

TOWNSHIP OF LOPATCONG
Council Meeting

6:30 PM Executive Session/7:30 pm Regular Session
March 3, 2021

The Regular Meeting of the Lopatcong Township Council was called to order by Mayor Mengucci. The meeting was held in the Municipal Building located at 232 S. Third St., Phillipsburg, New Jersey.

A Prayer was offered followed by the Oath of Allegiance.

Mayor Mengucci stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Present – Councilman Palitto, Councilman Belcaro, Mayor Mengucci. Council President Pryor was present for Executive Session only. Also present was Attorney Cohen and Engineer Sterbenz.

Attorney Cohen – Briefed the public on the Executive Session that the matters listed were discussed.

Sworn In - Oath of Office was taken by Police Officer Samuel Rivera

Public Comment - Agenda items only – no comments

Old Business:

Minutes – Motion by Councilman Palitto, seconded by Councilman Wright.

December 28, 2020 - Regular and Executive Sessions

January 6, 2021- Regular and Executive Sessions

January 20, 2021- Regular and Executive Sessions

February 3, 2021- Regular and Executive Sessions

Roll call vote:

AYES: Councilman Palitto, Councilman Belcaro, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

ABSTAIN: Councilman Wright for February 3, 2021 both Reg. Session and Executive Session, Council President Pryor for Reg. Session February 3, 2021.

New Business:

Ordinance No. 21-02 - Discussion and possible introduction of Ordinance No. 21-2, entitled “Ordinance of the Township of Lopatcong, County of Warren, State of New Jersey, to Amend and Revise Chapter 243 of the Lopatcong Township Code Entitled “Zoning and Land Use” and More Specifically to Delete Sections 243-75(A)(2) and 243-77.3(C)(1)(C) to Remove Warehouse and Distribution Centers from the ROM Zone and to Remove Flexible Office/Warehouse Uses Within the PD Zone of the Township”.

ORDINANCE NO. 2021-2

ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY, TO AMEND AND REVISE CHAPTER 243 OF THE LOPATCONG TOWNSHIP CODE ENTITLED “ZONING AND LAND USE” AND MORE SPECIFICALLY TO DELETE SECTIONS 243-75(A)(2) AND 243-77.3(C)(1)(c) TO REMOVE WAREHOUSE AND DISTRIBUTION CENTERS FROM THE ROM ZONE AND TO REMOVE FLEXIBLE OFFICE/WAREHOUSE USES WITHIN THE PD ZONE OF THE TOWNSHIP

WHEREAS, the Township Council of the Township of Lopatcong previously introduced Ordinance No. 20-12, which sought to amend and revise Sections 243-75(A)(2) and 243-77.3(C)(1)(c) of the Township Zoning Ordinance to remove warehouse and distribution centers from the ROM Zone and flexible office/warehouse uses from the PD Zone; and

WHEREAS, said Ordinance was introduced on November 4, 2020, with second reading and a public hearing to be held on December 2, 2020, which hearing was adjourned and held at a public meeting of the Lopatcong Township Council on December 28, 2020; and

WHEREAS, the Council did on December 28, 2020 adopt said Ordinance, as well as adopted a Resolution articulating the Township Council’s reasons for adopting that Ordinance, which was determined to be inconsistent with the land use element of the Township Master Plan, which Resolution was No. 2020-156; and

WHEREAS, certain property owners and potential developers filed Complaints in the Superior Court of New Jersey, Law Division, Warren County, and a Complaint in the United States District Court, District of New Jersey, alleging that the adoption of the aforesaid Ordinance was procedurally deficient, as well as substantively deficient, and sought relief invalidating said Ordinance; and

WHEREAS, in a Complaint instituted by Bridge Acquisitions, LLC, and Lopatcong Solar Realty Holdings, LLC, a Temporary Restraining Order was issued by the Court, retraining the Township from taking any action under Ordinance 20-12; and

WHEREAS, counsel for the Township did petition the Court to dissolve or amend said Temporary Restraining Order in order to permit the Township Council to take corrective remedial action pursuant to N.J.S.A. 10:4-15(a); and

WHEREAS, the Court issued an Opinion that the Township is permitted to take such action; and

WHEREAS, the Township has taken the position with reference to the litigation filed that said Ordinance was enacted in accordance with proper procedure and sufficient substantive reasoning; and

WHEREAS, the Township wishes to avail itself of the statute to correct any of the alleged procedural deficiencies, pursuant to N.J.S.A. 10:4-15(a), which, if this Ordinance is adopted, will reaffirm the action taken by the Council in the adoption of Ordinance 20-12.

NOW, THEREFORE, for the reasoning set forth in Resolution No. 2020-156, **BE IT ORDAINED** by the Township Council of the Township of Lopatcong, County of Warren, State of New Jersey, that Chapter 243 of the Lopatcong Township Code entitled “Zoning and Land Use” is amended and revised as follows:

SECTION 1

Section 243-75 ROM Research Office and Manufacturing Zone, Subsection A shall be amended to delete Subsection 2.

~~243-75(A)(2) Warehouse and distribution centers.~~

SECTION 2

Section 243-77.3 PD Planned Development Overlay District, Subsection C Use Regulations, Subsection (1) Principal Uses shall be amended to delete subsection (c).

~~243-77.3(C)(1)(c) Flexible office/warehouse uses, provided that no building is located within 400 feet from the right of way of U.S. Route 22.~~

SECTION 3

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 4

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

SECTION 5

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on March 3, 2021 and ordered published in accordance with the law. Said Ordinance will be considered for public hearing, final reading and adoption at a regular meeting of the Township Council to be held April 7, 2021 online via zoom at 7:30 p.m. or as soon thereafter as the Township Council may hear this Ordinance. Interested parties can join the meeting via zoom by clicking the following link:

<https://us02web.zoom.us/j/87672865644?pwd=RU9PWW00WjVmOW9sczVMUDg3WFc3UT09> or logging on to Zoom and entering Meeting ID: 876 7286 5644, and Passcode: lopat21 or via telephone +1 929 436 2866. A copy of the Ordinance is available from the Township Clerk Monday through Friday between 9am and 4pm. 908-859-3355 x 223 or diltsb@lopatcongtwp.com

Margaret B. Dilts, CMC

Motion to adopt this ordinance on first reading by Council President Pryor, seconded by Councilman Wright. Roll call vote:

AYES: Councilman Palitto, Councilman Belcaro, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Ordinance No. 21-03 – Establish CAP Bank.

ORD. 21-03

CALENDAR YEAR 2021

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 1.0% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of Lopatcong in the County of Warren finds it advisable and necessary to increase its CY 2021 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$234,000.20 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of Lopatcong, in the County of Warren, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2021 budget year, the final

appropriations of the Township of Lopatcong shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 2.5%, amounting to \$234,000.20 and that the CY 2021 municipal budget for the Township of Lopatcong be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on March 3, 2021 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on April 7, 2021 at 7:30 pm or as soon thereafter as the Township Council may hear this Ordinance in the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC

Motion to adopt this ordinance on first reading by Councilman Wright, seconded by Councilman Palitto. Roll call vote:

AYES: Councilman Palitto, Councilman Belcaro, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Lighthouse Communications, LLC - Quote for Phone system upgrade submitted by Lighthouse Communications, LLC in the amount of \$2850.00. Clerk Dilts and Road Superintendent Weeks explained the situation with the installation of the new generator and that an electrical surge in the old generator caused the phone system to shut down. The cost to back the system up was slightly less than the installation of an upgrade that would replace the now obsolete phones. The Council authorized the Clerk to see if a claim could be filed against the contractor installing the new generator. Council President Pryor made a motion to replace the phones, seconded by Mayor Mengucci. Roll call vote:

AYES: Councilman Palitto, Councilman Belcaro, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Consent Agenda:

Councilman Palitto asked to remove No. 2 and vote on separately.

Resolution No. 21- 43 - Appoint John Caleca as Substitute Municipal Prosecutor.

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY APPOINTING JOHN CALECA AS SUBSTITUTE MUNICIPAL
PROSECUTOR

WHEREAS, the Mayor of the Township of Lopatcong, County of Warren and State of New Jersey, pursuant to law, may appoint a substitute Municipal Prosecutor with the advice and consent of the Township Governing Body.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Lopatcong, County of Warren and State of New Jersey that John Caleca, an Attorney at Law licensed in the State of New Jersey be and is hereby appointed as substitute Municipal Prosecutor for the Township of Lopatcong for the remainder of the calendar year 2021.

This appointment is made without competitive bidding as professional services under the provisions of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5 because said office requires services performed by persons qualified to practice recognized professions and it is not possible to obtain competitive bids and according to other applicable statutes.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk, of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, March 3, 2021.

Margaret B. Dilts, CMC

Motion by Councilman Wright, seconded by Mayor Mengucci to approve. Roll call vote:
AYES: Councilman Belcaro, Councilman Wright, Council President Pryor, Mayor Mengucci.
NAYS: None
ABSTAIN: Councilman Palitto

Motion to adopt the remaining items on the **Consent Agenda** by Councilman Wright, seconded by Council President Pryor. Roll call vote:
AYES: Councilman Palitto, Councilman Belcaro, Councilman Wright, Council President Pryor, Mayor Mengucci.
NAYS: None

Resolution No. 21-55 - Memorialize Appointment of Daniele Lattig as Deputy Registrar of Vital Statistics.

R 21-55

RESOLUTION OF THE TOWNSHIP OF LOPATCONG,
COUNTY OF WARREN AND STATE OF NEW JERSEY
APPOINTING DANIELE LATTIG AS DEPUTY REGISTRAR
OF VITAL STATISTICS

WHEREAS, N.J.S.A. 26:8-11 requires the Municipal Clerk be appointed as the local registrar in any district having a population of less than 5,000; and

WHEREAS, the Municipal Clerk can appoint a Deputy Registrar of Vital Statistics; and

WHEREAS, Daniele Lattig, a Certified Municipal Registrar, is hereby appointed to this position with a stipend of \$1200.00 per year.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey do hereby appoint Daniele Lattig as Deputy Registrar of Vital Statistics with a stipend of \$1200.00 per year.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, February 3, 2021.

Margaret B. Dilts, CMC

Resolution No. 21-42 - Refund Tax Overpayment for Block 85.04, Lot 16 in the amount of \$1,710.21.

R 21-42

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY TO ISSUE A REFUND FOR A TAX OVERPAYMENT FOR BLOCK 85.04, LOT 16

WHEREAS, Block 86.04, Lot 16 qualified as tax exempt (disabled veteran) on September 11, 2020; and

WHEREAS, the Tax Collector has adjusted the tax account to cancel taxes for the 4th quarter of 2020 and 1st and 2nd quarter of 2021; and

WHEREAS, the mortgage company for the property owner made a tax payment in the amount of \$1,710.21 on February 3, 2021; and

WHEREAS, the mortgage company is requesting that the payment be refunded.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Lopatcong hereby authorizes a refund in the amount of \$1,710.21 to: Corelogic, Attn: Refund Department, P.O. Box 9202, Coppel, TX 75019.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk, Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, March 3, 2021.

Margaret B. Dilts, CMC

Resolution No. 21-44— Authorize Redemption of Tax Sale Certificate No. 2020-033 on Block 99, Lot 177 C0686.

R 21-44

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STTE OF NEW JERSEY AUTHORIZING REDEMPTION OF TAX SALE CERTIFICATE NO. 2020-33 ON BLOCK 99, LOT 177 C0686

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on December 29, 2020, a lien was sold on Block 99, Lot 177 C0686 also known as 686 Honeybrook Circle for delinquent sewer; and

WHEREAS, this lien known as Tax Sale Certificate No. 2020-033 was sold to US Bank as Custodian for ActLien Holding; and

WHEREAS, on January 24, 2021 the property owner, has satisfied the redemption amount on Certificate No. 2020-033 in the amount of \$1,112.64, Premium \$1,500.00.

NOW, THEREFORE, BE IT RESOLVED, on this 3rd day of March 2021, that the Chief Financial Officer is authorized to issue a check in the amount of \$1,112.64, Premium \$1,500.00 for the redemption of Tax Sale Certificate No. 2020-033 to:

US Bank as Custodian for ActLien Holding
50 S 16th Street, Suite 2050
Philadelphia, PA 19102-2513

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk, Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, March 3, 2021.

Margaret B. Dilts, CMC

Resolution No. 21-45 - Authorize Redemption of Tax Sale Certificate No. 2020-003 on Block 2, Lot 54 in the amount of \$7,556.18.

R 21-45

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING REDEMPTION OF TAX SALE CERTIFICATE NO. 2020-003 ON BLOCK 2, LOT 54

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on December 29, 2020, a lien was sold on Block 2, Lot 54 also known as 1821 Belvidere Road for delinquent taxes; and

WHEREAS, this lien known as Tax Sale Certificate No. 2020-003 was sold to US Bank Cust/Pro Cap; and

WHEREAS, on January 16, 2021 the property owner has satisfied the redemption amount on Certificate No. 2020-003 in the amount of \$7,556.18.

NOW, THEREFORE, BE IT RESOLVED on this 3rd day of March 2021, that the Chief Financial Officer is authorized to issue a check in the amount of \$7,556.18 for the redemption of Tax Sale Certificate No. 2020-003 to:

US Bank Cust/Pro Cap 8/Pro Cap
50 S 16th Street, Suite 2050
Philadelphia, PA 19102-2513

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk, Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, March 3, 2021.

Margaret B. Dilts, CMC

2021 Budget – Discussion between Council and CFO Browne regarding 2021 Budget. CFO Browne reported there is no money in the budget for the pool. Lost over \$200,000 from last year; covid related to the revenues anticipated. Additional revenues left the fund balance at \$3.9 million and decided to use \$1.4 million of the surplus and hold the increase in taxes to one cent. The School's increase is estimated to be two percent and the County at zero which would leave a home valued at \$231,000 at an increase of approximately \$38.00 for the year. Council President said it is common to use some of the surplus towards the budget. Further there is an adopted policy to begin the year with a surplus = to 12% of the budget. The Utility Budget will have a sewer rate reduction 11 ¼% to 11%. There is a surplus for an emergency built in. The Bridge Pilot will also kick in to bring in revenue. A budget introduction will take place on Wednesday, March 31st at 7:00 pm and the adoption of the budget is scheduled for April 28 at 7:00 pm.

Council Reports:

Councilman Belcaro – No report.

Councilman Palitto – No report.

Councilman Wright – No report.

Council President Pryor – Discuss the need to review and update the ordinance regarding snow removal.

Mayor Mengucci – Reported that employee Jen Patricia will take over the job of Dog Registrar at a rate of \$18.00 per hour at 4 hours per week. Motion by Councilman Belcaro, seconded by Council President Pryor. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci

NAYS: None

Department Reports – Motion by Council President Pryor, seconded by Councilman Palitto. All in favor.

Payment of Bills – Motion by Council President Pryor, seconded by Mayor Mengucci. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci

NAYS: None

Audience Participation:

Robert Samson – Asked about the fields at the park noting drainage problems.

Motion to adjourn the meeting by Councilman Belcaro, seconded by Councilman Wright. All in favor.

Respectfully submitted,

Margaret B. Dilts, CMC
Clerk/Administrator

James E. Mengucci
Mayor

