

BOROUGH OF LAVALLETTE (minutes)
REGULAR MEETING OF THE MAYOR AND COUNCIL
LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS
Monday, December 19, 2011-7:00 pm

CALL TO ORDER: Mayor Walter G. LaCicero, presiding

ROLL CALL: Council Members Borowski, Zalom, Filippone, Lamb, Horan 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 Meetings Act. Public Notice was given to the Asbury Park Press and was published in the Ocean Star on January 7, 2011. Notice was also posted on the municipal bulletin board and the municipal website.

MOMENT OF SILENCE: The Mayor asked for a moment of silence for Harry Christie who was a long time resident of Lavallette. He also asked for a moment of silence for all our troops overseas. While the Iraq War is over some of our troops are still over in Afghanistan. The total of our American troops that have died is 6,315.

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

MAYOR'S WELCOMING STATEMENT: Mayor LaCicero thanked everyone for coming to tonight's meeting. He stated that this will be the last Council Meeting of 2011.

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

Mayor LaCicero asked if anyone wished to comment on any items that were not on the agenda or if they could not stay for the remainder of the meeting they could do so now.

Ed & Donna Gustafson, 1004 Ocean Front thanked Mayor and Council for accepting the settlement and appealing the case. Ms. Donato has been trying to get a written settlement agreement but has not received it as of yet. In the meantime, we submitted the revised plans with the reduction of the eight bedrooms to six bedrooms. We were under the impression the last time we were here that Council was in agreement with the reduction of the bedrooms. However, we were advised by the Planning Board Attorney that reducing the eight bedrooms down to six was a nonconforming use so it will have to be approved again by Mayor and Council. We seem to be at a catch twenty two but are trying to move forward and have this completed for the summer of 2012. We would like some advisement as to what Mayor and Council's next move is.

Mayor LaCicero stated that they were faxed the proposed settlement a couple of days ago and he has not reviewed it fully as of yet.

Mr. George stated that as of Thursday the Borough Engineer was reviewing the revised plans. We wanted him to make sure that the new plans were still up to code. As of this morning he has approved those plans. He has a call in to Mr. Brady and he is hoping to have the agreement to Ms. Donato by tomorrow some time.

Mayor LaCicero stated that he was sorry for the delay but sometimes there are so many people that need to look at these plans and they are not all here at the same time.

Susan Kotch, 119 Camden Avenue stated that she is part of the Goose Patrol Committee and stated that the dogs are doing a fantastic job keeping the ball field clean from geese but she has received some complaints about the area by the gazebo. Obviously, people aren't interested in taking their dogs over there because you can not unleash them and let them run but that area over there is a mess with droppings. We were wondering if maybe some type of temporary fencing could be put up so people can take their dogs over there.

Mayor LaCicero stated that might not be a bad idea. He asked Mr. Parlow if maybe he could check into that with PW and see if that could be done.

APPROVAL OF CLERK'S MINUTES:

- Caucus/Regular Meeting of December 5, 2011
- Bid Opening Minutes for Borough Attorney on December 8, 2011
- Bid Opening Minutes for Borough Auditor on December 8, 2011
- Bid Opening Minutes for Municipal Prosecutor on December 8, 2011

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

RESOLUTIONS-ON CONSENT:

- 2011-270 appointing William Hannon as a part time telecommunicator trainee at an hourly rate of \$9.00 effective December 20, 2011

- 2011-271 authorizing the cancellation of unexpended funds in the 2011 Current Fund so that they may be credited to the surplus for 2012-Mr. Parlow stated that to stay in compliance with the governor's tool kit even though we have always done this we need to cancel present year unexpended funds so they can be brought over as surplus to the 2012 year. The amount that is being cancelled is \$195,000. Mayor LaCicero questioned what the comparison was from 2010. Mr. Parlow stated that the prior year was \$158,000.

- 2011-272 authorizing transfers between appropriation accounts in the amount of \$5,000 for

legal services-Mr. Parlow stated that there was unanticipated litigation this past year so our legal team has been busy. We needed to transfer monies in anticipation of the December billing.

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

RESOLUTIONS-OFF CONSENT

There were no resolutions off consent.

APPROVAL OF VOUCHERS:

2011-273 Bills List in the amount of \$338,975.03

A Motion was made by Councilwoman Filippone to approve the bills list. The Motion was seconded by Councilman Stogdill. Vote: Council Members Borowski, Zalom, Horan and Lamb voted Yes. Councilwoman Filippone abstained on PO#11-00953 and yes to all others. Councilman Stogdill abstained on PO#11-00943 and yes to all others. The Motion Passed.

ORDINANCES ON FOR SECOND READING/FINAL ADOPTION

2011-07 (1097) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 50 OF THE BOROUGH CODE, ENTITLED "SALES", AMENDING AND SUPPLEMENTING CHAPTER 37 OF THE BOROUGH CODE ENTITLED "LAND USE PROCEDURES", AMENDING AND SUPPLEMENTING CHAPTER 90 OF THE BOROUGH CODE ENTITLED "ZONING"

A Motion was made by Councilwoman Filippone to adopt Ordinance 2011-07 (1097). The Motion was seconded by Councilman Stogdill. Mayor LaCicero opened the public hearing and asked if anyone wished to comment on Ordinance 2011-07 (1097).

Mr. Parlow stated that there were some modifications to this ordinance by the Ordinance Committee regarding the display of merchandise. Primarily the footage from 3 to 5 feet and if a business needs more space or time they can apply to the Planning Board for a variance.

Marty Morales, 103 Grand Central Avenue stated that every year they send a letter requesting the dates for the sidewalk sales for all the businesses to participate is each business going to have to apply separately from now on?

Mr. George stated that the request for the sidewalk sales for all the businesses will remain the same. If a business has some specific requests or changes they will have to apply themselves and go before Planning Board for a variance. The variance fees were also cut in half for this specific application process.

Mayor LaCicero stated that the LBA can still apply for the sidewalk sales the way they have been doing it unless a business needs more space then they apply themselves.

Mr. Morales questioned if the LBA applies for the sidewalk sale dates can the businesses that are not part of LBA still be a part of the sales?

Mr. George stated that once approved any business can take part regardless if they are part of the LBA.

Mr. Morales questioned the exhibition part of the ordinance pertaining to the perishable items?

Mr. Parlow stated that there was add-ons to the exhibitions section with the exception of perishable items.

Mayor LaCicero stated that the perishable items are all included.

There were no additional comments from the public.

Mayor LaCicero closed the public hearing and asked Council for a vote on Ordinance 2011-07 (1097). Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

2011-08 (1098) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING CHAPTER 47 OF THE CODE OF THE BOROUGH OF LAVALLETTE ENTITLED "PEDDLING AND SOLICITING"

A Motion was made by Councilman Stogdill to adopt Ordinance 2011-08 (1098). The Motion was seconded by Councilwoman Filippone. The Mayor opened the public hearing and asked if anyone wished to comment on Ordinance 2011-08 (1098).

Mr. Parlow stated that we have five vendor licenses and we always have more vendors that apply for them. In the past, we have issue the permits via lottery and pick the five names out of a hat and the rest would be on a wait list. This ordinance, if approved, would change the process and the permits would be issued to the highest bidder via an onsite auction, with the starting bid being \$2000.

No one wished to comment on the Ordinance.

Mayor LaCicero closed the public hearing and asked Council for a vote on Ordinance 2011-08 (1098). Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

2011-09 (1099) ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 55, ENTITLED "SOLID WASTE" SO AS TO REVISE THE CONTAINER REQUIREMENTS FOR SOLID WASTE AND RECYCLING

A Motion was made by Councilman Horan to adopt Ordinance 2011-09 (1099). The Motion was seconded by Councilman Stogdill. Mayor LaCicero opened the floor to public hearing and asked if anyone wished to comment on Ordinance 2011-09 (1099).

Mr. Parlow stated that we had some modifications to the type of container for recycling and garbage. If the ordinance is approved the container size will change to 50 gallons, the container can have an attached lid, but not attached with a rope and still must be no heavier, when filled, than 40 pounds.

Councilman Lamb questioned if somehow we can show the public the style of containers allowed with some example pictures in the calendar if possible.

No one wished to comment on this Ordinance.

Mayor LaCicero closed the public hearing and asked Council for a vote on Ordinance 2011-09 (1099) Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

UNFINISHED BUSINESS:

Renumbering Request: 306B Grand Central Avenue-Mr. Parlow stated that there are provisions provided in this ordinance that allows property owners to request to renumber their address. This particular property has two houses on one lot but is a condominium association and not a subdivided lot. There is a breezeway that connects the two structures. One of the buildings fronts Grand Central and the one in question faces Bond Avenue. The problem is the master condo deed specifically states that the addresses are to be 306A and 306B Grand Central Avenue. He states that he believes we would be violating the master condo deed.

Council President Zalom questioned if the homeowners were to change the deed could we approve it then?

Mr. Parlow stated that he isn't sure if you can have two different addresses on one lot that is not subdivided.

Councilman Lamb stated that he believes that the condo deed can be changed to read whatever they want it to.

Mr. George stated that the problem incurs with the master condo deed designating the address in that way as well as an amendment showing the plot plan with the units being A & B. The association would have to amend the deed stipulating the two different addresses.

Mayor LaCicero stated that he would like Council to remain consistent with this and he believes they have already denied one already asking for the same change.

Mr. Borowski stated that he agreed with the Mayor with the consistency.

Mr. George stated that if we approve this we will be creating problems with the association.

Mayor LaCicero stated that he is not objecting to the process but we should notify the previous applicant also and let him reapply if we are going to approve this one.

Mr. Parlow stated that at a minimum they need to amend the condo deed before we can approve this.

Mr. George stated that Council could approve it contingent on the changing of the condo deed and show proof of the change.

Mr. George stated that the previous application, he believed the name was Towle had the same issue with being on one lot and not subdivided.

Councilman Lamb stated that he didn't think the two circumstances were related. The Towle property in question was not even attached and it was commercial.

Mr. Parlow stated that they could do the resolution with the condition of changing the condo deed.

Councilman Borowski stated that questioned if they amendment would have to be filed with the County and State.

Councilman Lamb stated that the initial condo deed should be filed with the state but the amendment only needs to be recorded at the county.

Mr. Parlow stated that the deed would have to show the two addresses of 306 Grand Central Avenue and 99 Bond Avenue in order for us to approve it.

Mr. George stated that the Master Deed change would have to be unanimous with the association.

Mr. George stated that they can approve a resolution contingent upon proof of the condo deed change specifically showing the amendment of the two addresses of 306 Grand Central Avenue and 99 Bond Avenue.

Councilman Lamb stated that Mr. George is still working on the Corporation for the Firehouse. He has been running into an issue and should hopefully have the situation rectified soon.

Mr. George stated that the State is telling him that there is no Fire Company #1 incorporated but that it is Fire Company #19 and they are still active. This is obviously a mistake in numbers We will need to file an amendment dissolving #19 and re-incorporating #1.

NEW BUSINESS:

Approval of Lavallette Democratic Club Meeting Dates for 2012

A Motion was made by Councilman Horan to approve the dates for 2012. The Motion was seconded by Council President Zalom. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

Discussion of Council Meeting Dates for 2012

Councilman Borowski stated that he had an issue with a couple of Council Meeting dates due to a conflict with work. Council discussed the dates and changed some dates to meet his needs. The dates will be approved at the Reorganization meeting.

Mr. Parlow requested Council's permission to move forward with an emergency notification system. He stated that some of the vendor prices are too much but he did find one vendor that had a flat fee of approximately \$2000. He stated that he will advise Council when he gets the proposals in.

Councilman Borowski stated that there are some benefits and problems with this system. We definitely need to establish some guidelines.

Mr. Parlow stated that he will be starting to prepare the 2012 calendar and is in need of an artist. If anyone knows of anyone tell them to give the Borough Hall a call.

COMMENTS FROM THE PUBLIC:

Mark Speaker, 111 Brown Avenue thanked Mayor and Council from the LBA for working hard to mend the fences with the display of merchandise and looks forward to working with Council in the future.

Clem Boyers, 20 Kerr Avenue thanked the Department of Public Works for the outstanding job and hard work they are doing up at the boardwalk with the fencing.

Mayor LaCicero questioned what they were doing on the boardwalk at Philadelphia Avenue.

Mr. Parlow stated that there was a soft spot by the flag pole so they are changing the boards and patching the pilings.

Councilwoman Filippone stated that she had spoke to Mr. Parlow about making some type of list of different models of the robo style cans that are allowed and maybe purchase some and sell

them to the public. If not, we should at least give them a list of style and model numbers so they know which kind.

Councilman Borowski stated that a couple of residents already purchased these robo style cans before we changed the ordinance. Maybe we could do trade-in with old for the new.

Councilwoman Filippone questioned what the Borough would do with the old.

Councilman Borowski stated that we had the old ones at Borough Hall and disposed of them.

Mayor LaCicero recommended that they wait and see how many residents are affected and then we can discuss options.

Clem Boyers, 20 Kerr Avenue stated that he liked the idea of guidance with the cans for the residents but he is not in favor of the trade-in. It would be nice to just go down to PW, pick out my garbage can and write a check and be done with it.

Marty Morales, 103 Grand Central Avenue stated that there are two businesses in town that sell garbage cans. Maybe you could let them know what type of can and they could make sure that they sell those particular models.

Mayor LaCicero stated that he liked that idea. He commented that all should shop local.

COMMENTS OF THE MAYOR AND COUNCIL MEMBERS:

Councilman Borowski stated that the First Aid sent out their appeals last week with a medical info card. Please make sure that this card is kept in an accessible spot where we can locate it in case of an emergency.

Councilwoman Filippone wished everyone a Merry Christmas and Happy New Year.

Council President Zalom stated that she will speak to the bus company that did the NYC bus trips about their tardiness. She stated that Wreaths Across America was wonderful. There was a little ceremony at our Memorial and the Sea Cadets came. Thank you to Councilwoman Filippone for the wreaths on the lamp posts in the business district. They look beautiful. She asked all not to forget about Lavallette's 124th Birthday Party on December 21st. She thanked the firemen for the kids Christmas party.

Mayor LaCicero stated that he received a proposal from the Engineer regarding the permit to dredge and his cost is \$25,000. He stated that he was shocked at the cost and it was for a five year permit. Mr. Parlow is going to discuss this along with the fine at his meeting with the DEP on Friday.

EXECUTIVE SESSION:

Mr. George stated that there is a need to enter into Executive Session to discuss Professional Service Contracts for 2012 for Borough Attorney, Borough Auditor and Borough Prosecutor. There may be some action taken.

A Motion was made by Councilman Horan to adjourn the Regular Meeting to enter into Executive Session. The Motion was seconded by Councilman Stogdill. Vote: All of Council was in favor. The Motion Passed.

The Regular Meeting was adjourned to go into executive session at 8:16 pm.

A Motion was made by Councilman Horan to reconvene the Regular Meeting. The Motion was seconded by Councilman Stogdill. Vote: All of Council was in favor.

The Regular Meeting reconvened at 8:39 pm.

Mr. George stated that there was an executive session discussing the Professional Contracts for 2012. All of Council was present. There was no action taken.

ADJOURNMENT:

A Motion was made by Councilman Filippone to adjourn the Regular Meeting. The Motion was seconded by Councilman Stogdill. Vote: All of Council was in favor.

The Regular Meeting was adjourned at 8:40 pm.

CERTIFICATE

I, Christopher F. Parlow, Municipal Clerk of the Borough of Lavallette, County of Ocean, State of New Jersey, does hereby attest these to be a true copy of the Minutes of the Regular Meeting held on the 19th of December 2011

Christopher F. Parlow
Municipal Clerk