

TOWNSHIP OF PEMBERTON

REGULAR MEETING

OCTOBER 21, 2009

6:30 P.M.

1. Council President Stinney announced that notice of this meeting was given in accordance with the Open Public Meetings Act and led the assembly in the Pledge of Allegiance, followed by roll call.

PRESENT

Ken Cartier (absent)
Tom Inge
Richard Prickett
Sherry Scull
Diane Stinney

ABSENT

Also present: Mayor David Patriarca, Business Administrator Chris Vaz, Township Solicitor Andy Bayer, Township Engineer Chris Rehmann, Township Clerk Mary Ann Finlay

2. Chairwoman Stinney called the meeting to order at 6:30 P.M.
3. Closed Session Res. No. 230-2009

RESOLUTION NO. 230-2009

WHEREAS, SECTION 8 OF THE OPEN PUBLIC MEETINGS ACT, CHAPTER 231, P.L. 1975 PERMITS THE EXCLUSION OF THE PUBLIC FROM A MEETING IN CERTAIN CIRCUMSTANCES; AND
WHEREAS, THIS PUBLIC BODY IS OF THE OPINION THAT SUCH CIRCUMSTANCES PRESENTLY EXIST;
NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, AS FOLLOWS:

1. THE PUBLIC SHALL BE EXCLUDED FROM DISCUSSION OF AND ACTION UPON THE HEREINAFTER SPECIFIED MATTERS.
2. THE GENERAL NATURE OF THE SUBJECT MATTERS TO BE DISCUSSED IS AS FOLLOWS:
CONTRACT NEGOTIATIONS – PBA CONTRACT UPDATE
MITCHELL CASE LITIGATION
POTENTIAL LITIGATION – BROWNS MILLS SHOPPING CENTER
3. IT IS ANTICIPATED AT THIS TIME THAT THE ABOVE-STATED SUBJECT MATTERS WILL BE MADE PUBLIC WHEN THE MATTERS HAVE BEEN RESOLVED.

Mr. Bayer did not have anything to add to Closed Session. Mr. Prickett requested adding the Mitchell case for discussion. Mr. Vaz requested adding potential litigation involving the Browns Mills Shopping Center.

Motion by Prickett and Scull to approve Resolution No. 230-2009. Prickett, yes; Scull, yes; Inge, yes; Stinney, yes. Motion carried.

4. CLOSED SESSION (Reference Note: Closed Session minutes are transcribed and filed separately and considered part of these minutes)

Council President Stinney recessed the meeting at approximately 6:32 pm for Council to go in to Closed Session. Mrs. Stinney reconvened the meeting at approximately 7:00 p.m.

5. Formal action as necessary pursuant to closed session.

Council will be scheduling a special meeting and once the meeting is scheduled, Council will advertise the purpose.

6. Public comments on consent agenda items only.

Mrs. Stinney opened the meeting to public comments on consent agenda items only. There being no members of the public wishing to comment, Mrs. Stinney closed the meeting to public comments.

***7. Consent Agenda: All items listed with an asterisk (*) are considered to be routine by the Township Council and will be enacted by one motion. Should a Council Member wish to discuss a consent agenda item separately, that item can be removed from the consent agenda and considered in its normal sequence on the regular agenda.**

***8. MINUTES FILED BY MUNICIPAL CLERK**

***a.** Regular Meeting, October 7, 2009.

***9. CONSENT AGENDA RESOLUTIONS**

RESOLUTION NO. 231-2009

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE CHIEF FINANCIAL OFFICER IS HEREBY AUTHORIZED AND DIRECTED TO REFUND MONIES TO THE FOLLOWING PERSONS FOR THE AMOUNTS AND REASONS SET FORTH:
CYNTHIA MIKULAS, \$296.47, WATER ACCOUNT OVERPAYMENT, BLOCK 579, LOT 9
LOUDSPEAKER REFUNDS, \$10.00 TO THE FOLLOWING INDIVIDUALS:

MONIQUE DAVIS
CHRISTIAN CASTEEL
AMANDA RIVERA

GARDEN STATE INVESTMENT, \$182.28, OVERPAYMENT OF SOLID WASTE ACCOUNT, BLOCK 631, LOT 11

RESOLUTION NO. 232-2009

BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, THAT THE 2010 BUDGET OF PEMBERTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY, BEING PTMUA RESOLUTION 31-2009 AS ATTACHED AND MADE A PART OF THIS RESOLUTION, IS HEREBY APPROVED, PURSUANT TO THE REQUIREMENTS SET FORTH IN THE AGREEMENT OF LEASE BETWEEN THE TOWNSHIP OF PEMBERTON AND THE PEMBERTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY, ARTICLE IX, SECTION 9.2.

RESOLUTION NO. 234-2009

WHEREAS THE TOWNSHIP OF PEMBERTON HAS EXPERIENCED NATURAL HAZARDS THAT RESULT IN PUBLIC SAFETY HAZARDS AND DAMAGE TO PRIVATE AND PUBLIC PROPERTY;

WHEREAS THE HAZARD MITIGATION PLANNING PROCESS SET FORTH BY THE STATE OF NEW JERSEY AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY OFFERS THE OPPORTUNITY TO CONSIDER NATURAL HAZARDS AND RISKS, AND TO IDENTIFY MITIGATION ACTIONS TO REDUCE FUTURE RISK;

WHEREAS THE NEW JERSEY OFFICE OF EMERGENCY MANAGEMENT IS PROVIDING FEDERAL MITIGATION FUNDS TO SUPPORT DEVELOPMENT OF THE MITIGATION PLAN;

WHEREAS A *HAZARD MITIGATION PLAN* HAS BEEN DEVELOPED BY THE MITIGATION PLANNING COMMITTEE OF PEMBERTON TOWNSHIP;

WHEREAS THE *HAZARD MITIGATION PLAN* INCLUDES A PRIORITIZED LIST OF MITIGATION ACTIONS INCLUDING ACTIVITIES THAT, OVER TIME, WILL HELP MINIMIZE AND REDUCE SAFETY THREATS AND DAMAGE TO PRIVATE AND PUBLIC PROPERTY, AND

WHEREAS THE COUNTY OF BURLINGTON HELD TWO PUBLIC MEETINGS ONE ON JUNE 11, AND ONE ON JUNE 28, 2008 TO INTRODUCE THE PLANNING CONCEPT AND TO SOLICIT QUESTIONS AND COMMENTS; AND TO PRESENT THE PLAN AND REQUEST COMMENTS, AS REQUIRED BY LAW,

NOW THEREFORE BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON:

1. THE HAZARD MITIGATION PLAN IS HEREBY ADOPTED AS AN OFFICIAL PLAN OF THE TOWNSHIP OF PEMBERTON; MINOR REVISIONS RECOMMENDED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND/OR THE NEW JERSEY OFFICE OF EMERGENCY MANAGEMENT MAY BE INCORPORATED WITHOUT FURTHER ACTION.
2. THE TOWNSHIP OF PEMBERTON DEPARTMENTS IDENTIFIED IN THE PLAN ARE HEREBY DIRECTED TO PURSUE IMPLEMENTATION OF THE RECOMMENDED HIGH PRIORITY ACTIVITIES THAT ARE ASSIGNED TO THEIR DEPARTMENTS.
3. ANY ACTION PROPOSED BY THE PLAN SHALL BE SUBJECT TO AND CONTINGENT UPON BUDGET APPROVAL, IF REQUIRED, WHICH SHALL BE AT THE DISCRETION OF THE TOWNSHIP COUNCIL, AND THIS RESOLUTION SHALL NOT BE INTERPRETED SO AS TO MANDATE ANY SUCH APPROPRIATIONS.
4. THE PEMBERTON TOWNSHIP OFFICE OF EMERGENCY MANAGEMENT IS DESIGNATED TO COORDINATE WITH OTHER OFFICES AND SHALL PERIODICALLY REPORT ON THE ACTIVITIES, ACCOMPLISHMENTS, AND PROGRESS, AND SHALL PREPARE AN ANNUAL PROGRESS REPORT TO BE SUBMITTED TO THE NEW JERSEY OFFICE OF EMERGENCY MANAGEMENT. THE STATUS REPORTS SHALL BE SUBMITTED BY OCTOBER 10TH EACH YEAR.

RESOLUTION NO. 235-2009

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR THE INSTALLATION OF SAFETY SURFACING AND A DRAINAGE SYSTEM FOR IMAGINATION KINGDOM

WHEREAS, THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP") ISSUED AN INVITATION TO BID ON THE INSTALLATION OF SAFETY SURFACING AT IMAGINATION KINGDOM (THE "PROJECT") AS A BASE BID, AND ALSO TO BID ON THE INSTALLATION OF A DRAINAGE SYSTEM AT THE PROJECT ("ALTERNATE A"); AND

WHEREAS, THE TOWNSHIP HAS DETERMINED THAT THE LOWEST RESPONSIBLE BIDDER IS RICH PICERNO BUILDERS, LLC (THE "CONTRACTOR") WITH A BASE BID OF \$154,469.00, AND A BID OF \$46,150.00 FOR ALTERNATE A; AND

WHEREAS, THE TOWNSHIP ENGINEER HAS RECOMMENDED THAT THE PROJECT BE AWARDED TO THE CONTRACTOR; AND

WHEREAS, THE TOWNSHIP SOLICITOR HAS REVIEWED THE CONTRACTOR'S BID AND FINDS IT TO BE LEGALLY SUFFICIENT; AND

WHEREAS, THE TOWNSHIP HAS ELECTED TO ACCEPT THE CONTRACTOR'S BASE BID ALONG WITH ALTERNATE A.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY THAT THE CONTRACT FOR THE INSTALLATION OF SAFETY SURFACING AND A DRAINAGE SYSTEM AT IMAGINATION KINGDOM BE HEREBY IS AWARDED TO RICH PICERNO BUILDERS, LLC AND THAT THE MAYOR IS AUTHORIZED TO EXECUTE A CONTRACT, IN A FORM LEGALLY ACCEPTABLE TO THE TOWNSHIP SOLICITOR, BETWEEN THE TOWNSHIP OF PEMBERTON AND RICH PICERNO BUILDERS, LLC; AND

BE IT FURTHER RESOLVED, THAT THE CHIEF FINANCIAL OFFICER HAS EXECUTED A CERTIFICATION OF FUNDS WHICH IS ATTACHED HERETO, AND THAT SUFFICIENT FUNDS ARE AVAILABLE FOR SAID CONTRACT FROM ACCOUNT NUMBER

_____ ; AND
BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. RICH PICERNO BUILDERS, LLC
- B. TOWNSHIP ADMINISTRATOR
- C. TOWNSHIP CHIEF FINANCIAL OFFICER
- D. GLUCKWALRATH LLP

***12. Approval by Council required for payment of vouchers on bill list dated 10/23/09.**

Mr. Prickett requested to pull Resolution No. 229-2009 and add a request from Mr. Vaz to add Gibson for the Municipal Court renovation projects for \$34,870.72 and Rocon for \$21,436.27 for the Dominique Johnson Center to the bill list. Mr. Vaz clarified that Gibson is the architect and Rocon is the contractor for Dominique Johnson.

Motion by Prickett and to add to the bill list \$34,870.72 for Gibson Tarquini Group for Municipal Court renovations and \$21,436.27 for Rocon for the Dominique Johnson Center project.

Mrs. Stinney asked Council to add revised Resolution No. 235-2009 which replaces Resolution No. 235-2009 that Council received in their packets tonight.

Mr. Prickett requested to add Resolution No. 236-2009 which is a resolution authorizing the Mayor and Township Clerk to execute a contract for asbestos abatement with Juniper Environmental Services. Mrs. Finlay asked if this was being added to the agenda or consent agenda. Mr. Prickett asked for this to be added under New Business. Mayor Patriarca informed there are some issues with the Resolution. Mr. Vaz commented that the Township is unable to do the abatement under state contract so they needed to pull the resolution. Mr. Prickett withdrew his motion.

Mrs. Stinney again asked Council to add revised Resolution No. 235-2009, a resolution authorizing the award of a contract for the installation of safety surfacing and drainage system for Imagination Kingdom. Mr. Bayer explained it is a revised version of the resolution that is in Council's packet. Mrs. Stinney stated Council needed to remove the existing resolution and add the revised.

Motion by Prickett and Scull to add to the bill list \$34,870.72 for Gibson Tarquini Group for Municipal Court renovations and \$21,436.27 for Rocon for the Dominique Johnson Center project and revised Resolution No. 235-2009.

Mr. Inge asked if Resolution No. 235-2009 that is being added to the agenda is for the court room. Mr. Prickett explained it doesn't have anything to do with the court room and that it has to do with the drainage and surface at Imagination Kingdom.

Prickett, yes;

Mrs. Scull clarified that this is to add Resolution No. 235-2009 and not to approve the entire consent agenda because she needs to abstain on a couple of things.

Scull, yes; Inge, yes; Stinney, yes. Motion carried.

Motion by Prickett and Inge to approve the Consent Agenda as amended.

Mr. Prickett requested to pull Resolution No. 233-2009 from the consent agenda.

Motion by Prickett and Inge to amend his original motion to adopt the Consent Agenda with Resolution Numbers 229-2009 and 233-2009 removed and the bill list revised as well as Resolution No. 235-2009. Prickett, yes; Inge, yes; Scull, yes but abstain on #4-90852 on the bill list; Stinney, yes. Motion carried.

ITEMS PULLED FROM THE CONSENT AGENDA

RESOLUTION NO. 229-2009

Mr. Prickett commented that at the last Council meeting, Council picked up their packets on the previous Friday and the Council was to be mailed the land auction information and he did not receive that resolution with the list of properties. At the last Council meeting on October 7th, he received a revised copy of the land auction and it was the first time he saw the resolution. Mr. Prickett informed he has been reviewing the document and also looked at the current resolution, 229-2009 and noticed that it has been revised again in that there are additional properties in the resolution that he is curious about. Mr. Prickett conveyed the first revised resolution had minimum bids and the resolution in Council's packet did not have any minimum bids so his first question to Administration was where the minimum bids are. Mr. Vaz replied it would appear the resolution in the meeting package doesn't have the correct schedules because there are minimum bids. Mr. Vaz explained he would not have caught it because he has his own meeting packet with the original resolution with the minimum bids attached. Mr. Vaz offered to provide Council with the correct information. Mr. Prickett commented that he has additional questions and there were some additions to the list and he is not sure what all of the additions were to the latest resolution. Lakehurst Road with 48.77 acres was in addition to the last packet. Mr. Prickett asked how the list was put together and if anyone checked the topography mapping system that the Township has through ARH to find out what the elevations are and whether the sale of any of the properties would cause any drainage problems to neighbors. Mr. Vaz answered information was printed off of the GIS but the information he is able to pull off doesn't provide specifics of elevations but he does look at the aerials and physically goes to the properties. The schedules are basically for the most part properties that have been requested by other interested parties. This is not a general list of everything that Pemberton Township is showing as the owner. Mayor Patriarca stated the sale of the property will not affect the drainage of the property but development on the property would and there are safeguards with the lot grading ordinance that would protect that. The person purchasing the property may want it for the additional open space to their property. If they are looking to develop the property, they would have to go through the process and apply for a lot grading waiver or submit the proper applications. Mr. Prickett asked if the Planner reviewed the list. Mr. Vaz answered no. Mr. Prickett then asked if the Environmental Commission reviewed the list. Mr. Vaz again answered no. Mr. Prickett stated there are minimum bids but the Planner or the Environmental Commission has not reviewed the list. Mr. Prickett expressed concern regarding not having minimum bids and how the list was put together. He was especially concerned regarding an additional property on the list, the Lakehurst Road property with 48.77 acres in Country Lakes. Mr. Prickett commented it would make an ideal path or park and assumed it is being served in that purpose at this time and is not a property that would cost the residents money to use or maintain because it's an open space. There are a lot of wetlands on the property and Mr. Prickett expressed concerned that it is the headwaters to Spring Lake and any changes within the property can contaminate the lakes and effect the water quality of the lakes that the Township is working so hard to build new dams and fix the dams and invest money in. Mr. Prickett conveyed the property is block 940.01, lot 1. Mrs. Stinney asked Mr. Prickett to summarize what he is asking Administration. Mr. Prickett replied that he would like to see the minimum bid, the request list, and he would like to know the properties were reviewed by the Environmental Commission and the Planner. Mayor Patriarca responded that most of the

properties on the list are requested properties by adjoining land owners; when someone owns a lot and they want to purchase the open lot next to them. The Mayor explained that probably 98% of the properties are by request. Mayor Patriarca was not sure how the 48 acres got on the list but will look in to that. The Mayor expressed concern if it is something that should be sold to the state for open space and there are additional properties in that area that he had considered. Mayor Patriarca conveyed he would be surprised if the Township could do any type of development in that particular area even if it were a recreational use and would constitute development and he couldn't imagine the Township getting through the Pineland hurdles. The Mayor added that there are other options which include selling it to someone outright that has an interest or selling it to the state for open space. Mayor Patriarca informed he is in favor of selling it to the state and advised that he has a considerable amount of properties that he would like to propose to Council in the near future to do that with in the Township taking it off of our tax roles and giving it to the state. Mr. Bayer commented that any resolution adopted needs to contain the minimum bids otherwise someone could bid \$1.00. He saw the same list that Mr. Prickett spoke of and at the last meeting it had the prices and typographically for whatever reason it is not on this one. Mr. Bayer continued that the Schedule A lots are non-conforming lots which are what the Mayor spoke of which would be offered to adjoining property owners and that is the bulk of the list. Schedule B lots which is a much smaller list and are large enough for development. Mr. Prickett expressed concern regarding how Schedule B was written. Mr. Prickett referenced Schedule B and read, "subject to the limitations and conditions set forth below". Mr. Prickett informed that he assumes it is referring to limitations and conditions to the sale which is the zoning but inquired if there should be some kind of statement there as to what that means as far as more information on what Schedule B is. Mr. Prickett remarked there is a lot of information on Schedule A but it appeared that some of the information from Schedule B has been taken out from the previous resolution. Mr. Bayer relayed that he did not draft the resolution and certainly there may want to be a clarification. Mr. Prickett suggested anything else the Solicitor thinks needs to be with the schedule. Mayor Patriarca informed Mr. Vaz is looking for the information regarding the minimum bid. Mrs. Stinney asked Administration to clarify the limitations and conditions. Mayor Patriarca replied that Administration can broaden the Schedule B definition and if there are any additional concerns that Council has to provide them to Administration in advance so they can provide the information or make the changes prior to the next meeting. Mrs. Scull and the Mayor spoke of the desire to approve the resolution now. Mayor Patriarca noted there are only three meetings left for the year. Mr. Bayer advised the resolution schedules the sale for November 10th. Mrs. Finlay informed the date would have to be changed if Council tables this because there are statutory requirements involved and it may end up being that even if the sale is held this year, the money won't be anticipated until next year's budget. The actual acceptance of the bids will not allow enough time for that to be done. Mrs. Finlay explained once the sale is held, right of first refusal letters must go out, closings must be scheduled and then a resolution is presented to Council at a future meeting for Council to accept the bids so there is still another process. It doesn't mean that the sale won't be able to be held but if they are trying to get this done by the end of the year to be able to anticipate any monies for next year's budget it would have to be held soon. Mrs. Finlay advised there is only one Council meeting in November and that is November 4th. Mayor Patriarca asked if Council would be willing to entertain just Schedule A for the land sale. Mrs. Scull and Mrs. Stinney both agreed. Mr. Inge stated he would abstain. Mrs. Scull inquired if something could be pulled off if decided later. Mr. Inge informed there is someone he does business with that is purchasing properties. Mr. Prickett reiterated that the properties need to be reviewed by the Environmental Commission. Mrs. Scull asked for a short recess while waiting for Mr. Vaz. Mrs. Stinney recessed the meeting for a five minute break.

RESOLUTION NO. 233-2009

RESOLUTION NO. 233-2009

WHEREAS, BY RESOLUTION NO. 261-2009, ADOPTED DECEMBER 17, 2008, THE TOWNSHIP COUNCIL AWARDED A CONTRACT TO EARLE ASPHALT COMPANY FOR NORCROSS LANE ROADWAY IMPROVEMENT PROJECT; AND WHEREAS, THE TOWNSHIP COUNCIL HAS RECEIVED CHANGE ORDER NO. 1 SUBMITTED BY ADAMS, REHMANN & HEGGAN, DATED OCTOBER 6, 2009; AND WHEREAS, A COPY OF CHANGE ORDERS NO. 1 IS ATTACHED HERETO AND MADE A PART OF THIS RESOLUTION, WHICH CHANGE ORDER REPRESENTS A TOTAL DECREASE IN THE CONTRACT PRICE BY \$872.08 WHICH CHANGE ORDER IS RELATED TO MISCELLANEOUS MATERIALS AS MORE SPECIFICALLY AND ACCURATELY DESCRIBED IN THE CHANGE ORDER REQUESTED; AND WHEREAS, THE NEW CONTRACT SUM INCLUDING CHANGE ORDER WILL BE \$251,841.05; AND WHEREAS, THE PROJECT ENGINEER AND THE ADMINISTRATOR, HAVE RECOMMENDED THE APPROVAL OF SAID CHANGE ORDER NO. 1; AND WHEREAS, THE LOCAL PUBLIC CONTRACTS LAW, N.J.S.A. 40A:11-1 ET SEQ., AND THE REGULATIONS PROMULGATED PURSUANT THERETO, N.J.A.C. 5:34-1.1 ET SEQ. PERMIT THE AUTHORIZATION OF SUCH CHANGE ORDERS IN ACCORDANCE WITH CERTAIN GUIDELINES CONTAINED THEREIN; AND WHEREAS, THE GOVERNING BODY HAS DETERMINED, UPON THE ADVICE OF THE CONSULTING ENGINEER AND RECOMMENDATION OF THE ADMINISTRATOR, THAT THE PROVISIONS OF THE REGULATIONS HAVE BEEN MET AND THAT THIS RESOLUTION CAN BE ADOPTED GIVEN THE ENGINEER'S REPRESENTATIONS THAT THE REQUESTED CHANGES ARE IN ORDER AND THAT THE REASONS FOR SAME ARE ACCEPTABLE, JUSTIFIABLE, AND VALID; AND WHEREAS, THE CHIEF FINANCIAL OFFICER HAS CERTIFIED THAT FUNDS ARE AVAILABLE TO APPROVE THIS DECREASE CONTRACT IN THE AMOUNT OF \$872.08; AND NOW, THEREFORE BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY THAT CHANGE ORDER NO. 1, AS SUBMITTED BY ADAMS, REHMANN & HEGGAN, FOR THE PROJECT NOTED ABOVE, IS HEREBY APPROVED;

Motion by Prickett and Inge to approve Resolution No. 233-2009. Prickett, yes; Inge, yes; Scull, abstain; Stinney, yes. Motion carried

10. ORDINANCES FOR INTRODUCTION

a. ORDINANCE NO. 23-2009 (TITLE READ BY MRS. STINNEY)

AN ORDINANCE TO AMEND THE ORDINANCES OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY SO AS TO DELETE CHAPTER 153, ENTITLED "SOUND TRUCKS"

Motion by Prickett and Scull to introduce Ordinance No. 23-2009 with a public hearing to be held on November 4th. Prickett, yes; Scull, yes; Inge, yes; Stinney, yes. Motion carried.

11. NEW BUSINESS

a. Authorization requested by Clerk to:

1. Proceed with process of soliciting RFPs for 2010 Reorganization.
2. Designation of two Council members to review along with Administration, RFPs received for Reorganization.
3. To advertise for Reorganization Meeting to be held 1/6/10 at 6PM and first Regular meeting to be held at 6:30PM.

Mrs. Scull volunteered to review RFPS received for Reorganization. Mr. Prickett advised that he would not mind but discussed problems with scheduling of a meeting for a previous RFP he was to have reviewed. Mrs. Stinney volunteered also.

Motion by Scull and Prickett to authorize items a1, a2 and a3 as requested by the Clerk with Mrs. Scull and Mrs. Stinney reviewing RFPs for reorganization. Scull, yes; Prickett, yes; Inge, yes; Stinney, yes. Motion carried.

b. Discussion regarding selection process for future speed humps and review of completed survey results from neighbors residing near existing speed humps.

Mr. Prickett and Mrs. Scull volunteered to be the sub-committee to review speed humps, and make recommendations for Council.

- c. Applications submitted for memberships, licenses, permits:
- 1. Parade Permit Application: (PUBLIC HEARING REQUIRED)**
Pemberton Township High School Homecoming Parade, 11/7/09
10AM-12Noon

Mrs. Stinney opened the meeting to public comments. There being no members of the public indicating a desire to comment, Mrs. Stinney closed the meeting to public comments.

Motion by Scull and Prickett to approve the parade permit application for Pemberton Township High School's Homecoming Parade on 11/7/2009. Scull, yes; Prickett, yes; Inge, yes; Stinney, yes. Motion carried.

GENERAL PUBLIC COMMENTS

Mrs. Stinney opened the meeting to general public comments. Those indicating a desire to be heard were: **America Phillips: 1.** Commented on no one attending the meeting. **2.** Noted that the fence at the beach has not been installed. The Mayor commented that when they back out of Presidential Lakes, they will move the dirt. **3.** Asked if drainage can be put in for the lakes as there have been heavy rains. **4.** Commented on houses at Tennessee Trail and Wisconsin in Presidential Lakes. **5.** Thanked everyone for coming out.

SOLICITOR'S REPORT

Andy Bayer: 1. Nothing to report.

ENGINEER'S REPORT

Chris Rehmann: 1. Springfield Road has been paved. **2.** Clematis is not paved yet.

MAYOR'S REPORT

David Patriarca: 1. Public Works finished the middle embankment at Presidential Lakes. They are scheduling final inspection with the DEP and should be filling the lake in the next two weeks. **2.** Country Lakes is moving along. **3.** Dominique Johnson Building is moving along. He encouraged everyone to come out this weekend. He asked for volunteers to please not bring children. Mrs. Stinney inquired if the Dominique Johnson Building will be ready for the upcoming election as it is a regular polling place. The Mayor assured it would. Mrs. Scull suggested making sure the contractor is not using paint or chemicals. **4.** Imagination Kingdom ground breaking has occurred.

COUNCIL MEMBERS' COMMENTS

Tom Inge: 1. Thanked everyone for coming out. **2.** Hoped there will be a good turnout this weekend.

Prickett: 1. Reminded of discussion at the last meeting. He noted he has not received a police department report for some time and requested to see one. **2.** Announced the Cranberry bake off at the BMIA Meeting.

Scull: 1. Thanked everyone for coming out tonight. Hopes to see as many people out this weekend as possible.

CONTINUATION OF DISCUSSION REGARDING RESOLUTION NO. 229-2009

RESOLUTION NO. 229-2009

RESOLUTION AUTHORIZING PUBLIC AUCTION OF MUNICIPALLY OWNED LANDS NO LONGER NEEDED FOR PUBLIC USE WHEREAS, THE TOWNSHIP OF PEMBERTON IS THE OWNER OF REAL PROPERTY NOT NEEDED FOR PUBLIC USE; AND

WHEREAS, N.J.S.A. 40A:12-13(A) AUTHORIZES A MUNICIPALITY TO SELL ANY REAL PROPERTY, CAPITAL IMPROVEMENTS OR INTERESTS THEREIN NOT NEEDED FOR PUBLIC USE BY OPEN PUBLIC SALE AT AUCTION TO THE HIGHEST BIDDER AFTER ADVERTISEMENT THEREOF; AND

WHEREAS, THE TOWNSHIP COUNCIL HAS DETERMINED THAT THE SALE OF THE PROPERTY SET FORTH IN THIS RESOLUTION IS IN THE PUBLIC INTEREST, AS IT WILL GENERATE MISCELLANEOUS REVENUE AND RETURN THE PROPERTY TO THE TAX ROLLS; AND

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY AS FOLLOWS:

ARTICLE I. SALE OF LAND AUTHORIZED. THE TOWNSHIP COUNCIL HEREBY AUTHORIZES THE SALE OF REAL PROPERTY THAT IS SET FORTH ON SCHEDULES A AND B HEREOF AT THE MINIMUM PRICES STATED THEREIN. THE TOWNSHIP RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS RECEIVED FOR THE PROPERTIES AND TO REMOVE ANY PROPERTY FROM THE SCHEDULES PRIOR TO THE AUCTION. BIDS SHALL BE RECEIVED AT PUBLIC AUCTION ON NOVEMBER 10, 2009, AT 11:00 A.M., IN ROOM #10, AT THE PEMBERTON TOWNSHIP MUNICIPAL BUILDING. THE TOWNSHIP COUNCIL MAY ACCEPT OR REJECT THE BIDS RECEIVED WITHIN FORTY-FIVE (45) DAYS FROM THE DATE OF THE AUCTION.

ARTICLE II. SPECIAL CONDITIONS OF SALE.

A. THE PROPERTIES ON SCHEDULE A SHALL BE SOLD AS RESTRICTED LOTS. THE INTENTION IS THAT CONTIGUOUS PROPERTY OWNERS SHALL BE REQUIRED TO USE THE RESTRICTED LOTS FOR THE PURPOSE OF EXPANDING THEIR EXISTING PROPERTY. NO DEVELOPMENT SHALL BE PERMITTED ON THESE LOTS, AND THE DEED CONVEYING SAID PROPERTY SHALL CONTAIN A RESTRICTION THAT RUNS WITH THE LAND PROHIBITING FUTURE DEVELOPMENT. NOTWITHSTANDING THE RESTRICTION, THE FOLLOWING EXCEPTIONS ARE HEREBY PERMITTED: (1) THE SUCCESSFUL BIDDER SHALL BE PERMITTED TO UTILIZE SAID PROPERTY TO EXPAND HIS OR HER EXISTING HOME (SUBJECT TO SETBACK AND OTHER ZONING REQUIREMENTS); AND (2) TO BUILD A GARAGE, POOL, STORAGE SHED, OR SUCH OTHER ACCESSORY STRUCTURE PERMITTED UNDER THE ZONING ORDINANCE.

B. MERGER. IN THE EVENT THAT THE SUCCESSFUL BIDDER FOR ANY PROPERTY CONTAINED ON SCHEDULE A OWNS, IN WHOLE OR IN PART, ANY LAND CONTIGUOUS TO THE PROPERTY THAT IS THE SUBJECT OF THE BID, THE SUCCESSFUL BIDDER SHALL BE REQUIRED TO SIGN A SECOND DEED, TO BE PREPARED BY THE TOWNSHIP SOLICITOR, WHICH MERGES THE PARCELS INTO A SINGLE LOT. THE DEED OF MERGER SHALL CONTAIN A RESTRICTION TO RUN WITH THE LAND THAT THE PROPERTY SHALL NOT BE SUBDIVIDED IN THE FUTURE. BOTH THE FIRST DEED AND THE DEED OF MERGER SHALL BE FILED SIMULTANEOUSLY BY THE TOWNSHIP.

C. IN THE EVENT THAT THE SUCCESSFUL BIDDER FOR ANY SCHEDULE A PROPERTY *THAT IS LESS THAN THE MINIMUM SIZE REQUIRED FOR DEVELOPMENT* UNDER THE ZONING ORDINANCE IS NOT THE OWNER OF ANY CONTIGUOUS PROPERTY, THEN, PURSUANT TO N.J.S.A. 40A:12-13.2, THE OWNER OR OWNERS OF ANY REAL PROPERTY CONTIGUOUS TO THE SUBJECT PROPERTY SHALL BE ACCORDED THE RIGHT OF PRIOR REFUSAL TO PURCHASE SUCH LAND AT OR ABOVE THE HIGHEST BID PRICE. THE TOWNSHIP WILL NOTIFY CONTIGUOUS OWNER(S) OF THE BID WITHIN TEN (10) CALENDAR DAYS AFTER THE PUBLIC AUCTION. THE CONTIGUOUS OWNER(S) SHALL THEN HAVE FIFTEEN (15) CALENDAR DAYS TO SUBMIT SEALED BIDS TO THE TOWNSHIP CLERK UNDER THEIR RIGHT OF PRIOR REFUSAL. WHERE MORE THAN ONE CONTIGUOUS OWNER SUBMITS A SEALED BID, THE TOWNSHIP WILL ACCEPT THE HIGHEST BID.

D. IN THE EVENT THAT THE SUCCESSFUL BIDDER FOR ANY SCHEDULE A PROPERTY IS NOT THE OWNER OF CONTIGUOUS PROPERTY OR DOES NOT HAVE A PRINCIPAL BUILDING, THEN, THE SUCCESSFUL BIDDER SHALL NOT BE PERMITTED TO BUILD A GARAGE, POOL, STORAGE SHED, OR SUCH OTHER ACCESSORY USE PERMITTED UNDER LOCAL ZONING ORDINANCES.

E. THE PROPERTIES CONTAINED ON SCHEDULE B SHALL BE SOLD SUBJECT TO THE LIMITATIONS AND CONDITIONS SET FORTH IN THE SCHEDULE AND THIS RESOLUTION. BIDDER(S) ARE RESPONSIBLE TO SECURE ALL APPROVALS. THE TOWNSHIP DOES NOT REPRESENT THAT THE QUALITY OF THE PROPERTY BEING SOLD WILL MEET THE BIDDER(S) INTENDED USE.

F. THE PROPERTIES ON SCHEDULES A AND B SHALL BE SOLD AND ACCEPTED IN "AS IS" CONDITION.

G. POTENTIAL BIDDERS ARE REQUIRED TO PERFORM DUE DILIGENCE BEFORE BIDDING. THIS SHOULD INCLUDE A REVIEW OF ZONING ORDINANCES, PINELANDS COMMISSION REQUIREMENTS, NJDEP REQUIREMENTS, AND SIMILAR STATUTES, REGULATIONS, AND ORDINANCES. ONCE THE BIDDING IS CLOSED THE HIGHEST BIDDER WILL BE REQUIRED TO ENTER INTO A CONTRACT WHICH WILL NOT ALLOW FOR CANCELLATION OF THE SALE EXCEPT FOR TITLE DEFECTS.

ARTICLE III. ORDINARY CONDITIONS OF SALE. THE TOWNSHIP COUNCIL HEREBY ESTABLISHES THE FOLLOWING CONDITIONS OF SALE. THESE CONDITIONS SHALL BE IMPOSED UPON ALL BIDS SUBMITTED HEREIN:

A. THE PROPERTIES DESCRIBED IN SCHEDULE A AND SCHEDULE B SHALL BE ADVERTISED FOR PUBLIC SALE PURSUANT TO THE REQUIREMENTS AND PROCEDURES SET FORTH IN THE LOCAL LANDS AND BUILDINGS LAW, N.J.S.A. 40A:12-1 ET SEQ.

B. EACH SUCCESSFUL BIDDER FOR THE PROPERTY CONTAINED IN SCHEDULE A MUST SUBMIT THE FULL AMOUNT OF THE BID BY CASH OR BY CHECK, AT THE TIME OF THE BID.

C. EACH SUCCESSFUL BIDDER FOR THE PROPERTY CONTAINED IN SCHEDULE B MUST SUBMIT 50% OF THE BID PRICE AT THE TIME OF THE SALE. SAID PAYMENT MAY BE MADE BY CASH OR CHECK. THE BALANCE SHALL BE PAID AT THE CLOSING BY CERTIFIED CHECK.

D. IN ADDITION TO THE SALE PROCEEDS, EACH SUCCESSFUL BIDDER SHALL BE REQUIRED TO PAY AN ADDITIONAL \$350.00 FOR EACH PROPERTY TOWARDS THE TOWNSHIP'S EXPENSES IN THE PREPARATION AND ADVERTISEMENT OF THIS RESOLUTION, AND THE PREPARATION AND RECORDING OF ALL DEEDS. THE \$350.00 SHALL BE SUBMITTED TO THE TOWNSHIP AT THE TIME OF THE AUCTION.

E. PROPERTIES TO BE CONVEYED UNDER THIS RESOLUTION SHALL BE CONVEYED BY THE TOWNSHIP BY WAY OF QUITCLAIM DEED, WITHOUT ANY REPRESENTATIONS AS TO THE QUALITY OF THE TITLE, EXCEPT THAT THE TOWNSHIP REPRESENTS THAT TO THE BEST OF ITS KNOWLEDGE THERE ARE NO JUDGMENTS OR LIENS AGAINST THE MUNICIPALITY, WHICH WOULD AFFECT THE QUALITY OF TITLE.

F. ALL LOTS WILL BE CONVEYED SUBJECT TO EXISTING ENCUMBRANCES, LIENS, ZONING REGULATIONS, EASEMENTS, OTHER RESTRICTIONS AND SUCH FACTS AS AN ACCURATE SURVEY WOULD REVEAL AND ANY PRESENT OR FUTURE ASSESSMENTS FOR THE CONSTRUCTION OF IMPROVEMENTS BENEFITING SAID PROPERTY.

G. CLOSINGS SHALL OCCUR WITHIN THIRTY (30) DAYS OF THE ADOPTION OF THE RESOLUTION BY THE TOWNSHIP COUNCIL AWARDED THE SALE OF THE PROPERTIES TO THE HIGHEST BIDDER.

H. FAILURE OF THE PURCHASERS TO COMPLY WITH ANY OF THE REQUIREMENTS SET FORTH ABOVE, OR TO CLOSE WITHIN THE TIME FRAME SET FORTH BY THE TOWNSHIP IN ITS RESOLUTION AWARDED THE BIDS, SHALL ENTITLE THE TOWNSHIP OF PEMBERTON TO RESCIND PRIOR BID APPROVAL, TERMINATE ANY AND ALL RIGHTS OF THE DESIGNATED BIDDER IN SAID PROPERTY, AND RETAIN ALL MONIES HELD BY THE TOWNSHIP. NOTHING HEREIN IS INTENDED, HOWEVER, TO SUGGEST THAT THE TOWNSHIP WILL RETAIN ANY MONIES OF UNSUCCESSFUL BIDDERS. FOLLOWING THE ADOPTION OF THE RESOLUTION AWARDED THE BIDS, THE TOWNSHIP SHALL REFUND MONIES SUBMITTED BY ANY UNSUCCESSFUL BIDDERS.

ARTICLE IV. MISCELLANEOUS AUTHORIZATIONS. THE MAYOR, CLERK AND SUCH OTHER MUNICIPAL OFFICIALS AS ARE DEEMED NECESSARY ARE HEREBY AUTHORIZED AND DIRECTED TO EXECUTE WHATEVER DOCUMENTS ARE NECESSARY TO EFFECTUATE THE INTENT AND PURPOSES OF THIS ORDINANCE.

ARTICLE V. EFFECTIVE DATE; NOTICE OF BID. THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY, AND THE TOWNSHIP CLERK IS HEREBY AUTHORIZED AND DIRECTED TO ADVERTISE THIS SALE IN THE BURLINGTON COUNTY TIMES BY TWO INSERTIONS AT LEAST ONCE A WEEK DURING TWO CONSECUTIVE WEEKS, THE LAST PUBLICATION TO BE NOT EARLIER THAN SEVEN (7) DAYS PRIOR TO THE DATE OF SALE SET FORTH ABOVE.

BE IT FURTHER RESOLVED THAT THE AUCTIONEER DESIGNATED BY THE MAYOR TO CONDUCT THIS AUCTION SHALL BE FREE TO ACT IN ALL RESPECTS IN WHAT IS DEEMED TO BE IN THE BEST INTERESTS OF THE MUNICIPALITY BY REVISING THE PARTICULAR LOTS BEING SOLD FOR A SPECIFIC DOLLAR FIGURE (E.G., IF TWO LOTS ARE BEING SOLD TOGETHER FOR \$2,400.00 AND TWO ADJOINING LOTS ARE OFFERED TOGETHER FOR \$2,400; BUT TWO PROSPECTIVE BIDDERS AGREE THAT THE FIRST WANT ONLY ONE LOT, AND OTHER WANTS THREE, THE AUCTIONEER SHALL BE PERMITTED TO AUCTION SAME IN THAT FASHION; OR IN ANY OTHER FASHION THAT WILL BEST ADVANCE THE GOALS OF THIS RESOLUTION); ALL SUBJECT NEVERTHELESS TO FINAL ACCEPTANCE AND APPROVAL BY THE TOWNSHIP COUNCIL. IT IS FURTHER EXPRESSLY PROVIDED THAT THE TERMINATION OF THE BIDDING PROCESS WILL NOT CONSTITUTE AN "ACCEPTANCE" OF THE BID, BUT WILL SIMPLY CONSTITUTE A RECOGNITION THAT THE BID IS THE HIGHEST BID RECEIVED AT THE TIME OF THE AUCTION, AND THE TOWNSHIP COUNCIL WILL HAVE ABSOLUTE

DISCRETION TO DETERMINE WHETHER TO AWARD THAT BID AT ITS NEXT REGULAR MEETING AND/OR WITHIN 45 DAYS FOLLOWING THE DATE OF THE BID.

SCHEDULE A

BLOCK	LOT	LOCATION	SIZE	MINIMUM BID
5	20-23	REEVES AVE.	145X84 IRR.	1,600.00
23	53-58	EAGLE AVE.	120X100	2,400.00
28	1-10	EAGLE AVE.	200X100	4,000.00
37.03	1	LAKESHORE DRIVE	400 X 60	3,500.00
41	55&56	KENT ST.	24X102	1,200.00
42	19-22	KENT ST.	80X100	2,400.00
46	38-41	EAGLE AVE.	80X100	1,600.00
52	35&36	PARDEE BLVD.	40X100	1,200.00
58	29	HUNT STREET	20X100	400.00
58	66-69	ANEMONE STREET	80X100	800.00
58	70-73	ANEMONE STREET	80X100	800.00
58	74-77	ANEMONE STREET	90X100	850.00
59	8-10	ANEMONE STREET	60X100	600.00
59	55-58	DOGWOOD STREET	80X100	800.00
59	59-70	DOGWOOD STREET	240X100	4,000.00
59	71-74	DOGWOOD STREET	80X100	800.00
61	31-34	PARK & SASSAFRAS	80X100	2,400.00
61	47-50	PARK STREET	80X100	2,400.00
61	51-54	PARK STREET	80X100	2,400.00
66	17&18	TULIP STREET	40X100	1,200.00
66	23&24	TULIP STREET	40X100	1,200.00
66	42	SALVIA STREET	20X100	400.00
80	45&46	PARK STREET	40X100	1,200.00
88	17-19	PARK STREET	60X100	1,200.00
88	21	PARK STREET	20X100	400.00
116	5-16	BIRCH AVENUE	240X100	2,400.00
116	17-22	BIRCH AVE & LUPIN	120X100	1,200.00
135	28-34	FOREST AVE.	230X100 IRR.	2,800.00
136	23-30	FOREST AVE.	160X100	3,000.00
136	34-40	FOREST AVE.	227X100 IRR.	2,600.00
142	46-53	FORD AVE.	160X100	2,000.00
146	33&34	ELM AVE & VINE	40X100	1,200.00
149	21-24	ELM AVE.	80X100	2,400.00
160	26-38	NUTMEG	279X118	2,400.00
169	9-14	CARROL STREET	120X100	1,200.00
176	29	WAVERLY	20X100	200.00
188	13&14	WALTON ST.	40X100	400.00
228	26-28	ELDER AVE.	60X100	1,800.00
230	27&28	PHILLIPS AVE.	40X100	1,200.00
285	52-57	WISTERIA ST.	120X100	2,400.00
289	60-71	STANFORD STREET	240X100	2,400.00
293	5-12	DUNCAN STREET	160X100	1,600.00
293	53-58	KENTFORD STREET	120X100	1,200.00
BLOCK	LOT	LOCATION	SIZE	MINIMUM BID
297	11-14	BEACON STREET	80X100	1,600.00
337	49&50	ASTER STREET	40X100	400.00
351	21-23	GROVE AVE.	60X100	1,200.00
360	49-52	MOCKINGBIRD LANE	80X100	1,600.00
362	1-4/6-13	PETREL AVE.	446X123	1,000.00
371	34-38	N. LAKESHORE DRIVE	108X100	2,400.00
452	23.01	OTTER AVE.	22X100	600.00
452	24-29	ARBOR PLACE	123X100	1,200.00
468	2-17	FILBERT AV. & PIEDMONT	300X105 IRR	7,000.00
470	1-8	KING CT. & ORCHARD	180X100	1,600.00
470	39-46	AVON WAY & ORCHARD	180X100	1,600.00
474	13-17	GENTIAN STREET	100X100	3,000.00
481	31-34	64 RIVER ST.	80X100	2,400.00
484	35-38	PARTRIDGE STREET	84X100	1,600.00
498	20&21	LOBELIA AVENUE	40X100	800.00
502.01	6	WHEELER TRAIL	3 ACRES	4,000.00
502.02	5.02	SMITH STREET	0.46 ACRES	1,000.00
502.03	17	SMITH STREET	1.07 ACRES	2,000.00
507	10	RIDGE RD.	3 ACRES	5,000.00
510	1-4	RIDGE ROAD	6 ACRES APPROX	10,000.00
521	51-55	PONDEROSA AVE.	100X100	1,000.00
561	37&38	ARCH STREET	40X100	1,200.00
636	8	CATAWA TER.	100X80	2,400.00
681	5	DAKOTA TRAIL	80X135	2,500.00
681	23	DAKOTA TRAIL	106X125	2,500.00
687	1	N.CAROLINA & VIRGINIA TRAIL	72X125	4,000.00
689	20	NEW YORK RD. & N. CAROLINA	80X125	4,500.00
700	33&34	WEST VIRGINIA ROAD	80X125	4,500.00
741	11	KENTUCKY TRAIL	87X214	5,000.00
840	31	MAGNOLIA ROAD	7.32 ACRES	10,000.00
892	5-8	CARVER AVE.	80X100	800.00

SCHEDULE B

SUBJECT TO THE LIMITATIONS AND CONDITIONS SET FORTH BELOW

BLOCK	LOT	LOCATION	SIZE	LIMITATIONS AND CONDITIONS TO SALE	MINIMUM BID
23	5&6	BOBWHITE BLVD.	40X100	R-80/N	30,000.00
46	38-41	EAGLE AVENUE	80X100	R-80/N	60,000.00
75	34	RUGBY STREET	20X100	R-80/Y SEASONAL	15,000.00
418	12-17	WILTON WAY	120X100	R-80/Y SEASONAL	90,000.00
484	20-22	CHIPMUNK RUN	60X100	R-80/Y SEASONAL	45,000.00
526	33	JUNEBERRY AVE.	40X100	R-80/N	30,000.00
526	34&35	JUNEBERRY AVE.	80X100	R-80/N	60,000.00
1081	59-62	JACKSON AV. & JUNCTION	85X100	R-I/N	60,000.00
1082	56-60	MONROE AVE.	118X100	R-I/N	63,000.00

Mrs. Stinney noted the receipt of the revised resolution containing the missing schedule. Mrs. Stinney reflected Mr. Prickett's concerns regarding drainage issues. Mr. Vaz noted both schedules were properties that were requested. Mrs. Scull noted pulled lots.

Motion by Scull and Prickett to approve Resolution No. 229-2009. Scull, yes; Prickett, no; Inge, abstain; Stinney, yes. Motion carried.

The meeting was adjourned at 8:10 pm.

Respectfully submitted,

Mary Ann Finlay, MMC
Township Clerk