

April 24, 2012

A Regular Meeting of the Township Council of the Township of Roxbury was held on April 24, 2012 in 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 Jim Rilee
Councilman Martin Schmidt
Councilman Richard Zoschak
Mayor Fred Hall

Absent: Deputy Mayor Kathy DeFillippo
(Mayor Hall announced for the record that Deputy Mayor DeFillippo was attending to a family matter)

Also Present: Christopher Rath, Township Manager
Anthony Bucco, Esq., Township Attorney
Amy Rhead, Acting Township Clerk
Kathy Florio, Administrative Aide

Staff: James Simonetti, Chief of Police; Lisa Spring, CFO/
Treasurer; and Patricia Reiche, Assistant to the CFO

Public/Other: approximately fifteen members of the public; Kirk Keyes, Fire Department Chief; Adam Alberti, Fire Company No.1 Chief; Mike Condon, Reporter, Roxbury Register; William Schroeder of Nisivoccia, LLP, Township Accountant

APPROVAL OF MINUTES

None

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

Mayor Hall amended the order of the agenda to address the following presentation:

Roxbury Day Care Center, Inc.

Gail Robortaccio provided information about Roxbury Daycare's low-cost child care services that have been provided to children of the community for several years. She stated that the organization utilizes approximately five classrooms within various school buildings for after care and summer programs that are offered. She claimed that there is no cost to the Board of Education because the facilities are only used at times when the custodians are already present but that the Board was currently considering imposing a fee for such usage. She said that as a non-profit organization they would not be able to afford to pay a fee for using the classrooms and asked for the Council to support the program that was initially implemented at the request of the Board of Education.

General Council discussion took place in regard to the municipality's history of supporting the organization which includes a fifty year lease for the township-owned

Righter Road building for a charge of one dollar per year. Council members spoke about the responsibility of all governmental units to look at cost saving measures, but recognized the valuable service that Roxbury Daycare provides to the community. While it was made clear that this is solely a Board of Education matter, Councilman Rilee suggested that Mr. Raths send a letter of support for the Roxbury Daycare program to the Board of Education on behalf of the Council. Council members had no objection and unanimously agreed.

Mayor Hall continued to amend the order of the agenda to address the following items listed under “OLD BUSINESS”:

Access Agreement – Strategic Environmental Partners/Fenimore

Mr. Raths reported that the NJDEP had responded to the Township’s permit applications and found the request for a general stormwater permit deficient; they are requiring that the Township makes application for individual stormwater permits, which, Mr. Raths noted, is a much more costly and labor intensive process.

Mr. Raths reported on the money that had already been spent on engineering fees in an attempt to acquire the necessary NJDEP permits and estimated the amount of additional funding that would be needed to continue.

Mr. Raths also reported on additional discussions that have taken place with various NJDEP officials regarding the emergency situation the Township is facing because of the safety hazards being caused by trucks on the residential roads into the former landfill site. He said discussions regarding who would be responsible for the actual construction costs for the roadway were continuing.

Mayor Hall spoke about the previous week’s NJDEP meeting, concerns of the residents and the ongoing efforts of the Township staff and governing body.

Mayor Hall continued to amend the order of the agenda to address the following items listed under “OLD BUSINESS”:

Andre Drive

Mr. Raths provided an update on the status of the flooding issues that residents of Andre Drive and William Court had previously brought to Council’s attention. He reported that Mr. Blood had met with the residents several times and recently obtained quotes on their behalf for the work that would need to be done to rectify the draining and flooding problems. Mr. Blood had forwarded the quotes to each of the residents and was waiting for their responses. Mr. Raths also said that the residents were in the process of hiring an attorney to take care of the easements that are needed in order to continue.

RoxPAC Lease

Mr. Bucco reported that his review of the draft of the extension of the naming rights agreement should be completed within the next few days.

Boiler Lease Agreement for Library (amended to state “Boiler Loan

Agreement”) Council members reminded the Manager that the agreement was for a loan repayment, not for a lease agreement. Councilman Schmidt stated that the Board would be reviewing the agreement at their next meeting.

Mayor Hall continued amending the order of the original agenda to address the following items under MATTERS REQUESTED/REFERRED BY COUNCIL MEMBERS, MANAGER, ATTORNEY OR CLERK

1. Quarterly Reports

Mr. Raths reviewed the Quarterly Reports with the Council. He noted differences between the current revenue amounts compared to those from the previous year.

Councilman Zoschak asked about the status of the 2012 tax appeals. Mr. Rath replied and said that he would get an update from the Tax Assessor. He also noted that the tax collection rate is currently 97.5% compared to last year at this time which was 97.6%.

2. Bill of Sale and Indemnity Agreement – Hercules Incorporated

Mr. Bucco advised Council that he does not recommend entering into an agreement that requires the Township to take title to and indemnify Hercules for a house that needs to be relocated, especially when there is no plan in place to accomplish same. Council members discussed the historical value of the house versus the deteriorating roof, estimated restoration and relocation costs, as well as the fact that there was no place to relocate the house to. Council ultimately concluded that the preservation of the old Sears “kit-home” was cost prohibitive and they decided to abandon any further effort to acquire the home.

Mayor Hall continued amending the order of the original agenda to allow for PUBLIC PORTION

Dennis Wine

4 Holly Drive, Succasunna

Mr. Wine referenced Resolution No. 2012-109 and asked why the resolution was instructing Senators Lautenberg and Menendez to receive copies when they are not on the accompanying distribution list. Mr. Bucco confirmed that listing the US Senators is an error and that the resolution should have referred to State Senator Bucco. Mr. Bucco said the correction would be made.

Mr. Wine spoke about Resolution No. 2012-111 and asked how many employees are eligible for the Deferred Compensation Plan referenced therein. Mr. Rath said there was one employee; possibly two.

Mr. Wine referenced Item No.1 in the April 13, 2012 Communications packet, labeled “Correspondence from Christopher Rath, Township Manager, to Parvi Setareh, Pampelonne Int’l Inc, dated April 12, 2012, re: Township interest in acquisition of property for Open Space located on the corner of Route 10 & Eyland Avenue”. Mr. Rath explained that the vacant lot has very limited possibilities and that the Open Space Committee and Economic Development Committee thought that the title holders(s) might be interested in forgoing their ownership. No response has been received as of this time.

Since Mr. Wine had mentioned it, Mayor Hall asked Mr. Bucco to provide further information on the purpose of Resolution No. 2012-109. Mr. Bucco explained that under current law COAH trust fund money is to be forfeited to the State for any municipality that has not committed said funds by July 17, 2012. The resolution on the agenda supports legislation that has been proposed to extend the deadline four (4) more years. The legislation was introduced as a result of the State’s failure to provide direction on how the funds can be utilized. Councilman Rilee reported that Roxbury Township currently has approximately 2.7 million dollars in its trust fund account. Councilman Zoschak noted that the monies in the fund are from developer’s fees, not taxpayer money. Mayor Hall added that the Township wants to be able to utilize the funds for the purpose for which they were intended.

Ralph Nappi

29 Ford Road, Landing

In reference to the earlier presentation on Roxbury Daycare, Mr. Nappi asked Ms. Robertaccio if she had met with the entire school board when she made the presentation to them. She answered that it was a committee, not a quorum of the members.

Mr. Nappi asked why the Council decided to write a letter in support of Roxbury Daycare as opposed to passing a resolution. Councilman Rilee explained that a

resolution would not have any more weight than a letter, but a letter was a little more informal. It was again noted that the Board of Education has the final say.

John Sandstrom

65 Eyland Avenue, Succasunna

Mr. Sandstrom spoke about a noticeable increase in loitering around McDonald's during Tuesday movie nights at Cinema 10. He reported that he had contacted McDonald's about the situation and read a response letter from the organization claiming that it has been an ongoing problem in the area. Mr. Sandstrom suggested that the Township contact the property owners, Fidelity Management, and ask them to provide some security or surveillance services. Council members discussed the fact that there is a strong police presence at the mall. Mr. Raths referred Mr. Sandstrom to Chief Simonetti to discuss further.

Mayor Hall closed the public portion and returned to the order of the agenda and unfinished Council Reports under REPORTS OF COUNCIL LIAISON REPRESENTATIVES, COUNCIL COMMITTEES AND NEW BUSINESS/OLD BUSINESS

Councilman Schmidt said that the Community Garden was open and looking forward to another great gardening year. He said they were at a capacity of approximately eighty five percent.

Councilman Schmidt said that he had the opportunity to attend the recent Community Development Block Grant meeting during which the approved applications for the year were decided upon. He said the approvals would be provided to Council at the next Council meeting.

Councilman Schmidt brought up the subject of the Library's legal fees and Council agreed that the appropriate governmental unit should be billed for services they requested. Councilman Schmidt verified that the Library Board would be assuming all of Council's legal fees in regard to the execution of the Boiler Loan Agreement.

Councilman Zoschak commended the fire department for their expeditious and efficient response to a recent structural fire on Landing Road. He also recognized the police department for their efforts in keeping traffic under control during the incident. Mayor Hall added that the fire department's response time to a recent fire on Timberline Drive was "nothing short of spectacular". Mayor Hall applauded all the volunteers for their service to the community.

Councilman Zoschak referred to the concerns about the fire department and their ability to provide an adequate response in the event of an emergency at the nursing home. Mr. Raths said that an update had been provided in his weekly Information Update to Council and that he was working with Mr. Bucco on this issue.

Councilman Zoschak provided information on the start time and location of the Memorial Day Parade.

Councilman Zoschak reported that the NJDEP has temporarily decreased the outflow of Lake Hopatcong to address complaints of insufficient amounts of water.

Councilman Zoschak suggested using the Township's emergency notification system to remind the public about the Township's odd/even day water restrictions.

Councilman Zoschak said that Mr. Kobylarz was continuing to work on the federally funded 319 Grants for the Landing Cove area that should be completed this year.

Councilman Rilee also complimented the members of the Roxbury Fire Departments. He specifically recognized Chief Kirk Keyes for his recent heroics in pulling someone out of a vehicle on Route 80. He thanked Mr. Keyes for acknowledging the Township and the Council in the newspaper article that was published in regard to the Route 80 incident.

Councilman Rilee spoke about the high level of public frustration regarding the way the NJDEP has allowed the truck traffic to and from the former Fenimore Landfill site and the approvals to bring in additional contaminated soil without obtaining any public input.

Councilman Rilee reported on the recent COAH Committee meeting and the ongoing attempts to retain COAH credits. Council was informed that the Memorandum of Understanding that had been submitted to the HMFA and DHS had not been executed by the State and was being resubmitted in person by Russell Stern, Township Planner.

Councilman Zoschak said that he did not agree with the proposed legislative bill regarding the purchase of foreclosed homes to be used for COAH purposes.

Councilman Behrens reported that the Economic Development Committee would be meeting the next evening at 7:00 p.m.

Councilman Behrens reported that Investors Bank would be hosting an Open House event on Saturday.

Councilman Behrens reported on the recent Board of Education meeting, highlights of which included:

- Board recognition of five students who recently assisted a resident in need
- Principal Swanson spoke about the proposed “open lunch period” trial program which would allow senior students to leave the school campus based on good behavior and other criteria
- Theresa D’Agostino was elected as the 2012-2013 Board President, and Carol Scheneck was elected as the Vice President
- The Board of Education is continuing their search for a Business Administrator
- The resignation of the Kennedy School principal was accepted by the Board
- The Board approved a three-year contract for Dr. Patrick Tierney to serve as the Superintendent of schools

Mayor Hall informed Council that he and Mr. Rath personally met with the new Superintendent to introduce themselves and wish him well.

Councilman Crowley spoke about the previous week’s NJDEP meeting and the frustration of the residents, but noted that Mr. Rath was doing a great job keeping the public informed about the issues surrounding the former landfill.

Mayor Hall said that he would have the NJDEP meeting minutes posted on the Township website as soon as they are received.

Councilman Behrens also informed members that Dr. Tierney had requested to attend a future meeting and have an opportunity to introduce himself. Council members asked Mr. Rath to schedule.

Mayor Hall reported on upcoming events, which included:

- April 28th – Investor’s Savings Bank – Ribbon Cutting event
- May 5th – FrozenPeaks (new frozen yogurt store)-Ribbon Cutting event.
Mayor Hall noted, for the record, that the owners of the new establishment had nothing but accolades for the Township staff for their assistance in getting situated in Roxbury.
- May 28th – Memorial Day Parade
- June 2nd – Trail Opening – the connection of the bikeway at the back of Horseshoe Lake to the Black River Pathway was finally coming to fruition.

Mayor Hall spoke about the recent Volunteer Day and thanked the staff and residents for helping clean up areas around the Township.

Mayor Hall congratulated Deputy Mayor DeFillippo on another successful MS Walk event.

Mayor Hall spoke about the success of the recent St. Baldrick's fundraising event held for a young boy who has been stricken with cancer. Proceeds will be used to offset his medical bills. Mayor Hall commended all those who assisted with the event.

Mayor Hall thanked Councilman Zoschak for attending the recent Eagle Scout Awards ceremony on behalf of the Council.

Mayor Hall said that the Recreation Committee is continuing to review what needs to be done to proceed with the Landing Recreation project (McNear parcel).

Mr. Rath said that homeowners have been receiving incorrect information from their contractors regarding the permitting process for projects such as driveway repairs, pool installations, etc. He asked that the Roxbury Register include in their publication a public notice informing residents that they should contact the Township directly to ascertain whether they need to get a permit or not.

Mr. Rath explained that, as a result of the NJDEP conference call the previous day, a resolution was added to the agenda requesting NJDOT assistance with the Fenimore Access Road due to an emergency safety situation. Mayor Hall and Mr. Rath commended Mike Kobylarz for preparing the resolution and Chief Simonetti for producing the accompanying letter in "record time".

A. New Business – none

B. Old Business

1. **Access Agreement – Strategic Environmental Partners/Fenimore –**
(previously addressed)
2. **Andre Drive –** *(previously addressed)*
3. **RoxPAC Lease –** *(previously addressed)*
4. **Boiler Lease Agreement for Library (amended to state "Boiler Loan Agreement") –** *(previously addressed)*

C. Presentations - Roxbury Day Care Center, Inc. – *(previously addressed)*

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

1. **Quarterly Reports –** *(previously addressed)*
2. **Bill of Sale and Indemnity Agreement-Hercules Incorporated –** *(previously addressed)*

PUBLIC PORTION – *(previously addressed)*

Mayor Hall returned to the order of the agenda.

DRAFT ORDINANCES FOR DISCUSSION

None

INTRODUCTION OF PROPOSED ORDINANCES

None

HEARING AND ADOPTION OF ORDINANCES ON SECOND READING

None

INTRODUCTION AND ADOPTION OF RESOLUTIONS

2012-105 A RESOLUTION INCORPORATING BY REFERENCE HEREIN AND APPROVING THE FOLLOWING NUMBERED RESOLUTIONS LISTED ON THE REGULAR COUNCIL MEETING AGENDA FOR THIS DATE:

2012-106, 2012-107, 2012-108, 2012-109,
2012-110, 2012-111, 2012-112, 2012-115

Councilman Rilee made a motion to adopt Incorporating Resolution No. 2012-105. Councilman Schmidt seconded the motion. Councilman Rilee amended his original motion to adopt Incorporating Resolution No. 2012-105 to exclude Resolution No. 2012-113 (2012 Budget adoption). Councilman Schmidt seconded the amended motion.

Roll Call: Councilman Behrens – Yes Councilman Crowley – Yes
 Councilman Rilee – Yes Councilman Schmidt – Yes
 Councilman Zoschak – Yes Mayor Hall – Yes

Motion carried 6 to 0.

2012-106 A RESOLUTION AUTHORIZING THE REFUND OF UNUSED ENGINEERING INSPECTION FEES TO ROXBURY REFORM TEMPLE FOR A PROJECT KNOWN AS TEMPLE SHALOM OF ROXBURY LOCATED AT 215 S. HILLSIDE AVE., SUCCASUNNA BLOCK 2802, LOT 20

2012-107 A RESOLUTION AUTHORIZING A CHANGE ORDER (FINAL) TO THE PROFESSIONAL ENGINEERING SERVICES CONTRACT WITH KELLER & KIRKPATRICK, INC. FOR THE SUCCASUNNA LAKE DREDGING PROJECT LOCATED ON BLOCK 3301, LOT 28

Mr. Bucco advised the Council that some minor revisions to the language in the resolution were needed. He requested Council approval to allow the Clerk to make said changes. Council had no objection.

2012-108 A RESOLUTION AUTHORIZING THE REFUND OF UNUSED ESCROW MONIES AND APPLICATION FEE PREVIOUSLY DEPOSITED WITH THE TOWNSHIP OF ROXBURY FOR DEVELOPMENT MATTERS PURSUANT TO CHAPTER XIII (LAND USE) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY

2012-109 A RESOLUTION SUPPORTING A-2717 EXTENDING THE TIME PERIOD FOR MUNICIPALITIES TO COMMIT TO EXPEND COLLECTED DEVELOPMENT FEES AND PAYMENTS-IN-LIEU OF CONSTRUCTING AFFORDABLE UNITS

As previously discussed during public portion, it was requested that the Clerk amend the resolution to reflect the name of the correct State Senator for distribution purposes.

2012-110 A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE TOWNSHIP OF ROXBURY TAX APPEAL LITIGATION MATTER

2012-111 A RESOLUTION FOR ADOPTING CHANGES TO AN EXISTING DEFERRED COMPENSATION PLAN PURSUANT TO THE FINAL INTERNAL REVENUE CODE SECTION 415 REGULATIONS, PENSION PROTECTION ACT OF 2006, THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008 AND THE WORKER, RETIREE AND EMPLOYER RECOVERY ACT OF 2008

2012-112 A RESOLUTION AUTHORIZING THE PAYMENT OF BILLS

2012-115 A RESOLUTION APPROVING THE NJDOT APPLICATION AND AGREEMENT FOR STATE AID TO MUNICIPALITIES UNDER THE NEW JERSEY TRANSPORTATION TRUST FUND AUTHORITY ACT LOCAL AID INFRASTRUCTURE FUND - DISCRETIONARY AID PROGRAM FOR THE TRUCK ACCESS ROAD/MORRIS CANAL PARK/LEDGEWOOD PARK BIKEWAY PROJECT

Note: Resolution No. 2012-115 was added on to the agenda. Mr. Bucco requested that the Clerk make some grammatical revisions (to be provided by counsel) and

stated that the changes would not alter the purpose of the resolution. Council members had no objections. Councilman Rilee asked for verification that the request was for \$250,000. Mr. Rath confirmed that it was a matching grant for that amount.

ADOPTION OF 2012 MUNICIPAL BUDGET

2012-113 A RESOLUTION TO ADOPT THE 2012 BUDGET

In regard to the scheduled adoption of the 2012 Budget, Bill Schroeder, Township Accountant, addressed the Council and informed members that the State of New Jersey had not yet reviewed the budget, as is required every three years; therefore, the Council would not be able to adopt the Budget at this time. He advised that Resolution No.2012-113 would have to be opened for public comment and carried to the May 8, 2012 meeting.

Councilman Rilee made a motion to open Resolution No.2012-113 to the public for comment. Councilman Zoschak seconded the motion.

Roll Call: All in Favor – Yes

Motion carried 6 to 0.

Public Comment - none

Councilman Zoschak made a motion to close Resolution No.2012-113 to the public. Councilman Schmidt seconded the motion.

Roll Call: All in Favor – Yes

Motion carried 6 to 0.

Councilman Zoschak made a motion to carry the adoption of the 2012 Budget Resolution No.2012-113 to the Regular Meeting, scheduled for May 8, 2012. Councilman Schmidt seconded the motion.

Roll Call:	Councilman Behrens – Yes	Councilman Crowley – Yes
	Councilman Rilee – Yes	Councilman Schmidt – Yes
	Councilman Zoschak – Yes	Mayor Hall – Yes

Motion carried 6 to 0.

PERSONNEL CHANGES

None

COMMUNICATIONS

April 13, 2012

Councilman Rilee made a motion to file the Communication of April 13, 2012. Councilman Schmidt seconded the motion.

Roll Call: All in Favor – Yes

Motion carried 6 to 0.

April 20, 2012

#9 Correspondence from Senator Anthony R. Bucco to Fred Hall, Mayor, dated April 3, 2012, re: Bucco Renews Call for Local Governments to Share Assessment Appeal Burdens

Councilman Zoschak explained that the above-referenced resolution calls for school districts and fire districts to share in the financial responsibility of tax payments when a municipality loses a tax appeal. Currently, the municipality is solely responsible for the payment. Council members spoke in support of the resolution and Mr. Rath agreed to include on the May 8th agenda.

PUBLIC PORTION

Dennis Wine

4 Holly Drive, Succasunna

Mr. Wine reported that playing recorded classical music has been proven to deter loitering.

Ralph Nappi

29 Ford Road, Landing

Mr. Nappi asked for an explanation of the process that had just occurred with the 2012 Budget resolution. Mr. Bucco explained that every three years State approval of the municipal budget is required in order for the governing body to adopt it. Since the State had not yet reviewed Roxbury’s budget, the Mayor and Council had to hold off on its approval until the next meeting. Mr. Bucco further advised that in the unlikely event that the State recommended changes to the submitted budget, it would have to be re-advertised, re-introduced, and the public would be given the opportunity to review and comment on same.

Mayor Hall closed the public portion.

EXECUTIVE SESSION

2012-114 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

Matter(s) relating to:

- 1. Attorney Client Privilege** – former Fenimore Landfill
- 2. Attorney Client Privilege** – Highlands Plan Conformance
- 3. Contract Negotiations** – PBA Superior Officers Union
- 4. Contract Negotiations** – Clerical Union

At 9:00 PM, Councilman Zoschak made a motion to adopt Resolution No.2012-114 for Executive Session. Councilman Schmidt seconded the motion.

Roll Call: All in Favor – Yes

Motion carried 6 to 0.

At 9:55PM, the Council returned to the open session of the meeting.

ADJOURNMENT

At 9:55PM, Councilman Rilee made a motion to adjourn the meeting. Councilman Zoschak seconded the motion.

Roll Call: All in Favor – Yes

Motion carried 6 to 0.

Submitted By:

Amy E. Rhead
Acting Township Clerk

MINUTES APPROVED BY COUNCIL

DATE: May 8, 2012

ROLL CALL: Councilman Behrens – Yes
Councilman Crowley – Yes
Deputy Mayor DeFillippo – Abstain
Councilman Rilee – Yes
Councilman Schmidt – Yes
Councilman Zoschak – Yes
Mayor Hall – Yes