

TOWNSHIP COMMITTEE JUNE 26, 2012 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 Dana Desiderio presided.

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

William Voyce was not present.

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

There were approximately twenty five 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

Tom Schroth presented a framed picture from the third graders at TES to the Mayor. The picture has the caption "TES 3rd Graders Love Trees" and is a memento from the 2012 Arbor Day events.

Hank Klumpp noted a recent article in the newspaper regarding pay raises for DPW employees. He expressed his displeasure with the current Superintendent of Public Works, adding that jobs are not getting done in a timely or proper fashion. He stressed that all positions and personnel be carefully reviewed prior to any raises being granted.

Robert Becker thanked the Committee for keeping the tax rate at its current level, adding that he felt it was time for non-management personnel to get pay raises.

He noted the recent bond issue and the fact that incorrect information was released to the public. He stated that he would like a detailed listing of costs involved with this mistake and that the matter be fully discussed in open session by the Committee.

Mayor Desiderio noted that the matter is being looked into.

In response to a question from Mr. Klumpp, it was stated that the 20 year bond used for the purchase of the Christie Hoffman Farm has been paid off in full.

It was noted that the Township currently has approximately \$19-20 million of total outstanding debt with no immediate plan to incur any additional debt.

In response to a question from Mr. Klumpp, Mr. Landon stated that he would contact him with the amount of Township funds utilized to date related to the JCP&L substation.

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Mr. DiMare noted that the matter as noted by Mr. Becker has been forwarded to the County Prosecutor for review.

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

Mr. Melick requested that the following items be removed from the Consent Agenda and voted on separately.

- Authorization to have Mayor sign F & D for 50/50 raffle at OFC gala 10-13-12
- Authorization to have Clerk sign Special Permit for Social Affair at OFC gala 10-13-12

Mr. Van Doren requested that the regular and executive session minutes of 06-12-12 be removed from the Consent Agenda and voted on separately.

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

**RESOLUTION #63-2012
TAX REFUND**

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 payment for the refund of tax from a successful appeal.

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Year</u>	<u>Amount</u>
5	2.13	Margaret A. Steffen Attorney for Dominck Dipaolo and Amanda Wohlleber 229 Washington St Toms River NJ 08753	2011	1653.75

Dana Desiderio
Mayor

RESOLUTION #64-2012

**TO ACKNOWLEDGE RECEIPT OF A \$750.00 DONATION FROM
THE ISABEL & DAVID MAHALICK FOUNDATION, INC. TO THE
TEWKSBURY POLICE DEPARTMENT**

WHEREAS, a charitable donation of \$750.00 was made to the Tewksbury Police Department by the Isabel & David Mahalick Foundation, Inc..

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of

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Tewksbury, County of Hunterdon, State of New Jersey that this donation has been gratefully acknowledged and the monies will be used to upgrade radio equipment.

Dana Desiderio
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO

ITEMS REMOVED FROM THE CONSENT AGENDA

Mr. Melick made a motion to adopt the regular and executive session minutes of 06-12-12, seconded by Mr. DiMare. The motion was approved. Ayes: Desiderio, DiMare, Melick. Nays: None. Abstain: Van Doren. Absent: Voyce.

- Regular and executive session minutes of 06-12-12

Mr. Van Doren made a motion to approve the following action, seconded by Mr. DiMare. The motion was approved. Ayes: Desiderio, DiMare, Van Doren. Nays: None. Abstain: Melick. Absent: Voyce.

- Authorization to have Mayor sign F & D for 50/50 raffle at OFC gala 10-13-12

Mr. Van Doren made a motion to approve the following action, seconded by Mr. DiMare. The motion was approved. Ayes: Desiderio, DiMare, Van Doren. Nays: None. Abstain: Melick. Absent: Voyce.

- Authorization to have Clerk sign Special Permit for Social Affair at OFC gala 10-13-12

5. Work Session Topics

➤ **Board of Health**

A memo was submitted by the Chairman of the Board of Health regarding the need for a communal sewerage system for the southern portion of Tewksbury Township. As there was no one from the Board present to discuss the matter in further detail, the Committee requested that information be gathered to create an historic study of the area with regard to septic failure, location, replacement or associated issues.

The request will be relayed to the Board of Health for review and action.

➤ **Oldwick Fire Company (OFC)**

Mr. Melick was recused from the following discussion but remained in the audience.

Mayor Desiderio stated that she is not in favor of locating a cell tower at the OFC.

Mr. DiMare noted that he has two ways of looking at the matter – the request to revise the 2005 deed restriction that defines the facility for firefighting purposes, normal and customary meetings

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and social functions. He noted that cell towers existed in 2005 when the deed was written and nothing related to cell tower placement was included in the lease. He surmised that the standing 2005 Township Committee must have considered language related to a cell tower and opted not to include any provisions in the deed. He added that he is satisfied that the deed covers the intended use of the property and is not in favor of revising the deed.

With regard to monetary issues raised by Robert Boak at an earlier meeting, Mr. DiMare noted that the Township Committee has the authority to change allocations if monies are available in the budget. He added that he supports the fire community and the good job they do, but is not in favor of erecting a cell tower at the entrance to the Township in an historic district. He considered it distasteful and saw no good reason to change the deed.

Mr. Van Doren noted that prior to the deed being signed; Ordinance #24-2003 was adopted authorizing the transfer of 4.6 acres to the OFC. The language in the Ordinance is similar to that of the deed stating "...that the real property conveyed shall be used only for the purposes of such volunteer fire company and for rendering of volunteer fire-fighting services in this Township, and not for commercial business, trade or manufacture, and that if said real property is not used in accordance with said limitation, title thereto shall revert to this Township without any entry or reentry made thereon on behalf of this Township."

He noted that the area south of Oldwick has been carefully planned with regards to Toll Brothers, COAH requirement, library discussion and renovation of the Bartles House. He added that he is not in favor of amending the deed to allow a cell tower on the OFC property.

Mayor Desiderio noted that the Land Use Board (LUB) and the Township Committee work diligently and the various restrictions that are imposed on a property are done after careful deliberation. She opined that a cell tower located at the gateway to the Township would be totally unsightly and is not in favor of amending the deed.

The discussion was now open to the members of the public.

Robert Becker opined that rescue squads and fire companies are under appreciated, adding that he was a member of the Tewksbury Rescue Squad. He stated that any group that expends public funds should have annual reports and statements of cash flow readily available for public review, adding the necessity to understand finances for all rescue squads and fire companies. He added that any cell tower or commercial enterprise needs to be subject to public bidding rules and regulations.

Richard Width stated his agreement with comments made by the Committee members. He noted that he was a Township Committee member during the time when the property south of Oldwick was purchase and that Committee worked hard to preserve the gateway to the Township. He opined that the existing fire house looks good, but a cell tower would not be in keeping with the area. He noted that the OFC does a good job and the Committee has always supported them via annual contributions and purchase of equipment. He added that monetary considerations for a charitable organization should not drive land use planning and a cell tower in Oldwick would not be consistent with Township Ordinances and would violate the concept of good land use planning. He stated that monetary concerns could

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be addressed separately and supported the Committee's position not to grant a waiver to the deed.

Dan Gechtman from Global Tower Partners stated that he is familiar with the area and understands the Committee's concern with the aesthetics of the Township. He opined that this is primarily a land use matter, adding that a cell tower would be allowable in the (Piedmont) zone as a conditional use. He stated his understanding that the Committee must initially allow a waiver to the deed prior to appearing before the LUB.

In closing, he added that if the waiver is not granted, his company can go to a private property owner and no Township Committee authorization will be necessary.

Rilda Hone noted that there are cell towers everywhere and 99% of them are sited in good locations-she opined that locating a cell tower in Oldwick would be inappropriate because of the proximity to a residential village and a state and national historic district. She added that there is no hardship that cannot be remedied; no financial burden that can't be resolved by the Committee and the FCC can address communication problems.

She stressed that a cell tower should not be located at the OFC building in Oldwick.

Mary Ace cautioned the Committee not to set a precedent with regard to amending an existing deed. She praised the OFC for the good job they do and the many hours spent in training. She opined that allowing a cell tower in Oldwick would open the doors to other things and that it would be bad for Oldwick.

Robert Boak noted that the OFC files annual financial documents and they are available for review either at his office or that of the Township CFO.

He stated that the OFC "doesn't want to get cut off at the knees" if the Township Committee does not grant the waiver: they want to go to the LUB and hear what everyone has to say on the matter, adding that the OFC doesn't know what the proposed tower will look like until they see the presentation.

Regarding matters of finance, Mr. Boak noted that the OFC is maxed out at receiving \$90,000 annually from the Township and this has not increased for 20 years. He added that the Township has purchased equipment for the OFC and the members have raised funds via pancake breakfasts, coin tosses, the Gala and cooking at various Township events. He added that it would be in the best financial interest of the OFC to have a cell tower on site and it would also offer them a better radio tower than any other fire company could build.

In closing, Mr. Boak added that cell towers are located behind most fire houses and the OFC cannot go to the LUB if they are cut off at the Township Committee level. He added that this would be a "cheap shot" and the OFC would be "cut off at the knees"

Dan Todd, President of the OFC stated that the members of the OFC do not want to do anything to jeopardize their relationship with the Township Committee as they have a good facility in a good location.

He noted that the cell tower issue has multiple points of discussion. The OFC wishes to appear before the LUB to present an application.

The matter of fund raising is an important issue as the monies generated from allowing a cell tower on site would (potentially) yield more monies than all combined fund raisers. He added

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that if the members can spend less time fund raising, they can spend more time training and attending classes.

Mr. Todd explained that once the FCC makes a decision to site a tower to allow for coverage, it will be built.

He added that the OFC "won't go broke if there is no cell tower" but it would be beneficial to the company.

In closing, Mr. Todd reiterated that the OFC would like to come before the LUB to present a full application and allow the public ample opportunity to see the proposed tower. He added that times have changed since the language in the seven year old deed was drafted and the OFC did not approach the cell tower company, but were approached by them.

Mr. Todd reiterated that the OFC does not wish to jeopardize their relationship with the Committee.

Robin Love stated her support of statements made by the Committee members, Mr. Width, Mrs. Hone and Mrs. Ace adding that the setting of a bad precedent would not be best for the Township. She noted that the deed is not that old of a document and thanked the Committee for taking a stand on this important matter.

In response to a question from Hank Klumpp, Mr. Van Doren explained the procedure regarding Township Committee approval/denial of the request for deed waiver. He noted that the LUB cannot interpret a deed that was created by the Committee: they can interpret a deed that was create by a subdivision with advise from council. Only the Township Committee can grant a waiver or relief from the OFC deed restriction and thus allow the application to go to the LUB. He noted that if the application were to go to the LUB, there would be higher levels of state, historic and municipals standards with which to comply.

Mr. Van Doren stated that the Township Committee can consider spending additional monies for equipment, gear and/or hoses if there is money in the budget.

Mr. Becker surmised that the statement that the FCC selected this site was incorrect as there are other properties in the area equally suitable. He added that locating a tower on a municipally owned property is financially more attractive to investment partners than going to a private individual. He stressed that the matter not go before the LUB.

Mr. Gechtman noted that he is working in Harding Township in the area by Tempe Wick Road which is very historic. He noted that the aesthetics are very important there and he is working directly with the State Historic Preservation Office.

He cited the 1996 Telecommunications Act and the fact that FCC laws require that there be no gaps in coverage.

He noted that if a surrounding privately owned property were chosen, the applicant would not have to come before the Township Committee for any approval, but would go directly to the LUB.

He compared the proliferation of telephone poles to one cell tower adding that telephone poles are more numerous and more offensive.

Mayor Desiderio closed the meeting to comments from the public.

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Mayor Desiderio stated that the Committee needs to continue to draw a line in the sand, adding that the LUB and Township Committee work diligently with regard to deed restrictions and all land use matters. She added that the facility was constructed for the purpose of fire fighting and she saw no benefit to having a cell tower on the property.

Mr. DiMare stated that he listened carefully to all comments, noting that he had previously heard 99% of the discussion. He stated that his opinion had not changed and he was not in favor of allowing a cell tower at the OFC site.

Mr. Van Doren made a motion to leave the existing deed for the Oldwick Fire Company property in its current condition and to deny the request for a waiver and leave the existing restrictions in place, seconded by Mr. DiMare. A roll call vote was taken and the motion was approved. Ayes: Desiderio, DiMare, Van Doren. Nays: None. Absent: Voyce. Recused: Melick.

Mr. Melick returned to the meeting table at this time.

6. Reports

➤ **Township Committee Comments**

Mr. Van Doren noted that a response was received from Senator Weinberg regarding the letter related to OPMA/OPRA matters. He added that he will continue to work with the legislators on this proposed bill as he feels the various proposed exemptions are unfair.

Mr. Melick noted that school is out for the summer, adding that a finance subcommittee meeting is scheduled for July 9 or 10.

Mayor Desiderio noted that she attended the recent Town Hall meeting in Trenton.

7. Executive Session

At 8:35 PM Mr. Van Doren moved adoption of the following Resolution, seconded by Mr. Melick. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren. Nays: None. Absent: Voyce.

**RESOLUTION #65-2012
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 Personnel, Possible Litigation and Contract Negotiations.

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

Dana Desiderio
Mayor

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8. Reconvened

The meeting reconvened at 8:54 PM.

Mayor Desiderio noted a parking issue by the Spirit Spa in Oldwick on Route 517. Discussion followed regarding the matter and it was the consensus of the Committee that the Mayor and Administrator should meet with the owner of the Spa next week to discuss the matter. Further discussion followed regarding parking in general in the village of Oldwick.

Mr. Van Doren suggested that the parking ban by the old firehouse on James Street be lifted to allow additional village parking spaces.

Mayor Desiderio noted that she would be unavailable to attend the 07/24/12 meeting.

Mr. Landon noted that the bids for the Hunters' Glen repair were received from the Engineering department missing necessary components. Mr. Holt was notified of the mistake and the bids will be redone at no cost to the Township. Award of bid will be authorized at the 07/24/12 meeting.

Mr. Van Doren stated that he would prefer not awarding the contract for work to be done on Fox Hill Road until there is some resolution with JCP&L regarding reimbursement. Mr. Landon noted that there are 60 allowable days between receipt and award of bid(s).

9. Adjournment

There being no further business, the meeting was adjourned at 9:10 PM.

Roberta A. Brassard
Municipal Clerk