# WEST AMWELL TOWNSHIP COMMITTEE MEETING January 7, 2009

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

The regular meeting of the West Amwell Township Committee was called to order at 7:07 p.m. Present were Mayor William J. Corboy, Deputy Mayor Frank P. Masterson III, Committeeman Thomas J. Molnar and Attorney Philip J. Faherty III. Also in attendance were Sean Pfeiffer, Hal Shute, Ron Shapella, Betty Jane Hunt, Steve Bergenfeld, and Cathy and Chester Urbanski

Mayor Corboy announced that this meeting is called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was included in the Resolution faxed to the Lambertville Beacon, Hunterdon County Democrat and Trenton Times on January 2, 2009, was posted on the bulletin board in the Municipal Building on said 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 Municipal Clerk.

The meeting was recorded via digital recording system and a copy of the CD is on file in the Office of the Municipal Clerk.

#### PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG

Betty Jane Hunt led in the recitation of the pledge.

### **AGENDA REVIEW BY TOWNSHIP CLERK**

The following items were added: 8.C – Disposition of Country Fair Donations. Deleted were: 11.E – Closed Session; 12.A – Treasurer Reports; 12.C – Tax Collector

### **ANNOUNCEMENTS**

Mayor Corboy made the following announcements:

- Open Gym for Adults Members of SHR Community Mondays 7:30-9:30 p.m.
- Brush Drop-off/Mulch Pickup runs Alternating Saturdays from Recycling Depot, 8 am to 1 pm
- Township Offices are Closed January 19, 2009 for MLK Day
- 2009 Dog Licenses are Due
- Please Come to the Table if You Wish to Address the Committee
- Kindly Turn Cell Phones Off During Meeting

#### PRESENTATION OF MINUTES

With the addition of a missing word in the December 30, 2008 Regular minutes, the December 30, 2008 Regular and Closed Session minutes and the January 1, 2009 Re-Organization minutes were approved on motion from Molnar and seconded by Masterson. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye

Attorney Faherty recommended the Closed Session Minutes for Release:

1/16/02 Litigation	2/16/05 Contract Negotiations	10/19/05 Litigation
3/1/06 Litigation #1	8/16/06 Contract Neg. #4	9/6/06 Contract Neg. #2
10/4/06 Contract Neg. #1	12/13/06 Litigation #1	4/18/07 Contract Neg. #2
5/2/07 Contract Neg. #1	5/2/07 Contract Neg. #2	5/16/07 Contract Neg. #3
5/16/07 Purc of Land #2	5/16/07 Contract Neg. #2	6/6/07 Pend Lit – Fulper
6/20/07 Litigation #1	6/20/07 Contract Neg. #2	6/20/07 Contract Neg. #3
6/20/07 Contract Neg. #4	6/20/07 Contract Neg. #5	6/20/07 Contract Neg. #6
6/29/07 Contract Neg.	7/18/07 Contract Neg. #2	7/18/07 Contract Neg. #3
8/15/07 Contract Neg. #1	8/15/07 Contract Neg. #4	9/5/07 Contract Neg.
9/19/07 Contract Neg. #1	9/19/07 Contract Neg. #2	9/19/07 Contract Neg. #3
9/19/07 Contract Neg. #4	9/19/07 Contract Neg. #5	10/3/07 Contract Neg. #1
10/3/07 Contract Neg. #2	10/3/07 Contract Neg. #3	10/3/07 Pot Litigation #1
10/17/07 Litigation #2	10/17/07 Litigation #3	10/17/07 Contract Neg. #1
10/17/07 Contract Neg. #2	2 10/17/07 Purchase, Lease	11/7/07 Contract Neg. #1

Molnar motioned to approve the release of the Closed Session minutes and Masterson seconded. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye

### OPEN TO THE PUBLIC/TOPIC NOT ON THE AGENDA

Hal Shute came forward concerning the Fulper litigation and his annual appeal to know where things stand. The attorney for the Fulpers has contacted him concerning a deposition, which leads him to believe that things are moving along toward a trial. Mr. Shute re-iterated that taxpayers are entitled to an update on settlement attempts and counter offers. He commented that this suit is 'a money pit'; does not see how anyone wins; that the matter is a tragedy; and, wondered why the township can't issue a report as keeping information in executive session while handing the taxpayer the bill is just not right. Mr. Shute referenced the fiasco over the Solburg airport where the Township held negotiations in open session so that the taxpayers knew what was coming. There will be no winners here but those who pay the bills deserve more information.

Mr. Corboy responded that the Committee is following the instructions of counsel and cannot comment on what has transpired. Everything is being handled by the attorneys and in all likelihood the matter will be decided by a judge. There were negotiations and the attorney has been asked to reveal as much to the public as possible. Attorney Faherty concurred, stating that it is up to Attorney Cohen as to what can be made public.

Ron Shapella came forward and reported that a number of offers were made that were mutually beneficial to both parties but were not accepted. However, both sides have said no to the release of strategies and offers. He then noted a recent article concerning aid cuts to the Dept. of Agriculture. He urged the Township Committee to voice concerns now over municipal aid as well as the proposed cuts to the Dept. of Agriculture. Mr. Shapella then asked Mr. Molnar why he did not nominate either Mr.

Masterson or Mr. Corboy at the recent Re-organization meeting.

Mr. Molnar responded that as the lone Republican, he deferred to the Democrat majority to nominate each other. He then commented that budget-wise, the Township is hurting. The litigation fees are going forward although he would like to see this go away and suggested a possible moratorium.

Mr. Corboy commented that our legal system allows litigation if someone feels treated inequitably but that the Township has to defend its position. Ordinances are put in place for a reason and need to be defended if challenged as they are the basis for conducting Township business.

Mr. Shute picked up on Mr. Molnar's moratorium comment and requested that the idea not be discounted as the other side might just consider it. He encouraged that the idea be pursued, especially as no one knows just how bad this year will be; that no one will give up rights or an advantage by so doing; and, that there is time to work this out.

Mr. Corboy did not favor the moratorium approach as it would only open the matter up on another's watch and the money would have to be spent all over again. His preference is to resolve it now. Attorney Cohen has been instructed to be open to any/all offers by the litigant's attorney. The Township Committee is not against resolving the matter.

Mr. Shapella noted that there were a number of attempts to settle during 2006 and 2007 before going into depositions. This time period was in essence a moratorium or a standstill, so the suggestion has already taken place.

The meeting was unanimously closed to the public on motion from Molnar, seconded by Masterson.

# INTRODUCTION OF ORDINANCE AND/OR PUBLIC HEARING AND/OR SPECIAL PRESENTATION - none

# SPECIAL AND/OR STANDING COMMITTEE REPORTS Open Space

- *Draft Letter to County re: Farmland Preservation Funding*: Sean Pfeiffer reviewed the discussion held at the December 30<sup>th</sup> meeting concerning County funding and the position of the Freeholders. The proposed letter is in response to that discussion and covers such topics as bid downs and available funding.

Molnar motioned to authorize the mayor to sign and Masterson seconded. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye

- Authorization for Mayor & Clerk to Sign Stiefel Closing Documents, when available: Molnar motioned to so authorize and Masterson seconded. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye
- Green Acres Letter for Reimbursement. In line with the preceding, the payment form for land costs has been prepared, together with a cover letter requesting same as the Township anticipates closing with the Stiefels as soon as authorization has been received. A second form for soft cost reimbursement will be submitted later. Mr. Pfeiffer stated that Catherine Drake recommended this in order to drawn down money currently allocated so that additional funding can be requested.

The mayor was unanimously authorized to sign on motion from Molnar, seconded by Masterson.

- Project Status Updates: The revised draft map for Kilmer was presented showing just one lot and the exception area that includes successful percs. The existing lots and

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flag stem are depicted as well as the public access which will tie to Toll and the DEP United Water property. Catherine Drake is okay with the large lot concept and will show the new map to the appraisers to see if there is any change to the value.

#### **Environmental**

- *Draft Letter to SADC on Water Use Application*: Cathy Urbanski reported that since the last meeting, when the Case application was discussed, the Holcombe application has been received. She noted that the application states that 45 acres are currently being irrigated, which is not the case, and proceeded to read the letter to Erin Schumacher of the DEP Bureau of Water Allocation into the record. Copies will be sent to Gary Pohorely of the SADC, Michele Putnam at the Division of Water Supply and Fred Sickles of Water Supply Permitting.

Dear Erin:

I understand the need of the SADC to make salable the preserved Case and Holcombe farms in West Amwell at auction in the near future. Permits for Water Use Applications have been received by the DEP from the SADC for both farms. Our Township has received and reviewed the application for the Case farm. We have not reviewed the application for the Holcombe property, but are aware that an application for a water diversion permit has been filed. While West Amwell would not want to interfere with the SADC's ability to sell these properties, we do have some concerns.

The proposed water diversion for the Case Farm is for 450 gallons/minute from three wells in the Passiac Formation, for drip irrigation, with the diversion to be 24/7 for a total of 387.5 million gallons/year.

The proposed water diversion for the Holcombe Farm is for up to 10.1 million gallons/month and 60.6 million gallons/year at the rate of 300 gallons/minute from two wells in the Passaic Formation.

According to the "Evaluation of Groundwater Resources of West Amwell Township", a hydrogeology report commissioned by the Township and conducted by M<sup>2</sup> Associates of Hampton, NJ in 2003:

"Local well data included in the Kasabach (1966) report as well as data from the Mount Airy section of the Township indicate that the Passaic Formation beneath West Amwell Township is significantly less capable of transmitting or storing water than elsewhere in Hunterdon County or nearby Mercer County. Data in Kasabach report and the USGS (Lewis-Brown 1995) report indicate that regionally, the Passaic Formation has a median yield ranging from 10 to 15 gpm. The data from the report for West Amwell Township indicates a median yield of 6 gpm for non-metamorphosed Passaic Formation rocks and 5 gpm for metamorphosed Passaic Formation rocks, which are substantially less then in other nearby Townships where past metamorphism has not significantly altered the formation characteristics. Data from the Kasabach report indicate specific capacities for wells completed within the Passaic Formation in West Amwell Township are significantly lower than elsewhere in Hunterdon County or nearby Mercer County".

One of the issues that needs to be addressed is how these wells would affect single family, or any other, wells in the area. Because this is fractured rock, the impacts will be hard to estimate. In sand formations, the water is lowered in all directions during pumping, and it can be reasonably estimated based the hydraulic properties of the formation and quantity of water pumped. In rock country, like West Amwell Township, the ground water only exists in the fractures in the rock, thus the impacts of pumping would be concentrated along the fractures. So, depending on the orientation of the fractures, someone very close may have no impact and someone further away will be impacted. This is why a well driller can drill 600 feet and hit no water and then move over 50 feet and hit 20 gallons per minute at 100 feet deep on the same lot.

Based on the above information, I request an informal advisory panel to review the underlying hydrogeologic conditions and proposed water diversions of the above mentioned farms. Due to the constrained hydrogeology found in West Amwell Township, the protection of the groundwater and township wells is of paramount importance. As I understand, no testing has been done to determine the impact of the proposed water diversion on existing residential wells, the documented wetlands or the impact on the flow of the tributary of the Category One Alexauken Creek.

I would like to have a meeting with representatives of West Amwell, the SADC and the DEP to discuss and address our concerns.

Please advise as to when we can schedule a meeting.

Betty Jane Hunt spoke in favor of this action stating that the proposed is the right approach. Mrs. Urbanski stated that the Township needs to request a public hearing but should wait for a response. She also relayed that the Clerk had called her attention to the fact that the back portion of the property abuts the DOT facility. The impact of the proposed pumping possibility taking the salt plume in another direction was raised.

Hoop houses and commercial operations using drip irrigation is mentioned which is different than what is currently in the Township, although DEP claims not to have a purchaser. A brief discussion ensued over whether this has been done elsewhere in the State or if this is something normal in other municipalities. Well results in the Orleans subdivision were also touched upon. Mrs. Urbanski relayed that both applications have been marked that the water diversion will not affect neighboring wells but DEP as not done, and will not do, any testing for possible impact. She questioned how this claim can be made without anything to back it up. Also noted was that the applications have Case in the Delaware River Basin but not Holcombe, which is curious as 85% of West Amwell is contained in that basin. With all these concerns, a meeting of an informal panel would be welcomed. Mr. Pfeiffer offered that Gary Pohorely and Dan Knox are reasonable people to work with but cautioned against being adversarial. Mr. Shute inquired if a copy of Matt Mulhall's hydrological report would be submitted and received an affirmative reply.

Molnar motioned to authorize the mayor to sign the letter as presented and Masterson seconded. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye

#### **Parks & Recreation**

- Holiday Lighting Contest Winners: Mr. Molnar stated that he was the designated chauffer in this exercise and that there were more participants this year than last. As there is no money for prizes, John Dupuis and John and Karen Rissmiller have come to the rescue. A sample oak plaque has been prepared for presentation to the winners. An appropriate expression of appreciation will be sent. The submission of names to the Beacon was approved. The winners are as follows:

Illumination - Skibbee Family @ 39 Rocktown Hill Road Historical – Tancredi/Robbins Family @ 263 Goat Hill Road Traditional - Claus Family @ 10 Chimney Hill Drive Whimsical – Fleming Family @ 227 Goat Hill Road Religious – Reasoner Family @ 210 Hancock Street Honorable Mention - Family @ Woodens Lane Kropp Family @ 708 Brunswick Pike \_ Family @ \_\_ Circle Drive West Eldridge Family @ 3 Circle Drive North \_ Family @ \_\_\_ Route 518 Kostrzewa Family @ 617 Brunswick Pike Family @ Wilson Road Brush Family @ 362 Rock Road East Di Via Family @ 302 Rock Road East Beaumount Family @ 205 Rock Road West Scheetz Family @ 198 Rock Road West Losch Family @ 155 Rock Road East Bowles Family @ 153 Rock Road East Holohan Family @ 120 Rock Road East Durborow Family @ 62 Rocktown-Lamb. Road Hartpence Family @ 219 Mt. Airy-Harb. Road

Grand Prize Winner - Brewi Family @ 6 Chimney Hill Drive

- Disposition of Country Fair Donations: There are three local businesses that donated money for last year's fair. The money is being held in trust. At the time, they requested that the money be held over for this year's event. However, as there will be no fair this year, the question has been raised about returning the funds. After a brief discussion, it was agreed that the donations be refunded to the respective businesses.

**UNFINISHED BUSINESS Award of Bid on 2001 Ford Explorer** – Two bids were received and opened.

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WHEREAS the sale of one 2001 Ford Explorer police unit was advertised in the December 24th issue of the Lambertville Beacon; and

WHEREAS sealed bids were required to be submitted by January 7, 2009; and

WHEREAS two bids were received as follows:

Bay Ridge Motors, Inc. \$ 325.00 Dan Dames \$ 291.15

WHEREAS Bay Ridge Motors, Inc. submitted the highest bid in the amount of \$325.00

THEREFORE BE IT RESOLVED by the West Amwell Township Committee that Bay Ridge Motors, Inc. be awarded the bid for the 2001 Ford Explorer as advertised.

Molnar motioned to approve the Resolution and Corboy seconded. Roll Call: Molnaraye, Masterson-not available, Corboy-aye

#### **Professional Services Resolution -**

#### **RESOLUTION # 30-2009**

WHEREAS there exists a need for the hiring of various professionals without competitive bids; and

WHEREAS the Local Public Contracts Law, N.J.S.A. 40:11-1 et. seq. allows governing bodies to execute agreements without competitive bidding for professional services; and

WHEREAS executed agreements must be available for public inspection; and

WHEREAS sufficient funds are available in the 2009 Temporary Budget and will be made available in the 2009 Municipal Budget for the Township of West Amwell

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of West Amwell, that an agreement be executed with the following professional:

George Tyler of Tyler & Carmeli, P.C.

BE IT FURTHER RESOLVED that this agreement is awarded, subject to contract discussions, without competitive bidding as defined under the appropriate section of the Local Public Contracts Law, because each of the above mentioned individuals is authorized by law to practice a recognized profession.

BE IT FINALLY RESOLVED that the notice of this action shall be published in the newspaper of general circulation within the Township of West Amwell not more than ten days from the enactment thereof.

Molnar motioned to accept this report and Masterson seconded. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye

#### **RESOLUTION #31-2009**

WHEREAS there exists a need for the hiring of various professionals without competitive bids; and

WHEREAS the Local Public Contracts Law, N.J.S.A. 40:11-1 et. seq. allows governing bodies to execute agreements without competitive bidding for professional services; and

WHEREAS executed agreements must be available for public inspection; and

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WHEREAS sufficient funds are available in the 2009 Temporary Budget and will be made available in the 2009 Municipal Budget for the Township of West Amwell

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of West Amwell, that an agreement be executed with the following professional:

Andrea Kahn of McManimon & Scotland, Bond Counsel

BE IT FURTHER RESOLVED that this agreement is awarded, subject to contract discussions, without competitive bidding as defined under the appropriate section of the Local Public Contracts Law, because each of the above mentioned individuals is authorized by law to practice a recognized profession.

BE IT FINALLY RESOLVED that the notice of this action shall be published in the newspaper of general circulation within the Township of West Amwell not more than ten days from the enactment thereof.

Molnar motioned to approve the Resolution and Masterson seconded. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye

#### **RESOLUTION #31-2009**

WHEREAS, the Township of West Amwell has a need to acquire services of a special counselor for litigation as a non-fair and open contract pursuant to the provisions of *N.J.S.A.* 19:44A-20.4 or 20.5; and,

WHEREAS, the Treasurer has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is one year and may be extended as approved by this governing body; and

WHEREAS, Howard D. Cohen of Parker & McCay submitted a proposal dated January 6, 2009 indicating they will provide legal counsel to the Township for an estimated cost of \$300,000.00; and

WHEREAS, Howard D. Cohen of Parker & McCay has completed and submitted a Business Entity Disclosure Certification which certifies that Parker & McCay has not made any reportable contributions to a political or candidate committee in the Township of West Amwell in the previous one year, and that the contract will prohibit Parker & McCay from making any reportable contributions through the term of the contract, and

WHEREAS sufficient funds are available in the 2009 Temporary Budget and will be made available in the 2009 Municipal Budget for the Township of West Amwell under line item Legal Services OE

NOW THEREFORE, BE IT RESOLVED that the Township Committee of West Amwell authorizes the Mayor to enter into a contract with Howard D. Cohen of Parker & McCay as described herein; and,

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FINALLY RESOLVED that the notice of this action shall be published in the newspaper of general circulation within the Township of West Amwell not more than ten days from the enactment thereof

Corboy motioned to approve the Resolution and Masterson seconded. Roll Call: Molnar-no, Masterson-aye, Corboy-aye

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<u>Proposed Revisions to Chapter 88 – Fire Prevention</u> – Fire Official Donnerstag has recommended some revisions to the existing ordinance which involve Life Safety issues. The Committee will review and direct any questions to Mr. Donnerstag prior to a possible introduction at the next meeting. Mrs. Olsen relayed that fees collected this year have covered his costs.

<u>Possible Appointments</u> – Mrs. Olsen noted that the terms for the Parks & Recreation appointees are 3 years, not two. The correct terms appear in the approved minutes. The Recycling ordinance has no provision for a Deputy SWAC person, so that opening can be deleted. The observation was made that the Township Lands Committee membership increased from 8 to 9 plus a Township liaison this year; no problem was seen with this increase. Mr. Corboy noted that an error was made in John Cronce's appointment. He is to receive the full 3 year term, not the unexpired one.

#### Resolution to Enter Closed Session – Not needed

#### **NEW BUSINESS**

Request for Mileage Reimbursement — Usually mileage reimbursement is reserved for employees; however, Mrs. Urbanski has submitted a voucher for 72 miles in connection with her participation in two depositions. A brief discussion ensued between the Committee members with Mr. Molnar not in support. His position was that this would 'open a can of worms.' Mrs. Urbanski noted that she has donated a thousand miles to Township business as well as printer ink but has incurred medical bills from these sessions and is requesting relief. Mr. Corboy was in favor of the reimbursement and offered the same to Mr. Shute, stating that the Township can show appreciation to those serving in this capacity as the cost in minimal. Mr. Shute declined the offer on principle.

Masterson motioned to approve the request for mileage reimbursement and Corboy seconded. Roll Call: Molnar-no, Masterson-aye, Corboy-aye

**OPEN TO THE PUBLIC** – No comments. Unanimously closed.

#### **ADMINISTRATIVE REPORTS**

Treasurer -

#### **RESOLUTION #33-2009**

WHEREAS, N.J.S.A. 40A:4-58 permits appropriation transfers during the first three months of the fiscal year between line items of the prior year's municipal budget; and

WHEREAS, it has been determined that certain line items are in excess of the sums needed and certain line items have insufficient funds to complete the operation of the fiscal year

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of West Amwell, County of Hunterdon, State of New Jersey, that the following transfers be made between the Budget Appropriations as follows:

From To

General Administration:

Other expenses \$100.00

Fuel Oil: Other expenses \$100.00

Molnar motioned to approve the Resolution and Masterson seconded. Roll Call: Molnar-aye, Masterson-aye, Corboy-aye

<u>Presentation of Bills for Approval</u>: Molnar motioned to approve the evening's bills for payment and Masterson seconded. Roll Call: Masterson-aye, Shapella-aye, Corboyaye

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**Court** – The 4<sup>th</sup> Quarter report for 2008 was received showing total Township monies of \$5,498.19. The report was unanimously accepted on motion from Molnar, seconded by Masterson.

In closing, Mr. Corboy re-iterated that a letter needs to go the Police union rep concerning foregoing the 4% increase. He also suggested that the staff be polled as to possible retirements. The League seminar for Newly Elected and Re-Elected officials is February 7<sup>th</sup>. There will be a meeting on shared services at East Amwell Township that will also include West Amwell and Delaware on January 27<sup>th</sup>.

#### **CORRESPONDENCE**

The correspondence as listed on the Agenda was ordered filed.

#### **ADJOURNMENT**

There being no further business, the meeting was unanimously adjourned at 8:22 p.m. on motion from Molnar, seconded by Masterson.

Lara Olaca DMC	Respectfully submitted,	
Lara Olaan DMO		
	Lara Olara DMO	
Township Clerk	Lora Olsen, RMC	