

**BOROUGH OF LAVALLETTE(minutes)**  
**REGULAR MEETING OF THE MAYOR AND COUNCIL**  
**LAVALLETTTE MUNICIPAL BUILDING – COUNCIL CHAMBERS**  
**Monday, September 27, 2010-7:05 pm**

**CALL TO ORDER:** Mayor Walter G. LaCicero, presiding

**ROLL CALL:** Council Members Borowski, Zalom, Filippone and Horan were present.  
Council Members Lamb and Stogdill were absent.

Mayor LaCicero stated that Councilman Stogdill is absent and he has some medical issues and for that reason we probably won't see him at the next meeting as well. That would qualify as an excused absence Mr. George.

Mr. George stated that under the Municipal Vacancy Law which is what determines the number of excused absences, a verified medical leave is the only matter that can not be non-excused in other words it is an excused absence and we have seen the medical course of his continued medical condition.

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 Gazette and was published in the Ocean Star on January 8, 2010. Notice was also posted on the municipal bulletin board and the municipal website.

**MOMENT OF SILENCE:** Mayor LaCicero asked for a moment of silence for all our troops overseas. This last year was a very bad year over there.

**PLEDGE OF ALLEGIANCE:** Council President Zalom led us in the Salute to the Flag

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

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

Mayor LaCicero opened the floor to anyone who wished to comment on any items that were not on the agenda and did not wish to stay for the remainder of the meeting.

No one wished to comment at this time.

Mayor LaCicero closed the floor to public comment.

**APPROVAL OF CLERK’S MINUTES:**

Caucus/Regular Meeting of September 13, 2010  
Executive Session Minutes of September 13, 2010  
Bid Opening Minutes of September 1, 2010 - Dune Walkover Structures Handicap Ramps

A Motion was made by Councilman Horan to approve the Minutes. The Motion was seconded by Council President Zalom. Vote: Council Members Borowski, Filippone, Zalom and Horan voted Yes. The Motion Passed.

**RESOLUTIONS – ON CONSENT:**

- 2010-240 authorizing the Treasurer to refund a 3<sup>rd</sup> quarter tax credit balance in the amount of \$3,919.46 to Richard and Mary Molke
  
- 2010-241 authorizing the refund of planning board escrow in the amount of \$123.00 to Donald Oriolo of 25 Sturgis Road-Councilwoman Filippone stated that this was approved at the last meeting for \$123.50. She asked if this is in addition to the last resolution 2010-233 or is this one correcting the last one? Mrs. Amico stated that this resolution is a correction to Resolution 2010-233. Mr. George stated that the record should show that this resolution is rescinding and replacing Resolution 2010-233.
  
- 2010-242 appointing Council President Zalom as Community Development Block Grant Representative from October 31, 2010 through October 31, 2011-Council President Zalom thanked Council for being the representative for the 15<sup>th</sup> year.
  
- 2010-243 authorizing Mayor Walter LaCicero to sign and execute an interlocal agreement between the Borough of Lavallette and the Ocean County Prosecutor’s Office to participate in the Ocean County Special Operations Group also known as “SOG” program for the year 2010-2011
  
- 2010-244 supporting Senate Bill S-744 and Assembly Bill A-2598, amending the farmland assessment act
  
- 2010-245 authorizing the acceptance of a donated rescue board to the Lavallette Beach Patrol by Butch Anderson with a value of \$2,300.00
  
- 2010-246 authorizing the advertisement and receipt of bids for the purchase and installation of a CAD/RMS/Mobile Software System for the Lavallette Police Department-Councilwoman Filippone stated that this is the software cad system that we received a grant for our police department
  
- 2010-247 supporting the passage of Senate Bills S-1410 and S-141, which will help protect the waters and aquatic and vegetative life of the Barnegat Bay

- 2010-248 in support of draft legislation to create a municipal shared services energy company
- 2010-249 awarding a contract to JAK Construction Company, for the Construction and Installation of Dune Walkover Structures Handicap Ramps in the amount of \$43,600.00-Mayor LaCicero stated that this is for resolution is for the 2009 CDBG Grant that we are just getting around to awarding. Councilman Borowski questioned if JAK Construction was also known as Diamond Construction. Mr. Parlow stated that was correct.
- 2010-250 authorizing the execution of an addendum to the contract with B & B Construction for the Sanitary Sewer Replacement Project Route 35 Northbound – Bond Avenue to Guyer Avenue in the amount of \$1,651.86 for additional paving work
- 2010-251 opposing the passage of Assembly Bill A-2577 and Senate Bill S-2145, which would establish a Storm Water Management System Pilot Project in Ocean County to be funded by residents of Ocean County-Councilwoman Filippone stated that she would like to know whose idea this was? Council President Zalom stated that this was Senator Smith’s idea and this resolution is very protested by our Freeholders. Councilwoman Filippone stated that we should go on record in support of opposing this project. Mr. Parlow stated that he will have a resolution prepared for the next meeting in support of the opposition.
- 2010-252 accepting the donation of three benches from the Friends of Lavallette Beautification

A Motion to Approve the Consent Agenda was made by Councilwoman Filippone. The Motion was Seconded by Councilman Horan. The Mayor opened the floor to public comment and asked if anyone wished to comment on the consent agenda. No one wished to comment at this time. The Mayor closed the floor to public comment and asked Council for a vote on the Consent Agenda. Vote: Council Members Borowski, Filippone, Zalom and Lamb voted Yes. The Motion Passed.

**RESOLUTIONS-OFF CONSENT:**

There were no resolutions off consent.

**SECOND READING/FINAL ADOPTION OF ORDINANCES:**

ORDINANCE NO. 2010-16 (1088) - ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 22, ENTITLED “DEFENSE AND INDEMNIFICATION” SO AS TO CREATE § 22-2(B) ADOPTING THE USE OF A NOTICE OF TORT CLAIMS FORM PURSUANT TO N.J.S.A. 59:8-4 AND N.J.S.A.. 59:8-6

Mr. George stated that this is a Tort Claim form that must be available to the public if they request it and it must be filed by them within ninety days.

A Motion was made by Councilwoman Filippone to Adopt Ordinance 2010-16 (1088). The Motion was seconded by Councilman Horan. The Mayor opened the Public Hearing and asked if anyone wished to comment on Ordinance 2010-16 (1088). No one wished to comment. The Mayor closed the public hearing and asked Council for a vote on Ordinance 2010-16 (1088). Vote: Council Members Borowski, Filippone, Zalom and Horan voted Yes. The Motion Passed.

### **UNFINISHED BUSINESS:**

#### 2010 Ballfield and Summer Events Schedules

Mayor LaCicero stated that we were going to discuss the amount of events that make a profit from using our ballfield and bayfront facilities.

Mayor stated that on the ballfield schedule he sees at four camps are run for profit. This also prevents citizens from being able to access the field.

Councilwoman Filippone stated that someone coming here and using our facilities and making a profit without the Borough charging a fee is a problem especially when our own tax payers are being inconvenienced.

Councilman Borowski stated that the ballfield does not impact as many residents as the events down on the bay front when blocking off the entire street of Bay Boulevard and West Point Island definitely impacts too much of an inconvenience. The bay front events require more police overtime and the streets are closed for the entire day.

Mayor LaCicero stated that some of these events are not for profit so they are not the issue.

Mayor LaCicero stated that the Swimapooloza and Jersey Shore Triathlon are for profit.

Councilman Borowski stated that the Triathlon and Swimapooloza is the one event he tends to have a problem with.

Council President Zalom stated that there was something going on this weekend and when she rode by it was being nicely done and not affecting the road. There were police down there. She asked if they were Lavallette officers.

Mr. Parlow stated that they were our police.

Mayor LaCicero asked Mr. George if we can prevent one group that is not a charity group from using our facilities if we allow the not for profit to use our facilities.

Mr. George stated that it is not necessarily a first amendment issue; however, all the areas you are talking about are public areas and you can not discriminate.

Councilman Borowski stated that if someone wanted to have a New York City Marathon every weekend in New York City they would be allowed to.

Mr. George stated, no, they would not but everyone should be regulated equally. These events, which have been occupying space for many years, are controlled by somewhat of a unique state law because of our assets.

Councilman Borowski stated that when it comes to street closings for these streets he would think that the Governing Body has the right to deny the request.

Mr. George stated that, yes, they would have the right to deny the street closing application. With a street closing it is mandatory that police presence is required.

Councilman Borowski asked Mr. George if the Governing Body allows certain running events to take place and some not to take place is not that up to this Council.

Mr. George stated that what can be regulated is the time, place and manner.

Councilman Borowski questioned if we would be allowed to determine how many events are held down at the bay front.

Mayor LaCicero stated that he thinks we can give a limit to how many events are to be held down there.

Councilwoman Filippone questioned if they were suggesting that we deny these people from using our facilities or is the complaint that they are blocking the street and it is an inconvenience because she thinks that it might be an inconvenience but it does not last all day. Her concern is that taxpayer money is being used to handle these events, all the while, the event is making the money for this company. She stated that to her is the crime.

Mayor LaCicero stated that a couple of these events charge substantial fees for registration.

Council President Zalom questioned what events use our police and public works.

Mayor LaCicero stated that all of these events use our Police and Public Works and some of them even use our Fire and First Aid on hand.

Mr. Parlow stated that he would like Council to regulate what weekends these events take place. The Jersey Shore Triathlon this past summer was the first weekend the beach season opened. There are so many people that arrive for that weekend and they could not use Bay Boulevard.

Councilman Borowski stated that he agreed with Mr. Parlow and that is his main concern also.

Councilwoman Filippone stated that we have an ordinance on the books to charge for off duty police officers for construction jobs along the highway maybe we could look into that for these

events. Some of these events leave a big mess behind and our public works department has to clean up after them.

Mayor LaCicero questioned if we need to create a new committee.

Councilwoman Filippone stated that we can put it with the ordinance committee and the municipal alliance should be involved.

Mayor LaCicero stated that maybe Council should give us a list of block out dates and dates that would be available along with how many types of events that should be allowed.

Council President Zalom stated that she thinks the first weekend in June should be blocked out.

Mr. Parlow stated that he believes that that first weekend should have no events on the bay front especially since the Save Barnegat Bay 8K is always the weekend after the beach opens.

Council President Zalom stated that this Triathlon should be allowed the week before the beach opens which would be the 12<sup>th</sup> of June.

Mayor LaCicero stated that he does not want to see every weekend taken in town this next summer either.

Councilman Borowski stated that our plate is pretty full as it stands. The Triathlon should be a week or two weeks prior to the beach opening.

Council President Zalom stated that the June 12<sup>th</sup> is the date they can have the Triathlon.

Mayor LaCicero stated should we approve the date now and then talk about a fee later. He asked for a motion.

Mayor questioned the for profit organizations and are we eventually going to require some fees from them.

Councilwoman Filippone stated that she would like to see some type of fees issued for what our guys have to do.

Mr. Parlow stated that five additional special police were brought in for this past weekend's triathlon.

Mr. Parlow stated that we can notify this Jersey Shore that we are approving a June 12<sup>th</sup> date but there may be a possibility that there may be a fee structure established prior to the event that they may be subject to.

Councilman Borowski questioned if we were going to have a sit down with this person in charge of this event.

Mr. Parlow stated that he wanted to see what transpired tonight before we reached out to him.

Councilwoman Filippone stated that we need to make a motion giving the Administrator authorization to advise this organization of the only date available and put them on notice that there is going to be a possible fee attached.

Mayor LaCicero stated that what Mr. Parlow is going to write to them is that based upon his prior correspondence to us we are not approving the date he requested but we can suggest another date and then advise him that we are also considering a fee structure for any of the Borough services that are required to help him implement his services.

Councilman Borowski stated that maybe the letter could be worded as such that he might be encouraged to make a, certainly we can go ahead and implement a fee structure, but perhaps we can let him know the costs of our people and maybe a light bulb will go off and he might say you know what rather than compete against ourselves.

Mr. George stated to Councilman Borowski that you can indicate the weekend before the season opens is the open date available and in the notice advise that the municipality is considering a revised fee structure to provide for reimbursement of municipal costs for services which are required to be provided and languaging in that appropriate way. If you do not enact an Ordinance before than there will be no charge and at least this organization is put on notice. You will probably have to do this with every request to hold an event in a stock form and let them know that we will be considering it as a requirement of notice in due process but the Borough Council has the right to vote on the date for approval.

Mayor LaCicero stated that he is only concerned with the events that make a profit. To him that is a problem when the costs for us to maintain all our facilities is a lot.

Mr. George stated that with regard to the date for the event you will just need a roll call vote.

Mayor LaCicero questioned if all of Council is in favor of the June 12<sup>th</sup> date.

All of Council was in Favor.

Mayor LaCicero stated with every event that is requested, they will receive the same letter with whatever date is available to them.

#### **NEW BUSINESS:**

There was no new business.

#### **COMMENTS FROM THE PUBLIC:**

Joe Marcianti, 3 New Jersey Avenue, President of LVT stated that he is here today to thank Mayor and Council and Mrs. Amico for all their help and approvals of our raffles for our Beefsteak Dinner.

Joe Palinsky, 122 Washington Avenue stated that being that we have six events that are townwide events that require street closings how is that going to effect these events? Any legislation that we craft will involve these events also.

Mayor LaCicero stated that we have not got to that aspect yet but when and if we do we will be taking those events into consideration.

Mr. Palinsky stated that with those flea markets they require clean up also.

Ken Phillips, 105 Elizabeth Avenue stated that he was here again regarding the flooding in front of his property. Mr. Parlow did send me a copy of the letter from the State DOT and he did notice this summer there were crews out there looking at the area.

Mayor LaCicero stated that the willow tree root was cut and taken care of but with the new Rt. 35 Revitalization starting soon they are putting new piping down so they are hoping that takes care of the problem.

Mr. Phillips stated that last year he had to replace the front porch because of all the flooding. He is afraid with the torrential rains they are saying are coming he is not going to be able to get to my mother.

Mr. Parlow stated asked if the road flooded the previous night because the State never lets the Borough know if they did take care of something.

Mayor LaCicero stated that there was flooding there this morning. It was not as high but there was flooding.

Mr. Parlow stated that he will send another letter out tomorrow and advise them to look at this again and when is there availability.

Mayor LaCicero stated that he thinks they are hanging their hats on this revitalization project and are waiting on that.

#### **COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:**

Council President Zalom stated that there is the Beefsteak Dinner on October 2<sup>nd</sup>. The Flu Clinic is going to be on October 22<sup>nd</sup> at the First Aid. The Exercise classes at the First Aid start this week with Yoga and there will be Basketball and Dodgeball at the school. The Fall Bay Front Clean up will be on October 16<sup>th</sup> and the Beach Sweeps will be on October 18<sup>th</sup>. October is Women's Health Month honoring the Girl Scouts. Casino Night with Dottie's House and the NYC bus trips are December 8<sup>th</sup> and 11<sup>th</sup>. Tree Lighting Ceremony will be on December 3<sup>rd</sup> and Oyster Dinner will be December 4<sup>th</sup>. I sent in the Goose Patrol Program into the League Magazine so I hope it gets published. We received a grant for \$185,000 for our CAD System used by the Police Dept.



Councilman Borowski stated that Friday October 1<sup>st</sup> through the 12<sup>th</sup> is hydrant flushing. October 18<sup>th</sup> starts winter garbage schedule and Clean Up Week. Next year will start the stream line recycling but if you want to put your papers in with the recycling you can start that now instead of holding your papers until Wednesday. I did look into the temporary speed bumps and have contacted some vendors. They do have these devices that have 18 inch stakes that can be knocked into the road on a temporary basis. When we have these vendors come in he would hope that the appropriate people can attend.

Councilman Filippone stated that she is going to have the Chief contact the County about the speeding on West Point Island for those streets.

Mr. Parlow stated that the Homestead Rebate Applications are in the mail. The requirements are for a senior or disabled your income cannot exceed \$150,000 and the rest is an income of \$75,000. It is a little different this year; instead of a check if you qualify you will receive a credit against your 2<sup>nd</sup> quarter 2011 taxes.

Mayor LaCicero stated that our next meeting is going to be next Monday on October 4<sup>th</sup>.

#### **EXECUTIVE SESSION:**

Mr. George stated that there is a need for an executive session to discuss personnel matters and pending litigation updates.

A Motion was made by Council President Zalom 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 to go into Executive Session at 8:07 pm.

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

The Regular Meeting was reconvened at 8:25 pm.

Mr. George stated that in Executive Session there was discussion on a particular circumstance regarding an employee of the town with regard to his appointment to a permanent title and his eligibility under the civil service testing law with no action to be taken at this time by Council but for the Borough Attorney to investigate the matter further. There was also discussion of some settlement discussions with the pending litigation on with the ongoing DEP Violation and also the possible litigation regarding a pergola zoning violation from a local attorney.

#### **ADJOURNMENT:**

A Motion was made by Councilman Horan to adjourn the regular meeting. The Motion was seconded by Councilwoman Filippone. Vote: All of Council was in Favor. The Motion Passed.

The Regular Meeting was adjourned at 8:27 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 Caucus/Regular Meeting of Mayor and Council held on the 27<sup>th</sup> day of September 2010

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Christopher F. Parlow  
Municipal Clerk