

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

The Tewksbury Township Committee met in a work 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 Louis DiMare presided.

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

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

There were approximately thirty members of the public in attendance.

1. Open Public Meetings Statement

The Open Public Meetings Statement was read by Mayor DiMare.

2. Flag Salute

Those present stood and pledged allegiance to the American flag.

3. Proclamation

The following Proclamation was read into the minutes.

Michael Taylor thanked the members of the Whitehouse Rescue Squad and Officer Beam for their professional work done and for saving his life on March 6.

Mr. Van Doren made a motion to adopt the Proclamation, seconded by Mr. Melick. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

PROCLAMATION

**TO GRATEFULLY ACKNOWLEDGE THE WORKS OF KATIE POWELL, DAN CAMPBELL,
SHANON BINGERT, PAT PAUL AND WAYNE BEAM**

WHEREAS, a Township resident recently experienced what could have been a fatal heart attack; and

WHEREAS, the resident's wife called 911 at 4:30 AM and was instructed by the 911 operator Katie Powell how to commence CPR; and

WHEREAS, Whitehouse Rescue Squad Technician Dan Campbell arrived at the residence and took over administering the CPR to the resident; and

WHEREAS, Tewksbury Patrolman Wayne Beam arrived shortly thereafter and utilized the defibrillator in an attempt to resuscitate the resident; and

WHEREAS, Whitehouse Rescue Squad members Shanon Bingert and Pat Paul arrived on site shortly thereafter and continued the work of resuscitating the resident; and

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

WHEREAS, the resident was transported to the Hunterdon Medical Center and arrived on site at 5:00 AM with a normal heart rhythm and unassisted breathing.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee hereby thanks Katie Powell, Dan Campbell, Shanon Bingert, Pat Paul and Wayne Beam for their expertise and professionalism in the time of emergency; and

BE IT FURTHER RESOLVED, that this Proclamation be made part of the permanent record of actions taken by the Township Committee of the Township of Tewksbury.

Louis DiMare
Mayor

4. Public Participation

Don Broughton chair of the Parks Committee was present to request authorization to place eleven bird nesting boxes in Township parks. He added that the matter was discussed at a recent Parks Committee meeting and the Committee voted to accept the proposal.

Joe Kosakowski of Wildlife Control Specialists LLC stated that he will supply all materials and man power to install the boxes. Mr. Broughton noted that one of the boxes will be installed in the pavilion at the Christie Hoffman Farm and will be positioned so that visitors can see into the nesting box.

Discussion followed regarding maintenance and longevity of the boxes, problems that might arise with predator birds nesting near populated areas and the need to move on the matter quickly.

Mr. Van Doren made a motion to accept the proposal as approved by the Parks Committee to install eleven bird nesting boxes in Township parks, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

David Curcio of Winterwood Road was present to state that he was dissatisfied with the service that was afforded to the residents of the private road in the aftermath of the recent storms. He was informed that private roads are not eligible for any work to be performed by FEMA and requested that this be amended moving forward.

Mayor DiMare noted that the Township Attorney would have to be consulted in order to determine the rights of residents living on a private road, adding that he would speak with the Superintendent of Public Works in order to be clear on what was done for the clean up efforts. Mr. Curcio stated that he would like something in writing regarding his concerns.

Susan Taylor stated that she would be coordinating CPR classes to be held at the Oldwick Fire Company on 4/21/13 as a way of educating the public on the importance of knowing proper CPR techniques.

In response to a question from Jim McGinnis, Mayor DiMare stated that the Land Use subcommittee will meet to discuss the matter of amending the Ordinance with regard to impervious coverage requirements specifically with regard to the installation of generators and air conditioning units.

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

Nancy Hance noted that some NJ municipalities are allowing the installation of emergency generators without the need for a variance.

5. Work Session Topics

2013 Budget

Judie McGrorey, CFO was present to answer questions from the Committee regarding the proposed 2013 budget. The proposed budget is basically flat with increases only in non-voluntary areas such as insurance and debt service; the proposed increase is less than \$.01 which would equate to approximately \$53.00 per household.

Specific attention was paid to the following items.

- Miscellaneous fees and permits

It was surmised that the higher revenue will not continue..

- Police equipment

The higher amount will not be an annual expenditure. This was upgrading of equipment

Ms. McGrorey noted that the ten year plan is to keep the surplus steady (currently \$5 million) and if the tax rate is kept flat there is less surplus at the end of the year and it is difficult to regenerate.

Line items noted were buildings and grounds and lease of municipal facilities. It was stated that the Land Use line items should be broken out into individual boards/committees/commissions for ease of review.

Comment was made on the proposal to have mowing done by an outside contractor. Mr. Van Doren expressed his skepticism with the process.

It was added that funds have been allocated in the reserve for resolution of the Police contract.

2013 Roadway Improvements

Andrew Holt was present to discuss the roadway plan for 2013 that commenced in 2002 and addresses 10 miles of Township roads annually. The roads in the Township that receive oil and chip applications will be done in July and August in order to avoid conflict with school buses.

The following are specific projects for 2013.

- Fox Hill Road will be addressed this year to improve unsafe conditions.
- McCann Mill Road has suffered severe drainage and erosion issues and needs to be stabilized.
- The Oldwick sewer system is still experiencing infiltration and inflow. Work will be done on this project.
- Storm damaged areas of the Township, specifically roads, was noted.

Further discussion followed regarding the work scheduled on the Black River Road bridge and the culverts and catch basins in the Toll Brothers development.

In response to a question from George Cassa it was stated that Scenic Roads and Bridges Commission members will be able to review documents related to the Fox Hill Road work.

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

Nancy Held opined that no additional work should be done on Woodedge Road because she feels that the road is not suitable as there are no proper contours.

Discussion followed regarding how snow plowing sometimes negatively affects roadways.

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

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

**RESOLUTION #47-2013
TRANSFERS**

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.

Current Fund Appropriation Reserves

<i>From:</i>		<i>To:</i>	
A&E OE	7,582.00	Township Committee OE	4,700.00
Group Ins. Plan for Employees	63,000.00	Finance OE	82.00
Police OE	15,200.00	Legal Services	50,000.00
Public Works S&W	18,900.00	Public Works OE	12,900.00
Fleet Maintenance	6,000.00	Police S&W	50,000.00
Gasoline & Diesel	4,000.00	Computerized Data Processing	4,000.00
Tax Assessor OE	2,000.00	Telecommunications	800.00
Engineering	1,800.00	Municipal Court OE	1,400.00
Land Use S&W	2,100.00	Code Enforcement OE	8,000.00
Land Use OE	3,900.00		
Unif. Fire Safety S&W	2,800.00		
Unif. Fire Safety S&W	800.00		
Street Lights	2,500.00		
Park Maintenance OE	1,300.00		

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

TOTAL **131,882.00** **131,882.00**

Louis DiMare
Mayor

**RESOLUTION #48-2013
CANCELLATION OF TAX**

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 cancel the following tax amount.

<u>Block</u>	<u>Lot</u>	<u>Year</u>	<u>Amount</u>
42	12	2013	23.78
51	106.03	2013	71.57

Louis DiMare
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO
- Regular and e/s minutes of 03-12-13
- Authorization to have Mayor, Administrator and CFO sign documents related to Auditor's services
- Authorization to have Mayor sign F&D for raffle license for TEF 5-18-13

7. Public Participation (continued)

Ms. Desiderio left the meeting at this time as she is recused from discussion dealing with the Johnson helistop.

Jay Rhatican of Wolff and Samson and attorney for the Friends of Cold Brook Historic District (Friends) stated his clients continuing opposition to the Johnson helistop and their intervention in the court matters. He noted that he heard from the Johnson's lawyer that there are settlement discussions being had and he questioned who was orchestrating them. He further questions why the Friends were not involved as they could bring new and pertinent information to the table, adding that they have the right to participate in all discussions.

Mayor DiMare added his surprise to hear representations made to the court and a request for adjournment with no involvement by the Friends or their attorney.

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

Mr. Rhatican reiterated that the Friends could lend important information to the discussions adding that he was unsure as to why they were not advised of the second adjournment of the meeting scheduled for 3/26/13.

Mr. Rhatican added that the DOT granting permission for the helistop was news to the Friends and they would like to see documentation in this matter. He noted that he spoke with a representative of the DOT and was told that the license will be after the facility is finally constructed.

Mr. Rhatican noted a list of conditions the Friends would like to see imposed on the helistop specifically with regard to hours of operation, number of allowable flights per month and the size of the vehicles.

Mayor DiMare reiterated that the Friends have a seat at the table and they should have the DOT parameters in writing for their information.

Mr. Melick questioned if there is any talk of settlement with the DOT.

Discussion followed regarding the matter that if amended restrictions were to apply to the DOT license, an amended permit would have to be issued.

In response to a direct question from Mr. Ross, Mr. Rhatican agreed that the best way to communicate the concerns of the municipality is to have the Mayor speak directly with the Commissioner of the DOT.

Bob Flowers noted a matter in CA where the municipality had an Ordinance regarding the departure times of aircraft that had higher precedence than the FAA restrictions.

George Cassa questioned how the FAA and the DOT are interrelated with regard to license issuance.

Nancy Held read the following into the meeting minutes.

During the last Township Committee meeting, I read a statement on behalf of the Friends of Cold Brook Historic District asking the Township Committee to take some action to influence the DOT Commissioner to deny the Johnson's a helistop license. The Mayor told us that he would raise this issue in Executive Session. I called Roberta Brassard the next day and asked her if a decision had been made and she said that the Township Committee "took no action." Taking no action seems to me to be inconsistent with the Township Committee's prior decision to defend the town's Master Plan, zoning regulations and Land Use Board decisions by fighting the appeal that the Johnson's filed in Superior Court.

Shortly after the last Township Committee meeting, our attorney, Jay Rhatican of Wolff & Samson, contacted the DOT to find their latest thinking on licensing the helistop application. At that time our attorney was told that the DOT was intending to issue a license to the Johnsons, and was contemplating the following restrictions:

1. Prior permission from the Johnson's to use the helistop is required
2. The largest permitted helicopter that can be used is the one used by Medevacs

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

3. Maximum of 30 takeoffs and 30 landings per month
4. No take-offs or landings between 10:00 pm - 7:00 am
5. Must follow the approach/departure route put forth in the plan

The first restriction I would like to address is the max 30 takeoffs and 30 landings per month. As a reminder, the Johnson's gave the following testimony to the Land Use Board:

- The Johnson's helicopter is in NJ 2 months in the fall and 1 month in the spring.
- They expect approx. 3-4 cattle buyers coming by helicopter in the fall and 1-2 in the spring.
- On average, the Johnson's have made 146 helicopter trips a year in the last 4 years – I have estimated based on their other testimony that 10 of those trips per year have taken place in NJ. While I have estimated the NJ usage based on Tucker's testimony, he said he has maintained a log for 25 years so it is possible to determine the exact NJ usage.
- Tucker said that personal use of the helicopter is declining.

Using the Johnson's own testimony, it seems they need a maximum of 16 trips per year in NJ, which would be 6 for cattle buyers and 10 for personal use. Nevertheless, the DOT is considering a so-called "restriction" on the Johnson's helistop license that translates to a maximum of 360 trips a year.

The next DOT restriction I would like to address is "No take-offs or landings between 10:00 pm - 7:00 am." The Johnson's made the following testimony about night flights:

- Tucker said he doesn't believe any cattle business flights will take place at night, and night flights for family would be seldom.
- There was one occasion in 2012 when Tucker used the helicopter and got back at 8pm.
- Tucker and his family are usually in bed by 10pm.

Given this testimony, why would the DOT plan to allow the Johnson's to use their helistop up to 10pm? In the Colts Neck situation, Trump said he didn't need night flights, and the DOT imposed a restriction only permitting flights during daylight hours.

Finally, according to the DOT's planned restrictions, the Johnson's must follow the approach/departure route put forth in their plan. In August 2012, the Johnson's aviation attorney, Jack McNamara, told me that if the DOT grants the Johnson's a helistop license, then "all bets are off" regarding the Johnson's offer to fly the proposed flight path – information which I communicated to the DOT last summer, and information which appears to have fallen on deaf ears.

Needless to say, the Friends of Cold Brook Historic District were outraged at the DOT's plans to give the Johnson's far more than they said they needed, far more than what Trump was granted in Colts Neck, and far more than our Township should have to endure for the sake of one family's personal desires.

On a separate but related note is the appeal that the Johnson's filed in Superior Court against the Township Committee and the Land Use Board. The Friends are defendant-interveners in

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

this appeal. Mr. Winder's letter to the Court also says that "we are near a settlement of this case" which may suggest that Mr. Winder is already in negotiations with Mr. Selvaggi and Mr. Bernstein relating to the helistop. If this is the case, then I would like to point out that the Friends have not been included in such negotiations and we would like to be.

Frankly, I would not be surprised if the Johnson's have approached the Township with an offer to negotiate lesser restrictions. The reason I wouldn't be surprised is because, based on the information I just communicated to you, the Johnson's have to know that the DOT's so-called restrictions are very likely to be seen by the Court as arbitrary and capricious, and may well be appealed as a result. Furthermore, the Johnson's know that if the Township agrees to lesser restrictions that are not incorporated into the DOT, then the Township has no ability to enforce the agreement.

After these various events transpired, the Friends attended the Land Use Board last Wednesday and asked the Chairman if he would make a call or write a letter to the DOT Commissioner. We advised the Land Use Board that the lack of a call could be perceived by the DOT that the Township doesn't care if the Johnson's are issued a helistop license. The Land Use Board Chairman told us that the Land Use Board couldn't do anything; that it was up to the Township Committee to take action.

There is one other piece of information that the Friend's would like the Township Committee to know which involves the Colts Neck case. In that case, Trump's aviation design consultant admitted that "the State does not like to enforce limitations on traffic as conditions of a license." However, without enforcement, restrictions are simply window dressing.

For your review, I have provided a table which shows what the Johnson's testified that they need -- and what the DOT is planning to give them, what Trump said he needed -- and what the DOT gave him, and the restrictions that the Friends would like the Township Committee to ask the DOT Commissioner to grant the Johnsons.

In summary, I would like to ask three questions:

- Will the Township Committee suggest to Mr. Winder that the Friends be included in any negotiations with the Johnson's regarding helistop restrictions?
- Will the Township Committee now contact the DOT Commissioner to request more appropriate DOT restrictions?

Mayor DiMare noted that the matter will be discussed in Executive Session.

Larry Ross opined that the Johnson helistop is not just a neighborly issue; it affects the entire Township, noting that whatever happens here will affect everyone. He itemized the individuals who testified throughout the LUB hearings and noted that many who were in favor of the helistop were either relatives, individuals who would receive a tangible gain from the Johnsons or were not residents of Tewksbury.

He noted that the residents opposed to the helistop want restrictions with which the Township can live, adding that many have contributed money, time, effort and thought to communicate what is needed to keep Tewksbury in its current condition.

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

He urged the Committee to contact the DOT asking for more restrictions, adding that taking no action would "leave a big door open for the Johnsons to come and ask for more helistops."

Mr. Ross noted the 13 lot subdivision that was recently created by the Johnsons, suggesting that they might be planning a "gated community" that would produce the need for additional helistops. He added that the fact that the Johnsons applied directly with the DOT shows their disregard for the Township and the Master Plan.

He urged the Committee to communicate with the DOT and ask for further restriction for the heliport, adding that if this is not done, it will become easier to get more later.

Mr. Ross noted the town of Greenwich CT that used to be affordable and rural and is now a gated community of over 1300 acres compete with "mc mansions" and helistops. He urged the Committee not to let the happen to Tewksbury.

Hilary Prouty stated her agreement with comments made by Ms. Held and Mr. Ross adding that it is discouraging to her that the Committee seems to have such little concern. She read excerpts from an e-mail message from an Oldwick resident who felt that the "writing was on the wall" because the "Johnson family just has tons and tons of money and can afford all the high-priced lawyers thus allowing them... to play this helistop situation out to a limitless point." She urged the Mayor to contact the Commissioner of the DOT to let him know that the Township is not in favor of the helistop.

Floyd Wheat stated his outrage and disappointment that a State agency could overturn the decision of the Township Land Use Board, adding that the Township Committee should contact the appropriate officials to advise them of their wishes and intent.

Mayor DiMare noted that the Township Committee supports the decision of the LUB, adding that they are hamstrung by the fact that the matter is in litigation and the fact that discuss on strategy may not be held in open session.

In response to a question from Lois Kennedy, Mayor DiMare stated that he had not spoken directly with the DOT Commissioner, reiterating that the matter is pending litigation. He added that there is communication between interested parties.

George Cassa thanked Ms. Held and Mr. Ross for their comments, agreeing that the Mayor should contact the DOT Commissioner. He questioned Ms. Held as to whether it is a wise decision to ask the DOT to amend the restrictions as it could appear that they would take that as meaning that the Township is not entirely opposed to the helistop.

Discussion followed between Mr. Cassa and Ms. Held regarding the matter. With regard to the Colts Neck helistop, Ms. Held surmised that it would be beneficial to ask the DOT why they granted Trump the parameters for usage that was requested and why the Johnson application was granted more than was requested.

Mr. Cassa reiterated that the Township Committee should just say they are opposed to any helistop.

Rilda Hone questioned why the attorney for the Friends was not part of conversations and why he was not consulted or invited to the discussions related to the hearings.

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

She noted that the public has the right to expect the support of the Township Committee and their professionals with regard to the LUB decision(s) to uphold and defend the Master Plan. She exclaimed her disbelief that a DOT decision could trump the court ruling.

Mayor DiMare noted that the scheduled 3/26/13 court appearance was only a scheduling conference and not of substance. He surmised it could be a delaying tactic.

Nancy Hance urged the Committee to think hard and seriously consider making a call to the DOT Commissioner. She surmised that the residents of Colts Neck regretted not being more active in the matter and that a call to the Commissioner would “put teeth into the LUB decision.” She urged the Committee to listen to the input from concerned residents all over the Township and to take action.

Chris Teasdale stated he was outraged at how government works, adding that if he were on the Committee he would have to physically be stopped from making an angry call to the DOT. He surmised that the Johnson family has a direct connection with the DOT as well as sufficient funds to fight. He urged the Committee to “go tough”.

8. Reports

➤ **Township Committee Comments**

Dr. Voyce wished all present a Happy Easter and Passover.

Mr. Melick noted Shana Goodchild’s memo regarding impervious coverage requirements and suggested that the Land Use subcommittee should meet in the coming weeks to discuss same in order to create an Ordinance to amend the existing requirements.

Additional discussion followed regarding the definitions of pervious/impervious coverage and related matters.

Mayor DiMare stated that the matter of the Johnson helistop needs to be discussed further in Executive Session.

Discussion followed regarding how to discuss this in Executive Session without the Township Attorney present.

9. Executive Session

At 9:55 PM Dr. Voyce moved adoption of the following Resolution, seconded by Mr. Melick. The motion was approved. Ayes: DiMare, Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio.

**RESOLUTION #49-2013
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 Land Acquisition.

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

**TOWNSHIP COMMITTEE
MARCH 26, 2013 MINUTES**

Louis DiMare
Mayor

At 9:56 PM Dr. Voyce moved adoption of the following Resolution, seconded by Mr. Melick. The motion was approved. Ayes: DiMare, Melick, Voyce. Nays: Van Doren. Absent: Desiderio.

**RESOLUTION #50-2013
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 Advice of Counsel.

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

Louis DiMare
Mayor

10. Reconvened

The meeting reconvened at 10:15 PM.

Mr. Van Doren made a motion authorizing the Mayor to call the DOT Commissioner to express the Township's opinion that they are not in favor of having a helistop constructed in the Township and to follow up the conversation with a letter stating same, seconded by Dr. Voyce. The motion was approved. Ayes: DiMare, Van Doren, Voyce. Nays: Melick. Absent: Desiderio.

Mr. Van Doren made a motion to proceed with the auction documents for the James Street garage, seconded by Dr. Voyce. The motion was approved. Ayes: Melick, Van Doren, Voyce. Nays: DiMare. Absent: Desiderio.

11. Adjournment

There being no further business, the meeting was adjourned at 10:18 PM.

Roberta A. Brassard
Municipal Clerk