or Resolution be put on for the next meeting.

Mr. Parlow stated that it can be done by Resolution unless the Council wishes to assess the fee. If so an ordinance will need to be prepared.

Council President Zalom stated that Mr. Parlow checked with surrounding towns and no other town requests a fee from their business owners.

Mayor LaCicero requested that the resolution be placed on the December 22nd agenda.

NEW BUSINESS:

Councilwoman Wenzel stated that she would like to see discounted badge for veterans like we do for seniors. This is something we should really look into.

She also thinks that the town should give a Halloween curfew to registered sex offenders and also make them put a "No Candy" sign during Halloween. The Borough needs to protect our children and these are some ways of doing that.

Mr. George stated that he was not sure if we could order someone to put a "No Candy" sign no matter

Councilwoman Wenzel stated that the Environmental Committee has had three meetings for this year. They have a full calendar of meeting dates for the new year. Once a month the committee will be having guest speakers to speak at the library. The committee is in the process of applying for a \$7,500 grant for native plantings at the Bayfront. The application will be on for approval at the next meeting. The committee would also like to create a guide similar to the "The Blue Pages-LBI" that gives some insight to our town and the environment.

Mr. Parlow stated that we have received our first residential parking permit application from Virginia Schwanda at 15 Kerr Avenue. He did a site inspection and she meets the criteria for the permit.

Councilwoman Wenzel questioned if we ran the signs and decals by the Chief and the Prosecutor to make sure they were okay.

Mr. Parlow stated that the decals and signs have already been taken care of.

Mayor LaCicero stated that he is not happy with the survey that was attached. It is over ten years old. He did not have a problem with as long as the homeowner signs an affidavit of waiver stating that there has been no work done since 1988.

COMMENTS FROM THE PUBLIC:

Tony Gallo, 215 Newark Avenue questioned what can be done about the Sica house on West Point Island that has been undergoing construction for over three years already.

Mayor LaCicero stated that maybe we should look into taxing on improvements within a certain time period.

Mr. Gallo questioned how long they can build and do improvements for?

Mayor LaCicero stated that there is no time period as long as the work is continuous. Maybe we should look into tightening up the Ordinance.

July Farfalla, 15 Bond Avenue questioned how the police are going to be able to tell if someone has over parked for the two hour time period on the highway, especially in the summer?

Mr. Parlow stated that Chief Grant is on the Parking Committee and he states that it will have to be the business owners who are monitoring the spaces and contacting the Police Department.

Mayor LaCicero stated that he thinks the Chief is well aware of the situation and has a plan in place.

Councilwoman Wenzel stated that we are just moving around the same amount of cars, the problem is we are pushing them into the residential neighborhoods.

COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:

Councilman Stogdill stated that we received a map of our town from the Census Bureau depicting all of the Borough streets and boundaries. Mr. Parlow will make sure everything on the map is correct and get it back to them by March 1st.

Councilwoman Wenzel questioned whether the Borough is going to meet the deadline of December 31st for our COAH obligations?

Mr. George asked that we discuss that in Executive Session.

Mayor LaCicero stated that on the dais for the Council Members are proposed meeting dates for 2009 and the Rules of Order. He asked Council to review them and get back to him with any changes.

EXECUTIVE SESSION:

Mr. George stated that the Mayor and Council need to going into executive session to discuss potential litigation involving COAH, litigation involving the bus lease, litigation involving the DEP and the IP, litigation involving Mr. Gallo, litigation involving the Cavanaugh matter, personnel matters relating to PW and a police investigation with no action being taken afterward.

A Motion was made by Council President Zalom to adjourn the meeting and go into Executive Session. The Motion was seconded by Councilman Lamb. All voted Yes. The Motion passed. The meeting was adjourned at 9:28 pm to go into Executive Session.

A Motion was made to reconvene the meeting by Councilman Stogdill. The Motion was seconded by Councilwoman Wenzel. All voted Yes. The Motion passed. The meeting was reconvened at 9:45 pm.

Mr. George stated that there were some ramifications with COAH discussed. There were discussions about the present bus and the acquisition of another bus. The IP was discussed in reference to the need for a project list. We discussed the resolving of the Gallo Litigation and spoke about the Cavanaugh tax appeal and the replenishment of sand on a property in town. We also discussed a police investigation and personnel matters with no action being taken.

ADJOURNMENT:

A Motion was made by Councilwoman Wenzel to adjourn the meeting. The Motion was seconded by Councilman Stogdill. All voted Yes. The meeting was adjourned at 9:46 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 Mayor and Council held on the 8th day of **December 2008.**

Christopher F. Parlow Municipal Clerk