

MANSFIELD TOWNSHIP COMMITTEE MEETING

October 22, 2008

This is a regular meeting of the Mansfield Township Committee. The notice requirements of the law have been satisfied for this meeting by notice to the Star-Gazette and the Express Times of the time, date and location thereof. Notice was also posted on the announcement board located in the Municipal Building.

Roll Call: Mrs. Oakley, Mr. Baldwin, Mr. Jewell, Mayor Nerbak
Mr. Watters arrived at 7:33pm

Salute to the flag was done by all.

ENGINEERS REPORT:

Mr. Mace stated that the gentleman that we have had issues with his property on Route 57 across from the Anderson Hotel is now running a business out of this location which is a zoning violation, so a letter is being sent to him.

Mr. Baldwin asked where we are at with the Washburn Road bid specs.

Mr. Mace stated that the bid specs are very near to being complete and that he was planning on asking at the next meeting to ask for the Committee to approve going out to bid for the first meeting in December.

PUBLIC PORTION:

Steve Duarte, 2 Hemlock Court, questioned the Township Committee about the drainage issue on his parent's property, he is looking for plans for the work that was done on the property. Mr. Duarte stated his questions will be primarily for the engineer. Mr. Duarte asked Mr. Mace a series of questions regarding this matter.

Mr. Mace explained that all of the reports that he has received regarding this matter have come from the Duarte family and that it is his understanding that the Township Committee does not wish to have investigations of the property done and that at the time of the installation of the drainage on the property it was made clear that the township would not have any maintenance agreements for this drainage. Mr. Mace explained that he has responded to requests from the NJDEP that there is no evidence that has been submitted that would indicate that the issues with sinkholes on the property has anything to do with the drainage work that was performed on the property.

Mr. Duarte asked Mr. Mace if in his professional opinion the drainage that he designed was well constructed.

Mr. Mace stated that he would not issue any response to this question because the only person that he would give his professional opinion to is his client and that is the Township Committee and he also explained that there is no formal design that was a drainage system that was discussed between himself, Mr. Sliker, and Mr. Baldwin and that there is no plan that was ever done.

Mr. Duarte explained that he as a licensed builder in the state needs to submit plans prior to getting permits for work that he is going to perform, and asked if this is something that the township is not required to do.

Mr. Kobert explained that the township sometimes has to act in emergent situations for drainage issues and there are certain things that the Road Department can do without the requirement of plans.

Mr. Duarte stated that he feels that on private property that there should have been some kind of plan that was done because if his parents ever go to sell the property they would need some kind of paperwork that explains that there is a dry well on the property.

Mr. Kobert asked Mr. Mace if the work was done on any kind of easement.

Mr. Mace explained that there is a 15' easement that is between the two properties that has never been designated as township owned and that this is where the work was performed. Mr. Mace also indicated that for the past three decades that easement has been investigated and that there is no dedication deed to indicate who the easement is for.

Mr. Mace stated that the Township Administrator had spoken with the Duarte's and agreed that the work would be performed, but the township would not assume any responsibility for the maintenance of the drainage work that was going to be done.

Mr. Kobert stated that the Township did what it was that needed to be done for the drainage and that the township will not be returning to the property to try to figure out what it was that made the sinkholes arise especially because that area is prone to sinkholes and that a number of other properties have sinkholes on them.

Mr. Duarte again asked if there would be a design available for them.

Mr. Mace stated that there would not be a design available.

RESOLUTION:

Mr. Kobert read the following resolution:

TOWNSHIP OF MANSFIELD
RESOLUTION NO. 2008-96

A RESOLUTION AUTHORIZING THE TOWNSHIP
TO PROVIDE SNOW REMOVAL ONLY FOR A
PORTION OF BRIGHT ROAD

WHEREAS, the governing body of the Township of Mansfield desires to continue to provide snow removal to the residents located along that portion of Bright Road from the railroad culvert to the wooden bridge; and

WHEREAS, the Township recognizes that snow removal has been provided to the residences along the aforesaid designated area for an extensive period of time prior to the adoption of this Resolution; and

WHEREAS, the Township has by ordinance dated September 28, 1965, vacated that portion of Bright Road from the wooden bridge out to Washburn Road; and

WHEREAS, that portion of Bright Road from the railroad culvert to the wooden bridge is a private road and the residents along that road shall be responsible for all other maintenance of the road, including the maintenance that would enable the road to be snowplowed by the Township.

NOW, THEREFORE, BE IT RESOLVED on this 22nd day of October, 2008 by the governing body of the Township of Mansfield, that:

1. The portion of Bright Road from the railroad culvert to the wooden bridge shall continue to have provided by the Township snow removal, with the understanding that the residents along the road shall be responsible for all other maintenance of that portion of the roadway in order to ensure that Township vehicles can provide snow removal.

Mr. Woodward, Bright Road, thanked the Township Committee for agreeing to provide snowplowing for this portion of Bright Road, but asked why it is that the Township still after the Ordinance was provided to them feels that this portion of Bright Road is not a Township road.

Mr. Kobert, Esq. stated that he wanted to explain because Committeeman Watters had a question as to why this portion of the road is being called a private road. Mr. Kobert, Esq. explained that after much discussion with Mr. Mace that they have not been able to find any reference to the township ever considering this portion of the road a township road.

Mr. Watters asked if there was anything found that makes this portion of the road any different from the rest of the road.

Mr. Kobert stated that they have not, but that he could not confirm our rights on the road.

Mr. Watters stated that all that he was questioning is if there was nothing found wouldn't this portion of the road be same as the rest of the road.

Mr. Kobert stated that if the township was still maintaining the road then he would agree, but that we are not so he would not consider this a public road.

Mr. Woodward, Bright Road, stated that he had given the Township Committee proof that this portion of the road was still a public road. And he stated that at the time that the Ordinance was written in 1965 to vacate the other portion of the road he had met with the mayor and committee people and that they had agreed that this was still a public road.

Mr. Kobert explained that he from a legal point of view has no basis to call this portion a public road. Mr. Kobert also explained that when the residents all came to the meeting all of the residents agreed that they would maintain the road and that all that they were looking for was to have the road snowplowed.

Mr. Baldwin made a motion to approve the passage of Resolution 2008-96, which was seconded by Mrs. Oakley.

Ayes: Mrs. Oakley, Mr. Baldwin, Mr. Jewell, Mayor Nerbak
Nays: Mr. Watters
Abstain: None
Absent: None

Mr. Woodward thanked the Township Committee for the passage of the resolution, but stated that he feels that the road should be considered a public road.

Executive Session:

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12.

WHEREAS, the Township Committee of the Township of Mansfield is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq. and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution, and

WHEREAS, it is necessary for the Township Committee of the Township of Mansfield to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

- (7) Matters Relating to Litigation, Negotiations, and the Attorney-Client Privilege: Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Mansfield, assembled in public session on October 22, 2008, that an Executive Session closed to the public shall be held on October 22, 2008 at 7:51 PM in the Mansfield Township Municipal Building, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in the closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.

Mrs. Oakley made a motion to go into Executive Session for the purpose of discussing contracts with our volunteer fire department, which was seconded by Mr. Watters.

Ayes: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

Nays: None

Abstain: None

Absent: None

Return from executive session 9:15.

Roll Call: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

APPROVAL OF MINUTES:

Mr. Baldwin made a motion to approve the minutes of the regular meeting held on September 24, 2008, which was seconded by Mrs. Oakley.

Ayes: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

Nays: None

Abstain: None

Absent: None

Mrs. Oakley made a motion to approve the minutes of the regular meeting held on October 8, 2008, which was seconded by Mr. Jewell.

Ayes: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

Nays: None

Abstain: None

Absent: None

PAYMENT OF BILLS:

Mr. Watters asked about a bill on page 3 for Skylands was the report ever received.

Mayor Nerbak stated that the report was received and that the report was confidential due to HIPAA regulations.

Mr. Baldwin made a motion to approve the payment of the bills, which was seconded by Mrs. Oakley.

Ayes: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

Nays: None

Abstain: None

Absent: None

CFO REPORT:

CLERKS REPORT:

Ms. Hrebenak stated that a letter was received from Jonathan McConnell asking if the Township Committee would allow one of the DPW workers to run the backhoe for an Eagle Scout Project that he is planning on doing at the Mansfield Township Firehouse he will be putting in steps from the top parking lot to the bottom parking lot.

The Township Committee agreed that this would be ok.

Ms. Hrebenak also stated that she had received a taxi license from Safy Diedhiou and all of the items that need to be filed to release the license have been filed, so she will be issuing the license.

The Township Committee agreed as long as everything is in order.

MAYORS REPORT:

Mayor Nerbak stated that Washington Township has contacted her and they will be meeting with us on November 12, 2008 to discuss the Construction Office.

Mayor Nerbak stated that on October 29, 2008 there will be a New Jersey Transit meeting at the Warren County Vo tech if anyone is interested.

RESOLUTION 2008-92

A RESOLUTION AUTHORIZING THE RELEASE OF THE RESTORATION GUARANTEE OF EDEN MANSFIELD, LLC FOR THE WALGREENS SITE PLAN

BE IT RESOLVED, the Township Engineer having approved the release of the Restoration Guarantee of Natural Stone Traditions, the Township Clerk of the Township of Mansfield is hereby directed to return the cash bond in the amount of \$40,110.00 to Natural Stone Traditions.

Mrs. Oakley made a motion to approve the passage of Resolution 2008-92, which was seconded by Mr. Baldwin.

Ayes: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

Nays: None

Abstain: None

Absent: None

2008-93

RESOLUTION TO APPLY FOR A FEASIBILITY STUDY GRANT

WHEREAS, the Governing Body of the Township of Allamuchy and the Town of Hackettstown, and the Township of Mansfield have agreed to apply for a *SHARE* (Sharing Available Resources Efficiently) Feasibility Study Grant through the State of New Jersey Local *SHARE* Program in the amount of \$20,000; and,

WHEREAS, the Township of Mansfield has agreed to be the lead agency in this endeavor; and

WHEREAS, the State of New Jersey has made *SHARE* grants available to assist local units study, develop and implement new shared and regional services; and

WHEREAS, the purpose of this grant is to study the feasibility and potential savings and efficiencies of a regional police department versus the efficiency and cost of each participant providing police services individually or through the state police through a feasibility study that would be beneficial to all local units;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Mansfield that the Township of Mansfield does hereby join with the Town of Hackettstown and the Township of Allamuchy in applying for a grant for the purposes of conducting a study of the feasibility and potential savings and efficiencies of a regional police department versus the efficiency and cost of each participant providing police services individually.

Mr. Baldwin made a motion to approve the passage of Resolution 2008-93, which was seconded by Mrs. Oakley.

Ayes: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mayor Nerbak

Nays: Mr. Jewell

Abstain: None

Absent: None

2008-94

RESOLUTION TO APPOINT A LIAISON TO A POLICE STUDY GROUP

WHEREAS, the Governing Body of the Township of Allamuchy and the Town of Hackettstown, and the Township of Mansfield, have agreed to apply for a *SHARE* (Sharing Available Resources Efficiently) Feasibility Study Grant through the State of New Jersey Local *SHARE* Program in the amount of \$20,000; and,

WHEREAS, the purpose of this grant is to study the feasibility and potential savings and efficiencies of a regional police department versus the efficiency and cost of each participant providing police services individually through a feasibility study; and

WHEREAS, there is a need to develop a Request for Proposals to conduct the study;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of Township of Mansfield that the Township Committee does hereby appoint George Baldwin as its representative to a committee of one representative from each of the participating governing bodies which will develop a Request for Proposals to study the feasibility and potential savings and efficiencies of a regional police department versus the efficiency and cost of each participant providing police services individually.

Mrs. Oakley made a motion to approve the passage of Resolution 2008-94, which was seconded by Mr. Baldwin.

Ayes: Mrs. Oakley, Mr. Baldwin, Mayor Nerbak

Nays: Mr. Watters, Mr. Jewell

Abstain: None

Absent: None

2008-95

A RESOLUTION IN THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MANSFIELD PETITIONING THE MORRIS COUNTY BOARD OF CHOSEN FREEHOLDERS TO EXPEDITE THE REPLACEMENT OF THE NEWBURGH ROAD BRIDGE OVER THE MUSCONETCONG RIVER, ALSO KNOW AS MORRIS COUNTY BRIDGE 1401-196 AND WARREN COUNTY BRIDGE #16003

WHEREAS, the County of Morris has requested financial assistance from the New Jersey Department Transportation and the Federal Highway Administration to assist in the reconstruction of the Newburgh Road Bridge (a/k/a Morris County Bridge No. 1401-196, a/k/a Warren County Bridge #16003), and the approach roadway, and

WHEREAS, in order to assure Federal funding, a Cultural Resource Investigation was prepared to assist Federal and State agencies in determining and evaluating historic properties within the areas surrounding the bridge and their eligibility for inclusion in the National Register of Historic Places, and

WHEREAS, the Cultural Resources Investigation concluded that the Newburgh Road Bridge over the Musconetcong River is not eligible for inclusion on the National Register of Historic Places, and

WHEREAS, the Alternatives Analysis has concluded and recommends that in order to address project needs, the existing bridge should be replaced and a new bridge should be constructed with the roadway reconfigured slightly, and

WHEREAS, the Cultural Resources Investigation concluded that no properties eligible for inclusion on the National Register of Historic Places would be affected by the proposed bridge replacement and road realignment, and

WHEREAS, in advertisements in the Morris County Daily Record, the Observer Tribune, and the Star Gazette on or about October 4, 2007, the County of Morris invited members of the public to comment on the proposed Newburgh Road Bridge Replacement project and the Cultural Resources Report's findings and determinations through a Community Information Meeting, and

WHEREAS, the Community Information Meeting was held in the Washington Township Municipal Building on October 22, 2007 at which time no comments from the public were made on the record concerning the limits of reconstruction for the Project, impacts on the environment, archaeological or cultural resources which adjoin the Project site or public notice procedures. Comments regarding the appearance of the bridge, the location of the sidewalk and the possibility of extending the left turn lane across the proposed bridge will be addressed in final design, and

WHEREAS, when the Bridge Replacement Project is initiated, Newburgh Road will not remain open to vehicular traffic and a detour plan will be established, and

WHEREAS, the existing Bridge over the Musconetcong River has been classified in the 2005 Bridge Re-Evaluation Survey Report as being Structurally Deficient due to its poor condition and Functionally Obsolete due to its substandard deck geometry, and

WHEREAS, the existing bridge has no shoulders or sidewalk and is significantly narrower than the approach roadway, the Township Committee believes that it is essential that the existing bridge be replaced and, in this respect, respectfully requests that the County of Morris continue with the replacement of the Newburgh Road Bridge over the Musconetcong River including a slight realignment of the roadway.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Mansfield, in the County of Warren and State of New Jersey as follows:

1. The Township considers the replacement of the Newburgh Road Bridge over the Musconetcong River as an essential capital improvement project that should proceed without interruption. In this respect, the Governing Body respectfully requests that the Morris County Board of Chosen Freeholders authorize the County's Department of Public Works and Engineering to expedite the Newburgh Road Bridge Project.

Mr. Jewell made a motion to approve the passage of Resolution 2008-95, which was seconded by Mr. Watters.

Ayes: Mrs. Oakley, Mr. Watters, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

Nays: None

Abstain: None

Absent: None

CAPITAL ORDINANCE:

ORDINANCE NUMBER – CA-08-05

AN ORDINANCE OF THE TOWNSHIP OF MANSFIELD, WARREN COUNTY, NEW JERSEY,
APPROPRIATING \$15,000.00 FOR IMPROVEMENTS TO PUBLIC BUILDINGS

WHEREAS, there is a need for a new recreation shed;

BE IT ORDAINED by the Township Committee of the Township of Mansfield, Warren County, New Jersey, as follows:

1. The amount of \$15,000.00 is hereby appropriated from a Reserve for Improvements to Public Buildings in the general capital fund.
2. There is no debt incurred by this Ordinance.
3. This ordinance shall take effect immediately after final passage, approval and publication as provided by law.

Mr. Watters asked what this is for.

Mr. Coppola stated that it is for a building for all of the recreation sports equipment for the fields, but that he was not sure how large it was.

Mrs. Oakley made a motion to approve the introduction of CA 08-05 and asked that public hearing be advertised for November 12, 2008, which was seconded by Mr. Baldwin.

Ayes: Mrs. Oakley, Mr. Baldwin, Mr. Jewell, Mayor Nerbak

Nays: Mr. Watters

Abstain: None

Absent: None

COMMITTEE PERSON COMMENTS:

Mr. Jewell stated that he and Mayor Nerbak attended a Joint League Meeting at the Adam Todd and that Joe Doria from the State of NJ DCA he was a good speaker he answered the COAH questions very well and was very informative. Mr. Jewell explained that Mr. Doria did say that the towns were only responsible for whatever the buildout was not by what the expected buildout was.

Mr. Jewell asked where we are with our COAH plan.

Mr. Baldwin explained that our planning was compiling information to prepare the report and that they would be meeting with him soon.

Mr. Watters had nothing to report.

Mrs. Oakley had nothing to report.

Mayor Nerbak stated that at the Open Space meeting last night and that they had reviewed the Beattystown request for historical money and that the public hearing for the request will be held on November 12.

Mr. Baldwin stated that the Warren County Weights and Measures came and looked at the fuel tanks and the Police fuel pump is broken and needs to be regulated.

Mr. Baldwin stated that he would like to proceed with the alarm ordinance.

Mr. Kobert stated that he has notes from Mr. Lavery who was in attendance at the last meeting and he explained that he spoke with Judge Palmer and the judge also agrees that we need to increase the fees.

Mr. Baldwin stated that Mr. Jewell had charted out all of the ordinances for the surrounding towns and that Hackettstown's ordinance seems like something that we should go with.

Mr. Jewell reviewed the ordinance with the Committee, he stated that the first three alarms are warnings and then the fourth through the sixth are \$200 fine and above six is \$500 a piece all in a one year time they are the highest of all of the four ordinances that we reviewed.

Mr. Baldwin stated that he would like to see the Alarm fees amended to mirror Hackettstown's ordinance.

Mr. Baldwin also stated that the salt contract was bid for the State and that the price that was accepted was \$71.00 per ton, which is \$9.00 more expensive than Warren County and about \$7.00 cheaper for Morris County.

Mayor Nerbak stated that the engineer for the recreation park would be in attendance at the next Recreation Commission meeting being held on October 28th.

Jami Schlicher asked if she would be able to speak to the Township Committee.

Mayor Nerbak stated that this would be ok.

Jami asked in light of the article that was in the Express times today will the township committee be voting again for the officer for the police department.

Mr. Kobert stated that if Ms. Schlicher read the article it does state what he had told the reporter correctly that in his mind it is not a clear conflict of interest for Mr. Jewell and that it is every individuals decision whether or not they feel that it is a conflict of interest. Mr. Kobert stated that he is not able to say that someone made a wrong decision.

Ms. Schlicher stated that there has been a formal ethics complaint filed and asked if the Township Committee will be voting again on this topic.

Mayor Nerbak stated that anyone could bring this resolution before this committee at anytime.

Ms. Schlicher stated that Mr. Jewell is listed in the lawsuit as is Mr. Baldwin and Mr. Baldwin recused himself due to a conflict.

Mr. Kobert stated that was Mr. Baldwin and Mr. Jewell's personal decision to make and Mr. Baldwin felt that he should not vote.

Ms. Schlicher stated that the people that she had spoken to said that if this lawsuit was a 20 year old lawsuit that it is possible that there is not a conflict but this lawsuit is from 2001 and it is with the purposed officer's parents. Ms. Schlicher stated that she just wanted to see if the committee would be voting again to give Mr. Jewell an opportunity to recuse himself.

Mrs. Oakley stated that she would be more than happy to make that motion again for the protection of the township.

Mrs. Oakley made a motion to hire Chris Cavannaugh for \$30,000 per year to begin in 2 weeks, which was seconded by Mayor Nerbak.

Mayor Nerbak also stated that the New Jersey State police uses a formula for officers and that is 3 officers for 1000 residents and going by our previous census numbers it would be 19.78 officers that would be recommended to be needed in this town.

Mayor Nerbak stated that this town is in the 21st century and the number of calls has increased greatly and we have received recommendation from the police review for at least 18 officers.

Ayes: Mrs. Oakley, Mayor Nerbak

Nays: Mr. Watters, Mr. Jewell

Abstain: Mr. Baldwin

Absent: None

Mr. Baldwin made a motion to adjourn at 9:48pm, which was carried by all.