

**December 11, 2012**

A Regular Meeting was held by the Township Council of the Township of Roxbury on December 11, 2012 in the Municipal Building located at 1715 Route 46 in Ledgewood, New Jersey at 7:30 PM.

**PLEDGE OF ALLEGIANCE**

**OPEN PUBLIC MEETING STATEMENT**

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

**ROLL CALL (Present):** Councilman Gary Behrens  
Councilman Mark Crowley  
Deputy Mayor Kathy DeFillippo  
Councilman Jim Rilee  
Councilman Richard Zoschak  
Mayor Fred Hall

**Absent:** Councilman Martin Schmidt

**Also Present:** Christopher Rath, Township Manager/Deputy Clerk  
Anthony M. Bucco, Esq., Township Attorney (10:05PM departure)  
Kathleen Florio, Administrative Aide  
Constance Gouck, Administrative Aide

**Staff:** Michael Kobylarz, Township Engineer/Director of Utilities  
Richard Blood, Director of Department of Public Works  
Lisa Spring, CFO/Treasurer  
Valarie Wyble, Purchasing Agent  
Dave Stierli, Director of Recreation

**Public:** approximately seventeen (17) members of the public were in attendance

**Mayor Hall amended the order of the agenda to allow for a moment of silence in honor of Owen Smith.**

Mayor Hall spoke about Owen who was a first grade student at St. Therese School, an honorary fireman, and honorary policeman who was stricken by a rare form of cancer and recently passed away. Council members expressed their condolences to the family.

**Mayor Hall returned to the order of the agenda.**

**PRESENTATIONS, AWARDS, ETC**

None

**APPROVAL OF MINUTES**

None

**Mayor Hall amended the order of the agenda to allow for the following item listed under the "New Business/Old Business" portion of the REPORTS OF COUNCIL LIAISON REPRESENTATIVES, COUNCIL COMMITTEES AND NEW BUSINESS/OLD BUSINESS to be addressed.**

**Access Agreement – Strategic Environmental Partners/Fenimore**

Mayor Hall commended Mr. Bucco for his hard work. Mr. Rath's summarized the events from the recent court hearings and provided an updated status of the ongoing issues with Strategic Environmental Partners (SEP) and the former Fenimore Landfill site. He emphasized the need to report odor complaints to the NJDEP and cautioned against anyone making false complaints. He encouraged residents to attend the next court hearing on December 21, 2012 which would be addressing the NJDEP complaints about the ACO violations. Mr. Rath's added that there have been recent complaints about the truck traffic causing muddy and slippery conditions on the roadways. He also said that SEP had not agreed to the conditions outlined in the Alternate Access Road Agreement and that, in the meantime, the construction permits had expired. However, he informed the Council that the NJDEP has now agreed to extend the expiration date of the permits for the access road. Mr. Bucco noted that SEP has had the Access Road Agreement in their possession since the last week of November and they have not provided a response to the Township.

Councilman Crowley also praised Mr. Bucco for his efforts. He said that one of the outcomes of the court hearing was that SEP needed to cover the site with clean fill daily. SEP was initially given forty-eight hours to comply, but received an additional day to collect fill and have it stored on site. Councilman Crowley noted that SEP claimed to be having an issue covering the steep slopes with clean fill and acquiring enough clean fill to satisfy the ACO. He also pointed out that there continues to be no money in escrow to protect Roxbury's interest in the event SEP abandons the capping of the landfill. He encouraged residents to continue to call in verifiable odor complaints to the NJDEP so their issues could be documented.

Councilman Behrens reiterated the accolades regarding Mr. Bucco and his efforts on behalf of Roxbury. He reminded Council that SEP's failure to cover the site with clean fill each day was yet another ACO violation.

Mr. Bucco informed Council that Judge Wilson would be visiting the site on December 14, 2012 at 10:30 a.m.

Deputy Mayor DeFillippo explained that the entire Council did not attend the hearing so as to avoid a quorum and the perception of a violation of the Open Public Meetings Act (OPMA) by having a congregation of a majority of the Council together in one place without public notice having been provided, as required by law.

Deputy Mayor DeFillippo inquired about purchasing machinery to measure odor and air quality. She also cited changes in wind direction and NJDEP response time as a factor in some complaints being categorized as "unverifiable".

Mr. Bucco responded that the machinery is costly, but that Mr. Rath's has solicited quotes from air monitoring companies. He suggested that the Township's Health Inspectors should be documenting the odor complaints as well. Mr. Bucco expressed astonishment that the Judge decided she needed to obtain the opinions from "experts" when the NJDEP inspectors are considered experts. Mr. Bucco said that his motion to intervene was granted.

Councilman Behrens said that SEP is attributing the recent odor to the dumping of wall boards from homes damaged by Hurricane Sandy. He noted the response time for a NJDEP inspector to arrive after receiving an odor complaint could be in excess of two hours at which time conditions could change and odors may not be as pungent or detectable as when the complaint was called in.

Mayor Hall suggested using the law to request documents from Judge Wilson to ascertain what she was basing her decisions on. Mr. Bucco responded that the Open Public Records Act does not apply to an ongoing court case in the judicial system.

General Council discussion ensued regarding the NJDEP information, methods of capping and the possible reasons why SEP was permitted to cap the landfill by bringing in more debris. Mayor Hall suggested hiring consultants to monitor the process. Councilman Zoschak suggested waging a federal lawsuit against the NJDEP.

Mr. Bucco said that since the landfill has been allowed to be reopened, it must be capped and that becoming adversarial with the NJDEP at this time would not be advantageous to the process that must take place. Mr. Bucco also stated that a NJDEP inspector is now on site everyday as stipulated by Judge Wilson. He informed Council that he has not seen the agreement but it is his understanding that SEP has an energy contract, not to be confused with a solar farm contract. The energy contract is to take the solar energy generated at the site and enter it into the power grid, which is a major aspect of the project. He also explained that escrow is basically the equivalent of a performance bond and would be used to pay for the capping if the developer defaulted on the project. He said that it is not a fund that monies can be drawn from during the capping process. Councilman Zoschak suggested that all the municipalities named in SEP's federal lawsuit join together, shut down SEP, and collectively cap the landfill.

Deputy Mayor DeFillippo expressed her thoughts regarding the reopening of the landfill after it having been naturally capped. She also expressed concerns about the expense associated with the project if SEP abandons it.

Mayor Hall requested that Mr. Bucco obtain the reports from the on-site inspector and a description of what parameters the individual is working under.

**Mayor Hall returned to the order of the agenda.**

## **PUBLIC PORTION**

**John O'Neill**

**217 Mooney Road, Flanders**

Mr. O'Neill spoke about his attendance at the court hearing and expressed his opinion that it had been a waste of time. He claimed that activity at the site actually increased after the hearing. He also said that he conducted his own investigation into tipping fees and estimated that SEP is generating a minimum of \$200,000.00 per week. Mr. O'Neill asked what can be done to get SEP to sign the Access Agreement.

Mr. Bucco reminded all those present that their comments are public record.

Mr. O'Neill said that he would be happy to have the Judge come to his home, stay a few days and observe the SEP in action.

**Carlos Mederos**

**4 Nalron Drive, Ledgewood**

Mr. Mederos said that as a retired electrical engineer, he has had experience with solar rays and recommended that the Township get a blueprint of the solar plan to understand why so much waste is being brought to the site. Mr. Mederos volunteered his services in assisting the Township of Roxbury and/or SEP free of charge. Council members felt that the NJDEP allowed more fill than would be needed for a solar farm so that SEP could make a profit and pay for the capping. Mr. Mederos said that the air should be monitored and tested.

**Diane Crowell**

**36 Emmans Road, Ledgewood**

Ms. Crowell spoke about the odor emanating from the landfill and said it becomes most pungent from 6:00 p.m. and continues through the evening. She said that Judge Wilson would not likely experience the odor during her 10:00 a.m. visit to the site. Ms. Crowell asked for clarification about the type of fill that is being accepted. Deputy Mayor DeFillippo commented on the weight of the trucks and the discrepancies in the bill of lading. Councilman Zoschak requested that the Township submit an OPRA request to the NJDEP for the bill of lading documents. Mr. Rath responded that this had already been done but will be done again.

**Richard Keir**

**529 Curtis Road, Landing**

Mr. Keir praised the Township's volunteer emergency responders and police department personnel for their actions, compassion and thoroughness during a recent death in his family. Mr. Keir expressed gratitude for the assistance of an officer he knew only by the first name of "John".

**Dennis Wine**

**4 Holly Drive, Succasunna**

Mr. Wine asked if the state had provided written confirmation about providing payment for alternate access route to the Fenimore Landfill site. Mr. Raths said that he had only received a verbal commitment. Mr. Wine asked about the details of the plans and if they had been submitted. Mr. Raths replied that a rudimentary computer generated sketch was provided during the initial discussions of the project. Mr. Wine pointed out that an actual plan would dictate the amount of fill needed. General Council discussion ensued.

Mr. Wine congratulated Ms. Valarie Wyble for passing the Qualified Purchasing Agent (QPA) examination. He asked for further details regarding the position. Ms. Wyble responded and outlined the duties of a QPA. Mr. Raths, Mr. Bucco and Lisa Spring also answered Mr. Wine's questions about bid thresholds, prevailing wages, Medicare reimbursements, and shared services legislation.

Mr. Wine asked if JCP&L and/or BPU representation would be in attendance at the Special Meeting scheduled for December 15, 2013 to discuss the disappointment in the utility's response during and after Hurricane Sandy.

**Susanna Gibson**

**244 Eyland Avenue, Succasunna**

Ms. Gibson commended the DPW and Blue Diamond Sanitation for their efforts and assistance during Hurricane Sandy and its aftermath. Ms. Gibson admitted that she had not reached out and called Town Hall, but felt that the communications during the storm was unsatisfactory. Councilman Zoschak pointed out that Town Hall was staffed and supplying information to anyone who called in. Mayor Hall encouraged Ms. Gibson to register for emergency alerts and to include her cell phone number. He also informed her that the social media sites and the Township website are continually updated to provide current information to residents.

Ms. Gibson stated that she is a nurse and that health of the next generation is at risk due to the issues surrounding the landfill. She also warned about additional legal actions that would be forthcoming.

**Ralph Nappi**

**29 Ford Road, Landing**

Mr. Nappi asked for specifics about the extension of time given for the access road permits. Mr. Raths said that a ninety day extension had been granted. Mr. Nappi also asked about the process to verify odor complaints and whether or not an inspector would be on site to respond to them. Mr. Bucco explained that an inspector would probably be available only during the site's hours of operation.

**Anthony Fiore**

**70 Fox Chase Lane, Ledgewood**

Mr. Fiore asked about the truck traffic. Councilman Rilee spoke about the ACO being put in place by the NJDEP without the Township's input.

Mr. Fiore asked if the Township was considering rescheduling the Special Meeting regarding JCP&L's Hurricane Sandy response since there is a regional meeting scheduled for December 18, 2012 at 4:00PM at Hopatcong Middle School. Council members said they would discuss the possibility of postponing at a later time.

Lastly, Mr. Fiore asked what the residents can do to assist the council with the Fenimore issue. Mr. Raths encouraged residents to attend the hearing on December 21, 2012 and to feel free to share any suggestions with him.

**Dave Crowell**

**36 Emmans Road, Ledgewood**

Mr. Crowell asked if the NJDEP can give permission for Township representatives to enter SEP’s property. Mr. Rath and Mr. Bucco responded negatively and explained state law regarding entering private property.

Mr. Crowell also asked for a list of allowable items to be dumped. Mr. Rath responded and also stated that the information is also available on the Township website.

**Anthony Fiore**

**70 Fox Chase Lane, Ledgewood**

Mr. Fiore asked whether SEP would need to obtain a soil moving permit from the Township. Mr. Rath replied in the negative. Mr. Bucco elaborated by explaining that the municipality only has jurisdiction over the site plan approval for the solar farm.

**Mayor Hall closed the public portion.**

**Mayor Hall amended the order of the agenda to discuss Resolution 2012-361, “A RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO FRENCH & PARRELLO ASSOCIATES, PA., FOR PROFESSIONAL ENGINEERING, SURVEYING, AND ARCHITECTURAL SERVICES FOR THE LANDING RECREATION COMPLEX” listed under “INTRODUCTION AND ADOPTION OF RESOLUTIONS”**

**2012-361** A RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO FRENCH & PARRELLO ASSOCIATES, PA., FOR PROFESSIONAL ENGINEERING, SURVEYING, AND ARCHITECTURAL SERVICES FOR THE LANDING RECREATION COMPLEX

General Council discussion took place regarding the bid selection process.

Councilman Zoschak made a motion to adopt Resolution No. 2012-361. Councilman Rilee seconded the motion.

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

Motion carried 6 to 0.

**Mayor Hall returned to the order of the agenda**

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

**A. Reports of Council Liaison Representatives and Council Committees**

Councilman Zoschak commended everyone involved in the Hurricane Sandy Recognition ceremony held on December 8, 2012. Councilman Rilee also praised the staff for organizing the event.

Councilman Behrens reported that he was unable to attend the recent Board of Education meeting, but would provide a report on federal funding disbursement in the next Communications packets.

Councilman Crowley also complimented the staff and community for their efforts and participation in the Hurricane Sandy Recognition ceremony.

Deputy Mayor DeFillippo said that she would provide information from the recent Economic Development Committee meeting at the next Council meeting.

Deputy Mayor DeFillippo informed Council that she had received correspondence from a local insurance agent complimenting Mr. Raths, Township Manager, and Mr. Pellek, Fire Prevention/Safety Officer, for their effective and professional approach in assisting him with a recent issue.

Deputy Mayor DeFillippo applauded the efforts of everyone who made the recent Hurricane Sandy Recognition ceremony a success.

Deputy Mayor DeFillippo informed Mr. Raths that there are still wires hanging on poles around town. Mr. Raths asked that information regarding locations of concern be submitted to him so that he could follow-up with the power company.

Mayor Hall spoke about upcoming events including the Santa Train and the annual Township tree-lighting ceremony.

Mayor Hall extended a special thanks to Sandie DiDomenico for setting up the Hurricane Sandy Recognition Ceremony.

Mayor Hall congratulated the Roxbury High School football team on becoming state champions.

Mr. Raths stated that he would be out of the office for most of the day on December 12, 2012 as he would be teaching a class at Rutgers University on local government leadership at Rutgers University to a group of dignitaries from Nigeria.

Council members asked Ms. Florio to let Ms. Rhead know that they were thinking of her and hoping she has a speedy recover.

## **B. New Business/Old Business**

### **1. Application for Special Permit-Rory O'Moore Pipes & Drums 1/12/13**

Councilman Zoschak made a motion to approve the application for a one-day liquor license as listed above. Councilman Rilee seconded the motion.

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

Motion carried unanimously, 6 to 0.

### **2. QPA Appointment**

Council members expressed unanimous congratulations and approval of Valarie Wyble as the Township's Qualified Purchasing Agent.

### **3. Sewer Consent Order – *item pending; no discussion***

### **4. Police Education Requirements – *item pending; no discussion***

### **5. No parking – Conkling/Main Street – *item pending; no discussion***

### **6. Access Agreement-Strategic Environmental Partners/Fenimore-*previously discussed***

## **Mayor Hall amended the order of the agenda to allow for the following comments from Deputy mayor DeFillippo:**

Deputy Mayor DeFillippo brought up the subject of the Special Meeting scheduled for Saturday, December 15, 2012 for a public hearing regarding JCP&L's and BPU's performance during Hurricane Sandy. She asked if the Council wanted to either

cancel or postpone since neither organization responded affirmatively to having representatives in attendance. Council decided to cancel the meeting and directed Ms. Florio to provide public notice of same.

**Mayor Hall returned to the order of the agenda.**

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

None

**INTRODUCTION OF PROPOSED ORDINANCES**

None

**HEARING AND ADOPTION OF ORDINANCES ON SECOND READING**

None

**INTRODUCTION AND ADOPTION OF RESOLUTIONS**

**2012-353** A RESOLUTION INCORPORATING BY REFERENCE HEREIN AND APPROVING THE FOLLOWING NUMBERED RESOLUTIONS LISTED ON THE REGULAR COUNCIL MEETING AGENDA FOR THIS DATE:

2012-354, 2012-355, 2012-356, 2012-357,  
2012-358, 2012-359, 2012-360, 2012-362,  
2012-363, 2012-364, 2012-365

Councilman Rilee made a motion to adopt incorporating Resolution No.2012-353. Deputy Mayor DeFillippo seconded the motion.

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

Motion carried 6 to 0.

**2012-354** A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF ROXBURY, MORRIS COUNTY, NEW JERSEY, TO ESTABLISH A SCHEDULE OF REGULAR, BUDGET AND NEIGHBORHOOD MEETINGS OF THE TOWNSHIP COUNCIL FOR THE CALENDAR YEAR 2013

Deputy Mayor DeFillippo requested that the January 31, 2013 meeting be cancelled. Council expressed concern that there would be confusion as the calendar had already been printed. Council agreed to modify the Annual Meeting dates and schedule a total of two (2) Neighborhood Meetings in 2013. Ms. Florio was directed to advertise accordingly and to also provide public notice of the cancellation of the January 31, 2013 Neighborhood Meeting that had already been printed on the Township calendar.

**2012-355** A RESOLUTION AUTHORIZING THE REFUND OF TAXES

**2012-356** A RESOLUTION AUTHORIZING INTEREST RATE/GRACE PERIOD/YEAR-END PENALTY

**2012-357** A RESOLUTION AUTHORIZING THE TAX & UTILITY COLLECTOR TO PROCESS THE CANCELLATION OF ANY PROPERTY TAX, SEWER OR WATER UTILITY REFUND OR DELINQUENCY FOR 2012 OF \$10.00 OR LESS

- 2012-358** A RESOLUTION AUTHORIZING A REFUND OF THE UNUSED ENGINEERING INSPECTION FEES TO KUIKEN BROTHERS CO., INC. FOR A PROJECT KNOWN AS 33A STATE HIGHWAY 10 EAST, SUCCASUNNA BLOCK 1905, LOT 11, 13 & 14
- 2012-359** A RESOLUTION AUTHORIZING THE RELEASE OF A PERFORMANCE GUARANTEE POSTED WITH THE TOWNSHIP OF ROXBURY IN CONNECTION WITH WORK PERFORMED AND ACCEPTED IN ACCORDANCE WITH A TOWNSHIP RIGHT-OF-WAY EXCAVATION PERMIT
- 2012-360** A RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL ENGINEERING SERVICES CONTRACT TO THE RBA GROUP, INC. FOR THE LEDGEWOOD POND DAM ALTERNATIVE ANALYSIS BLOCK 7501, LOT 11
- ~~2012-361~~** **PULLED FROM INCORPORATING RESOLUTION / VOTED ON & ADOPTED EARLIER IN THE MEETING –** A RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO FRENCH & PARRELLO ASSOCIATES, PA., FOR PROFESSIONAL ENGINEERING, SURVEYING, AND ARCHITECTURAL SERVICES FOR THE LANDING RECREATION COMPLEX
- 2012-362** A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO AMERICAS GENERATOR, INC. FOR A 80 KW TRAILER MOUNTED EMERGENCY GENERATOR TO BE UTILIZED BY THE WATER UTILITY
- Councilman Behrens asked Mr. Kobylarz how the size of the generator is determined. Mr. Kobylarz explained the criteria and the process involved in making the determination about the required size.
- 2012-363** A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO GRAMCO BUSINESS COMMUNICATIONS TO PROVIDE AND INSTALL AN AUDIO SYSTEM IN THE COUNCIL CHAMBERS
- 2012-364** A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS  
Lisa Spring requested that the Park’s Maintenance line item within the text of the resolution be categorized as “S & W” instead of “OE”. Ms. Florio was directed to make the requested change.
- 2012-365** A RESOLUTION AUTHORIZING THE PAYMENT OF BILLS

**Mayor Hall amended the order of the agenda to allow for the following comments from Councilman Rilee:**

Councilman Rilee noted that in past years Roxbury High School State Champion teams have been recognized publicly and asked Mr. Rath to honor the Football State Championship team. Mayor Hall deemed this appropriate. Discussion occurred and it was decided the team would be invited to a Council meeting in the near future.

**Mayor Hall returned to the order of the agenda.**

**PERSONNEL CHANGES**

None

**COMMUNICATIONS**

**November 30, 2012**

**December 7, 2012**

Councilman Rilee made a motion to file the above-listed Communications. Councilman Zoschak seconded the motion.

Voice Vote: All in Favor – Yes

Motion carried unanimously, 6 to 0.

**PUBLIC PORTION**

None

**EXECUTIVE SESSION**

**2012-366** A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF ROXBURY, IN THE COUNTY OF MORRIS, NEW JERSEY AUTHORIZING CONFERENCE OF THE TOWNSHIP COUNCIL WITH THE PUBLIC EXCLUDED

Matter(s) Relating to:

1. **Litigation** – Strategic Environmental Partners (SEP) re: former Fenimore Landfill site
2. **Contract Negotiations** – PBA Supervisors Union (Local 97)
3. **Potential Shared Services** – police services to Mine Hill

At 10:00PM, Councilman Zoschak made a motion to adopt Resolution No. 2012-366 for Executive Session. Councilman Crowley seconded the motion.

Voice Vote: All in Favor – Yes

Motion carried unanimously, 6 to 0.

**At 10:25PM the Council returned to the open session of the meeting.**

**ADJOURNMENT**

At 10:25PM Councilman Zoschak made a motion to adjourn the meeting. Councilman Rilee seconded the motion.

Voice Vote: All in Favor – Yes

Motion carried unanimously, 6 to 0.

Submitted By:

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Amy E. Rhead, Township Clerk on behalf of  
Christopher Raths, Township Manager/Deputy Clerk

**MINUTES APPROVED BY COUNCIL:**

**DATE:** May 28, 2013

**ROLL CALL:**

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