

**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 JUNE 24, 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.

RESOLUTIONS

Mr. DeBoer moved to confirm the Appointment of Melissa Caton as Tax Collector of Wantage Township for a term running from July 1, 2010 through June 30, 2014.

Mr. Gaechter seconded the motion. Upon roll call,

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

Mr. DeBoer moved to grant permission for Daughters of the American Revolution to make use of the Wantage Township municipal parking lot for parking vehicles of DAR members during their Christmas in July event on July 23,24 and 25 (Friday, Saturday, Sunday) to free up parking spaces for their guests. Mr. Gaechter seconded the motion. Upon roll call,

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

Mr. DeBoer moved to adjust the contract with Tilcon New York in the amount of \$61,805.05 under the Morris County Cooperative Pricing Council Bid Award, to pave Carly Drive (replacing prior authorization of \$58,012.65).

Mr. Gaechter seconded the motion. Upon roll call,

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

Mr. DeBoer moved to authorize increasing the Bid threshold of Wantage Township from \$29,000 to \$36,000, as per the following resolution:

WHEREAS, by Resolution adopted on December 11, 2008 and reconfirmed on January 6, 2009 and January 7, 2010, the Mayor and Committee of the Township of Wantage, in the County of Sussex, State of New Jersey appointed James R. Doherty as the Qualified Purchasing Agent to exercise the duties of a purchasing agent with specific relevance to the authority, responsibility, and accountability of the purchasing activity of the Township of Wantage, and

WHEREAS, in accordance with the provisions of state law, the Mayor and Committee of the Township of Wantage authorized an increase in the bid threshold based on a Qualified Purchasing Agent being appointed, said bid threshold being established at \$29,000 in accordance with law; and

WHEREAS, Pursuant to N.J.S.A. 40A:11-3(c) and 18A:18A-3(b), Governor Chris Christie has exercised his authority to adjust the bid thresholds for awarding contracts by various contracting units, such that Contracting units that have appointed a Qualified Purchasing Agent and take advantage of a higher bid threshold pursuant to N.J.S.A. 40A:11-3(a) and 18A:18A-3(a), have their maximum bid threshold increased from \$29,000 to \$36,000, effective July 1, 2010;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Committee of the Township of Wantage hereby establishes the bid threshold for Wantage Township to be \$36,000, effective July 1, 2010.

BE IT FURTHER RESOLVED, the municipal clerk is hereby authorized and directed to forward a certified copy of this resolution to the Director of the Division of Local Government Services.

Mr. Gaechter seconded the motion. Upon roll call,

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

ADMINISTRATOR'S REPORT

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

Liquor Licenses:

Mr. Doherty reported that there are still five liquor licenses to be renewed, none of which have cleared the outstanding items necessary for consideration of renewal, at this time. As such, the following licenses will not be renewed effective July 1, 2010:

The Tara Inn, LLC: needs to pay local and state fees, and obtain a special ruling

CT Productions LLC (former Glenbrook Inn): needs special ruling

Fireman Dan's: needs Tax Clearance from NJ Division of Taxation

Elks Club: needs Tax Clearance from NJ Division of Taxation

Bob & Joani's Log Cabin LLC: needs to pay local and state fees, and needs Tax Clearance from NJ Division of Taxation

Proposed Amendment to Sewer Agreement between SCMUA and Wantage

Mr. Doherty explained that Wantage Township, on behalf of Bicsak Brothers LLC, has purchased sewer allocation from Hardyston. The SCMUA informs that this calls for an amendment to the 2001 Agreement between SCMUA and Wantage Township. Mr. Doherty requested the Attorney address this matter, as well as the need for a Developer's Agreement with Bicsak Brothers LLC.

Status of Lake Neepaulin Dam Issue:

Mr. Doherty inquired if the governing body desired to discuss the status of the Lake Neepaulin Dam and the issue of whether or not to pursue an appeal to the Judge's decision.

The governing body responded affirmatively.

Plan Endorsement

Mr. Doherty stated that, based on a recent meeting with the County of Sussex, the fact that Bicsak Brothers has purchased a sewer allocation will mean very little in terms of their ability to actually make use of it, unless or until Wantage Township proceeds with the Plan Endorsement process. Mr. Doherty suggested that the pros and cons of expediting the Plan Endorsement process should be discussed.

Mr. DeBoer suggested that no discussion was necessary at this time, preferring instead to send a letter to Senator Steve Oroho requesting the Senator's assistance in achieving reinstatement of lost sewer service area within Wantage Township. General consensus was expressed to pursue this course of action.

Partial Release of Executive Session Minutes:

Acting on the recommendation of Mr. Doherty, Mr. DeBoer moved to authorize the partial release of executive session minutes for April 29, May 13, May 27, and June 10, 2010.

Mr. Gaechter seconded the motion. Upon roll call,

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

Construction Department Staffing

At Mr. Doherty's request, Mr. DeBoer moved to confirm the termination of the Shared Construction Department of Wantage Township and Sussex Borough, effective September 1, 2010. Mr. Gaechter seconded the motion. Upon roll call,

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

ADMINISTRATOR'S REPORT, continued

Mr. Doherty stated that it was now in order to determine the future staffing of the Construction Department effective September 1, and requested an executive session for the purpose of discussing the options available, based on negotiations with other municipalities for a new shared construction department venture. Employees of the existing Construction Department have been invited to participate in this discussion.

Municipal Court

Acting on the recommendation of Mr. Doherty, Mr. DeBoer moved to accept the retirement of Cathy Nestel, based on the terms of the negotiated retirement package dated June 24, 2010.

Mr. Gaechter seconded the motion. Upon roll call,

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

Mr. Doherty stated that staffing decisions for the 2011 municipal court will depend on whether or not the governing body wishes to continue with the Joint Municipal Court. Mr. Doherty offered a background report, and asked the governing body their desires.

Mr. DeBoer moved to retain the Joint Court. Mr. Gaechter seconded the motion.

Upon roll call,

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

The members of the governing body declined to enter into closed executive session to discuss future staffing of the court, and expressed a desire for Mr. Doherty to be more diligent in including them in future meetings and discussions involving the municipal court.

ATTORNEY REPORT

Mr. Garofalo reported that action on a proposed amendment to Sewer Agreement between SCMUA and Wantage, as discussed during the Administrator Report, was ongoing at this time.

OLD BUSINESS

Open Space: Mr. Doherty inquired regarding the desire of the Mayor and Committee of the Township of Wantage for establishing a 2010 local open space tax. Mr. Doherty explained that while the Enabling Statute for a local open space tax provides wording to suggest that the levying of an annual open space tax is permissive, the referendum question posed to the voters on the ballot in 2006 was mandatory to be set between a half cent and two cents. Mr. Doherty stated that, depending on the interpretation of which direction takes precedence, the governing body may be obliged to set the local open space tax at, at least, a half a cent this year. The current budget as proposed does not have a local open space tax levy planned for this year. Mr. Doherty asked the governing body what their desire was, in this regard.

Discussion then turned to giving consideration to the possibility of placing another referendum question on the November ballot, which would eliminate altogether the local open space tax for the purpose of utilizing the collected open space tax money for revenue purposes to help defray the local tax burden.

Members of the Wantage Township Open Space Advisory Committee were invited to offer their input regarding the matters being discussed.

Douglas Ricker, Victoria Gill, Tom Davis, Rudy Solar and Diane Snure offered comments in support of retaining the Open Space Tax program, and requesting the governing body levy a local open space tax in calendar year 2010.

Mayor Nuss opened the meeting to the public for any comments they may wish to offer on this issue being given consideration.

OLD BUSINESS, continued

William Gettler, Gemmer Road, expressed his belief that the existing ordinance and referendum are not consistent with each other, and expressed support for revoking the existing open space program and, if desired, reinstating it with another referendum.

Bob Smith expressed support for retaining the open space program.

Craig Coykendall inquired regarding the position of the County of Sussex regarding the collection of an open space tax for 2010. General discussion took place on this. Mr. Coykendall expressed his support for retaining the local open space tax money.

Mayor Nuss expressed her opinion that the Open Space Advisory Committee should concentrate on finding an acceptable and desirable tract of land for consideration of open space preservation.

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

The governing body expressed consensus to retain the Open Space Tax program in Wantage Township, and to include a half cent tax levy for local open space preservation funding in the 2010 municipal budget. Mr. Doherty stated that the action items for the municipal budget under New Business shall be adjusted to include this said change.

NEW BUSINESS

Resolution to Amend 2010 Municipal Budget

Mr. Doherty reported that, based on input from the New Jersey Department of Community Affairs, various budget line items of appropriations and revenues need to be adjusted to reflect desired "In Cap/Out of Cap" designations of the New Jersey Budget Law and Local Fiscal Affairs Law. The proposed amendment represents internal adjustments within the budget document; the bottom lines of spending and tax impact remain unchanged. The proposed amendment also will include the desired half cent open space tax levy for calendar year 2010.

Mr. DeBoer moved to approve the Resolution to amend the 2010 Municipal Budget dated June 24, 2010, and to provide a half cent open space tax levy for 2010.

Mr. Gaechter seconded the motion. Upon roll call,

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

Final Adoption of 2010 Municipal Budget

Mr. Doherty reported that the New Jersey Department of Community Affairs has provided their authorization for consideration of final adoption for the 2010 Wantage Township Municipal Budget.

Mr. Gaechter moved to adopt the 2010 Municipal Budget, as per the Budget Adoption Resolution dated June 24, 2010. Mr. DeBoer seconded the motion. Upon roll call,

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

Introduction of Ordinance 2010-07: Salaries

Mr. DeBoer moved to introduce on first reading, Ordinance 2010-07 entitled "AN ORDINANCE FIXING THE SALARIES OF OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF WANTAGE, COUNTY OF SUSSEX AND STATE OF NEW JERSEY FOR THE YEAR 2010", with a Final Hearing scheduled for July 8, 2010. Mr. Gaechter seconded the motion. Upon roll call,

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

NEW BUSINESS, continued

Introduction of Ordinance 2010-09: Fee Schedule Amendments

Mr. DeBoer moved to introduce on first reading, Ordinance 2010-09 entitled "AN ORDINANCE AMENDING CHAPTER XXI, FEES, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WANTAGE", with a Final Hearing scheduled for July 8, 2010. Mr. Gaechter seconded the motion. Upon roll call,

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

Approval of Minutes

Mr. Gaechter made a motion to approve the Regular and executive session minutes of the meeting of the Wantage governing body held on June 10, 2010.

Mr. DeBoer seconded the motion. Upon roll call,

Ayes: DeBoer, Gaechter, Nuss, **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, inquired regarding the deadline date for filing an appeal of Judge Bozonelis' decision on Lake Neepaulin.

Mr. Garofalo stated that date is July 20, 2010.

Mr. Gettler expressed his belief that an appeal should be filed, expressed unhappiness with the extent of information included in Wantage Township minutes, and expressed unhappiness with reading about Wantage Township matters in newspaper reports about Sussex Borough meetings.

Ann Smulewicz, Route 23, expressed support for an appeal of the Judge's decision on Lake Neepaulin and disagreed with any suggestion that eminent domain be pursued to obtain ownership of the Lake.

Bill Williams, South Shore Drive, expressed a willingness to pay what it takes to fix the Lake Neepaulin Dam, and pointed out that the costs of litigating this issue and any further appeals is being borne by the entire Township.

Ann Perry, Fernwood Road, expressed support for an appeal of Judge Bozonelis' decision.

Beth Rini offered comments opposed to an appeal of Judge Bozonelis' decision.

A resident suggested that there exists misinformation regarding the Lake Neepaulin issue and FOLN.

Christine Feoranzo expressed her belief that eminent domain ought to be used to secure title to Lake Neepaulin if no appeal is pursued to the Judge's decision.

Tom Jable, South Shore Drive, stated that former Mayor Parker Space had expressed the position that the Judge's decision would prevail on this matter.

Members of the governing body responded that any comments made by Mr. Space represented his own position, not necessarily that of the Township.

Greg Williams inquired regarding how much money an appeal would cost. Mr. Garofalo declined to speculate on that matter.

Mr. Williams expressed his belief that the decision by Judge Bozonelis should be appealed.

OPEN PUBLIC SESSION, continued

Bob Smith expressed his belief that the decision by Judge Bozonelis should be appealed.

Bernice Bajda expressed her belief that the decision by Judge Bozonelis should be appealed, and suggested contacting West Milford.

Ms. Kathy Gorman expressed her belief that the decision by Judge Bozonelis should be appealed.

Mr. DeBoer made a motion 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: "Attorney Client Privilege – Lake Neepaulin Dam" and Negotiations/Personnel Matters involving the terms and conditions of specific employees of the Construction Department. BE IT FURTHER RESOLVED that 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.

Mr. Gaechter seconded the motion. Upon roll call,

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

After meeting in closed executive session, the members of the governing body returned to open session and continued with the regular order of business.

Mr. DeBoer moved to authorize the Municipal Attorney to submit a Motion for Reconsideration to Judge Bozonelis, urging him to reconsider and reverse his finding with respect to the Lake Neepaulin case. 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