

TOWNSHIP OF LOPATCONG
COUNCIL MEETING

7:00 pm

February 3, 2016

The Council Meeting of the Lopatcong Township Council was called to order by Mayor McKay. The meeting was held in the Municipal Building located at 232 S. Third St., Phillipsburg, New Jersey 08865.

Mayor McKay 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.”

A moment of silence was offered followed by the Oath of Allegiance.

Roll Call: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay. CFO Saponaro, Attorney Campbell and Engineer Sterbenz were also present.

Motion to come out of Executive Session by Councilwoman Schneider, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.

NAYS:

.Attorney Campbell reported that Council was in Executive Session for approximately 1 hour and 15 minutes. The topics of discussion were as listed on your Agenda. No. 1 Personnel – Construction/Zoning Dept., No. 2 – Personnel – Finance Dept., No. 3 – Attorney/Client Privilege – Phillipsburg High School Intersection Project, No. 4 - Contractual – Redevelopment, No. 5 – Contractual – Berry Plastics Developer’s Agreement, No. 6 – Litigation – Imhof, No. 7 Litigation – Affordable Housing, No. 8 Personnel – COAH Administrator/Liaison/Treasurer. The minutes of Executive Session will be available as soon as the need for confidentiality no longer exists.

R 16-30

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND THE
STATE OF NEW JERSEY AUTHORIZING AN EXECUTIVE SESSION

WHEREAS, there are presently pending matters to be considered in Executive Session concerning possible matters listed:

Personnel – Construction/Zoning Dept.

Personnel – Finance Dept.

Attorney/Client Privilege – Phillipsburg High School Intersection Project

Contractual – Redevelopment

Contractual – Berry Plastics Developer’s Agreement

Litigation – Imhof

Litigation – Affordable Housing

Personnel – COAH Administrator/Liaison/Treasurer

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and the State of New Jersey that the Council is authorized to hold an Executive Session.

BE IT FURTHER RESOLVED that the Council of the Township of Lopatcong will make said matters public within approximately 30 days of said meeting or until such a time as confidentiality of the matters is no longer required.

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 the Reorganization Meeting held on Wednesday, February 3, 2016.

Margaret B. Dilts, CMC

Swear In – Fire/EMS Volunteers - Mayor McKay read allowed the names of the firemen. Fire Chief Matthew Pisciotto, Asst. Chief Brandon Stires, Asst. Chief Jaryd Brisson, Captain Tim Weiss, Jr., Captain Cody Kolb, Lieutenant Brandon Jessamine, Lieutenant Brad Fagan, Lieutenant Mike Verdjak, Lieutenant Frank Gara. Clerk Dilts swore the firemen in.

Video Position – 6:55

Mayor McKay – All right I have a statement that I'm going to read to you. As you know, there have been disagreements with my fellow governing body members over our respective statutory powers. My goal has always been to protect the interests of the taxpayers of the Township and towards that end as mayor I have filled, I have filed suit in Superior Court with a request for a temporary restraining order. The court has not yet made a decision on this initial procedural step. As Mayor, I am hopeful that my fellow governing body members will recognize that collectively we should in good faith be serving the best interests of the taxpayers. My fellow governing body members are asked to recognize the statutory authority of my office which would help end the litigation. In the meantime as Mayor, I'm exercising my N.J.S.A. 40:69A-124 statutory powers as follows:

1. I nominate and appoint Ryan Cary, Esquire as labor council for 2016 effective immediately.
2. I nominate and appoint Robert S. Morrison, RMA as auditor for 2016 effective immediately. These appointments do not require consent of Council.
3. As acknowledged in an email from Ms. Campbell, I have the power of appointment subject to advice and consent of Council for municipal engineer. I nominate and appoint as interim municipal engineer for a period of 90 days Paul Sterbenz. I do not recognize the appointment by Counsel of Michael Lavery, Esquire or any attorney in his form as municipal attorney. I will not sign any professional services agreement with him or his firm. Based on the wording of the 2014 professional services agreement as well as the operation of law set forth in N.J.S.A. 40:69A-22 and N.J.S.A. 40A:11-5 the term of office of Mr. Lavery expired on December 31, 2014. There is no statutory authority for Council to designate a holdover municipal attorney. There is no authority for the prior attorney to have included a clause in the professional services agreement which purports to keep them in office until a successor is appointed. I believe that such cause would be self-serving and unlawful. Accordingly, I direct that Ms. Campbell step down from the dais regardless of her compliance I no longer recognize her ability or authority to act; I'm sorry, authority to act as municipal attorney. I will not authorize nor sign any voucher or payment to her firm. Accordingly, in accordance with my statutory power of appointment, I nominate and appoint as interim municipal attorney for a period of 90 days William J. Caldwell, Esquire. As Mayor, controlling costs is a primary goal for me. By Statute N.J.S.A. 40:69-128 um, as Mayor I am responsible for the preparation of the budget with the assistance of the Finance Committee as defined in N.J.S.A. 40:69A123 and I do not recognize the authority of the Council to control or direct this process. I am directing all department heads to submit their budget requests in writing to the Finance Committee within 15 days. Each department head is encouraged to approach their budget requests from a zero-based budgeting point of view i.e., every line should be scrutinized and squeezed to the last penny out of the budget. The tax payers deserve nothing less. Along these lines, the agenda includes a proposed bond ordinance for \$850,000. No bond ordinance can be finally adopted without 2/3 affirmative vote of the governing body. I know that I will not vote to incur this level of debt. Only one other council member need join my point of view to prevent this proposed ordinance from passing. As such, I am tabling its consideration pending further investigation as to necessity for such expenditure. Again, our goal to work collaboratively to meet the needs of the Township in a cost effective method as possible. I invite

the Council to join me in moving the Township forward. Um, and then I have one, um, appointment to make to the Rent Leveling Board. I am appointing Loiedeth Huff for a three year term ending 12/31/18. As she's now so appointed. Um, Mr. Mengucci did you hear her name?

Mr. Mengucci – I did, yes.

Clerk Dilts – Can you spell her first name for me Mayor?

Mayor McKay – Yes it is Loiedeth Huff. She stopped into the office. I spoke to her.

Council President Pryor – Point of Order on the (inaudible).

Mayor McKay – You can't make a Point of Order to me, I'm running the meeting.

Council President Pryor – I, I can. You just made an appointment and I'm certain that our ordinance requires advice and consent on the Rent Leveling Board appointment.

Attorney Campbell – I don't have it in front of me.

Mayor McKay – You are correct it does.

Council President Pryor – So, my Point of Order was correct? Was it not?

Councilwoman McCabe – Yes.

Mayor McKay – Procedurally I'm not sure. But you said something that is accurate. Yes, this woman was going to, she tried to, um, put in her application to be on the Planning Board but somehow the application got mislaid or did not get through properly into the office and now she's, in her kind heart, wishing to stay and help out by joining the Rent Leveling Board. So, I would very much like you to appoint her good candidacy.

Councilwoman McCabe – Mr. Mayor I would like to have a written copy of your statement please and I'm not sure I'm comfortable continuing this meeting. You're making our attorney leave the dais.

Council President Pryor – Under the Charter when the mayor can't act or refuses to act, the chair passes to me.

Mayor McKay – I'm not refusing to act. I'm not refusing to act sir.

Council President Pryor – I'm making the motion to adjourn this meeting.

Motion by Councilman Belcaro, seconded by Councilwoman McCabe.

Councilwoman McCabe – One second I'd like to approve bills before we leave tonight.

Attorney Campbell – There are no comments from the public. I already gave the same advice. Plus the motion has been made and seconded and you can't take any more motions.

Clerk Dilts – I have a motion from Council President Pryor, seconded by Councilwoman McCabe to adjourn the meeting. Roll call vote:

AYES – Councilman Belcaro, Councilwoman McCabe, Council President Pryor

NAYS: Councilwoman Schneider, Mayor McKay

Respectfully submitted,

Margaret B. Dilts
Clerk/Administrator

Thomas M. McKay
Mayor