

**BOROUGH OF LAVALLETTE (minutes)**  
**CAUCUS/REGULAR MEETING OF THE MAYOR AND COUNCIL**  
**LAVALLETTE MUNICIPAL BUILDING – COUNCIL CHAMBERS**  
**September 4, 2012-7:02 pm**

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

**ROLL CALL:** Council Members Borowski, Zalom, Lamb, Stogdill, Horan and Filippone

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 was published in the Ocean Star on January 6, 2012. Notice was also posted on our Municipal Website and the Municipal bulletin board.

**MOMENT OF SILENCE:** The Mayor asked for a moment of silence for long time resident Marion Woodring who passed away. He also asked for a moment of silence for the troops overseas.

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

**MAYOR'S WELCOMING STATEMENT:** The Mayor thanked everyone for coming out to tonight's meeting. He stated that this is the last casual wear meeting for the year.

**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.

Kathy Lucciola, 140 Newark Avenue stated that she attended the last meeting a wanted to ban smoking on the beach. She provided another signature page for the petition and an ordinance. She also provide some additional information from Long Branch who started out with just one section being smoke free on their beaches and realized that it was to hard to enforce and much easier to just ban it completely. She also stated that Belmar found out that when they banned the smoking on their beaches completely their revenue increased that first year. She also questioned what legal rights does she have if smoking is permitted.

Mr. George stated that there has been some litigation as to smoking inside buildings that has taken some effect and succeeded but there has yet to be litigation on banning smoking with outside establishments.

Mrs. Lucciola stated that the number one item found when cleaning the beaches is cigarette butts and cigars.

Mayor LaCicero stated that cigarette butts is number seven on Lavallette's list when cleaning the beaches. We have all been given this some thought lately and the question we all keep asking is if we ban it on our beaches where will the smokers go on the boardwalk or the street ends. Would you want to go up on the boardwalk and see a bunch of people smoking and have to walk through them or walk through them on the street end. This question is what we have been contemplating. He stated he does not believe it will receive a motion tonight but we will definitely keep discussing it. He stated that in the meantime, we will contact Seaside Park and get a copy of their Ordinance to see how they work it.

Matt Kelly, 102 New Jersey Avenue stated that when he goes surfing and skim boarding in the morning the fisherman throw their butts in the water and the smell is just awful. He stated he does not want to be swimming around a bunch of cigarette butts. He would just like to breathe in fresh air instead of the smell of smoke.

Mayor LaCicero thanked him for his comments and stated that it will definitely be looked at.

No one else wished to speak at this time.

Mayor LaCicero closed the floor to public comment.

## **APPROVAL OF CLERK'S MINUTES**

Regular Meeting of August 20, 2012

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.

## **REPORTS:**

- a) Municipal Court Report for July-Councilwoman Filippone-read report
- b) Animal Control Report for August-Councilwoman Filippone-read report
- c) Zoning Report for August-Councilwoman Filippone-read report
- d) Construction Report for August-Councilwoman Filippone-read report
- e) Public Affairs Report for August-Council President Zalom-the concert on Sunday was fantastic and this was the concert that the Ocean County Parks had paid for. The woman from the Parks and Recreation Department was present at the concert and she was so impressed by it she has agreed to pay for another concert next year. We had our bus take a lot of people to the play "Menopause" in Red Bank which was a great show. We will be planning another trip in the fall. The USS Lavallette Exhibit is opening on September 5<sup>th</sup> from 6pm to 9pm. She attended the WPICA meeting and we discussed the parade and the history of Lavallette and they were so intrigued they gave us another \$300 donation to be put towards the 125<sup>th</sup> Anniversary. The fliers are going out around town about the parade so watch for them
- f) Beach Badge Report for August & Labor Day Weekend-Councilman Lamb-read report
- g) Revenue Transaction Report for July-Chief Financial Officer
- h) Tax Account Report for August -Tax Collector

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

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

**RESOLUTIONS – ON CONSENT:**

- 2012-238 authorizing the electric collector to adjust an electric bill to \$329.53 for 3 Brooklyn Avenue due to an incorrect reading
- 2012-239 appointing Adam Williams as a seasonal boardwalk laborer for the Department of Public Works at an hourly rate of \$10.20 commencing September 16, 2012 and ending December 31, 2012
- 2012-240 appointing Vanessa Purpuri as a lifeguard at an hourly rate of \$10.00 for the end of the 2012 summer season-Mr. Parlow stated that the temporary employment form was signed two weeks ago but Council needs to ratified the employment
- 2012-241 approving two raffle applications from the Union Church of Lavallette to hold a 50/50 on premise raffle and a gift auction on September 28, 2012 at the Church Hall
- 2012-242 approving a bingo license to the Rosary Altar Society of St. Pio to hold bingo games on October 25, 2012 from 11:30 am to 3:00 pm at their Parish Hall
- 2012-243 approving two raffle licenses to the Catholic Daughters of the Americas to hold a 50/50 raffle and a gift raffle on October 20, 2012 from 5:30 pm to 9:30 pm at St. Pio of Pietrelcina
- 2012-244 supporting A-2681 and opposing A-2404/S-1651-Mr. Parlow stated that the bills are about sexual abuse and the statute of limitations from two years to seven years and opposing the public entity for public officials extension to forever which would mean that municipalities or counties would have to provide legal counsel for these officials even after they do not work for the municipality anymore.
- 2012-244A appointing Class II Officers for coverage at Heritage Day and the 125<sup>th</sup> Anniversary Parade Celebration commencing September 4, 2012 and ending September 30, 2012
- 2012-244B appointing Class I Officers for coverage at Heritage Day and the 125<sup>th</sup> Anniversary Parade Celebration commencing September 4, 2012 through September 30, 2012- Council President Zalom stated that she was happy to see that we will have extra police available to us for our parade. She also asked about the Public Works Department. Mr. Parlow stated that public works employees will be on hand the entire day.

A Motion was made by Councilwoman Filippone 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. No one wished to comment so Mayor LaCicero closed the floor to public comment and asked Council for a vote on the consent agenda. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes.

## **RESOLUTION - OFF CONSENT**

2012-245 approving a facilities use application to the Lavallette Marlins to hold their baseball games on Sundays in September, October and November starting at 9:30 am

Mayor LaCicero stated that the schedule for the field was free this day and stated that we will just need their certificate of insurance.

Councilman Stogdill stated that the insurance is on its way.

A Motion was made by Councilwoman Filippone to approve Resolution 2012-245. The Motion was seconded by Councilman Horan. The Mayor opened the floor to public comment and asked if anyone wished to comment on this resolution. No one wished to comment on this resolution so the Mayor closed the floor to the public and asked Council for a vote on Resolution 2012-245. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

2012-246 approving a special event/facilities use application to the Boy Scout Troop 22 to hold their annual Jesse Anderson Triathlon on September 30, 2012 from 7:00am to 11:00 am

Mayor LaCicero stated that this is the same day as the rain date for the Parade and Garvey Boat races so this might create a problem.

Councilwoman Filippone stated that she does not know if the timing for both events is going to conflict with the Jersey Outlaws setup time being 8 am and the Triathlon starting at 7:00 am.

Councilman Lamb stated that they are also doing a swim so it might conflict with the boats coming in at that time. He stated that he could give him a call right now and see if he could maybe change the time or the date.

Mayor LaCicero stated we can continue with the rest of the meeting and then after the Executive Session we can render a decision after we talk to Mr. Borrelli on the phone.

Mayor LaCicero opened the floor to the public and asked if anyone wished to comment on this Resolution.

Joe Palinsky, 122 Washington Avenue stated that he does not think they should be on the same day and the time of 7:00 am is too early for starting. We have a noise ordinance that says you can not start with noise until 8:00 am.

Mayor LaCicero stated that we will speak to Mr. Borrelli about possibly changing the start time to 8:00 am no matter what date. We will discuss more about this and render a decision after our executive session.

### **APPROVAL OF VOUCHERS:**

2012-247 Bills List in the amount of \$1,185,342.11

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

### **COMMUNICATIONS**

Legal:

- a) Eric M. Bernstein & Associates/Philip George, Esq/Thomas Loreda & Lori Gatfield-Loreda v. Borough of Lavallette/Received August 30, 2012

Engineering:

- a) O'Donnell, Stanton & Associates/Michael O'Donnell/Camden Avenue Road Improvements/Change Order No. 2/Final Quantities/Received August 10, 2012
- b) O'Donnell, Stanton & Associates/Michael O'Donnell/Camden Avenue Road Improvements/Pay Estimate No. 2/Received August 14, 2012
- c) O'Donnell, Stanton & Associates/Michael O'Donnell/Grand Central Avenue Beautification Project/Received August 15, 2012
- d) O'Donnell, Stanton & Associates/Michael O'Donnell/Westmont Avenue Road Improvements/Received August 20, 2012

New Jersey League of Municipalities:

- a) New Content on DLGS Web Site/Received August 6, 2012
- b) Affordable Housing Trust Funds/Received August 7, 2012
- c) League Opposes A-2405/S-1651, Removing the Statute of Limitations on Civil Actions for Sexual Abuse/Received August 10, 2012
- d) Updated Guidance on Affordable Housing Trust Fund Dollars/Received August 13, 2012
- e) Upcoming Sustainable Jersey Webinar and Workshop/Received August 16, 2012
- f) Bills Enacted by Governor/Accident Victims Privacy Protections (S-199/A-789)/Appointments of Unemployed Federal Firefighters to Local Fire Departments (S-965/A-2375/Received August 16, 2012
- g) Trial Court Decision in Gannett v. Raritan/Received August 16, 2012
- h) Hiring Our Heroes-Mega Job Fair/Reminder/Received August 21, 2012
- i) New Content on DLGS Web Site/Received August 21, 2012
- j) 2012 League Conference Resolutions/Received August 26, 2012

- k) Best Practices Checklist Issued/Received August 27, 2012
- l) Update on Affordable Housing Trust Funds/Received August 29, 2012
- m) League Supports A-2681 and Opposes A-2405/S-1651 Concerning the Statute of Limitations on Civil Actions for Sexual Abuse/Received August 29, 2012
- n) A-2586 & S-1534, Exempts Private Institutions of Higher Education from MLUL Requirements/Received August 29, 2012

General With No Action:

- a) Barnegat Bay Partnership/Jim Vasslides, Program Scientist/Lavallette Sea Nettle Barrier Project Update/Received August 8, 2012-Mr. Parlow stated that the change in the net size this year seems to have helped a great deal with catching more nettles and not so much fish and crabs.
- b) New Jersey Conference of Mayors/Mayor Gary Giberson, President/Please Join the NJCM/Received August 10, 2012
- c) State of New Jersey/Department of Transportation/Chris Christie, Governor/applications are now being for the New Jersey Department of Transportation's FY 2013 State Aid Programs/Received August 10, 2012-Mr. Parlow stated that if Council has any suggestions on what the next two streets should take priority they should let him know. Councilwoman Filippone stated that whatever is decided to please make sure that that portion of Lavallette Avenue that has been previously discussed be added to it. Mayor LaCicero stated that that portion of Lavallette Avenue was added on to Virginia Avenue which is the next one to be paved come spring time. Councilman Borowski questioned how the list was generated to decide which streets. Mr. Parlow stated that the Superintendent and himself went street by street and ranked each street. Councilman Borowski stated that maybe that list needs to be relooked at and updated. Mr. Parlow stated that he thinks so also. Council President Zalom stated that the streets with the most sumps pumps should be a priority also because some of these pumps produce so much water the green moldy stuff lasts forever.
- d) Ocean County Health Department/John Protonentis, Environmental Health Coordinator/2013 Solid Waste Control Program/Received August 15, 2012
- e) Robert D'Alonzo/2202 Grand Central Avenue/thank you letter for our quick response to a request of road repair/Received August 15, 2012
- f) Joan Carroll/Ocean Beach III/letter of complaint about one of our Police Officers/Received August 23, 2012-Mayor LaCicero stated that is being dealt with. Councilman Lamb questioned if such correspondence as this one should even be on the agenda or possibly maybe some information be redacted. Mr. George stated that all public letters referencing any employees or any activity regarding the day to day activities of the Borough is all public information and correspondence. Mr. Parlow stated that the bi-laws that Council approved has that any correspondence to Mayor and Council be included on the agenda. If Council does not want certain correspondence on their agenda the bi-laws will need to be looked at before Reorganization in 2013. Councilwoman Filippone questioned if someone did an OPRA request for this particular letter should not the officer's name be redacted or his badge number. Mr. George stated that was not correct. Only phone numbers or social security numbers would be redacted the officer's name and badge number is of public record. Mr. George stated that even if

Council decides not to include these types of correspondence in their agenda it is still a public record and anyone can request it through the Open Public Records Act. Councilman Borowski stated that we should relook at the bi-laws and choose not to include any personnel letter that are good, bad or indifferent.

- g) Office of the Ocean County Engineer/Frank Scarantino, Engineer/In Street Pedestrian Signs on Bay Boulevard/Received August 27, 2012-Mayor LaCicero stated that the County does not want those pedestrian signs or barrels on Bay Boulevard so we have to remove them immediately. Mr. Parlow stated that they are being removed right away.
- h) J.J. Donohue/106 New Jersey Avenue/letter in favor of no smoking on the Lavallette beaches/Received August 28, 2012
- i) State of New Jersey/Department of Transportation/Anthony Attanasio, Assistant Commissioner/the request from Mr. D'Alonzo has been rectified/Received August 30, 2012
- j) Harry Dews/cordially inviting Mayor and Council to attend the opening night exhibit viewing of George Eisenberg's USS LaVallette Naval Art on September 5, 2012 from 6pm to 9pm at the Upper Shores Library/Received August 30, 2012

General With Action:

- a) Rose Rom-Perez/18 Westmont Avenue/requesting an easier walkway on the beach getting to our beach/Received August 13, 2012-Mayor LaCicero stated that he spoke to Mrs. Perez and advised her that perhaps we do some type of walkover through CDBG for next year.
- b) Louis Anthony Bertolotti/Tenafly, NJ/requesting that a handicap parking space be put on New Jersey Avenue and Ocean Front/Received August 20, 2012-Mr. Parlow stated that the handicap space is there we just have not had time to paint the space and put up the sign but Public Works will take care of it right away as well as some other handicap spaces on other streets. Council President Zalom questioned if the signs were received for the 15 minute parking. Mr. Parlow stated that the signs are at Public Works; we just have not put them up yet.
- c) Linda Opiekun/requesting that Lavallette require CO's for rental properties/Received August 24, 2012
- d) Ken Hogan/requesting that Lavallette require CO's for rental properties/Received August 27, 2012-Mayor LaCicero stated that this is a topic discussed numerous times in the past but looked to be very expensive and would require many inspectors. This was looked at previously years ago and he believes that it was not even introduced because there were too many people who were complaining. Councilwoman Filippone stated that she believes that previously our hotels had become the issue and we did not know how to inspect each hotel. She stated that the neighboring towns have the hotels apply for a mercantile license and then they do the certificate of occupancies for the rentals. Our Code Enforcement Officer does believe that we should look into it. She stated that she will have the Ordinance Committee look into it. She also stated that there are a number of property maintenance issues going around town that do need to be addressed. Councilman Borowski stated that the last time this was brought up a ton of homeowners came to a meeting and really caused a stir so that is why it went away. Councilwoman Filippone stated that she will contact Seaside Park for their ordinance at least we have

the basics if we decide to go forward. Councilman Borowski stated that we have 200 names on a petition to make our beaches smoke free and we are not moving on that and yet we get two letters about rental CO's and we are more concerned about that. His suggestion is to just leave it alone for now until there are more complaints.

**UNFINISHED BUSINESS:**

There was no unfinished business.

**NEW BUSINESS:**

Discussion-Best Practices Worksheet for 2012/2013 Year

Mr. Parlow stated that the DCA requires we follow and fill out the necessary paperwork for the best practices checklist. The Chief Financial Officer has filled out the form and advised that we have a score of 96% which will allow us to receive all of our state aid. The State requires that the governing body review the checklist. There is no vote required.

**COMMENTS FROM THE PUBLIC:**

Joe Palinsky, 122 Washington Avenue stated that in his home state of Michigan the certificate of occupancies were only done to one family units or two family units that the owner was not occupied in either unit. Maybe Council should consider that if there is an owner in one of the units he should be responsible for making sure his units are up to code.

Mayor LaCicero stated that was a good idea and they will look into it.

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

Council President Zalom questioned the repairing of the well and whether or not we have received any reimbursement on it yet.

Mr. Parlow stated that it has been submitted to the insurance company but we have yet to received the reimbursement.

Council President Zalom stated that there will be a Bocci Tournament on September 15<sup>th</sup>. She stated that one of our residents Jay Donohue is a member of the Oceanaires which is a band and he is going to perform with his band at the Parade. She stated that her recommendation about the smoking on the beaches is, as a courtesy, have the smokers smoke outside the white flags.

Mr. Parlow stated that in the Code book there is a section in Chapter 54 in reference to soil removal and it states that if anyone wants to remove sand from their property they have to apply for a permit to the Municipal Clerk and receive approval from Mayor and Council. The Council is required to have the Engineer issue a report. He suggested that the governing body repeal the ordinance because it really is undated and most of the issues regarding soils and sand are addressed by CAFRA. Councilwoman Filippone stated that we should put it on the next agenda to repeal it.

Mr. Parlow stated that there was a problem with the recording of the last meeting. The tape apparently malfunctioned; so it was not shown by Cablevision.

Mr. Parlow stated that he will be selling the tiles at Heritage Day and would like Council's permission to limit two tiles per person. He would like to try and avoid someone buying a number of boxes and reselling them ebay. All of Council was in agreement that the limit should be two tiles per person.

Council President Zalom stated that she would like to collect \$5.00 from Mayor and Council for a donation to Deborah Hospital.

**EXECUTIVE SESSION:**

Mr. George stated that there exists a need for an executive session to discuss ongoing litigation regarding 25 Sturgis Road. This is just going to be an informative discussion and there will be no action taken.

Mr. George stated that resolution 2012-246 will not be discussed in executive session that is part of the regular meeting. Councilman Lamb will call Mr. Borrelli before the executive session and discuss the application with him.

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

The Caucus/Regular meeting was adjourned at 8:12 pm to go into Executive Session.

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

The Caucus/Regular Meeting was reconvened at 8:34 pm.

Mr. George stated that while in executive session there was discussion regarding the ongoing litigation regarding an unsafe structure at 25 Sturgis Road in Lavallette. The discussion was regarding a potential demolition cost and liens being put on the property. There was no action taken.

**RESOLUTIONS OFF-CONSENT:**

Resolution 2012-246

A Motion was made by Councilwoman Filippone to approve the event/activity attached to resolution 2012-246 pending a change in date that fits our calendar and does not conflict with any other events and to change the time frame from 7am to 11am and make it 8am to 12 noon. The

Motion was seconded by Councilman Horan. Vote: Council Members Borowski, Filippone, Zalom, Stogdill, Horan and Lamb voted Yes. The Motion Passed.

**ADJOURNMENT:**

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

The Caucus/Regular Meeting was adjourned at 8:37pm.

**CERTIFICATION**

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 meeting held on the 4<sup>th</sup> day of **September 2012**

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**Christopher F. Parlow**  
**Municipal Clerk**