

**MINUTES OF THE REGULAR MEETING OF THE MAYOR AND COMMITTEE OF
THE TOWNSHIP OF WANTAGE, HELD AT THE WANTAGE TOWNSHIP
MUNICIPAL BUILDING, 888 STATE HIGHWAY 23, WANTAGE, N.J.
ON THE DATE OF AUGUST 12, 2010**

Mayor Clara Nuss called the regular meeting of the Mayor and Committee of the Township of Wantage to order, and requested the Clerk to call the roll. Upon roll call, the following members of the governing body were present: Mayor Nuss, Committee members DeBoer and Gaechter. The following member was absent: None
Also present Township Attorney, Michael Garofalo

Mayor Nuss stated, "This meeting is being held in compliance with the provisions of the Open Public Meetings Act, Public Laws 1975, Chapter 231. It has been properly noticed and posted to the public, and certified by the Clerk."

Mayor Nuss lead the assembly in the Salute to the Flag.

CONSENT AGENDA

Mayor Nuss requested that the members of the Committee Review the Consent Agenda. There being no Committee member present wishing to comment on the proposed Consent Agenda, Mayor Nuss requested approval of the Consent Agenda.

Mr. DeBoer moved to accept the following correspondence for filing: Public Notice of change in meeting schedule, holding the first meeting of the Mayor and Committee of the Township of Wantage for the month of October on October 7, 2010 rather than October 14, 2010. The motion was seconded by Mr. Gaechter. Upon roll call,
Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to approve Raffle License RL10-14, to Heritage & Agriculture Association, Inc. (Lusscroft), to conduct an on premise 50/50 raffle on September 11, 2010. The motion was seconded by Mr. Gaechter. Upon roll call,
Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to approve Bingo License BL10-15, to BPOE 2288 Sussex Lodge (Elks Lodge), to conduct bingo games on various dates during calendar year 2010. The motion was seconded by Mr. Gaechter. Upon roll call,
Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to offer Municipal Approval of the application for Kimberly Van Althuis of Sherman Ridge Road, for membership in the Beemerville Fire Company of the Wantage Township Fire Department. The motion was seconded by Mr. Gaechter. Upon roll call,
Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to accept the following Monthly Reports for filing:

- Clerks Report for the Month of July 2010
- Construction Department Report for the Month of July 2010
- Board of Health Report for the Month of July 2010
- Registrar's Report for the Month of July 2010
- Tax Collector's Report for the Month of July 2010

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to approve the resolution authorizing payment of bills for the meeting of August 12, 2010. The motion was seconded by Mr. Gaechter. Upon roll call,
Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to approve the resolution extending the Grace Period for payment of taxes to the date of September 10, 2010. The motion was seconded by Mr. Gaechter. Upon roll call,
Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

CONSENT AGENDA, continued

Mr. DeBoer moved to accept, with regrets, the resignation of Susan Floyd from the Wantage Township Board of Health, effective immediately.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to accept, with regrets, the resignation of Parker Space from the Wantage Township Open Space Advisory Committee, effective immediately. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to appoint Bill Gaechter to a seat on the Wantage Township Open Space Advisory Committee for the remainder of calendar year 2010. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to award a contract to Denville Line Painting for \$2,296.00 for line striping Crigger and Neilson Road intersection per safety recommendations of the Township Engineer.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the Mayor to sign the Agreement for Acquisition of Sewer Allocation from the Hardyston Township Municipal Utilities Authority with Bicsak Brothers, LLC. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the Mayor to sign the 2010 Amendment to the 2001 Service Contract between Wantage Township and SCMUA to facilitate the transfer of 53,000 gpd sewer allocation from Hardyston Township MUA to Wantage Township. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to adopt a resolution acknowledging the 90th Anniversary of the ratification of the 19th Amendment to the Constitution of the United States of America. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to name John Wyckoff as the Provisional Employee appointed to the position of Plumbing Sub Code Official, effective September 1, 2010 at a salary of \$30/hr for 8 hours/week. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the announcement of a Civil Service Promotional Examination within the Tax Assessor's Office for the position of Assessing Clerk; requesting consideration from Civil Service for waiving the actual examination in favor of naming the only eligible employee to the promotion, Kristy Lockburner, with no change in salary. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to acknowledge the intention of the American Red Cross to hold their semi-annual coin collection program within Wantage Township on Saturday, September 25, 2010, subject to receipt of all relevant and applicable state and county authorizations for said activity. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

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CONSENT AGENDA, continued

Mr. DeBoer moved to authorize submittal of the Grant Application for the Sussex County Municipal Alliance Grant for calendar year 2011 in the amount of \$12,716, to the Governor's Council on alcoholism and Drug Abuse. The motion was seconded by Mr. Gaechter.

Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the refund of \$18.00 to Lucas & Gaus for Land Use Board fees collected in error. The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the refund of \$416.06 to Quimland, LLC to reimburse escrow deposit L-30-2006 associated with Block 121 Lot 4.02.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the refund of \$871.00 to Pleasant Acres to reimburse escrow deposit L-05-42 associated with Block 139 Lot 22.01 and 22.03.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the refund of \$81.44 to Brink Road Builders to reimburse escrow deposit L-18-2007 associated with Block 21 Lot 15.01.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the refund of \$1,519.69 to PNC Mortgage to reimburse a tax overpayment associated with Block 136 Lot 11.03.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize the refund of \$6,000.00 to Taeah's Treasure, LLC to reduce Haying Bond S-10-01 associated with Block 11 Lot 5.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to authorize submittal of Grant Application to the New Jersey Department of Transportation for a Grant of \$200,000 for proposed Improvements to Newton Avenue.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mr. DeBoer moved to accept the recommendation of Recreation Commission to rescind the action taken on July 12, 2007 which had renamed Lott Road Fields. The park will once again be named "Lott Road Fields".

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

MAYOR'S PROCLAMATION:

Mayor Nuss offered the following Proclamation Supporting the Mayor's Wellness Campaign:

Proclamation

Supporting the Mayors Wellness Campaign

Whereas, Fifty-five percent of New Jersey residents are obese or overweight, and
Whereas, Medical expenses for treating problems related to obesity in our state total billions annually, and
Whereas, New Jersey has reported the highest incidence in the nation in obesity among low-income kids aged 2-5 years, and
Whereas, the current generation of children in America may have shorter life expectancies than their parents, and
Whereas, The Mayors Wellness Campaign supports Mayors as champions of community health, and
Whereas, The goal of the campaign is to improve health, reduce health care costs related to obesity, and make New Jersey a national leader in community-based health interventions, and
Whereas, The Mayors Wellness Campaign seeks to foster active living and healthy lifestyles by providing communities the structure and resources to implement healthy community initiatives, and
Whereas, The Mayors Wellness Campaign will work to implement a comprehensive program of outreach, education and technical assistance activities to combat obesity and inactivity issues for Wantage Township, and
Whereas, Wantage Township cares deeply about all of its citizens and the future health of its children,
Now, Therefore, I, Clara Nuss, Mayor of Wantage Township, ask that all residents of this community join me in supporting the Mayors Wellness Campaign, and I encourage the residents of Wantage Township to participate in the Mayors Wellness Campaign activities to promote exercise, eating properly and living healthier and better lives.

ADMINISTRATOR'S REPORT

Mayor Nuss requested Mr. Doherty present the Administrator's report.

Mr. Doherty reported that CT Productions has received a Special Ruling from the Director of the Division of Alcoholic Beverage Control, which enables the governing body to give consideration of renewal for this license.

Suggestion for Moratorium on Woodburning Stoves:

Mr. Doherty reported that at their June 29, 2010 meeting, the Land Use Board voted to recommend a one year moratorium on installation of new outdoor furnaces for health and safety reasons and to allow the Land Use Board to meet with county and state officials.

Mr. DeBoer moved to institute a one year moratorium on installation of new outdoor furnaces for health and safety reasons and to allow the Land Use Board to meet with county and state officials, as per the recommendation of the Land Use Board. Mr. Gaechter seconded the motion.

On the question, the members of the governing body discussed with Mr. Garofalo the desired wording of the resolution for this motion. After review and consideration, the following resolution wording was agreed upon for the motion and second:

RESOLUTION INSTITUTING A MORATORIUM ON THE ISSUANCE OF ZONING PERMITS FOR THE CONSTRUCTION AND OPERATION OF OUTDOOR WOODBURNING STOVES/FURNACES

WHEREAS, the Wantage Township Committee does hereby find that the use of outdoor wood burning stoves and/or furnaces may create noxious and hazardous smoke, soot, fumes, odors and air pollution and can be detrimental to the health and well being of citizens and can deprive neighboring residents from the enjoyment of their homes and premises; and

WHEREAS, the Wantage Township Committee finds that appropriate measures must be taken to secure a temporary reasonable halt on the construction of outdoor wood burning stoves/furnaces in order to protect the public's health, safety and welfare while the Township undergoes a review and potential revision of its Ordinances regarding wood burning stoves/furnaces.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Wantage that it is necessary and appropriate to institute a moratorium for a period not to exceed one (1) year for the issuance of any zoning permits for the construction of outdoor wood burning stoves and/or furnaces. By maintaining the status quo for such construction until such time as appropriate consideration and potential amendments to the ordinances of the Township of Wantage are adopted the Township Committee can provide for an orderly revision of the ordinances as necessary.

BE IT FURTHER RESOLVED by the Mayor and Committee of the Township of Wantage that for a period of time not to exceed one (1) year following the effective date of this resolution, no construction can proceed, no zoning permit may be issued by the Code Enforcement Officer and no final approval may be given by the Township Land Use Board or other relief may be granted regarding the construction of an outdoor wood burning stove and/or furnace.

BE IT FURTHER RESOLVED that during the period of the moratorium, the Township Committee shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Township ordinances. In the event that the Township adopts a regulatory ordinance within one (1) year from the effective date of this resolution the temporary moratorium shall upon adoption be lifted.

BE IT FURTHER RESOLVED by the Mayor and Committee of the Township of Wantage that to the extent that any law, ordinance, rule or regulation are in conflict with the provisions of the resolution, this resolution shall control.

Upon Roll Call,

Ayes: DeBoer, Gaechter, Nuss Nays: None Abstain: None Absent: None

Letter from Engineering Firm: Route 23 lighting – Route 23 Bypass

Mr. Doherty directed the attention of the governing body to a letter dated August 3, 2010 from PB Americas, Inc., inquiring regarding Township position on proposed approach lighting to Papakating Creek Bridge.

After review and consideration, the governing body expressed consensus to accept the State's recommendation for additional approach lighting on Route 23 in the vicinity of the Papakating Creek Bridge.

ATTORNEY REPORT

Mr. Garofalo requested an executive session under attorney client privilege to discuss on going litigation involving the Lake Neepaulin Dam issue.

COMMITTEE REPORTS: None

OLD BUSINESS

Request For Consideration Of Road Vacation

Mr. Doherty requested the governing body give consideration to a letter dated June 21, 2010 from Alan Wolpert. Mr. Doherty explained that the governing body in 2008 chose to keep Black Dirt Road as an unimproved, abandoned-but-not-vacated public road on the basis of possibly needing the Right of Way at some point in the future. Mr. Wolpert has requested the reconsideration of this position, renewing his request for formal vacation of a portion of Black Dirt Road.

OLD BUSINESS, Continued

General review and consideration of Mr. Wolpert's request took place.

Mayor Nuss announced that she would be abstaining from this issue.

Mr. DeBoer stated that any future re-opening of this road as a public right of way would require a complete re-building of a county bridge at a cost of, most likely, several million dollars. Mr. DeBoer stated that the cost of such a project at both the local and county levels would be prohibitive, and therefore there is no realistic expectation that this abandoned road would ever be re-opened for public use.

After due consideration, Mr. DeBoer moved to authorize Mr. Garofalo to prepare an ordinance for the vacation of a portion of Black Dirt Road, such that the said partial vacation of this road does not land lock any property owners along Black Dirt Road. Mr. Gaechter seconded the motion. Upon roll call,

Ayes: DeBoer, Gaechter Nays: None Abstain: Nuss Absent: None

NEW BUSINESS

Approval of Minutes

Mr. Gaechter moved to approve the Regular and executive session Minutes of the Meeting of July 8, 2010 and the Special Meeting of July 29, 2010.

The motion was seconded by Mr. DeBoer. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter Nays: None Absent: None Abstain: None

OPEN PUBLIC SESSION

Mayor Nuss opened the meeting to the public for any questions or comments.

William Gettler, Gemmer Road, offered comments and observations regarding the New Jersey Department of Community Affairs review of permit applications within Wantage Township involving his tenants and Edward Vander berg; expressed the opinion that a retirement package for Edward Vander berg should be rescinded; inquired what action had been taken in response to his recent letter calling for the termination of employment of various employees.

Mr. DeBoer said that no action was taken.

Beth Rini, South Shore Drive, spoke in favor of rehabilitating the Lake Neepaulin Dam, offering comments regarding the beneficial aspects of the Lake which would become detriments if the dam were to be decommissioned.

Nick Luciano, Old Clove Road, asked why the Land Use Board was willing to listen to input regarding Wind Turbines but not for input on an Electric Company application.

Mr. Garofalo explained that the question posed by Mr. Luciano is at the Land Use Board level and the governing body cannot speak for the actions of that Board, but as a courtesy, mentioned that wind turbines have been deemed by the State Legislature to be an inherently beneficial use, which most likely dictated the manner in which that particular application proceeded.

Elaine Morales, Alpine Road, requested that the governing body come to a decision regarding the future of the Lake Neepaulin Dam.

Joy Steinbacher, Hudson Avenue, expressed her position regarding the matter of how many residents desire to see the dam fixed versus how many wish the dam to be decommissioned.

OPEN PUBLIC SESSION, continued

Warren Wisse, Valley View Trail, expressed the opinion that people do not want to be forced to pay for the repair of something that they do not own or use.

Mundell Fisher, South Shore Drive, expressed the belief that the lake and dam represent a community-wide benefit.

Karen Merritt, Alpine Road, offered rebuttal comments, expressing her disagreement with previous comments regarding detrimental impacts if the dam were to be removed; and also took issue with the representations concerning the number of signatures on petitions.

Tom Jable, South Shore Drive, offered comments regarding a governing body resolution from November of 2007, hydrological data involving the Lake; and expressed the belief that severe negative repercussions would be experienced if the lake were to be drained.

Karen Merritt questioned the validity of the details in the hydrological report mentioned by Mr. Jable.

Mr. DeBoer expressed the belief that the report being discussed involved a review of the entire municipality, not just the Lake Neepaulin area.

A resident of South Shore Drive inquired when the executive session minutes would be released as public records.

Mr. Garofalo responded that these executive session minutes would be released when the litigation is no longer taking place.

Monica Cavanaugh, North Shore Drive, spoke in favor of the dam.

Frank Galligan, New York Avenue, spoke in favor of the dam.

Rocco Russo, South Shore Drive, spoke regarding the depth of water in Lake Neepaulin, stating that the water in the lake is surface water and therefore would not impact well water.

Elizabeth Shevlin, Pine Ridge Road, inquired whether the Township wished to have ownership of the lake.

Mr. Doherty suggested that the governing body would wish to obtain town-wide input to gauge the desires of the residents before being able to take a position on that question. Mr. Garofalo suggested that input from the Township's insurance carrier would also be necessary before making an informed decision on such an option.

Ms. Shevlin suggested that the stench which occurred when Clove Lake was drained is indicative of what could be expected if Lake Neepaulin were drained.

General comments continued to be made by various members of the public.

Mr. DeBoer offered comments regarding the position of the governing body on this issue over the past several years.

Mr. Doherty stated that it would be beneficial for the governing body to stipulate their understanding that the residents in favor of repairing the dam believe that dire negative consequences would occur if the lake were to be drained, while those opposed to paying a special assessment for dam repair disagree with those predictions of dire consequences. Mr. Doherty stated that a lot of time is being taken up with the public continually repeating these

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OPEN PUBLIC SESSION, continued

positions, and that a more beneficial approach would be for any new ideas or suggestions to be presented for consideration of a resolution to the issue.

General discussion of the issue continued among the members of the general public.

Mr. Gettler offered to undertake a layman's review of the NJDEP data regarding the Lake Neepaulin Dam.

Mr. DeBoer informed that the Township is already undertaking a review of that data.

Elaine Bore, South Shore Drive, spoke in favor of dam repairs.

Ms. Merritt stated she does not want a small area to pay for the dam repair if they are not owners of the lake; and suggested if the Township is going to accept the premise that this lake benefits the entire community, then the entire Township should be part of a payment solution.

General review and consideration of the issue continued at this time.

There being no one else wishing to address the governing body at this time, Mayor Nuss closed the meeting to the public and the governing body returned to the regular order of business.

EXECUTIVE SESSION

Mr. DeBoer moved to enter into executive session, as follows:

WHEREAS, the Open Public Meetings Act, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Wantage, that the public shall be excluded from discussion of the following matter: On-going litigation involving the Lake Neepaulin Dam, and matters falling within the attorney-client privilege regarding said issue.

BE IT FURTHER RESOLVED, Minutes will be kept on file in the municipal clerk's office, and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes shall be made public.

The motion was seconded by Mr. Gaechter. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

After meeting in closed executive session, Mr. DeBoer moved to reconvene the meeting in open session. Mr. Gaechter seconded the motion. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

As there was no further business to discuss, Mr. DeBoer moved to adjourn the meeting.

Mr. Gaechter seconded the motion. Upon roll call,

Ayes: DeBoer, Nuss, Gaechter **Nays:** None **Absent:** None **Abstain:** None

Mayor Nuss declared this meeting to be adjourned.

James R. Doherty, Administrator/Clerk