

**TOWNSHIP COMMITTEE  
AUGUST 6, 2013 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 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 Michael Selvaggi, Township Attorney were in attendance.

There were approximately six 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. Public Participation**

Betsy Baird questioned when the Ordinance to amend section 706 of the DRO "Exceptions" would be introduced, adding that she did not want to wait until November to have a generator installed on her property.

Mr. Van Doren noted that a Land Use subcommittee meeting was held this morning to discuss this amendment, and final comments and corrections will be sent to Mr. Selvaggi for incorporation into the draft document.

Discussion followed as to why the Ordinance could not be introduced by title at tonight's meeting.

Mrs. Baird noted that there are two sections dealing with lots that are less than 2 acres and the language in the Ordinance needs to be consistent so that the interpretation and enforcement of the Ordinance would be fair.

Mr. Selvaggi noted that introducing the Ordinance by title would be a problem as the document has to be published and then sent to the LUB for consistency review.

Mr. Van Doren noted that residents with corner lots are not taken care of by the existing generator Ordinance and they are being penalized.

Mr. Selvaggi noted that there will always be anomalies with regard to the placing of generators and air conditioner condensers with regard to setback requirements and the hope of the Committee (when drafting the Ordinance) is to keep people from having to go to the LUB for approval.

Mrs. Baird stressed her desire to have the Ordinance ready for introduction as quickly as possible and to assure that the language is consistent throughout.

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Mr. Van Doren agreed that he would get the corrected language to Mr. Selvaggi in advance of the 8-27-13 meeting so that it could be introduced, forwarded to the LUB for consistency review and adopted on 09-10-13.

In response to a question from Mayor DiMare, Mr. Selvaggi stated that he did not see any problem with people starting the process (to install a generator or air conditioner condenser) on a property that could require a LUB variance as he felt certain the Ordinance would be in place prior to permits being issued.

In response to a question from Dennis McGill, Mayor DiMare stated that comments will be heard regarding the Ordinance amendment related to the rescission of zoning inspections later in the meeting.

**4. Actions to be taken**

➤ **Ordinance Public Hearing**

Dr. Voyce made a motion to open the public hearing on Ordinance #07-2013, seconded by Mr. Van Doren. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: none.

Mr. Landon provided proof of publication from the 7-15-13 Courier News.

Dennis McGill stated that he was in favor of adopting the Ordinance as he felt that the inspection was another burden on the residents of Tewksbury. He noted that he is selling his home now and is worried that an unknown violation will be found. He opined that the inspection is a burden on people and targeting people who are trying to sell their homes is unfair. He surmised that there are a lot of people who knowingly are in violation, a zoning inspection is done at the last minute (prior to sale) and the end result is ineffective.

He added that he did not think inspections for smoke and carbon monoxide detectors were effective because a resident could put one in place for the inspection, and then remove it afterwards.

He opined that the burden on the residents is unfair and if the Zoning Officer just looks at “the big stuff”, it is inefficient and could potential “mess up the sale of a house”. He opined that many of the residents of Tewksbury cannot be trusted and an alternate process should be put in place that requires a report be submitted to the town and future home owner from the current owner so that no one from the Township would need to come out for an inspection.

He stated that he was in favor of adopting the Ordinance.

Betsy Baird noted a letter from the LUB outlining their position regarding the inspections. She stressed that the inspections are in place to reinforce the zoning requirements and are not meant to fine people or catch wrong doers. She added that the inspection will ensure that a buyer is purchasing a home that meets current zoning regulations and when and if additional work is done to the house, there will be no unknown problems.

Arnold Shapack noted that he sat on the Board of Adjustment and LUB for 12 years and saw many residents surprised about their properties. He described a neighbor’s home that, prior to selling, revealed many zoning, construction and safety problems. He noted that an inspection

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prior to sale is helpful as it brings the home up to code and also helps the new home owner understand the need for receiving permits when doing something to the structure or land. He suggested that the Township send a letter of welcome to new homeowners and inform them of the rules and regulations and advise of the particular variance(s) that might affect their property.

Charlie Reichold stated that the Ordinance should be adopted and the zoning inspections done away with. He added that when a home is sold, a home inspection is done and the additional zoning inspection is a waste of Township resources and homeowners' monies.

Jan Clark questioned the initial purpose for the inspection, surmising that it was to look for things that should have had permits but did not. She questioned if the inspections were "to hunt for tax revenues" as opposed to inspecting for safety violations.

Discussion followed regarding Mrs. Clark's comment.

Mayor DiMare stated he was unsure of the initial reasoning for the inspection; adding that perhaps it was part of what the Zoning Officer thought he was doing.

Mr. Melick noted that the zoning inspection does not address construction issues-the Zoning Officer is concerned with (among other items) setbacks, lot coverage and additional apartments. He added that fire inspections are State mandated.

In response to a statement by Mrs. Clark, Mr. Van Doren stated that the inspections were not put in place to create a revenue source for the Township. He noted that the Zoning Officer reviews the Township's block and lot files with regard to zoning parameters, number of bedrooms and septic issues. He added that an individual or firm performing a home inspection would not look at zoning issues.

In response to a question from Mrs. Clark, Mayor DiMare stated that he would like to repeal the Ordinance because he felt the inspections caused more headaches and problems for the Township. He added that he felt it is not the Township's duty to inspect a property and give advice; that the homeowner and not the Township should be responsible for those inspections. He added that a prospective homeowner should do due diligence to review Township files and records prior to purchase.

Mr. Shapack noted that attention needs to be paid to safety issues, and the Zoning Officer can see if a structure differs from what is noted on documents in the block and lot file.

In response to a question from Mrs. Clark, Mayor DiMare stated that he was unsure how busy the Zoning Officer was and therefore could not gauge if his current schedule of 2 days/week is sufficient. He added that Mr. Allen is new and much of his time may be being spent learning the codes and working procedures of the Township.

Mr. Van Doren noted that a zoning inspection does not have to be done immediately prior to the sale of a home.

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Dr. Voyce made a motion to close the public hearing on Ordinance #07-2013, seconded by Mr. Van Doren. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: none.

Mr. Van Doren noted the memo from the LUB and their support of retaining the inspection process. He added that the inspections help to find illegal apartments, because unfortunately everyone in the Township is not honest. He stated that the inspection is a way to find issues and keep people honest and is in place to protect the homeowner, not to make money for the Township. He conceded that there were mistakes made by the past Zoning Officer, but they were a result of the Ordinance not being correctly administered. He stated that repeal of the Ordinance would serve no purpose.

Mr. Melick stated that he would vote to get rid of the inspections as there were related issues that led to litigation. He added that fire and construction standards would remain the same, but if the Zoning Inspector inspects a property and misses something it could cause a problem. He noted that once the Township gives its "seal of approval", its hands are tied and if mistakes are made it costs money and angers the neighbors. He noted that if the Zoning Officer had to measure setbacks in the middle of winter, under snow cover it would be impossible to determine where a property line was located. He stated that he would vote to adopt the Ordinance and repeal the inspections.

Ms. Desiderio stated that the inspections should be kept in place, adding that it will aid in holding the applicants accountable and to demonstrate due diligence. She noted that many applicants come to the LUB and it is important to have the inspections in place for the public.

Dr. Voyce noted that he was recently involved in the sale of his father's home and the zoning inspection revealed problems of which he was not aware. He opined that the inspections help to make a home safer and he was hard pressed to say it would be better to have nothing than leave as is.

Mayor DiMare opined that it is asking the impossible to have the Zoning Officer perform inspections that catch everything, adding that the matter should not be an additional Township burden. He stated that he would vote to repeal the inspections and adopt the Ordinance.

Mr. Melick made a motion to adopt Ordinance #07-2013, seconded by Mayor DiMare. Ayes: DiMare, Melick. Nays: Desiderio, DiMare, Van Doren.

The motion failed and the Ordinance was not adopted.

➤ **Ordinance Introduction**

**Ordinance #08-2013**

**Amending Ord. #05-2013**

**"Specific Accessory Structure"**

Mr. Van Doren noted that the proposed Ordinance to correct Ordinance #05-2013 was also discussed at the aforementioned LU subcommittee meeting. He noted that the language needs to be "tweaked" to include the definition for an air conditioner condenser and further discussion

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needs to be heard regarding the legality of giving the Zoning Officer discretion as noted in section 1A 4b as noted below.

(b) In the event the installation of a standby generator cannot meet the setback requirements applicable to the property, then the setback requirements may at the reasonable discretion of the Zoning Officer be replaced with the following requirements: five feet from the rear property line; five feet from the side property lines.

In response to a question from Mr. Melick, Mr. Van Doren opined that the language for “reasonable discretion” in the existing Ordinance should be removed as the decision should be up to the LUB and not the Zoning Officer because of possible legal ramifications and potential issues.

Mr. Selvaggi surmised that the original reason for adopting the Generator Ordinance was to eliminate a resident’s need to go to the LUB for a variance, adding that one Ordinance will never cover all situations. He added that having the decision be at the discretion of the Zoning Officer is a judgment call on the part of the Committee, as personal issues and problems could come into play.

He noted that actually regulating the use and maintenance of a generator would be policed under a separate Township Ordinance.

Mr. Van Doren stated that he would like to make a decision tonight and introduce the Ordinance with corrections to the title and body of the Ordinance.

It was the consensus of the Committee to make the discussed changes to the Ordinance for introduction at the next Township Committee meeting.

In response to a question from Mrs. Baird, Mr. Van Doren stated that this Ordinance did not pertain to heat pumps.

➤ **Consent Agenda**

Dr. Voyce requested that the authorization to have the Mayor sign the blue light permit for TRS Kerri Zimmerman be removed from the Consent Agenda and voted on separately.

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

**RESOLUTION NO. 81-2013  
AUTHORIZING ORDINANCE NO. 05-2013**

**WHEREAS**, the Township of Tewksbury, Hunterdon County, New Jersey, adopted Ordinance No.05-2013 which added Section 702.2 to the municipality’s zoning provisions as contained in Article VII of the Township’s Development Regulations; and

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**WHEREAS**, the aforesaid Ordinance was adopted to regulate permanent standby generators within the Township; and

**WHEREAS**, the Ordinance specifically permitted permanent standby generators in any front, rear or side yard of any lot within the Township, provided same did not have a capacity greater than 75 kw and was not located on an impervious surface larger than 100 sq. ft.; and

**WHEREAS**, the governing body in accordance with N.J.S.A. 40:55D-62A referred the ordinance to the municipality's Land Use Board for a determination whether it was substantially consistent with the land use plan element and the housing plan element of the Master Plan, or designed to effectuate such plan element; and

**WHEREAS**, the Board opined that said ordinance was not consistent; and

**WHEREAS**, despite this recommendation, the governing body elected to enact said zoning ordinance by an affirmative vote of the majority of the full authorized membership; and

**WHEREAS**, the governing body has also adopted the within resolution setting forth its reasons for deviating from the land use plan element of the Township's Master Plan; and

**WHEREAS**, the governing body's reasons for such deviation include its concerns about extended power outages that have been experienced in Tewksbury Township over the past several years following significant weather events; and

**WHEREAS**, the governing body also finds that the residents of Tewksbury Township desperately seek and need comfort and protection against similar instances in the future; and

**WHEREAS**, the governing body finds that the land use plan element seeks to promote the health, safety, and welfare of Township residents and further concludes this ordinance does so; and

**WHEREAS**, the Township's land use plan element also seeks to respect natural conditions and environmental constraints; and

**WHEREAS**, the governing body believes that by allowing residents to have permanent standby generators available will mitigate against senseless tree clearing and other degradation of the natural environment merely to accommodate the maintenance of utility poles and wires; and

**WHEREAS**, the governing body finds that the preservation of farms is a component to its land use plan element and that by allowing farms to install permanent standby generators will ensure farming activities can continue even following the most severe weather events; and

**WHEREAS**, the ordinance by allowing only modest permanent standby generators will promote the goals of retaining aesthetic beauty and ensuring open space as set forth in the Township's Master Plan.

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**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Tewksbury, County of Hunterdon, New Jersey, that Ordinance No. 05-2013 is accepted and deemed by the Township Committee to be consistent with the land use plan element of the Township's Master Plan, despite a recommendation from the Land Use Board to the contrary.

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Louis DiMare  
Mayor

**RESOLUTION #82-2013  
TO CANCEL BALANCES**

**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 cancellations.

<b>FROM</b>		
	Ord# 07-2007	\$33,073.80
<b>TO</b>		
	Reserve for Debt Service	\$33,073.80

**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 cancellation to the CIF.

<b>FROM</b>		
	Ord# 09-2012	\$15,926.27
<b>TO</b>		
	CIF	\$15,926.27

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Louis DiMare  
Mayor

**RESOLUTION #83-2013  
TO CANCEL STALE DATED CHECKS**

**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 cancel the following stale dated checks.

Check #	Payee	Amount	Issue Date
1809	Boy Scout Troop #53	\$42.00	2/15/2012
2532	California Folding Chair Co	\$54.00	6/29/2012

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3055	Charles Todd	\$62.50	9/28/2012
3160	Greenway Car Wash	\$12.61	10/31/2012
2680	John & Dana Tourville	\$21.10	7/15/2013

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Louis DiMare  
Mayor

**RESOLUTION #84-2013  
A RESOLUTION SETTING THE 2013 SALARIES AND WAGES FOR OFFICERS AND  
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 employee so stated is hereby set for the year 2013.

<b>POLICE</b>		
Timothy Stringer	Special Police Officer Class 2	\$18.00/hour Effective 08-07-13

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Louis DiMare  
Mayor

**RESOLUTION #85-2013  
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.

<b>Block</b>	<b>Lot</b>	<b>Name</b>	<b>CERT #</b>	<b>Amount</b>
28	21	Tad Dabrowski 329 Durham Ave. South Plainfield, NJ 07080	2010-05	64,887.08

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Louis DiMare  
Mayor

**MISCELLANEOUS**

- Claims as submitted by the CFO
- Regular and executive session minutes of 07-09-13
- Correspondence List

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- Authorization to have Mayor sign Declaration of Covenants, Conditions and Restrictions – Emmet: Affordable Housing Agreement - Block 42 Lot 6.01

**ITEMS REMOVED FROM THE CONSENT AGENDA**

Mr. Melick made a motion authorizing the Mayor to sign the blue light permit for TRS member Kerri Zimmerman, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren. Nays: none. Abstain: Voyce.

- Authorization to have Mayor sign blue light permit for Tewksbury Rescue Squad Kerri Zimmerman

**5. Reports**

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

Mr. Van Doren stated that he and Ms. Desiderio met with Ms. Goodchild and Mr. Landon to discuss the drafting of an Ordinance related to various alternative energy matters (solar panels and wind turbines). Since 2010, the LUB has requested that an Ordinance be in place to regulate these matters and various municipalities' Ordinances have been reviewed. Mr. Van Doren was attempting to gauge the interest of the Committee for possible Ordinance introduction in October.

Discussion followed regarding the scope of the proposed Ordinance and if it would be directed towards individual homeowner or farmers.

Mr. Van Doren stated that he would not like to see Tewksbury become like neighboring Bedminster Township with numerous solar farms that could pose a threat to the environment.

Mayor DiMare and Dr. Voyce stated that they had no problem having an Ordinance drafted for review.

Mr. Melick stated that the Ordinance would have to address not just single family homes, but also churches and other public structures. He added that Tewksbury's Ordinance should not be out of character with adjoining municipalities and he did not want to worry about being "dragged into court because of an unenforceable Ordinance."

Ms. Desiderio noted that the HC Planning Board also deals with the matter of alternative energy. She opined that some solar parks are atrocious and some wind turbines are noisy, but they are becoming more prevalent and the matter has to be addressed. She added that something has to be in place as it is not prudent to have nothing.

Mr. Van Doren stated that he would have the draft Ordinance prepared for a September work session topic.

Mr. Melick stated that he received a complaint that trails at the Christie Hoffman Park are not mowed.

Dr. Voyce noted that there have been emergency calls related to bicycles on wet roads and steel bridges.

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➤ **Township Attorney**

Mr. Selvaggi noted the following items from his report.

Kneser—The DEP will have a public hearing period for the matter as the notice was published on 8-1-13.

He continues to field calls from Mr. Gilmore regarding payment for services as conducted by Ashbritt. It was noted that one payment was authorized tonight.

➤ **Township Administrator**

Mr. Landon noted that he met with John Anderson of JCP&L to review the landscaping, berm, driveways and other components related to the substation. The startup date is scheduled for November.

Mayor DiMare noted that he received a call from a resident regarding the vegetation management that was delayed during construction of the substation.

The auction of the James Street garage was once again unsuccessful. It was the consensus of the Committee to re-advertise for another auction to be held on 9/20/13.

The Special Police Officer is scheduled to start on 8-7-13.

It was noted that the review of the wastewater system in Oldwick is good and the repairs that have been done are helping to “tighten up” the system. The lagoons and sludge levels are all in good order.

The final PBA contract has not yet been received.

Discussion followed regarding a question from Mr. Van Doren regarding the Kneser matter and whether a comment letter should be sent to the DEP. Mr. Van Doren stated that he did not wish to see the conservation easement lifted, but was unsure as to the reasoning of the applicant for the action.

Mr. Selvaggi stated that he did not think a letter to the DEP from the Committee would make a difference in their action. He added that the attorney for the applicant also seems unsure as to the reasoning for the removal of the easement.

Mayor DiMare stated that if a letter were to be sent to the DEP, he would question the reasoning for the action.

Mr. Melick stated that he had no issue with the action as “long as they don’t come back and apply for preservation.”

Mr. Van Doren stressed that an easement is put in place for a reason and was not comfortable removing the restriction.

**6. Adjournment**

There being no further business, the meeting was adjourned at 8:45 PM.

Roberta A. Brassard  
Municipal Clerk