

MINUTES

MINUTES OF THE COUNCIL OF THE BOROUGH OF PEAPACK & GLADSTONE

JULY 9, 2013

REGULAR MEETING

7:30 PM

The meeting was called to order by Mayor Horton.

The following statement was read by the Borough Clerk:

Adequate notice of this meeting of the Mayor and Borough Council of the Borough of Peapack and Gladstone was given to the Courier News, Newark Star Ledger and the Bernardsville News on December 6, 2012 was posted at the Municipal Complex, School Street, the Peapack Post Office, Main Street, Peapack and the Gladstone Post Office, Main Street, Gladstone, New Jersey on December 6, 2012 and was mailed on December 6, 2012 to all those people who have requested individual notice and paid the required fee.

SALUTE TO THE FLAG

ROLL CALL:

Present: Gunning, Muller, Silacci, Simpson, Suriano

Absent: Sweeney

MINUTES: A motion by Cm. Simpson that the reading of the minutes be dispensed with, and that the minutes of the Regular Meeting of June 25, 2013 stand approved as submitted by the Borough Clerk to the Mayor and Borough Council, was 2nd by Cm. Muller.

On call of the roll the following vote was cast:

AYE: Gunning, Muller, Silacci, Simpson, Suriano

NAY: None

ABSENT: Sweeney

ABSTAINED: None

REPORTS OF COMMITTEES:

FINANCE: (Sweeney/Muller)

**BOROUGH OF PEAPACK AND GLADSTONE
RESOLUTION TO REFUND LIENHOLDER
FOR REDEMPTION OF LIEN #00022 ON BLOCK 1 LOT 9**

RESOLUTION NO. 083-13

WHEREAS, lien #00022 was sold to FNA Jersey Lien Services, LLC on November 4, 2010 at a tax sale held by the Borough of Peapack & Gladstone, and

WHEREAS, Bank of America; the mortgage holder of Block 1, Lot 9 has redeemed lien #00022 in the amount of \$7,517.89 by cashier’s check on June 26, 2013, and

WHEREAS, the lien holder is entitled to a refund of the redemption in accordance with Title 54 of the New Jersey Statutes Annotated,

NOW, THEREFORE BE IT RESOLVED, that the Treasurer is hereby authorized to refund the redemption monies in the amount of \$7,517.89 to FNA Jersey Lien Services, LLC.

This Resolution was introduced and moved for adoption by Cm. Muller, 2nd by Cm. Suriano:

On call of the roll the following vote was cast:

AYE: Gunning, Muller, Silacci, Simpson, Suriano
NAY: None **ABSENT:** Sweeney **ABSTAINED:** None

Cm. Muller stated that the legal expenses for the month of May were \$10,000.00 and that the budget for legal is being rapidly expended. Cm. Muller advised that Cm. Sweeney has recommended that all Council members exercise restraint in conferring with Leslie Parikh, Borough Attorney. There is not a lot of flexibility in the budget and no additional monies can be transferred to the legal line until November. Cm. Sweeney had also proposed holding off on ordinances changes until later in the year wherever possible.

SANITATION/SEWER: (Muller/Sweeney)

Cm. Muller reported that the sewer is currently running well, with no problems.

BOROUGH PROPERTY: (Gunning/Simpson)

A property use application was received from the Recreation Commission for use of Liberty Park for Art in the Park on September 15, 2013.

A property use application was received from the Multiple Sclerosis Society for use of Liberty Park for their bike tour on September 21, 2013.

The Council concurred on both applications with the stipulation that the Multiple Sclerosis Society provide the port-a-johns for use at the park.

BOROUGH OF PEAPACK AND GLADSTONE
RESOLUTION NO. 078-13

RESOLUTION AUTHORIZING REFUND OF SECURITY DEPOSIT

WHEREAS, there is an existing month-to-month lease for the property known as the “Komline House”, being a portion of Block 20, Lot 1 on the tax map of the Borough of Peapack and Gladstone, between TeleNext Media, Inc. (the “Tenant”) for the benefit of Procter & Gamble Productions, Inc and the Borough of Peapack and Gladstone (the “Landlord”) for the monthly rent of \$7,500.00 per month and

WHEREAS, said lease provided for the deposit of a security deposit with the Landlord in the amount of \$15,000.00, and provided for return of the balance of the security deposit at the end of the term of the Lease after delivery of possession of the Leased Premises to the Landlord in accordance with the terms of the Lease and after the final adjustment for rent and charges is made, provided that the Tenant has fully complied with all of its obligations under the Lease; and

WHEREAS, TeleNext Media Inc. has provided notice via a letter dated May 16, 2013 that it will vacate the premises no later than June 30, 2013; and

WHEREAS, a walkthrough of the property has been conducted, and it has been determined that the property has been maintained in accordance with the terms of the lease.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Peapack and Gladstone, County of Somerset and State of New Jersey, that the security deposit of \$15,000.00 be refunded in full to TeleNext Media, Inc.

This Resolution was introduced and moved for adoption by Cm. Gunning, 2nd by Cm. Muller:

Cm. Simpson asked whether there has been any discussion on future use of the house on the Komline property and was advised that this is still under discussion. Cm. Suriano proposed that this discussion resume at the next Borough Council meeting, as the ultimate disposition of this property will determine whether the Borough will invest in a new boiler. Cm. Gunning reported that the easement through the Pfizer property, allowing access to Rt. 206 from the Komline house, will survive. Cm. Suriano suggested the property committee look at options for the Komline house, and provide suggestions

for use of this property at the next Borough Council meeting. Cm. Muller suggested that the house be converted to gas if it were possible. Cm. Suriano commented that this would be a considerable expense, and it has not been budgeted for.

On call of the roll the following vote was cast:

AYE: Gunning, Muller, Silacci, Simpson, Suriano

NAY: None

ABSENT: Sweeney

ABSTAINED: None

Cm. Muller stated that he had been giving consideration as to how the pond could be cleaned up, and handed out a flyer to the Mayor and Council for a pump that costs \$1100 and would pump 200 gallons per minute. A discussion ensued. Cm. Suriano advised that the issue is not the cost of the pump but the placement of the pump and how far down the drilling would have to go. Cm. Muller proposed building a small weir in the Peapack Brook and placing the pump there. Mayor Horton responded that such a plan would require DEP approval, and this is very difficult to receive. Cm. Gunning stated he would review the information provided by Cm. Muller.

FIRE/INFORMATION SYSTEMS: (Simpson/Gunning)

Cm. Simpson informed the Council that the discussion must continue on the need for new firefighters in the Borough. The Borough needs to identify young men and women who could volunteer, and find a way to entice them to the firehouse. Cm. Simpson suggested paying people to take the required training classes. The Mayor advised that any discussion on additional payments to volunteers would need to be deferred until the 2014 budget is considered.

POLICE: (Silacci/ Suriano)

Cw. Silacci advised that a letter of appreciation was sent by Kevin J. Valentine, Chief of the Bernardsville Police Department, to Borough Chief Skinner. The letter referred to the Borough's participation at an Active Shooter Exercise which took place at the Bernardsville Middle School on June 14th. Mayor Horton added that the security system in the Somerset Hills School District is state-of-the-art.

ROADS/TRANSPORTATION: (Suriano/Silacci)

Cm. Suriano stated that a resident had contacted the Borough and expressed his concern about the washout on Fowler Road in the recent storms. The grading of this road is the responsibility of Bedminster Township. Notification has been made and the problem will be dealt with.

LEGAL: (Leslie Parikh, Esq.)

Ms. Parikh introduced Tara St. Angelo who is a new addition to the law firm of Gebhardt and Kiefer.

MISCELLANEOUS COUNCIL BUSINESS:

The Mayor recommends the following appointments:

Stephen Neville LUB liaison to OSAC Term ends December 31, 2013

Rich Rampinelli Recreation liaison to OSAC Term ends December 31, 2013

The Council concurred with these appointments.

Discussion of distribution of the Borough Gazette.

Mayor Horton stated that the Gazette is posted every quarter on the Borough website. One hundred copies of the Gazette are currently printed and are available at Borough Hall for those who do not have computer access. There was a question as to whether printing and mailing of the Gazette to each household should be resumed. Council decided to stay with the current procedure and not print and mail the Gazette. Mayor Horton stated that Rich Rampinelli is working on a system on the website where residents can sign up to receive emails, and this could include automatic receipt of the Gazette.

Discussion regarding the Federal Surplus Property program.

Administrator Collins explained that this program is managed by NJ State Police and enables municipalities, once approved for participation, to view federal surplus items. The items are free, and only require the municipality to pick them up from wherever they are located. The Police Chief and Public Works Director had both expressed interest in the program. The Council concurred with participation. Ms. Collins will prepare and sign the paperwork.

Discussion regarding June 14 letter from Land Use Board Chairman requesting clarification to Zoning Ordinance.

Mayor Horton and Cw. Silacci recused themselves from this discussion. The remainder of the Council discussed the purpose of this request, as well as budgetary considerations. It was suggested that a cost estimate for this review be obtained from the LUB attorney and Borough Planner. Administrator Collins will send Barbara Osmun, Land Use Board Clerk, a memo requesting cost estimates. This discussion will be continued at the next Council meeting. Ms. Collins will also provide an updated status of the LUB legal budget.

Steve Neville, Forest View Drive, member of the Land Use Board, stated that the ordinance was found to be faulty and needs to be reworked. Mr. Neville explained that whether the ordinance is changed or not has no bearing on the case at hand, the Rowe case.

Mayor Horton and Cw. Silacci returned to the dais.

Discussion regarding Open Space Trust Fund.

Ms. Parikh stated that she was asked to provide her thoughts and conclusions as to whether the Open Space Trust Fund could be utilized for the Komline project. In researching this question, Ms. Parikh stated she looked through the ordinance and the two referendums that were passed in connection with the use of the fund. Ms. Parikh explained to the audience the uses of the fund that are authorized under the NJ Statute. Regarding the two referendums, the first was fairly broad and would definitely include the use of funds for the Komline project; however, the second referendum's interpretive statement did not include improvements to land or the development of land for recreational purposes. By the question alone, it is clear that the purpose of the second referendum was to increase the tax levy. The meeting minutes do not reflect any mention of the use of the fund being further restricted. Ms. Parikh advised that the interpretive statement does not bear as much weight as the question. The resulting ordinance amendment indicated that nothing would be done except the tax increase. Therefore it seems clear that it was not the intent of the second referendum to further restrict the utilization of the Open Space Trust Fund.

Ms. Parikh recommended the Council proceed with another referendum to be placed on the November General Election ballot setting forth all of the uses available under state statute, and clarifying the various uses permitted under the Borough's Open Space Ordinance. Cm. Gunning stated that he did not see that clarification is required and did not see the need for another referendum. Cm. Suriano stated that both tasks could be completed without compromise: move forward with the project for recreational improvements on the Komline site, and clarify the language in the Open Space Ordinance via the referendum.

Cm. Simpson clarified that Ms. Parikh's reading of the purposes for which the Open Space Trust Fund could be used were the uses defined by NJ Statute, not by the Borough's Open Space Ordinance. Cm. Simpson stated that he would be comfortable moving forward with the Komline project under the current ordinance, but stated he would have no problem with a referendum to clarify the permitted uses of the Trust Fund.

Cw. Silacci stated her opinion was the same as Cm. Simpson.

Cm. Muller agreed, but expressed his dismay that money was being spent on legal projects that render no clarity to the question at hand.

Mayor Horton stated that he is a strong advocate of moving forward with recreational facilities, and added that he had spoken to Somerset County about sources of funding for building the proposed facilities. The Mayor stated that he is happy with the results of Attorney Parikh's research, with the opportunity being provided to move forward, and also with the opportunity to craft a referendum question that will clarify and add to the existing uses of the Trust Fund. Mayor Horton advised that the Council will need to aim for the July 23 Borough Council meeting for a decision on whether a referendum will be on the November ballot. This will be the last Council meeting before the August 16 deadline for adding a question to the ballot.

Attorney Parikh advised that she has a question and interpretive statement drafted and will circulate it to the Mayor and Council via email tomorrow morning.

Heather Santoro, Mendham Road, asked for clarification of the blue acres purpose referred to by Ms. Parikh in her reading of the purposes for which Open Space Trust Funds can be used under the NJ Statute.

Deborah Ludtke, Old Chester Road, asked what the impact to the Komline project would be if the referendum did not pass. Ms. Parikh advised that there would be no impact on the project as this is currently a permitted use of the Trust Fund under the Borough ordinance.

Nick DeLuca, Main Street, asked if the recreational project refers to tennis courts, asked if the Borough Council had decided to move forward with this, and asked if the courts definitely will be built. Mayor Horton responded that this has not been decided yet.

A resident stated that the property in question was Green Acres, and asked when the state changed the statute to permit recreational purposes on Green Acres sites. The resident was advised that this was changed in 1997, prior to the Borough's establishment of an Open Space Trust Fund.

William Fosina, Pheasant Run, stated that the timeline sounds like the first spade of dirt would not be turned over until after the referendum, stated that there is a potential the project could be challenged, and asked the Council what they expect the timeline on this project to be. Cm. Gunning responded that the timeline would depend on when the vote on this project occurs. Mr. Gunning added that the Council hopes to vote on moving forward with the Komline project at the July 23 Borough Council meeting.

Mayor Horton added that the Borough would be very lucky to get this project done this year; it is more likely that it will be completed in the spring of next year.

The Mayor stated that many residents are confused as to what is being considered under the Komline proposal: everybody in town should understand what is being proposed and what the cost would be. Mayor Horton spoke to the need for a special meeting, stating that the purpose of this meeting would be to allow sufficient time to get the word out to

the public. The project would be solely the focus of the meeting. The Mayor added that a decision can't be made solely based upon committee input.

Nick Deluca, Main Street, stated that he is opposed to spending tax dollars on tennis courts, and that there are better projects to be focused on. Mr. Deluca asked what is being done in 2013 to reduce the tax rate in 2014, and asked what the current tax rate is. Mr. Deluca spoke regarding the lower tax rate in Far Hills in comparison to Peapack and Gladstone. Cm. Muller stated that one of the reasons why Far Hills' tax rate is lower is that Far Hills did not have to purchase its recreational facility; and that Harding Township's tax rate is lower because both the Fire Department and First Aid Squad are supported by an endowment. A discussion ensued regarding the services provided by Far Hills.

Heather Santoro, Mendham Road, stated that everything mentioned seems reasonable, but the timeframe involved seems lengthy, and asked when will the Council vote go or no go.

Cm. Suriano commented on the issues involved and responded to the confusion as to the tie between the referendum and the Komline project, stating that approval of the Komline project is not tied to approval of the referendum.

SuJin Beckerman, Tiger Hill, asked to the Council to move forward, stating that the Mayor and Council have heard from enough people.

Mayor Horton responded that those present in the audience have strong feelings, and would like to provide more people with the opportunity to weigh in. Cm. Gunning responded that people have had ample notice via meeting agendas, articles in the newspaper and letters to the editor.

Caroline Campion, Old Chester Road, stated she is aware there is an extensive back history; stated that the movement towards installing recreational facilities keeps petering out; asked why there is a 15-year history of meetings and referenda and yet nothing has happened.

Mayor Horton responded that funding has been a major factor.

The Council voted as to whether there should be a special meeting. Cm. Gunning voted no. Cm. Suriano stated that at the last Borough Council meeting it was agreed that the Komline Committee would review the plans one more time, that OSAC is looking at the plans, and proposed that at the next Borough Council meeting the Council review their comments and have a formal vote on whether or not to move forward with this project. Garvin Walsh, OSAC Chairman, advised that on Monday July 15th OSAC will meet and will provide an advisory opinion to the Council prior to the July 23 meeting.

Heather Santoro, Mendham Road, asked if anyone from the Komline Committee was available this evening to advise whether their comments will be ready for the July 23 meeting.

Tom Dill, Pfizer Drive, asked how much money is currently in the trust fund and how much money is generated annually. Garvin Walsh responded that there is \$864,000 currently in the account. Cm. Suriano provided an accounting of the Open Space Trust Fund, stating that as of December 31, 2012 there was \$848,633. The estimated trust fund receipts for 2013 will be \$195,000. The debt service for Komline and Gateway will cost the fund about \$175,590. The anticipated Green Acres award will be \$325,000 that will go back into the fund. The estimated 2013 operating expense for the Land Conservancy is about \$12,000, or \$6000 for a six-month contract renewal. The net income for 2013 is \$332,409. With all of that in consideration there will be about \$1,181,000 in that trust fund. There will be about \$900,000 in that account at the end of the year. Mr. Dill stated that Council has discussed selling the Komline house which would provide additional monies. Cm. Suriano advised the rough appraisals he has had on that property indicated that the Borough could expect somewhere in the neighborhood of \$500,000 to \$600,000 on that house. The revenue could potentially be more due to the continuance of the easement that provides access to the house from Route 206.

Nick Deluca asked if the Borough owns the Komline property, asked why the monies in the Open Space Trust Funds are not being used to pay off the debt encumbered when the Borough purchased the property and asked why Open Space Trust Fund monies are not being utilized to pay the Fire Department. Cm. Simpson responded that trust fund monies cannot be used to fund the Fire Department. Cm. Gunning advised that a municipal bond can't be just paid off.

Debi Infusino, 16 Hillcrest Drive, asked if there would be a special meeting.

Cm. Simpson stated that there are folks not living in town who serve on the Fire Dept. and that he is now begging people to find young people to serve on the Fire Dept.

Cm. Simpson stated that he is ready to vote now, and does not need a special meeting.

Cw. Silacci asked whether tennis courts were included in the master plan. Cm. Suriano responded that the master plan does state that there is a deficit in the number of recreational facilities in the Borough. Cw. Silacci stated that she has no problem with tennis courts, but that people living close to the proposed site need to provide input. A special meeting is needed.

Cm. Muller stated that this discussion has been going on for a long time and that he is ready to vote right now, but in deference to the committees would hold off until the next Borough Council meeting.

Mayor Horton stated that as a result of the Council's vote there would be no special meeting. The Komline project would be discussed further at the July 23 Borough Council meeting. Anyone interested is invited to attend.

Mayor Horton returned to the issue of placing a referendum on the ballot in November, and asked for Council consensus. Cm. Gunning stated that he votes no. Cm. Suriano stated he would like to see the language of the proposed referendum prior to voting. Cm. Simpson stated he agreed with Cm. Suriano. Cw. Silacci stated clarification to the wording of the referendum is needed, but a referendum should be voted on. Cm. Muller stated he would support the referendum if it were part of the general election, and recommended that the wording of the referendum be cut and pasted from the NJ Statute.

The decision whether to place a referendum on the ballot of the November General Election for the purposes of clarifying and adding to the uses Open Space Trust Fund was deferred until the July 23rd, when the Council would have the opportunity to review the wording of the proposed referendum.

Discussion FEMA Grant Funding web-based tool.

Administrator Collins advised that FEMA is requiring that all applicants for FEMA grants utilize a new web-based grant management system. The Borough has applied for grants for the purchase of a generator for the Trimmer Lane pumping station, and a backup generator for the pumping station at Brook Street. Council concurred that the Borough would participate in this tool, and concurred that Administrator Collins would complete the application and sign on behalf of the Borough.

Letter from SADC Regarding Villa Application

Mayor Horton advised that he has received a letter stating that the SADC still has issues with the application and has requested consideration of some changes. The Mayor stated that he would be referring the applicant, Nick Villa, to Cw. Silacci and Sandy Urgo of the Land Conservancy for a discussion on where this application may go next. Sandy will have to advise the applicant on what he needs to do in order to comply with the demands of the SADC, and the applicant will have to decide what changes he is willing to make. Cw. Silacci stated that she and Sandy have already been in touch with Mr. Villa and are working with him on this application. For the benefit of the audience, Cw. Silacci explained Mr. Villa's application to the SADC, the history of this application and the issues the SADC has with the application. Mayor Horton stated that the Borough is actively seeking anyone who has farmland that they would like to preserve. In response to questions from the audience, a discussion ensued regarding the purpose of farmland preservation and the sources of funding the Borough seeks to utilize for this purpose.

William Fosina, Pheasant Run, stated that there was a case in Hoboken where a developer was supposed to create a park and instead built two apartment buildings; stating that the Borough can't predict the future, and there are no guarantees.

Cm. Suriano explained the procedure that would be followed were the Borough to purchase development rights to the property.

Heather Santoro, Mendham Road, asked if the Council has already voted on whether to purchase the development rights, and was answered no. A discussion ensued regarding the process involved.

Caroline Champion, Old Chester Road, stated that the scuttlebutt is that the Komline project is being held up until the disposition of this application is decided. Members of the Council responded that this is not the case.

William Fosina asked if the preservation of this property would drive up the tax rate.

PUBLIC COMMENTS:

Ron Hill, Old Chester Road, and member of the Fire Department stated that there are 6 to 8 property owners who have not given the water company permission to enter their

**BOROUGH OF PEAPACK AND GLADSTONE
RESOLUTION NO. 084-13**

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Peapack and Gladstone that in compliance with N.J.S.A. 10:4-12 this meeting will be closed to the public to discuss the following matters:

**CONTRACT NEGOTIATIONS-PBA CONTRACT
CURRENT LITIGATION-APTSIAURI**

The matters considered in this Executive Session can be released to the public when the reasons for discussing and acting on it in closed session no longer exist.

This Resolution was introduced and moved for adoption by Cm. Gunning, 2nd by Cm. Suriano:

On call of the roll the following vote was cast:

AYE: Gunning, Muller, Silacci, Simpson, Suriano

NAY: None

ABSENT: Sweeney

ABSTAINED: None

The Mayor and Borough Council met in Executive Session at 9:30 P.M.

The Regular Meeting was reconvened at 10:28 P.M.

Having no further business to come before them, the meeting of the Borough Council was adjourned at 10:28 P.M. on a motion duly made by Cm. Gunning and 2nd by Cm. Muller.

APPROVED:

ROBIN COLLINS
BOROUGH CLERK

WILLIAM H. HORTON
MAYOR