

BOROUGH OF LAVALLETTE (Minutes)
CAUCUS/REGULAR MEETING OF THE MAYOR AND COUNCIL
LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS
Monday, June 1, 2009 – 7:00 pm

CALL TO ORDER: Council President Anita Zalom, presiding

ROLL CALL: Council Members Wenzel, Zalom, Stogdill, Horan and Filippone were present.
Mayor LaCicero and Councilman Lamb were absent.

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

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: Council President Zalom asked that we keep in our thoughts those members of the National Guard that returned home this past week and those would continue to serve abroad.

PLEDGE OF ALLEGIANCE: Councilwoman Filippone led the Salute to the Flag.

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

Council President Zalom opened comments from the public.

There was no public comment.

Council President Zalom closed comments from the public.

APPROVAL OF CLERK’S MINUTES

Regular Minutes of May 18, 2009
Executive Session Minutes of May 18, 2009

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

REPORTS:

- a) Planning Board Report for May-Councilwoman Filippone reported that the Board met last Wednesday and heard one case. The case involved a waiver from the flood ordinance for an expansion of the property and was granted. The case also involved the expansion of the front set back and that request was denied. The Planning Board is also discussing the use ordinance and a final draft should be completed shortly.
- b) Zoning Report for May-Councilwoman Filippone read the report and also reported that the Code Officer is also working additional flex hours and have found a number of property owners performing work without permits.
- c) Construction Office Report for May-Councilwoman Filippone read from report.
- d) Police Report – Councilwoman Filippone stated that there was no written police report prepared at this time but she wanted to make two comments. She thanked the Police Department and the Department of Public Works for all the work performed regarding the Memorial Day service. She also requested approval from Council for the authorization to have the Clerk asked the Department of Personnel for the listing of eligible candidates for the position of police officer. She report that there is no immediate need, but there may be a need in the near future.

A Motion was made by Councilwoman Wenzel to authorize the Clerk to call for a listing of eligible candidates for the position of police officer. The Motion was seconded by Councilman Horan. Vote: Council Members Wenzel, Zalom, Stogdill, Horan and Filippone voted Yes. The Motion passed.

- e) Animal Control Report for May-Councilwoman Filippone read report. Councilwoman Wenzel stated that she has received a number of calls regarding a stray cat problem on Jersey City Avenue. The Animal Control Officer has not been responsive and the problem is getting bad. Councilwoman Filippone and Mr. Parlow stated that they will talk to the Animal Control Officer.
- f) Public Affairs Report-Council President Zalom thanked the Department of Public Works and all involved in the Memorial Day service. She stated she was happy that the flag was used. She said that the Dog Walk was very successful and an 8th grade boy won the look-alike contest. The Dog Walk has been happening for over 10 years. The Battle of the Bands is scheduled for June 13th at the library. The PTA held their gift auction last weekend and it was very successful. She thanked Mr. Parlow for posting the letter regarding the parking legislation on the Borough’s website. The town-wide garage sale is scheduled for next weekend. Permits are \$10 and the bulk garbage pickup is the following week.
- g) Beach Badge Sales Report for May – Mr. Parlow read the report.
- f) Tax Account Status Report for May-Tax Collector
- g) Revenue Transaction Report for April-Chief Financial Officer

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

RESOLUTIONS – ON CONSENT:

2009-154 appointing Anna Leigh Eilbacher as a temporary seasonal Public Works office helper at an hourly rate of \$10.00

- 2009-155 authorizing the electric collector to remove one electric account due to a two family home being reduced to a single family home

- 2009-156 authorizing the electric collector to adjust the electric bill from \$13,526.91 to \$14.75 on Acct# 1150-15, 704 Grand Central Avenue

- 2009-157 authorizing the Chief Financial Officer to make weekly payments to PJM Interconnection for Energy Purchases. Mr. Parlow stated that as part of the managed purchasing contract the Borough is now required to make weekly payments to PJM Interconnection.

- 2009-158 authorizing Jeffrey Propert to create a Marriage Certificate for the Borough of Lavallette at a one time fee of \$200.00

- 2009-159 authorizing the renewal of membership in the Ocean Joint Insurance Fund for the year 2010

- 2009-160 consenting to the operation of a autocab service in accordance with Chapter 60 of the Borough Code entitled "Taxicab"

- 2009-161 authorizing Class I training at an hourly rate of \$7.15 for Mark and Michael Maestrey

- 2009-162 authorizing the purchase of Ocean County surplus vehicles for a \$1.00 each

A Motion was made by Councilwoman Wenzel to approve the resolutions on consent. The Motion was seconded by Council President Zalom. Council President Zalom opened public on the consent agenda and the bills list. There was no public comment. Vote: Council Members Zalom, Stogdill, Horan and Filippone voted Yes. Councilwoman Wenzel abstained on Resolution 2009-158 and voted Yes on all others. The Motion passed.

RESOLUTIONS-OFF CONSENT:

There was no resolutions off-consent.

APPROVAL OF VOUCHERS:

- 2009-163 Bills List in the amount of \$397,011.37

A Motion was made by Councilwoman Wenzel to approve the bills list. The Motion was seconded by Councilman Filippone. Vote: Council Members Wenzel, Stogdill, Horan and Filippone voted Yes. Council President Zalom abstained on bills 09-04004 and 09-04003 and Yes on the rest. The Motion passed.

ORDINANCES ON FOR FINAL ADOPTION/SECOND READING:

Ordinance No 2009-09 (1062) 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” TO AMEND SECTION 24-16B, ENTITLED “GENERAL REQUIREMENTS SO AS TO REDUCE THE APPLICATION FEE”

A Motion was made by Councilman Horan to adopt Ordinance No. 2009-09 (1062). The Motion was seconded by Councilwoman Filippone. Mr. Parlow explained that the only change being made to the ordinance is the application fee. The fee is changing from \$4,500 to \$1,500. Council President Zalom opened the public hearing. There was not public comment. Council President Zalom closed the public hearing and called for a vote. Council Members Wenzel, Zalom, Stogdill, Horan and Filippone voted Yes. The Ordinance passed.

COMMUNICATIONS:

Legal:

- a) Graham Curtin/A Professional Association/Peter T. Donnelly/Voters & Taxpayers Association v. Borough of Lavallette/Kerwin Communications, Inc./Received May 7, 2009
- b) Eric M. Bernstein & Assoc., LLC/Philip George, Esq./Voters & Taxpayers of Lavallette v. Borough of Lavallette/Received May 8, 2009
- c) Eric M. Bernstein & Assoc., LLC/Philip George, Esq./Signage on Beaches and Public Structures/Received May 11, 2009
- d) Eric M. Bernstein & Assoc., LLC/Philip George, Esq./Lease of Water Tower Space/Received May 12, 2009
- e) Eric M. Bernstein & Assoc., LLC/Philip George, Esq./James Cavanaugh v. Borough of Lavallette/Received May 14, 2009
- f) Eric M. Bernstein & Assoc., LLC/Philip George, Esq./New Decision Regarding Form Requirements under the Open Public Records Act/Received May 26, 2009

Engineering:

- a) O'Donnell, Stanton & Assoc./Michael O'Donnell/Tennis Court Restoration//Received May 11, 2009. Councilwoman Filippone questioned the cracks that have formed on the tennis court. Mr. Parlow explained that there were two different techniques used to repair the courts. In the south court there was only crack sealing and an overlay. The cracks that have reformed will be resealed and hopefully will last for a number of years.
- b) O'Donnell, Stanton & Assoc./Michael O'Donnell/NJDOT Transportation Enhancement Grant Application/Grand Central Avenue Beautification Project/Received May 11, 2009. Council President Zalom thanked the engineer for obtaining the various letters of support.
- c) O'Donnell, Stanton & Assoc./John R. Berens, PE/Sewage Flows/Received May 11, 2009. Councilwoman Wenzel asked what the plan was the sewer flow project. Mr. Parlow stated that he would like to see a meeting arranged between the engineer, the superintendent, and council members to discuss the project. There maybe a way to cut some of the costs.

New Jersey League of Municipalities:

- a) Mayors Forum on the Future of New Jersey's Pharmaceutical and Medical Industry/Received April 23, 2009
- b) Major Briefing on Federal Stimulus Opportunities/Received May 1, 2009
- c) New Jersey Workplace Blood Drive Coalition Survey Request/Received May 1, 2009
- d) Proposed Diversion of EMT Training Funds/Received May 1, 2009
- e) COAH Briefings/Received May 1, 2009
- f) Legislative Alert, S-2577/A-3772 – Governor Issues Conditional Veto of Age-Restricted Conversion Legislation/Received May 4, 2009
- g) New York Governor Makes Mandates Relief a Major Priority/Received May 4, 2009
- h) Conference on Human Trafficking in New Jersey/Received May 4, 2009
- i) Stimulus Funding News Neighborhood Stabilization Program Grants Available from US HUD/Received May 5, 2009
- j) Governor Corzine Announces List of Environmental Projects Eligible for American Recovery and Reinvestment Act Funding/Received May 5, 2009
- k) Civil Service Emergency Rule/Received May 6, 2009
- l) NJN Open House: Getting Your Message Out in New Jersey's "New" Media Environment/Received May 6, 2009
- m) Economic Recovery Update: Community Development Block Grant/Received May 6, 2009
- n) NJ Supreme Court Affirms Invalidation of Sex Offender Residency Ordinances/Received May 7, 2009
- o) Important Briefing on the American Recovery and Reinvestment Act and the Omnibus Appropriations Act of 2009/Received May 7, 2009
- p) League Co-Sponsors Mayors Clean Communities Council Conference/Received May 11, 2009
- q) Important New Information from the Division of Local Government Services/Received may 11, 2009
- r) Recent Arbitration Award/Received May 12, 2009/Received May 12, 2009
- s) NLC Briefs Help Local Officials Make the Most of the Recovery Act/Received May 12, 2009
- t) Registration and Regulation of Convicted Sex Offenders/Received May 12, 2009
- u) US Department of Energy Webcasts on Stimulus Funding Opportunities/Received May 13, 2009
- v) NJ Supreme Court Rules That Tree Replacement Ordinance Valid/Received May 13, 2009
- w) Healing Homes: A Road to Recovery for New Jersey Children/Received May 13, 2009
- x) A-3062-Inherently Beneficial Uses/Received May 14, 2009
- y) HUD Stimulus Funding for Public Housing Authorities/Received May 14, 2009
- z) Binding Arbitration Award Update/May 15, 2009
- aa) A-1645-Qualified Purchasing Agent/Received May 18, 2009
- bb) Attention Town Clerk/Received May 18, 2009
- cc) Proposed Amendments to Vegetation Management Rules/Received May 18, 2009
- dd) Meeting on Federal Recovery Act/Received May 18, 2009
- ee) League/Site Remediation Brownfield Outreach/Received May 18, 2009
- ff) First of a Series of Regional COAH Briefings/Received May 19, 2009
- gg) State Budget Update/Alert: Age Restricted Housing/Received May 19, 2009

- hh) Mayors Bencivengo and Persichilli To Lead League Drive for Mandates Relief/Received May 21, 2009
- ii) Three Issues/Proposed Readoption with Amendments to Cable Television Rules/S-2505-The Smart Housing Incentives Act/A-1645-Qualified Purchasing Agent/Received May 21, 2009
- jj) Tuesday, June 16, 2009 from Brownsfields to the Ballpark/Received May 22, 2009
- kk) Important New Information from the Division of Local Government Services/Received May 25, 2009

General With No Action:

- a) Ocean County Planning Board/Mark C. Villinger, Senior Planner/Ocean County Natural Lands Trust Fund/Received May 1, 2009
- b) Office of the Ocean County Engineer/Alan R. Rissmiller, Assist. County Engineer/Road Openings/Received May 4, 2009
- c) Ocean County Utilities Authority/ Richard Kunze, Director/OCUA Surcharge First Quarter 2009/Received May 8, 2009
- d) Kathy Bolger, 121 Washington Avenue/thanking the Borough for all the beautiful landscaping on Bay Blvd around the tennis courts and memorial benches/Received May 12, 2009
- e) Office of the Ocean County Engineer/Frank Scarantino, Engineer/Grand Central Avenue Sidewalk Beautification Project/Received May 12, 2009
- f) Cablevision/Adam E. Falk, Vice President/Launch of Boomerang Channel/Received May 12, 2009
- g) Ocean County Utilities Authority/Manolito Santos, Assist. Treasurer/2008 Auditor's Report/Received May 13, 2009
- h) New Jersey's MONOC/Financial Destruction of New Jersey's Paramedic System/Received May 15, 2009
- h) County of Ocean/Arthur P. Burns, Supt. of Recycling Operations/April 2009 Recycling & Compost Reports/Received May 18, 2009
- i) New Jersey Natural Gas/Steve Rybka, Manager/Local Government Energy Audit/Received May 18, 2009. Mr. Parlow reported that the energy audit has started and the inspector were in last week.
- j) Fred & Judy Heim/100 Bond Avenue/thanking the Chief and the Lavallette Police Dept. for all their help over the winter months/Received May 20, 2009
- k) Ocean County Department of Transportation Services/Public Hearing on a Proposed Transportation Program on June 18, 2009 at 1pm/Received May 20, 2009
- l) Lavallette Hardware/The Shoemakers/donating of the American Flags down Grand Central Avenue/Received May 20, 2009
- m) Michele Donato/Lavallette Parking Committee/Received May 21, 2009. Council President Zalom reported that nothing in the letter was discussed by the parking committee and she stated that she contacted Ms. Donato and asked her to resubmit her letter to report what the committee actually discussed.

General With Action:

- a) Coleman Brice/requesting permission to hold a Barnegat Bay Folk and Blues Festival on September 26, 2009 at the Lavallette Gazebo/Received May 5, 2009. Mr. Parlow recommended

that the Council reserve that date and request additional information regarding the days. Council agreed to secure the September 26, 2009 date.

- b) One Change/Project Porchlight/Charisse Tyus, Communications Coordinator/requesting permission to hold a Lavallette Bulb Distribution Event on Saturday August 8, 2009 in any area that you choose/Received May 12, 2009. Councilwoman Wenzel report that this is a non-profit organization named One Change. They are sponsoring a project called Porchlight which is funded through the State Board of Public Utilities. The group would like to come to Lavallette and distribute door-to-door CFL light bulbs. They would like to see a single day event. The date selected was August 8th. They are seeking local support to assist in the distribution. The distribution would take two hours with lunch thereafter. Councilwoman Filippone stated that Sunday August 9th would be a better day considering the change over that takes place on Saturdays. Councilwoman Wenzel stated that she will discuss this in more detail with One Change. Council President Zalom stated she would ask her Recreation / Alliance Committee if anyone in that committee would be interested in volunteering to assist with the program.
- c) Save Barnegat Bay/Kirk Tilton/Save Barnegat Bay 8K-2009/requesting the Lavallette Public Works to once again provide them with any necessary support for our race/Received May 12, 2009. Council agreed to provide support and all departments will be notified.
- d) Museum of NJ Maritime History/Deborah Whitcraft, Curator/President/inviting the Mayor to a tour and luncheon on June 4, 2009/Received May 11, 2009.
- e) E. Allen MacDuffie/Bus-1995 Ford E350 Lease Agreement/requesting we make arrangements for the bus to be transported from Coast Cities to Sansone Ford Lincoln Mercury/Received may 13, 2009. Council President Zalom reported that the bus has been transported to Sansone Ford.
- f) Downtown New Jersey/Beth Lippman, Executive Director/requesting the Borough of Lavallette become a member/Received May 14, 2009. Council did not see any benefit to joining the association.
- g) Lindsey Hunt/teacher at Lavallette Elementary School/students requesting a roller hockey rink down at the Bay/Received May 15, 2009
- h) Joan Brennan/118 Brooklyn Avenue/requesting the fence at Public Works on the Brooklyn Avenue side be replaced and some landscaping/Received May 20, 2009. Mr. Parlow reported that he hopes to have the cellular antenna venders repair that portion of fence after installation. He hopes to defer the decision on this until after the installations are completed. Council asked to have property owner notified.
- i) Lawrence Vecchio/2100 Grand Central Avenue/annual request to use our Council Chambers on July 4th at noon for their Association meeting/Received May 20, 2009
- j) Golden Elks Pop Warner Football/R. Brett Madden, Esq./requesting use of our ball field for their practice in August, September and October evenings/Received May 20, 2009. Council agreed not to grant permission due to field maintenance issues.
- k) State of New Jersey/Department of Environmental Protection/requesting the Mayor's attendance at their annual Mayor's Roundtable on June 16, 2009/Received May 21, 2009
- l) Union Church of Lavallette/Rev. Todd Condell, Senior Pastor/requesting to hold their annual worship services on the beach at Philadelphia Avenue from Memorial Day through October/Received May 22, 2009. Permission was granted.
- m) Lavallette Elementary School/Peter Morris/Schedule for Graduation and Awards Night/Received May 26, 2009. Council granted permission to the schedule provided.
- n) Save Barnegat Bay/William De Kamp Jr., Chairman/requesting some financial support from the Mayor and Council/Received May 26, 2009

UNFINISHED BUSINESS:

Councilwoman Wenzel will facilitate an informational meeting regarding the geese on the ballfield and gazebo grounds and the problems the Yacht Club is experiencing. The meeting is scheduled for June 12th at Borough Hall at 7:00 pm. Invited to attend is the Commodore of Yacht Club, Program Director for the Barnegat Bay National Estuary Program, Vice President of Conservation and Stewardship of the Audubon Society, Executive Director of Save Barnegat Bay, members of the Environmental Committee and Heritage Committee, residents, and representatives from the Sierra Club and Island Junior Baseball League.

Councilwoman Wenzel also reported that she would like to see the Parking Ordinance opened to address a parking issue on Guyer Avenue and a handicap parking space on Brooklyn Avenue.

Councilwoman Wenzel reported that the Garbage Truck was not delivered on time. There is a \$100 per diem late penalty for failure to deliver and would like a letter sent to the vender.

Councilwoman Wenzel stated that an Eagle Scout would like to prepare a video of the Bayfront and the Giant Claim deadline is June 5th.

Council President Zalom asked if the Council wanted to have tourism guide printed without the updates and only the Borough's website updated. The cost is 1,000 brochures for \$750 and 2,000 for \$852. There was no support to reprint the guide without performing all the updates

NEW BUSINESS:

COMMENTS FROM THE PUBLIC:

Clem Boyers, 20 Kerr Avenue – Mr. Boyers questioned who was to represent the Lavallette Yacht Club.

Councilwoman Wenzel responded that it is up to club to decide who will attend.

Mr. Boyers stated he was glad that the Council decided not to spend money on the tourism guide that was not updated.

Mr. Boyers questioned why certain letters of communication from the Borough Attorney were not included in the public packet.

Mr. George said that at times there are correspondence from their office that is not privileged and confidential and that will be enclosed, however, letters that are denominated as attorney / client privilege because of some pending issue is listed on the agenda as Borough correspondence for review but would not be included in the packet.

Mr. George reported that the firm has not prepared a letter but on Thursday afternoon at 4:00 pm there was a conference call with the Judge in the DEP case and told him we would not pay any

penalty. The Judge issued a schedule for discover and a trial date of September 29, 2009. This is not privilege but the letter has not been received. Letters such as this are listed and will become available at some point after the matters are resolved.

Bill Kinney – 23 Philadelphia Avenue – Mr. Kinney was concerned about the compact fluorescent bulbs that we are encouraging to use, but they impose a responsibility to take care of the bulbs in a special way. The bulbs contain a certain mercury called quick silver. When the Public Works Department start collecting them the bulbs can break under their own weight and the mercury could end up in the storm drains and into the Barnegat Bay. In the Bay the mercury is attacked by organism and becomes an organic form of mercury that will end up in the clams. This could have serious health risks. Public Works should understand the danger involved in the handling of these bulbs.

Councilwoman Filippone stated that the organization that is provided these bulbs should hand out an informational form as to how to handle and dispose of these bulbs properly. We should exercise a lot of diligence in handling these bulbs.

Mr. Kinney said that the compact fluorescent bulbs will be used but it is important to have a safe way to handle the bulbs.

COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:

Councilman Stogdill reported that the reports included in the packet are from the new system and should be easier to read.

Councilwoman Filippone thanked everyone for their thoughts regarding the death of her mother. She also thanked Public Works for their assistance at the Recycling Center.

Councilman Horan stated that he will be attending an Alternate Energy Awareness Colloquium on June 5, 2009 in Toms River.

Councilwoman Wenzel thanked Anita for the Memorial Day Program but she did not care for some of the political overtures made during the ceremony by different people.

EXECUTIVE SESSION:

Pending Litigation / Contract Negotiations – Beach Advertising Contract

A Motion was made by Councilman Horan to enter into Executive Session with anticipated action to be taken after the session. The Motion was seconded by Councilman Stogdill. Vote: Council Members Wenzel, Zalom, Stogdill, Horan and Filippone voted Yes. The Motion passed. Council entered in Executive Session at 8:26 pm.

A Motion was made by Councilman Stogdill to return to the Regular Meeting. The Motion was seconded by Councilwoman Filippone. Vote: Council Members Wenzel, Zalom, Stogdill, Horan and Filippone voted Yes. The Motion passed. Council returned to the Regular Meeting at 8:31 pm.

Mr. George stated that during the session we discussed the pending litigation and related claims in the matter of Voters and Taxpayers versus the Borough of Lavallette and Kerwin Communications. At the present time there is a resolution, number 2009-162A, before the Council authorizing the Borough of Lavallette to reimburse Kerwin Communications, Inc. the sum of ten thousand, three hundred fifty four dollars and forty six cents (\$10,354.46). This is the amount of damages resulting from the rescission of the Kerwin contract, which was for beach advertisement, which was the subject of the Voters and Taxpayer lawsuit, which is still pending. This matter finalizes the resolution of all matter involving Kerwin Communications in that contract, as well as, the threatened litigation which would have resulted from the rescission of the contract based upon the terms as negotiated between the Borough and Kerwin. Therefore, you have before a motion as described to allow payment in the sum as stated for your motion.

Resolution 2009-162A authorizing the Borough of Lavallette to reimburse Kerwin Communications, Inc. the sum of ten thousand, three hundred fifty four dollars and forty six cents (\$10,354.46).

A Motion was made by Councilwoman Wenzel to approve Resolution 2009-162A. The Motion was seconded by Councilwoman Filippone. Vote: Council Members Wenzel, Zalom, Stogdill, Horan and Filippone voted Yes. The Motion passed.

ADJOURNMENT:

A Motion was made by Councilwoman Wenzel to adjourn the meeting. The Motion was seconded by Councilman Stogdill. All were in favor of. The Motion passed. The meeting was adjourned at 8:33 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 held on the 1st day of **June 2009**

Christopher F. Parlow
Municipal Clerk