

## **MINUTES OF MEETING OF NOVEMBER 26, 2012**

The regular meeting of the Frelinghuysen Township Committee was held in the Municipal Building, 210 Main Street, Johnsonburg, New Jersey on Monday, November 26, 2012 and was called to order at 7:30 p.m. by Mayor Thomas Charles.

### **SUNSHINE LAW STATEMENT:**

Under the provisions of the Open Meetings Act, adequate notice of this meeting was provided by posting notice on the Township bulletin board and by e mailing notice to the New Jersey Herald and The Express Times.

### **ROLL CALL:**

Those present were: Mayor Thomas Charles, Deputy Mayor Frank Desiderio, Committeeman Dale Durling, Committeeman Alan DeCarolis, Committeeman David Boynton, Attorney Edward Wacks, Engineer Paul Sterbenz and Clerk Brenda Kleber.

### **MINUTES:**

The minutes of the meeting of October 17, 2012 were approved as amended on motion made by Boynton, seconded by Durling. All were in favor.

### **ORDINANCES:**

Motion was made by Desiderio, seconded by Boynton to table Ordinances 2012-09, 2012-10 and 2012-11. All were in favor.

### **RESOLUTIONS:**

#2012-55 (Opting out of Sustainable Jersey certification program)

WHEREAS, Sustainable Jersey is a certification program, the stated purpose of which is to establish a certification process for a municipality to receive a designation that the municipality has achieved certain goals with respect to energy conservation and other matters; and

WHEREAS, while the conservation of energy and sustainability are important goals, it is the view of the Frelinghuysen Township Mayor and Committee that seeking Sustainable Jersey certification would not be in the best interests of the Township and its residents.

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Frelinghuysen elects not to participate in the Sustainable Jersey Program or to seek Sustainable Jersey certification,

Roll call vote: (yes to opt out) Durling=yes, DeCarolis=yes, Desiderio=no, Boynton=yes, Charles=no.

#2012-65 (Setting Executive Session)

WHEREAS, it is necessary to discuss items dealing with Personnel matters and potential litigation in private or executive session; and

WHEREAS, under the Open Public Meetings Act (numbers 4 &3) of the permitted exceptions to the requirements that a public body hold its meetings in public, it is permissible that such matters be discussed in executive or private session.

NOW, THEREFORE BE IT RESOLVED, on this 26<sup>th</sup> day of November, 2012 that the Township Committee of the Township of Frelinghuysen will adjourn to private or executive session to discuss the above mentioned. Results or portions of that discussion will be made known in a reasonable length of time.

Motion was made by Boynton, seconded by Durling to adopt said resolution. Roll call vote: Desiderio=yes, Durling=yes, Charles=yes, DeCarolis=yes, Boynton=yes.

#2012-66 (Support A-3393)

WHEREAS, in 1997, at the request of incumbent utilities, the laws regarding State taxation of telecommunications corporations were amended in response to technological and market innovations, in order to increase competition; and

WHEREAS, the amendments sought to preserve revenues to local governments by providing that local exchange telephone companies subject to the New Jersey Franchise and Gross Receipts Tax on April 1, 1997 would continue to be subject, annually, to the Business Personal Property Tax ("BPPT"); and

WHEREAS, the statute defines local exchange companies as those telecommunications carriers "providing dial tone and access to 51% of a local telephone exchange"; and

WHEREAS, Verizon's self-serving interpretation of the statutory definition has led it to claim exception from the BPPT in any municipality where the corporation unilaterally determines, in any given year, that it no longer supplies dial tone and access to at least 51% of the local telephone exchanges; and

WHEREAS, Hopewell Borough's challenge to that claim was upheld by the Mercer County Board of Taxation in 2009; and

WHEREAS, Verizon's appeal of that determination to the Tax Court resulted in a Jan, 2012 trial court decision accepting the corporation's self-serving interpretation of the law; and

WHEREAS, as things now stand, over 100 municipalities know that they enter 2013 without BPPT revenues that will cost property taxpayers well in excess of \$8 million and, unless matters change, more municipalities will lose more millions in the future; and

WHEREAS, remedial legislation (A-3393) has been introduced by Assemblyman Ralph Caputo, which will clarify the perceived ambiguity of the statutory definition to further implement the original legislative intent to preserve revenues to local governments; and

WHEREAS, we anticipate the introduction of companion legislation by Senator Bob Smith, as soon as the Senate next convenes.

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Frelinghuysen commends Assemblyman Caputo and Senator Smith and strongly supports A-3393, which would clearly identify the telecommunications carriers subject to taxation on their business personal property and remove the budget uncertainty caused by Verizon's obfuscation; and

BE IT FURTHER RESOLVED, that we urge our State Senate and our representatives in the General Assembly to join as co-sponsors of A-3393 and its companion bill; and

BE IT FINALLY RESOLVED, that copies of this Resolution be forwarded to the Honorable Governor Chris Christie, the Honorable Speaker of the General Assembly Sheila Oliver, the Honorable President of the State Senate Stephen M. Sweeney, the Honorable Assembly Republican Leader Jon Bramnick, the Honorable Senate Republican Leader Thomas H. Kean, Jr., and our own State Senator and Representatives in the General Assembly, and to the New Jersey State League of Municipalities.

Motion was made by Boynton, seconded by Durling to support and adopt said resolution. Roll call vote: Boynton-yes, DeCarolis-yes, Charles-yes, Durling-yes, Desiderio-yes.

#2012-67 (Approval of bills)

WHEREAS, the Finance Committee of the Township of Frelinghuysen has reviewed the bills submitted to the Frelinghuysen Township Committee for the month of November, and

WHEREAS, they find the bills to be in order and approve them to be paid by the Chief Finance Officer.

NOW, THEREFORE BE IT RESOLVED, by the Frelinghuysen Township Committee that all bills submitted for the above named month are reasonable and proper and are to be paid from their appropriate account.

Motion was made by Boynton, seconded by Durling to adopt said resolution. Roll call vote: Durling-yes, Desiderio-yes, Charles-yes, Boynton-yes, DeCarolis-yes.

### **OLD BUSINESS:**

John Anthony gave a presentation on why he feels the Township should opt out of Sustainable Jersey due to their association with the United Nations Agenda 21.

Deputy Mayor Desiderio reported that he was approached by a property owner who asked if the township was interested in purchasing the property next to the township garage. The Committee decided that the property is not suitable and was not interested.

Roman Osadca had a list of miscellaneous questions for the Committee as follows:

- 1) He was told that to be on the agenda there was a 10 day time frame. He had a copy of a policy that stated it was seven days. The Mayor told him it was changed to 10 days.
- 2) The agenda was not on the website for November. Is there a policy for this? The attorney told him that the agenda being on the website is a right not an obligation.
- 3) In the September minutes there was a section on Open Public session where it stated the people's names but not the questions. He would like the answers to the questions put in the minutes. The Mayor advised they would address this.
- 4) Also in the September minutes under Deputy Mayor Desiderio's report, Mr. Osadca wished to advise that this was a reception and not a party at the Vass House and wished to clarify that the Vass House is hemlock siding not T111 as stated.
- 5) There is a need to improve communications during storms as he did not receive any notices during the hurricane. The Mayor advised that the EMC sent many e mails and will look into this.
- 6) At the October 2011 snow storm a resident of Lackawanna Drive house was flooded due to the drainage swell from the ball field. Mr. Osadca asked if this was taken care of. The Mayor stated that he, Mr. Desiderio and the engineer met and asked the resident for information of which he has not provided.
- 7) With regard to the visual pollution of the Booster Club signs on the fencing along the ball field, Mr. Osadca asked if there was a policy for the signs, The Mayor advised that some of the sign owners earned the sign by donating such as Aspen Tree cutting down trees, Mr. DeCarolis by donating machinery and removal of stumps (note: Mr. DeCarolis paid for the sign) and Precision Line Striping by stripping the basketball court and
- 8) Are there any rules when a signed letter is sent to the Committee when should it be on the agenda or in correspondence. The Mayor stated that the person should ask to be on the agenda or otherwise it goes on correspondence.

Gabe DeCarolis asked why his taxes went up \$600.00. The Mayor stated that Mr. DeCarolis taxes went up \$356.13 not the \$600.00. The Mayor also stated that this year the local tax rate went up due to expenditures dropping. Revenues also dropped more and the Committee needed to take money from surplus and needed a tax increase in order to stabilize the taxes.

**NEW BUSINESS:**

Trooper Stephanic reported to the Committee that there were 12 break in's in the area and since this is an ongoing investigation he could not give any more information. He did advise that if anyone sees anything suspicious they should call the police.

A memorandum from the Zoning Officer was read requesting temporary authorization for a trailer to be used as a dwelling or sleeping place on Block 502, Lot 24.01. The trailer is being used while the timber harvest activities are being completed on this property. The request is to allow the trailer to remain on the property only until the logging project is completed early next year and will be removed at that time. The Committee felt there was no hardship in this case and asked the Zoning Officer to enforce the ordinances. This was done by motion made by Durling, seconded by Desiderio. All were in favor.

An e mail letter received from Robert Lally was read requesting that the Committee waive his permit fee as his electrical services were pulled from this house during the hurricane. He felt he had no choice in the matter and along with his struggles to get by without power and the expense associated with the hurricane he would like the fees waived. The Committee thought this expense would be covered under their homeowners insurance or they can claim it under FEMA. Motion was made by Boynton, seconded by Durling to deny the request. All were in favor.

The Clerk asked the Committee if they would like to hold the annual township dinner for the various boards and if so when would they like to have it. The Committee decided to have the same as last year which will be in January.

The Clerk asked the Committee when they would like the reorganization meeting. It was decided to have it on January 2, 2013 at 6:00 p.m.

Emergency Management Coordinator Nick Pachnos gave an update on the hurricane. The storm was declared an emergency on Sunday, October 28<sup>th</sup>. He received 175 inquires on his cell phone and over 100 people stopped in the town hall which was a shelter. He recommended that cable TV be put in the town hall so that he can follow up on weather reports. Mr. Pachnos would like to follow up on Forest Manor as they do not have an emergency plan. He would also like people to have their house numbers located at the bottom of their driveway.

Mayor Charles presented Mr. Pachnos with a Mayor's plaque for his outstanding performance as Emergency Management Coordinator during Hurricane Sandy.

**QUOTES:**

The Clerk solicited quotes for lawn maintenance on the ball fields as follows:

Turf Pros, Blairstown, New Jersey for \$294.00 per service

Greco's Law Care, Newton, New Jersey for \$500.00 per cut

J&F Martin Landscape, Piscataway, New Jersey-no quote due to distance

SSS Cleaning Indoor & Outdoor, Matawan, New Jersey-no quote due to distance

Motion was made by Durling, seconded by Boynton to continue with the road department. Roll call vote: Durling-yes, Charles-yes, Desiderio-yes, DeCarolis-no, Boynton-yes.

**OPEN MEETING TO THE PUBLIC:**

Motion was made by Durling, seconded by Boynton to open the meeting to the public. All were in favor. Spoke were:

Loren Greco asked the Clerk to open the other quotes. He was told that the other two did not quote as they didn't want to travel to Frelinghuysen.

Matt Polsky stated that he has never heard of what was mentioned in Mr. Anthony's presentation and asked the Committee to reconsider their decision on Sustainable Jersey.

Debra Natyzak asked for clarification of the August minutes regarding drains for sump pumps. She was told that Mr. Barbour asked to connect permanent pipes underground to the township drain. Since the township doesn't know what is in the water he was told he could not do the connection.

Motion was made by Boynton, seconded by DeCarolis to close the meeting to the public. All were in favor.

**DEPARTMENT REPORTS:**

Motion was made by Boynton, seconded by Durling to approve the department report number 1 through 10 on a consent agenda motion. All were in favor.

Recreation Committee:

Mr. Boynton reported that basketball is getting started.

Environmental Commission:-no reportFarmland Preservation Board-no reportOpen Space Committee:

Robin Randolph reported that she is waiting for word from the County on the Grzelak property.

Mayor Thomas Charles:

Mr. Charles thanked everyone for their assistance during the hurricane.

Deputy Mayor Frank Desiderio:

Mr. Desiderio also thanked everyone and was amazed at how everyone pulled together.

Committeeman Alan DeCarolis:

Mr. DeCarolis would like no littering signs ordered. He would like thank you cards sent to David & Ann Marie Schwartz for access to drive through their property in order to get to State Park Road when the roads were closed; George & Chris Kuhn for help on cutting down trees; and Lou Caruso for providing coverage at the town hall during the night hours.

Committeeman Dale Durling-no report

Committeeman David Boynton

Mr. Boynton also thanked everyone for their help during the hurricane

Municipal Clerk-no report

Attorney Edward Wacks:

Mr. Wacks reported on the issue of a resident recording the meeting. The Committee has the ability to limit what goes on in the public session to make sure it is orderly and under control. The Court has an interesting situation that a person such as a reporter is permitted to record certain portion of the meeting. Someone who is not part of the press cannot record unless a copy is made available. Mr. Wacks suggested that a policy be adopted in January. With regard to the cable TV franchise, consisting of Frelinghuysen, Hope, Hardwick and Knowlton, one attorney has been retained to negotiate the agreement with Service Electric TV. There has been some discussion whether or not one community has the right to change what might be universally negotiated. The answer is whatever everyone agreed upon will be binding upon all four municipalities. With regard to the letter of credit on Lackawanna Drive, the letter is in good standing. North Warren Properties will receive a letter from Maser Consulting that the road has not been completed. Mr. Wacks will send a letter to the developer regarding current snow plowing. Motion was made by Durling, seconded by Boynton authorizing Mr. Sterbenz to prepare a report. All were in favor.

Engineer Paul Sterbenz:

Mr. Sterbenz gave a summary of the Kerrs Corner project. The estimated cost was \$290,000.00 to finish Phase 1 & 2. \$310,000.00 was received from the NJDOT. The final cost was \$246,089.23. Mr. Sterbenz recommended that the Committee approve the payment of four vouchers for Kerrs Corner Road from Ruberton and Denville Line Painting. Mr. Sterbenz will file for a 2013 grant from the NJDOT in the amount of \$150,000.00 for State Park Road.

**EXECUTIVE SESSION:**

Motion was made by Boynton, seconded by Durling to enter into executive session with regard to possible litigation and personnel matters. All were in favor. Motion was made by Boynton, seconded by Durling to return to public session. All were in favor. The attorney reported that the discussion was the issue of the ordinances of the street vacations. The condition of the ordinances being held was that the homeowners would negotiate the temporary easement to resolve safety issues.

The attorney's that were present for the affected property owners agreed to this approach. Meanwhile, Mr. Desiderio will put together a solution for the time being.

**CORRESPONDENCE:**

Warren County Prosecutor Re: Residency restrictions for convicted sex offenders  
Warren county Engineer Re: Routes 612/519 intersection  
Warren County Board of Taxation Re: 2012 added/omitted abstract of ratable  
Warren County Dept of Public Safety Re: FEMA disaster recovery phone numbers  
Warren County Dept of Public Safety Re: FEMA recovery news  
ANJEC Re: Copy of "Solar Siting and Sustainable Land Use"  
Hope Township Re: Master plan amendment  
Stillwater Township Re: Adoption of a master plan re-examination report  
Morris County JIF Re: Loss control report  
Crew Engineers Re: Interest in submitting a proposal for 2013  
NJDEP Re: Motorist urged to be cautious for deer on roads this fall  
NJDEP Re: Open Space & Recreation Plan  
NJDEP Re: Follow up regarding Administrative order 2012-09  
NJDCA Re: NJ Hurricane Sandy relief and recovery assistance guide  
NJDCA Re: Local Finance Notice #2012-29  
NJDCA Re: Waiver of permits for work made necessary by hurricane damage  
Dan Carey Re: EPA approves emergency fuel waiver for New Jersey  
Scott Garret's office Re: Disaster declaration  
NJ Housing & Mortgage Financing Agency Re: New Jersey HomeKeeper  
Public hearing on Dec. 10<sup>th</sup> on Greening New Jersey's Water Infrastructure  
NJ Dept of the Treasury Re: 2012 certification of table of equalized valuations  
2008 MLC site specific PIT 2008A reimbursements  
Wacks & Hartmann Re: Copy of letter sent to Bruce Barbour  
New Jersey State League of Municipalities Re:

1. Three Issues:
  - a. State can provide temporary inspectors
  - b. Waiving of construction inspection fees
  - c. Information on protecting access to financial markets for cash flow stability and rebuilding
2. Executive order extends 4<sup>th</sup> quarter property tax payment
3. Sustainable Jersey upcoming events-December 2012 & January 2013
4. FEMA announces transitional sheltering Assistance
5. Sandy Recovery Updates
  - a. Dept. of Education launches hotline for families displaced
  - b. Governor requests federal fisheries disaster declaration
6. Two Issues-Final revised version
  - a. Fema announces transitional sheltering assistance
  - b. Dept. of Banking and Insurance schedules community outreach
7. Follow up regard Administrative Order 2012-09-NJDEP websites
8. Assembly action update for October 18<sup>th</sup>
9. User Friendly budget proposed reporting platform update

10. Legislative bulletin No. 5
11. Legislative bulletin No. 6
12. Three Issues:
  - a. A-2006 allows contracting for construction code services
  - b. COAH 3<sup>rd</sup> round rules challenge scheduled for NJ Supreme Court
  - c. Important conference sessions Sustainable Jersey
13. Proposed rules for non state health benefits plans
14. S-2 amended and now heads to Senate floor

**ADJOURNMENT:**

There being no further business, the meeting was adjourned on motion made by Desiderio, seconded by Durling. All were in favor.

Respectfully Submitted,

Brenda J. Kleber, RMC