

**TOWNSHIP COMMITTEE  
FEBRUARY 14, 2012 MINUTES**

The Tewksbury Township Committee met in a regular session on the above date at the Municipal Building, Mountainville, NJ.

The meeting was called to order at 7:30 PM, roll call held and a quorum established. Mayor Dana Desiderio presided.

Other officials in attendance were Township Committee members Louis DiMare, Peter Melick, Shaun Van Doren and William Voyce.

Jesse Landon, Township Administrator, Roberta Brassard, Municipal Clerk and Michael Selvaggi, Township Attorney were in attendance.

There were approximately forty members of the public in attendance.

**1. Open Public Meetings Statement**

The Open Public Meetings Statement was read by Mayor Desiderio.

**2. Flag Salute**

Those present stood and pledged allegiance to the American flag.

**3. Public Participation**

Hank Klumpp presented a timeline of Highlands Council actions that have negatively affected the value of his properties. He stated that he did not feel that the Highlands Act has any impact on water preservation, adding that the Act is a legal theft and a government taking. He added that there is no money in place to compensate any of the monies lost by the land owners. Mr. Klumpp surmised that the Highlands Act was enacted in order to keep Tewksbury a park.

Chris Teasdale noted that a farm has recently been preserved in the planning area.

Jon Holt noted the status of the Friends of the Fairmount Historic District (Friends) appeal with regard to the JCP&L substation.

He stated his support for conformance in the planning area, adding that the Highlands Council assisted the Friends with their legal issues.

He noted that the legal shield that is in place should be utilized and warned about developers coming into the Township.

Georga Cassa noted that he owns a business in Califon that is entirely dependent on fresh water and urged the Committee to conform to the planning area.

John Parker stated that everyone present wants to preserve the character of the Township but the state politicians want growth. Mr. Parker added that the Township will change and evolve and a clear plan for growth is necessary. He added that the Highlands Council performed a scientific study with regard to the preservation of water resources.

Chris Teasdale thanked the Mayor for actions taken with the tree work specifically on Sawmill Road.

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Mayor Desiderio noted that she drove with John Anderson recently to view the tree cutting and learn why certain trees were tagged for removal and/or pruning. She noted that some trees will have to be removed for the Hernick and Kalb driveways that are being constructed in conjunction with the substation.

She added that John Anderson, JCP&L Area Manager will be attending the 02-28-12 Township Committee meeting to discuss power issues related to the recent storms. She noted that a Q & A document will be posted on the Township website and will be available at the meeting.

Mark Nowell opined that opting in to the planning area would protect water resources in the Township. He added that 70% of the planning area is zoned Piedmont and there would not be a large impact on the zoning and the property owners.

Nancy Held questioned if an in depth analysis has been done to determine how properties other than the Bellemead property will be affected if the Township opts in to the planning area. She noted that the Johnsons have publically stated that they will not subdivide their properties.

Dr. Voyce stated that the Planner should be tasked with coming up with a report on how the remaining lands in the planning area will be affected.

Wilma Frey noted that the Highlands density restrictions are not the same in the planning and preservation areas and opting in would allow a greater amount of necessary protection for the Township. She cautioned that if the Township does not opt in, the State Plan mapping from 2001 will govern the municipality. She stressed that the Bellemead site will revert back to a PA2 designation adding that she feels the state is encouraging development and there are many reasons not clearly visible why it is a good idea to opt in to the planning area.

Discussion followed regarding the matter of legal shield.

Robin Love reiterated her support of conforming and opting in to the planning area.

Mayor Desiderio stated that the Township Committee needs to notify the Highlands Council as to their decision regarding compliance or deferral.

Mr. Van Doren made a motion authorizing the Mayor to send a letter to the Highlands Council stating that the Township Committee intends to conform to the preservation and planning areas and to do this concurrently as has been the path since 2009, seconded by Mayor Desiderio.

Dr. Voyce noted his reluctance to move forward as many concerns have been brought up as to what the impact may be in the planning area. He stated that a lot of attention has been paid to the Bellemead property and he did not want to see Bellemead become the COAH savior.

Mr. DiMare questioned why the Committee was taking this path as he understood from the meeting held on 01-24-12 (at which he was not present) that tonight's meeting was going to address the matter of opting in.

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Mr. Selvaggi noted that it is important to know that Mr. McGroarty is continuing to proceed with the necessary procedures with regard to drafting ordinances for the preservation area, Master Plan revisions and the check list Ordinance.

He stated that if the Committee has concerns regarding the planning area, they should advise the Highlands Council that they are continuing to consider opting in and have the Planner finish the Ordinances for the planning area so that the members of the Committee are clearly able to see the impact on the planning area. He stressed that the Ordinances will offer a clear way to measure the impact on the 1/3 of the Township that is designated in the planning area.

He stated that the Ordinances will indicate what will occur in the planning area of the Township if the decision is made to opt in. The funds for Ordinance preparation will come from the Highlands grant.

Mr. DiMare questioned if tonight's vote is for opting in now or preparing the necessary Ordinances.

Mr. Selvaggi noted that the matter of opting in could be construed as a philosophical matter as the Committee could feel that opting in would impose more restrictions and constraints on a property owner and could be struggling with the degree of how this may affect the property owner.

Mr. Selvaggi suggested that Mr. McGroarty prepare a fiscal impact study of the planning area to include the commercial properties, imposed restrictions and how opting in could affect the ratable base.

He reiterated that if the Committee is struggling with a decision of whether or not to opt in, the Ordinances will give a clear idea of the impact to the Township.

Mr. Selvaggi stated that the Planner has advised that he has adequate time for completion of the Wastewater Management Plan.

Mr. Selvaggi stated that the Committee could delay opting in and have Mr. McGroarty continue working on complying with the requirements and Ordinance preparation.

Mr. DiMare stated that he would like there to be a clear time line for Ordinance preparation and review so that it could be not used as a delay tactic on making the ultimate decision related to opting in.

Mr. Van Doren amended his motion to have the letter include language stating that the Highlands Council prepare the Wastewater Management Plan.

Mr. Selvaggi stated that the Planner should be able to have the draft Ordinances to the Committee by 03-13-12. The preservation area Ordinances should be done shortly. He added that all the Ordinances should be available by April for introduction.

Mr. Selvaggi commended the Committee on how deliberative they have been in the entire conformance process since adoption of the 2009 Resolution and stressed getting the Ordinance prepared for review and ultimate adoption.

Mr. DiMare seconded the amended motion.

Mr. Melick stated that he did not think that the Planner accurately laid out the negative impacts of not opting in, adding that he did not feel that it would be a good thing for the entire Township

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and would like to have additional factual information. He noted that he did not feel that the legal shield would make a difference to the Township.

With regard to the matter of the legal shield, Mr. Selvaggi noted that the Township has been very careful and deliberative with their zoning Ordinances and the presumption of validity runs with a municipality. He opined that Tewksbury's zoning would withstand a challenge in court as the Ordinances were done correctly.

The above noted motion was approved. Ayes: Desiderio, DiMare, Van Doren. Nays: Melick, Voyce.

Mr. Van Doren made a motion authorizing the Planner and Engineer to prepare the necessary Ordinances, check list Ordinance and Master Plan revisions. The Planner is tasked with creating the fiscal and land use analysis documents for lands in the planning area. The Ordinances should be presented to the Committee for review at the 03-27-12 Township Committee meeting and if the documents are not ready, the Planner is to notify the Mayor as to the reasoning. Seconded by Mr. DiMare.

In response to a question from Mr. Melick, Mr. Selvaggi noted that there will be a set of Ordinances for the preservation area. He added that there will be some discretion with regard to the check list Ordinance.

The fiscal analysis should be done independently. The land capacity analysis will look at lots in the planning area to determine whether or not they would be impacted by opting in. Mr. Selvaggi added that the development potential and ratable value of the Bellemead property may be a negotiating factor with the Highlands Council.

Mr. Van Doren stressed that the Township can back out anytime prior to adoption of the Ordinances and there is no down side to moving forward with the process. He stressed that the Township should take advantage of utilizing Highlands funding so that sufficient information is received to make an educated decision.

The above noted motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**4. Actions to be taken**  
➤ **Consent Agenda**

Mr. DiMare requested that Resolution #32-2012 be removed from the Consent Agenda.

Dr. Voyce moved adoption of the Consent Agenda as amended, seconded by Mr. Melick. A roll call vote was taken and the motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**RESOLUTION #31-2012  
TRANSFERS**

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**BE IT RESOLVED**, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the Chief Financial Officer is hereby authorized to make the following transfers.

**2011 Current Fund Appropriations Reserves Transfers**

<i>From:</i>		<i>To:</i>	
A&E OE	4,000.00	Engineering OE	4,000.00
Health Insurance	5,000.00	Tax Assessor	5,000.00

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Dana Desiderio  
Mayor

**RESOLUTION #33-2012  
REDEMPTION OF A TAX SALE CERTIFICATE**

**BE IT RESOLVED**, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the Chief Financial Officer is hereby authorized to make the following payments for the redemption of a tax sale certificate.

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>CERT #</u>	<u>Amount</u>
33	7-11	Havid Development 41 Watchung Plaza Montclair, NJ 07042	2011-03 premium	22,918.43 <u>30,600.00</u> 53,518.43

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Dana Desiderio  
Mayor

**RESOLUTION #34-2012  
REGARDING THE HUNTERDON COUNTY ALL HAZARDS PRE-DISASTER MITIGATION  
PLAN**

**WHEREAS**, the Hunterdon County Department of Public Safety, Division of Emergency Management and 911 Coordination has engaged with the State of New Jersey, Office of the Attorney General, Department of Law and Public Safety, Division of the State Police in conducting the Northern Delaware River Region All Hazards Pre-Disaster Mitigation Planning process pursuant to a FY 08 Pre-Disaster Mitigation (PMD) Planning Grant; and

**WHEREAS**, the purpose of the PDM planning process was to develop all-hazards mitigation plans for the four counties of the Northern Delaware River Region, namely Sussex, Warren, Hunterdon and Mercer and all municipalities within the said four counties; and

**WHEREAS**, the period of performance to develop the PMD Plans with a six month extension was from January 9, 2009 through June 30, 2011; and

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**WHEREAS**, the Sussex County Sheriff's Office, Division of Emergency Management and 911 Coordination took the lead role in coordinating the development of all-hazards mitigation plans for all four counties and their municipalities through James Lee Witt Associates; and

**WHEREAS**, the spending plan included a 25% in-kind match in the form of non-supplanted employee salaries, wages and benefits and expenses related to the planning process; and

**WHEREAS**, said 25% in-kind match was more than achieved by contributions of in-kind services from all four counties and approved by the New Jersey State Police, Hazards Mitigation Unit; and

**WHEREAS**, the New Jersey State Police, Emergency Management Section, Hazards Mitigation Unit approved said plans and forwarded them to the Federal Emergency Management Agency, Region 2, New York City; and

**WHEREAS**, the Federal Emergency Management Agency, Region 2 has approved all plans developed under the FEMA grant; and

**NOW THEREFORE BE IT RESOLVED**, that the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey does hereby adopt the Hunterdon County All Hazards Pre-Disaster Mitigation Plan directing applicable County agencies to pursue appropriate PDM project funding; and

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the State of New Jersey, Office of the Attorney General, Department of Law and Public Safety, Division of the State Police, the Sussex County Sheriff's Office, Division of Emergency Management, the Sussex County Treasurer and the Clerk of the Hunterdon County Board of Chosen Freeholders.

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Dana Desiderio  
Mayor

**MISCELLANEOUS**

- Correspondence List
- Claims as submitted by the CFO
- Authorization to have Mayor sign interlocal agreement with Lebanon Borough for DPW services
- Authorization to have Clerk sign Social Affair Permit for 5/5/12 TEF Barn Dance
- Authorization to have Mayor sign Findings & Determinations for 4/26/12 JCC Texas Hold'em event
- Authorization to have Clerk sign Social Affair Permit for 4/26/12 JCC Texas Hold'em event
- Authorization to have Clerk sign Social Affair Permit for 2/25/12 JCC Wine Tasting

➤ **ITEMS REMOVED FROM THE CONSENT AGENDA**

Mr. Melick made a motion to adopt Resolution #32-2012, seconded by Dr. Voyce.

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Mr. DiMare questioned if there was a need to adopt the above noted Resolution as both the local and regional school board have agreed to hold the school elections in November. Discussion followed regarding the matter and it was the consensus of the Committee that a Township Resolution was not necessary.

Mr. Melick reversed his motion to adopt Resolution #32-2012, Dr. Voyce reversed his second. There being no further discussion on the matter, the Resolution was not adopted.

➤ **Appointments**

Mr. Melick made a motion to appoint Lisa Stryker as the Parks Committee representative to the Forestry Advisory Board for a term to run concurrently with her term on the Parks Committee through 2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Dr. Voyce made a motion to appoint Mary Fazzini as the Scenic Roads and Bridges Commission representative to the Forestry Advisory Board for a term to run concurrently with her term on the Scenic Roads and Bridges Commission through 2013, seconded by Mr. Van Doren. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**5. Reports**

➤ **Township Committee Sub Committees & Township Committee Comments**

Dr. Voyce noted a recent fire in a resident's garage caused by a battery charger. He also noted a recent vehicular accident between a Police car and civilian vehicle. He advised the public that when an emergency vehicle approaches with lights and sirens, the driver should move to the right of the roadway and stay there until the emergency vehicle has passed.

Mr. Van Doren noted that a finance subcommittee meeting is planned for 02-23-12 to discuss the 2012 budget, the 2011 budget, municipal court, the cost of fuel dispensing and related matters. He noted that the Governor's Budget address is planned for 02-21-12 so he is hopeful that the Budget will be able to be introduced at the 03-13-12 meeting.

Mr. Van Doren stated his disappointment with the response from the DOT regarding grant monies for the Potterstown Road project (item "u" from the correspondence list). He stated that he would draft a letter to the Legislators asking that the project be reviewed as it is an excellent example of a shared service application.

Mr. Van Doren made a motion to send a letter to the 16<sup>th</sup> and 23<sup>rd</sup> district Legislators requesting that the application for the Potterstown Road improvement be amended and reviewed and points awarded for a joint application between three municipalities. The letter should be copied to Clinton and Readington Townships. The motion was seconded by Dr. Voyce and approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren expressed his thanks to Chief Holmes for including the listing of false and real alarms on his monthly report.

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Discussion followed regarding the draft letter Mr. Van Doren wrote for the Mayor's signature regarding power outages on Hell Mountain. Mr. Van Doren stressed that the initial response from the BPU was disingenuous and he did not feel that the response adequately addressed the concerns of the Committee.

It was the consensus of the Committee to send the letter to the BPU. Mr. Melick voiced his opinion to wait to send the letter to the BPU until after John Anderson comes to the 02-28-12 Township Committee meeting.

Mayor Desiderio stated that the HPC has requested an audience with the Township Committee to discuss possible changes to the DRO. It was stated that they should be invited to the 04-24-12 meeting.

The following discussion dealt with the matter of tree cutting in the Township.

Mr. Van Doren stated that he would like a detailed plan and map showing specific roads and listing of other areas in the Township that will be affected by tree cutting for JCP&L. He stated that residents need to be notified in advance of work to be done and this information could be posted on the Township web site.

Mr. Melick stated that he was told by JCP&L that additional work will be being done on County Route 517 by the 517/512 intersection and along the east side of 512.

Mr. Van Doren noted a Scenic Roads and Bridges Commission report that was submitted regarding their purview to look at roads and to utilize their expertise.

Mayor Desiderio agreed that a letter should be sent to JCP&L requesting information as to where and when additional tree cutting is to occur along with a written plan showing street by street detail.

Mayor Desiderio stated that John Anderson stated that the Township Resolution that was passed in 2011 did not make a difference in the tree cutting that has occurred in the Township during the past weeks. She stated that she felt the language was too "aggressive" and requested that the Resolution be amended.

In response to a question from Mayor Desiderio, Mr. Selvaggi explained the rules and parameters of tree trimming as promulgated by the BPU, adding that JCP&L has the discretion and legal obligation to remove trees in the right of way.

Discussion followed regarding how tree removal can become a judgment call with regard to health, size and location of a tree. He added that a home owner has the right to tell a utility to remove a tree if it is on their property, adding that the Township Tree Ordinance does not pertain in this instance.

He noted that it would be helpful to try and get advance notice as to where tree work will commence adding that the Township may want to hire a consultant to go with JCP&L representatives when trees are tagged.

Discussion followed as to who actually tags the trees for removal.

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Mr. Melick reminded the Committee and the members of the public of the amount of time that the Township was out of power, adding that JCP&L is taking steps to do what is in the best interest of the Township.

Mr. Van Doren stressed that he felt JCP&L was being reactive to the situation and not proactive, adding that there could never be enough trees cut to guarantee that wires would not go down from a fallen tree.

### **6. Public Participation**

Mayor Desiderio opened the meeting to a second public participation.

Robin Love noted that when power was out on Fox Hill Road for eight days it was because of downed wires in the middle of the road and a broken telephone pole. She added that Tewksbury is not a highly populated municipality and when power is out, the power companies turn on the power where they can get the most "bang for their buck". She urged the Committee to follow through with getting a map and clear plans for future tree cutting, adding that there are capable residents able to assist JCP&L with identifying trees.

Wilma Frey stated that is imperative to have a technical person who monitors the tree cutting as, she felt, the majority of the trees marked for removal are strong and healthy trees. She surmised that the power outages are not caused from damaged trees falling on the wires, but because the trees are covered with invasive vines and the added weight causes the tree limbs to snap and fall. She urged the citizenship to keep protesting the tree cutting, adding that removal of trees would cause severe degradation of the scenic qualities of the Township. She opined that chopping down trees will not make the lines less likely to get hit by something: the situation is a "disaster" and there should be professionals going around with the people who are marking the trees.

Mrs. Frey warned that the utilities are "trying to run roughshod over everyone" and the citizens should stand up to them.

In response to a question by George Cassa it was stated that utilities do not have to adhere to County and State restrictions or restrictions related to being in an historic district.

He added that most responsible utility companies have best management practices and requested that JCP&L supply the Township with theirs. He surmised that it would consist of diagrams and/or simple graphics as well as a printed policy.

It was noted that the power company hires a 3<sup>rd</sup> party to mark the trees and another 3<sup>rd</sup> party to cut the trees.

Additional comments were heard regarding the fact that trees are cut dependant on size, location and physical condition.

Mr. Cassa stated that Tewksbury deserves special attention and thanked the Committee for getting involved.

Jon Holt noted that the 2003 blackout of the north east commenced in Ohio and First Energy president Tony Alexander stated that he would never stand before Congress again and that he would aggressively cut trees to avoid another blackout.

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Hank Klumpp stated that the tree cutting is all about money and JCP&L is spending money because they are making up for the recent disaster. He added that he feels the Township has the right to have a forester come out to evaluate the trees. He added that residents are asked if they want their trees cut and we need to remember the amount of time many residents were without power.

**7. Executive Session**

At 9:15 PM Mr. Van Doren moved adoption of the following Resolution, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**RESOLUTION #35-2012  
A RESOLUTION AUTHORIZING AN EXECUTIVE SESSION OF THE TEWKSBURY  
TOWNSHIP COMMITTEE**

**BE IT RESOLVED**, pursuant to N.J.S.A. 10:4-13 and 10:4-12 that the Tewksbury Township Committee hold a closed session to discuss Property Acquisition and Advice of Attorney.

It is expected that the discussion undertaken in closed session can be made public at the time official action is taken.

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Dana Desiderio  
Mayor

**8. Reconvened**

The meeting reconvened at 9:40 PM.

Mr. Van Doren made a motion authorizing the Administrator to send a letter to Green Acres by 02/15/12 requesting a 50% matching grant up to \$400,000.00 for properties as discussed in Executive Session, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**9. Adjournment**

There being no further business, the meeting was adjourned at 9:40 PM.

Roberta A. Brassard  
Municipal Clerk