

October 21, 2008

The regular bi-monthly meeting of the Lafayette Township Committee was held on Tuesday, October 21, 2008 at 7:30pm. In the Municipal Building, 33 Morris Farm Road, Lafayette, NJ.

Members Present: Mayor Hughes, Committeemen Sweeney, Corcoran, D'Angeli and Bruning

Members Absent: None

Also Present: Clerk Fedish, CFO Magura, Road Foreman Macko and Attorney Kurnos

Mayor Hughes opened the meeting stating it was being held in compliance with Public Law 1975, Chapter 231, Sections 4 & 13.

### **Treasurer's Report**

Cash Report for September 2008

Cash Balances as of July 31, 2008 \$1,354,863.99

Cash Receipts for August 2008 \$1,155,726.39

Total \$2,510,590.38

Cash Disbursements for August 2008 \$873,909.36

Cash Balances as of August 31, 2008 \$1,636,681.02

Account Balances as of August 31, 2008

Current – Checking \$717,948.02

Capital – Checking \$214,486.09

Escrow – Checking \$137,963.87

Tax Map Updates \$1,599.56

COAH – Developers' Fees \$185,752.13

Open Space Municipal Tax \$140,055.37

Trust Accounts for Developer's Agreements \$220,826.92

Special Rec. – Checking \$6,246.48

Special Donations \$7,543.00

Dog Trust Account \$4,259.58

Total Account Balances \$1,636,681.02

Motion by D'Angeli, seconded by Corcoran, to accept the Treasurer's Report. Motion carried by roll call vote: Sweeney-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Hughes-yes.

### **Committee Reports**

**Buildings and Grounds** - Bruning reported there was a problem with the heating system. It was repaired and serviced.

**Recreation Commission** - Bruning reported the Recreation Commission has recommended donating \$500 to the Fire Department for Christmas lights on the tree at the pond. This was approved by the Township Committee.

**Streets and Roads** - D'Angeli reported routine work was done; and the black topping is complete. He reported two (2) signs were stolen; and replacements have been ordered. D'Angeli reported the annual fall clean-up is now complete; and 119 tons of bulky waste was taken to the SCMUA.

D'Angeli reported that Jason Beshada, Road Department Employee, was hit on the head by a tree limb and transported to the ER at Newton Memorial Hospital yesterday, October 20, 2008. He is expected to be back to work tomorrow, October 22, 2008.

D'Angeli reported grits and salt are needed to be purchased.

**Board of Health** - Corcoran reported the Board of Health will hold its quarterly meeting this Monday, October 27, 2008.

**EMS** - Corcoran reviewed the monthly report. He said the 5,000 50/50 tickets have been sold.

**Land Use Board** - Corcoran reviewed last week's Land Use Board meeting and noted the conditions for the Nouvelle project and TRC fee were, also, discussed.

**Fire Department** - Sweeney reported that Quick Chek is donating \$0.25 cents from every sandwich sold.

**Affordable Housing** - Hughes reported a meeting was held with COAH last week to discuss the calculations and objections. He explained the process of the calculations. Hughes reported a joint meeting will be held in December with the Land Use Board for the Fair Share Housing plan; and the draft is expected to be received by mid-November.

**Emergency Management** - Hughes reported he needs the radio frequencies from the EMS and Fire Department.

At this time, Mayor Hughes amended the agenda to hear from the Lafayette Preservation Foundation.

**Lafayette Preservation Foundation**

Joan Smith, President

Michael Marguiles, Architect

Mrs. Smith gave an update of the historic district and asked the Township Committee to help with funding.

Mr. Marguiles said he has been working with the Preservation Foundation for approximately four (4) years and has received positive feedback from the State for a historical district, which would help to get funding for future projects. Mr. Marguiles said this register is a list noting national recognition.

Mrs. Smith said they do have a letter of eligibility stating Lafayette could have a national historic district. The letter of eligibility was discussed.

**Correspondence**

1. From Dennis Kohl, Boy Scouts of America, Inc. re: Opening flag ceremony & proclamation to celebrate Scouting's Anniversary  
The Township Committee would like the Boy Scouts to conduct the opening flag ceremony at a meeting in February and asked the Clerk to send a letter to confirm this.
2. Andover Township Resolution supporting S-1908 and A-2731 to permit municipalities and counties to make certain traffic engineering decisions without NJDOT approval
3. From Michael Turner, GPS, LLC urging support for the Municipal Revenue Restoration Act of 2008

**Vouchers**

20/20 BUSINESS SOLUTIONS INC.	197.92
ANJR	80.00
ATLANTIC COMMUNICATIONS	40.00
BASSANI POWER EQUIPMENT, LLC	222.11
BEAVER RUN FARMS	1,305.77
BOB'S MACHINING LLC	98.00
CEDAR RIDGE FARMS	150.00
CHAMBERS TRACTOR SALES, INC.	592.40
CHELBUS CLEANING CO., INC.	275.00
CINTAS CORP #111	564.84
CMX ENGINEERING	2,190.00
CMX ENGINEERING	1,310.00
CULLIGAN	11.00
CUSTOM DOCKS INC.	223.00
D. LOVENBERG'S PORTABLE TOILET	65.00
DENVILLE LINE PAINTING INC.	2,678.00
DOLAN & DOLAN, P.A.	5,566.10
EMBARQ	401.60
EMBARQ COMMUNICATIONS INC.	58.16

FINCH FUEL OIL CO., INC.	2,469.01
FRANKFORD TOWNSHIP	14,217.40
FRED CONRAD	24.97
FREDON WELDING & IRON WORKS	550.00
G & G DIESEL SERVICE INC.	303.97
G & H SERVICE INC.	1,742.52
GARDEN STATE PLUMBING & HEATING INC.	625.00
HAMPTON CONVIENCE STORE	210.00
HERMAN GOBLE	210.00
HIGH POINT REGIONAL HIGH SCHOOL	174,185.33
JCP&L	2,022.60
LAFAYETTE AUTO PARTS	592.11
LAFAYETTE SENIOR CITIZENS	1,000.00
LAFAYETTE TOWNSHIP FIRE DEPARTMENT	33,000.00
LAFAYETTE TWP BOARD OF EDUCATION	289,525.00
M.L. RUBERTON CONSTRUCTION CO.	23,771.25
MARYPAUL LABORATORIES INC.	50.00
MONTAGUE TOOL & SUPPLY CO.	1,037.85
MUNIDEX, INC.	128.00
NEXTEL COMMUNICATIONS	289.06
NJ STATE LEAGUE OF MUNICIPALITIES	110.00
OFFICE OF PUBLIC HEALTH NURSING	30.00
POLOWY STONE & MASON	61.50
SERVICE ELECTRIC CABLE TV	17.00
SOLAR TIRE & AUTO SERVICE	109.50
STAPLES BUSINESS ADVANTAGE	684.31
SUSSEX CTY LEAGUE OF MUNICIPALITIES	120.00
T.A. MOUNTFORD CO.	780.00
TC/TREAS ASSOC SUSSEX/WARREN	50.00
THE LAND CONSERVANCY OF NEW JERSEY	2,625.00
THE NEW JERSEY HERALD	238.85
TRI COUNTY REFRIGERATION	673.90
TRUMP TAJ MAHAL CASINO RESORT	2,400.00
VERES ELECTRICAL SERVICE INC.	2,458.91
VITAL SERVICES GROUP	87.50
WELDON QUARRY CO., LLC	89.32
WEST PAYMENT CENTER	122.50
ANS CONSULTING INC.	1,225.00
DENVILLE LINE PAINTING INC.	5,911.88
FINELLI CONSULTING ENGINEERS, INC.	609.43
M.L. RUBERTON CONSTRUCTION CO.	13,935.00
DOLAN & DOLAN, P.A.	331.39
BEN SHAFFER & ASSOCIATES INC.	238.00
BBC PRINTING	433.75
DR. SHERRI TALBOT-VALERIO	375.00
NEWTON VETERINARY HOSPITAL	81.50
NJ DEPT OF HEALTH & SENIOR SERVICES	1.20
THE NEW JERSEY HERALD	378.32

Motion by Bruning, seconded by Sweeney, to pay the bills on the Bills List. Motion carried by roll call vote: Sweeney-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Hughes-yes.

### Old Business

**Chapter 14 Amendment-Escrow Fees Ordinance** - Mayor Hughes opened the public hearing for the following ordinance:

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 14 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF LAFAYETTE, BEING THE LAND USE PROCEDURES ORDINANCE, SPECIFICALLY SCHEDULE H-ESCROW FEES

With there being no public comments, Mayor Hughes closed this portion of the meeting.

Motion by D'Angeli, seconded by Corcoran, to adopt the Chapter 14 Amendment-Escrow Fees Ordinance. Motion carried by roll call vote: Sweeney-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Hughes-yes.

**Outdoor Wood Bruning Furnace (OWB)** - Mayor Hughes opened this portion of the meeting to the public.

Mr. Bob McDonnell, 13 Violet Trail, is concerned that the distance from the school requirement was removed as the soccer field is near residences. He feels the distance for an OWB should be at least 500' from the property line for the school.

He asked if new boilers would be a Phase II model. Mayor Hughes said they should be.

Mr. James McGrath, 47 Beaver Run Road, asked why a second inspection would be required to transfer ownership when the unit is initially inspected at the time of installation. Mayor Hughes said this would be to ensure it is maintained properly and not altered.

A Gentleman in the Audience asked about the stack height. Mayor Hughes said it would be required to be at least two (2') feet above the peak of a residence not served by the OWB. He said portions of the ordinance were taken from different resources.

Mr. McDonnell asked about the height of the smokestack for units on a hill. Mayor Hughes said the units would need to be at least 125' from the rear property line and at least 50' from the side line, which is consistent with the zoning for accessory structures. He said the NJDEP requirements must be complied with.

Mr. Carmen Blundetto, 170 Statesville Quarry Road, feels the distance of OWB's should be increased for recreation fields for the health and safety of children.

With there being no further comments from the public, Mayor Hughes closed this portion of the meeting.

Motion by Bruning, seconded by D'Angeli, to introduce the following outdoor wood burning furnace ordinance and set the public hearing date for November 5, 2008:  
AN ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP OF LAFAYETTE'S BUILDING AND HOUSING ORDINANCE (CHAPTER 8), SPECIFICALLY ADDING SECTION 8-8 REGULATING OUTDOOR WOOD FURNACES

**SECTION 1. PURPOSE.** This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Township of Lafayette due to the air pollution and fire hazards of Outdoor wood furnaces and outdoor burning.

**SECTION 2. FINDINGS.** Outdoor Wood Furnaces, including outdoor wood-fired hydronic heaters, (OWF), typically burn wood to heat water that is piped underground to a nearby structure (usually a home) resulting in heat for a building. However, OWFs are often substantially dirtier and less efficient than some other home heating devices. With smoldering fires and short smokestacks OWFs can create heavy smoke that is released close to the ground, where it is not only a nuisance but unhealthy to breathe. Smoke contains particles which can affect both the lungs and the heart. Therefore, in order to promote public health, safety and welfare of the citizens of the Township of Lafayette OWFs as defined in this ordinance shall be subject to regulation as set forth herein.

**SECTION 3. DEFINITIONS.**

A. Outdoor Wood Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is primarily hand-loaded for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler, Outdoor Wood-fired Hydronic Heater or Outdoor Hydronic Heater.

B. Outdoor Wood-Pellet Furnace: An outdoor wood-pellet furnace that is specifically designed to burn wood pellet fuel, corn, or other biomass pellets with metered fuel and air feed and controlled combustion engineering, which burns only wood pellets, corn or other biomass pellets.

C. Chimney: Flue or flues that carries off exhaust from an Outdoor Wood Furnace firebox or burn chamber.

D. EPA OWHH Phase 1 Program: EPA OWHH (Outdoor Wood-fired Hydronic Heater) Phase 1 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.60 pounds per million British Thermal Units input and is labeled accordingly.

- E. EPA OWHH Phase 1 Program Qualified Model: An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH Phase 1 Program qualified. The model has met the EPA OWHH Phase 1 emission level and is labeled accordingly.
- F. EPA OHH Phase 2 Program: EPA OHH (Outdoor Hydronic Heater) Phase 2 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly.
- G. EPA OHH Phase 2 Program Qualified Model: An Outdoor Hydronic Heater that has been EPA OHH Phase 2 Program qualified. The model has met the EPA OHH Phase 2 emission level and is labeled accordingly.
- H. Existing Outdoor Wood Furnace: An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this ordinance and has been issued the Certificate of Occupancy (CO). The furnaces shall at a minimum meet EPA and NJDEP air emission requirements.
- I. New Outdoor Wood Furnace: An Outdoor Wood Furnace that is first installed, established or constructed after the effective date of this ordinance. All new furnaces shall meet or be more limiting in air emissions than the EPA OHH Phase 2 Program requirements and shall be in compliance with NJDEP air emission requirements.
- J. Natural Wood: Wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- K. Permit to Operate an Outdoor Wood Furnace: All persons, or authorized representatives, planning to install an Outdoor Wood Furnace shall obtain a permit from the Building Department and submit required documentation in accordance with this ordinance. This permit shall be in addition to any other permits, such as plumbing, electrical, and other sub-code permits and fees, as required by the Building Department. The permit fee for review, administration, and inspection of the Outdoor Wood Furnace to verify compliance with this ordinance shall be set at One Hundred Twenty (\$120.00) dollars. A permit shall be obtained prior to operation, as defined by burning of fuel, connection of electric, and connection of plumbing. A permit shall also be obtained prior to operating an Outdoor Wood Furnace following a transfer or sale of property at which the furnace is located.
- L. Significant Changes in Elevation: For the purpose of this ordinance, significant changes in elevation are any natural or manmade objects, such as hills, ridgelines, stone outcroppings, tree lines, and structures, which are greater than 30 feet in height above the natural grade of the Outdoor Wood Furnace.
- M. Site Plan: For the purpose of this Ordinance, a site plan can be prepared by the owner of the property and does not require a professional engineer or surveyor. The most recent Survey for the property should be used and indicate all structures in the owner's property. The site plan shall indicate the location of the furnace and height of the chimney. The site plan shall be prepared by the owner or authorized representative of the owner of any Outdoor Wood Furnace and shall at a minimum show the metes and bounds of owner's property and straight line distance from the Outdoor Wood Furnace to 1) property lines, 2) owner's residence, and 3) all residential and commercial structures within 500 feet. Significant changes in elevation within 200 feet of the Outdoor Wood Furnace, such as ridgelines, hilltops, and tree lines, shall be indicated on the Site Plan

#### **SECTION 4. REGULATIONS PERTAINING TO CONSTRUCTION AND INSTALLATION; NUISANCE**

- A. No person shall, from the effective date of this ordinance, construct, install, establish, operate or maintain an Outdoor Wood Furnace other than in compliance with the applicable sections of this ordinance.
- B. No person shall, from the effective date of this ordinance operate an existing Outdoor Wood Furnace unless such operation conforms with the manufacturer's instructions regarding such operation and maintenance, and the requirements of this ordinance regarding fuels that may be burned in an Outdoor Wood Furnace as set forth in Sections 3.A, 3.B, 3.J, and 5.A of this ordinance.
- C. All new Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this ordinance. In the event of a conflict, the requirements of this ordinance shall apply unless the manufacturer's instructions are more strict, in which case the manufacturer's instructions shall apply.

D. The owner of any new Outdoor Wood Furnace shall obtain a Permit to Operate an Outdoor Wood Furnace and submit the following documents:

1. the manufacturer's owner's manual or installation instructions to the building department prior to installation
2. provide a site plan

E. All new Outdoor Wood Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards and meet emission limits of EPA OHH Phase 2 Program.

F. Nuisance: If an existing Outdoor Wood Furnace is, through the course of a proper investigation by local or state authorities, creating a verifiable nuisance, as defined by ordinance or law, the owner shall be required to take the following steps at the direction of the building department or code enforcement officer of Lafayette Township:

- (1) Modifications made to the unit to eliminate the nuisance such as extending the chimney or relocating the Outdoor Wood Furnace or both, as specified in this ordinance.
- (2) Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.
- (3) Demonstrate that the Outdoor Wood Furnace is installed in compliance with manufacturer's instructions.

G. The sale or transfer of any property with an Existing Outdoor Wood Furnace shall be required to obtain a permit to operate as defined in Section 3.K of this ordinance. The furnace unit shall be removed or rendered inoperable until an inspection of the furnace is conducted and operation of the furnace in accordance with manufactures instructions is verified.

#### **SECTION 5. REGULATIONS PERTAINING TO OPERATION, SETBACKS AND CHIMNEY HEIGHT**

Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

A. Fuel burned in any new or existing Outdoor Wood Furnace shall be only natural untreated wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas, or propane backup.

B. The location of any new or existing Outdoor Wood Furnace shall not be located in front of the primary residence. For corner lots, this limitation shall apply to both residential structure sides facing a roadway.

C. No Outdoor Wood Furnace shall be located within 500 feet of the property lines of a school, daycare, medical facility or public park.

D. The following fuels are strictly prohibited in any new and/or existing Outdoor Wood Furnaces:

- (1) Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.
- (2) Rubbish or garbage, including but not limited to food wastes, food packaging, food wraps.
- (3) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- (4) Rubber, including tires or other synthetic rubber-like products.
- (5) Newspaper, cardboard, or any paper with ink or dye products.
- (6) Any other items not specifically allowed by the manufacturer or this provision.

E. Setbacks for any New Outdoor Wood Furnace model:

- (1) The Outdoor Wood Furnace setback from property lines shall comply with Chapter 13, Section 8.6 of Lafayette Ordinance for Yard and Dimensional setbacks but at a minimum shall not have less than a 50 foot side yard and 125 foot rear yard from the property line.
- (2) The Outdoor Wood Furnace shall be located at least 200 feet from any residence that is not served by the Outdoor Wood Furnace.
- (3) The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.

F. Chimney heights for any New Outdoor Wood Furnace model:

- (1) The chimney of any new Outdoor Wood Furnace shall extend at least 2 feet above the peak of any residence not served by the Outdoor Wood Furnace located within 300 feet of such Outdoor Wood Furnace.
  - (2) For distances of not less than 300 feet but no more than 500 feet from any residence not served by the furnace, the stack height shall be at least 25% of the peak line of that residence, plus an additional 2 feet.
  - (3) If located more than 500 feet from any residence not served by furnace, the stack height shall be in accordance with manufacturer's instructions but in no case be less than 5 feet above the peak roof line of the furnace unit.
- G. Outdoor wood-pellet furnaces that are specifically designed to burn wood pellet fuel, corn or other biomass pellets with metered fuel and air feed and controlled combustion engineering shall be installed per the manufactures' recommendations.

**SECTION 6. SITUATIONS AS TO WHERE THIS ORDINANCE DOES NOT APPLY.** This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances. This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned are specifically precluded by this ordinance. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

**SECTION 7. VIOLATION AND PENALTIES.** The penalty for violation of any portion of this ordinance shall be a fine of not less than twenty-five dollars (\$25) or more than two hundred fifty dollars (\$250) plus the cost of prosecution. Penalties are doubled for second and subsequent offenses... Each week's continued violation shall constitute a separate and distinct offense.

**SECTION 8. INSPECTION AND RIGHT OF ENTRY.** The code enforcement officer of Lafayette Township or any authorized officer, agent, employee or representative of the Township who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. If the owner or occupant of the premises denies access to the property for this purpose, the Township may apply for a court order or warrant pursuant to law to compel entry to the property to carry out the provisions of this ordinance.

**SECTION 9. SEVERABILITY.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provisions so declared invalid shall be inseparable from the remainder of any portion thereof.

**SECTION 10. INCONSISTENT ORDINANCES REPEALED.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 11. EFFECTIVE DATE.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Motion carried by roll call vote: Sweeney-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Hughes-yes.

#### **New Business**

**November Meeting Cancellation** - Motion by Corcoran, seconded by D'Angeli, to cancel the November 18, 2008 meeting due to the League of Municipalities Convention. Motion carried by roll call vote: Sweeney-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Hughes-yes.

#### **Audience**

Ms. Catherine Moore, Advertiser New Reporter, asked how an existing OWB would affect parks. Mayor Hughes said they would have to be corrected/altered if considered a nuisance.

Mr. Carmen Blundetto asked that if the DEP and EPA regulations must be met if the dual use was allowed. Committeeman Corcoran said they would need to comply with both agencies.

Mr. Kevin O’Leary, 13 Brandywine Court, asked how a medical facility is defined. Mayor Hughes said this will be reviewed.

Mr. Don Kihlstrom, Beaver Run Road, asked if a problem would be created by allowing two (2) residences to use one (1) OWB. Committeeman Bruning said the Township is not responsible to settle neighbors’ disputes. Committeeman D’Angeli said the unit can be disconnected if a problem does arise.

Mr. Kihlstrom asked if the gas line installed by Elizabethtown Gas Company will be continued down Morris Farm Road to Rout 15. Committeeman Bruning suggested a letter be sent for further information. However, he said it might not be financially feasible. Mayor Hughes asked the Clerk to send a letter to Elizabeth Gar and request plans to expand their services in Lafayette.

**Adjournment**

With there being no further business, motion by Bruning, seconded by Corcoran, to adjourn the meeting. Motion carried. Meeting adjourned.

Respectfully submitted,

ANNA ROSE FEDISH, RMC  
Municipal Clerk