

**TOWNSHIP COMMITTEE
AUGUST 8, 2017 MINUTES**

The Tewksbury Township Committee met 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 Shaun Van Doren and William Voyce.

Louis DiMare and Peter Melick were not present.

Roberta Brassard, Municipal Clerk and Katrina Campbell, (back up) Township Attorney were in attendance.

There were approximately eight members of the public in attendance.

1. Open Public Meetings Statement

Mayor Desiderio opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, transmitting a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on January 5, 2017.

2. Flag Salute

Those present stood and pledged allegiance to the American flag.

3. Public Participation

George Cassa requested that Resolution #89-2017 be removed from the Consent Agenda and voted on separately.

Mr. Cassa questioned the status of COAH matters, adding that he feels there is an error in the housing calculations. He questioned if the submitted petition from the Citizens to Save Tewksbury (CST) was forwarded to the Committee and Township professionals for review. He added that CST has new information and comments that have been presented to the Land Use Board and they are requesting clarification from the Township Committee on some fundamental issues. He opined that there is currently enough at issue that the Township Attorney should look at the petition and written advice should be submitted to the Committee in order to understand how the process is being directed.

He read from the Fair Housing Act regarding the COAH process being mandatorily open to the public with regard to disclosure and reporting before any affordable housing obligations are rendered. He added that because COAH is "out of the picture" and the substitute process that was put in place in 2015 by the Supreme Court includes the provision for the public to have the right to know and participate in discussions.

Ms. Campbell stated that she is familiar with the litigation and advised that because the matter is active litigation, the Committee should not discuss in open session. She added that this is the same in all affected municipalities in Hunterdon, Somerset and Warren counties.

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In response to a question from Mr. Cassa, Ms. Campbell stated that there could be a fairness review and public hearing if a settlement were reached through litigation.

Mr. Cassa stated his concern that the public would not know their obligation until a decision was made adding that there should be more direct access.

In response to the aforementioned petition, Ms. Campbell stated that it would be submitted and reviewed by the Committee and Township professionals and the information would be calculated into the formula.

Mr. Cassa cited the Supreme Court decision, noting that it is clear that the public should not be removed from the certification process of having the right to hear and participate in discussions. He added that the Court decision was to create an avenue of constitutional discussion similar to the COAH process, noting that if COAH were still was a viable entity; substantive certification would be enforced with the same kind of expectation. He added his concern that the granted protection under immunity would expire at the end of August.

In response to a question from Frances Spann Mr. Van Doren stated that there is no clear process for public participation prior to a decision being reached. He added that there are currently two avenues to take - mediation or to go to trial and Tewksbury does not want to be the first to go to trial. He added that no judge is following the Fair Housing Act as each judge is "doing his own thing". He added his frustration with the process, adding that there is communication back and forth, but things are being "pulled out of the air" to arrive at a conclusion. He noted that the Township will either have to arrive at a settlement and bring it to the public or follow a judge's order and then appeal to the Appellate/Supreme Court.

Further discussion followed regarding the process as it pertains to the Housing Element in the Fair Share Plan that was adopted in 2016, the concept of durational adjustment and the Highlands Act.

Ms. Campbell noted that the eleven municipalities with whom she is involved all are doing different things trying to settle and no one wants to be the first municipality to go to trial.

Mr. Van Doren noted that an extension request has been filed that should be good through 12/31/17.

Discussion followed regarding Ms. Spann's question of updating Highlands' modules 2, 3 and 7 and if allocated funding has been utilized. She expressed her concern that the various modules need to be updated with accurate information. Mr. Van Doren opined that the "numbers won't matter" as Fair Share is "fixated on their numbers" and settlements generally err to Fair Share.

Ms. Spann stressed that the Highlands Act had been challenged and has withstood multiple challenges. She urged the Committee to continue on with the process, adding that CST is in support of affordable housing, as long as it is sustainable and aligns with the Highlands Act.

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Mr. Van Doren opined that the Highlands Council would not help with the legal shield, adding that they are “a step behind us” and have not been supportive. He added that the Township should not go in front of a judge without knowing that they will be fully supported by the Highlands Council.

Robin Love expressed her discomfort regarding the matter specifically with regard to settlement and non compliance. She stated that the Committee should follow up with the Highlands grant monies related to the build out process. She also urged the Committee to review the petition as submitted by CST.

Wilma Frey stated her disappointment with the Highlands Council for not taking a position with regard to COAH, adding that they should be an advocate to their compliant municipalities.

- 4. Actions to be taken**
- **Public Hearing**

Renewal of Municipal Consent to Own, Operate, Extend & Maintain a Cable Television and Communication System with Comcast

Robert Clifton, Senior Director of Government & Regulatory Affairs for Comcast Cable was in attendance to present information related to the renewal of the municipal consent with Comcast. He noted that the Committee does not need to do anything at the present time as the current contract is in effect until March 2018 and there is a built in five (5) year extension. Mr. Clifton explained that the original contract was with Patriot Media and the terms of the current agreement are not all in keeping with Comcast parameters. He suggested that a subcommittee be created to discuss the current terms and how to move forward with renewal. Discussion followed regarding service and fees, the setting of fees and customer service.

Mr. Van Doren noted that utility poles are not owned by Comcast and there are some poles in the Township that need to be replaced. Mr. Clifton stated that the numbers of the poles in question should be communicated to his office and he will coordinate with the proper utility company to correct the issues.

Further discussion dealt with the matter of free internet service that is now part of the contract and how to move forward utilizing technology grant monies.

In closing, Mr. Clifton stated that he would like to meet with two Committee members and Mr. Eskilson in the near future to discuss the agreement. Mayor Desiderio stated that she would serve on the subcommittee and would contact Mr. Melick to determine his willingness to serve.

- **Consent Agenda**

Mr. Van Doren requested that Resolution #91-2017 and 92-2017 be removed from the Consent Agenda and voted on separately.

Dr. Voyce requested that Resolution #89-2017 be removed from the Consent Agenda and voted on separately.

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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, Van Doren, Voyce. Nays: None. Absent: DiMare, Melick.

**RESOLUTION #88-2017
REFUND OF STATE TAX APPEAL**

BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, the tax collector is authorized to refund a 2016 State Tax Appeal.

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Year</u>	<u>Amount</u>
16	25.02	Christina Johnson 85 Fairmount Road East Califon, NJ 07830	2016	\$3,589.19

Dana Desiderio
Mayor

RESOLUTION #90-2017

**TO ACKNOWLEDGE RECEIPT OF A \$50.00 DONATION FROM
PAUL NAPOLITAN TO THE
TEWKSBURY POLICE DEPARTMENT**

WHEREAS, a charitable donation of \$50.00 was made to the Tewksbury Police Department by Paul Napolitan.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that this donation has been gratefully acknowledged and the monies will be used for National Night Out.

Dana Desiderio
Mayor

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

RESOLUTION #93-2017

**TOWNSHIP COMMITTEE
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**AUTHORIZING THE INTERIM TOWNSHIP ADMINISTRATOR AND TOWNSHIP CLERK TO
SUBMIT A MUNICIPAL GRANT APPLICATION TO THE COUNTY OF HUNTERDON FOR
FUNDS TO FINANCE THE PREPARATION OF A FARMLAND PRESERVATION PLAN**

WHEREAS, the Tewksbury Township Comprehensive Farmland Preservation Plan was prepared in 2007 and

WHEREAS, it is the intention of the Township Committee to prepare a new Comprehensive Farmland Preservation Plan that encompasses changes that may have occurred within the Township in the last ten years and that conforms to the requirements of the State Agricultural Development Committee (SADC) so as to remain eligible for State funding: and

WHEREAS, the County of Hunterdon has funds available, in its Open Space Trust, to assist municipalities with their farmland preservation efforts including the preparation of Comprehensive Farmland Preservation Plans.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, County of Hunterdon that it hereby authorizes the Interim Township Administrator and Township Clerk to submit the Municipal Grant Application (attached to, and made part of this Resolution) to the County of Hunterdon for funds to finance the preparation of a Comprehensive Farmland Preservation Plan.

Dana Desiderio
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO 7/24/17 and 8/8/17
- Correspondence List
- Regular and E/S minutes of 07-11-17
- Authorization to have Mayor sign Blue Light Permit Applications for W. Todd & A. Buterbaugh (OFC)
- Authorization to have Mayor sign agreement with Hunterdon Behavioral Health – Employee Assistance Program
- Authorization to have Mayor sign Municipal Alliance Subgrant Agreement 7/1/17 – 6/30/18

ITEMS REMOVED FROM THE CONSENT AGENDA

Dr. Voyce made a motion to adopt Resolution #89-2017.

George Cassa expressed concern with proposed Resolution #89-2017 entitled RESOLUTION SUPPORTING THE STATE HOUSE COMMISSION FINAL APPLICATION TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION GREEN ACRES PROGRAM FOR THE COUNTY OF HUNTERDON ROUTE 523 OVER NORTH BRANCH OF ROCKAWAY

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CREEK as he attended the recently held Public Hearing on the matter and felt there were outstanding matters. He noted that the proposed tree planting on the property would make access to the property difficult. He added his dismay that there were no Township representatives at the meeting.

Mr. Van Doren explained that the proposed Resolution was broadly written and he was satisfied with the diversion of use.

Language in the proposed Resolution referenced Township Committee review of submitted comments and an open period for receipt of comments until 8-8-17.

It was the consensus of the Committee that proposed Resolution #89-2017 not be adopted and the appropriate County departments be contacted and asked to forward all comments from the Public Hearing for review by the Committee.

Dr. Voyce pulled his motion to adopt Resolution #89-2017. The motion was tabled.

Dr. Voyce made a motion to adopt Resolution #91-2017, seconded by Mayor Desiderio.

Mr. Van Doren reiterated his decision to not approve wine to be served at Whittemore activities.

A roll call vote was taken and the above noted motion was approved. Ayes: Desiderio, Voyce. Nays: Van Doren. Absent: DiMare, Melick.

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

RESOLUTION #91-2017

**PERMISSION, WITH CONDITIONS, TO ALLOW THE FRIENDS OF WHITTEMORE TO
SERVE WINE AT THEIR ARTIST RECEPTION EVENT TO BE HELD ON
SEPTEMBER 15, 2017**

WHEREAS, the Township of Tewksbury is the owner of property designated as Tax Block 46, Lot 20.01 on the official tax map of the Township; and

WHEREAS, said property was bequeathed to the Township of Tewksbury in the Last Will and Testament of Helen A. Whittemore dated December 15, 1978 for the benefit of the residents of Tewksbury in order to “promote the appreciation of woodland in its natural state and especially to establish and maintain a sanctuary for deer and birds and other wildlife”; and

WHEREAS, the Last Will and Testament of Helen A. Whittemore, further established a Board of Trustees to oversee the finance of her estate; and

WHEREAS, the Friends of Whittemore was established as a not-for-profit 501 c.3 corporation for the purpose of promoting community, culture and conservation on the Whittemore property; and

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WHEREAS, the Friends of Whittemore have scheduled an Artist Reception fund raising event for September 15, 2017; and

WHEREAS, the Friends of Whittemore have requested permission to serve wine as part of their Artist Reception fund raising event; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, County of Hunterdon that it hereby grants the request of the Friends of Whittemore to serve wine at their Artist Reception fund raising event of September 15, 2017 to be held on the Township's Whittemore property subject to the following conditions:

1. The issuance of a Special Permit for Social Affair by the New Jersey Department of Law and Public Safety Division of Alcoholic Beverage Control;
2. The Friends of Whittemore shall provide proof to the Township of Tewksbury that they hold the following insurance:

General Liability: \$1,000,000 per occurrence/\$2,000,000 aggregate
Host Liquor Liability: \$1,000,000 per occurrence/\$2,000,000 aggregate

In addition, the applicant shall name the Township of Tewksbury as an additional insured, and the Certificate of Insurance shall be submitted to the Township at least thirty (30) days prior to the event. The Certificate of Insurance must specifically note that coverage is provided for Liquor Liability.

3. Alcoholic beverages, other than wine, shall not be served at the Artist Reception September 15, 2017 fund raising event.
4. The Friends of Whittemore, by accepting this approval, acknowledges and holds harmless the Township of Tewksbury and its municipal officials and employees from any and all claims, damages and cost of suit which may arise out of the approval granted hereunder.

Dana Desiderio
Mayor

Mr. Van Doren stated that Resolutions related to fees for various Township departments should be adopted during the reorganization, adding that all departments should be polled to see if additional fees will be required for the coming year.

Mr. Van Doren made a motion to adopt Resolution #92-2017, seconded by Dr. Voyce.

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A roll call vote was taken and the above noted motion was approved. Ayes: Desiderio, Van Doren, Voyce. Nays: none. Absent: DiMare, Melick.

RESOLUTION #92-2017

TO ESTABLISH CHARGES FOR PRIVATE UTILIZATION OF POLICE PERSONNEL

WHEREAS, the Township Committee of the Township of Tewksbury did on April 12, 1994, duly adopt Ordinance No. 3-94 concerning the amendment to an Ordinance establishing a procedure to regulate the private utilization of extra duty police personnel; and

WHEREAS, said Ordinance authorized the Township Committee to establish charges for such utilization including compensation to the members of the Police Department and administrative expenses to the Township; and

WHEREAS, the Township Committee desires to establish the charges to be effective upon the adoption of said Ordinance, which charges shall remain in effect until amended by subsequent Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury in the County of Hunterdon, State of New Jersey, as follows:

- 1) Assignment of such extra-duty work, which shall be part-time work, shall be made solely at the option of the employee, on a non-discriminatory basis, as follows:
Extra-duty shall be equally distributed to the fullest extent possible on a rotating basis among officers and shall not interfere with the efficiency of the Police Department. A record shall be maintained by the Police Chief or his designee.
- 2) A minimum four (4) hour call out shall be set and the private party shall be required to pay a minimum of four (4) hours. Any cancellation made by the private party within six (6) hours of the requested time shall require a payment of four (4) hours by the private party.
- 3) The charge to private parties for the utilization of members of the Police Department is established at \$90.00 per hour, to be paid to the Chief Financial Officer, Township of Tewksbury at the Clerk's Office, and deposited in a separate dedication by rider account.
- 4) The portion of such charge to be paid to the member of the Police Department rendering such extra duty service is hereby established at \$70.00 per hour and the balance of \$20.00 per hour is to be retained by the Township in payment for administrative expenses. No overtime shall be paid for such extra duty work.
- 5) An Agreement shall be signed by the private party and be filed with the Police Department before such employment commences.
- 6) The rate established by this Resolution shall be effective August 8, 2017 and shall remain in effect until amended by subsequent Resolution.

Dana Desiderio
Mayor

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5. Reports

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

Dr. Voyce reported on the following items.

- He attended a meeting in Califon Borough at which an electric consortium discussion was held. It was the consensus of the Committee that Mr. Eskilson reach out to some of the municipalities availing themselves of the service and report back with a recommendation.
- Mr. Van Doren, Mr. Eskilson and he met with a representative from the TAA regarding use of and changes to the Oldwick ball fields. Discussion followed regarding how the fields would have to be altered, construction and maintenance costs and possible drainage issues. It was the consensus of the Committee that Mr. Eskilson follow up with the TAA representative and the Township Engineer to discuss plans for changing the ballfield usage.
- Mr. Melick, Mr. Eskilson and he met to review a cost analysis and other items related to the DPW and the filling of the Superintendent of Public Works position.
- Review of employee evaluation and performance forms is ongoing.
- The search for a Police Chief is ongoing.

Mr. Van Doren noted that National Night Out was a great success and thanks were given to Officer Tim Hanft for all of his assistance.

➤ **Township Attorney**

Ms. Campbell had nothing to discuss in open session.

➤ **Township Administrator**

Mr. Eskilson was not in attendance.

6. Executive Session

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

**RESOLUTION #94-2017
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.

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

Dana Desiderio
Mayor

7. Reconvened

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The meeting reconvened at 8:50 PM.

8. Adjournment

There being no further business, the meeting was adjourned at 8:50 PM.

Roberta A. Brassard
Municipal Clerk