

October 9, 2012

A Regular Meeting of the Township Council of the Township of Roxbury was held on October 9, 2012 at the Municipal Building located at 1715 Route 46 in Ledgewood, New Jersey at 7:30PM.

PLEDGE OF ALLEGIANCE

OPEN PUBLIC MEETING STATEMENT

Adequate notice of this Meeting of the Township Council of the Township of Roxbury was given as required by the Open Public Meetings Act as follows: On December 19, 2011, notice was faxed to the Daily Record, the Newark Star Ledger, The Roxbury Register and published in the Daily Record; notice shall also remain posted throughout the year on the bulletin board in the main hallway of the Municipal Building.

ROLL CALL (Present): Councilman Gary Behrens
Councilman Mark Crowley
Councilman Martin Schmidt
Councilman Richard Zoschak
Mayor Fred Hall

Absent: Deputy Mayor Kathy DeFillippo
Councilman Jim Rilee

Also Present: Christopher Raths, Township Manager
David Ruitenbergh, Esq., Associate Township Attorney
Amy Rhead, Township Clerk

Staff: Rick Blood, Director of the Department of Public Works

Public: approximately eight (8) members of the public were present

PRESENTATIONS, AWARDS, ETC

None

APPROVAL OF MINUTES

- March 13, 2012 – Budget Meeting
- March 20, 2012 – Regular Meeting
- March 29, 2012 – Neighborhood Meeting
- May 31, 2012 – Neighborhood Meeting

Councilman Schmidt made a motion to approve the minutes listed above. Councilman Zoschak seconded the motion.

	March 13, 2012 Budget Meeting	March 20, 2012 Regular Meeting	March 29, 2012 Neighborhood Meeting	May 31, 2012 Neighborhood Meeting
Roll Call:				
Councilman Behrens	Yes	Yes	Yes	Yes
Councilman Crowley	Yes	Yes	Yes	Yes
Councilman Schmidt	Yes	Yes	Yes	Yes
Councilman Zoschak	Abstain	Abstain	Yes	Yes
Mayor Hall	Yes	Yes	Yes	Yes
	Motion carried 4 to 0 with one abstention	Motion carried 4 to 0 with one abstention	Motion carried 5 to 0	Motion carried 5 to 0

Mayor Hall amended the order of the agenda to **REPORTS OF COUNCIL LIAISON REPRESENTATIVES, COUNCIL COMMITTEES AND NEW BUSINESS/OLD BUSINESS**

B. New Business/Old Business

1. Access Agreement – Strategic Environmental Partners/Fenimore

Mr. Rath reported on daily complaints that are received regarding speeding trucks.

Mr. Rath also reported that after the documents were sent to the NJDEP, subsequent documents were requested and provided last Friday. A NJDEP conference call is scheduled for tomorrow morning with an NJDEP consultant engineer.

Mr. Rath, Mr. Elias and Mike Kobylarz had a meeting with SEP at Mr. Bucco's office last Thursday. All the comments that SEP had were addressed. Mr. Bucco has responded back to SEP and has asked to have another meeting within the next few days to finalize the agreement.

Mr. Rath also reported that, although reimbursement has been requested and is expected, the municipality has spent over \$67,000, not including staff time, on trying to get the access road completed.

Mr. Rath reported that the procurement of services is being done under an emergency procurement process; therefore formal bidding is not required. Three firms have been selected under the advisement of Mr. Blood, Mike Kobylarz and the Township consulting engineer for three quick proposals.

The plans have been received by the DOT but to date Mr. Rath is unaware of the final outcome. Mr. Elias has sent an email to the DOT for an answer.

Mayor Hall summarized the access road construction project for the benefit of the public in attendance. Mayor Hall is setting up an additional meeting with the NJDEP Commissioner.

Mayor Hall returned to the order of the agenda

PUBLIC PORTION

John O'Neill

217 Mooney Road, Flanders

Mr. O'Neill asked if the Agreement stipulates that once the access road is built the Mooney Mountain Road access will be closed to truck traffic.

Mr. Rath responded yes; unless extenuating circumstances occur which has to be approved by the municipality.

Mr. O'Neill asked if anyone on the dais viewed the video posted on the Township of Roxbury website today. He feels it is a very dangerous situation and a disaster waiting to happen.

Trucks repeatedly honk their horns when they pass Mr. O'Neill's house.

Mr. O'Neill wants a permanent or semi-permanent closure of the Mountain Road access.

Mayor Hall closed the public portion and returned to the order of the agenda

REPORTS OF COUNCIL LIAISON REPRESENTATIVES, COUNCIL COMMITTEES AND NEW BUSINESS/OLD BUSINESS

A. Reports of Council Liaison Representatives and Council Committees

Councilman Zoschak asked Mr. Rath about the meeting regarding the Shippenport Annex (Company 2). Mr. Rath said the meeting occurred and will be on the agenda for the next Council meeting.

Councilman Zoschak asked for an update regarding 23 Chase Street, Kenvil (Group Home). Mr. Rath stated that he is still looking into it.

Councilman Zoschak asked for a status report on the Roxbury Water inter-connection project. Mr. Rath responded that we seem to be in pretty good shape.

Councilman Zoschak asked about the Right of way off of Edith Road. Mr. Rath said he spoke to Mr. Blood today regarding past and future plowing of this private easement, not the right of way. Mr. Rath will speak to Mr. Bucco about sending a letter to those who are involved with this private easement.

Reminder that the next Neighborhood Meeting will take place on October 30, 2012 at Fire Company No.2

Councilman Behrens suggested the possibility of consolidating two or three Neighborhood Meetings next year due to poor attendance at the September Neighborhood Meeting at Fire Co. No.1.

Councilman Behrens attended the October 1, 2012 Board of Education Meeting. The state assessment is to be presented at the October 15, 2012 meeting. The Eisenhower scholastic program is being posted on the website. Continuing efforts to upgrade and better maintain the buildings are still in force and to date two (2) of the HVAC units have been replaced. The SLAP program is being used for outdoor work. It has been successful so far. Non-profit groups have not been charged for building use in the past. This practice will be put to a Board of Education vote after the Superintendent makes a recommendation regarding a fee being charged in the future.

Mayor Hall said he hoped the new staff member, the Community Relations Coordinator, would help in the decision process and rather than revisit this topic annually, make a decision in perpetuity.

Councilman Behrens noted that Robert's Rules allows a member of the prevailing vote from a previous meeting to re-vote on a resolution and change the outcome even though it has previously been voted down.

Councilman Behrens attended a meeting of the North Jersey Transportation Planning Authority (NJTPA) at Roxbury Town Hall, the meeting specifically addressing the Morris and Warren county rail. The NJTPA would like to see an increase in rail usage to our area. They would like better service to the businesses that currently use rail and attract new businesses to do the same. The issue is that larger cars are needed. To accommodate the larger cars improvements must be made on existing bridges. Perhaps building a track around an existing bridge is the way to work it out.

Councilman Behrens stated that the FRAC Meeting was held today at the County. The FRAC looked at projections to improve through 2040. The need to accommodate larger cars was a topic of discussion. The previously discussed goal of improving rail service to the Kenvil loading yard off of Berkshire Valley Road was revisited. An agreed upon plan from two years ago has been revised and is not what was originally agreed upon. Mr. Rath will be discussing the revised plan with council for feedback.

Councilman Crowley reported on the success of this weeks' Open Space Meeting and the tour that Mr. Rath provided to the Open Space Committee. He noted the quality of the land and the great uses that it has been put to as well as the value of Chairperson, Andrew Tybus, for his vast knowledge of the terrain and how it all ties together.

Councilman Crowley also addressed the upcoming Computer Committee meeting on Thursday morning at 10:00am. The Audio & Video systems in the building will be a topic of discussion.

Mayor Hall addressed item #4 on Communications of 10/5/12 regarding Roxbury Commons and a bear problem.

Mayor Hall pointed out the upcoming, October 12, 2012, Make A Difference Day Event.

Mayor Hall suggested considering the possible reduction in the number of 2013 Neighborhood Meetings.

Mayor Hall updated the public on the Verizon lawsuit; attempting to get out of paying its personal property taxes claiming that they do not have 51% of Township customers. The Township of Roxbury could lose \$290,000 for 2013 – Mr. Rath said that there may be a subpoena filed against them as they are refusing to supply the customer list to the Township of Roxbury.

Mr. Rath stated that he is looking to have a 6:30 Budget meeting prior to the next scheduled council meeting and will send out an email to this effect.

Mr. Rath reported that the Tax Sale is scheduled for October 17, 2012. There are a huge number of unpaid sewer bills.

Mr. Rath informed council of the results of the Fenimore potable well water analysis of 21 homes around the perimeter of the landfill. No home was found to have any compounds in excess of federal standards. Additionally he reported the Methane testing done by the NJDEP to surrounding Fenimore properties was below any and all standards. The results are 100% consistent with the 2005 report.

Mrs. Rhead asked Council members for responses to the listed invitations on the weekly communications provided to Council. Discussion occurred.

Mrs. Rhead also noted that her office is always willing to fulfill OPRA requests to the public. She clarified that any discussion on the Dais regarding OPRA requests are not directed at the public but to specific abuses of the system.

Councilman Zoschak also reported that an informal meeting tomorrow night at the Roxbury Public Library will take place. Mr. Nappi will discuss this during Public Portion of the meeting.

B. New Business/Old Business

1. Access Agreement – Strategic Environmental Partners/Fenimore – previously addressed

MATTERS REQUESTED/REFERRED BY COUNCIL MEMBERS, MANAGER, ATTORNEY OR CLERK

A. Ledgewood Historic District

Mr. Rath provided information that Council should be aware of and summarized a letter from the state that raised one possible concern termed “Protective Review”. Mr. Stern looked into this and indicated that the process is so that when a municipality seeks to undertake a project that may impact the historical character of a property the municipality must submit an application. There is no fee indicated. The state may make recommendations that can be mandatory. The state can veto a proposal if the disturbance would damage or destroy a historic project. Mr. Rath cited the Canal Street Bridge as an example of the way the process may work. It does not apply specifically to “Protective Review”. It has been reviewed by SHPO and there are some differences of opinion as to how it should be constructed. An October 16th meeting is scheduled to discuss construction.

Mr. Cramond addressed this issue. The 106 review, required by the state of New Jersey, impacts historic properties, state or nationally registered historic sites specifically. Mr. Cramond summed things up by stating that “Protective Review” basically extends the current legislation that already protects historic registry properties from encroachment by any state, federal, county or local project. The impact of said projects would be reviewed and if the impact was severe, how to mitigate it within the confines of the local community would be discussed.

Mr. Cramond explained that it has become increasingly difficult to apply and acquire National or State Historic registry recognition. Costs and increases in regulations have made this process a challenge. Grant monies are available and individual owners of individual properties are considered to be “contributing”. Individual applicants may have monetary advantages that will enable them to get funding. Two meetings are set up regarding the Historic District push.

Councilman Zoschak asked about the impact on the municipality. Mr. Rath said that there would be an impact on roadways. Mr. Cramond noted that Main Street and Canal Street would be the only affected streets. Being deemed a historic district will not change anything that is already there. Curbing and sidewalks can not be added once the site is approved as Historic.

A meeting will be held on October 16th at the Baptist Church so that the public can be heard. The final review board meeting to consider the application by SHPO is set for November 13th.

Mr. Cramond went on to state it would be an ideal Historic Tourism attraction. He noted that for large events the street would have to be closed as there are no sidewalks.

Mr. Rath explained that the Council is not requested or required to have or issue any formal opinion.

Councilman Zoschak wanted to be clear because this decision will affect residents in perpetuity.

Mr. Cramond invited all to attend Living History Day this Sunday, October 14, 2012 beginning at 1:00PM. The event will include the dedication of a new antique restoration of the original platform scale that operated at the King Store.

Mayor Hall asked about the Morris County Historical Society nominations for "Watering Holes" in our community. There have been no nominations so far in Roxbury.

Mayor Hall asked if there is a way to include Tom's Diner as part of the district. Mr. Cramond will attempt to make a subsequent nomination.

B. Tree Fund Request

The Township received a \$154,000 FEMA reimbursement specifically for tree and branch removal expenses. The Township cannot reimburse line items for 2011. The Township did reimburse the Road Department's 2012 budget \$29,000 for tree removal expenses related to the 2011 storms. Mr. Blood is requesting \$45,000 to remove 220 trees, mostly dead trees in the Township. The remaining money left in the tree fund would be about \$109,000. Some additional expense may occur in the spring to plant new trees. Mr. Rath recommends taking this action. FEMA money is to prevent future problems and the way to do that is to remove the dead trees so they do not fall and create more damage.

Mayor Hall asked how much of this FEMA money went into correcting the Kiwanis Park damage. Mr. Blood explained the Kiwanis Park FEMA money was received in a separate check. This FEMA money is specifically for tree removal.

Mayor Hall asked Mr. Rath for the total dollar amount the Township had received from FEMA funding. Mr. Rath stated that he would request a complete summary from the Finance Department and make it available for the next council meeting.

Council voiced their support via a unanimous Vote regarding the above stated tree removal plan as explained by Mr. Blood.

Berkshire Valley Railroad Siding

Mr. Rath asked Mrs. Rhead to provide him with a copy of the resolution in SUPPORTING THE COUNTY OF MORRIS' GRANT APPLICATION WITH THE NJDOT FOR THE IMPROVEMENTS TO THE KENVIL TRANSLOADING FACILITY. Mrs. Rhead said she would provide a copy to Mr. Rath.

Mr. Rath said that he had been under the impression that the County was possibly revisiting the plan that was originally supported. Councilman Behrens was told at the MCFRAC meeting that the draft handed out by Mr. Rath was the final plan. Discussion occurred regarding the original plans and the revised plans with no definite conclusion. Mr. Rath is going to follow up with the County.

INTRODUCTION OF PROPOSED ORDINANCES

None

HEARING AND ADOPTION OF ORDINANCES ON SECOND READING

None

INTRODUCTION AND ADOPTION OF RESOLUTIONS

2012-314 A RESOLUTION INCORPORATING BY REFERENCE HEREIN AND APPROVING THE FOLLOWING NUMBERED RESOLUTIONS LISTED ON THE REGULAR COUNCIL MEETING AGENDA FOR THIS DATE:

2012-315, 2012-316, 2012-317, 2012-318, 2012-319,
2012-320, 2012-321, 2012-322, 2012-323, 2012-324

Councilman Schmidt made a motion to adopt incorporating Resolution No.2012-314. Councilman Crowley seconded the motion.

Roll Call:

Councilman Behrens – Yes
Councilman Crowley – Yes
Councilman Schmidt – Yes
Councilman Zoschak – Yes, **with an exception of “Nay” on Resolution No.2012-315**
Mayor Hall – Yes

Motion carried 5 to 0 on all except Resolution No.2012-315 which was carried 4 to 0 with one Nay.

Councilman Schmidt made a motion to amend Resolution No.2012-319 to remove the word “minimal”. Councilman Zoschak seconded the motion

Roll Call:

Councilman Behrens – Yes
Councilman Crowley – Yes
Councilman Schmidt – Yes
Councilman Zoschak – Yes
Mayor Hall – Yes

Motion carried 5 to 0.

2012-315 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 TO THE PROFESSIONAL ENGINEERING SERVICES CONTRACT WITH KELLER & KIRKPATRICK, INC. FOR THE SUCCASUNNA LAKE DREDGING PROJECT LOCATED ON BLOCK 3301, LOT 28

Councilman Zoschak asked Mr. Rath why the quantities are not made known in advance. Mr. Rath explained that the quantities will be determined by inspections. The Township has a better handle on it now.

2012-316 A RESOLUTION APPROVING CHANGE ORDER NO. 2 TO BELLO-GRANDE CONTRACTING, LLC FOR THE MAIN STREET STREETScape PROJECT – PHASE I

Councilman Zoschak questioned Mr. Rath regarding the planning of this project. Mr. Rath explained that there was an issue with the way the insurance certificates and bonds were written. They were not in the specific language required by the Township of Roxbury. This created a delay in the project and extended the completion date. Mr. Rath requested matting to be laid so that those attending Olde Succasunny Day would not have to walk in the mud.

2012-317 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 TO THE PROFESSIONAL SERVICES CONTRACT WITH KELLER AND KIRKPATRICK, INC. FOR SURVEYING AND ENGINEERING SERVICES FOR THE FENIMORE LANDFILL ACCESS ROAD

Councilman Zoschak asked if the Township will be paying for the State’s mistake. Mr. Rath stated that the Township expects to be reimbursed.

2012-318 A RESOLUTION APPROVING THE NJDOT RESOLUTION, APPLICATION, AND AGREEMENT FOR STATE AID TO MUNICIPALITIES FOR FISCAL YEAR 2013, UNDER THE NEW JERSEY TRANSPORTATION TRUST FUND AUTHORITY ACT MUNICIPAL AID PROGRAM FOR THE PHASE I PORTION OF THE MOUNTAIN ROAD RESURFACING PROJECT

Councilman Zoschak asked if the Township of Roxbury had been denied a grant for the landfill road from the DOT in the past. Mr. Rath explained that was for “extraordinary aid” this is for the normal NJDOT aid.

Mayor Hall continued the discussion regarding the exact truck route in question. Mr. Rath clarified this as the lower half of the road from Route 206 to Mooney Mountain. Discussion occurred regarding change orders in general. Mayor Hall questioned large 20 & 30% differentials in costs in relation to bid awards. Mr. Rath assured council that is scrutinized to ensure the costs remain under the bid threshold.

Council members expressed frustration with change orders. Mr. Rath stated that he would relay the concerns of the Council to the department heads. The Council stressed they should know their jobs and change orders should be fewer going forward. Mr. Rath noted that smaller contract amounts yield higher percentages when a change order is needed.

2012-319 A RESOLUTION AUTHORIZING AWARD OF A THREE (3) YEAR CONTRACT TO PASSAIC VALLEY SEWERAGE COMMISSION FOR SLUDGE WASTE DISPOSAL SERVICES

Mayor Hall asked Mr. Rath to explain the above resolution. Mr. Rath explained it would result in additional cost savings. Mr. Rath explained the savings. Councilman Behrens asked that the word, “minimal” be removed from this resolution. Page 21, the fifth Whereas, 2nd to last sentence, “potential *minimal* increases” and in section one under the “now therefore may be resolved” last sentence.

2012-320 A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT TO DELL TO PROVIDE NINE (9) DESKTOP COMPUTERS

2012-321 A RESOLUTION AUTHORIZING THE CANCELLATION OF SEWER ASSESSMENT BALANCES ON MUNICIPALLY OWNED PROPERTIES

2012-322 A RESOLUTION AUTHORIZING THE REFUND OF SEWER UTILITY OVERPAYMENT

2012-323 A RESOLUTION AUTHORIZING THE REFUND OF TAXES

2012-324 A RESOLUTION AUTHORIZING THE PAYMENT OF BILLS

PERSONNEL CHANGES

None

COMMUNICATIONS

September 28, 2012

October 5, 2012

1. Correspondence from Christopher Rath, Township Manager, to Mayor and Council, dated October 5, 2012, re: Information Update

Councilman Behrens asked if Tom’s Diner had been inspected. Mr. Rath replied that the Township Construction Official, Rod Schmidt will be issuing a NOV to Mr. Seritis, the owner.

2. Correspondence from Ilene St. John, Landing resident, to Christopher Rath, Township Manager, dated September 29, 2012, re: Thank you
Mayor Hall complimented Mr. Rath on this letter of Thanks.

PUBLIC PORTION

Ralph Nappi

29 Ford Road, Landing

Mr. Nappi questioned the amendment of Resolution 2012-319 and if Passaic Valley was going to accept the change of the wording if the word “minimal” was eliminated. Mr. Rath replied in the affirmative.

Mr. Nappi announced that a meeting will be taking place tomorrow at 6:30PM at the Roxbury Library for possible consolidation of the Roxbury and Mt. Arlington school districts. He stated that Gena Genovese, in charge of “Courage to Connect” and former Mayor of Long Hill Township, would be providing a presentation regarding the successes of consolidation.

Mr. Nappi spoke about the failed efforts to provide police services to Mount Arlington. Mayor Hall pointed out other shared service arrangements that have been successful.

Mayor Hall stated that the Township of Roxbury is always looking to engage in shared service agreements in an effort to save money and provide more to the public.

Mr. Nappi added that the Mayor of Princeton would be attending the meeting. He encouraged the Council to attend.

Anthony Fiore

70 Fox Chase Lane

Mr. Fiore stated that Neighborhood Meetings are not well advertised. He suggested posting a description of how they vary from the regular council meetings on the website and perhaps an email blast. Council agreed the meetings need better marketing/promoting.

Mr. Rath said that he would look at the email blast notification

Mr. Fiore asked Councilman Behrens to expand on his previous comments regarding the Rail Bridge, specifically what the benefits would be for the Township of Roxbury. Councilman Behrens explained the money savings that would be incurred by local businesses and how that would trickle down to the consumers in the Township.

Mr. Rath added that truck traffic in the area would be lightened as a result of rail usage. There is currently no Roxbury rail traffic on the Highbridge line.

Mr. Fiore asked if this Township receives any benefit or ratable from the rails. Mr. Rath said there are no ratables because it is owned by the County. Councilman Behrens noted how cost effective the benefit of the yard would be to the community.

Mr. Fiore asked about the status of Veteran’s Park usage regarding the model airplane request for use of the park. Mr. Rath said no action is or has being taken.

Mr. Rath further explained that the Open Space and Trails committees received the results of the surveys and Mr. Rath will share the results of the study upon his receipt of it.

Mr. Fiore asked if there was a possibility that a reduction in sewer charges would be passed onto the residents in light of the savings of money as discussed in resolution 2012-319. Council explained that more goes into the pricing than the sluge removal savings.

Robert Kluska

274 Emmans Road, Flanders

Mr. Kluska asked if a decision had been made regarding Chief Simonetti's request for a change in hiring recommendations. Mr. Rath explained that it is still pending.

Mr. Kluska questioned the education requirements for police officers citing that 35% of the current Township officers do not meet the proposed educational requirements. Mr. Rath said that those are veteran officers who were hired before the standards of hiring officers changed.

Mayor Hall closed the public session

EXECUTIVE SESSION

2012-325 A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF ROXBURY, IN THE COUNTY OF MORRIS, NEW JERSEY AUTHORIZING CONFERENCE OF THE TOWNSHIP COUNCIL WITH THE PUBLIC EXCLUDED

Matters related to:

1. **Shared Services** – Mine Hill police services (Township Attorney Left the Executive Session)
2. **Negotiations** – Roxbury Public Employees Association
3. **Litigation** – former Fenimore Landfill site

At 9:20PM, Councilman Crowley made a motion to adopt Resolution No.2012-325 for Executive Session. Councilman Behrens seconded the motion.

Voice Vote: All in Favor – Yes

Motion carried unanimously, 5 to 0.

At 9:50PM, the Council returned to the open session of the meeting.

ADJOURNMENT

At 9:50PM, Councilman Zoschak made a motion to adjourn the meeting. Councilman Schmidt seconded the motion.

Voice Vote: All in Favor – Yes

Motion carried unanimously, 5 to 0.

Amy E. Rhead
Township Clerk

MINUTES APPROVED BY COUNCIL:

DATE: January 8, 2013

ROLL CALL:

Councilman Behrens	-	Yes
Councilman Crowley	-	Yes
Deputy Mayor DeFillippo	-	Abstain
Councilman Rilee	-	Abstain
Councilman Schmidt	-	Yes
Councilman Zoschak	-	Yes
Mayor Hall	-	Yes