

March 7, 2012
Municipal Building
121 Evergreen Road
New Egypt, NJ 08533

The Workshop Session of the meeting of the Plumsted Township Committee was called to order by Mayor Leutwyler.

STATEMENT: "This meeting is being held in compliance with the Open Public Meetings Act. It was published in the Tri-Town News and posted on the bulletin board."

THOSE OFFICIALS PRESENT WERE:

COMMITTEEMAN TROTTA	COMMITTEEMAN MARINARI	MAYOR LEUTWYLER
DEPUTY MAYOR SORCHIK	COMMITTEEMAN WYSONG	ATTORNEY FORAN
CLERK HENDRICKSON		

Mayor Leutwyler reviewed the agenda. There is a Proclamation for Read Across America. With respect to the Bill List, Danielle Peacock said she would be leaving it on the Committee's table the Friday before the meetings because there is more detailed information should anyone have any questions. Committeeman Wysong had questions on the Bill List regarding a restitution payment for Agway, which Committeeman Trotta explained animals had to be removed from a residence. This was a court ordered restitution payment. Regarding Department of Health, Dog License Report in the amount of \$904. Municipal Clerk Hendrickson stated this payment goes to the State for dog license fees. Regarding reimbursement to the American Legion for heating oil, this is for the Municipal Alcohol and Drug Alliance Building. Mayor Leutwyler wanted the Committee to know the American Legion wanted to install a new heating system to save money in the long run. The Alliance felt since it was a mild winter, they may have money left in their Trust Fund to make a contribution towards this. Administrator Dancer wanted the Committee to know that this is through the Grant money for the Drug and Alcohol Alliance that is approved to pay the American Legion. Regarding the Exxon Mobile gas card at Wawa and it was explained that it is honored at WaWa.

Mayor Leutwyler asked for any reports from Committees. Committeeman Wysong stated he and Committeeman Trotta have been working with the Arts Council and the Environmental Commission where there is a conflict in the use of the Welcome Center on March 29th, a regularly scheduled meeting of the Environmental Commission. The Arts Council inadvertently scheduled an art exhibit through the schools. The Environmental Commission changed their meeting to the Court Room and the Relay for Life Meeting was moved to the SOS Room. In the future, anyone who would like to use the Welcome Center should check with Peter as he schedules the use of that building to avoid any conflicts.

Regarding the draft ordinance regarding the introduction of Ordinance No. 2012-02, amending and supplementing Chapter 15, Section 15-4.10 and Section 15-6 of the General Ordinances of the Township of Plumsted entitled Light Industrial Zone LI and Conditional Uses, Deputy Mayor Sorchik had a couple of points he wanted to make. He said in his opinion, the Township already passed an ordinance that provides guidance to the Township regarding whether or not the Land Use Board or any Committee to pass laws violates an existing Federal Law. The law, as far as he is concerned, has not changed. He is concerned with the conflict between the Federal and State Law. He understands the labeling of this tax of Compassionate Marijuana Law, but it is unfortunate that they use that term, In his opinion, what happened is that the State decided to do something that feels good and they saddled this now on the municipalities in coming up with ways to deal with it. He felt this was unfair for the State Legislature to do that. His concern is the financial aspect of the impact on the citizens of our community or any small community in the State. With respect to these properties, he wanted to thank the Committee for putting in a lot of time drafting this ordinance.

The question remains that whatever land is used, whether light industrial or agricultural lands, the way the State Law is written, the business owner or facility owner would be a private nonprofit organization. This means that a particular piece of land would no longer be generating revenues to the Township. At the same time, the facility would require public services because of the nonprofit status. In reviewing the State Law, there is no mandate that would require this entity to subsidize the Township for that. There is language and guidance indicating that they may voluntarily put some revenue forward, but there is no guarantee it would continue so that puts the taxpayer at risk of fronting a bill. He continued explaining the law regarding fees being collected but it does not benefit the taxpayers of this community. He also felt if the Township acknowledged to have such a facility in our community, we may open ourselves up at a later date to someone coming in challenging this and wanting to put it in another location.

The thing that concerns him the most that in the event this private nonprofit is such a facility occurred and it did not work out, fail or the Court say it is illegal to stop, there is a structure or facility to get rid of and restore the property to what it was before. Who is responsible for this? Would the Township be responsible if there are any legal fees or civil actions? Right now all he sees taxpayers and our community. A nonprofit organization can simply declare bankruptcy, close its books and walk away. How would the Township recoup the loss? He said given the current circumstances, until the State and Federal Government can decide where they are going to go with this and before the Township gives their acceptance that this is an allowable use on any properties in the town, we should be reassured we are going to be held harmless and not cost the taxpayers anything should this fail.

Mayor Leutwyler agreed with Deputy Mayor Sorchik regarding the concern that the Federal Government may turn around and change their mind stating it is an illegal use, but the State may turn around and force us to do this. In his opinion, he felt the Township should be prepared with some zoning.

Committeeman Wysong said Deputy Mayor Sorchik brought up good points, one that he shared with him in the beginning. How is this going to affect the taxpayers with police services, etc? He received a copy of the regulations and looked at the security that must be provided according to State Regulations. He was satisfied with the level of security required there. His only concern was false alarms with our police responding there when there may other issues to deal with. He appreciated the other comments made, which the Township Attorney may be able to address.

Committeeman Trotta said the State Regulations state that the first two centers in each district, northern and central/southern, will be nonprofit organizations. After that they can be nonprofit or for profit. If it is for profit, it will take away the concerns about taxes being paid. He has spoken to people who are involved in these centers trying to set them up and have been told the land would be owned by a for-profit corporation and leased to a nonprofit company. Therefore the for-profit corporation would be paying real estate taxes. He was also told that they are more than willing to discuss the financial needs of the town because they know the concerns there. He felt this ordinance had a lot of thought put into it and believed that we do have to plan for it. There is also a lot of concern that the ordinance passed in December may not stand up in court. He felt it should be taken care of properly and zone for it and work forward. The ordinance can always be tweaked if necessary. This is a first step where no one else in the State has done and Plumsted is leading the way. Our ordinance can be used as a role model for the entire State and Country. This is something that is coming and we should be ahead of the curve.

Committeeman Wysong mentioned a performance bond, which Deputy Mayor Sorchik stated he was not comfortable with. In the past when trying to collect on performance bonds, it cost the Township money. The bonding companies do not just hand out the money, they have to be taken to court for it. If an escrow is done, that amount should be an amount equal to what it cost to take the structure down and rehab that land back to its present state.

Sorchik addressed Committeeman Trotta's statement regarding profit and nonprofit. If the Committee was willing to put in the ordinance that we would be having a taxable entity, it would be different, but the law does not say that it would be, it just says the first two. We may be one of the first two and with that, we would be right back where we are now, we would be providing services. He said he understood the security arrangements, but traffic will be going in and out of businesses and a structure creating certain demands and no revenue coming in would be absorbed under our present tax structure. If it stated in the ordinance that nonprofits would be paying, then he said it would solve that particular issue. He said he found it somewhat frustrating to hear that we passed an ordinance and it says we have to follow the law. This went back to his original point; this issue should not be decided by municipal government. It is a Federal and State issue. If they want to draft a model ordinance, he didn't think it was Plumsted's responsibility as a municipality to try be the solution to a problem someone else created.

Mayor Leutwyler said he felt everyone understood that this was a Federal and State issue, but if it was forced upon the Township they need to be prepared.

Committeeman Trotta said if this facility is built, it is not going to work and it would have to be closed down. It is too many what ifs on both sides and it is not what the law reads.

Deputy Mayor Sorchik said that if it is presently against the law federally, and if the State is not the sponsor of the program, there are ample State-owned properties in the State of New Jersey that could easily turn over into this type of facility, manage themselves and not involve a municipality.

Committeeman Trotta said he had to respectfully disagree with Deputy Mayor Sorchik. He said before that what if we have to take this building down because it could be used for hydroponics to grow anything.

Business Administrator Dancer stated that Deputy Mayor Sorchik had called him and spoke about these same points. With regard to one point that Sorchik made, Dancer reached out to the Land Use Board Attorney to see if the Committee wanted to entertain draft language with respect to a restoration bond and/or escrow in the event that owner/lessee/lessor/proprietor were to just abandon or go into bankruptcy, whatever the case may be. Dancer then read the following language the Attorney stated would be an option the Committee would have to put into the ordinance, if they so desired. The applicant shall post a Restoration Bond and/or cash escrow in an amount to be determined by the Land Use Board to indemnify the Township of any financial liability and cost in the event of bankruptcy, abandonment of the property or such other related event. This is similar to what has been required with certain applicants that have come before the Land Use Board where there was any concern. This information was given in the event the Committee wanted to put it in the introduced ordinance subject to final attorney review and Committee approval before the ordinance is published.

Committeeman Marinari thanked Deputy Mayor Sorchik for his input and wished he was at the Land Use Board Meeting as his information was greatly needed. He said it was a shame the Township was in this position. Initially looking at the law, he had over 20 questions and has not received any answers. At this point, the Township was in a situation to either move forward or not.

There was discussion on the possibility of having someone from each side come to a special community meeting to discuss this. Dancer said this might not work to be done in individual municipalities. He also mentioned that a public hearing could be held over to another meeting before the adoption of an ordinance.

Committeeman Marinari said with something of this importance, the vagueness of this issue and with passions on both sides that someone from the State who put this law together or a representative of services, could clearly take time to come and talk whether it be official or nonofficial. This is an issue every day and is far beyond this ordinance.

Dancer said if the Committee wanted to adopt the zoning ordinance providing for conditional use, this could be done and there could be a community educational meeting at any time. It would not affect the ordinance because if there was ever an application, there would be a public hearing for that particular application. To have zoning in place does not mean that we may or may not ever have an application, but to have an opportunity to provide the public an educational informational session on an existing zoning ordinance would be very productive and positive for the community to come out and understand the zoning ordinance.

Regarding the introduction of Ordinance 2012-03, repealing Chapter 41, Section 5 – Article II of the General Ordinances of the Township of Plumsted entitled “Certain Approvals Prohibited – Federal Law Compliance,” it was decided to introduce the ordinance but not have the second reading and public hearing until after Ordinance No. 2012-02 has been adopted.

ON MOTION OF COMMITTEEMAN MARINARI, SECONDED BY COMMITTEEMAN TROTTA, RESOLUTION NO. 2012-129, A RESOLUTION OF THE TOWNSHIP OF PLUMSTED, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE CONVENING OF AN EXECUTIVE SESSION IN ACCORDANCE WITH THE OPEN PUBLIC MEETINGS ACT WAS ADOPTED AS AMENDED. ROLL CALL VOTE: ALL AYES.

Mayor Leutwyler called the regular session of the Township Committee meeting to order with the flag salute. Leutwyler introduced the professionals at the dais; he informed the public the workshop had been completed as well as the Executive Session.

The minutes on the agenda to be considered for approval were tabled, as the Committee had not had a chance to review them.

PRESENTATIONS:

Mayor Leutwyler asked Librarian Melissa Ernst to come to the dais to accept the Proclamation “Read Across America” from Committeeman Wysong. Ms. Ernst wanted to thank the Township Committee for being such good sports and stated she had four special readers, Carter Kuey who read “Are You My Mother”, Susan Pardo read “The Giving Tree”, Luca Pardo recited a poem “The Caterpillar”, and Miranda Ring who read “That is Not My Snowman”. The Committee thanked the children for coming and reading.

ORDINANCES: Introduction

ON MOTION OF COMMITTEEMAN MARINARI, SECONDED BY COMMITTEEMAN TROTTA, ORDINANCE NO. 2012-02, AN ORDINANCE OF THE TOWNSHIP OF PLUMSTED, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 15, SECTION 15-4.10 AND SECTION 15-6 OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF PLUMSTED ENTITLED LIGHT INDUSTRIAL ZONE LI AND CONDITIONAL USES WAS INTRODUCED AS AMENDED. ROLL CALL VOTE ALL AYES WITH DEPUTY MAYOR SORCHIK VOTING NO. There will be a second reading and public hearing at the next regularly scheduled meeting on April 4, 2012.

The introduction of Ordinance No. 2012-03 repeals Ordinance No. 2011-10 that was adopted on December 28, 2011.

ON MOTION OF COMMITTEEMAN TROTTA, SECONDED BY COMMITTEEMAN WYSONG, ORDINANCE NO. 2012-03, AN ORDINANCE OF THE TOWNSHIP OF PLUMSTED, COUNTY OF OCEAN, STATE OF NEW JERSEY REPEALING CHAPTER 41, SECTION 5 – ARTICLE II OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF PLUMSTED ENTITLED “CERTAIN APPROVALS PROHIBITED – FEDERAL LAW COMPLIANCE” WAS INTRODUCED. ROLL CALL VOTE: ALL AYES WITH MAYOR LEUTWYLER AND DEPUTY MAYOR SORCHIK VOTING NO.

RESOLUTIONS:

THE FOLLOWING RESOLUTIONS ON A CONSENT AGENDA ARE CONSIDERED ROUTINE AND SHALL BE ENACTED BY ONE MOTION. SHOULD ANY MEMBER OF THE TOWNSHIP COMMITTEE SEEK SEPARATE DISCUSSION OF ANY ITEM, THAT ITEM SHALL BE REMOVED AND DISCUSSED SEPARATELY. THE FOLLOWING RESOLUTIONS WILL BE VOTED ON IN ONE VOTE.

RESOLUTION NO. 2012-109 – AUTHORIZING PLUMSTED TOWNSHIP TO PARTICIPATE IN A SHARED SERVICE AGREEMENT WITH AND BETWEEN THE TOWNSHIP OF PLUMSTED AND THE TOWNSHIP OF JACKSON FOR A CERTIFIED RECYCLING PROFESSIONAL (CRP) TO REVIEW AND SIGN THE ANNUAL RECYCLING TONNAGE REPORT. Committeeman Wysong said this is necessary as Plumsted Township does not have a Certified Recycling Professional and it is State Law that a Certified Recycling Professional review and sign the Annual State Tonnage Report.

RESOLUTION NO. 2012-130 – RATIFYING THE AUTHORIZATION FOR KAREN SUE FABINY TO BE ISSUED A 90 DAY TEMPORARY MOBILE HOME PERMIT ON BLOCK 55, LOT 79

RESOLUTION NO. 2012-131 – TO CANCEL 2012 TAXES DUE ON DELETIONS, EXEMPTIONS AND REASSIGNMENTS

RESOLUTION NO. 2012-132 – SUPPORTING SENATE BILL 243 AND ASSEMBLY BILL 327 WHICH REMOVES INSURANCE OBSTACLES FOR VOLUNTEER DRIVERS FOR NON-PROFIT ORGANIZATIONS (Sponsored by Assemblyman Ronald S. Dancer, District 12; and Assemblywoman Valerie Vainieri Huttle, District 37)

RESOLUTION NO. 2012-133 – AUTHORIZING THE ISSUANCE OF CHECKS FOR THE REDEMPTION OF TAX SALE CERTIFICATES

RESOLUTION NO. 2012-134 – AUTHORIZING THE REFUND OF PLANNING/LAND USE BOARD ESCROW BALANCE TO WAWA, BLOCK 77, LOTS 70 & 72 (70.01)

RESOLUTION NO. 2012-135 – AUTHORIZING THE REFUND OF PLANNING/LAND USE BOARD ESCROW BALANCE TO ROMA BANK (BLOCK 59, LOT 1.01)

RESOLUTION NO. 2012-136 – AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT BETWEEN AMAZING AMUSEMENTS & ENTERTAINMENT, INC. AND PLUMSTED TOWNSHIP’S MAIN STREET NEW EGYPT

RESOLUTION NO. 2012-137 - APPROVING PARTICIPATION WITH THE STATE OF NEW JERSEY IN A SAFE AND SECURE COMMUNITIES GRANT PROGRAM ADMINISTERED BY THE DIVISION OF CRIMINAL JUSTICE, DEPARTMENT OF LAW AND PUBLIC SAFETY

RESOLUTION NO. 2012-138 – AUTHORIZING THE MAYOR TO EXECUTE THE YEAR 2012 STATE OF NEW JERSEY SAFE & SECURE COMMUNITIES GRANT PROGRAM APPLICATION AUTHORIZATION AGREEMENT AND GENERAL CONDITIONS

RESOLUTION NO. 2012-139 – AUTHORIZING THE TOWNSHIP CLERK TO ADVERTISE FOR THE RECEIPT OF BIDS TO PROVIDE A MUNICIPAL-WIDE REASSESSMENT

RESOLUTION NO. 2012-140 – AUTHORIZING THE MAYOR TO EXECUTE THE 2012 OCEAN COUNTY MUNICIPAL RECYCLING MINI-GRANT ASSISTANCE APPLICATION

RESOLUTION NO. 2012-141 – APPOINTING TRUSTEES FOR THE PLUMSTED TOWNSHIP COUNCIL FOR THE ARTS

RESOLUTION NO. 2012-142 – AMENDING RESOLUTION NO. 2012-110 AUTHORIZING THE APPOINTMENT OF THE FIRM OF CITTA, HOLZAPFEL AND ZABARSKY AS TOWNSHIP PROSECUTORS

RESOLUTION NO. 2012-143 – AUTHORIZING THE PLUMSTED TOWNSHIP CONSTRUCTION OFFICIAL TO WAIVE THE COLLECTION OF FEES ON TAX EXEMPT PROPERTY LOCATED ON BLOCK 19, LOT 7 (16 EVERGREEN ROAD – KNOWN AS CHILD EVANGELISM FELLOWSHIP)

RESOLUTION NO. 2012-144 – ACCEPTING THE BID OF FELSCO LANDSCAPING TO PROVIDE GROUNDS MAINTENANCE SERVICES TO PUBLIC LANDS WITHIN THE TOWNSHIP OF PLUMSTED

The following resolutions were added to the consent agenda.

RESOLUTION NO. 2012-145 – AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWNSHIP OF PLUMSTED AND THE PLUMSTED POLICE OFFICER'S ASSOCIATION

RESOLUTION NO. 2012-146 – APPOINTING MEMBERS TO THE ENVIRONMENTAL COMMISSION OF THE TOWNSHIP OF PLUMSTED

RESOLUTION NO. 2012-147 – AUTHORIZING THE DEMOLITION OF A STRUCTURE LOCATED AT BLOCK 17, LOT 22 (17 EVERGREEN ROAD)

ON MOTION OF DEPUTY MAYOR SORCHIK, SECONDED BY COMMITTEEMAN WYSONG, THE AFOREMENTIONED RESOLUTIONS READ BY TITLE ON THE CONSENT AGENDA WERE ADOPTED. ROLL CALL VOTE: ALL AYES

MOTION TO CONSIDER:

ON MOTION OF COMMITTEEMAN MARINARI, SECONDED BY COMMITTEEMAN TROTTA, THE FOLLOWING BINGO AND RAFFLES LICENSES WERE APPROVED: BINGO LICENSE NO. 2012-06, FOR A BASKET BINGO FOR COOKSTOWN VOLUNTEER FIRE COMPANY LADIES AUXILIARY #1.; RAFFLES LICENSE NO. 2012-07, FOR AN ON PREMISE MERCHANDISE FOR COOKSTOWN VOLUNTEER FIRE COMPANY LADIES AUXILIARY #1; AND RAFFLES LICENSE NO. 2012-08 FOR AN ON PREMISE 50/50 FOR COOKSTOWN VOLUNTEER FIRE COMPANY LADIES AUXILIARY #1. ROLL CALL VOTE: ALL AYES.

REPORTS OF DEPARTMENTS AND PROFESSIONALS:

ON MOTION OF COMMITTEEMAN WYSONG, SECONDED BY COMMITTEEMAN TROTTA, THE MARCH 7, 2012 BILL LIST WAS APPROVED AS AMENDED. ROLL CALL VOTE: ALL AYES WITH DEPUTY MAYOR SORCHIK ABSTAINING.

REPORTS SUBMITTED FOR COMMITTEE REVIEW:

CONSTRUCTION REPORT – January and February, 2012; TAX COLLECTOR'S REPORT – January, 2012 - FINANCE REPORTS – Abbreviated Summary Budget Account Status – January 2012; and Revenue Summary by Month – January, 2012

Committeeman Wysong commented on the \$16,000.00 increase in the two months on the Construction Report over last year, which he thought was a good thing. He also wanted to commend the Tax Collector on her report, which was very well done.

OTHER BUSINESS:

Mayor Leutwyler asked for any old or new business from the Committee. There was none.

Mayor Leutwyler asked for any comments from the public. There was none.

There was no further business for the meeting.

ON MOTION OF COMMITTEEMAN MARINARI, SECONDED BY COMMITTEEMAN WYSONG, THE MEETING WAS ADJOURNED. ROLL CALL VOTE: ALL AYES.

Respectfully submitted,

Dorothy J. Hendrickson, RMC
Municipal Clerk