

March 5, 2013

The regular bi-monthly meeting of the Lafayette Township Committee was held on Tuesday, March 5, 2013 at 7:30 P.M. in the Municipal Building, 33 Morris Farm Road, Lafayette, NJ

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

Members Absent Bruning

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

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

**Minutes** - Motion by D'Angeli, seconded by Henderson, to accept and place on file the minutes of February 19, 2013 Motion carried by roll call vote: Corcoran-yes, Henderson-yes, D'Angeli-yes, Hughes-yes.

### **Reports**

**Tax Collector** - For February 2013

Township Liens	\$37,511.25
Prior Year Taxes	\$6,912.98
Current Year Taxes	\$1,661,355.09
Interest	\$15,574.85
Total	\$1,721,354.17

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

### **Committee Reports**

**Streets and Roads** - D'Angeli reviewed the Road Foreman's report.

Motion by D'Angeli, seconded by Henderson, to begin the process for the purchase of a new mason dump to replace truck #6. Motion carried by roll call vote: Corcoran-yes, Henderson-yes, D'Angeli-yes, Hughes-yes.

**Fire Department** - Henderson reported the Fire Department submitted its expense & revenue report.

It was the consensus of the Fire Department to have Amthor weld the fire tanker at a cost of approximately \$5,000; and the Township Committee agreed. Hughes said the budget line for donations for the Fire Department must be increased by \$5,000.00.

**Land Use Board** - Corcoran reviewed the meeting held on February 28, 2013. He noted the Land Use Board agreed to include the industrial area on Route 94 in the sewer service area plan.

**EMS** - Corcoran reported there were 23 calls in January and 19 calls in February. The by-laws were reviewed at the last meeting.

**Affordable Housing** - Hughes reported the SCARC and Advance Housing projects are proceeding.

Hughes reported Mr. David Bansich, Planner, I working on the rehabilitation program; and the spending report has been submitted by the CFO.

**Emergency Management** - Hughes reported the 9-1-1 communications plan will be updated.

**NJSLOM Scholarship** - The date for submission of applications has been extended to March 15, 2013.

## **Correspondence**

- a. From Nancy Holleran, SC Engr. Dept., re: Hahn's bush in right-of-way
- b. Andover, Fredon, Hampton & Walpack Townships Resolution Opposing A-3553, Early Voting
- c. Fredon & Sparta Townships Resolution Opposing S-2511, OPMA Amendments
- d. Sparta & Wantage Townships Resolution Demanding 10 days credit from SECTV, Inc.
- e. Sparta Township Resolution Demanding SECTV, Inc. continue to carry FM signal as a basic service to customers

## **Old Business**

**Lighting Ordinance** - Mayor Hughes opened the public hearing for the following ordinance:  
AN ORDINANCE TO AMEND CHAPTERS XII AND XIV OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF LAFAYETTE, BEING THE LAND USE AND LAND USE PROCEDURES CHAPTERS REGARDING LIGHTING

With there being comments from the public, Mayor Hughes closed the public hearing.

Motion by D'Angeli, seconded by Corcoran, to adopt the lighting ordinance. Motion carried by roll call vote: Corcoran-yes, Henderson-yes, D'Angeli-yes, Hughes-yes.

## **New Business**

**Exceed Cap Ordinance** - Motion by D'Angeli, seconded by Corcoran, to introduce the following ordinance and set the public hearing date of March 19, 2013:

CALENDAR YEAR 2013 - ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A:4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.0% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two (2) succeeding years; and,

WHEREAS, the Township Committee of the Township of Lafayette in the County of Sussex finds it advisable and necessary to increase its CY 2013 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting health, safety and welfare of the citizens; and,

WHEREAS, the Township Committee hereby determines that a 1.5% increase in the budget for said year, amounting to \$17,855.00 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Township Committee hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two (2) succeeding years.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lafayette in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring that in the CY 2013 budget year, the final appropriations of the Township of Lafayette shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5%, amounting to \$41,661.00, and that the CY 2013 municipal budget for the Township of Lafayette be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two (2) succeeding years; and,

BE IT FURTHER ORDAINED that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within five (5) days of introduction; and,

BE IT FURTHER ORDAINED that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within five (5) days after such adoption.

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

**2013 Municipal Budget** - Motion by D'Angeli, seconded by Henderson, to introduce the 2013 Municipal Budget and set the public hearing date of April 2, 2013. Motion carried by roll call vote: Corcoran-yes, Henderson-yes, D'Angeli-yes, Hughes-yes.

**Raffle Licenses**

Motion by Corcoran, seconded by Henderson, to approve two (2) raffle licenses for Lafayette Twp. Fire Department Auxiliary for May 2, 2013 and waive the local fee. Motion carried by roll call vote: Corcoran-yes, Henderson-yes, D'Angeli-yes, Hughes-yes.

Motion by Henderson, seconded by Corcoran, to approve a raffle license for Auxiliary of Newton Medical Center for June 10, 2013. Motion carried by roll call vote: Corcoran-yes, Henderson-yes, D'Angeli-yes, Hughes-yes.

**Demolition Proposals for "Lawler" farm** - This issue will be carried to the next meeting on March 19, 2013.

**Reserve Disposal Areas Ordinance** - Motion by D'Angeli, seconded by Corcoran, to introduce the following ordinance and set the public hearing date of March 19, 2013:

AN ORDINANCE TO AMEND CHAPTER XII (LAND USE) OF THE TOWNSHIP OF LAFAYETTE CODE TO ADD "RESERVE DISPOSAL AREAS" REQUIREMENTS

BE IT ORDAINED by the Township Committee of the Township of Lafayette that Chapter XII (Land Use) of the Township of Lafayette Code, shall be and is hereby amended as follows:

**Section 1.** Section §12-7.2(e)(2) shall be and is hereby deleted in its entirety and is replaced with "Reserve Disposal Areas" requirements, as follows:

12-7.2(e). Wastewater Disposal

2. Reserve Disposal Areas.

(a) It shall be the requirement that each lot approved for subdivision after the effective date of this Ordinance have two acceptable areas, separated by a minimum distance of 30 feet, for the construction of a primary and reserve area for onsite sewage systems. Soil testing and profile pits are required in both areas. The requirement of a reserve disposal area shall apply only to an application for subdivision.

(b) Exemptions

The following are exempt from the provisions of this Ordinance, 12-7.2(e)(2):

1. Existing lots
2. Existing systems
3. Agricultural division of land
4. Lot line adjustments
5. The remaining lands in a subdivision that will be deed restricted in their entirety against any future development.

(c) The reserve area shall be equivalent to 100% of the disposal area required for the primary system and shall be reserved for future replacement of the disposal system. No permanent improvements shall be installed within or adjacent to the reserved area which will adversely affect its future use as a disposal area. Both areas shall comply with Subchapters 4, 5 and 6 of N.J.A.C. 7:9A and all requirements and standards of this Code and all applicable county and state regulations.

(d) The reserve disposal area shall be shown on the plan of the disposal system and shall be marked "reserve disposal area". The reserve disposal area shall also be shown on all site plans and referenced in any applications submitted to the township, county or state for any future permits. Failure to identify the disposal area in future applications shall be sufficient grounds to void any permit issued by the township.

(e) Failure to provide an acceptable primary and reserve disposal area when required under this Code shall be considered sufficient grounds for denial of an application for subdivision.

(f) The primary and the reserve areas shall be located entirely within the limits of a single tax lot, upon which the improvements being serviced by said system shall be located. If more than one tax lot is used, a consolidation or lot line adjustment is required.

(g) The provisions of this section may be waived only for the following:

1. The creation of a single new dwelling unit which is in accordance with the township's affordable housing obligation, where the Land Use Board determines that a reserve area is not practicable.

(h) The location of soil logs, soil log information, ground water elevations, and percolations/permeability tests shall be shown on all drawings submitted to the administrative authority in support of its application for subdivision approval, together with a certification that the tests were approved by the Board of Health and a certification from the applicant's engineer that the primary and reserve disposal field sites are suitable for the construction of an individual subsurface sewage disposal system in accordance with the requirements of N.J.A.C. 7:9A.

**Section 2.** Section §12-6.1.r. regarding minor subdivision plats shall be deleted in its entirety and replaced as follows:

r. Primary and reserve sewage disposal areas with Sussex County Health Department soil logs shall be provided on each new lot and remainder. Documentation shall be provided by the applicant's engineer certifying that both the primary and reserve areas are suitable for construction of an individual sewage disposal system in accordance with N.J.A.C. 7:9A.

**Section 3.** Section §12-6.2.m. regarding preliminary plats for major subdivisions and site plans shall be deleted in its entirety and replaced as follows:

m. A primary and reserve sewage disposal area with Sussex County Health Department soil logs within each area shall be provided along with a certification by the applicant's engineer that both the primary and reserve areas are suitable for the construction of an individual sewage disposal system in accordance with N.J.A.C. 7:9A (for subdivision only).

**Section 4.** Revision to Schedule A, Minor Subdivision, Lafayette Township (subsection 14-1.9). #43 shall be deleted in its entirety and replaced with the following language:

43. Primary and reserve sewage disposal areas with Sussex County Health Department soil logs shall be provided on each new lot and remainder. Documentation shall be provided by the applicant's engineer certifying that both the primary and reserve areas are suitable for construction of an individual sewage disposal system in accordance with N.J.A.C. 7:9A.

**Section 5.** Revision to Schedule B, Preliminary Major Subdivision, Lafayette Township (subsection 14-1.9). #43 shall be deleted in its entirety and replaced with the following language:

43. A primary and reserve sewage disposal area with Sussex County Health Department soil logs within each area shall be provided along with a certification by the applicant's engineer that both the primary and reserve areas are suitable for construction of an individual sewage disposal system in accordance with N.J.A.C. 7:9A.

**Section 6.** 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 7.** 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 8.** 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. 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 9.** This Ordinance shall take effect after publication and passage according to law.

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

**Oppose Early Voting Resolution** - Motion by D'Angeli, seconded by Corcoran, to adopt the following resolution:

A RESOLUTION OPPOSING SENATE BILL S-2364 AND ASSEMBLY BILL A-3553 WHICH PROPOSE TO EXPAND THE OPPORTUNITIES FOR REGISTERED VOTERS TO CAST THEIR BALLOTS AT AN ELECTION WITH THE STATE OF NEW JERSEY

WHEREAS, Senate Bill S-2364 and Assembly Bill A-3553 propose to expand the opportunities for registered voters to cast their ballots at an election within the State of New Jersey; and

WHEREAS, the goal of accommodating voters in pursuit of greater participation in the democratic process is a worthy goal; but

WHEREAS, the said bill as it is currently drafted involves proposals that would increase workloads, add more costs to the election process, and ultimately serve to confuse voters more than it would accommodate their needs; and

WHEREAS, the opportunity for “Early Voting” already exists in the State of New Jersey through the Vote by Mail ballot process.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Lafayette in the County of Sussex does hereby oppose Bill S-2364 and Bill A-3553 for the following reasons:

1. Current State Law provides that the County Clerk shall mail sample ballots for Primary Election on or before 12 noon on Wednesday preceding election (N.J.S.A. 19:23-34). The proposed Bill requires polling places to be open beginning 15 days before an election. This bill creates an inherent conflict between the date upon which the County Clerk is required to mail sample ballots and the date upon which sample ballots must be posted in polling places. It creates a situation in which the County Clerk will be obligated to mail sample ballots to voters, inviting them to come vote on Election Day, who will have already cast their votes, creating confusion for the average voter and citizen. It will also pressure county Clerks to have sample ballots available earlier than the statutory date upon which said sample ballots need to be provided to the general public via mail.
2. The requirement that a single polling place must be kept open ten (10) hours a day, Monday through Saturday, and on Sundays for eight (8) hours, beginning fifteen (15) days before an election up until two (2) days before an election will create additional expense on County Boards of Election, who will be required to staff this said polling place with poll workers who will be required to handle voters that come from every voting district within a municipality as opposed to a single voting district at each polling place on election day.
3. The Sussex County Board of Elections points out that the average age of Poll workers in Sussex County is 72 years. The bill would require complete re-training of poll workers on how to handle paper ballots on the Early voting days as opposed to the electronic voting done on Election day; many current poll workers will not be interested or physically capable of staffing polling places for such extended periods of time for two (2) straight weeks; hiring new poll workers and training them will be required to staff the early voting locations; costs will be incurred in transporting election materials to and from each early voting location every day in order to maintain chain of custody for protecting the integrity of the ballots cast; overtime costs would be incurred for staffing the Board of Elections offices each day and each evening, all of which adds up to an estimated additional expense exceeding \$150,000 per election.
4. The Bill creates a conflict for Municipal clerks who are required, by law, to be in their offices during the hours that polls are open for an election. Additionally, many municipalities now rely on their Public Works employees to set up and take down polling places. This will create overtime issues on municipalities.
5. The Bill requires a central location be utilized for the early voting polling place. In many instances, this will require the use of the municipal building for seven (7) days a week, for two (2) weeks prior to the election, for up to 12 hours a day. This creates an inherent conflict with already-scheduled court sessions, meetings of governing bodies, meetings of various boards such as Planning Boards, Zoning Boards, Recreation Commissions, and Boards of Health, which will require re-scheduling and postponing hearings on applications before those bodies, in turn creating inconvenience for the general public and increased costs for the municipality.
6. The Sussex County Board of Elections estimates that, taking all factors into consideration, the total cost of setting up and conducting the first early voting election would be \$680,000, and the cost of each early voting election thereafter would be \$198,000.

7. This represents an unfunded mandate, creating unnecessary additional burden and expense on the county and local levels of government, and provides no meaningful increase in the opportunity for New Jersey voters to “vote early” because current state law and established procedures allow a voter to download a Vote By Mail Ballot application, mail in that application, receive a Vote by Mail ballot, and cast their ballot, without ever having to leave their own home or business location.

BE IT FURTHER RESOLVED, the Township Committee of the Township of Lafayette does hereby call upon its representatives in the State Legislature to oppose the adoption of this bill.

AND, BE IT FURTHER RESOLVED, that a copy of this Resolution shall be sent to the Office of the Governor; Senator Paul A. Sarlo, Budget & Appropriations Chair; Assemblyman Vincent Prieto, Budget Chair; Senators Nia Gill and Jim Whelan, the Sponsors of Bill S-2364; Assemblypersons Daniel R. Benson, Herb Conaway, Jr., Craig J. Coughlin, Wayne P. DeAngelo, Patrick J. Diegnan, Jr., Sheila Y. Oliver, and John Wisniewski, the Sponsors of Bill A-3553; Senator Steven Oroho and Assemblywoman Alison McHose, who represent this District; the Sussex County Board of Elections; and the New Jersey League of Municipalities.

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

**Oppose OPMA Amendments Resolution** - Motion by Henderson, seconded by Corcoran, to adopt the following resolution:

RESOLUTION OPPOSING SENATE BILL S-2511, AMENDMENTS TO THE OPEN PUBLIC MEETINGS ACT

WHEREAS, legislation has been introduced to reform and modernize the Open Public Meetings Act (S-2511); and

WHEREAS, the Township Committee of the Township of Lafayette agrees with and supports the statement that “the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process”; and

WHEREAS, the changes, however, proposed in S-2511 will not only be a cost driver for local and State government but make government less effective; and

WHEREAS, S-2511 includes a number of proposed requirements which involve costly unfunded mandates, impractical requirements and impediments to the democratic process; and

WHEREAS, S-2511 creates a new definition of subcommittees that expands subcommittees to be overly inclusive; and

WHEREAS, subcommittees would be required to provide public notice of subcommittee meetings, if the governing body determines them to be open; and

WHEREAS, subcommittees would be required to submit at least one report to the governing body detailing the number of meetings, names of members of the committee and a concise statement of the matters discussed. The governing body would be required to establish a schedule of when the subcommittee reports shall be filed; and

WHEREAS, subcommittees do not commit the governing body to action or expend public funds; and

WHEREAS, the requirements for subcommittees meetings would, among other things, necessitate additional administrative support for all subcommittees as well as increased legal advertising cost; and

WHEREAS, the new requirement that agendas provide a description of all agenda items, including the names of parties to and approximate dollar amounts of any contracts to be acted upon, will delay the award of contracts and could lead to the loss of grant monies; and

WHEREAS, the new requirement that the governing body may act upon an item brought up by a citizen at a public meeting if it was not published as an agenda item only if: (1) there is a vote of 2/3 of the members present to proceed, (2) the municipality demonstrates that it is in the public’s best interest and includes the reasons why it is in the public best interest in the minutes; is impractical, ineffective and unnecessarily inhibits the operations of municipal government and runs contrary to the time honored tradition of holding a public meeting for the very purpose of soliciting such input and acting upon it; and

WHEREAS, the new requirement that electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting become part of the minutes and renders the recordings a permanent municipal record, is unworkable and unmanageable as the technology does not always exist to

make “hard copies” or digital copies of text messages and the records custodian does not always have access to them, and which is an unprecedented expansion of the meeting concept; and

WHEREAS, the new requirement that comprehensive minutes must include each member’s stated reason for their actions or vote, the identity of each member of the public who spoke, and summary of what was said, be made available to the public as soon as possible but no later than 60 days after the meeting will not only be costly but the historical value of minutes will be lost in order to meet an arbitrary deadline; and

WHEREAS, the new requirement that the public be allowed to speak for a minimum of three minutes, at the start of the public meeting, without the ability of the public body to limit the length of the public comment could disrupt public meetings, lead to filibustering and prevent the governing body from conducting business; and

WHEREAS, the provisions of S-2511 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-2511 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, the provisions of S-2511 continue to exempt the Legislature from the requirements placed on municipalities; and

WHEREAS, while we appreciate Senator Weinberg’s efforts to address our concerns, we must continue to oppose the amendments to the Open Public Meeting Act as the changes proposed in S-2511 will not only be a cost driver for local and State government but make government less effective.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lafayette for reasons stated above, does hereby oppose S-2511, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills; and

BE IT FURTHER RESOLVED that the Township Committee of the Township of Lafayette does hereby strongly urge the Legislature, in the interest of transparency and openness, to remove the various exceptions in the Open Public Meetings Law that apply to the Legislature. The rules that the legislation makes applicable to other governmental bodies should apply equally to all governmental levels and officials; and

AND, BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, Assemblywoman Alison McHose, State Senator Steven V. Oroho, Governor Chris Christie, Sussex County Municipalities, the New Jersey State League of Municipalities and the Municipal Clerks’ Association of New Jersey.

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

**Sewer Service Area Map** - Hughes reported the Land Use Board has recommended that the industrial area along Route 94 be included in the Township’s sewer service area. He will meet with the Tax Assessor and report at the next meeting on March 19, 2013.

#### **Audience**

Ms. Betsey Towle, Project Self-Sufficiency, said a child sexual abuse campaign is being piloted in New Jersey and Maryland. She said there is hope it will go nation-wide soon. Ms. Towle explained the campaign and said they are looking for supporters with no costs associated.

Motion by D’Angeli, seconded by Corcoran, to authorize the Mayor to sign a release for Lafayette Township to support the Enough Abuse campaign. Motion carried by roll call vote: Corcoran-yes, Henderson-yes, D’Angeli-yes, Hughes-yes.

Mr. Kevin O’Leary, OSAC Chairman, said the open space budget remains the same this year; and the advertisement was in the Herald for a lease for farming the “Lawler” and Township properties on Warbasse Junction Road.

Road Foreman Macko asked about the Township taking the debris from the demolition to the landfill to reduce costs.

Mr. O’Leary said this was discussed at a meeting; and the recommendation was not to have the Road Department do this for a few reasons, with one being there may be asbestos. Mr. O’Leary will supply the Committee with the information OSAC had.

**Adjournment**

With there being no further business, motion by D'Angeli, seconded by Henderson, to adjourn the meeting. Motion carried. Meeting adjourned.

Respectfully submitted,

ANNAROSE FEDISH, RMC  
Municipal Clerk