

TOWNSHIP OF LOPATCONG
COUNCIL MEETING
7:00 pm

February 1, 2017

The 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.

Present – Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor McKay. Also present were Attorney Campbell and Engineer Sterbenz.

Motion to come out of Executive Session by Council President Pryor, seconded by Councilman Wright. All in favor.

Attorney Campbell reported that Council was in Executive Session for approximately 30 minutes. The topics of discussion were Contractual – Compensation Plan, Litigation – Affordable Housing – Larken and Contractual – Sycamore Landing Affordable Housing Agreement and Deed Restriction and Contractual – EMS expenses. She noted that Council did not conclude the Executive Session and will reenter after the regular meeting to further discuss the Larken matter with expected action to be taken.

Sworn In: Fire Department Members: Brandon Stires, Assistant Chief Station 1, Tim Weiss, Assistance Chief Station 2, Brad Fagan, Captain Station 1, Terry Lawler, Captain Station 2, Lou LaFord, Lieutenant Station 1, Stephen Hopkins, Lieutenant Station 2, Jaryd Brisson, Lieutenant Station 2, Dave Rottman, Lieutenant Station 2.

Proclamation presented to Gary VanVliet retired from the Planning Board after 20 years of service by Council President Pryor.

Public Comment: Motion by Councilman Belcaro, seconded by Council President Pryor. All in favor.

Olschewski – Highlands Way – asked about Ordinance No. 2 under new business.

Juniper Leifer – asked about Old Business No. 4.

John Betz – Red School Lane – asked about the Verizon matter on the agenda.

Motion to close Public Comment by Council President Pryor, seconded by Councilman Belcaro. All in favor.

Old Business:

Minutes – Approve Executive Session and Regular Session for January 4th and Special Meeting of January 18, 2017. Motion by Council President Pryor, seconded by Councilman Wright. All in favor.

Proclamation – National School Choice Week – Council decided not to take action.

Resolution No. 17-35 – Authorizing participation in the Gypsy Moth Control program instituted by the State Agriculture Dept.

R17-35

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY DECLARED THE GYPSY MOTH A PUBLIC NUISANCE AND
AUTHORIZE THE DEPARTMENT OF AGRICULTURE TO CONDUCT AN AERIAL
SPRAYING

WHEREAS, the gypsy moth *Lymantria dispar*, has been found heavily defoliating tree and plant growth in the Township of Lopatcong; and

WHEREAS, continued destruction of foliage may result in loss of valuable forest lands and trees; and

WHEREAS, the Township Council of the Township of Lopatcong has determined that a gypsy moth control program should be instituted with the State of New Jersey Department of Agriculture and that application for any Federal and State funds available be authorized.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Township Council of the Township of Lopatcong that the gypsy moth is declared to be a public nuisance and the protection of vegetation or plant life therefrom is deemed to be a subject matter of public welfare and that all measures deemed necessary in compliance with the State of New Jersey Department of Agriculture recommendations is hereby authorized to suppress this forest and shade tree pest.

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify that this Resolution was adopted by the municipal governing body at an open public meeting which was duly advertised to the citizens of the municipality in accordance with the law, pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-9.

I also certify that this municipality has or will comply with the notice provisions required by N.J.S.A. 4:7-39.

I further certify the above to be a true and correct copy of a resolution adopted by the Township Council at a regular meeting of that body held on February 1, 2017.

Margaret B. Dilts, CMC

Motion by Councilman Belcaro, seconded by Councilman Wright. All in favor.

Rutgers Cooperative Extension Program – Dr. Chris Obropta has recommended projects for the Township. Motion to authorize Council President Pryor to proceed with the Rain Garden Projects throughout the Township. Motion by Councilman Belcaro, seconded by Councilman Palitto. All in favor.

Resolution No. 17-36 – Change Robert Larsen’s appointment from Alternate No. 1 to Full Membership on the Zoning Board of Adjustment.

R 17-36

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY ADJUSTING THE POSITION OF ROBERT LARSEN ON THE
ZONING BOARD OF ADJUSTMENT TO FULL MEMBER

WHEREAS, the Council of the Township of Lopatcong, County of Warren and State of New Jersey nominates people to serve on the Zoning Board of Adjustment; and

WHEREAS, Robert Larsen serves as an Alternate No. 1 on the Board; and

WHEREAS, Robert Larsen was elected to serve as Vice-Chairman of the Board for 2017.

NOW, THEREFORE BE IT RESOLVED that the Council of the Township of Lopatcong, County of Warren and State of New Jersey authorize the adjustment of Robert Larsen from Alternate No. 1 to Full member whose term expires 12/31/2017.

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 1, 2017.

Margaret B. Dilts, CMC

Motion by Councilman Belcaro, seconded by Council President Pryor.

Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor McKay.

NAYS: None

New Business:

Resolution No. 17-37 – Authorize Verizon to enhance its network through right-of-ways in the Township. Attorney Campbell explained they are seeking to install network nodes in the Township which are boxes that are installed on the telephone poles. They will enhance wireless services and system reliability in and around the Township of Lopatcong. They need the Township’s consent to do this. Under Federal Law they have the right to do this but the Township can put reasonable conditions on their approval; i.e. require them to have insurance, you can require they cover any damage they cause, request an escrow for review of their documents, road opening permit, traffic control and construction permit. Council President Pryor asked for a pre-construction meeting with Engineer Sterbenz and Police Chief Garcia.

R 17-37

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING VERIZON WIRELESS USE WITHIN PUBLIC RIGHT OF WAY AS PROVIDED HEREIN

WHEREAS, Allentown SMSA Limited Partnership d/b/a/ Verizon Wireless, (“Verizon Wireless”), is a provider of commercial mobile service subject to regulation by the Federal Communications Commission; and

WHEREAS, Verizon Wireless has entered into agreements with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which Verizon Wireless may use such poles erected within the public right-of-way in the Township of Lopatcong; and

WHEREAS, New Jersey law permits such use provided that there is the consent of the relevant municipality.

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

1. Permission and authority are hereby granted to Verizon Wireless and its successors and assigns to use poles erected by parties that have the lawful right to maintain poles within the public right-of-way in the Township of Lopatcong subject to the following:
 - A. Verizon Wireless and its successors and assigns shall adhere to all applicable Federal, State, and Local laws regarding safety requirements related to the use of the public right-of-way.

- B. Verizon Wireless and its successors and assigns shall comply with all applicable Federal State and Local Laws requiring permits prior to beginning construction and shall obtain any applicable permits that may be required by the Township of Lopatcong.
- C. Such permission be and is hereby given upon the condition and provision that Verizon Wireless and its successors and assigns shall indemnify defend and hold harmless the Township of Lopatcong its officers, agents, and servants, from any claim of liability or loss or bodily injury or property damage resulting from or arising out of the acts or omissions of Verizon Wireless or its agents in connection with the use and occupancy poles located within the public right-of-way except resulting from the acts or omissions of the Township of Lopatcong.
- D. Verizon Wireless shall at its own cost and expense, maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. Verizon Wireless shall include the Township of Lopatcong as an additional insured.
- E. Verizon Wireless shall be responsible for the repair of any damage to paving, existing utility lines, or any surface or subsurface installations, arising from its construction installation or maintenance of its facilities.
- F. Notwithstanding any provision contained herein, neither the Township of Lopatcong nor Verizon Wireless shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this instrument.
- G. This instrument shall be adopted on behalf of the Township of Lopatcong by the Township Council of the Township of Lopatcong and attested by the Township of Lopatcong Clerk who shall affix the Township of Lopatcong Seal thereto.
- H. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose poles Verizon Wireless is using

STATEMENT

This resolution authorizes Verizon Wireless to use poles erected within the public right-of-ways of the Township of Lopatcong by parties that have the lawful right to maintain such poles.

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 1, 2017.

Margaret B. Dilts, CMC

Motion to approve by Council President Pryor, seconded by Councilman Palitto. All in favor.

Ordinance No. 2017-01 – First reading to Amend, Revise and Supplement Chapter 47, “Police Department,” to eliminate the Position of Police Commissioner.

Mayor McKay – I don’t know why this is being done, so I’ll defer to someone who might know.

Council President Pryor – Because you asked to be put on there as Director of Public Safety, we don’t have one,

Mayor McKay – We had one for all the years that the previous Mayor was here.

Council President Pryor – we’ve never had one.

Talking over each other.

Council President Pryor – May I explain. It is not in the law. It is not in our ordinance. I don't know how you can appoint somebody to something that is not in the ordinance.

Mayor McKay – Well, I assumed all duties of the previous mayor were (inaudible) and the only way I had to know what duties they were was to look on the website because that's the main place you look for these kind of things.

Council President Pryor – You've been saying, you've been critical of past administrations, it is not in the ordinance so the only thing that is in the ordinance is Police Commissioner and that doesn't automatically go to the mayor.

Mayor McKay – The mayor appoints the Police Commissioner.

Council President Pryor – With the advice and consent of Council.

Mayor McKay – Yes.

Council President Pryor – The duties of the Police Commissioner are not defined. I don't know why we need one. The Chief's duties are defined. He runs the department; I have no idea why we need a Police Commissioner. I'm going to recommend this tonight, we just eliminate it. The Chief is going to report to the entire Council and the Council is going to appoint a liaison for the Police Department.

Mayor McKay – That just seems like you are trying to circumvent the authority of the mayor like usual and that's

Council President Pryor – You know what, if you feel that way Tom,

Mayor McKay – I do feel that way. Why would I not feel that way?

Council President Pryor – feel that way because (inaudible) I ask everybody out there to read that 60-page decision. I think the Mayor is the only one up here that hasn't read it.

Mayor McKay – I may have read it.

Council President Pryor – We're gonna get into this some more, I'm sure you haven't read it. So in any event I would make the motion for a first reading to eliminate the position of Police Commissioner and have the Chief report to the entire Council. I think that it is one position that everybody should be informed about and I'd like to have the Chief deal with the whole Council and that's my reason.

Councilman Belcaro- I have a question. When was the title commissioner ever used?

Council President Pryor – Never, as far as I know.

Councilman Belcaro – Never.

Mayor McKay- The previous mayor called himself the public safety.

Councilman Belcaro – You have a title here – Police Commissioner. It's never been used and it isn't in the ordinance correct?

Council President Pryor - Yes.

Councilman Belcaro – It's never been used. Now I don't see a problem with eliminating something that has never been used.

Mayor McKay – What was the position of public safety officer that was held by Mr. Steinhardt?

Council President Pryor – You tell me.

Mayor McKay – I don't know.

Council President Pryor – is it in the ordinance?

Councilman Belcaro – Then why are you so concerned?

Council President Pryor - Then why are you so concerned about it

Mayor McKay – Well because

Council President Pryor – when you don't know what it was. As a matter of fact, have you gone back through the past reorganizations, they never voted on that. So it doesn't matter what was done in the past, we're going to do things by ordinance going forward and I've made the motion.

Councilman Belcaro – I'll second it.

Council President Pryor – Is there any further discussion?

Mayor McKay – I'm just going to defer any further discussion. I don't think you have the authority to do it and you're going to contend that you do so we'll just leave it at that. Take a vote please.

Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor

NAYS: Mayor McKay

ORDINANCE 2017-01

AN ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY, TO AMEND, REVISE AND SUPPLEMENT CHAPTER 47, "POLICE DEPARTMENT," OF THE CODE OF THE TOWNSHIP OF LOPATCONG TO ELIMINATE THE POSITION OF POLICE COMMISSIONER.

WHEREAS, the Township Council of the Township of Lopatcong wishes to revise Chapter 47 of the township Code to eliminate the position of Police Commissioner

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

Section 1:

§ 47-2. Organization.

A. The Police Department shall be under the direction of the Township Council.

B. The Chief of Police shall be the head of the Police Department.

Section 2:

§ 47-5. Duties of Chief of Police.

The Chief of Police shall be directly responsible to the Township Council for the efficiency and routine day-to-day operations of the Department and shall, pursuant to policies established by the Township Council:

A. Administer and enforce rules, regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.

B. Have, exercise and discharge the functions, powers and duties of the force.

C. Prescribe the duties and assignments of all subordinates and other personnel.

D. Delegate such of his authority as he may deem necessary for the efficient operation of the force, to be exercised under his direction and supervision.

E. Report monthly to the Township Council's designated liaison on the operation of the force during the preceding month and make such other reports as may be requested by the the Township Council or it's designated liaison.

Section 3:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder off this Ordinance shall not be affected thereby.

Section 4:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 5:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on February 1, 2017, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on March 1, 2017 at 7 p.m. or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, RMC
Township Clerk

Council President Pryor – Katrina in conjunction with that, by motion I would like to appoint Bill Wright as liaison to the Police Department.

Mayor McKay – You haven't eliminated it yet cause you don't have the ordinance.

Council President Pryor – I'm free to appoint a liaison.

Mayor McKay – No you're not, only I can do those kind of things.

Attorney Campbell – No you have an ordinance.

Mayor McKay – Cause I'm the chief executive.

Attorney Campbell – No you are not.

Mayor McKay – Yes I am.

Council President Pryor – We've gone through that.

Mayor McKay – You don't want to admit it cause it's not convenient for you but that's what it is.

Council President Pryor – So Katrina can I do that?

Attorney Campbell – Yes. The Council has the authority under the ordinance to make liaison positions.

Council President Pryor – Make the motion to appoint Bill Wright as Council liaison to the Police Department.

Councilman Belcaro – Yeah, I have a question.

Attorney Campbell – I would second it first and then do discussion.

Councilman Belcaro - Yes, I'll second it.

Attorney Campbell – Now discussion.

Councilman Belcaro – Okay. I have a question so liaison for the Police Chief correct. Okay. Has anyone on this Board here served as a police officer or law enforcement ever in their life? Bill?

Councilman Wright – Yes.

Councilman Belcaro – Okay. How many years Bill?

Councilman Wright – Close to 12.

Councilman Belcaro – Twelve years, okay. So it appears to me right now the only one that qualifies in law enforcement would be Bill on this Board here.

Mayor McKay – When did you do that Bill?

Councilman Wright – When did I do what?

Mayor McKay – When were you a police officer?

Councilman Wright – I worked at the jail for two years back in the early 80's and Washington Borough Police Department in 85 and then I was narcotics officer in Florida. I worked in Juno Beach for a couple years. I was with the narcotics task force six years.

Mayor McKay – So that's more than 12.

Councilman Wright – No. If you count the jail that is another two.

Mayor McKay – So that was in the 80's.

Councilman Belcaro- So the only one up here that qualifies for any law enforcement would be Bill. He has the experience and knowledge. Any more questions?

Member Pryor – Well the only comment I have is the Police Commissioner is undefined. The duties and so on is undefined by ordinance that spells out exactly what the liaison does. The liaison has no supervisory responsibilities; general oversight and resource to the department just like with any other department here so that's the reason behind it.

Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor.

NAYS: None

ABSTAIN: Mayor McKay

Larken Affordable Housing Agreement – Attorney Campbell asked that this be held as it will be further discussed in Executive Session.

Sycamore Landing Affordable Housing Agreement and Deed Restriction – Motion by Council President Pryor, seconded by Councilman Wright. All in favor.

Consent Agenda:

Mayor McKay asked that No. 3 be a separate item. The auditors were not

Attorney Campbell – They were approved at the last meeting.

Council President Pryor – Approved by Council in accordance with the court decision. We can change that and authorize the Council President to execute that contract.

Mayor McKay – What are you going to make it, the Council President for that contract?

Council President Pryor – Yeah. We can leave it on or you can take it off.

Mayor McKay – Well, the Council President, cause I didn't make that appointment.

Council President Pryor – Pardon me.

Mayor McKay – I didn't make the appointment.

Council President Pryor – You didn't make what appointment?

Mayor McKay – The appointment for auditors.

Council President Pryor – It was voted on. Check the minutes.

Attorney Campbell – Council made the appointment.

Mayor McKay – Okay as Council President will execute that correct?

Attorney Campbell – If you are refusing to, the Council President under the Charter can do it.

Mayor McKay – I don't think I can cause I didn't

Clerk Dilts –You can because it was approved

Attorney Campbell – Even if you voted no because you disagreed, you still have the authority to sign because Council, as a majority, has voted to do so, so you are just carrying out their order.

Mayor McKay – Yeah, but I question whether that is illegal; I'm not an attorney, so it's just best that I don't sign it.

Attorney Campbell – The Mayor is refusing to sign it so Council President under the Charter would sign it.

Mayor McKay – So we'll take a motion to approve all eleven Consent Agenda items. Motion by Councilman Palitto, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor McKay.

NAYS: None

Resolution No. 17-38 – Memorialize hire of George Duckworth as part-time Class II Police Officer in the Police Department.

R 17-38

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY MEMORIALIZING HIRE OF GEORGE H. DUCKWORTH, III PART-TIME AS CLASS II POLICE OFFICER IN THE POLICE DEPARTMENT

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey hereby authorized the hire of one part-time Class II Police Officer in the Police Department; and

WHEREAS, George H. Duckworth shall be paid a salary of \$25.00 per hour; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey hereby approve the hire of George H. Duckworth part-time as Class II Police Officers in the Police Department and shall be paid an hourly rate of \$25.00 per hour.

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 a meeting held on Wednesday, February 1, 2017.

Margaret B. Dilts, CMC

Gibbons, P.C. – Authorize Mayor McKay to execute contract for 2017 with Bond Counsel.

Nisivoccia, LLP – Authorize Mayor McKay to execute contract for 2017 with Auditors.

Public Defender – Authorize Mayor McKay to execute contract for 2017 with Public Defender.

Resolution No. 17-39 – Authorize refund of Tax Payment made in error on Block 99, Lot 400 C0315 in the amount of \$3,127.28.

R 17-39

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING TO REFUND TAX PAYMENT MADE IN ERROR FOR TAX YEAR 2016

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey that warrants be drawn to the previous owner listed below in the designated amounts representing duplicate tax payments made in error as follows for the tax year 2016.

<u>Block & Lot</u>	<u>Name of Payee</u>	<u>Amount</u>
99 400 C0315	Corelogic Tax Collection Svs. P.O. Box 961230 Fort Worth, Tx 76161-0230	\$3,127.28

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey have approved the refund made rather than applying this payment to the 2017 property taxes due.

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 a meeting held on Wednesday, February 1, 2017.

Margaret B. Dilts, CMC

Delaware Park Engine Co. No. 1 – Approve membership applications for Andrew Todd to Delaware Park Engine Co. No. 1 and Kyle Sucvda and Kyle Trinneer to Strykers Road Fire House No. 2.

Recycling Contract – Approve contract with Lin Gabel for Recycling Tonnage Grant submission.

LAA – Approve appointments of Wim Roemersma as Soccer Director, Bill McAuliffe as Football Director and John Napolitano as Baseball Director.

Resolution No. 17-40 – Authorize transfers from 2016 Budget Appropriations Reserves in the amount of \$8937.00.

R 17-40

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING TO REFUND SEWER PAYMENT IF
DUPLICATE PAYMENT FOR TAX YEAR 2016

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey that warrants be drawn to the previous owner listed below in the designated amounts representing duplicate sewer payment made as follows for the tax year 2016.

<u>Block & Lot</u>	<u>Name of Payee</u>	<u>Amount</u>
64 5	Christie Gido 104 Dana Street Phillipsburg, NJ 08865	\$1,106.15

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey have approved the refund made rather than applying this payment to the open sewer charges.

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 a meeting held on Wednesday, February 1, 2017.

Margaret B. Dilts, CMC

Resolution No. 17-41 – Authorize transfers from 2016 Budget Appropriations Reserves in the amount of \$8937.00.

R 17-41

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING TRANSFER BETWEEN THE 2016 BUDGET
APPROPRIATION RESERVES

WHEREAS, various 2016 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 2016 Budget in the last two months of 2016; 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 \$13,200.00 be made between the 2016 Budget Appropriation Reserves as follows:

ACCOUNT:	FROM:	TO:
SALARIES AND WAGES		
Financial Administration	\$4,500.00	
Rev. Admin.-Tax Collector	\$4,437.00	
OTHER EXPENSES		

Computer Service		\$1,610.00
Rev. Admin.-Tax Collector		\$ 200.00
Planning Board		\$ 850.00
Zoning Board		\$ 250.00
Rent Board		\$ 100.00
Fire Company #2		\$3,800.00
Police		\$ 983.00
Telephone		\$1,144.00

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 a meeting held on Wednesday, February 1, 2017.

Margaret B. Dilts, CMC

Council Reports

Councilman Wright – The only thing I have from Lori for the Rec. Board was to announce that the Pool’s 50th Anniversary Committee is looking for volunteers to plan the event for May 27, 2017. Also RFP’s will be issued to get official sponsors for the park for improvements and recreation events. Easter Egg Hunt is scheduled for April 8th at 10:00 am with a rain date of April 9th at 2:00 pm.

Council President Pryor – I am the liaison to the LAA and for the time being they are still under Township auspices until they bring, they settle. They’re up and running. They’re getting sponsorships. They’re golf outing is back on tap. I don’t have the exact date for that – it will be, I think, in June. They’re having a Baseball Clinic. They’re having a clinic with an arena football team. They’ve got a lot of good stuff going. They had some issues with spring soccer but they were able to recruit and we approved him tonight, Wim Roemersma. Wim is from Holland. He is an expert on soccer; recruited him as Soccer Director and Kenny Lutz has a lot of good ideas. They have a lot of good people involved. I think they’re off to a great start.

As Administrative Liaison, I do wish to bring this up – I got an email from Mayor McKay. He said, “At the 2/17 Reorganization Meeting you declared to the public that the Mayor was not the Chief Executive Officer. That is incorrect. Ms. Dilts kindly restore this title to the Mayor on the website and then he says please be guided by the following paragraphs of N.J.S.A. 40:69A.” This is why I don’t think you read the decision. That’s the heart of the whole thing. There is 60 pages devoted to it. You keep referring back to your own interpretation of it.

Mayor McKay – I refer back to the statute.

Council President Pryor – And the statute has been adjudicated so I’m not going to bore everybody. It says the court finds the plaintiff’s position is based upon an oversimplified and unsupported legal theory. That it is also based upon a misreading of applicable law. “The plaintiff adopts a hyper-literal interpretation of the statutes that supports his theory that he has the authority as an elected mayor to make certain executive decisions without input from the Township Council and even against their will. Mayor reads the grant of executive power vested by N.J.S.A. 40:69A to be clear, absolute and non-checked,” and it goes on, and on and on. It’s got some good stuff here. It says “Both the Council and the Mayor govern the Township jointly while there may be certain limited circumstances where a court may be able to pigeon hole a particular act or action as purely executive or purely legislative in many and perhaps most functions their respective duties, and responsibilities are intertwined and overlapping.” I just picked two things out. It’s 60. You ought to sit down and read that. It has been adjudicated

Mayor McKay – All right, well I'll just read, since you read, I'll read. Now I'm going to read what the New Jersey League of Municipalities says.

Council President Pryor – Now, wait a minute I'm going to get to that. I have the floor right now.

Mayor McKay – I'm reading, I'm reading.

Council President Pryor – I have the floor – okay, go ahead and read – make a fool of yourself.

Mayor McKay – I'm going to make a fool of myself?

Council President Pryor – Yeah.

Mayor McKay – I don't think so. Now this is what the New Jersey League of Municipalities sets forth on their website. This is their position as to what type of government we should have under our Small Municipality form and it says this form is available only to municipalities over 12,000 in population. (Inaudible sentence) When a small municipality is commonly thought of as a cross between two most common traditional forms; the township and borough. It is also a strong mayor form in that the mayor exercises the executive (inaudible) of the municipality. The mayor may in fact (inaudible) mayor/council form since he or she is not the only chief executive. Not only the chief executive but also the providing officer of the council. The mayor in this form appoints the tax assessor, tax collector, (inaudible) by local ordinance. He or she appoints all other (inaudible) in the municipality unless civil service provisions are in effect. The mayor (inaudible) chief executive and presiding over (inaudible).

The mayor's voice is muffled so much so that it cannot be transcribed.

Mayor McKay – When I talked to the Council of Mayor's they say this is our government. So

Council President Pryor – Bear with me; the Council of Mayor's refused to support your suit, did they not?

Mayor McKay – They what?

Council President Pryor – They refused to support your suit.

Mayor McKay – No.

Council President Pryor – Not all right. Where did that, what you just read, where did that come from?

Mayor McKay- Their website.

Council President Pryor – And when was it originally published?

Mayor McKay – I don't know. It's still on there, so it is current.

Council President Pryor – In the New Jersey Municipalities Magazine in March 2007; 10 years ago. Who wrote it?

Mayor McKay – The League of Municipalities puts it on the website – I don't know who wrote it.

Council President Pryor – It's a magazine article – who wrote it?

Mayor McKay – It wasn't a magazine article; it's in there

Council President Pryor – It was published originally in New Jersey Municipalities Magazine in 2007. Who wrote it?

Mayor McKay – It is what the Council of the New Jersey Municipalities sets forth to the public as the type of

Council President Pryor – Is it a legal opinion?

Mayor McKay – It is no more a legal opinion than what you set forth at the (inaudible).

Council President Pryor – Wait a minute, wait a minute I knew you were going to do it, I knew you were going to do it.

Mayor McKay – I don't think it's a legal opinion – it's just what they say.

Council President Pryor – Relax. It was written by Michael F. Cerra. He happens to be the Assistant Executive Director at the league. Is he an attorney?

Mayor McKay – I don't know the gentleman.

Council President Pryor – He's not an attorney. He wrote an article.

Talking over each other.

Council President Pryor – So a non-attorney writes a summary of a statute. There's no case law. It hasn't been adjudicated, it's ten years old. You have a current case here. Several times Judge Miller says this form of local government has not been held to consist of a strong mayor. I've read his 60 page decision. Now his decision is backed up by a number of court cases. He has case law in there; a number of references versus a magazine article written by a non-attorney ten years ago. Now wouldn't you think we're operating under a magazine article or are we operating under the case, your case, which has been decided? Tell me.

Mayor McKay – What it is been decided but it is on its way to the appellate court.

Council President Pryor – And what happens while the appeal goes forward?

Mayor McKay – It is the outstanding decision.

Council President Pryor – You operate under the decision don't you?

Mayor McKay –Mmmhmm

Council President Pryor – Don't we?

Mayor McKay – Yes and I asked that this be posted because this describes the type of government we have. I didn't ask that this be used in any other way.

Council President Pryor – We post magazine articles on the website?

Mayor McKay – You post anything you want on the website.

Council President Pryor – No we don't. Since I've been on here, what did we post accept other than the court decision? Let me ask you this. Does the League of Municipalities have attorneys?

Mayor McKay – Yes.

Council President Pryor – They have a whole host of attorney's, right?

Mayor McKay – Mmmhmm.

Council President Pryor – Right?

Mayor McKay – Mmmhmm. One would think they check what goes on their website but I don't

Council President Pryor – They didn't; obviously they didn't vet that.

Mayor McKay – Oh.

Council President Pryor – They put right on their website, “Our legal department cannot be replacement for a town's municipal attorney. Rather, we are a resource sharing knowledge and

providing guidance. If an elected official needs legal advice that question should be directed at their municipal attorney. We do not offer second opinions or alternatives to elected officials. Their municipal attorney should be their primary source of legal advice. Under no circumstances will the League of Municipalities legal service establish a client relationship with individual municipal officials from municipalities.” So you are relying on a magazine article. They have a list of associate attorneys. They are listed here. These all provide advice to the League of Municipalities. If you want to ask one, he’s just down the road; Doug Steinhardt but you want to base your case and your actions on

Mayor McKay – I’m not basing my case on anything. I just said, wanted that (inaudible talking over reach other) placed on the website and you have taken it to some whole new levels.

Council President Pryor – You will not post CEO, Public Safety Director or Ex-Officio member of committees on the website because they do not appear in the ordinance. I’m going to make one exception by our code; you are an ex-officio nonvoting member of the Economic Development Advisory Committee. So

Mayor McKay – See I’m not an attorney so I don’t know if that’s correct. I don’t think it is.

Attorney Campbell – It is correct.

Council President Pryor – I read it. I did the research

Mayor McKay – I will look into that to the extent I can all by myself without legal representation up here.

Council President Pryor – (Inaudible) second it.

Councilman Belcaro – I’ll second that.

Council President Pryor – Vote, Beth, please.

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor

NAYS: None

ABSTAIN: Mayor McKay

Engineer – One item to report – The NJDOT Grant Application for Baltimore Street was submitted on January 18th in the amount of \$150,000.00.

Council President Pryor – You probably don’t know the answer to this but we didn’t get any update on the reduced speed sign from the county (inaudible)?

Engineer – Not to my knowledge.

Councilman Belcaro – DPW just picked up the last Christmas tree a couple days ago. So if anyone has any left, they are not going to pick it up. They are also going around trimming trees deemed to be hazardous. They are preparing the vehicles in-house for upcoming snow and salting.

Reported on the Rt. 57 Pump Station – the loan is closed on January 26th for \$2,150,000.00 with the USDA. There is \$850,000.00 in grant money that we’ll be getting to invest in our system throughout the town. There has been identified a number of projects to use the grant money. The larger project is the replacement of the Stonehenge Force Main and piping in the street. There will be a Channel Monster Grinder installed to help with the rag issues. There is an odor problem on 5th Street that will be addressed also. Smoke Testing was completed; 863 linear feet in Brakeley Park and Morris Heights. No significant problems were found. CCTV inspections of 3,780 sewer lines between Baltimore Street and Stonehenge Drive is being done now.

Councilman Palitto – Reported that EDAC members need to be reappointed and new members can apply, as there are vacancies.

Chief Garcia – Gave his monthly report.

Department Reports – Motion to approve Department Reports by Mayor McKay, seconded by Council President Pryor. All in favor.

Bills List – Council President Pryor reported that he would recuse himself from JMT although he has severed his relationship but there might be some bills reported. Also to verify the Mayor’s legal bills are not on this list correct?

Clerk Dilts – No they are not.

Mayor McKay – The mayor’s legitimate legal bills.

Council President Pryor – What did the court say? What did the court say?

Mayor McKay – I’m trying to read this. Okay the aggregate of the bills is \$2,878,221.97.

Motion to pay bills by Council President Pryor, seconded by Councilman Palitto. Roll call vote: AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor McKay.

NAYS: None

Audience Participation – Motion by Council President Pryor, seconded by Councilman Wright. All in favor.

John Betz – Asked about the Settlement Agreement with Larken regarding Affordable Housing and the Verizon nodes.

Olschewski – Highlands Way – Remarked about Council President Pryor and how prepared he is – wished he was here a long time ago. Tom is referring to something that has been going on for 15 years and it has not been cleared up.

Motion to go into Executive Session by Council President Pryor, seconded by Councilman Belcaro. All in favor.

Attorney Campbell – The only discussion will be the Larken Settlement Agreement regarding Affordable Housing. This will take no more than 30 minutes and action is expected to be taken when Regular Session is resumed.

Motion to resume Regular Session by Council President Pryor, seconded by Mayor McKay.

Councilman Belcaro made a motion to approve Consent Order between Larken and Lopatcong regarding the Affordable Housing Litigation, seconded by Councilman Palitto. All in favor.

Motion to adjourn the meeting by Councilman Belcaro, seconded by Councilman Palitto. All in favor.

Respectfully submitted,

Margaret B. Dilts, CMC
Clerk/Administrator

Thomas M. McKay
Mayor