

BOROUGH OF LAVALLETTE (MINUTES)
CAUCUS/REGULAR MEETING OF THE MAYOR AND COUNCIL
LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS
Monday, November 9, 2009 – 7:00 pm

CALL TO ORDER: Mayor Walter G. LaCicero, presiding

ROLL CALL: Council Members Zalom, Lamb, Stogdill, Horan and Filippone were present.
Councilwoman Wenzel was absent.

Also present: Christopher F. Parlow, Borough Administrator/Municipal Clerk
Philip George, Borough Attorney
Donnelly Amico, Deputy Municipal Clerk
Council-Elect James Borowski

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 Asbury Park Press and the Ocean County Gazette and was published in the Ocean Star on January 9, 2009. Notice was also posted on the Municipal bulletin board.

MOMENT OF SILENCE: Mayor LaCicero asked for a moment of silence for the troops at Ft. Hood who died and were injured and all our troops overseas.

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

MAYOR'S WELCOMING STATEMENT: Mayor LaCicero thanked everyone in the audience for coming to tonight's 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

Brian Walsh, 11 Pershing Blvd. stated that he has been living here for the past 11 years and has had an issue with a fire hydrant that is partially in his driveway. For many years, he has been asking for the fire hydrant to be relocated so he does not have to keep saying to their guests to watch out for the fire hydrant when they are pulling out of his driveway. He has spoke to Public Works and Doug Franzoso and he has driven around to see where the other hydrants on West Point Island were located. Obviously, before he purchased the property the driveway was not as wide as it is now. In his opinion, if anything, it has become a safety issue. He has taken pictures of the hydrant showing where it is located in his driveway. He has spoken to a number of Borough officials and still has not received a response. He would just like to know where he stands with this whole situation. He is here tonight for some guidance from Council as to what steps he should take next.

Mayor LaCicero stated that we discussed this at one of our Council meetings and he thought we sent it over to our Engineer.

Mr. Parlow stated that he would like to know where we would relocate it too. It is not as simple a task or an inexpensive task.

Mr. Walsh stated that he did get an estimate to move it and it was roughly \$12,000. He would be happy to help with a portion of the cost.

Mr. Parlow questioned whether he could move his driveway?

Mr. Walsh stated that he had thought about that but certain ordinances in town prevent him from doing so.

Mayor LaCicero questioned whether we could check with the Engineer and see what he proposes?

Councilman Lamb stated that this is something that Mr. Walsh has been dealing with for many years now. He has been speaking with the water department on a regular basis so it has been an ongoing situation for quite some time.

Mayor LaCicero stated that Councilwoman Wenzel is not here tonight to speak for her department but we will discuss it with Mike O'Donnell and someone will get back to Mr. Walsh when we find something out.

Susan Koch, 119 Camden Avenue stated that she was speaking on behalf of the Beautification Committee and they would like to know about the Hankins Park sign that was to be placed at the Shuffle Board Courts.

Mayor LaCicero stated that this was a Public Works issue and Councilwoman Wenzel is not here so we will have to wait until she is available.

APPROVAL OF CLERK'S MINUTES

Regular Meeting of October 19, 2009

Bid Opening Minutes of November 5, 2009

A Motion was made by Council President Zalom to adopt the Minutes. The Motion was seconded by Councilman Horan. Vote: Council Members Zalom, Lamb, Stogdill, Horan and Filippone voted Yes. The Motion passed.

REPORTS:

- a) Police Report for October-Councilwoman Filippone-read report
- b) Planning Board Report for October-Councilwoman Filippone-There was just a workshop meeting and we put the final touches on the on the Use Ordinance that is under new business tonight. We have worked very hard on this Ordinance and hope that it is approved by Council

and put on the agenda for December

- c) Animal Control Report for October-Councilwoman Filippone-read report-Council President Zalom questioned if someone is feeding stray cats on a property is it legal for them to do that? Mr. Parlow stated that he believed that as long as it was on private property is was not illegal. Mayor LaCicero questioned whether we could regulate the feeding of feral cats? Mr. George stated that because of the legality of the laws he strongly recommends we do not do that.
- d) Municipal Court Report for October-Councilwoman Filippone-read report
- e) Public Affairs Report for October-Council President Zalom-Most of the activities for the month of November and December are on the front table. We still have our monthly calendars on our website. There is a Culinary Arts Trip to Atlantic County tomorrow and one to Asbury Park on December 1st. There will also be a trip to Smithville on November 18th. Our tree lighting is on December 4th and the Oyster Supper is on December 5th. Let's not forget our Birthday Party on December 21st. The trips to New York will be on December 9th and 12th. There will be a ski trip in January to Wyndham. Thank you to all who helped with the Halloween Hoedown, it was wonderful. She also asked that we do not forget to get your membership to the Beautification for \$15 per person. They help this town look so beautiful.
- f) Zoning Report for October-Councilwoman Filippone-read report
- g) Construction Report for October-Councilwoman Filippone-read report
- h) Tax Account Status Report for October-Tax Collector
- i) Revenue Transaction Report for September-Chief Financial Officer
- j) Detailed Budget Report for September-Chief Financial Officer

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

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

RESOLUTIONS – ON CONSENT:

Mayor LaCicero requested that Resolution 2009-253 be pulled off the consent agenda until the Council votes on the Introduction of the Ordinance.

2009-246 reappointing Christopher F. Parlow to the position of Municipal Clerk for the Borough of Lavallette

2009-247 declaring the Borough of Lavallette a military friendly town and encourages the Lavallette businesses to offer discounts to those who serve in the military- Councilman Horan stated that he was very happy about this. He stated he has spoken to the LBA and all they wanted was a resolution from the town in order to participate with the program.

2009-248 appointing Adam LaCicero to the position of Patrol Officer for the Lavallette Police Department-Councilwoman Filippone stated that this employee currently holds a position at Public Works and was number one on the police list so he will be going to

the academy in December. Once he is completes his training and graduates he will begin his position as Police Officer and there will be an opening in the Public Works Department that they can fill.

- 2009-249 authorizing leave of absence without pay for Adam LaCicero for the period commencing December 16, 2009 and terminating May 20, 2010
- 2009-250 authorizing the Treasurer to refund the credit balance on taxes in the amount of \$2,897.30 for Block 9 Lot 4 due to an overpayment
- 2009-251 authorizing transfers between budget appropriations accounts
- 2009-252 authorizing the Mayor to execute an agreement between the Borough of Lavallette and the Lavallette Volunteer First Aid Squad, Inc.
- 2009-254 rejecting bids for a 2010 or newer bucket truck and authorizing re-advertisement and re-bidding of the same-Mr. Parlow stated that the low bidder left out a document and there were some discrepancies with the other bidder so the decision was made to reject the two bids and go out to bid again.
- 2009-254A authorizing Class II training at the Ocean County Police Academy for James Monolio at an hourly rate of \$7.25 commencing December 16, 2009

Mayor LaCicero opened the floor for the public to comment on the Consent Agenda and the bills list.

Clem Boyers, 20 Kerr Avenue questioned Resolution 2009-252 in reference to the First Aid Agreement.

Mr. Parlow stated that this was an annual agreement allowing the Borough to make its appropriation of \$28,000 to the First Aid.

There were no other comments on the Consent Agenda or the Bills List. Mayor LaCicero closed the floor and asked for a vote on the Consent Agenda.

A Motion was made by Council President Zalom to approve the Consent Agenda. The Motion was seconded by Councilwoman Filippone. Vote: Council Members Zalom, Lamb, Stogdill, Horan and Filippone voted Yes. The Motion passed.

RESOLUTIONS-OFF CONSENT:

- 2009-253 appointing an Annexation Committee pursuant to N.J.S.A. 40A:7-18

Mayor LaCicero opened the floor to the public for any comments or discussion on Resolution 2009-253. No one wished to comment on the Resolution. Mayor LaCicero closed the floor and asked Council for a vote.

A Motion was made by Councilman Horan to approve Resolution 2009-253. The Motion was seconded by Councilman Stogdill. Vote: Council Members Zalom, Lamb, Stogdill, Horan and Filippone voted Yes. The Motion passed.

APPROVAL OF VOUCHERS:

2009-255 Bills List in the amount of \$3,314,769.58

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

ORDINANCES ON FOR INTRODUCTION/FIRST READING

ORDINANCE NO. 2009-16 (1069) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, ANNEXING TO THE BOROUGH CERTAIN PROPERTIES LOCATED IN THE TOWNSHIP OF TOMS RIVER PURSUANT TO N.J.S.A. 40A:7-13

Mayor LaCicero stated that Toms River Township filed a second motion for appeal.

Mr. George stated that he has reviewed some of the amendments from the WPI annexation from years ago. The Supreme Court turned down Toms River Township's appeal which means that Bay Beach Way homeowners will become part of Lavallette Borough as of January 1st. Mr. George stated that there are only two meetings left after tonight before the end of the year so we should introduce this ordinance tonight and adopt on December 7th.

A Motion was made by Councilman Horan to introduce Ordinance No. 2009-16 (1069). The Motion was seconded by Councilwoman Filippone. Vote: Council Members Zalom, Lamb, Stogdill, Horan and Filippone voted Yes. The Motion passed.

Mayor LaCicero stated that Public Hearing and Final Adoption is scheduled for December 7, 2009.

ORDINANCES ON FOR FINAL ADOPTION/SECOND READING

ORDINANCE NO. 2009-15 (1068) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING, REVISING AND SUPPLEMENTING CHAPTER 55 OF THE BOROUGH CODE ENTITLED "SOLID WASTE".

Mr. Parlow stated that there were a number of changes that had become outdated needed to be revamped with this Ordinance.

A Motion was made by Councilman Stogdill to adopt Ordinance No. 2009-15 (1068). The Motion was seconded by Councilwoman Filippone. Vote: Council Members Zalom, Lamb, Stogdill, Horan and Filippone voted Yes. The Motion passed.

COMMUNICATIONS:

Legal:

- a) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq./Bond & Kerr Avenue Road Improvements Bids/Received October 5, 2009
- b) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq./Borough of Lavallette v. Leonard Churchill & John Forman/Received October 6, 2009
- c) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq./Fernandez v. Willingboro Township/Received October 20, 2009
- d) Eric M. Bernstein & Assoc., LLC/Philip G. George, Esq./Fernandez v. Willingboro Township/Received October 23, 2009
- e) Eric M. Bernstein & Assoc./Deborah Bracaglia, Esq./Leave of Absence Without Pay for Public Works Employee to Attend Police Academy/Received October 28, 2009
- f) Eric M. Bernstein & Assoc./Philip G. George, Esq./Enforcement of Construction Permit Time Requirements/Request for Advice on Enforcement Ordinance Enactment/Received November 5, 2009-Councilwoman Filippone stated that this was in reference to her request to see if we could still tax a portion of a house that was partially constructed and has not completed the work. According to Mr. George and Mr. Pezarras the Tax Assessor this cannot be done.
- g) Eric M. Bernstein & Assoc./Philip G. George, Esq./Bid Submissions for "Bucket" Truck/Received November 6, 2009

Engineering:

- a) O'Donnell, Stanton & Assoc./Michael O'Donnell/Bond & Kerr Avenues Road Improvements/NJDOT Application/Received October 7, 2009
- b) O'Donnell, Stanton & Assoc./Michael O'Donnell/ Bond & Kerr Avenue Road Improvements/Received October 28, 2009
- c) O'Donnell, Stanton & Assoc./Michael O'Donnell/Tennis Court Restoration/Received October 30, 2009-Councilman Lamb questioned the graffiti on the Tennis Courts. We do not want this to keep happening so maybe we should see if the Police Department can patrol a little more over there at night or maybe we should keep the gates locked at night.
- d) O'Donnell, Stanton & Assoc./Michael O'Donnell/Grand Central Avenue/Sidewalk Beautification Project/Received November 2, 2009

New Jersey League of Municipalities:

- a) Federal Transportation Funding Update/Received October 2, 2009
- b) Experts Assess Economic Crisis and Prospects for Recovery/Received October 5, 2009
- c) H1N1 Update-Initial Shipments of Vaccine Arrive/State H1N1 Hotline Opens/Received October 6, 2009
- d) American Recovery and Reinvestment Act (ARRA)/Received October 7, 2009
- e) S-1303/A-3062 "Inherently Beneficial Uses"/Received October 7, 2009
- f) Please Support the Raise Me Up Campaign/Received October 9, 2009
- g) OPRA Suit Information Requested/Received October 9, 2009
- h) Important Conference Session Using the "New Media"/Received October 12, 2009

- i) ARRA Reporting Update/Received October 14, 2009
- j) Mandates Relief/Received October 15, 2009
- k) Bills Signed by Governor/Received October 20, 2009
- l) EECBG Stimulus Funding Opportunity/Received October 21, 2009
- m) Bills Signed by Governor/Received October 20, 2009
- n) Update on Furloughs/Received October 23, 2009
- o) Important Conference Session of Hope for our State's Future/Received October 26, 2009
- p) H1N1 Update/Received October 28, 2009
- q) Federal Trade Commission (FTC) Delays Red Flag Rule (again)/Received November 3, 2009

General With No Action:

- a) State of New Jersey/Department of Environmental Protection/Notice of Public Hearing/Received October 5, 2009
- b) Peter Healy/110 Bond Avenue/letter expressing gratitude in taking extra steps in rectifying a possible catastrophe at my home to Dispatcher Joe Lord, Ptl. Jerry Capron and DPW/Received October 5, 2009-Mr. Parlow stated that copies of this letter will go in their personnel files
- c) Lisa Taylor/119 Washington Avenue/letter expressing pleasure with the Geese Police at Chandler Field/Received October 8, 2009
- d) Birdsall Services Group/Environmental Alert/September is Mold Awareness Month/Received September is Mold Awareness Month/Received October 9, 2009
- e) Ocean County Utilities Authority/Keith B. Marcoon, Planning/Metering Engineer/2009 Metered Flow Data/Received October 13, 2009
- f) State of New Jersey/Department of Transportation/Steven Dilts, Commissioner/letter informing us that we were selected to receive funding from NJDOT's Fiscal Year 2010 Municipal Aid Program for New Brunswick Avenue Road Improvements in the amount of \$150,000/Received October 15, 2009
- g) Ocean County/Department of Solid Waste Management/James F. Lacey, Freeholder/Ocean County Recycling Revenue Sharing Program check in the amount of \$1,005.30/Received October 15, 2009-Council President Zalom thanked everyone that is part of this Program.
- h) Cablevision/Adam E. Falk, Vice President/change in iO Entertainment cable package for certain commercial customers/Received October 19, 2009
- i) Michele Donato/Parking Committee/Two Hour Parking Status/Mr. Parlow's answer back to Ms. Donato/Received October 21, 2009-Mr. Parlow has already responded to Ms. Donato and Mr. Parlow will also send another letter to the NJDOT asking for an update on our previous requests.
- j) Cablevision/Adam E. Falk, Vice President/Launch of Estrella TV/Received October 22, 2009
- k) Sokol, Behot & Fiorenzo/Neil Yoskin/Joseph & Mary Chyb v. DEP/Block 12 Lot 4/Received October 28, 2009
- l) NJ Transit/Deborah Rojas, Manager/no longer providing printed schedules to municipalities/Received October 28, 2009
- m) Brian Long/Long Builders, LLC/thank you to Hans Warnebold for all his assistance/Received October 29, 2009-Mr. Parlow stated that this letter will go into his personnel file.
- n) MONOC/Have You Considered Shared Services for Emergency Medical Dispatch and/or

- 911 Call Screening/Received October 30, 2009
- o) Michele R. Donato, Esq./Checklist Ordinance/Received November 4, 2009
 - p) Ocean County Planning Board/Erika Stahl, Assist. Planner/2010 Ocean County CDBG Program Schedule/Received November 4, 2009
 - q) State of New Jersey/Department of Transportation/No Funding for Municipal Aid for Improvements to Westmont Avenue for 2010/Received November 4, 2009
 - r) Ocean County Engineer/Frank Scarantino, Engineer/Signing and Pavement Markings/County Roads/Received November 5, 2009
 - s) Roger Martin/thank you letter to Mayor and Council for the Proclamation/Received November 5, 2009-Mayor LaCicero stated that this was thanking us for his proclamation.
 - t) New Jersey American Water/News Drop/An Update Concerning Issues in the Water Industry/Received November 5, 2009
 - u) Cablevision/Tricia Kaminski, Assistant/Tariffs that might Reflect Price adjustments to Unregulated Areas/Received November 5, 2009

General With Action:

- a) Jersey Shore Relay/Bob Both, Relay Event Coordinator/requesting permission to run through our town on the boardwalk on April 17, 2010 from 8 am to 10 am/Received October 14, 2009-Mayor LaCicero stated that this has become an annual request and if no conflicts should be okay.
- b) Barnegat Bay National Estuary Program/Minigrant Program/Received October 15, 2009-Council President Zalom stated that a copy of this should be sent to the school.
- c) Board of Chosen Freeholders/Freeholder Gerry Little/inviting the Mayor to attend the unveiling of a monument honoring those fallen soldiers on November 10, 2009 at 1pm/Received October 15, 2009-Mayor LaCicero stated that he will be attending this unveiling.
- d) Catholic Charities/Jean Metz, Service Director/requesting a total of \$420.00 be included in our 2010 budget projections for their services to our Borough/Received October 15, 2009-Mayor LaCicero stated that this is an annual request and will be put in the budget for 2010.
- e) Philip G. Mylod, Esq/100 Guyer Avenue/Block 32.01 Lot 5/requesting to be heard on the public agenda/Received October 29, 2009-Mayor LaCicero stated that this is not a decision for Council to decide but is a code enforcement problem. Mr. Remy our Zoning Officer has already sent off a letter to the Post Office. Mr. George stated that this is clearly a civil matter between homeowners and not for us to be involved in. Mayor LaCicero stated that if the Mr. Mylod would like to come to the next meeting he can speak in the beginning before the agenda starts.
- f) New Jersey Alliance for Action Inc/Clifford J. Heath, Senior Vice President/requesting the attendance of Mayor and Council to the Ocean County Alliance for Action Chapter Meeting to be held on November 20 at 8:15 am/Received November 4, 2009-Mr. Parlow stated that he will make sure he attends this meeting

UNFINISHED BUSINESS:

Mayor LaCicero stated that the L & R Marine building has finally been demolished. The homeowner of those four properties has presented us with a couple different options of plans for

what he would like to propose with vacating that portion of the street. Mr. Parlow has the plans and he would like to see Council take a look at them and at some point we should have a discussion about it.

Mr. Parlow stated that he has discussed this with Mr. George and has a meeting with our Tax Assessor Thursday night to discuss with him.

Council President Zalom stated that she will be attending the CDBG meeting on December 8th even though we will not be receiving any monies for 2010 because we received for 2009.

Mr. Parlow stated that he would like authorization from Council to go out to bid for RFP's for Professional Services. This year the Engineer will be included in the RFP's also.

A Motion was made by Councilman Horan to authorize the Municipal Clerk to go out to bid for RFP's for Professional Services. The Motion was Seconded by Councilwoman Filippone. Vote: Council Members Zalom, Lamb, Stogdill, Horan and Filippone voted Yes. The Motion passed.

Councilwoman Filippone requested that the Pay to Play certificate be highlighted in their packets.

Mr. Parlow stated that he has included an Affidavit for them to fill in the blanks and sign and seal so there are no flaws with there specs.

NEW BUSINESS:

Proposed Zoning Ordinance Amendment for B-1 & B-2 Zone Use Regulations-Planning Board

Councilwoman Filippone stated that there is a letter from Mr. Howard along with the Proposed Ordinance pertaining to what it entails. Essentially, we are talking about two permitted uses on a 50 x 100 lot with a minimum of 500 sq. ft. per tenant (mixed uses). The intent is to clarify the use ordinance and to help stimulate some business development. She would like Council to take a look at it and have it on the agenda before the end of the year.

Mayor LaCicero stated that this clarification of the ordinance should prevent any further litigation.

COMMENTS FROM THE PUBLIC:

Joe Palinsky, 122 Washington Avenue stated that there are some Department of Energy grants that maybe we could find useful for all of our street lighting in town for LED lights.

Councilman Horan stated that he will look into that.

Mr. Palinsky stated that the assessed values for Bay Beach Way are fairly low.

Mr. George stated that those assessments are from 2005 not the current assessments.

Mr. Parlow stated that the total went from roughly \$12,534,000 to \$43,000,000.

Mayor LaCicero stated that our Tax Assessor will be looking into those aspects.

Susan Koch, 119 Camden Avenue stated that the State laws usually say that if a person feeds a stray animal than that animal becomes yours and you are essentially responsible for that animal.

Mr. George stated that you would have to do an amendment to our present animal control ordinance. He will draft one for your review.

Peter Sturm, Virginia Avenue stated this summer she noticed a number of vehicles going the wrong way on the highways. Are there signs on our highways letting them know it is one way and wrong way.

Mr. Parlow stated that there are arrows on the street saying one way and if you are going the wrong way it says wrong way.

Councilwoman Filippone stated that we do not have the signs that say no right turn or no left turn but maybe they would be more effective.

COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:

Council President wished everyone a Happy Thanksgiving.

Mayor LaCicero stated that he was told that the State Police are on our beaches enforcing the Fish and Game Laws.

A Motion was made was made by Council President Zalom to adjourn the Caucus/Regular Meeting to go into Executive Session. The Motion was seconded by Councilman Stogdill. All of Council was in Favor. The Meeting was adjourned at 8:00 pm on to go into Executive Session.

Mr. George stated that in the Executive Session we will be discussing an Interlocal Agreement with Seaside Park for UCC Services with no action needed to be taken.

A Motion was made by Council President Zalom to reconvene the Caucus/Regular Meeting. The Motion was seconded by Councilman Horan. The Caucus/Regular Meeting was reconvened at 8:15 pm.

Mr. George stated that during the executive session there was only one topic discussed which is the pending negotiations with the Borough of Seaside Park with regard to an Interlocal Service Agreement with UCC Services. There was no action taken.

ADJOURNMENT:

A Motion was made by Councilman Lamb to adjourn the Caucus/Regular Meeting. The Motion was seconded by Councilman Horan. All of Council was in Favor. The Motion passed. The Caucus/Regular Meeting was adjourned at 8:15 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 the Mayor and Council on the 9th day of **November 2009**

Christopher F. Parlow
Municipal Clerk