

WEST AMWELL TOWNSHIP COMMITTEE MEETING

December 28, 2020

Regular Meeting – 7:30 PM

CALL TO ORDER AND STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

The regularly scheduled meeting of the West Amwell Township Committee was called to order at 7:30 PM. Present were Mayor Jim Cally, Deputy Mayor Stephen Bergenfeld (*via cell phone on speaker*), Committeemen John Dale, Gary Hoyer and Lucas Lyons along with Township Clerk Maria Andrews and Township Attorney Katrina Campbell.

Mayor Cally announced that this meeting is called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was faxed to the Hunterdon County Democrat and Trenton Times on January 13, 2020, was posted on the bulletin board in the Municipal Building on that date and has remained continuously posted as required under the Statute. A copy of this notice is and has been available to the public and is on file in the office of the Township Clerk.

AGENDA REVIEW BY TOWNSHIP CLERK

Clerk Andrews noted there were no changes to the posted agenda.

Mayor Cally took a moment to thank everyone for allowing him to be Mayor and noted he did his best during a challenging year with the COVID pandemic. He expressed appreciation for everyone's support, especially from his family.

ANNOUNCEMENTS

The following announcements were made:

- The Municipal Offices will be CLOSED 12/31/20 & 1/1/21 – New Year's Holiday
- Township Committee Re-organization Meeting is: Wednesday 1/6/21 at 7:30 PM
- The Twp. has received \$1095.00 from the Cty. for reimbursement of COVID expenses
- Residents should be vigilant NOT to allow any service technicians/utility workers access into their homes without proper ID... and especially if they weren't called by the Homeowner!
- Kindly Turn Cell Phones Off During the Meeting

PRESENTATION OF MINUTES

A motion by Hoyer, seconded by Dale to approve the Committee's 12/2/20 meeting minutes with no revisions noted was unanimously approved by voice vote.

OPEN TO THE PUBLIC/TOPICS NOT ON THE AGENDA

Mayor Cally opened the floor to public comment. Heidi Tomenchok of 145 Rocktown-Lambertville Road came forward and wanted to publically recognize Deputy Clerk Sandy Haberle, Tax Collector/Construction Office Manager Gail Brewi and Township Clerk Maria Andrews for their professionalism and customer service.

Seeing no members of the public come forward, Mayor Cally closed the floor to public comment.

SPECIAL PRESENTATIONS

Mayor Cally noted the Proclamation for Mr. Shute will be presented at the end of the meeting.

Reports by Department Heads

Harry Heller came forward and noted that 22 Nixle alerts were sent out in 2020 vs. 8 in 2019 and also noted that the County Board of Health had received the Moderna COVID vaccine and had begun administering it to the people in the first phase including EMT and healthcare workers.

Deputy Mayor Bergenfeld updated the Committee on some problem roadway areas that will require JCP&L to perform tree removal. He indicated he will be reaching out to Jose Ortiz regarding Rock Road West and Corsalo Road noting there have been several trees falling within the same general area this past year.

Minutes: 12/28/20

INTRODUCTION/PUBLIC HEARING ON ORDINANCES

It was noted for the record that no ordinances were listed on the agenda for action.

STANDING COMMITTEE REPORTS

- A. Open Space: The Committee authorized the 3/10/20 and the 9/8/20 minutes be posted to the Township website.
- B. Environmental: The Committee authorized the 2/13/20 minutes be posted to the Township website.
- C. Ag Advisory: No report given.
- D. Finance Committee: No report given.

UNFINISHED BUSINESS

PennEast Status Update

It was noted for the record that no update was provided.

Website Status Update

Committeeman Hoyer noted the last Technology Committee meeting focused on the website layout and how the content will be updated.

Proposed Chapter 88 Ordinance Amendments from Fire Safety Official/Insp. P. Langon

Mayor Cally noted the proposed amendments were just provided this evening and suggested the matter be placed on the Committee's 1/20/21 agenda in order to give everyone time to review the information.

NEW BUSINESS/OTHER

Approval of Resolution #93-2020: Demanding that the NJ State Legislature Accept its Responsibility to Administer the Provisions of the Affordable Housing Act and Stay Further Action until Such Time as it has Promulgated Rules Governing its Implementation

WEST AMWELL TOWNSHIP RESOLUTION #93-2020

DEMANDING THAT THE NEW JERSEY STATE LEGISLATURE ACCEPT ITS RESPONSIBILITY TO ADMINISTER THE PROVISIONS OF THE AFFORDABLE HOUSING ACT AND STAY FURTHER ACTION UNTIL SUCH TIMES AS IT HAS PROMULGATED RULES GOVERNING ITS IMPLEMENTATION

WHEREAS, in 1975 the New Jersey Supreme Court in Mount Laurel I decreed that every municipality in New Jersey, "must, by its land use regulations, presumptively make realistically possible an appropriate variety and choice of housing. More specifically, presumptively it cannot foreclose the opportunity of the classes of people mentioned for low and moderate income housing and in its regulations must affirmatively afford that opportunity, at least to the extent of the municipality's fair share of the present and prospective regional need therefor" (*10 S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp.*, 67 N.J. 151, 174 (1975)); and

WHEREAS, in 1983, the Supreme Court in Mount Laurel II expanded the Mount Laurel doctrine, saying: "Therefore, proof of a municipality's bona fide attempt to provide a realistic opportunity to construct its fair share of lower income housing shall no longer suffice. Satisfaction of the Mount Laurel obligation shall be determined solely on an objective basis: if the municipality has in fact provided a realistic opportunity for the construction of its fair share of low and moderate income housing, it has met the Mount Laurel obligation to satisfy the constitutional requirement; if it has not, then it has failed to satisfy it. Further, whether the opportunity is "realistic" will depend on whether there is in fact a likelihood-to the extent economic conditions allow-that the lower income housing will actually be constructed. Plaintiff's case will ordinarily include proof of the municipality's fair share of the regional need and defendant's proof of its satisfaction. Good or bad faith, at least on this issue, will be irrelevant." (*S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp.*, 92 N.J. 158, 220–22 (1983)); and

WHEREAS, the Supreme Court in Mount Laurel II suggested that builders' remedies should be used to force compliance by municipalities, reasoning that:

Experience . . . has demonstrated to us that builder's remedies must be made more readily available to achieve compliance with Mount Laurel. We hold that where a developer succeeds in Mount Laurel litigation and proposes a project providing a substantial amount of lower income housing, a builder's remedy should be granted unless the municipality establishes that because of environmental or other substantial planning concerns, the plaintiff's proposed project is clearly contrary to sound land use planning. We emphasize that the builder's remedy should not be denied solely because the municipality prefers some other location for lower income housing, even if it is in fact a better site. (*S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp.*, 92 N.J. 158, 279–80 (1983)); and

WHEREAS, the New Jersey Legislature responded quickly to the Court's Mount Laurel decision by enacting the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., which created the Council on Affordable Housing ("COAH") which as the Court noted in Mount Laurel IV " . . . was designed to provide an optional administrative alternative to litigating constitutional compliance through civil exclusionary zoning actions." (*In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous.*, 221 N.J. 1, 4 (2015); and

WHEREAS, COAH, pursuant to the authority granted to it by the Fair Housing Act, then adopted procedural and substantive rules which provided clear guidance to municipalities as to how they could meet their affordable housing obligation; and

WHEREAS, in its rules, COAH assigned a fair share number to each municipality and set forth various mechanisms that a municipality could use in order to satisfy that obligation; and

WHEREAS, West Amwell Township, like many other municipalities throughout the State of New Jersey, met its First and Second Round Affordable Housing Obligations through the COAH process; and

WHEREAS, COAH adopted the First Round Rules for the period from 1987 through 1993 and the Second Round Rules for the period 1993 to 1999 and then extended to 2004; and

WHEREAS, COAH was obliged by the Fair Housing Act to adopt Third Round Rules to take effect in 2004, however, but never adopted rules that were acceptable to the Courts; and

WHEREAS, in 2015, the Supreme Court again stepped in, finding that COAH's failure to adopt Third Round Rules forced the Court to intervene; and

WHEREAS, the Supreme Court designated Mount Laurel judges in each of the fifteen court vicinages to hear all Mount Laurel cases; and

WHEREAS, instead of providing clear guidance, like the COAH rules did, the Supreme Court in Mount Laurel IV set forth vague standards that have led to a complex system of non-uniform implementation; and

WHEREAS, as a result of the Supreme Court's decision in Mount Laurel IV, municipalities no longer were assigned fair share numbers, no longer had clear and concise procedural and substantive rules to follow, and no longer had one tribunal to decide these issues, which meant that even the threshold issues of regional need and local fair share obligations had to be litigated before fifteen different Mount Laurel judges, and as a result, municipalities were forced to spend tens of thousands, and in some cases hundreds of thousands of dollars, to negotiate fair share numbers with the Fair Share Housing Center ("FSHC") and to gain court approval of settlement agreements negotiated with FSHC; and

WHEREAS, the Supreme Court in Mount Laurel IV concluded its opinion by encouraging the Legislature to once again assume responsibility in the area of affordable housing, saying:

"In conclusion, we note again that the action taken herein does not prevent either COAH or the Legislature from taking steps to restore a viable administrative remedy that towns can use in satisfaction of their constitutional obligation. In enacting the FHA, the Legislature clearly signaled, and we recognized, that an administrative remedy that culminates in voluntary

municipal compliance with constitutional affordable housing obligations is preferred to litigation that results in compelled rezoning. (Citation omitted.) It is our hope that an administrative remedy will again become an option for those proactive municipalities that wish to use such means to obtain a determination of their housing obligations and the manner in which those obligations can be satisfied” (*In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous., 221 N.J. 1, 34 (2015)*); and

WHEREAS, it has been five years since the Mount Laurel IV opinion was issued and, to the detriment of each municipality in New Jersey and to the future viability of the State, neither the Legislature nor the Governor nor COAH have taken any action to remedy the situation; and

WHEREAS, if the Governor, the Legislature and COAH continue to ignore their responsibilities, municipalities will once again face a burdensome, time-consuming and expensive process to obtain Fourth Round Mount Laurel compliance starting in 2025;

NOW, THEREFORE, BE IT RESOLVED by the West Amwell Township Committee, County of Hunterdon, State of New Jersey, that it does hereby demand that the Governor and the Legislature cease their unconscionable disregard of this most important provision of the State constitution and take immediate and decisive action to restore a viable administrative remedy that municipalities can use in satisfaction of their constitutional obligations to provide affordable housing.

James Cally, Mayor

Maria Andrews, Township Clerk, RMC

INTRODUCED	SECONDED	COMMITTEE	AYE	NAY	ABSTAIN	ABSENT
		Bergenfeld	X			
		Dale	X			
		Hoyer	X			
		Lyons	X			
		Cally	X			

I, Maria Andrews, RMC, Clerk of West Amwell Township, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Township Committee at a duly convened meeting held on December 28, 2020.

Maria Andrews, Township Clerk, RMC

A motion by Dale, seconded by Lyons to approve Resolution #93-2020 was unanimously approved by roll call vote.
Bergenfeld: Yes, Dale: Yes, Hoyer: Yes, Lyons: Yes, Cally: Yes

Approval of Resolution #98-2020: Refund of Redemption Monies to Outside Lien Holder

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER
RESOLUTION #98-2020**

WHEREAS, the Township of West Amwell sold at the Municipal Tax Sale held on November 18, 2020, a lien on Block 3, Lot 14, also known as 1465 Route 179 in West Amwell Township, for 2019 delinquent taxes; and,

WHEREAS, this lien, known as Tax Sale Certificate #20-1, was sold to US Bank CUST/PRO CAP 8/Pro Capital for a 18% redemption fee; and,

WHEREAS, Lynn B. Ziegenfuss, owner, has effected redemption of Certificate #20-1 in the amount of \$158.59.

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NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check, and the Mayor, Clerk, and Treasurer be authorized to sign a check in the amount of \$158.59 payable to Pro Cap 8, LLC, 50 South 16th Street, Suite 2050, Philadelphia, PA 19102 for the redemption of Tax Sale Certificate #20-1.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Tax Collector and Finance Officer.

By Order of the Township Committee,

James Cally, Mayor

A motion by Hoyer, seconded by Dale to approve Resolution #98-2020 was unanimously approved by roll call vote.

Bergenfeld: Yes, Dale: Yes, Hoyer: Yes, Lyons: Yes, Cally: Yes

Acknowledgement: Resignation of Class III Officer D. Davis

The Committee acknowledged Office Davis's resignation and thanked him for his service. Deputy Mayor Bergenfeld commented that he and Lieutenant Skillman will review a possible replacement in the Spring.

Authorization: Payment of Invoice Received from Prosecutor T. Howes

It was noted for the record that Mayor Cally and Deputy Mayor Bergenfeld will reach out to Attorney Howes regarding this invoice.

Discussion: Consideration of a Township #44 ABC License

Attorney Campbell commented that the Township was asked to consider establishing a #44 ABC license and noted that every municipality is entitled to create one, which is a plenary retail distribution license. She explained the owner of Pine Creek Liquors is interested in obtaining a #44 license because his current #33 license which is a plenary retail consumption license, limits his ability to display product.

Attorney Campbell explained the Township can create a #44 license by putting it out for BID or by establishing an annual fee.

Rajesh Patel of Pine Creek Liquors asked if they can convert their 33 license into a 44 or if they could "trade" it. Attorney Campbell indicated she did not believe that could be done but would research it further.

It was noted for the record that the Township was interested in pursuing the options for establishing a #44 license and asked Attorney Campbell to get additional details.

Discussion: Township Policy on Utilizing Eastern Armored Service for Bank Deposits

Clerk Andrews remarked that Northfield Bank provides an Armored Service to pick up Township bank deposits as a courtesy and explained that there are a few departments who are consistently taking their own deposits to the bank. She expressed concern that the bank will take away the service if it's not being used and also commented that she believed the service was a much safer means of transporting Township money. Construction Office Manager/Tax Collector Brewi spoke up from the public and stated the armored courier service schedule doesn't always comply with the 48 hour statutory deposit rule. She specifically noted the Township's summer hours. Attorney Campbell explained that the 48 rule doesn't apply when the building is closed for holidays or otherwise. She noted deposits are simply carried to the next business day.

Mayor Cally noted missing Court and Tax office deposits over the past year. It was the consensus of the Committee that the Armored Service should be utilized as the first source of making deposits. Attorney Campbell remarked she will review the Township's policy and draft a resolution.

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Discussion: Reimbursement Request from Chief Ent for \$12, 767.38 for Fire Truck Repairs

It was noted for the record that Chief Ent had provided copies of the repair orders for the Committee to review, however there were still a few questions on the repairs. Mayor Cally asked Clerk Andrews to request Chief Ent come to an upcoming Committee meeting to clarify some of the work that was done on the fire truck.

Discussion: Cable Franchise Renewal Process

Attorney Campbell explained the cable franchise expires in 2023 and Comcast is notifying users of the renewal. Harry Heller spoke up from the public indicating he will look into this further and report back to the Committee.

OPEN TO THE PUBLIC

Mayor Cally opened the floor to public comment. Seeing no members of the public come forward he closed the floor to public comment.

ADMINISTRATIVE

Treasurer: Approval of Resolution #100-2020: Budget Appropriation Transfers

Resolution #100-2020 Budget Transfers

PURSUANT TO NJSA 40A:4-58, a municipality may make budget appropriation transfers during the last two months of the fiscal year,

WHEREAS, there appears to be insufficient funds in the following 2020 appropriation accounts to meet the demands thereon for the balance of the year, viz:

Current Fund:	
Salaries and Wages:	Other Expenses:
Administration	Administration
Finance	Tax Collector
Tax Collector	Emergency Mgmt
Construction Code	Solid Waste
	Buildings and Grounds

WHEREAS, there appears to be a surplus in the following accounts, over and above the demand deemed to be necessary for the balance of the current year, viz:

Current Fund:	
Salaries and Wages:	Other Expenses:
Police	Prosecutor
	Legal Services
	Gasoline
	Telephone

NOW THEREFORE BE IT RESOLVED, that in accordance with the provision of NJS 40A:4-58 part of the surplus in the accounts heretofore mentioned be and same hereby transferred to the accounts mentioned as being insufficient, to meet the current demands; and,

BE IT RESOLVED, that the Chief Financial Officer is hereby authorized and directed to make the following 2020 appropriation transfers:

	<u>FROM</u>	<u>TO</u>
Salaries and Wages:		
Police	\$ 5,000.00	
Administration		\$ 1,500.00
Finance		750.00
Tax Collector		400.00
Construction Code		2,500.00
Other Expenses:		
Prosecutor	12,000.00	
Legal Services	15,000.00	
Gasoline	12,000.00	
Telephone	2,550.00	
Administration		2,200.00
Tax Collector		2,600.00
Emergency Mgmt		600.00
Solid Waste		1,000.00
Buildings and Grounds		<u>35,000.00</u>
TOTALS	<u>\$ 46,550.00</u>	<u>\$ 46,550.00</u>

Adopted: 12/28/20

A motion by Hoyer, seconded by Dale to approve Resolution #100-2020 was unanimously approved by roll call vote.
Bergenfeld: Yes, Dale: Yes, Hoyer: Yes, Lyons: Yes, Cally: Yes

Approval of Bill List: 12/28/20

A motion by Cally, seconded by Lyons to approve the 12/28/20 bill list was unanimously approved by roll call vote.
Bergenfeld: Yes, Dale: Yes, Hoyer: Yes, Lyons: Yes, Cally: Yes

Proclamation: Harold E. Shute

Mayor Cally and Committeemen Hoyer and Dale each shared personal stories about working with Mr. Shute on various Township matters over the years and thanked him for his dedication and his “tremendous memory for all things West Amwell!”

Mayor Cally read the following Proclamation into the record:

PROCLAMATION

WHEREAS, Harold E. Shute has dutifully and selflessly volunteered his time to the Township of West Amwell for the past 21 years; and

WHEREAS, Mr. Shute became a founding member of the Open Space Committee in 1999 and was instrumental in the preservation of the Newhouse property as well as countless other parcels over the years with the Lambert and Runkle Farms being his more recent accomplishments; and

WHEREAS, in 2000 Mr. Shute joined the Zoning Board of Adjustment and put his vast knowledge of the Township’s Land Use Development Regulations to good use hearing numerous applications; and

WHEREAS, in 2004 Mr. Shute was appointed to both the Planning Board and the Agricultural Advisory Committee providing guidance on the Master Plan and making recommendations to strengthen and sustain this Municipality’s extensive agricultural community; and

WHEREAS, in 2007 Mr. Shute served on the “Township Lands Committee” where his insight allowed West Amwell to maintain important quality of life issues, which are an integral part of our community; and

WHEREAS, in 2010 Mr. Shute began serving on the Township Finance Committee contributing countless hours analyzing the annual budget and offering oversight and creative solutions to protect the taxpayers as well as the Township’s bottom line; and

NOW THEREFORE, be it resolved by this Proclamation that the West Amwell Township Committee wishes to express great appreciation to Harold E. Shute for his 21 years of meritorious volunteer service, loyalty and dedication with his vision of preserving the heritage and spirit of this Garden State’s rural community for the future of the Township and all of its residents.

NOW THEREFORE, be it finally resolved that on December 28th, this Proclamation be committed to the official Township Committee minutes in appreciation and acknowledgement of “Hal’s” exemplary service.

By Order of the Township Committee

James Cally, Mayor

The Township Committee presented Mr. Shute with a gift and his Proclamation and thanked him for everything he has done over the years.

OTHER – Executive Session

Resolution #99-2020: Closed Session – Personnel/Contracts – Litigation/Affordable Housing

A motion by Hoyer, seconded by Dale to approve Resolution #99-2020 and enter into closed session was unanimously approved by roll call vote.

Bergenfeld: Yes, Dale: Yes, Hoyer: Yes, Lyons: Yes, Cally: Yes

Resolution #99-2020

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, 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,

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NOW, THEREFORE BE IT RESOLVED by the Committee of West Amwell Township, County of Hunterdon, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows: Mt. Laurel Litigation, personnel, contracts and subjects falling under Attorney-Client privilege.
3. It is anticipated at this time that the above stated subject matter will be made public when the matter has been resolved.
4. This resolution shall take effect immediately.

Maria Andrews, Township Clerk, RMC

A motion by Hoyer, seconded by Lyons to return to open session was unanimously approved by voice vote.

It was noted for the record that the Committee was in Closed Session from 8:44 PM – 9:11 PM.

Upon returning to Open Session, a motion was made by Hoyer and seconded by Cally to authorize an offer be made for the Municipal Court Judge position. The motion was unanimously approved by voice vote.

Additionally, the Committee requested Attorney Campbell request proposals for the Township Auditor.

CORRESPONDENCE

It was noted for the record that the Committee ordered the correspondence listed on the agenda to be filed.

ADJOURNMENT

A motion by Cally, seconded by Hoyer to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 9:12 PM.

Maria Andrews, Township Clerk, RMC

Approved: 1/20/21