

**TOWNSHIP COMMITTEE
AUGUST 27, 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, Roberta Brassard, Municipal Clerk and Michael Selvaggi, Township Attorney were in attendance.

There was one member 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. Public Participation

No comments were heard from the public.

4. Actions to be taken

➤ **Consent Agenda**

Mr. Melick requested that the authorization to sign the Findings and Determinations for the 50/50 raffle for the OFS 9/28/13 event be removed from the Consent Agenda and voted on separately.

Mr. Van Doren requested that Resolution #86-2013 be removed from the Consent Agenda and voted on separately.

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 #87-2013
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>
44	16	Park Finance II LLC PO Box 109	2010-07 Premium	40,385.66 2,900.00

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

Cedar Knolls, NJ 07927 Statutory Fees & Costs 1,338.00
44,623.66

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 refund of the 2011 homestead rebate.

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>
37.02	3	George A. & Marion Nelsen 3 Hunters Circle Lebanon, NJ 08833	909.75

Louis DiMare
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO
- Regular minutes of 08-06-13

ITEMS REMOVED FROM THE CONSENT AGENDA

Mr. Van Doren stated that he would abstain from voting on Resolution #86-2013 as he is affiliated with an organization that may be interested in purchasing the property.

Corrections were made to the Resolution to denote that the Township Administrator would be in charge of the auction as the Municipal Clerk would not be in attendance.

Dr. Voyce moved adoption of Resolution #86-2013 with noted corrections, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, DiMare, Melick, Voyce. Nays: None. Recused: Van Doren.

RESOLUTION NO. 86-2013

A RESOLUTION OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, AUTHORIZING THE SALE OF CERTAIN PROPERTY OWNED BY THE TOWNSHIP AND NOT REQUIRED FOR PUBLIC PURPOSES, PURSUANT TO N.J.S.A. 40A:12-13 ET SEQ.

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-13(a) authorizes the sale by municipalities of any real property, capital improvements or personal property or interests therein, not needed for public use by open public sale at auction to the highest bidder after the required newspaper advertisements;

WHEREAS, the Township of Tewksbury is the owner of Block 40, Lot 2, more commonly known as 5 James Street which is not needed for public use and the Township Committee has

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

determined that it is in the best interest of the Township to sell the property in an effort to put it back on the active tax rolls; and

WHEREAS, there shall be a minimum bid for this property of \$100,000.00 regardless of the minimum bid the Township reserves the right to reject all bids.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, that Block 40, Lot 2, the property known as 5 James Street within the Township of Tewksbury shall be offered for sale by open public sale at auction to the highest bidder, pursuant to N.J.S.A. 40A:12-12(a). Said public auction shall be conducted on September 20, 2013 at 1:00 PM at 5 James Street, Oldwick, NJ.

BE IT FURTHER RESOLVED that the subject property shall be offered for public bidding as set forth below and shall be sold pursuant to the further expressed conditions enumerated below:

1. The Township reserves the right to cancel the action at any time prior to the auction, for any reason. Bidders may wish to contact the Township Administrator the day before the auction to ensure the property still being offered for auction.
2. Each bid is subject to the rejection or acceptance by the Township Committee which shall occur no later than at its second regular meeting following the auction sale. The Township Committee reserves the right to reject all bids. If no action is taken by the Township Committee by the second regular meeting, then the bid shall be deemed to be rejected.
3. The successful bidder, as indicated by the highest bid, shall be required to deposit 10 percent (10%) of his or her bid with the Township at the time of the auction. This deposit shall be made by either certified check, money order or cash in an amount equal to at least 10 percent (10%) of the winning bid payable to "Courter, Kobert & Cohen Attorney Trust Account". All monies so received will be credited toward the total sale price. The deposit made by the purchaser is non-refundable. The risk of loss is on the purchaser.
4. The successful bidder, as indicated by the highest bid, shall be required to execute a Contract for Sale of Real Estate at the time of the auction. A copy of the contract for each property is on file with the Township Clerk.
5. Bidders are required to register for the auction by completing the form in Schedule "A". All bidders must appear in person at the auction and upon becoming the successful bidder must present identifying credentials in compliance with the auction rules stated below:
 - a. The Township Administrator will start with the auction by reading these auction rules.

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

- b. Each registered bidder will receive a bidder number. In order to make a bid, a bidder raises their number in the air. The Township Administrator will record each bidder's number and bid amount. A bid indication is considered a contractual obligation.
 - c. Bidders may not communicate with each other in any manner.
 - d. The minimum bid increment is one hundred (\$100.00) in U.S. Dollars.
 - e. A person bidding on behalf of a corporation, upon becoming the successful bidder, must present a copy of the Certificate of Incorporation and a resolution authorizing that person to bid on behalf of the corporation.
 - f. A person bidding on behalf of a partnership or using a trade name upon becoming the successful bidder, must submit a copy of the Certificate of Trade Name (partnership) and a letter of authorization from the other partner(s).
 - g. No other bidder may submit a bid on behalf of another, except that a husband or wife may bid on behalf of both.
 - h. The winning bid will be decided when the highest bid has no counter bids made after three (3) requests.
6. The fire horn for the Township's fire department is currently housed on this property and will be removed by the Township prior to closing.
7. The successful bidder(s) shall be required to pay at time of closing of title the cost of legal advertising of the sale of this property which is the subject of this auction plus the Township's attorneys' fees of \$1,000.
8. The successful bidder(s) shall bear the cost of recording the deed(s) and agree that the deed(s) shall be recorded on behalf of the purchaser by the Township Attorney. The successful bidder, prior to closing of title, will not be permitted to assign his or her bid nor any right, title or interest in the property on which the bid was made.
9. The burden is on all successful bidders to obtain any and all variances and/or approvals from the Land Use and Development Ordinance of the Township of Tewksbury from the appropriate municipal agency. Closing of title is not contingent upon the issuance of any required land use approval.
10. Title is to close within ninety (90) calendar days of confirmation of the bid by the Township Committee at the Township Attorney's office, unless otherwise extended in the sole discretion of the Township Committee, but if the last day for closing of title falls on a Saturday/Sunday, or legal holiday, then title shall close on the following day. Time is of the essence.

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

11. All conveyances shall be by Quitclaim Deed from the Township of Tewksbury to the successful bidder, to be dated on the date of closing of title.
12. The sale price, as may result from this auction sale, may not be used before any County Board of Taxation, State Tax Court or in any other court of this State to challenge the assessment with respect to the subject property nor may same be used as a comparable sale to challenge assessment with regard to other properties.
13. All successful bidders are required to conduct all desired title searches at their expense prior to the date of closing. If the title to this property shall prove to be unmarketable, the liability of the Township shall be limited to the repayment to the purchaser of the amount of his or her deposit and any portion of the purchase price paid without any further cost, expense, damage or claim. Notice of any alleged defect in title or claim of unmarketability shall be given to the Township in writing no later than thirty (30) calendar days after the date of confirmation of the sale by the governing body of the Township of Tewksbury. Failure to give such notice shall be deemed conclusive evidence that the purchaser accepts title in its then present condition.
14. All prospective purchasers are put on notice that no employee, agent or officer of the Township of Tewksbury has authority to waive, modify or amend any of the conditions of sale.
15. If the successful bidder was the sole or part owner of the property to be sold at the time the Township acquired title by a tax foreclosure, said bidder may not reacquire the property directly or indirectly without complying with the following condition: The successful bidder of any property at this auction, by making such bid, thereby agrees to pay the Township at closing of title the difference, if any, between the total amount of taxes, plus interest and penalties due at the time of the judgment of foreclosure was entered and the amount of the successful bid.
16. It is conclusively presumed that a bidder prior to taking his or her bid has done the following:
 - a. Checked the exact location, including the correct street address and lot size of the property on the Official Tax Maps that are available at the Assessor's Office.
 - b. Made a personal inspection of the property prior to the bidding on a piece of property by contacting the Township Clerk, Monday – Thursday, between 8:00 am and 4:00 pm, telephone number (908) 439-0022.
 - c. Responsibility for failure to comply with the above-mentioned conditions and guidelines will be fully assumed by the purchaser.
17. A failure by the purchaser to fully comply with the terms, conditions, requirements and regulations of sale as herein contained shall be considered, at the option of the Township of Tewksbury, as a material breach of the conditions of sale whereupon the Township of Tewksbury may declare said contract or purchase terminated and at an

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

end. All monies paid on behalf of the purchase price, by way of deposit or otherwise, may be retained by the Township as its liquidated damages and it may thereafter resell the said property and/or pursue such other and further legal and/or equitable remedies as it may have and the defaulting purchaser shall continue to remain liable for all damages and losses sustained by the Township of Tewksbury by reason of any such default.

18. Any descriptions of the properties published by the Township are intended as a general guide only and may not be accurate. No representations of any kind are made by the Township of Tewksbury as to the conditions of the property, said premises are being sold in their present conditions "as is".
19. The sale is made subject to such state of facts as an accurate survey may disclose, existing tenancies, rights of persons in possession, easements, conditions, covenants, restrictions and any other encumbrances of title.
20. The sale is made subject to all applicable laws and ordinances of the State of New Jersey and the Township of Tewksbury.
21. Successful bidders agree to the following conditions:
 - a. To pay prorated property taxes for the balance of the current year as of the date of closing.
 - b. To abide by appropriate zoning, subdivision, health and building regulations and codes and stipulations that this sale will not be used as grounds to support a challenge of the existing assessment of the subject property, nor shall the purchase price be used as a comparable sale to challenge assessments with regard to other properties.
 - c. That the failure to close title as agreed shall forfeit to the Township of Tewksbury any and all money deposited with the Township.
22. If any section or provision of this Resolution shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Resolution, except so far as the section of the provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Louis DiMare
Mayor

Ms. Desiderio made a motion to authorize the signing of the F & D for the OFC 50/50 raffle to be held on 09-28-13, seconded by Mr. Van Doren. The motion was approved. Ayes: Desiderio, DiMare, Van Doren. Nays: None. Abstain: Melick, Voyce.

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

- Authorization to have Mayor sign F & D for OFC 50/50 raffle on 9-28-13

➤ **Ordinance Introduction**

Ordinance #08-2013 Amending Ordinance #05-2013

Mr. Van Doren noted that the Land Use subcommittee met to discuss this Ordinance and other issues and felt that the Ordinance as presented would address most issues pertaining to the matter of the installation of “specific accessory structures.”

Mr. Van Doren made a motion to introduce Ordinance #08-2013, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

The Public Hearing is scheduled for 09-10-13 at 7:30 PM in the Mountainville Meeting Hall.

ORDINANCE NO. 08-2013

**ORDINANCE OF THE TOWNSHIP OF TEWKSBURY,
COUNTY OF HUNTERDON, STATE OF NEW JERSEY,
TO AMEND, REVISE AND SUPPLEMENT
SECTION 702.2 OF ARTICLE VII OF THE
DEVELOPMENT REGULATIONS ORDINANCE OF THE TOWNSHIP OF
TEWKSBURY TO AMEND SAID REGULATIONS
PERTAINING TO GENERATORS AND
AIR CONDITIONING SYSTEM COMPRESSORS**

#

Ordinance #09-2013 DRO Amendment –Section 706 “Exceptions”

Mr. Van Doren reiterated that this Ordinance was crafted to specifically address comments and concerns made know by former Mayor Baird. He added that any Ordinance will not address all issues, but presented Ordinance #09-2013 as a “best attempt”.

Mr. Van Doren made a motion to introduce Ordinance #09-2013, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

The Public Hearing is scheduled for 09-10-13 at 7:30 PM in the Mountainville Meeting Hall.

ORDINANCE NO. 09-2013

**AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF HUNTERDON,
STATE OF NEW JERSEY, TO AMEND, REVISE AND
SUPPLEMENT ARTICLE VII “ZONING PROVISIONS,” OF THE
DEVELOPMENT REGULATIONS ORDINANCE AND TO
REVISE SECTION 706 “EXCEPTIONS”**

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

###

Both Ordinances will be forwarded to the Land Use Board for Master Plan consistency review.

5. Reports

➤ **Township Committee Comments**

Dr. Voyce noted a recent water rescue from McCann Mill Road that made national news.

Mr. Van Doren noted that the Land Use subcommittee met recently to discuss an Ordinance to regulate wind and solar energy facilities. The Land Use Administrator will compile Ordinances and create a document for Township Committee review for the 9/24/13 meeting. He added that a finance subcommittee meeting needs to be convened prior to the next Committee meeting to discuss the current budget and related issues. A tentative date for the morning of 9/10/13 was suggested.

Mr. Melick stated that he wishes to meet with the Superintendent of Public Works to discuss the outside mowing contract and iron out issues moving forward. He noted that the recent rains have compromised many dirt roads in the Township and the DPW has had to perform maintenance multiple times on the same road. He cautioned that if summer hours had not been in effect, overtime would not have to have been paid to DPW employees and the Committee should “remember that for next year”.

Mayor DiMare noted that the issue of inspections by the Zoning Officer needs to be revisited. He suggested the need to create a discretionary check list of items so that there would be fewer problems that could negatively affect the Township. He suggested that the Zoning Officer and the Land Use Administrator create the check list and then have it reviewed by the Land Use subcommittee prior to presentation to the Committee. It was suggested that this be included on the 9/24/13 work session agenda as it was reported by the Township Administrator (via Mayor DiMare) that “no one was really opposed to it.”

➤ **Township Administrator**

Mr. Landon stated that some of the dirt roads in the Township have been repaired several times due to the severe weather. He noted that the work on Fox Hill Road should be completed by next week and that all roads should be opened by 8/28 for school buses.

He noted that the contract for the PBA is in its’ final version and should be ready to be signed. Mr. Van Doren requested that the final executed document be copied to the full Committee.

Mr. Landon stressed that the DPW should be commended for the great work that has been done on the Township roads specifically related to the severe weather.

➤ **Township Attorney**

Mr. Selvaggi noted that the Committee needs to further discuss the Kneser consent order matter as the period of public hearing ends at the end of the month.

**TOWNSHIP COMMITTEE
AUGUST 27, 2013 MINUTES**

The following discussion dealt with the afore mentioned topic of zoning inspections. In response to a question by Mayor DiMare, Mr. Selvaggi noted that most municipalities do not have Ordinances related to zoning inspections, adding that fire inspections are State mandated.

Mr. Selvaggi suggested having a mechanism in place for which the home seller would be responsible for signing on matters related to the condition of the property and home. He added that many insurance carriers have reservations about having such inspections as they wish to limit a municipality's liability.

Mr. Landon stated that he has spoken with the Township's insurance carrier and they have stated that what the Township is currently doing (regarding inspections) is not the correct action, and that the concept of "buyer beware" would be more advantageous to the Township.

Mr. Melick stated that he recently spoke with the Zoning Officer from Bernards Township and was advised that they do not perform inspections but they do contact the construction office in order to determine if there are any open permits prior to a home sale.

Discussion followed concerning this issue and Mr. Landon stated that he thought that construction files were reviewed in conjunction with the sale of a home.

Further discussion followed the "buyer beware" concept and the need to have some sort of acknowledgement from the buyer prior to the final sale of the home.

6. Adjournment

There being no further business, the meeting was adjourned at 7:50 PM.

Roberta A. Brassard
Municipal Clerk