

**TOWNSHIP COMMITTEE
APRIL 10, 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 three 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

There were no comments from the public.

4. Presentation

Assemblyman John DeMaio, representing the 23rd Legislative District thanked the Committee for inviting him and his fellow workers to the meeting. He noted that he had been a local government official and a freeholder and understands how the local Committee is on the front line with regard to local issues. He noted that he is very willing to work with the Township Committee to help serve the taxpayers of Tewksbury. Mr. DeMaio noted that the 23rd Legislative District works out of three different locations: Bridgewater, Washington and Clinton and this works to best serve all of the constituents of the District.

Senator Michael Doherty stated his pleasure with being able to represent Tewksbury Township. He noted that he is concerned with the high taxes in the State, specifically the high school taxes and the unfair distribution of funds for school funding. He handed out information comparing Tewksbury and Asbury Park regarding monies received from the municipalities vs. the amount of school aid received. He stressed that he is working diligently on a fair school funding plan adding that the Governor has appointed a task force to look at the unfair allocation of funds for schools.

Assemblyman Erik Peterson noted that he has not served the Township for two years and was very pleased to be back. He stated that any Resolution adopted by the Committee related to legislative matters should be sent to the 23rd Legislative District's attention for consideration. He encouraged communication between the Committee and his office.

5. Actions to be Taken

➤ **Ordinance Introduction**

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

Mr. Van Doren moved introduction of Ordinance #04-2012, seconded by Mr. Melick. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

The Public Hearing is scheduled for 05-08-12 at 7:30 PM.

**ORDINANCE NO. 04-2012
TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**AN ORDINANCE FOR PROTECTIVE CUSTODY OF INDIVIDUALS ARRESTED FOR
DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS**

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Mr. Van Doren moved introduction of Ordinance #05-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

The Public Hearing is scheduled for 05-08-12 at 7:30 PM.

**ORDINANCE NO. 05-2012
TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**AN ORDINANCE AMENDING CHAPTER 15.08, ENTITLED "CONSTRUCTION CODE FEES
AND ENFORCEMENT," OF THE CODE OF THE TOWNSHIP OF TEWKSBURY**

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Mr. Van Doren moved introduction of Ordinance #06-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

The Public Hearing is scheduled for 05-08-12 at 7:30 PM.

The Ordinance will be forwarded to the LUB for Master Plan consistency review.

ORDINANCE No. 06-2012

**AN ORDINANCE AMENDING SECTION 907 OF THE TOWNSHIP OF TEWKSBURY
DEVELOPMENT REGULATIONS ORDINANCE ENTITLED FEES, GUARANTEES,
INSPECTIONS, OFF-TRACT IMPROVEMENTS AND GENERAL ENFORCEMENT**

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➤ **Consent Agenda**

Mayor Desiderio requested that Resolution #45-2012 be removed from the Consent Agenda.

Mr. Melick requested that the authorization to have the Mayor sign the Application for Red Light Permit for Paul Silverthorne/OFC be removed from the Consent Agenda.

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

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

**RESOLUTION #46-2012
OPPOSING SENATE BILL 1452**

WHEREAS, legislation has been introduced to reform and modernize the Open Public Records Act (S-1452); and

WHEREAS, the governing body of the Township of Tewksbury agrees that government records should be readily accessible and transparent but there must be an appropriate balance between the need for openness and transparency in government and citizens' reasonable expectation of privacy; and

WHEREAS, among the costly unfunded mandates and impractical new requirements of S-1452 are the following:

- The expansion of the definition of government record to include records that are required by law to be made, maintained or kept on file by any public agency that will lead to a records custodians to be in violation of OPRA for the non-existence of a government records created before their tenure with the public body; and
- The creation of a definition for "advisory, consultative or deliberative" material that may be contrary to the well established definition in case law leading to costly litigation; and
- The expanding of the definition of government record to include electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting that is unworkable and unmanageable as the technology does not always exist to make "hard copies" or digital copies of text messages, the records custodian does not always have access to the electronic communications and certain cell phone carriers will not provide this information without a subpoena; and
- The inclusion of a subjective definition for "reasonable" that may be contrary to the well established definition in case law leading to costly litigation; and
- A new requirement that any video or audio recordings or public meetings should be available in unedited form will be in direct violation of the Open Public Meetings Act requirement that requires the redacting of discussions in closed session until the matter can legally be released; and
- A new requirement on how to handle redactions and special services fees is time consuming and costly, especially considering that the Government Records Council has already addressed these procedures in their Custodians' Toolkit, which should be codified; and

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

- A provision that permits the records custodian to advise a requestor that a government record is readily available on the public agency's website; however, the bill requires the records custodian to directly provide the records to the requestor if they do not have access to a computer but does not define what is meant by "access to a computer"; and
- A new costly requirement that when there is a special service charge the requestor must be provided, at no cost, an index generally describing the responsive government records to be provided and to the greatest extent possible the index shall include the name of each record or brief description of the record or general categories of records, a detailed breakdown of how the special charges were assessed and if records are exempt or redacted, the records custodian must provide a description of those records; and
- A provision that prohibits the assessment of a special service charge for requests for budgets, bills, vouchers, contracts and public employee salaries and overtime unless the request is deemed voluminous, which is undefined and subjective; and

WHEREAS, the provisions of S-1452 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-1452 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, while the governing body of the Township of Tewksbury strives for and agrees that open and transparent government is essential to the democratic process, the provisions of S-1452 will make government inefficient;

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Township of Tewksbury, County of Hunterdon, and State of New Jersey for reasons stated above, does hereby oppose S-1452, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills; and

BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Senator Barbara Buono, Senator Shirley Turner, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, the legislators of the 15th, 16th and 23rd State Legislative District, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

Dana Desiderio
Mayor

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

**RESOLUTION #47-2012
OPPOSING SENATE BILL 1451**

WHEREAS, legislation has been introduced to reform and modernize the Open Public Meetings Act (S-1451); and

WHEREAS, the governing body of the Township of Tewksbury agrees with and supports the statement that “the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process”; and

WHEREAS, the changes, however, proposed in S-1451 will not only be a cost driver for local and State government but make government less effective; and

WHEREAS, S-1451 includes a number of proposed requirements which involve costly unfunded mandates, impractical requirements and impediments to the democratic process, including the following:

- A new definition of subcommittees that expands subcommittees to be overly inclusive so that, for example, even research projects assigned to one member of a public body could be covered; and
- A new requirement that all subcommittees meetings include notice of their meeting and the preparation of minutes, which would, among other things, necessitate additional administrative support for all meetings of subcommittees as well as increased legal advertising cost; and
- A new requirement that agendas provide a description of all agenda items, including the names of parties to and approximate dollar amounts of any contracts to be acted upon, which will delay the award of contracts and could lead to the loss of grant monies; and
- A new requirement that the governing body may discuss, but not act upon, an item brought up by a citizen at a public meeting if it was not published as an agenda item, that not only runs contrary to the time honored tradition of holding a public meeting for the very purpose of soliciting such input and acting upon it but is impractical, ineffective and unnecessarily inhibits the operations of municipal government; and
- A new requirement for advance notification of estimated start times for the public portion of the meeting and the portion of the meeting from which the public is to be excluded that is unworkable and disruptive; and
- A new requirement that recordings of meetings become a part of the minutes that renders the recordings a permanent municipal record and is not only counter to the already-established records retention schedule of Division of Archive and Records Management for such records but which will be costly to preserve the records to ensure that they are permanent; and

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

- A new requirement that electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting become part of the minutes and renders the recordings a permanent municipal record, is unworkable and unmanageable as the technology does not always exist to make “hard copies” or digital copies of text messages and the records custodian does not always have access to them, and which is an unprecedented expansion of the meeting concept; and
- A new requirement that public bodies be permitted to exclude the public from discussion of personnel matters only with the written consent of the employee and potentially affected employees which will inhibit the public bodies’ ability to take necessary actions on personnel matters and could lead to costly litigation; and
- A new requirement that comprehensive minutes that must include each member’s stated reason for their actions or vote, the identity of each member of the public who spoke, and summary of what was said, be made available to the public as soon as possible but no later than 45 days after the meeting that will not only be costly but the historical value of minutes will be lost in order to meet an arbitrary deadline; and

WHEREAS, the provisions of S-1451 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-1451 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, while the governing body of the Township of Tewksbury strives for and agrees that open and transparent government is essential to the democratic process, the provisions of S-1451 will make government inefficient;

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Township of Tewksbury, County of Hunterdon, and State of New Jersey for reasons stated above, does hereby oppose S-1451, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills; and

BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, Assemblyman Upendra Chivukula, the legislators of the 15th, 16th, and 23rd State Legislative District, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks’ Association of New Jersey.

Dana Desiderio
Mayor

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

**RESOLUTION #48-2012
ARBOR DAY 2012**

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, 2012 marks the 140th Anniversary of Arbor Day, which is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource providing paper, wood for homes, fuel for fires and countless other products; and

WHEREAS, trees in our township increase property values, enhance the economic vitality of our business area and beautify our community; and

WHEREAS, wherever they are planted, trees are a source of joy and spiritual renewal; and

WHEREAS, the Township Committee of the Township of Tewksbury and the Tewksbury Township Forestry Advisory Board will hold a public celebration and tree planting at the Tewksbury Elementary School at 10:00 AM on April 27, 2012, to mark this occasion.

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey hereby proclaims Friday, April 27, 2012, as the 140th Anniversary Celebration of Arbor Day, in the Township of Tewksbury, and urge all Township residents to celebrate Arbor Day and support the efforts to protect the trees and woodlands; and

BE IT FURTHER RESOLVED, that all citizens are urged to plant trees to gladden the heart and promote the well-being of this and future generations.

Dana Desiderio
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO
- Regular minutes of 3-27-12

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

ITEMS REMOVED FROM THE CONSENT AGENDA

Discussion followed regarding Mayor Desiderio’s concern with hiring additional personnel for the Court.

It was stated that if the Court Translator is not needed on a specific court date, either the Judge or the Court Administrator could dismiss her.

Dr. Voyce moved adoption of Resolution #45-2012, 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 #45-2012

A RESOLUTION SETTING THE 2012 SALARIES AND WAGES FOR THE EMPLOYEES OF THE TOWNSHIP OF TEWKSBURY

BE IT RESOLVED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the following salary and wage for the employees so stated is hereby set for the year 2012.

| COURT | | |
|----------------|---|---|
| Vilma Urbanski | Court Translator Violations Bureau Court Staff | \$13.00/hour* *start date 04-17-12 |
| Michael Clancy | Court Security | \$125.00/court session* *start date 04-17-12 |

Dana Desiderio
Mayor

Dr. Voyce made a motion to authorize the Mayor to sign the Application for a Red Light Permit for Paul Silverthorne of the OFC, seconded by Mr. Van Doren. The motion was approved. Ayes: Desiderio, DiMare, Van Doren, Voyce. Nays: None. Abstain: Melick.

- Authorization to have Mayor sign Application for Red Light Permit for Paul Silverthorne/OFC

6. Reports

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

Mr. DiMare noted that the good weather has allowed the DPW to be ahead of schedule with regard to road work and repair. He cautioned the public to the danger of fire.

Dr. Voyce noted that there have been two recent house fires, neither of which resulted in any injuries.

TOWNSHIP COMMITTEE APRIL 10, 2012 MINUTES

Mr. Melick stated that he has heard good comments about the condition of the Township playing fields.

He noted that a representative from the Tewksbury Board of Education will be at the 05-22-12 work session meeting.

Mr. Van Doren noted that passing of former Mayor Norman Hoffman.

Discussion followed regarding a letter drafted by Mr. Van Doren in conjunction with Resolutions #46-2012 and #47-2012. Mr. Melick stated that there should be language related to a caucus in the letter. Mr. Van Doren stated that he would revise the letter and bring it to the upcoming meeting for further discussion and then it could be sent to Senator Weinberg.

Mr. Van Doren stated that he would like to reinstate the "Night Out" program at the Christie Hoffman Park this summer if there is public interest. He thanked the PAB for sponsoring the Fishing Derby on 05-05-12.

Mayor Desiderio noted that she recently met with the Chief Holmes, Jean Marie DuHamel, Hayden Hull, Shana Goodchild and Don Broughton to discuss hunting in Township parks. She noted her concern with better posting of the parks for both hunting and deer depridation, adding her concern with allowable hours for hunting by the farmers. She added her concern that patrollers are allowed to hunt in various parks.

Mr. Selvaggi cautioned that posting specific times for specific parks could result in legal problems and the best way to address hunting in Township parks would be to have signs stating that hunting is in progress and the public is to proceed at their own risk.

Mayor Desiderio stated that she contacted the staff at the PAB regarding the reinstatement of summer hours. Discussion followed regarding the pros and cons of summer hours for Township employees.

Mr. DiMare made a motion to reinstitute the summer hours and policies as they were in 2009, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Voyce. Nays: Melick, Van Doren.

➤ **Township Administrator**

Mr. Landon noted that he is working to schedule various sub-committee meetings to review and discuss proposed Ordinances.

Discussion followed regarding what the Committee wishes to do regarding the TDR grant. It was the consensus of the Committee to complete the grant noting the Bellemead property as it exists today and to submit same to the Highlands Council.

Mr. Van Doren questioned a bill for \$9,240 for deer carcass removal.

Discussion followed regarding the matter of road sweepings and the need to dispose of them safely and legally as opposed to using them for other purposes in the Township. Mr. Landon stated that he would look into the issue with the Engineer and DPW Supervisor.

7. Executive Session

**TOWNSHIP COMMITTEE
APRIL 10, 2012 MINUTES**

At 8:40 PM Dr. Voyce moved adoption of the following Resolution, seconded by Mr. Van Doren. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**RESOLUTION #49-2012
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 Contract Negotiations 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.

Dana Desiderio
Mayor

8. Reconvened

The meeting reconvened at 9:20 PM.

9. Adjournment

There being no further business, the meeting was adjourned at 9:20 PM.

Roberta A. Brassard
Municipal Clerk