

June 8, 2011

The regular bi-monthly meeting of the Lafayette Township Committee was held on Wednesday, June 8, 2011 at 7:30 P.M. in the Municipal Building, 33 Morris Farm Road, Lafayette, NJ

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

Members Absent None

Also Present: Clerk Fedish, Attorney Kurnos, Road Foreman Macko

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

Minutes - Motion by Corcoran, seconded by Hughes, to accept and place on file the minutes of May 3, 2011, May 11, 2011 and May 17, 2011. Motion carried by roll call vote: Hughes-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Sweeney-yes.

Reports

Tax Collector - For May 2011

Prior Year Taxes	\$17,039.44
Current Year Taxes	\$1,444,367.38
Interest	\$4,199.90
Total	\$1,465,606.72

Motion by D'Angeli, seconded by Corcoran, to accept the Tax Collector's report as submitted. Motion carried by roll call vote: Hughes-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Sweeney-yes.

Treasurer

Cash Report for May 2011

Cash Balances as of April 30, 2011	\$1,689,181.75
Cash Receipts for May 2011	\$1,604,234.23
Total	\$3,293,415.98
Cash Disbursements for May 2011	\$1,029,631.48
Cash Balances as of May 31, 2011	\$2,263,784.50
Account Balances as of May 31, 2011	
Current – Checking	\$916,844.83
Capital – Checking	\$666,509.61
Escrow – Checking	\$75,813.89
COAH-Developers Fees	\$128,017.07
Open Space Municipal Tax	\$312,483.26
Trust Accounts for Developer's Agreements	\$144,087.23
Special Rec. – Checking	\$7,614.98
Special Donations	\$7,544.48
Dog Trust Account	\$4,869.15
Total Account Balances	\$2,263,784.50

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

Animal Control Officer

Month of May 2011	<u>This Month</u>	<u>To Date</u>
Total Deposits	\$60.00	\$6,833.00
Amount Paid to State of New Jersey	\$5.40	\$1,007.40
Licenses Sold	2	536
Kennel Licenses Sold	0	2
Dogs Picked Up	0	2
Cats Picked Up	1	3
Dogs Taken to Pound	1	3

Cats Taken to Pound	1	3
Dogs Redeemed	1	3
Cats Redeemed	0	0
Miscellaneous (Kennel Licenses)	0	\$50.00
Late Fees Collected	0	\$560.00
Lost Tags	0	\$2.00

Motion by Bruning, seconded by Corcoran, to accept and place on file the ACO's report as submitted. Motion carried by roll call vote: Hughes-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Sweeney-yes.

Committee Reports

Buildings and Grounds - Bruning reported the Township was not selected for the County solar project due to the small size. He said he is pursuing this with another company.

Bruning reported he hired Birdsall Landscaping to trim the bushes around the Municipal Building.

Fire House Well - Bruning reported the application for the fire house well has been deemed completed by the NJDEP; and he has yet to receive a response to his phone calls.

Recreation Commission - Bruning reported the lifeguards will be on duty for the 2011 swim season on June 25, 2011. Bruning asked Road Foreman Macko to prepare the beach area.

Macko reported people are continuing to drive their cars on the field area and making deep ruts. Corcoran will pursue this issue.

Streets and Roads - D'Angeli reviewed the Road Foreman's report. He noted Fred Conrad will be gone the month of July for Reserve duty and will return on August 6, 2011. Part-time help will be hired when needed.

Dennis Road - D'Angeli reported the Township is still waiting to hear from the NJDOT for discretionary aid.

Affordable Housing

Advance Housing - Hughes reported Advance Housing's application is being reviewed by the HMFA for the second ten (10) units and is on their July agenda.

Emergency Management - Hughes reported the quarterly meeting is scheduled for June 29, 2011. He said plan revisions and Sparta dispatch meetings are ongoing.

EMS - Corcoran reported no report has been submitted.

Land Use Board - Corcoran reported the last meeting was held on May 26, 2011. The Damon Daura application was approved; and the Beaver Run Solar Farm application is ongoing.

Fire Department - Motion by Sweeney, seconded by Corcoran, to approve the application of Gabriel Elghandour as a Junior Member of the Fire Department. Motion carried by roll call vote: Hughes-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Sweeney-yes.

Correspondence

1. From Megan A. Ward – Requesting to vacate a portion of Fox Hill Road
Attorney Kurnos said he spoke with Ms. Megan Ward and told her to make a presentation to the Township Committee to show there are no problems with adjacent owners.

Mr. Charlie Shotmeyer, Owner of Beaver Run Farms, said they have been in the community since the late 1950's; and he thanked the Committee and employees for making Lafayette what it is.

Mr. Shotmeyer said he is concerned with four-wheelers, snowmobilers and horseback riders that trespass on the property. He said Fox Hill Road has been closed approximately 20 years because of past dumping.

Mr. Kevin Jones, Manager, said fresh oats were recently planted; and a horseback rider trespassed and let her horse eat the plants.

Committeeman D'Angeli asked about access for the adjacent property owners. Mr. Jones said their property can be accessed from the other end of the road. He said there is a substantial ridge that might not be able to be built on.

Committeeman Hughes asked what would happen if the road was vacated. Mr. Shotmeyer said they would secure the entrance off Beaver Run Road with a gate. He would, also, grant an easement to the Township to be used in case of an emergency.

Motion by Bruning, seconded by Hughes, to authorize the Township Attorney to draft an ordinance for introduction at the next meeting on July 5, 2011 and the applicant is to notify the adjacent property owners, via certified mail/return receipt, of the pending action to be taken by the Lafayette Township Committee. Motion carried by roll call vote: Hughes-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Sweeney-yes.

Committeeman D'Angeli asked about host benefits from a solar project. Mr. Shotmeyer said these projects are so new that no host benefits are on the books at this time.

2. From Cris Kalaskey (Sunset Inn Road) - Cambridge Paving plant
Hughes said Lafayette Asphalt had an application before the Land Use Board but not Cambridge Paving as this is located in Andover Township. Motion by Bruning, seconded by Corcoran, to send a letter to Andover Township expressing the concerns of the 24/7 operation, noise and traffic and a copy be sent to Mr. Kalaskey. Motion carried by roll call vote: Hughes-yes, Corcoran-yes, D'Angeli-yes, Bruning-yes, Sweeney-yes.

3. From Linda Glosinski to Mrs. Casser re: Land Preservation
4. Fredon Township & Hampton Township Resolution - Urging County's local legislators to draft a bill to amend the Open Public Records Act

Motion by D'Angeli, seconded by Corcoran, to adopt the following resolution:
RESOLUTION URGING SUSSEX COUNTY'S LOCAL LEGISLATORS TO DRAFT
A BILL TO AMEND THE OPEN PUBLIC RECORDS ACT

WHEREAS, the Open Public Records Act (OPRA) (N.J.S.A. 47:1A-1 et seq.) was adopted to assure the public's access to sufficient information to enable it to understand and evaluate the actions of public bodies by making accessible for inspection or copying all government records; and

WHEREAS, since the adoption of OPRA, there has been an escalating series of requests by private sector firms from all over the nation for voluminous public records, already freely accessible to the general public through government websites, with the intent of selling said information to the general public for a profit; and

WHEREAS, said information is already freely available to the public on government websites; and

WHEREAS, this information freely obtained for resale to the public involves an extra cost to the general public, once upon its creation by government employees, second upon extraction, copying and frequently, conversion to specific formats by government employees, and thirdly by sale to the same public who have already paid twice for this information; and

WHEREAS, this constitutes additional substantial costs to the taxpaying public solely to benefit a private entity; and

WHEREAS, in the new renaissance of fiscal responsibility, unnecessary expenses by government should strictly be curtailed.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lafayette that the current Open Public Records Act be amended to preserve its original intent and reduce expenses to the public by providing that in situations where the requested documents are already available to the public on a downloadable government website, regardless of format, a referral of the requestor to the said website

shall fully comply with the OPRA obligation of the governmental unit, with no need to convert the data contained therein to any other format; and

BE IT FURTHER RESOLVED that the Lafayette Township Committee requests as follows:

1. that our local legislators draft and introduce such legislation; and
2. that the President of the State Senate and the Speaker of the State Assembly urge adoption of such legislation; and
3. that Governor Chris Christie sign and execute such legislation upon its adoption; and
4. that municipalities in the County of Sussex adopt and distribute similar Resolutions.

AND BE IT FURTHER RESOLVED that certified copies of this Resolution be sent to Honorable Chris Christie, Governor, State of New Jersey, State House, P.O. Box 001, Trenton, NJ 08625; Honorable Stephen M. Sweeney, President, NJ State Senate, 935 Kings Highway, Suite 400, West Deptford, NJ 08086; Honorable Sheila Y. Oliver, Speaker of the NJ State Assembly, 15-33 Halsted Street, Suite 202, East Orange, NJ 07018; Honorable Steven V. Oroho, State Senator, 115 Demarest Road, Suite 2B, Sparta, NJ 07871; Honorable Gary R. Chiusano, State Assemblyman, 115 Demarest Road, Suite 2B, Sparta, NJ 07871; Honorable Alison McHose, State Assemblywoman, 115 Demarest Road, Suite 2B, Sparta, NJ 07871; all Boards of Chosen Freeholders in the State of New Jersey; and all Municipal Clerks in the County of Sussex.

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

5. NJSLOM Resolution supporting A-3412 – Sharing the burden of property assessment appeal refunds

Motion by D'Angeli, seconded by Bruning, to adopt the following resolution:

**RESOLUTION SUPPORTING A-3412 SHARING THE BURDEN
OF PROPERTY ASSESSMENT APPEAL REFUNDS**

WHEREAS, when County Tax Board appeals are granted, the municipality must reimburse the property taxpayer 100% of the appealed tax levy, which includes the municipal, school, county and any special districts tax; and

WHEREAS, the municipal tax collector makes the adjustment from the appeal as a credit on the 4th quarter tax bill resulting in the municipality's fund balance for the preceding year to diminish, if not completely deplete; and

WHEREAS, a recent League of Municipalities' survey has measured the extent to which residents have filed and won tax appeals in 2010; and

WHEREAS, one hundred fifty (1590) municipalities, representing all both large and small municipalities in all 21 counties, that participated in the survey reported property value declines of more than \$87,900,000, which resulted from 19,788 tax appeals filed in 2010;

WHEREAS, those responding to the survey indicated that 13,760 appeals were filed in 2009 compared to 19,788 in 2010, representing an increase of 43.7%; and

WHEREAS, a municipality often experiences an increase in tax appeals because they have conducted a revaluation; however, only 5 of the 150 municipalities, which participated in the survey, indicated that their 2010 appeals resulted from revaluations; and

WHEREAS, as a way of comparison, 23 of the participating municipalities conducted revaluations in 2009, when fewer tax appeals were presented to County Tax Boards; and

WHEREAS, the 2010 spike in appeals should be attributed to the economic down-turn, which lowered property values and placed increased stress on the income of homeowners all around our Garden State; and

WHEREAS, the survey, also, indicated that in 2010 the various County Tax Boards have granted average property value reductions of close to \$5,000 per appeal; and

WHEREAS, fifty-six (56%) percent of those responding indicated that the successful tax appeals would have an impact on fund balances and place additional pressures on local officials during 2011; and

WHEREAS, although the survey was a snapshot picture in time, it can be used to project what might follow in 2011, since the reductions, which were granted by County Tax Boards in 2010, will have a multiplier effect when neighbors learn of their

neighbor's tax reduction, which will likely increase the appeals and, in the alternative, Tax Assessors could be forced to adjust property values based upon the appeal information; and

WHEREAS, successful tax appeals have a three-fold negative impact on municipal budgets. First, the municipality, as the collector of taxes for the school district, county and special districts, must fund the full cost of the legal defense of the assessment. Second, since State law guarantees to the county and school district 100% of their levies, the municipality bears the full cost of any re-imbursements resulting from the appeal (as well as the full burden for any uncollected taxes). Third, the end result will be further decline in the property tax base used to support municipalities, county governments and school systems; and

WHEREAS, in light of the revenue limitations that have been placed on all levels of local government by the Legislature (2% cap), such declining values will compound and add additional stress to local public officials, as they grapple with the issues confronting the tax paying public; and

WHEREAS, Assemblyman Carroll has recently introduced A-3412, which requires fire districts, school districts, and county governments to share in the burden of property assessment appeal refunds.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Lafayette hereby urge the swift passage and signing of A-3412; and

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to Governor Chris Christie, Senate President Stephen Sweeney, Assembly Speaker Sheila Oliver, Senator Steven Oroho, Assemblyman Gary Chiusano, Assemblywoman Alison McHose, NJ League of Municipalities and all Sussex County municipalities.

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

6. Washington Township Resolution - Fair Distribution of State Aid for Education

Motion by Corcoran, seconded by Hughes, to adopt the following resolution:

RESOLUTION FOR FAIR DISTRIBUTION OF STATE AID FOR EDUCATION

WHEREAS, the Township of Lafayette, County of Sussex, believes that every child should have equal resources of state aid distributed by the legislature for an education in the State of New Jersey by utilizing a fair school funding mechanism; and

WHEREAS, the current distribution of state aid for education to the schools has not been distributed in a fair and equitable manner to provide property tax relief to all the citizens of the State of New Jersey; and

WHEREAS, Article III., Paragraph 1, of the New Jersey State Constitution states, "The powers of government shall be divided among three distinct branches, the legislative, executive, and judicial. No person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution;" and

WHEREAS, Article VIII, Section IV, Paragraph 1, of the New Jersey State Constitution states, "the Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years;" and

WHEREAS, Article VIII, Section IV, Paragraph 2, of the New Jersey State Constitution states, "the fund for the support of free public schools . . . shall be annually appropriated to the support of free public schools, and for the equal benefit of all the people of this State;" and

WHEREAS, Article VIII, Section I, Paragraph 7.a. of the New Jersey State Constitution states, the income tax is to be "annually appropriated . . . exclusively for the purpose of reducing or offsetting property taxes;" and

WHEREAS, this body can no longer bear the burden of the continued diversion of its fair share of state school aid for the students between the ages of five and eighteen years of age who reside within this jurisdiction.

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Lafayette, County of Sussex, do hereby call upon the Legislature of the State of New Jersey to fulfill its constitutionally assigned duty to distribute the state aid for education to the school districts in this state in a fair manner that is for the equal benefit of all the people of the state and not by means that are prejudiced by the actions of special interests that may have been presented before the Court or other venue.

BE IT FURTHER RESOLVED, that the Clerk of this entity is hereby directed to forward a copy of this resolution to Governor Chris Christie, Senate President Stephen Sweeney, Senate Minority Leader Thomas Kean Jr., Assembly Speaker Sheila Oliver and Assembly Minority Leader Alex DeCroce.

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

7. Andover Township Ordinance Amending Chapter 190 (Zoning)

8. Vernon Township Ordinance Amending Chapter 330, Article XI (Zoning) regarding solar energy facilities

Vouchers

AMERIGAS-CHESTER	1,055.85
ANDOVER TOWNSHIP	10,000.00
AQUATIC ANALYSTS, INC.	380.00
BASSANI POWER EQUIPMENT, LLC	59.49
CENTURY LINK	423.99
CENTURYLINK COMMUNICATIONS, INC.	33.30
CHELBUS CLEANING CO., INC.	275.00
CINTAS CORP #111	298.29
CODED SYSTEMS, LLC	3,613.20
CULLIGAN	41.25
D & D INVESTMENT PROPERTIES, LLC	2,433.00
D. LOVENBERG’S PORTABLE TOILET	130.00
FINCH FUEL OIL CO., INC.	2,101.68
HIGH POINT REG HIGH SCHOOL	184,416.99
HOME DEPOT CREDIT SERVICES	168.50
JCP & L	252.76
LAFAYETTE AUTO PARTS SUPPLY LLC	359.70
LAFAYETTE TWP BD OF ED	298,217.50
MONTAGE ENTERPRISES, INC.	1,824.40
MONTAGUE TOOL & SUPPLY CO.	534.43
MUNIDEX, INC.	233.36
NISIVOCCIA & COMPANY LLP	2,500.00
NJ STATE LEAGUE OF MUNICIPALITIES	16.00
OLD DOMINION BRUSH	325.00
PITNEY BOWES INC.	48.00
R & S BUSINESS MACHINES	326.25
ROWE & COMPANY	377.51
STAPLES BUSINESS ADVANTAGE	190.41
STATEWIDE INSURANCE FUND	20,892.00
SUSSEX CTY LEAGUE OF MUNICIPALITIES	40.00
TC/TREAS ASSOC SUSSEX/WARREN	20.00
THE NEW JERSEY HERALD	17.85
WEISENBACH SPECIALTY PRINTING	647.50
WEST PAYMENT CENTER	250.00
NJ DEPT OF HEALTH & SENIOR SERVICES	5.40

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

New Business

Liquor License Renewal – A’ Country Spirits - Motion by Corcoran, seconded by Hughes, to adopt the following resolution:

BE IT RESOLVED by the Township Committee of the Township of Lafayette, County of Sussex, State of New Jersey, to renew Liquor License No. 1913-44-003-002 issued to A’s Country Spirits, 154 Route 15, Lafayette, NJ for the 2011-2012 license term.

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

Supervisor for CFO/Pensions - Motion by D’Angeli, seconded by Bruning, to appoint AnnaRose Fedish the Supervisor for the CFO/Pensions. Motion carried by roll call vote: Hughes-yes, Corcoran-yes, D’Angeli-yes, Bruning-yes, Sweeney-yes.

Flood Damage Prevention Ordinance - Motion by Bruning, seconded by D’Angeli, to introduce the following ordinance and set the public hearing for July 5, 2011:

AN ORDINANCE AMENDING CHAPTER XVII, FLOOD DAMAGE PREVENTION,
OF THE TOWNSHIP OF LAFAYETTE CODE

ARTICLE I

Statutory Authorization; Findings of Fact, Purpose and Objectives

§ 17-1 Statutory Authorization.

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1 et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Township Committee of the Township of Lafayette, Sussex County, New Jersey does ordain as follows:

§ 17-2 Findings of Fact

- A. The flood hazard areas of the Township of Lafayette are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 17-3 Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 17-4 Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

ARTICLE II

Definitions

§ 17-5 Definitions and usage.

- A. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

Appeal — A request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding — A designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard — The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood — The flood having a one percent chance of being equaled or exceeded in any given year.

Basement — Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Development — Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Digital Flood Insurance Rate Map (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Elevated Building — A non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Flood or Flooding — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Study (FIS) — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

Flood Insurance Rate Map (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodplain Management Regulations — The zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodway — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved State program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in States without approved programs.

Lowest Floor — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

Manufactured Home — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Recreational Vehicle — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 117 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection

of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance — A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

ARTICLE III

General Provisions

§ 17-6 Lands to which this ordinance applies.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Township of Lafayette, Sussex County, New Jersey.

§ 17-7 Basis for establishing the area of special flood hazard.

The areas of special flood hazard for the Township of Lafayette, Community No. 340532, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- A. A scientific and engineering report "Flood Insurance Study, Sussex County, New Jersey (All Jurisdictions)" dated September 29, 2011
- B. Flood Insurance Rate Map for Sussex County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34037C0165E, 34037C0170E, 34037C0190E, 34037C0301E, 34037C0302E, 34037C0303E, 34037C0304E, 34037C0306E, 34037C0307E, 34037C0308E, 34037C0315E, 34037C0316E, whose effective date is September 29, 2011

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at the Lafayette Municipal Building at 33 Morris Farm Road, Lafayette, New Jersey 07848.

§ 17-8 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand (\$1,000.00) dollars or imprisoned for not more than ninety (90) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Township of Lafayette from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 17-9 Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 17-10 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

§ 17-11 Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Township of Lafayette, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE IV
Administration

§ 17-12 Establishment of development permit.

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in § 17-7. Application for a Development Permit shall be made on forms furnished by the Township Clerk, and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed.
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 17-17B.
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 17-13 Designation of the local administrator.

The Construction Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

§ 17-14 Duties and responsibilities of the administrator.

Duties of the Construction Official shall include, but not be limited to:

A. Permit review.

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway and assure that the encroachment provisions of § 17-17D.(1) are met.

B. Use of other base flood and floodway data.

When base flood elevation and floodway data has not been provided in accordance with §17-7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source.

C. Information to be obtained and maintained.

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation (in relation to mean sea level); and
 - (b) Maintain the floodproofing certifications required in § 17-12C.
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

D. Alteration of watercourses.

- (1) Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 17-15.

§ 17-15 Variance procedure.

A. Appeal Board.

- (1) The Land Use Board shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Land Use Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the Land Use Board, or any taxpayer, may appeal such decision as provided by statute.
- (4) In passing upon such applications, the Land Use Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location, where applicable;
 - (f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;

- (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (k) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of § 17-15A.(4) and the purposes of this ordinance, the Land Use Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 - (6) The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in § 17-15A.(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) a showing of good and sufficient cause;
 - (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 17-15A.(4) or conflict with existing local laws or ordinances.
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

ARTICLE V

Provisions for Flood Hazard Reduction

§ 17-16 General standards.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- (4) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

E. Enclosure openings.

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

§ 17-17 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in §17-7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in § 17-14B. USE OF OTHER BASE FLOOD DATA, the following standards are required:

A. Residential construction.

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated to or above base flood elevation;
- (2) Within any AO zone on the municipality's FIRM all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

B. Nonresidential construction.

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall

have the lowest floor, including basement together with the attendant utilities and sanitary facilities:

either;

- (1) Elevated to the level of the base flood elevation; and
- (2) Within any AO zone on the municipality's DFIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or;

- (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in §17-14C.(2)(b).

C. Manufactured homes.

- (1) Manufactured homes shall be anchored in accordance with § 17-16A.(2).
- (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

D. Floodways.

Located within areas of special flood hazard established in § 17-7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If § 17-17D.(1) is satisfied, all new construction and substantial improvements must comply with Article V PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (3) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

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

Renewable Energy Ordinance - Motion by Corcoran, seconded by Hughes, to introduce the following ordinance and set the public hearing for July 5, 2011:

AN ORDINANCE TO AMEND CHAPTER XIII OF THE TOWNSHIP OF LAFAYETTE CODE, BEING THE ZONING CHAPTER, TO PROVIDE A NEW SECTION REGARDING RENEWABLE ENERGY SYSTEMS

WHEREAS, the Governing Body of the Township of Lafayette has determined that renewable energy systems are an abundant, renewable, and nonpolluting energy resource; converting wind and solar rays to electricity will reduce dependence on nonrenewable energy resources, and decrease air and water pollution that results from the use of conventional energy sources; distributed renewable energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio; and renewable energy systems make the electricity supply market more competitive by promoting customer choice; and

WHEREAS, New Jersey’s Renewable Portfolio Standards require each supplier/provider, as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey to provide a percentage of their retail electricity sales from renewable energy sources, increasing to 22.5 percent by 2021; and

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-2 (n) provides that a purpose of zoning is utilization of renewable energy resources; and

WHEREAS, The Township finds that it is appropriate to standardize the requirements for renewable energy systems, so that they can be utilized in a cost-effective and appropriate manner in the Township.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lafayette that Chapter XIII of the Township of Lafayette Code, being the Zoning Chapter, shall be and is hereby amended as follows:

Section 1. §13-5 “Definitions” shall be and is hereby amended to include the following new definitions:

Renewable Energy System shall mean a system that engages in the production of electric energy from solar technologies, photovoltaic technologies, or wind energy.

Small Wind Energy System shall mean a wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity consistent with applicable provisions of the State Uniform Construction Code Act, N.J.S.A. 52:27D-119, *et seq.* and technical bulletins issued pursuant to N.J.S.A. 40:55D-66.13, and which will be used primarily for onsite consumption.

Solar Energy shall mean radiant energy (direct, diffuse, and reflected) received from the sun.

Solar Energy System shall mean any system or device which converts solar energy into a usable electrical energy, heats water or produces hot air or other similar function through the use of solar panels or collectors. It shall include panels, generators and all associated equipment, including any base, foundation, structural support, wire(s), batteries or other components necessary to fully utilize the solar energy.

Solar Panel shall mean one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy, heat water, or produce hot air or perform any other similar function by way of a solar energy system.

Solar Panel Array shall mean a combination of solar panels, including those which are ground and/or roof mounted.

System Height shall mean the height above grade of the renewable energy system.

Section 2. A new section §13-6.17 shall be and is hereby adopted as follows:

13-6.17- Renewable Energy System.

A. **Purpose.** The primary purpose of a **renewable energy system** shall be to provide power for the **principal use** of the property whereon said system is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a **renewable energy system** designed to meet the energy needs of the **principal use**. For the purposes of this ordinance, the sale of excess power shall be limited, so that in no event is a renewable energy system generating more energy for sale than what is otherwise necessary to power the **principal use** on the property.

B. **Applicability.** **Small wind energy** and **solar energy systems** shall be permitted as an accessory use on the same lot as the **principal use** in all districts, subject to the requirements of this section. **Renewable energy systems** shall be a permitted use on any lots comprising twenty (20) or more contiguous acres owned by the same person or entity within the LI Light Industry and EI Extractive Industry Districts. This ordinance shall not apply to roof-mounted solar energy systems which systems and equipment extend twelve (12) inches or less beyond the roofline or highest point of the roof structure on which the system is located. This ordinance shall also not apply to ground-mounted solar energy systems that consist of ten (10) or less panels, and are situated more than fifty (50) feet from the nearest property boundary line.

All **renewable energy systems** require approval from the zoning officer and the construction official prior to installation. Applications for **small wind energy** and **solar energy systems** shall include information demonstrating compliance with the provisions of this section. In the event that the zoning officer or construction official does not believe the provisions of this section are satisfied, an applicant

may request and/or file a variance application with the Township Land Use Board.

1. **Small wind energy and solar energy systems** accessory to a permitted **principal use** shall be allowed in any zoning district and may be installed upon receipt of the necessary construction, electrical and/or mechanical permit(s). This section applies to **small wind energy and solar energy systems** to be installed and constructed for both residential and commercial use.
 2. **Renewable energy systems** that are the **principal use** of a **lot** are governed by other sections of the Lafayette Township Zoning Ordinance, in accordance with the applicable zoning district regulations.
- C. Design and Installation. **Renewable energy systems** shall comply with the accessory structure restrictions contained in the zoning district where the system is located, unless otherwise set forth below:
1. The systems shall conform to all current industry standards, including the National Electric Code as adopted by the NJ Department of Community Affairs.
 2. All exterior electrical, utility and/or plumbing lines must be buried below the surface of the ground and be placed in a conduit. All electrical, utility and/or plumbing lines leading down the side of a structure from rooftop installations shall be installed and maintained as aesthetically as possible.
 3. **Renewable energy systems** that connect to the electric utility shall comply with the applicable interconnection standards for Class I Renewable Energy Systems, as may be amended.
 4. The systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. In no case shall any identification be visible from a **lot line**.
 5. The design of **renewable energy systems** shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the system into the natural setting and existing environment.
 6. The installation of a **wind or solar energy system** shall conform to the extent applicable to the Uniform Construction Code, as amended, and is subject to all local utility company requirements for interconnection.
- D. Setbacks and Height Restrictions
1. A **renewable energy system** must comply with all setback and height requirements for the zoning district where the system is to be installed, unless otherwise set forth in §13-6.17.
 2. When a building or cabinet is necessary for storage cells or related mechanical equipment, it must be documented as to the necessity. The building may not exceed 120 square feet in area nor fifteen (15) feet in height and must be located at least the number of feet equal to the accessory building setback requirements of the Zoning District from any **lot line**. Any mechanical equipment associated with and necessary for operation, including any building or cabinet for batteries and storage cells, shall be equipped with a functioning lock and posted with a small sign notifying the existence of **renewable energy system** equipment on the outside of the building or cabinet, in order to notify emergency personnel.
- E. Abandonment
- A **renewable energy system** that is out of service for a continuous 12-month period shall be deemed abandoned. The municipal zoning officer may issue a notice of abandonment to the owner of an abandoned **renewable energy system**. The owner shall have the right to respond to the notice of abandonment within 30 days from the receipt date. The municipal zoning officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides the municipal zoning officer with information demonstrating the **renewable energy system** has not been abandoned. If the **renewable energy system** is determined to be abandoned, the owner of the **renewable energy system** shall remove the system at the owner's sole expense within three months of receipt of notice of abandonment. If the owner fails to remove the **renewable energy system**, the Township may pursue a legal action to have the system removed at the owner's expense.
- F. **Solar Energy Systems**

Solar energy systems shall not be permitted in a front yard, and shall be located so that any glare is directed away from an adjoining property. **Solar panels** shall not add, contribute to or be calculated to cause an increase in **impervious surface coverage or ratio** of any lot.

1. Rooftop **Solar Panels**

Solar panels shall be permitted as a rooftop installation in any zoning district. The **solar panels** shall not exceed a height of twelve (12) inches above the highest point of the roof structure. In no event shall the placement of **solar panels** result in a total height, including building and panels, greater than one (1) foot in excess of what is permitted for the **principal structure** in the zoning district in which they are located. Panels installed in a rooftop configuration must be installed within the actual boundaries or edges of the roof area and cannot overhang any portion of the edge of roof. **Solar panels** installed in a rooftop configuration should be installed on the rear roof area to the extent possible.

2. Ground-Mounted **Solar Panels**

Solar panels may be installed on a ground-mounted apparatus only on lots with a minimum lot size of three (3) acres. The principal building setback as required by the applicable zone shall be required between any ground-mounted **solar panel** and any **lot line**. Ground-mounted **solar panels** shall not exceed a **height** of fifteen (15) feet.

3. No additional rights.

Any approval of a **solar energy system** does not create any actual or inferred **solar energy system** easement against adjacent property and/or structures. The owner and/or property owner of a **solar energy system** shall not infer or claim any rights to protective writs to any caused shadows or operating ineffectiveness against future development adjacent to or higher than the property location of the **solar energy system**. The approval of any **solar energy system** granted by the Township under this article shall not create any future liability or infer any vested rights to the owner and/or property owner of the **solar energy system** on the part of the Township or by any other officer or employee thereof for any future claims against said issuance of approval of the **solar energy system** that result from reliance on this article or any administrative decision lawfully made thereunder.

G. **Small Wind Energy Systems.**

1. Design Criteria.

- a. **Wind generators** shall be designed with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
- b. **Small wind energy systems** shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- c. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- d. The tower shall be designed and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the tower, for a minimum height of eight (8) feet above the ground.
- e. All moving parts of the **small wind energy system** shall be a minimum of ten (10) feet above ground level.
- f. The blades on the **small wind energy system** shall be constructed of a corrosive resistant material.
- g. All guy wires or any part of the wind energy system shall be located on the same lot as the energy system.
- h. All equipment, sheds and tower bases shall be enclosed with a security chain link or wood fence of at least seven (7) feet in height, but no higher than eight (8) feet unless otherwise approved by the Zoning Officer. All fences shall include a functioning locking security gate.
- i. The connection between the **small wind energy system** and the building, electrical grid or street shall be underground.

2. Bulk requirements:

- a. Minimum lot size ten (10) acres.

- b. Minimum setbacks: All **wind generators** shall be setback from all setback lines a distance equal to 100% of the height of the structure plus 10 feet, including the blades.
 - c. **Wind generators** shall not be permitted in any front yards, unless application is made to and granted by the Land Use Board, based upon topographic conditions.
 - d. Maximum Height. Freestanding **wind generators** shall not exceed a height of 120 feet, plus blades but in no event higher than 145 feet. The maximum height shall include the height of the blades at its highest point. If a height variance is granted, any approved tower must be monopole construction.
 - e. No more than one **wind generator** shall be permitted on any parcel of property.
 - f. **Wind generators** shall not be allowed as rooftop installations.
 - g. **Wind generators** on properties shall have a nameplate capacity (maximum ability to generate energy) of 20 kilowatts or less. If a kilowatt variance is granted, then the approved tower must be of monopole construction.
 - h. Towers for the **wind generators** shall have footprints no larger than 13 feet x 13 feet in size.
 - i. The highest elevation of small wind energy systems shall be limited to 640 feet above sea level.
3. Noise. All **small wind energy systems** shall comply with the following:
- a. Between a residential use or zone, sound levels of the wind energy system shall not exceed a 55 dBA at a common property line and 50 dBA to the closest occupied structure.
 - b. In all other cases at a common property line sound levels of the wind energy system shall not exceed 65 dBA.
 - c. These levels may be exceeded during short-term events such as utility outages and/or severe windstorms, for a maximum of four (4) hours.
4. Site Location. It is important to preserve the scenic beauty of the Township's **ridgeline and hillside viewshed protection area**, with the understanding that the ridgeline may be optimum site location. With that understanding, the location of the **wind generators** should take into consideration **ridgelines**, scenic vistas, the size of the generator proposed, the location of the residence on the property, nearby residences and other pertinent factors.

Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

Section 4. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

Section 5. The Township Clerk is directed to give notice at least ten days prior to the hearing on the adoption of this ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. The Township Clerk is further directed to refer this Ordinance to the Township Land Use Board, pursuant to N.J.S.A. 40:55D-64. Upon the adoption of this ordinance, after public hearing, the Township Clerk is further directed to publish notice of the passage and to file a copy of this ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

Section 6. This Ordinance shall take effect after publication and passage according to law.

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

Resolution Supporting Veteran's Cemetery - Motion by D'Angeli, seconded by Corcoran, to adopt the following resolution:

RESOLUTION IN SUPPORT OF THE ENDEAVOR BY THE WALLKILL VALLEY CHAPTER 1002 OF THE VIETNAM VETERANS OF AMERICA EFFORT TO CONSTRUCT A VETERANS CEMETERY IN NORTHERN NEW JERSEY

WHEREAS, the Township of Lafayette strives to be a place where military veterans can feel at ease; and,

WHEREAS, the Lafayette Township Committee would like to join the County of Sussex in continuing a long tradition of honoring those who gave their lives for their country; and,

WHEREAS, the Lafayette Township Committee recognizes that there are no veterans cemeteries in Northern New Jersey and families of those who gave their life for their country need to travel hours in order to pay respects to their loved ones; and,

WHEREAS, there is a desperate need for additional burial spaces for our World War II veterans who are dying at a national rate of 1,000 per day; and

WHEREAS, Korean War veterans, who are in their 60's and 70's, and Vietnam Veterans, who are in their 50's and 60's, will, also, need space; and

WHEREAS, the Vietnam Veterans of America, Wallkill Valley Chapter 1002 seeks support from the Township in their pursuit of this worthy endeavor in Sussex; and,

WHEREAS, supporting this endeavor is not only a way to remember those who died for their county, but also those who were prepared to make the supreme sacrifice for their country in defense of those sacred ideals of liberty, freedom, and justice for all; and,

WHEREAS, President Abraham Lincoln said in the Gettysburg Address that it is for, *“us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.”*

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Lafayette supports the proposed efforts of the Veterans of America, Wallkill Valley Chapter 1002 that a veteran's cemetery be located in Northern New Jersey, Sussex County, in the honor of those who gave the greatest sacrifice.

BE IT FURTHER RESOLVED by the Township Committee of the Township of Lafayette that a copy of this Resolution be forwarded to the Sussex County Freeholders, Sussex County Administrator J. Eskilson, and all Sussex County municipalities.

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

Business Growth - Hughes suggested a subcommittee meet with business owners in the Township to discuss growth.

Audience

Road Foreman Bill Macko asked about the fire house boiler. Committeeman Hughes said this is tabled until the next meeting on July 5, 2011.

Road Foreman Macko is concerned about the fence and locks. Committeeman Hughes said Beaver Run Farms will be responsible for both and will supply the Township with a key.

Road Foreman Macko does not feel the truck traffic from Cambridge Pavers will not increase much on Sunset Inn Road but questioned the control. Committeeman Hughes said the hours of operation will be reviewed by Andover Township.

Road Foreman Macko feels the Land Use Board members are negative and need to promote business in the Township.

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