

BOROUGH OF LAVALLETTE (minutes)
REGULAR MEETING OF THE MAYOR AND COUNCIL
LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS
Monday, February 22, 2010-7:03 pm

CALL TO ORDER: Mayor Walter LaCicero, presiding

ROLL CALL: Council Members Borowski, Zalom, Lamb, Stogdill, Horan and Filippone
Council President Zalom was absent

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 Press of Atlantic City and was published in the Ocean Star on January 8, 2010. Notice was also posted on the Municipal bulletin board and Municipal website.

MOMENT OF SILENCE: The Mayor asked for a moment of silence for Confetti Zaccaria, the mother of a long time resident and Joseph Monti a long time resident who passed away recently.

PLEDGE OF ALLEGIANCE: Councilman Borowski led us in the Salute to the Flag.

MAYOR'S WELCOMING STATEMENT: Mayor LaCicero thanked everyone for coming out to the meeting.

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

Mayor LaCicero opened the floor to anyone in the audience who wished to speak on any issues that were not listed on the agenda or could not stay for the remainder of the meeting.

There was no public comment.

Mayor LaCicero closed the floor to public comment.

APPROVAL OF CLERK'S MINUTES:

Caucus/Regular Meeting of February 8, 2010
Executive Session Meeting of February 8, 2010
Special Meeting/Hearing of February 16, 2010

A Motion was made by Councilman Stogdill to approve the Minutes. The Motion was seconded by Councilman Horan. Vote: Council Members Borowski, Filippone, Stogdill, Horan and Lamb voted yes. The Motion passed.

RESOLUTIONS – ON CONSENT:

- 2010-83 authorizing Mayor LaCicero to sign and execute an interlocal agreement with the Ocean County Prosecutor’s Office to participate in their Prosecutor’s Program for the year 2010

- 2010-84 authorizing the issuance of two raffle licenses to the Lavallette PTA for their gift auctions to be held on March 18, 2010 and April 16, 2010

- 2010-85 authorizing an interlocal fuel services agreement with the Fire Commissioners of Toms River Township to provide fuel to the Ocean Beach Fire Co. #1 for their five vehicles

- 2010-86 authorizing the issuance of a raffle license to St. Pio of Pietrelcina to be held on September 5, 2010

- 2010-87 recognizing the month of March 2010 as Census Month in the Borough of Lavallette

Mayor LaCicero opened the floor to the public for comments on the Consent Agenda and the Bills List.

There was no public comment.

The Mayor closed the floor to the public and asked for a vote on the consent agenda.

A Motion was made by Councilman Borowski to Approve the Consent Agenda. The Motion was seconded by Councilwoman Filippone.

Vote: Council Members Borowski, Filippone, Stogdill, Horan and Lamb voted yes. The Motion passed.

RESOLUTIONS-OFF CONSENT:

No resolutions were off consent.

APPROVAL OF VOUCHERS

- 2010-88 Bills List in the amount of \$1,072,075.43

A Motion was made by Councilwoman Filippone to approve the Bills List. The Motion was seconded by Councilman Stogdill. Vote: Council Members Borowski, Filippone, Stogdill, Horan and Lamb voted yes. The Motion passed.

ORDINANCES ON FOR INTRODUCTION/FIRST READING:

ORDINANCE NO. 2010-03 (1075) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 63 OF THE BOROUGH CODE, ENTITLED "WATER" SO AS TO REVISE SECTION 63-3 ENTITLED "ANNUAL RATES"

Mayor LaCicero asked Mr. Parlow to explain the need for the proposed rate increase.

Mr. Parlow stated that there exists a need for a rate increase for water due to the excessive amount of rainfall last year, increased operational costs, health benefit and insurance premiums as well as high debt service costs. For an average household with 15,000 gallons the water bill will increase \$76.00 annually.

A Motion was made by Councilwoman Filippone to Introduce Ordinance No. 2010-03 (1075). The Motion was seconded by Councilman Horan. Vote: Council Members Borowski, Filippone, Stogdill, Horan and Lamb voted yes. The Motion passed.

Public Hearing and Final Adoption is scheduled for the Meeting of March 8, 2010

ORDINANCE NO. 2010-04 (1076) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 52 OF THE BOROUGH CODE, ENTITLED "SEWER USE" SO AS TO REVISE SECTIONS 52-23 ENTITLED "SEWER USE CHARGE" AND 52-24 ENTITLED "CAPITAL / INFILTRATION CHARGE"

Mayor LaCicero asked Mr. Parlow to explain the need for the proposed rate increase.

Mr. Parlow stated that the sewer utility exceeded the budgetary allotment by \$47,000 due to the increased flow so there is a need to increase the capital infiltration from \$250 to \$300 annually. In addition, with the operational increases the quarter use charges also need to increase. The average increase will be approximately \$75 per year.

A Motion was made by Councilwoman Filippone to Introduce Ordinance No. 2010-04 (1076). The Motion was seconded by Councilman Stogdill. Vote: Council Members Filippone, Stogdill, Horan and Lamb voted yes. Councilman Borowski voted no. The Motion passed.

Public Hearing and Final Adoption is scheduled for the Meeting of March 8, 2010

ORDINANCE NO. 2010-05 (1077) - 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"

Mayor LaCicero asked Mr. Parlow to explain the ordinance.

Mr. Parlow stated that the electric rate will decrease 7% with an annual savings to the average electric customer of \$216.

Councilman Horan stated that the managed contract for the purchase of electricity definitely helped us out tremendously.

A Motion was made by Councilman Horan to Introduce Ordinance No. 2010-05 (1077). The Motion was seconded by Councilman Stogdill. Vote: Council Members Borowski, Filippone, Stogdill, Horan and Lamb voted yes. The Motion passed.

Public Hearing and Final Adoption is scheduled for the Meeting of March 8, 2010

ORDINANCES ON FOR FINAL ADOPTION/SECOND READING:

BOND ORDINANCE NO. 2010-01 (1073) BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO THE MUNICIPAL SEWER UTILITY, AND APPROPRIATING \$90,000, THEREFOR AND AUTHORIZING THE ISSUANCE OF \$85,500 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF LAVALLETTE, IN THE COUNTY OF OCEAN, NEW JERSEY

A Motion was made by Councilwoman Filippone to adopt Ordinance No. 2010-01 (1073). The Motion was seconded by Councilman Borowski. The Mayor opened the floor for the Public Hearing and asked if anyone wished to comment on Bond Ordinance 2010-01(1073). No one wished to comment on Bond Ordinance 2010-01(1073). The Mayor closed the Public Hearing and asked Council for a vote. Vote: Council Members Borowski, Filippone, Stogdill, Horan and Lamb voted Yes. The Motion passed.

BOND ORDINANCE NO. 2010-02 (1074) BOND ORDINANCE PROVIDING FOR ROAD IMPROVEMENTS TO NEW BRUNSWICK AVENUE, AND APPROPRIATING \$200,000, THEREFOR AND AUTHORIZING THE ISSUANCE OF \$50,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF LAVALLETTE, IN THE COUNTY OF OCEAN, NEW JERSEY

A Motion to Adopt Ordinance No. 2010-02 (1074)) was made by Councilwoman Filippone. The Motion was seconded by Councilman Horan. The Mayor opened the floor for the Public Hearing and asked if anyone wished to comment on Bond Ordinance 2010-02(1074). No one wished to comment on Bond Ordinance 2010-02(1074). The Mayor then closed the Public Hearing and asked Council for a vote. Vote: Council Members Borowski, Filippone, Stogdill, Horan and Lamb voted Yes. The Motion passed.

UNFINISHED BUSINESS:

Reconfiguration of Lavallette Avenue

Mayor LaCicero stated that at the last meeting there was a motion to kill the proposal but it did not get a second. There was also a motion to have the developer pay for an appraisal on the property and that too did not get a second. He is going to open the floor to have a discussion on this issue once again.

Councilman Lamb stated that he has been hearing a lot of rumors. One being the sale of Jacobsen Park. He wanted on the record that Jacobsen Park will never be sold.

Councilman Borowski stated that he is confused about the wording. Is it selling that portion or vacating that portion of Lavallette Avenue?

Mr. George stated that first we need to find out where the right of way is. In this situation we would be vacating and selling the portion of the street. This information would be in the title work. The next step would be to go to planning board for the site development.

Councilman Horan questioned is it the cart before the horse or vice versa?

Mr. George stated that the order would be title search for right of way and then appraisal. All of the utilities will remain in place. The cart being the appraisal and the horse being the title report.

Councilwoman Filippone stated that the sale, if approved, would be subject to Planning Board for a subdivision of property. Maybe they should go to Planning Board first before anything else is done.

Mayor LaCicero stated that we would need an appraisal before we can even consider anything else.

Mr. George stated that is should be appraisal, title report and then Planning Board.

Councilman Lamb stated that he remembers years ago this being an issue with the marina and it led to a lawsuit.

Mr. Parlow stated that he has no knowledge of that and has not been asked to research it.

Mayor LaCicero stated that maybe we should research that information to see where that went.

Councilwoman Filippone stated that what she heard was that the owners of the marina appealed to Council to vacate the street and island on that portion of Lavallette Avenue. The Council denied the vacating of street request but gave them the island instead.

Councilman Stogdill stated that getting all the facts is very pertinent to this situation.

Councilman Borowski stated that at some point the whole marina property had liens on it. What about the utilities there, what would happen to them?

Mr. George stated that the law requires that when vacating the right of way all utilities must remain in place or upon agreement are relocated.

Mayor LaCicero stated that Public Works went out and mapped out the utilities there. He stated that we have a room full of people on both sides and he does not think it is fair to keep dragging this on. Do we want to hold off on this pending the research?

Councilman Lamb stated that he would like to hear the comments from the audience.

Councilwoman Filippone stated that we are going to sit here and talk about a possible relinquishment of a street for some financial price that we know nothing about. We really can not vote without any information on the process or the price. She thinks we need to get an appraisal on the property first. The developer has no problem paying for it so how is it going to hurt anybody by just getting a value. She stated that if the town does not consider this sale then the town will have to pay the expense for the repairing of that road but if we sell it the developer will take care of it all.

Councilman Lamb asked Councilwoman Filippone if the price is right would she consider selling it? We did this last year with the lifeguard stands advertising with the price being right and after we voted on it the public went crazy and it winded up costing the Borough \$10,000.

Councilwoman Filippone stated with the lifeguard stand advertising we realized the amount of revenue was not enough to deal with the complaints of the revenue it was easy to make a decision. We do not even have a ball park figure on what this value is. Mr. Kosenski has agreed to pay for the appraisal and have Council pick the appraiser so what is anyone losing by doing that first.

Councilman Borowski questioned what would be appraised?

Mayor LaCicero stated that we would be getting an appraisal on the value as it sits and value if site plan is approved.

NEW BUSINESS:

There was no new business.

COMMENTS FROM THE PUBLIC:

Mayor LaCicero opened the floor to public comments.

Brian Bavoso, 242 Bryn Mawr Avenue questioned if the Borough would be setting a precedent by selling a piece of Lavallette owned property without putting it to referendum. He asked if we would be subject to a lawsuit.

Mr. George stated if Council agreed to sell or vacate the property there would be a resolution or ordinance on an agenda for public hearing.

Joan Brackman, 10 Pennsylvania Avenue stated that she had some questions she wrote down for the Mayor to answer. She stated she was at the meeting before the last one and questioned if there were any updates on the Lavallette Avenue issue and was told it has not been discussed. All of a sudden immediately at the next meeting there was a new proposal to review and it was put on the website. The minutes are not put on the website for review fast enough. Are we going to have a Bocchino compound in Lavallette? Next thing you know they will have a spec house there to sell. Two homes have an adjoining pool, how is this all legal.

Mayor LaCicero stated that he will have these questions that she presented on paper to her sometime this week. He stated if she would have given them to him earlier he would have had them answered tonight. One thing he stated was that it is state statute that the previous meeting minutes be approved at the next meeting before they are put on the website. They are put on the website the day after they are approved by Council.

Doug Franzoso, 26 Lavallette Avenue stated that at the last Council meeting there was a man who stated he is in favor of the Lavallette Avenue sale. Mr. Franzoso stated that just for your information that man's wife is Mr. Kosenski's secretary so of course he would be in favor of it. We have taken on a new street, we have another Yacht Club in Toms River that wants to annex to us now, we have an antenna farm on top of our water tower, and we were going to advertise on the back of our lifeguard stands. He asked what is next. Don't we have enough already? The residents of Lavallette love Lavallette because of the uniqueness of the town. We presented you with 150 signatures of residents who are not in favor of selling a portion of Lavallette Avenue. If you are seriously considering this, than put it on a referendum in November and see what the people want.

Paul Magno, Endless Summer View, 90 Dickman Drive stated that he is Mr. Kosenski's partner in this endeavor and we were just trying to make that area a nicer looking area for the town. We are pleased to make a profit but isn't that what anybody would do. If we do not get this approval we will sell the property and who knows what will happen to it. Every house eventually loses its view at some point.

Walt Kosenski, 2000 Bay Blvd stated that he is so sorry about upsetting some residents. What these people keep losing track of is what that area looked like before now. He always had people telling me what an eyesore that property was before compared to now. We were not responsible for dividing up the lots that was because of the tax sale liens. We made that area very conforming to the beauty of Lavallette. The bulkheads were fixed and nice houses are being constructed.

Cliff Gilman, 45 Dickman Drive questioned who was responsible for that section of WPI Bridge as far as plowing that area?

Mayor LaCicero stated that the County owns the bridge.

Mr. Gilman stated that he has not seen the new proposal but he uses that portion of Lavallette Avenue as a walker to duck away from that yield sign. That area is already a dangerous area with this proposal he feels it will be more dangerous.

Carmen Russo, 15 Lavallette Avenue stated that he did not see the new proposal but with the first one they had this one house on this nonconforming lot with a house on it and some type of cabana. That whole plan was nonconforming and was infringing on Lavallette Avenue.

Councilwoman Filippone stated that the new proposal does not have a dwelling on that island piece. This issue seems to be unclear for everyone with all of these rumors.

Donna Franzoso, 26 Lavallette Avenue stated that these five monster houses are not her idea of beauty. Beauty is in the eye of the beholder! We handed in roughly 130 petitions not in favor of this project. These two developers are just out to make a profit! There are other ways to beautify that area. She feels sorry for Benny Brackman who lives next door to these monstrosities; her property value has definitely gone down. The only people who she has heard in favor of this project are the two builders and the husband of an employee of theirs.

Walt Kosenski, 2000 Bay Blvd. stated that the first plan had the house with the cabana and we modified those plans with removing the house and the cabana.

Doug Franzoso, 26 Lavallette Avenue stated that even if they did not propose this the owner would still have to replace the bulkhead anyway. There are a lot of people that do not want this to happen. He does not want this to happen.

There were no additional comments.

Mayor LaCicero closed the floor to public comment.

COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:

Mayor LaCicero stated that he takes offense to rumors going around that he has any interest in this property. The developer approached him asking how he should approach Council with this proposal. He advised him to get something drawn up to present to Council at a meeting. The Council has taken a lot of effort to make it public and talk about it at Council Meetings. The houses next to Mrs. Brackman did not have to go to Planning Board because they were built to code with 37% lot coverage and a 30 foot height restriction. Unfortunately, every view eventually does get blocked and there is nothing we can do about it. We will research the possible litigation with this issue from years ago and see what we come up with. Being the Mayor and also a property owner in Lavallette he will try to find any source of revenue for the betterment of the town's finances. He does take offense to any comments about back door agreements which is never done up here. We bring anything that is brought to us to you at these meetings.

Councilman Lamb stated that the Mayor has been consistent with finding different sources of revenue. He also wants to state that he thinks that area is very nice now with those houses. Mr.

Kosenski has done a fine job with them and it does beautify the area. Hopefully, we can find the issue from years ago that had possible litigation.

Councilman Stogdill stated that that area on Lavallette Avenue does look much cleaner and nicer and the houses are built to code. We need to get all the facts before we make a decision. Without the facts everyone is going to be misguided and unclear. Also, he too takes offense to the allegations of this is a back door agreement. Everything that is brought to us is brought to you at a Council Meetings.

Councilman Borowski stated that he applauds Council's efforts to keep taxes down but he was elected to serve the residents of Lavallette. When he saw the proposal he thought it was a great idea but seeing such opposition makes him realize that he needs to represent the people so he does not think he will be voting yes to any of this proposal. Also, he will be having a meeting with Mr. Parlow, Mr. Schlosser and the staff at Public Works to discuss their budget.

Councilman Horan stated that Council is here to listen and offer opinions. We make every decision open to the public. Also, he will be attending a grant hearing on Wednesday at the County dealing with inefficient heating systems.

Mr. Parlow stated that on the dais he gave the draft calendar for this year. He asked that the Council review it and get back to him with any changes or additions. He would like to have it ready to go within the next week or so. He also commented that Jacobsen Park could never be sold because it is part of the Borough's Open Space inventory and is protected by the Green Acres Program.

Mr. Parlow also thanked the Heritage Committee for the holiday lights they donated to the Borough.

Mayor LaCicero stated that the reason why the Heritage Committee did not make a donation this year for the fireworks is because they made donations of the holiday lighting, the flagpole at the Memorial Park, waste receptacles and of course the "Clam". The article in the Ocean Star made it seem like Heritage just did not want to donate any funds to the fireworks so this will clarify that article.

Councilman Stogdill also stated that there is not a town from here to Fair Haven that was plowed better than the Borough of Lavallette so Kudos to Public Works.

ADJOURNMENT:

A Motion was made by Councilwoman Filippone to adjourn the Regular Meeting. The Motion was seconded by Councilman Horan. Vote: All of Council was in Favor. The Motion passed.

The Regular Meeting was adjourned at 8:26 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 and correct copy of the Minutes of the Caucus/Regular Meeting held on the **22nd** day of **February 2010**

Christopher F. Parlow
Municipal Clerk