

**BOROUGH OF LAVALLETTE (MINUTES)**  
**REGULAR MEETING OF THE MAYOR AND COUNCIL**  
**LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS**  
**Monday, April 28, 2008 – 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, Deputy Municipal Clerk

**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 11, 2008. Notice was also posted on the Municipal bulletin board.

**MOMENT OF SILENCE:** Mayor LaCicero asked for a moment of silence for our troops overseas and Ann Verga, a longtime resident who passed away recently.

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

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

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

Mike Melillo, Architect, Wall Twp.-he has eleven projects going on right now in Lavallette. There are some issues with base flood elevations, especially on the ocean front. Council should consider raising the base flood elevation at least a foot.

Councilwoman Filippone stated that she thinks it is something to consider and suggested that he send a letter to the Planning Board with his recommendations so it can be put on for discussion at a workshop meeting.

Dave Magno, 86 Dickman Drive-stated that a perfect example of what Mr. Melillo is talking about is #1 Pershing Blvd.

**APPROVAL OF CLERK'S MINUTES:**

Caucus/Regular Meeting of April 7, 2008  
Executive Session Meeting of April 7, 2008

Councilwoman Wenzel requested a correction on the Minutes of April 7. The Save Barnegat Bay was not a press conference it was a cleanup.

A Motion to approve the Minutes of April 7 was made by Councilwoman Filippone. The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes. The Motion was Passed.

**REPORTS:**

- a) Revenue Transaction Report for March-CFO
- b) Annual Report of Taxes Not Collectible 2008-Tax Collector

A Motion to receive the Revenue Transaction Report and the Annual Report of Taxes Not Collectible was made by Councilwoman Wenzel. The Motion was seconded by Council President Zalom. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes. The Motion passed.

**PUBLIC HEARING ON 2008 MUNICIPAL BUDGET:**

Reading of the 2008 Municipal Budget Statement- Mr. Parlow read from Resolution No. 2008-139A

Mayor LaCicero opened the public hearing on the 2008 Municipal Budget.

Jim Borowski, 141 Newark Avenue-questioned the debt service increase for water and sewer.

Mr. Bob Oliwa stated that the increase was about \$10,000 for each water and sewer.

Mr. Borowski questioned whether that affects the utilities themselves.

Mr. Oliwa stated that the debt service does not affect the utilities themselves.

There was no other public comment.

Mayor LaCicero closed the public hearing on the 2008 Municipal Budget.

A Motion to table the 2008 Municipal Budget was made by Councilwoman Wenzel. The Motion was seconded by Councilman Lamb. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb. The Motion passed.

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

**RESOLUTIONS – ON CONSENT:**

- 2008-113 authorizing the Mayor to sign and execute an application from the Lavallette Heritage Committee for a social affairs permit to sell alcoholic beverages in conjunction with Heritage Day to be held on September 6, 2008 on the Lavallette First Aid/Fire House grounds-Mayor LaCicero stated that this was tabled on April 7, 2008 and is going to remain tabled until further discussion.
- 2008-126 authorizing contracts with certain approved state contract vendors for the Borough of Lavallette pursuant to N.J.S.A. 40A:11-12a – Purchase and installation of doors for the Lavallette Firehouse
- 2008-127 authorizing the Mayor to sign and execute an application from the Lavallette First Aid for a social affairs permit to sell alcoholic beverages in conjunction with Heritage Day to be held on September 6, 2008 on the Lavallette First Aid/Fire House grounds-Mayor LaCicero stated that he was going to Table this Resolution also until further discussion.
- 2008-128 authorizing the Mayor to sign and execute an application from the Lavallette PTA for a social affairs permit to sell alcoholic beverages in conjunction with the Lavallette PTA’s Gift Auction to be held at the St. Bonaventure Parish Hall on May 17, 2008.-Councilwoman Wenzel questioned since they don’t sell alcoholic beverages and it’s just BYOB is this permit required? Mr. George stated that for their benefit and ours it not a bad idea. Mr. Parlow stated that it is for sale or service, so it is required.
- 2008-129 temporary budget amendment- Mr. Parlow stated that this is for the appropriation of grant funds
- 2008-130 consenting to the place to place transfer by the Director of the NJ Division of Alcoholic Beverage Control Commission of a certain Plenary C License No. 1515-33-004 as part of the application of Sherman Hospitality, LLC for allocation of licenses at premises which lie in dual municipalities-Councilwoman Filippone requested that this Resolution be pulled and discussed in Executive Session.
- 2008-131 approving the change of Chris Auriano from full-time to part-time status at an hourly rate of \$13.50 per hour and appointing Brian Bea to the position of full-time public safety telecommunicator at a annual salary of \$25,737.00
- 2008-132 approving the refund of off-duty police service trust monies-Mr. Parlow stated that contractors hire our off duty police officers to help with road construction and they have an escrow with us. This is to refund there escrow when the job is completed.
- 2008-133 authorizing the removal of one electric account from Block 37.02 Lot 31 due to a demolition of the building

- 2008-134      adopting and establishing a “Personnel Policies and Procedure Manual”-Mr. George requested that this be pulled and discussed under Unfinished Business.
- 2008-135      authorizing the lease agreement between the Borough of Lavallette and the Lavallette Fire House
- 2008-136      seasonal appointments to the Beach Badge Office and Beach Lifeguard Department
- 2008-137      authorizing the municipal clerk to advertise and receive proposals for wireless antenna consultant services
- 2008-138      opposing the passage and enactment of Senate Bill 1455
- 2008-139      authorizing the electric collector to adjust an electric bill amount from \$1,278.75 to \$14.75 on Block 7 Lot 32 Acct 1

A Motion was made by Councilwoman Wenzel to approve the Consent Agenda excluding Resolution No. 2008-113, 2008-127, 2008-130 and 2008-134. The Motion was seconded by Council President Zalom. Vote: Council Members Ardito, Zalom, Stogdill, Filippone and Lamb voted Yes. Councilwoman Wenzel Abstained on Resolution No. 2008-138 and voted Yes to the rest of the Consent Agenda. The consent agenda passed.

**RESOLUTIONS-OFF CONSENT:** There were no resolutions off consent

**APPROVAL OF VOUCHERS:**

- 2008-140      Bills List in the amount of \$518,503.46

A Motion was made by Councilwoman Wenzel to Approve the Bills List. The Motion was Seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes.

**ORDINANCES ON FOR INTRODUCTION/FIRST READING**

ORDINANCE NO. 2008-5(1033) ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20 OF THE BOROUGH CODE, ENTITLED “CONSTRUCTION CODES, UNIFORM”

A Motion to Introduce for First Reading Ordinance No. 2008-5(1033) was made by Councilwoman Filippone. The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb. The Motion passed.

Public Hearing and Final Adoption Scheduled for May 19, 2008.

ORDINANCE NO. 2008-6(1034) ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 45 OF THE BOROUGH CODE, ENTITLED "OFFICERS AND EMPLOYEES" SO AS TO AMEND AND SUPPLEMENT SECTION 45-15 SO AS TO ADD THE POSITIONS OF CONSTRUCTION OFFICIAL, ELECTRICAL SUBCODE OFFICIAL, FIRE PROTECTION SUBCODE OFFICIAL AND TECHNICAL ASSISTANT TO THE CONSTRUCTION OFFICIAL

A Motion to Introduce for First Reading Ordinance No. 2008-6(1034) was made by Councilwoman Filippone. The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes. The Motion passed.

Public Hearing and Final Adoption Scheduled for May 19, 2008

ORDINANCE NO. 2008-7(1035) ORDINANCE ESTABLISHING SALARIES AND WAGES OF OFFICERS AND EMPLOYEES OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY

A Motion to Introduce for First Reading Ordinance No. 2008-7(1035) was made by Councilwoman Filippone. The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes. The Motion passed.

Public Hearing and Final Adoption Scheduled for May 19, 2008

**UNFINISHED BUSINESS:**

Council President Zalom spoke about the bus that the recreation will use for their events. Allen MacDuffie paid to bring it to safety code. Coast Cities has provided an estimate to repair the bus of \$2,500. She requested the use of \$1,000 from of vehicle maintenance to make the repairs on the bus. The balance of the costs to be funded through the use of grants.

Councilwoman Filippone questioned if we spend the money do we have a guarantee the bus will run.

Councilman Stogdill questioned if the \$2,500 covers everything that needs to be repaired.

Council President Zalom stated that Coast Cities stated that it should be enough to get it on the road. Even if it only lasts the Borough through the summer, it's less than it would be to rent a bus for the summer. She will have Bob fax over an itemized list of what needs to be repaired and the total of the repairs for your review.

Mr. Parlow stated that he will also speak with Coast Cities to get a status on the condition of the bus.

Mr. George stated that some amendments were made to the Personnel Manual, Resolution 2008-134 and is now complete. He stated that the Personnel Policy needs to be amended by Ordinance. Therefore, he proposed that the Council enact Resolution 2008-134 as a recommendation to follow the guidelines of the new policy for interpreting the old which gets us to use it and requiring that the Borough introduce for first reading by Ordinance adopting the new Personnel Policy Manual.

A Motion to amend and approve Resolution 2008-134 was made by Councilwoman Filippone. The Motion was seconded by Council President Zalom. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes. The Motion passed.

The Mayor stated that he received the soundings of the West Point Island Bridge in reference to the dredging. He stated that the conditions are not as bad as he expected. He reported that the next step is the State is going to analyze the material and how much dredged material needs to be collected.

The Mayor also reported that he received a letter from the County that they are going to begin the outfall piping. That should be done soon.

#### **NEW BUSINESS:**

Letter from Terry F. Brady, Esquire / Planning Board Attorney regarding proposed revision to Zoning Code relating to third story decks. Draft ordinance attached.

Councilwoman Filippone stated that the Planning Board has recommended a change to the code that would prohibit the installation of decks above the second floor. The intent and purpose of the ordinance is to restrict third floor living space.

Mayor stated that the Borough Code is very restrictive on what our residents can do as it is.

Councilwoman Filippone stated that there are no decks on the third floor; they are on the second floor.

Councilwoman Wenzel stated that she thinks its part of coastal living. There is something called a widow's walk.

Councilwoman Filippone stated that the Planning Board's recommendation is to eliminate the third story decks.

Mr. Parlow stated that by definition under the current code third story decks to not constitute living space.

Mayor LaCicero stated he would like to get an interpretation of a deck being part of living space. After that, if Councilwoman Filippone would like to put it on for the next meeting than she could do so.

Councilman Ardito stated that the ice cream vendors are selling more than ice cream. He questioned whether it is permitted by ordinance.

Mr. Parlow checked the code and reported that the code does not limit the vendors to strictly selling ice cream. Mr. Parlow stated that the fees for the vendor trucks are \$1,000 for the driver and \$1,000 for each additional person in the truck.

Mr. George would like to introduce on first reading adoption of Ordinance 2008-8(1036) in reference to establishing the Personnel Policy Procedures Manual .

A Motion was made by Council President Zalom to Introduce for First Reading Ordinance 2008-8(1036). The Motion was seconded by Councilman Stogdill. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes.

Public Hearing on Ordinance 2008-8(1036) will be held on May 19, 2008.

Councilman Ardito thanked Mr. Parlow for the two sided copies of the agenda. He thanked Mr. Parlow for his securing the best electrical rate that he could get.

**COMMENTS FROM THE PUBLIC:**

Clem Boyers, 20 Kerr Avenue-He questioned the status of the Gabriella's License Transfer.

Mayor LaCicero stated that there was a conflict with Gabriella's license because the licensee serves as the Borough Prosecutor. Therefore, the application was transferred to the State.

Mr. George stated that the State now is requesting a resolution from the Borough of Lavallette and the Township of Toms River that if they grant the license Lavallette and Toms River Twp. would not have a problem with the license transfer.

Jim Borowski, 141 Newark Avenue-Thanked Mayor and Council for the Lavallette Fire House lease agreement.

Lillian Buirkle, 122 Washington Avenue-questioning whether or not the radio station will get their renewal license.

Mr. George stated that the radio station is currently under contract and the Borough has not intention to modify the terms of the agreement.

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

Councilwoman Wenzel would like to request Executive Session to discuss the DEP Dune issues.

She reported that the bay cleanup was held this weekend. There was a number of college students help with the clean up. A lot of them have never been to the seashore ever before. As part of their scholarship they have to do some community service. There was several dumpsters

of trash removed and afterwards lunch was provided at the fire house. She thanked the fire company for allowing the use of the building.

Councilman Lamb stated that the tennis court repairs are undergoing. The repairs should be completed soon.

Council President Zalom thanked Councilwoman Wenzel for her help with the ocean cleanup. The cleanup was a success once again. The town wide garage sale is being held on June 7<sup>th</sup> and 8<sup>th</sup> this year with cleanup on June 9<sup>th</sup>. She ask all not to forget about the dog walk. She reported that the Lavallette School will be holding a summer camp for one week. Also, senior lunch and movie going beautifully with about 55 people there each week. She reported that there will be a garden tour on June 14<sup>th</sup>. The fire house will be providing refreshments.

Councilwoman Filippone stated that a suggestion was given to her that the geese droppings were pretty horrendous again and maybe people should let there dogs run loose on the field. The owners should be responsible and obedient.

Councilwoman Wenzel questioned whether our doggie club is still in effect.

Mayor LaCicero stated that he doesn't recommend people violating the ordinance.

Councilwoman Wenzel stated that she read about this town that some residents pretended to be bigger geese than the geese and used nerdels to pretend to fly around. It was hilarious and supposedly worked.

Councilwoman Filippone stated that we should put additional receptacles on the beach.

Councilwoman Wenzel stated that this is the reason that we want the refuse truck going up and down the boardwalk and easily pick up those containers instead of using the garbage truck. Now that we have repaired most of the boardwalk it can be done. This vehicle could be used for many different jobs, also. It is less than \$20,000 and in my opinion is worth the money.

Councilman Stogdill requested the lights on the ball field could be monitored by the police dept. and if they are left on they can just turn them off.

#### **EXECUTIVE SESSION:**

Mr. George stated that the items to be discussed will be Gabriella's Restaurant Place to Place transfer, the litigation with the DEP in reference the dunes and the Verizon Wireless Contract. There will be action taken.

A Motion was made by Council President Zalom to adjourn the meeting and enter into executive session. The Motion was seconded by Councilman Lamb. All were in favor. The Meeting was adjourned at 8:48 pm.

The Council resumed Regular Session at 9:46 pm.

Mr. George stated that during the Executive Session the Mayor and Council discussed the meeting of terms and conditions in regard to the Sherman Hospitality transfer and clarified action will be taken following this summary.

Mr. George also reported that the current status of the litigation of the NJDEP dune maintenance was also discussed. No further indicators have been given to us by the state and nothing has been moved on.

Mr. George also reported that the Verizon Wireless Contract and Mr. Parlow has been successful in negotiating some favorable terms with regards with Verizon requesting some expansion on their rented property at the water tower.

Mr. George read from 2008-130 which is in regards to the Sherman Hospitality transfer.

A Motion was made by Council President Zalom to approve the Resolution No. 2008-130. The Motion was seconded by Councilwoman Filippone. Vote: Council Members Ardito, Wenzel, Zalom, Stogdill, Filippone and Lamb all voted Yes. The Motion passed.

Mr. George reported that action will be taken on the Verizon Wireless Contract at the next meeting.

A Motion was made by Council President Zalom to adjourn the meeting. The Motion was seconded by Councilman Stogdill. Vote: All Council Members were in Favor. 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 Mayor and Council held on the **28<sup>th</sup>** day of **April 2008**.

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Christopher F. Parlow  
Municipal Clerk