

TOWNSHIP OF LOPATCONG
COUNCIL MEETING

7:00 pm

February 18, 2016

The Special Council Meeting of the Lopatcong Township Council was called to order by Mayor McKay. The meeting was held in the Municipal Building located at 232 S. Third St., Phillipsburg, New Jersey 08865.

Mayor McKay stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

A moment of silence was offered followed by the Oath of Allegiance.

Roll Call: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay. CFO Saponaro, Attorney Campbell and Engineer Sterbenz were also present.

Business:

Resolution No. 16-30A – Wherein the Township is expected to enter into contracts, commitments and payments prior to the 2016 Budget adoption – temporary appropriations of 1/12th of the 2015 budget shall be appropriated for the General Fund in the amount of \$2,648,027.53 and the Sewer Utility Fund in the amount of \$391,665.75.

R 16-30A

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING 1/12 OF THE 2015 BUDGET SHALL BE
APPROPRIATED FOR THE GENERAL FUND AND THE SEWER UTILITY FUND

WHEREAS, an emergent condition has arisen in that the Township is expected to enter into contracts, commitments or payments prior to the 2016 budget and no adequate provision has been made in the 2016 temporary budget for the aforesaid purposes; and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of an emergency temporary appropriations for said purpose; and

WHEREAS, the total emergency temporary appropriation resolutions adopted in the year 2016 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total; and

WHEREAS, the total temporary appropriations added previously were 26.25% of the 2015 budget less the appropriations made for Capital Improvement Fund, Debt Service and Deferred Charges were as follows:

General Fund	\$2,648,027.53
Sewer Utility	\$ 391,665.75

WHEREAS, the additions to be added for further use for payment of Township commitments are 1/12 of the total budget from 2015 budget less the appropriations made for Capital Improvement Fund, Debt Service and Deferred Charges are as follows:

General Fund	\$523,180.17
Sewer Utility	\$124,338.33

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and State of New Jersey (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20 said emergency temporary appropriations will be provided for in the 2016 budget.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Thursday, February 18, 2016.

Margaret B. Dilts, CMC

Motion by Councilwoman Schneider, seconded by Councilwoman McCabe. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.

NAYS: None

Resolution No. 16-31 – Authorizing payment of Debt Service due on various dates from January 2016 to December 31, 2016: Payment of Bond Principal of \$360,000, Bond interest of \$215,080 and Payment of Ban \$2,996,897.22.

R 16-31

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY APPROPRIATING IN A TEMPORARY RESOLUTION PERMANENT DEBT SERVICE REQUIREMENTS FOR 2016

WHEREAS, N.J.S.A. 40A:4-19 provides authority for appropriating in a temporary resolution the permanent debt service requirements for the coming fiscal year providing that such resolution is not made earlier than the last ten days of the preceding fiscal year; and

WHEREAS, the date for this resolution is subsequent to that date; and

WHEREAS, principal and in interest will be due on various dates from January 2016 to December 31, 2016, inclusive on sundry bonds issued and outstanding.

NOW, THEREFORE BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren, State of New Jersey, that the following appropriations be made cover the period from January 1, 2016 to December 31, 2016 inclusive:

DEBT SERVICE – TOWNSHIP OF LOPATCONG

Payment of Bond Principal	\$360,000
Payment of Bond Interest	\$215,080
Payment of BAN	\$2,996,897.22

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Thursday, February 18, 2016.

Margaret B. Dilts, CMC

Motion by Councilwoman Schneider, seconded by Councilman Belcaro.

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.

NAYS: None

Resolution No. 16-32 – Authorizing 2016 Temporary Capital Budget. Table to the March 2nd meeting.

CFO Saponaro - This is not borrowing money, this is the capital budget in order for us to get bond and move money around, I must have this adopted.

Mayor McKay – I don’t want this to be misconstrued as an authorization to go out to bond.

CFO Saponaro – It is the 2016 capital budget for Lopatcong for Sanitary Sewer Lines, Intersection; this is the setting up of any issuance resolving what we have in there already, the BAN on interest and notes.

Councilwoman Schneider – Can you just explain a little further, it is showing debt we are authorizing debt of \$728,000.

CFO Saponaro – It’s not the authorization of debt. You can’t authorize debt until Council votes on it. This is just setting up anything that any activity you have thought of in the budget. If you’d like to reword it, you can reword it.

Mayor McKay – I want it to be clear that this is a not an authorization.

CFO Saponaro – You can’t authorize debt until you vote on it.

Council President Pryor – Mayor, maybe I can make a suggestion. If we crossed out the last column. We just delete that column on the far right.

Mayor McKay asked for a motion to approve this absent the column on the right that’s entitled debt authorized. Motion by Councilwoman McCabe, seconded by Councilwoman Schneider.

Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.

NAYS: None

R 16-32

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY PROVIDING FOR A TEMPORARY CAPITAL BUDGET

WHEREAS, the Township Council of the Township of Lopatcong desires to establish a 2016 Temporary Capital Budget.

NOW, THEREFORE, BE IT RESOLVED that the 2016 Temporary Capital Budget is hereby established as follows:

**Temporary 2016 Capital Budget
Township of Lopatcong**

Project Title	Estimated Total Cost	Capital Improvement Fund	Other Funding Sources	Town of Phillipsburg Down Payment
Sanitary Sewer Line Realignment	\$50,000.00	\$50,000.00		
Intersection Improvements at	\$850,000.00	\$21,500.00		\$100,000.00

Belvidere Road and Roseberry Street				

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Thursday, February 18, 2016.

Margaret B. Dilts, CMC

Mayor McKay – 4, 5, and 6 are authorizations to appoint Counsel so, we’ll take them together.

Councilwoman McCabe – No.

Council President Pryor – I object Point of Order. Take them separately.

Mayor McKay – Why would you object?

Council President Pryor – Do you want me to explain?

Councilwoman McCabe – One at a time please.

Council President Pryor – As I’ve read the ordinance, I’ve read the underlying law as a layman. I don’t think your lawsuit qualifies; clearly talks about indemnification and defense and recognizing I am not a lawyer.

Councilwoman McCabe – Can we decide first that we’re going to address Item No. 4. Let’s address them individually; 4 and then 5.

Mayor McKay – No, I want to address them together.

Councilwoman McCabe – Well, we don’t want to address them together. They’re different.

Mayor McKay – They’re not different.

Council President Pryor – I just explained so maybe we should get the attorney’s opinion.

Attorney Campbell – Your Township Ordinance, Chapter 16, provides for defense and indemnification. Section 16 of the Lopatcong Township Code provides for defense and indemnification and it is for defense of lawsuits. So, it’s for people who are sued not those suing.

Mayor McKay – Well, I’m suing to clarify the authority of the mayor which

Attorney Campbell- Nowhere and if you show me somewhere in Chapter 16 or anywhere in the code section it's says a plaintiff can force the town to pay for his lawsuit, then we can talk about it, but this, every section says for defense of a lawsuit. So, when your name appears in the defendant section, then you can ask for defense but when it appears in the plaintiff section, you are not entitled to reimbursement from the Township.

Mayor McKay – And that has nothing to do with your law firm being involved in this?

Attorney Campbell – Absolutely not.

Mayor McKay – Of course.

Councilwoman McCabe – That's the law.

Mayor McKay – Okay. I don't think that's the law. I have counsel that told me that when you are in a situation that I'm in, you can do things like that.

Attorney Campbell – Mayor McKay, I will also point out that you specifically asked the court in your lawsuit for the Township to have to pay for your litigation so, this issue is not over if you don't want it to be over. It's in your lawsuit so, it can be decided later. This isn't the end of that issue if you don't want it to be but it's, you are already asking for that relief from the court.

Mayor McKay – I can't see why I would want to bring up these other representations here.

Attorney Campbell – You are required under your ordinance.

Councilwoman McCabe – Item 4 is to appoint counsel to represent the governing body, you know, the ones you sued, we're entitled.

Mayor McKay – Well, the ones, you know, that are

Council President Pryor – I'll make that motion.

Councilwoman McCabe – I'll second that motion.

Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Council President Pryor

NAYS: None

ABSTAIN: Councilwoman Schneider, Mayor McKay

Resolution No. 16-33 – Appoint Counsel to represent the Governing Body in Lawsuit McKay vs. Township of Lopatcong et al.

R 16-33

RESOLUTION AUTHORIZING THE APPOINTMENT OF JOSEPH J. BELL, ESQ. FROM THE LAW FIRM OF BELL, SHIVAS & FASOLO, P.C. TO PROVIDE A DEFENSE FOR COUNCILMAN JOE PRYOR, COUNCILMAN LOU BELCARO AND COUNCILWOMAN MAUREEN MCCABE IN THE MATTER OF MCKAY V. PRYOR, ET ALS., DOCKET NO. WRN-L-39-16.

WHEREAS, on February 1, 2016, Mayor Thomas McKay filed suit against three Township Council people and the Township Clerk; and

WHEREAS, Council President Joe Pryor, Councilman Lou Belcaro and Councilwoman Maureen McCabe were named as defendants in their capacity as Council members; and

WHEREAS, Council President Joe Pryor, Councilman Lou Belcaro and Councilwoman Maureen McCabe are seeking a legal defense in this litigation pursuant to the Indemnification Section of the Township Code (Section 16); and

WHEREAS, Lopatcong Township Code Section 16-6(B) allows the Township to hire an attorney and to pay same directly; and

WHEREAS, Council President Joe Pryor, Councilman Lou Belcaro and Councilwoman Maureen McCabe have requested that the Township hire Joseph J. Bell, Esq. from the law firm of Bell, Shivas & Fasolo, P.C. in Rockaway, New Jersey to provide their defense at the same rate as the current Township Attorney.

NOW, THEREFORE, BE IT RESOLVED by Township Council of the Township of Lopatcong, County of Warren, and State of New Jersey, as follows:

1. The Township Council of the Township of Lopatcong hereby appoints Joseph J. Bell, Esq. from the law firm of Bell, Shivas & Fasolo, P.C. in Rockaway, New Jersey to provide a defense for Council President Joe Pryor, Councilman Lou Belcaro and Councilwoman Maureen McCabe in the matter of McKay v. Pryor, et als., Docket No. WRN-L-39-16.
2. Mr. Bell shall be paid on an hourly basis at a rate of \$125 per hour not to exceed \$10,000 without prior approval of the Township Council.
3. Council President Joseph Pryor shall be authorized to execute an engagement letter detailing the above on behalf of the Township.
4. This Resolution shall take effect immediately.

ATTEST:

Margaret B. Dilts
Municipal Clerk

Joseph Pryor
Council President

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Thursday, February 18, 2016.

Margaret B. Dilts, CMC

Motion by Council President Pryor, seconded by Councilwoman McCabe. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Council President Pryor

NAYS: None

ABSTAIN: Councilwoman Schneider, Mayor McKay

Resolution No. 16-34 – Appoint Counsel to represent the Municipal Clerk in Lawsuit McKay vs. Township of Lopatcong et al.

R 16-34

RESOLUTION AUTHORIZING THE APPOINTMENT OF RICHARD P. FLAUM, ESQ. FROM THE LAW FIRM OF DIFRANCESCO, BATEMAN, KUNZMAN, DAVIS, LEHRER & FLAUM, P.C. TO PROVIDE A DEFENSE FOR TOWNSHIP CLERK BETH DILTS IN THE MATTER OF MCKAY V. PRYOR, ET ALS., DOCKET NO. WRN-L-39-16.

WHEREAS, on February 1, 2016, Mayor Thomas McKay filed suit against three Township Council people and the Township Clerk; and

WHEREAS, Beth Dilts was named as a defendant in her capacity as Township Clerk; and

WHEREAS, Beth Dilts is seeking a legal defense in this litigation pursuant to the Indemnification Section of the Township Code (Section 16); and

WHEREAS, Lopatcong Township Code Section 16-6(B) allows the Township to hire an attorney and to pay same directly; and

WHEREAS, Beth Dilts has requested that the Township hire Richard P. Flaum, Esq. from the law firm of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. in Livingston, New Jersey to provide her a defense at the same rate as the current Township Attorney.

NOW, THEREFORE, BE IT RESOLVED by Township Council of the Township of Lopatcong, County of Warren, and State of New Jersey, as follows:

1. The Township Council of the Township of Lopatcong hereby appoints Richard P. Flaum, Esq. from the law firm of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. in Livingston, New Jersey to provide a defense for Township Clerk Beth Dilts in the matter of McKay v. Pryor, et als., Docket No. WRN-L-39-16.
2. Mr. Flaum shall be paid on an hourly basis at a rate of \$125 per hour not to exceed \$10,000 without prior approval of the Township Council.
3. Council President Joseph Pryor shall be authorized to execute an engagement letter detailing the above on behalf of the Township.
4. This Resolution shall take effect immediately.

ATTEST:

Margaret B. Dilts
Municipal Clerk

Joseph Pryor
Council President

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Thursday, February 18, 2016.

Margaret B. Dilts, CMC

Motion by Council President Pryor, seconded by Councilwoman McCabe. Roll call vote:
AYES: Councilman Belcaro, Councilwoman McCabe, Council President Pryor

NAYS: None

ABSTAIN: Councilwoman Schneider, Mayor McKay

Appointment of Counsel – Mayor McKay – Represent Mayor in Lawsuit McKay vs.

Township of Lopatcong, et al. Motion to table by Councilwoman Schneider, seconded by Mayor McKay. Roll call vote:

AYES: Councilwoman Schneider, Mayor McKay

NAYS: Councilman Belcaro, Councilwoman McCabe, Council President Pryor

Councilwoman Schneider – Well, we could just put it, you could just put it back on next month's agenda.

Resolution No. 16-35 – Authorizing transfer between the 2015 Budget Appropriation Reserves in the amount of \$130,000 per N.J.S.A. 40A:4-59 to cover Sewer Operating Salaries & Wages.

CFO Saponaro – When I reviewed the appropriation reserves it seems to be that they were overspent and legally I have to transfer funds to cover it so we don't have an over expenditure of last year's budget which would require us to make it up in this year's budget which would mean that we would have to put a \$130,000 in this year's budget because we did not transfer the appropriation reserves within the time allotted; the first three months of the year.

Mayor McKay – To cover sewer operating salaries and wages. You're saying they were not paid.

CFO Saponaro – I say it is over expended.

Mayor McKay – I don't understand.

CFO Saponaro – Meaning that somebody over expended the line item. It was not budgeted properly.

Mayor McKay – So, excessive wages were paid out of the sewer operating account?

CFO Saponaro – Well, as I see it, that's what it looks like.

Mayor McKay – Where were they paid to? Were they paid into the Township payroll account and then paid to employees or what happened to it?

CFO Saponaro – That's usually how it happens. I have to investigate exactly what happened but right now, we have a limited time to cover this. You only have this meeting and possibly next meeting and if you don't do it, we're going to have over expenditure and it will again, hit this year's budget and we'll have to raise \$130,000 when legally you can transfer it right now and if there was an issue or an incorrect problem we can address it at the time and it will drop down to fund balance and be eradicated.

Council President Pryor – If I may Mayor, I'd be surprised if it was wages. We don't have that many wages in the sewer account, the sewer collector. Everything else is outside contracting and our biggest bill is to Phillipsburg.

CFO Saponaro – There are a lot of

Mayor McKay – It says operating.

CFO Saponaro - Mayor may I make a point? There are a lot of mistakes upon that computer that I can't keep up with investigating so my suggestion would be you adopt this, I'll investigate and the worst case scenario, it drops down to fund balance.

Councilwoman Schneider – When's the deadline that we would, you said we can do this at the next meeting.

CFO Saponaro – Yeah, but I prefer to do it this meeting so that I continue to work on and then find out if there is an issue. There doesn't hurt to transfer between, it's from Sewer Operating which has \$200,000 to Sewer Salary and Wage that's just an internal transfer.

Councilwoman Schneider – Yeah, I understand that. I don't have any information on it and to say yes to something I have no information whatsoever on, I don't feel comfortable saying yes to that and if we have at least two more weeks to the next meeting and you can, we can discuss this in a separate meeting.

CFO Saponaro – Okay, but understand it is just a transfer between two line.

Councilwoman Schneider – Yeah, I understand that I just, I'd like a little bit more clarity on where, what happened to the \$130,000. Just a little more clarity and if that's the case, then we do the transfer in March; in two weeks.

Councilwoman McCabe – I don't think there is any harm in doing a transfer now at this time. Its sounds like this is urgent that we have to take care of business. We can certainly get an update when our CFO continues her investigations. I'm sure she'll provide an up to date at that time but to put something as important as this off, I don't think that is being responsible and we should continue with our duties and make the transfer now, it is an internal transfer and it is going to cover us. So I

Councilwoman Schneider – Well, being responsible, is having some information first.

Mayor McKay – (Inaudible) talking over each other.

CFO Saponaro – It is alarming mayor because if we miss it next week as well there is no more chances and I'd rather.

Councilwoman Schneider – We won't miss it at the next meeting, we'll ensure that it is on there. You know, I would just like a little more clarity.

Councilwoman McCabe – Things happen in this Township I'd prefer to take care of it now.

CFO Saponaro – I prefer because it is my legal; I prefer to do it now and give you an update. It is just an internal transfer from one line to another in the same budget. There is no real money being

Councilwoman Schneider – Did you just find this information out today?

CFO Saponaro – Sure. Oh yes.

Councilwoman Schneider – Today, today was you just found this today?

CFO Saponaro – Yes. We've been paying bills on the bills list steadily since I've gotten here. The bill list is very big. It is a lot, a lot of repeat and mistakes.

Councilwoman Schneider – I understand all that. Was this just something that was just emergent that you found today or have you looked at it over the past couple of days?

CFO Saponaro – No, I haven't had the time. I looked today because once I pay bills I have to see if anything is over expended and if it is over expended, then my call is to do a resolution to cover it to make sure that my office, myself professionally, is covered and that we can deal with it later. It is not a big thing; it's a transfer.

Councilwoman Schneider – I understand the transfer. It's just (inaudible).

Councilwoman McCabe – I think we should vote on it. I think it's important enough that we need to move forward.

Councilwoman Schneider – Well, if you want to vote on it, that's fine. You can vote on it. I don't have enough information in front of me. I have this; I just got this at 7 o'clock.

Councilwoman McCabe – It is something that did just occur and again our job up here is to represent this Township in the best possible light, so, let's move forward and let's take a vote.

Mayor McKay – Before you do that, I'd like to add that if we do vote in favor of making this transfer that also we will require the CFO give us a little bit of a written report at our next meeting so we all know what happened.

Councilwoman McCabe – She said she was going to do that.

Mayor McKay – A written report right?

Councilwoman McCabe – Of course. She just said she's

Council talking over each other.

Mayor McKay – In that case, I will vote for it be, you know, I just don't like moving money around without knowing what it is.

CFO Saponaro – I will send out an email as soon as I am able to figure out what's exactly happening.

Councilwoman McCabe – I would like to make the motion for the transfer.

Councilman Pryor – I'll second that motion.

Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.

NAYS: None

R 16-35

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING TRANSFER IN SEWER OPERATING OTHER
EXPENSES TO SEWER OPERATING SALARIES & WAGES FOR PAYMENT OF
OBLIGATIONS OF VARIOUS BILLS IN 2015

WHEREAS, various 2015 bills have been presented for payment this year, which bills represent obligations of the prior fiscal year and were not covered by order number and/or recorded at the time of transfers between the 2015 Budget in the last two months of 2015; and

WHEREAS, N.J.S.A. 40A:4-59 provides that all unexpended balances carried forward after the close of the fiscal year are available until lapsed at the close of the succeeding year to meet specific claims, commitments and contracts incurred during the preceding fiscal year and allow transfers to be made from the unexpended balances to those which are expected to be insufficient during the first three months of the succeeding year.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and State of New Jersey (2/3 of the majority of the full membership concurring herein) that the transfers in the amount of \$130,000.00 be made between the 2015 Budget Appropriation Reserves as follows:

	TO:	FROM:
Sewer Operating Salaries & Wages	\$130,000.00	
Sewer Operating Other Expenditures		\$130,000.00

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Thursday, February 18, 2016.

Margaret B. Dilts, CMC

Motion by Councilwoman McCabe, seconded by Council President Pryor. Roll call vote:
AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.
NAYS: None

Resolution No. 16-36 – Authorizing the transfer between the 2015 Budget Appropriation Reserves in the amount of \$4,700.00 per N.J.S.A. 40A:4-59 from unexpended balances to those with insufficient funds.

R 16-36

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING TRANSFER BETWEEN 2015 BUDGET APPROPRIATION RESERVES TO MEET 2015 EXPENSES

WHEREAS, various 2015 bills have been presented for payment this year, which bills represent obligations of the prior fiscal year and were not covered by order number and/or recorded at the time of transfers between the 2015 Budget in the last two months of 2015; and

WHEREAS, N.J.S.A. 40A:4-59 provides that all unexpended balances carried forward after the close of the fiscal year are available until lapsed at the close of the succeeding year to meet specific claims, commitments or contracts incurred during the preceding fiscal year and allow transfers to be made from the unexpended balances to those which are expected to be insufficient during the first three months of the succeeding year.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and State of New Jersey (2/3 of the majority of the full membership

concurring herein) that the transfers in the amount of \$4,700.00 be made between the 2015 Budget Appropriation Reserves as follows:

	TO:	FROM:
Road Maintenance		\$4,700.00
Legal Services OE	\$1,500.00	
Audit Services OE	200.00	
Financial Admin OE	1,000.00	
Code Book Updates	2,000.00	

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, February 18, 2016.

Margaret B. Dilts, CMC

Motion by Councilwoman McCabe, seconded by Council President Pryor. Roll call vote:
AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.
NAYS: None

Belvidere Road and Roseberry Street Reconstruction Project – Discussion regarding temporary funding by bond ordinance.

Mayor McKay – I have a lot of problems with this one because at no time was I ever told or anyone on the Council, to my knowledge, told that we were going to be borrowing money to do this. When I first got involved with it, I was told that we had \$650,000.00 in the can, in the jar, ready to go and I was given a budget to do the project of \$750,000.00.

CFO Saponaro – Excuse me Mayor. I had to fiscally make that decision and we had that discussion at length when you came in and asked me about it; we had a very long discussion.

Mayor McKay – After you did it.

CFO Saponaro – No, Mayor we had discussions before that.

Mayor McKay – We didn't have discussions about borrowing money. Not until after that (inaudible) and, um, so it appeared that all we had to do is scratch up another \$100,000.00 and we could do this thing for cash and the \$100,000.00 was the people in Phillipsburg and the Counsel for the Phillipsburg High School and some others that were at these meetings that were held periodically. I seem to believe that we would be able to get that money. At least that was my impression. We talked about it here at the Council. I marked at least seven times that we brought this up at the Council and we still hadn't gotten a final, a budget but eventually another estimate came through for the same work and this estimate was for \$925,000.00 and at the same time, Phillipsburg told us they're not going to give us the \$100,000.00 that they originally said that they would give us. So, now we had \$550,000.00 in the can and we had to come up and we had to build this thing for \$925,000.00 and subsequent to that, is when this thing about borrowing the money came up. I don't feel that we should be borrowing money and putting that on the back of the Lopatcong Township people when it is not our high school and it's a county road. We did initially say that we would put in a \$100,000.00 Council agreed to that and we signed an Interlocal Agreement that said we'd give \$100,000.00. The Interlocal Agreement further stated

that if the project went over the \$650, we would share in a pari-passu fashion any overage three ways with the Township, with Phillipsburg Town and with Phillipsburg School District. At this time, none of that money has been advanced to the Township and I'm very, very, very reluctant to enter into debt based upon well maybe someday down the road we'll pay this overage amount or maybe we'll pay the \$100,000.00 we said we would pay you. What I want to see if we are right to go forward with this, I want to see that money deposited in Lopatcong. I've spoken to bond counsel about this and bond counsel agrees entirely. So, what we need to do is tell Phillipsburg you got to pony it up and we will use the \$925,000.00 number, I'll confer with Paul as to what the anticipated overage will be that has to be divided three ways. We'll ask Phillipsburg and the Phillipsburg School District to bring that money here, put on deposit, so that if we take down this debt now so that we can build this project, we will have money to repay it and not leave it on the backs of Lopatcong taxpayers. So, that's how I see the issue.

Attorney Campbell – It is my understanding that Phillipsburg ponied up their \$150 quite a while ago.

Mayor McKay – School district did.

Attorney Campbell – and Lopatcong has been holding that money.

Mayor McKay – We have the \$150 from the school district?

Attorney Campbell – You just made a comment that no one has given any money. The school district gave its money.

Mayor McKay – If I gave that comment, then that was not what I intended. Yes, they did give \$150,000.00 and we did not put ours in yet. I don't know why that is, but it's not in the account yet. However, that can be accomplished. To go into a large debt over this thing, I think is foolish and I would much prefer that we get them to put this money up front and put it in an account here before we go out and borrow this money and that's how I feel about it.

Council President Pryor – Mr. Mayor may I make a few comments?

Mayor McKay – Of course.

Council President Pryor – Okay. The bond resolution doesn't actually borrow the money it is just an authorization to borrow the money correct?

CFO Saponaro – Correct.

Council President Pryor – It starts the process, that's correct and also, it must be done by ordinance and it takes two readings and there's a 20-day Estoppel period. So, if you don't start it now, that's a problem in getting the money. I only came on two months ago. I believe from the beginning the temporary financing was going to be necessary. We have a \$300,000.00 grant from DOT. You don't get that up front. You have to lay out the money, you submit outlays, you get reimbursed. So, in my view, temporary financing was inevitable. To not do that would probably jeopardize the project and jeopardize, you'd have chaos on the day the school opens. If you're looking for protection about getting the \$100,000.00 and the percent of the overage and I'm not sure if \$900 is correct Paul? The bids; we have better numbers.

Engineer Sterbenz – I'm going to give the Council a report on it.

Council President Pryor – And, he will. It's not \$900, it's a lower number. Perhaps we can work out something with P'burg where we don't award or whatever until we get the money in

hand but I think you're going to need temporary financing regardless and it would be better to start the process now then later.

Councilwoman McCabe – I agree. I think we should start at least with the first reading of the bond ordinance tonight. It

Mayor McKay – We didn't have that on our, we didn't put that out there.

Councilwoman McCabe – It's on here, on Item No. 9.

Councilwoman Schneider – Discussion.

Councilwoman McCabe – You just read.

Mayor McKay – It wasn't what we advertised to the public.

Councilwoman Schneider – Discussion is not voting.

Councilwoman McCabe – And emergent matters. It is an emergent matter because this can take two months, two readings, plus 20 days for implementation. The contract has to be awarded. Paul's going to give us a summary here. Contract has to be awarded soon. This light is supposed to be in. The school's supposed to be open in the fall. We are the project leaders. It is our responsibility to get this project going. Not to hold it up and not to play games. I agree with you that we should not be left holding the bag, waiting for money so we should get the money from the other parties, whatever is remaining to be provided, given to us first, but in the meantime, we can get the ball rolling and start with the ordinance readings

Mayor McKay – I don't think we can do an ordinance reading. We only said here we're going to discuss it and we did not advertise it that we were going to be borrowing money tonight.

Councilwoman McCabe – We advertised that we would be discussing emergent matters; this is an emergent matter.

Mayor McKay – If this was an emergent matter, you should put it out there.

Councilwoman McCabe – It is out here, Item No. 9.

Mayor McKay – And, it should have been out to the advertising to the public.

Councilwoman McCabe – You know, this isn't new news and this would be the first reading so the public comment is in the second reading.

Councilwoman Schneider – It was not advertised. You cannot start an ordinance tonight, a vote on an ordinance without it being advertised.

Councilwoman McCabe – Emergent matters is what was advertised.

Councilwoman Schneider – This is not an emergent matter. Paying bills when the Mayor asked for an emergency meeting last week, you guys said it wasn't an emergency to pay the bills of the Township.

Councilwoman McCabe – Which is not related to this.

Councilwoman Schneider – Now, you're saying that this is.

Councilwoman McCabe – That’s unrelated.

Councilwoman Schneider – Yeah, it’s not unrelated.

Council President Pryor – Excuse me please. Katrina could we hear an opinion please?

Attorney Campbell – Well, do you want to hear Paul’s report? That might clear things up a little.

Mayor McKay – Well, if there’s new news, I’d love to hear it.

Engineer Sterbenz – Good evening Council members and Mayor. I just want to give you some of the goings on in this project over the last three months. Give you a sense of where we’re at with this project so you can make a decision as to whether or not you want to introduce this ordinance either tonight or March 2nd. We’ve been working, for really the last year on this particular project. I say we, the Township of Lopatcong on coming up with a set of design plans to address the required roadway improvements that are needed to service the high school and as part of this Interlocal Agreement that was just mentioned a few moments ago, we’ve been able to do that. Lopatcong Township, in that Interlocal Agreement, was designated as the project leader as Maureen just mentioned and in that role we had a variety of different responsibilities but namely, to put together the plans and bid documents, procure the permits, get everybody, all the parties together to coordinate on a regular basis so we got things done and had decisions made. I’m happy to report that really the entire process is done at this point. The plans and bid documents were completed and in fact advertised for public bid. All the permits have been obtained. All the submissions to the DOT Municipal Aid Office have been made. So, all that’s done at this point. We did accept bids last week on the 11th and we received four bids for the project. They were all very, very competitive and in fact amazingly, the spread between the four bids was only about \$27,000.00. The lowest bid came in a \$734,000.00. The engineering estimate was \$801,000.00. So that was received, was \$67,000.00 less than the engineer’s estimate so that’s a very positive development at this point. The big issue that we need to deal with moving forward first is there’s some utilities that have to be relocated as part of the project and one of our duties during the design project was to get together with the utility companies, identify the conflicts and determine how they are going to be addressed. So, at a meeting last week, finally out in the field with Verizon and JCP&L and cable company and we have a course of action the only issue with that is that the utility companies feel they should be compensated for the pole relocations and the utility relocations on this particular project. I was surprised to hear their position on it. I considered this to be a municipal and county road project. Typically, on those projects, they do not charge the municipality for such relocations. So, it’s going to be necessary and Katrina and I’ve talked about this and will do a little bit of research to see where we stand legally to see, if in fact we do have to compensate the utilities for this work. So, that’s one open issue that has to get resolved. The second is the county wants both the Town of Phillipsburg and the Township of Lopatcong to approve sidewalk agreements and this is a very standard thing where a sidewalk construction is taking place on a county road doesn’t mean that Lopatcong Township and the Town of Phillipsburg actually have to go out and maintain the sidewalks that are being built as part of the project, and in fact, if we have ordinances that designate who maintains sidewalks that responsibility will filter down to those particular entities. It is typically the property owners that have the sidewalk along the frontage of the properties. So, in this case, the school is going to be responsible and some of the other residential property owners but we are going to have to approve that particular agreement.

Council President Pryor – Before you leave that agreement Paul, who’s going to pay for the sidewalks.

Engineer Sterbenz – It is going to be paid for under the construction. It is a cost that is, it’s within the bid documents and it’s going to be shared by various entities.

Council President Pryor – Yeah, I just go back to the original 2000 Agreement. They were, that was not to be our cost – sidewalks.

Engineer Sterbenz – The sidewalks that are in the 2000 Agreement go well beyond the limits of this particular project.

Council President Pryor – Well, they're getting a break then.

Engineer Sterbenz – A decision was made last year when we put the grant application in with the DOT, we had put those sidewalks beyond where we are showing them on the current set of plans and felt

Council President Pryor – I guess my point is, it is a reduced scope but we were going to pay zero of a larger scope; we shouldn't have to pay something of a smaller scope.

Engineer Sterbenz - The thought is is that we are going to have to go out and seek some additional grant monies to be able to do those sidewalks in the future. When I say we, I'm talking about Lopatcong Township and the Town of Phillipsburg. In the agreement, it talked about on the Phillipsburg side down to Fairbanks on the Phillipsburg side building sidewalk and on the Lopatcong side going from the Jiorle office building all the way up to Wildew Avenue which is the entrance to the pool.

Council President Pryor – I guess my point is we still have an agreement enforced that addresses that and maybe these discussions going forward we have to talk about that.

Councilman Belcaro – Is there an itemized line for the cost of the sidewalks only?

Engineer Sterbenz – There is an itemized cost for the sidewalks within this project not the portions that are outside the project that still have to be built per the 2000 Agreement. So, that would have to be designed and we'd have to come up with a cost for that. Going back to the third issues is the purchase of the right-of-way; both Phillipsburg and Lopatcong have to purchase the right-of-way. We hope to have that discussion and give Katrina some direction at the March 2nd meeting on that particular issue. That would be taken out of the \$150,000.00 that Phillipsburg was already, the school district has already provided to us at this point and the last issue is, obviously, is coming up with the funding to award a contract in this particular matter. That is really the issue at hand tonight. That's what's listed on the agenda. I do share Mayor McKay's concern; obviously, Lopatcong Township has done a great job and has really stepped forward to try to put the necessary improvements in place to support the high school and I don't think this is something that the Township actually had to do. I think you stepped up as well as the Town of Phillipsburg and other entities to try and get this work done but, obviously, you don't want to do more than what's in the agreement between three parties and I think it is a definitive concern. With that being said, we are the project leader and I think not introducing the ordinance at this point I think would be a problem, could be seen as a violation of the agreement and I think we should introduce the ordinance and I don't know if it can be done tonight, but if it can't be done tonight, certainly on March 2nd. Again, it is not, it would not be the approval of the ordinance, it would just be introducing it at this point and we had some discussions with the bond counsel yesterday and my thought is, is that we would look at the agreement and determine how the costs over and above the monies that we currently have and know we have in place at this point and go out to the other entities and seek that particular money and ask for the money to be given to us within a certain period of time and if that does not come in, we don't adopt the ordinance at this point and put ourselves in that position. So, and that was my thought and I didn't get to speak about it at the last meeting but we had the discussion yesterday with bond counsel and I, I believe it is safe to say and I think Janice was involved in that discussion yesterday as well, I think that we're both pretty much in agreement that that would be the

approach is to introduce the ordinance, go out and get the money that we should be getting from the other parties, get their fair share under the agreement and ask them to provide the money within a certain period of time and if it doesn't come, we don't adopt the ordinance but at least you wouldn't be not following through on your role as the project leader as defined in the agreement which is in Part 6 of the agreement so that is what I think you should do and that is where we are really at, in total, on this project.

Councilwoman Schneider – So, if we waited the two weeks till the next meeting so we can properly advertise it, is that putting us, it's two weeks, you know, is that putting us in any kind of sticky situation.

Engineer Sterbenz – This is a legal matter so, obviously, you'll have to deal with it from a legal perspective, if you can do it tonight. If we could do it tonight legally, would be a good thing because it would allow the process to move forward. We were really hoping to get the project into construction by April 1st. There's a 135 day calendar period in the bid documents to allow for the construction of this project so, if we start April 1st, that's going to take us to August 15th. It doesn't give us a lot of time before the start of school, so everyday really counts at this point, so, if the construction doesn't come off let's say until April 20th right now 135 days are going to take us out to roughly Labor Day at that point so it would be the contractor who would have to pick up the pace and try to push this thing and you know, it's going to be difficult. We have the utility poles that have to be relocated plus all the aerial hardware and we do have a traffic signal testing period so this is a comprehensive project and it's not like the whole project can be worked on at one time. It has to be done in a phased manner to the need to maintain traffic and keep a safe roadway there, so it is going to be done in bits and pieces and also once we get to the end, what's good right now, is if we get this job going and school is going to be out in June and some of the end work can be done while people are on vacation. We start pushing this until the end of August and September when school is starting it's going to be more difficult to now pave the roadway.

Councilwoman Schneider – So, if we go this far and Phillipsburg decides they're not giving us the money, you know, then we are out the money.

Mayor McKay – They already pulled back on the \$100,000.00 they were supposed to give us.

Councilwoman McCabe – We don't have to approve it.

CFO Saponaro – We, Paul Sterbenz, we were on a conversation the other day where we laid out what we would do for the financing of this project and we were all in accordance that we would try and get the funding up front, first via Katrina, so that we would not be on the hook for all this money.

Attorney Campbell – And just to be clear, when we say Phillipsburg isn't giving you the money, it is my understanding in addition to the Township of Lopatcong needing to buy property to extend, the Town of Phillipsburg needs to buy and their appraisals are, the pieces they are buying are much bigger, so it is approximately \$40 to \$50,000.00 of the project is coming from them purchasing property so it's my understanding, Paul correct me if I'm wrong, you've talked to some people in Phillipsburg, is that they're saying well, we are not going to give you \$100,000.00 and then say give us back the \$50, so we can give it to these people, they're going to spend the \$40 to \$50,000.00 to buy the land they are going to buy and whatever's left will go into the pot with everyone else, and I think that's the discussion we need to have instead of sending an invoice to Phillipsburg for \$100,000.00 when they need to do things as part of the project too, although the project manager, has kind of their own responsibilities as part of this project so if instead you ask them for the balance, you know, and it is my understanding. I spoke to Rich Wenner today and he believes based on the appraisals they received \$40 to \$50 is what they need

to purchase the land and, obviously, if they don't need that much then whatever is left they have to give into the pot as well. I think that might be a more realistic request and them having to document everything that they spend.

Mayor McKay – The agreement called for them to put in the \$100,000.00.

Attorney Campbell – If you read the agreement, it says their \$100,000.00 is to be used for the cost of acquiring land for this project just as Lopatcong has to use its \$100,000.00 towards that as well.

Mayor McKay – It doesn't say you do it independent of each other.

Attorney Campbell – The agreement also doesn't say Phillipsburg gives you a check for \$100,000.00 and you put it in your account.

Councilwoman McCabe – And, if there is money above and beyond what everybody puts in, we have to split that equally and get the money from the crew.

Mayor McKay – That's the big piece.

Engineer Sterbenz – Mayor, just one thing, Mayor Ellis was here last week at the conclusion of the bid opening and he indicated he would provide a check. He'll give us the \$100,000.00 if we go out and pay the Phillipsburg property owners. I really don't want you doing that because the Phillipsburg property owners may ask for more money over and above the appraisal and then you are going to be in negotiation session with Phillipsburg property owners. I don't think you want to be involved in that so, I think you should take the net quite honestly. That gives us the money toward awarding a construction contract and let Phillipsburg deal with compensating the property owners under the appraisal at this point but he did say, Mayor Ellis last week, that he would provide us a check we just need to clarify the appraisal amount that's in Mr. Heffernan's report and then I think we can move back to him and ask for those funds so we have those funds accounted for.

Attorney Campbell – It is my understanding that it is \$40 to \$50 so, we would be getting, the net would be about \$50 to \$60 that would be coming into the account.

Mayor McKay – So that would give us \$450,000.00?

Engineer Sterbenz - \$450 to \$455 and John Draikiwicz needs to know that too because we need to address that.

Mayor McKay - \$450 and how much of this \$450 are we going to use, all of that towards the \$734 right?

Engineer Sterbenz – Yes.

Mayor McKay – That's your new cost? All in cost; there's nothing else?

Engineer Sterbenz – The thing is the utilities.

Mayor McKay – Moving the utilities and the condemnation money. That's not much for us.

Engineer Sterbenz - \$150,000.00 the school district gave us we've been using to design the project and we also paid the appraisal cost and we're going to pay for the right-of-way

acquisition and we're also going to use that for inspections. So, that's all being used for soft costs on this project.

Mayor McKay – All we have to come up with is moving the utilities and the \$734 on the contract.

Engineer Sterbenz – The utilities, we need to verify. Looking at Verizon's position whether or not that is a satisfactory legal position. I have not seen that on a municipal road job so we need to find out and confirm their position.

Mayor McKay – Do we have any idea how much they would charge us for this?

Engineer Sterbenz – Their agreement is for \$38,000.00. That's only theirs; JCP&L only has one of the six poles, you know, I don't want to speculate what their cost would be, but I'm sure it would be a percentage of

Mayor McKay – Would \$50,000.00 all-in be

Engineer Sterbenz – I think \$50 to \$60,000.00 is probably a good ball park estimate if they are legally correct on this. You also have the cable company as well.

Mayor McKay – So were getting up to close to \$800,000.00 with all these add-ons right?

Councilwoman McCabe – And that's split

Mayor McKay – And, we have \$450 to meet the \$800. Now, if we don't get something out of the other two parties here, we could stand to lose that difference.

Attorney Campbell – They have a contractual obligation to give it to you.

Mayor McKay – But they'll fight it of course that's time and money. Maybe they won't. I'm much more happy if the money is sitting in our account.

Council President Pryor – If I could Mayor, I may have a proposal. I share, I understand your concerns, I share. If you did a timeline, obviously, the financing which we are going to need regardless, that does run out there's a first reading, a second reading, 20-day Estoppel period then you actually borrow the money; so that's on the critical path. I would like to see that get started as soon as possible and you don't have to borrow the money. It is the authorization to borrow the money. First reading is a simple majority and it is by title. That's done very quickly. The second reading and final adoption is a 2/3rds majority. If you are uncomfortable with that at that time, it is a month away, you could stop it. So, I'd like to see that get started and in the meantime, I'd like to see all these little costs that are floating around there get worked out with P'burg and we give them a drop dead date for putting the money in the kitty. I don't want to see Lopat be the one that holds up this project or kills it. I want to get this back in P'burg's court.

Mayor McKay – I agree. That's what I said from the very beginning. I don't want to (inaudible).

Council President Pryor – So we agree?

Mayor McKay – Right.

Council President Pryor – Can we do that? Now, how quickly could we do the first reading tonight or you don't feel comfortable with that.

Councilwoman McCabe – I think we should do the first reading tonight.

Attorney Campbell – If you wanted to do the first reading tonight, you could do the first reading tonight. It's a first reading.

Council President Pryor – Would I be correct in saying that the Mayor should not fear; he can stop this on second reading.

Attorney Campbell – Absolutely. As he said last meeting, the second reading is a 2/3rd's majority

Council President Pryor – And, we are not borrowing anything at this point?

Attorney Campbell – No.

Councilman Belcaro – Right. Just authorization.

Attorney Campbell – Just authorization.

Councilwoman McCabe – We're just starting the process.

Council President Pryor – Okay, with all of that, how do you feel about a first reading tonight? Let's start with Katrina and then we'll talk.

Attorney Campbell – It is completely up to Council what they wish to do, but if that's what Council wants to do, legally, you can do that tonight.

Councilwoman McCabe – I think that it's beneficial that we start the process rolling because there are time constraints. I mean this is February. The school is opening in September. The project, you've got bids coming in. It's a 135 days, there's lots of things that come up, that have to be done. As project leaders, it is our responsibility to keep the process rolling and I understand we all agree Lopatcong does not want to be left, you know, short on money. So, we get the process rolling. We get a legal letter out to the other parties stating we need the money and the funds by such and such a date. We don't have that money in the funds, then we would not be obligated to proceed because then we are putting the risk on us but then if they don't give us those monies, then it's going to be their fault if this project isn't rolling forward. I do not want it to be our fault if this project isn't rolling forward so, I think we need to do a first reading tonight, we do our second reading in March. There is 20 days after that and they'll be time for public comment.

Councilwoman Schneider – But, I think that's even a little you know, why would we want to go through all this with a first reading and then get to second reading and if we don't get the money then we have to stop the project and now we're so late in the process. Why wouldn't we just

Council President Pryor – You're still not, I mean all you have is an authorization which can be cancelled at any time right.

CFO Saponaro – Yes, absolutely.

Council President Pryor – You're not borrowing the money.

Councilwoman Schneider – Right, I know we're not physically borrowing the money, like as, so as we say this tonight, I just wish that for the two weeks we iron out this, all the little inconsistencies and

Council President Pryor – I know, all I'm trying to do here is Paul's talking April 1

Councilwoman Schneider – I understand

Council President Pryor – and I think that is already a pipe dream. You throw in another two weeks; its two weeks further even after the second reading there's a 20-day Estoppel period. It's just, it's moving out there and I'm just trying to shorten the time line.

Councilman Belcaro – We're cutting it too close especially with the spring season coming up. You know, we have days, sometimes it can rain for a week straight and then now we are losing more time. So, I think this is just authorization; that's all it is.

Council President Pryor – It's a first reading. We're not even asking for a (inaudible).

Councilman Belcaro – And to kick the can down the road another two weeks on top of everything else, it doesn't make sense to me.

Mayor McKay – Can we include in the first reading that it is contingent upon our getting our funding's.

Attorney Campbell – No.

Councilwoman McCabe – No

Council President Pryor – No.

Attorney Campbell – No, it is a bond ordinance.

Council President Pryor – No, it doesn't work that way.

Attorney Campbell – It can't be contingent.

Councilwoman McCabe – If we don't get our funding, we don't have to vote on it. We vote on it after we get our funding.

Councilman Belcaro – So, that puts pressure on P'burg to have to act quickly.

Councilwoman McCabe – That's right, then the balls in their court.

Councilman Belcaro – It's in their court.

Councilwoman McCabe – I know it's in ours, we are the project leader. We need to keep it moving forward.

Councilman Belcaro – So, what they do, will dictate what we do next.

Councilwoman McCabe – Right.

Councilwoman Schneider – Are the plans and the quotes and all of that available for Council? Cause we've not seen any of this of the project. It's kind of hard to vote on projects too when you haven't really seen any information.

Engineer Sterbenz - The bids are on file here in the Township and I have a bid summary sheet that I can email to everyone so that you can see all four bids on one spreadsheet and you can look

at all the unit prices and the prices in their totality. So, I can send that to you either late tonight or tomorrow morning.

Councilwoman Schneider – Okay, thanks Paul.

Council President Pryor – Just to get this rolling based on Katrina’s opinion, I’m going to make the recommendation that we have the first reading by title of the bond ordinance tonight and all we need is the number.

CFO Saponaro – To play it safe, I think we should use the number sent to us from last meeting.

Council President Pryor – What was that number?

Councilwoman Schneider – Can we have a copy of the ordinance so we can see it?

Engineer Sterbenz – It was \$850,000.00.

Council President Pryor – How much?

CFO Saponaro – Didn’t you get it last meeting?

Councilwoman Schneider – Yeah we did but this wasn’t on the agenda to have to vote on tonight so I don’t have a copy of it tonight.

Councilwoman McCabe – It was in last month’s agenda. We had a copy in last month’s agenda.

Councilwoman Schneider – Yes we did.

Mayor McKay – And we were not supposed to look at it tonight so why would she (inaudible).

Councilwoman McCabe – Didn’t you look at it last month. The last meeting

Councilwoman Schneider – My goodness, you know, can we just stop this. I’m asking for a copy. It’s not rocket science. I just want a copy of the ordinance before we, before we put it through. It’s not rocket science.

CFO Saponaro – It says \$850,000.00.

Engineer Sterbenz – I think actually what could serve as a guide, if you look a Resolution 16-32, and you had the three capital projects, the middle project is the project we are talking about right now and that gives you, it doesn’t give you all the language in the ordinance, but it gives you the numbers that were in the ordinance that were part of your agenda package for February 3rd.

CFO Saponaro – Excuse me Paul, I have the number here. It is \$728,500.00.

Councilwoman Schneider – Can I have your copy.

CFO Saponaro – This is my copy if you would like to look at it.

Mayor McKay – Why are we putting in such a large number? I mean we still. It is only \$734,000.00 and we still have to put a \$100,000.00.

Council President Pryor – No but you have some other costs yet; you have your of possibly utility costs. I don’t know if all the land acquisition is in there.

Mayor McKay –That’s dominium’s.

Engineer Sterbenz – The land acquisition is going to be taking care of as part of the \$150 that we already have in our coffers at this point.

Council President Pryor – So what’s a good number; a smaller number.

Engineer Sterbenz – Well my thought was until I saw Verizon’s proposal late yesterday was actually to reduce it down to \$800,000.00. That was the discussion that we had yesterday which we had with John Draikiwicz so we talked about reducing it.

CFO Saponaro – Excuse me Paul. I’m more comfortable reducing this one in a timely manner and we, you know, soft costs have to be included, unforeseen things and I think that my professional opinion is that we just leave it as it is. John Draikiwicz did not revise it, if he would have felt that we needed it revised, we would have had discussion and I think that we should just okay because when you go off of bonding anyway, you usually, you know, get an estimate according to what the professionals thought and that is what you go out for, you just don’t continue to change things.

Council President Pryor – The amount borrowed is almost always less than the ordinance and you cancel these amounts down the road.

CFO Saponaro – Right, right absolutely. There’s cancelled previous capital ordinances encompassing to the tune of \$91,000.00.

Council President Pryor – All right just to restate my motion; authorize, I make a motion we authorize a resolution for temporary financing for the Belvidere Road and Roseberry Street Improvements in the amount of \$850,000.00.

Attorney Campbell- Just to clarify it’s an ordinance, not resolution.

Council President Pryor – Ordinance, re-correct.

Attorney Campbell – First reading.

Council President Pryor – By title right?

Councilwoman McCabe – I second that.

Councilwoman Schneider – Mayor, do you feel comfortable with all of this that we’ve just discussed?

Councilwoman McCabe – Isn’t there a vote now?

Councilwoman Schneider – Yes there is.

Mayor McKay – She asked a question. Not really, you know I have a feeling it is not going to end well but you are all telling me that you think it will end well and based upon that, you continue with your vote.

Council President Pryor – By Robert’s Rules we shouldn’t, there’s a motion, we’re on the vote.

Councilwoman Schneider – Right it’s discussion; motion, second, discussion.

Council President Pryor – What we’re saying is there’s many ways to stop this. I can never guarantee something ends well but if you are uncomfortable, you don’t, you vote against the second reading even after it is passed, you don’t have to borrow the money and I, I can’t say it any simpler than that.

Councilwoman McCabe – Right and again, we are the project leader so it’s our responsibility to move forward. It’s the first reading.

Councilwoman Schneider – Okay.

Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor, Mayor McKay.

NAYS: None

ORDINANCE NO. 16-02

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$850,000 FOR INTERSECTION IMPROVEMENTS AT BELVIDERE ROAD AND ROSEBERRY STREET IN AND BY THE TOWNSHIP OF LOPATCONG, IN THE COUNTY OF WARREN, STATE OF JERSEY AND AUTHORIZING THE ISSUANCE OF \$728,500 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION.

BE IT ORDAINED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF LOPATCONG, IN THE COUNTY OF WARREN, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

The improvement described in Section 3 of this Bond Ordinance (the “Improvement”) is hereby authorized to be undertaken by the Township of Lopatcong, in the County of Warren, New Jersey (the “Township”) as a general improvement. For the said Improvement there is hereby appropriated the amount of \$850,000, consisting of a grant from the New Jersey Department of Transportation in the amount of 300,000, such sum being in addition to the sum of (a) \$100,000 received from the Town of Phillipsburg and (b) \$21,500 as the down payment (the “Down Payment”) required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the “Local Bond Law”). The Down Payment is now available by virtue of provision in one or more previously adopted budgets for down payments or capital improvement purposes. No down payment is required by the Local Bond Law in connection with the portion of the Improvement described in Section 3(a) in the amount of \$300,000 as the purpose authorized herein involves a portion of the Improvement funded by a State grant in the amount of \$300,000 from the Department of Transportation as permitted under N.J.S.A. 40A:2-11c.

SECTION 2:

In order to finance the additional cost of the Improvement not covered by application of the Down Payment, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$728,500 pursuant to the provisions of the Local Bond Law (the “Bonds”). In anticipation of the issuance of the Bonds and to temporarily finance said Improvement or purposes, negotiable bond anticipation notes of the Township are hereby authorized to be issued in the principal amount not exceeding \$728,500 pursuant to the provisions of the Local Bond Law (the “Bond Anticipation Notes” or “Notes”).

SECTION 3:

(a) The Improvements hereby authorized and the purposes for the financing of which said obligations are to be issued is for intersection improvements at Belvidere Road and

Roseberry Street, including installation of a traffic signal, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvement is \$728,500.

(c) The estimated cost of the Improvement is \$850,000 which amount represents the initial appropriation made by the Township.

SECTION 4:

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the municipal finance officer of the Township (the "Chief Financial Officer"); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Township Council of the Township at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

The capital budget of the Township is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Township Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvement described in Section 3 of this Bond Ordinance is not a current expense, and is a capital improvement or property that the Township may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the Improvement, within the limitations of the Local Bond Law, taking into consideration the respective amounts of all obligations authorized for such purpose, according to the reasonable life thereof computed from the date of the Bonds authorized by this Bond Ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Township, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this Bond Ordinance by \$728,500 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$100,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

Any funds or grant monies received for the purpose described in Section 3 of this Ordinance shall be used for financing said Improvement by application thereof either to direct payment of the cost of said Improvement or to the payment or reduction of the authorization of the obligations of the Township authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvement shall, be held and applied by the Township as funds applicable only to the payment of obligations of the Township authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this Bond Ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Township reasonably expects to pay expenditures with respect to the Improvement prior to the date that Township incurs debt obligations under this Bond Ordinance. The Township reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Township under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the cost of the Improvement is \$728,500.

SECTION 10:

This Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

TOWNSHIP OF LOPATCONG
WARREN COUNTY, NEW JERSEY

PUBLIC NOTICE

NOTICE OF PENDING BOND ORDINANCE

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Lopatcong, in the County of Warren, State of New Jersey, on February 18, 2016. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Municipal Building, 232 South 3rd Street, in the Township of Lopatcong, on March 21, 2016 at 7 o'clock PM. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: Bond Ordinance Providing An Appropriation Of \$850,000 For Intersection Improvements At Belvidere Road And Roseberry Street In And By The Township Of Lopatcong, In The County Of Warren, New Jersey And Authorizing The Issuance Of \$728,500 Bonds Or Notes Of The Township For Financing Part Of The Appropriation.

Purpose(s): For intersection improvements at Belvidere Road and Roseberry Street, including installation of a traffic signal.

Appropriation: \$850,000

Bonds/Notes Authorized: \$728,500

Grants (if any) Appropriated: \$300,000 grant from the New Jersey Department of Transportation.

Section 20 Costs: \$100,000

Useful Life: 20 Years

M. Beth Dilts, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

Video Position: 59:03

Payment of Bills:

Mayor McKay – Are you prepared to offer this according to Chapter 7 of our ordinances?

Councilwoman McCabe – Who are you speaking to?

Mayor McKay – Anyone who wants to answer it. According to our ordinances, all vouchers recommended for payment shall be presented to the Council by the Township Clerk at a regularly or an adjourned regular meeting. The Township Clerk shall read the total amount of

the individual vouchers approved by the Chief Financial Officer according to budgetary appropriation stating the apportionment between salary and wages and other expenses. Authorization to draw the checks and pay the amounts of the approved vouchers shall be by motion of the Township Council. So, that is the way our ordinances say we should be doing this. It wasn't done that way but in recent review of this I think we should go with our ordinance and do it the way we are supposed to.

Councilwoman McCabe – Is this something that you filed in your lawsuit, Mr. Mayor?

Mayor McKay – My lawsuit. Well, this is one of my concerns, is that we don't follow our ordinances and I think we should. Now, the way that we were, bills has changed in the last few weeks and I don't know I can't vote on it.

Councilwoman Schneider – I can't hear.

Mayor McKay – Pardon me.

Councilwoman Schneider – I can't hear.

Mayor McKay – Are you speaking to me? What?

Councilwoman Schneider – Because there's side (inaudible) and I can't hear. I just, it is right in front of me and it's echoing and I can't hear. Sorry, I just can't hear anybody. It is right in front of me. Sorry.

Mayor McKay – Again, I'm someone who likes policies, procedures and things done in an orderly fashion and this is the way we are supposed to do it. Now, we used to do it when I first got here, I just followed the way I was told we did things and I got all the bills and I looked at them and I signed most of them and you know, that, that procedure has now changed and I don't know, I wasn't told why it's changed. It's just changed. So, I don't see the bills anymore. So, now I get the bills list when I sit down here that is huge and I'm a little, you know, I like time to look at this before I approve it.

Council President Pryor – You know what

Mayor McKay – Its millions of dollars.

Council President Pryor – If you could Mayor, you've been here 14 months, this is coming up tonight and we have a meeting to pay bills I'm going to make a motion we pay the bills. If there is a question about the procedure, I suggest we go back and we also look at the Charter and make sure the Charter conforms to the ordinance and that procedure conforms to all, both of them, but you've had 14 months here. We called the special meeting at your request to pay the bills. I move we pay the bills

Mayor McKay –I asked for an emergency meeting to pay the bills a couple of days after.

Councilwoman McCabe – There is a motion on the floor, I seconded it. That is one of the main reasons we are here.

Councilwoman Schneider – Can I ask, since I'm just looking at this now as well, there is two purchases of computers for \$2600.00 apiece. Anybody know when they were purchased and why they weren't approved by Council?

CFO Saponaro – I would have to review the purchase orders but I think that the Police Dept. has one and I don't know if the one in the Finance Office because the Finance Office one broke that one has one as well.

Councilwoman McCabe – I think last year the Mayor purchased from here as well without

Councilwoman Schneider – Right and you made a big stink about it Maureen, you're not saying anything about this.

Mayor McKay – It was purchased for me. I asked for a used computer. Okay, I guess I'll have to ask Katrina now. Katrina, we have an ordinance telling us how we should have been doing this and apparently the ordinance has never been followed at least in my time in coming to meeting, I never saw it followed. I went along with what was done when I came here cause I didn't know the ordinance existing subsequently, I found out it does and I think we should enforce it and use it properly. Another thing that it says is that only three parties may sign checks; the Mayor, the Chief Financial Officer and Township Clerk but here we allow a fourth person to sign checks.

Attorney Campbell – Mayor, I think what the Council President suggested is that he believes there may be some discrepancies between the Charter and the ordinance and he said they should be looked at but I believe his motion was not to look at that tonight, to pay the bills and then for next time take a look at this. So, there is a motion on the floor to pay bills. I don't know the right time to

Councilwoman Schneider – So, Katrina you don't know which way they're supposed to be paid?

Councilwoman McCabe – That's not what she is saying.

Attorney Campbell – That's not what I said.

Councilwoman Schneider - Okay.

Attorney Campbell – I have not been asked to look at the Charter versus the ordinance and look at any of this.

Councilwoman Schneider – Right. I'm not saying prior to this; I'm saying at the moment do you know the proper procedure?

Councilwoman McCabe – We need to research it.

Attorney Campbell – We need to look and see what the Charter says versus the ordinance and you need to make sure that they both correspond.

Councilwoman Schneider – Right, but my question was at the moment do you know and the answer is no cause you have to look at the Charter right?

Mayor McKay – Here is what the Charter says. No municipal funds shall be disbursed except pursuant to and within the limits of appropriations made in accordance with the law. All disbursements shall be by bank check or draft signed by the Mayor and countersigned by the Treasurer on the warrant of the chair of the Finance Committee of the Council approved by the Council.

Councilwoman McCabe – I'm sorry. Are you talking about signing checks Mr. Mayor, because I think we have a motion and a second on the floor and you are talking about something different.

Councilwoman Schneider – Right, it’s called comment and

Councilwoman McCabe – His comment should be related to what we are voting on not another topic (inaudible)

Councilwoman Schneider – It is, paying bills, it’s related.

Mayor McKay – The comments related to the payment of bills and doing it pursuant to our Charter and our ordinance.

Council President Pryor – And, after 14 months you’re raising this?

Mayor McKay - I went along with what’s been done.

Council President Pryor – I went along.

Mayor McKay – We have professionals I rely on and I think we got it right so, I go along with it until I find out it is wrong.

Council President Pryor – What is your suggestion that we not pay bills tonight?

Mayor McKay – My suggestion is that we do pay the bills tonight. I tried to get the bills (inaudible).

Council President Pryor – Okay, there’s a motion on the floor for that and I, I agree we will

Mayor McKay – but on the other hand.

Councilwoman Schneider – How does this work here?

Council President Pryor – One motion at a time, you can’t

Councilwoman Schneider – Do you run the meeting or what?

Council President Pryor – There is a motion on the floor.

Councilman Belcaro – There’s a second.

Councilwoman McCabe – Let’s take a vote.

Council President Pryor – I’d like to take a roll call please.

Councilwoman Schneider – Mayor, can you finish your statement please before we do that.

Mayor McKay – Yeah, my statement was; no I don’t want to finish it. I put forth my points and I brought forth the points that we were not doing this right. I found out about it when I started to research it. I relied on our professionals and our people here that we were doing this thing right all along. Apparently not. Now we want to, again, do it wrong for expediency sake, you know, the bills have to get paid.

Councilwoman McCabe – I disagree with your statement Mr. Mayor and you filed a lawsuit and that’s one of the counts in your lawsuit so I don’t think we should even be discussing it at this time and were not, you’re not (inaudible).

Councilwoman Schneider – Well, it's not the Mayor has been here for 14 months and he's questioning it, this has been done for how many years and it

Mayor McKay – It was never questioned apparently.

Councilwoman McCabe – I'm sorry, this is the count that you filed against your Council so, I don't think this is the appropriate time.

Mayor McKay – I'm not stating it (inaudible).

Councilwoman McCabe – I'd really like to take a vote on this matter to move forward, please.

Mayor McKay – All right call your roll.

Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Pryor.

NAYS: None

ABSTAIN: Mayor McKay.

Councilwoman McCabe – Why are you

Mayor McKay – You told me it is in my lawsuit, I can't vote on it. I have to get legal advice to find out if I can so.

Council President Pryor – Can I make one last suggestion, who should we have, Katrina could you look at the Charter and the ordinance and see if we are within our legal boundaries and report, you know, by email as soon as practical?

Mayor McKay – Also, in your review, I would like you to determine in the situations where people sign the checks that are not allowed to sign them pursuant to Charter, and pursuant to ordinance, what becomes of those checks? Are they legitimate? Because I've been in situations here where certain things have never passed my way and they were signed by three parties but not me and then I find out about them much later.

Councilwoman's McCabe – That's not true. That's an untrue statement Mr. Mayor.

Mayor McKay – I'll stand by it.

CFO Saponaro – Excuse me, I have a question for Katrina. Katrina now that we laid the groundwork in case we go for the debt they cancelled out, the debt authorized section of the capital budget, legally what do you want to do about that; I'd have to reintroduce this again and I'd have to do it again.

Councilwoman Schneider – That's a resolution right? So, you can reintroduce that at the, when we need to.

CFO Saponaro – Yes, but I'm not comfortable. Debt doesn't get authorized till you vote on it legally so, this doesn't get put onto the system then. It wouldn't be used; I'd rather have this coincide with the introduction. Am I wrong?

Attorney Campbell – Typically, that's how you would do it but in this case we have a meeting in a week and a half so you can put it back on since they're not authorizing it just yet.

CFO Saponaro – Okay.

Public Comment:

Video Position: 1:09:59

Motion for Public Comment by Councilwoman Schneider, seconded by Councilman Belcaro.
All in favor.

Peter Pisello – 50 Buckley Hill Drive – discussed with Council the fact that from where he sees it and thought the public felt the same way was that Council is micromanaging the professionals. He said let them do their jobs – take their advice – you are wasting time and money.

Olschewski – Highlands Way – did not agree with Mr. Pisello and felt an obligation to have answers to issues raised such as the transfer in the Sewer Utility Fund in the amount of \$130,000.00.

John Betz – Asked him to make sure that the government expenditures are balanced with the needs and wants of the community and it is Council's duty to balance decisions in the best way.

Juniper Leifer – 32 Jade Lane – Thought the mayor was working together with his Council.

Andy Horun – 13 Windsor Lane – Questioned the appointments of counsel to represent the Council and the Municipal Clerk – are the fees reimbursed by the insurance company or is it something that is reimbursed by the taxpayers. Asked who is the appointed counsel for representation. Asked if there was supposed to be a vote for the mayor's counsel.

Eric Johnson – 361 Stonehenge Drive – Comment on the intersection bond ordinance and thought the burden should not fall on Lopatcong Township. Asked Council to make sure you get the money before second reading.

Yvonne Reitemeyer – 27 Browning Court – Wanted to understand the money received so far for the intersection project.

Lori Ciesla – 12 Meadowview Drive – Thanked the Council for doing first reading of the bond ordinance. Ordinance on the books regarding the Clerk reading the bills list out loud was most likely an antiquated ordinance on the books. She agreed with Mr. Pisello regarding taking the opinion of the professionals. She felt the latest lawsuit is a waste of taxpayers' dollars because this matter regarding the appointment of the Township attorney is well settled law.

Mark Reitemeyer – 27 Browning Court – Thanked the Council for doing the first reading of the ordinance for the intersection project.

Marla Endick – 10 Byron Drive – Glad for the discussion over the bond ordinance.

Mayor McKay closed the public comment. Motion to close the meeting by Councilman Belcaro, seconded by Councilwoman McCabe. All in favor.

Respectfully submitted,

Margaret B. Dilts
Clerk/Administrator

Thomas M. McKay
Mayor