

**TOWNSHIP OF PEMBERTON  
REGULAR MEETING  
DECEMBER 21, 2011  
6:30 P.M.**

**FLAG SALUTE**

Councilwoman Scull led the assembly in the Pledge of Allegiance, announced that notice of the meeting was given in accordance with the Open Public Meetings Act, and followed by roll call.

**ROLL CALL**

**PRESENT**

Sherry Scull  
Jason Allen  
Richard Prickett  
Diane Stinney  
Ken Cartier

**ABSENT**

Also present: Mayor David Patriarca, Business Administrator Christopher Vaz, Township Solicitor Andrew Bayer, Antonella Colella, Esq. of Gluckwalrath; Township Engineers Chris Rehmann and Kelly Willis, Township Planner Rick Ragan and Township Clerk Mary Ann Finlay.

**CALL TO ORDER**

Council President Cartier called the meeting to order at 6:30 PM.

**CLOSED SESSION**

**RESOLUTION NO. 266-2011**

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:  
BROWNS MILLS SHOPPING CENTER REDEVELOPMENT CONTRACT NEGOTIATIONS  
HISTORIC TRUST CONTRACT NEGOTIATIONS  
UNION CONTRACT NEGOTIATIONS
3. IT IS ANTICIPATED AT THIS TIME THAT THE ABOVE-STATED SUBJECT MATTERS WILL BE MADE PUBLIC WHEN THE MATTERS HAVE BEEN RESOLVED.

Motion by Prickett and Scull to approve Resolution No. 266-2011. Prickett; yes; Scull, yes; Stinney, yes; Allen, yes; Cartier, yes. Motion carried.

Council President Cartier recessed the open meeting at approximately 6:31 PM to go into closed session and reconvened the open meeting at approximately 7:00 PM.

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

**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.**

Council President Cartier opened the meeting to the public on consent agenda items only.

Claire Wadsworth, Browns Mills – 1. Ms. Wadsworth questioned the budget transfers reflected in Resolution No. 272-2011 to which she was explained that the resolution is being pulled from consideration. 2. She asked about the investigative services reflected in Resolution No. 275-2011 and how much it would cost. Mr. Vaz explained that they were for services in connection with litigation or workers comp cases, that currently through the insurance pool the Township already pays for the service but sometimes it takes 3-4 days to get someone. She was further advised that it would cost \$100 per hour. She asked if this is something the police could handle to which she was told it could not.

George Petronis, Browns Mills – 1. In regards to Resolutions 277 & 278 concerning the EMS contracts he reminded that earlier this year he had requested presentation be held regarding proposed contracts. Mr. Vaz acknowledged that he had forgotten about his request. 2. He expressed concerns with the proposed hiring of a private investigator and feels uncomfortable for the citizens of the town and urged Council to reject the resolution. He further suggested they post the proposed contract on the web site.

Bob Pellitier, Pemberton – 1. Mr. Pellitier expressed his concerns with the proposed private investigator as well and questioned that since the expense involves the tax payers' money what was the benefit. Mr. Bayer reiterated that the Township already uses this service through the insurance pool but by hiring an investigator it affords them the ability to cut out the middle man. Mr. Pellitier questioned if this has been run by the League for advice and whether other towns use this type of service. Mr. Vaz relayed that other towns do use this service, and no he did not feel the need to run it by the League because they are mainly lobbyists. 2. He questioned Resolution 270-2012 regarding the workers comp settlement. He was advised that it is a workers compensation claim settlement. 3. He asked in regards to resolutions 28 & 281 of this was for one of the wells that was on the agenda a couple of meetings ago for about \$3,000. Ms. Willis confirmed it was for Well #13.

Marisa Wilkins, Browns Mills – 1. Mrs. Wilkins advised that she would like to see the private investigator contract pulled and questioned about the bid specs. She expressed concern since married to a Township employee, regarding pictures taken of her at home if for example a private investigator were investigating her husband for example and to what extent the investigator would intrude on their privacy. The Mayor explained that the investigator could not violate trespassing laws or act outside the scope of their contract.

Seeing no other members of the public wishing to speak, Council President Cartier closed the meeting to the public.

Mr. Cartier advised that Administration noted that Resolution No. 272-2011 needs to be pulled off the agenda as it is not needed at this time.

Councilman Prickett requested to have Resolution Nos. 275, 277 & 278 pulled from the consent agenda and that 272 be tabled.

Motion by Scull and Stinney to approve Consent Agenda as amended.

### **RESOLUTIONS**

#### **RESOLUTION NO. 267-2011**

WHEREAS, THERE EXISTS A NEED BY THE TOWNSHIP OF PEMBERTON FOR A TAX COLLECTOR, WHICH PERSON MUST MEET THE QUALIFICATIONS OF A CERTIFIED TAX COLLECTOR PURSUANT TO N.J.S.A. 40A:9-145.1, ET. SEQ.; AND WHEREAS, THE MAYOR HAS RECOMMENDED TO THE TOWNSHIP COUNCIL THE REAPPOINTMENT OF MICHELE A. ADAMS AS TAX COLLECTOR FOR THE TOWNSHIP OF PEMBERTON, SAID MICHELE A. ADAMS BEING A QUALIFIED CERTIFIED TAX COLLECTOR OF NEW JERSEY.

WHEREAS, THE GOVERNING BODY OF THE TOWNSHIP OF PEMBERTON HEREBY AFFIRMS THEIR CONSENT TO THE MAYORAL APPOINTMENT OF MICHELE A. ADAMS, CERTIFIED TAX COLLECTOR, AS TAX COLLECTOR FOR THE TOWNSHIP OF PEMBERTON EFFECTIVE JANUARY 1, 2012; AND

NOW, THEREFORE, BE IT RESOLVED, THAT THE GOVERNING BODY OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY HEREBY AFFIRMS THEIR CONSENT TO THE MAYORAL REAPPOINTMENT OF MICHELE A. ADAMS, AS TAX COLLECTOR FOR PEMBERTON TOWNSHIP EFFECTIVE JANUARY 1, 2012 FOR A SECOND FOUR YEAR TERM THAT SHALL COMMENCE ON JANUARY 1, 2012.

#### **RESOLUTION NO. 268-2011**

WHEREAS, MARY SABO HAS SERVED WITH DISTINCTION IN THE PEMBERTON TOWNSHIP FINANCE OFFICE FOR OVER THIRTY YEARS, AND

WHEREAS, MARY SABO, DURING HER TENURE WITH PEMBERTON TOWNSHIP HAS GIVEN OF HER TIME AND KNOWLEDGE IN SERVICE TO THE RESIDENTS OF THE TOWNSHIP OF PEMBERTON;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, ASSEMBLED IN PUBLIC SESSION ON THIS 21<sup>ST</sup> DAY OF DECEMBER, 2011, THAT THE TOWNSHIP COUNCIL DOES HEREBY COMMEND MARY SABO FOR HER CONTRIBUTIONS AND DEDICATED SERVICE TO THE TOWNSHIP OF PEMBERTON.

BE IT FURTHER RESOLVED THAT A COPY OF THIS RESOLUTION SHALL BE PRESENTED TO MARY SABO ON BEHALF OF THE TOWNSHIP COUNCIL.

#### **RESOLUTION NO. 269-2011**

WHEREAS, PEMBERTON TOWNSHIP REQUIRES FOR VARIOUS CONSTRUCTION AND/OR HOME IMPROVEMENTS PROJECTS, THAT A TREASURER'S ESCROW SUB-ACCOUNT AND DEVELOPER'S ESCROW ACCOUNTS BE ESTABLISHED; AND

WHEREAS, THE CHIEF FINANCIAL OFFICER HAS DETERMINED THAT NUMEROUS PROJECTS ARE NOW COMPLETE; AND WHEREAS, THE CHIEF FINANCIAL OFFICER WISHES TO REFUND THE REMAINING MONIES TO THE APPLICANTS, AND CLOSE OR MERGE THE RELATED ESCROW SUB-ACCOUNTS AND DEVELOPER ACCOUNTS.

NOW, THEREFORE, BE IT RESOLVED, THAT THE TOWNSHIP COUNCIL OF PEMBERTON TOWNSHIP, IN THE COUNTY OF BURLINGTON, STATE OF NEW JERSEY, HEREBY APPROVES THE FOLLOWING REFUNDS TO THE APPLICANTS AND

AUTHORIZES THE CHIEF FINANCIAL OFFICER TO CLOSE THE TREASURER'S ESCROW SUB-ACCOUNTS AND DEVELOPER ACCOUNTS:

ACCOUNT NUMBER	NAME	BLOCK/LOT	AMOUNT
<b>TREASURER'S ESCROW</b>			
E-25-56-286-260-113	WILSON	806/3	\$ 100.00
E-25-56-286-260-112	MARLIN	225/62	\$ 300.00
E-25-56-286-260-105	MARLIN	601/8	\$ 200.00
E-25-56-286-260-108	PYETT	840/8	\$ 150.00
E-25-56-286-250-019	DEBORAH HEART & LUNG	529/1-2	\$ 192.34
E-25-56-286-260-100	BONANNO	671/16	\$ 35.00
E-25-56-286-260-102	DOOLITTLE	744/13	\$ 237.50
E-25-56-286-260-103	MORRIS	681/53-54	\$ 300.00
E-25-56-286-260-107	END	524.01/18.02	\$ 200.00
E-25-56-286-250-150	MATTHEWS	600/4	\$ 45.00
E-25-56-286-250-158	SPATH	688/4	\$ 32.00
E-25-56-286-250-159	GASKILL	797/2.04	\$ 9.50
E-25-56-286-250-160	ZOTOLLA	1124/6	\$ 100.00
E-25-56-286-250-165	WILSON	806/3	\$ 58.00
E-25-56-286-250-166	BABCOCK	374/1	\$ 49.28
		<b>TOTAL</b>	<b>\$ 2,008.62</b>
<b>DEVELOPERS ESCROWS</b>			
E-26-56-286-001-237	AUTO ZONE	530/11.10	\$ 6,522.14
		<b>TOTAL</b>	<b>\$ 6,522.14</b>

**RESOLUTION NO. 270-2011**

WHEREAS, ROBERT WARREN, AN EMPLOYEE OF THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP"), FILED A WORKER'S COMPENSATION CLAIM AGAINST THE TOWNSHIP (THE "CLAIM"); AND WHEREAS, MR. WARREN HAS PRESENTED MEDICAL REPORTS ALLEGING THAT HE HAS PARTIAL DIMINISHED RANGE OF MOTION IN HIS SHOULDERS; AND WHEREAS, THE JUDGE IN THIS MATTER HAS RECOMMENDED THAT THIS MATTER BE SETTLED FOR 25% OF PARTIAL TOTAL DISABILITY; AND WHEREAS, THE TOWNSHIP'S WORKER'S COMPENSATION ATTORNEY HAS RECOMMENDED THAT THE TOWNSHIP COUNCIL APPROVE THIS PROPOSED SETTLEMENT AS IT IS FAIR AND REASONABLE; AND WHEREAS, 25% OF PARTIAL TOTAL DISABILITY EQUATES TO 150 WEEKS AT \$235.40 PER WEEK OR \$35,310.00 WITH THE TOWNSHIP'S SHARE OF COSTS AND FEES BEING APPROXIMATELY \$4,800.00; AND WHEREAS, THE MAYOR HAS RECOMMENDED THAT THE TOWNSHIP COUNCIL APPROVE THE SETTLEMENT OF THE CLAIM.

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

1. THE SETTLEMENT OF THE CLAIM FOR 25% OF PARTIAL TOTAL DISABILITY IS HEREBY APPROVED.
2. THE CHIEF FINANCIAL OFFICER OF THE TOWNSHIP IS HEREBY AUTHORIZED TO ISSUE PAYMENT IN THE AMOUNT OF \$35,310.00 TO ROBERT WARREN PLUS FEES AND COSTS AS REQUIRED UNDER LAW IN FULL SETTLEMENT OF THE CLAIM UPON RECEIPT OF A RELEASE AND/OR OTHER DOCUMENTS DEEMED NECESSARY BY THE TOWNSHIP'S WORKER'S COMPENSATION COUNSEL.
3. THE MAYOR IS HEREBY AUTHORIZED TO SIGN ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE TERMS OF THE SETTLEMENT OF THE CLAIM SO LONG AS SUCH DOCUMENTS ARE IN A FORM ACCEPTABLE TO THE TOWNSHIP WORKER'S COMPENSATION ATTORNEY.

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

- A. THOMAS E. KUNZ, ESQ.
- B. TOWNSHIP CHIEF FINANCIAL OFFICER
- C. GLUCKWALRATH LLP
- D. VERONICA GEORGE, INSERVCO CLAIMS REPRESENTATIVE

**RESOLUTION NO. 271-2011**

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 JOHN MOORE, \$11.00, OVERPAYMENT OF 2011 DOG LICENSE.

**RESOLUTION 273-2011**

WHEREAS, THE FOLLOWING BUDGET APPROPRIATION BALANCES REMAIN UNEXPENDED:

**WATER OPERATING FUND**

WATER OPERATING-COMPUTER SOFT/HARD.	1-05-55-500-000-590	60,000.00
CAPITAL OUTLAY-WATER MAIN SUPPLIES	1-05-55-950-000-951	1,923.25
CAPITAL OUTLAY-WELL PROJECTS	1-05-55-950-000-952	50,154.96
CAPITAL OUTLAY-WATER DISTRIBUTION	1-05-55-950-000-953	150,000.00
CAPITAL OUTLAY-WATER SYSTEM REPAIRS	1-05-55-950-000-954	14,940.26

WHEREAS, IT IS NECESSARY TO FORMALLY CANCEL SAID BALANCES SO THAT THEY MAY BE CREDITED TO SURPLUS; WHEREAS, THE TOWNSHIP COUNCIL DEEMS IT APPROPRIATE TO CANCEL THESE BALANCES; THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE ABOVE LISTED BALANCES OF THE ABOVE FUNDS BE CANCELED.

**RESOLUTION NO. 274-2011**

WHEREAS, P.L.2001, C.138 PERMITS MUNICIPALITIES TO LAPSE UNEXPENDED BALANCES BUDGETED ANNUALLY FOR SNOW REMOVAL; AND

WHEREAS, N.J.S.A. 40A:4-39 ALLOWS MUNICIPALITIES TO RECEIVE AMOUNTS FOR THE COSTS INCURRED FOR SNOW REMOVAL RESERVE TRUST FUND; AND

WHEREAS, THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES HAS PREVIOUSLY APPROVED EXPENDITURES OF THESE MONIES BY DEDICATION OF RIDER; AND

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE FOLLOWING TRANSFER BE MADE:

**CURRENT FUND**

<u>FROM</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
STREETS AND ROADS-SNOW & ICE REMOVAL	1-01-26-290-000-690	\$36,501.69
STREETS AND ROADS-SALARIES AND WAGES	1-01-26-290-000-110	\$10,000.00
<u>TO</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
RESERVE FOR SNOW REMOVAL	1-01-283-55-000-000	\$46,501.69

BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION BE FORWARDED TO THE TOWNSHIP'S CHIEF FINANCIAL OFFICER.

RESOLUTION NO. 276-2011

WHEREAS, NEW JERSEY AMERICAN WATER COMPANY, INC. IS SEEKING A PROPOSED RATE INCREASE OF \$95.5 MILLION, OR APPROXIMATELY 20 PERCENT OVER PRESENT RATE REVENUES OF \$565 MILLION; AND WHEREAS, NEW JERSEY AMERICAN WATER COMPANY, INC. HAS RECEIVED AN ACCUMULATED 73.8 PERCENT IN RATE INCREASES SINCE 2004; AND WHEREAS, THIS RATE INCREASE, IF APPROVED BY THE NEW JERSEY BOARD OF PUBLIC UTILITIES, WILL NEGATIVELY IMPACT RATEPAYERS IN 23 OF BURLINGTON COUNTY'S 40 MUNICIPALITIES, AT A TIME WHEN MANY HOMEOWNERS AND BUSINESSES ARE STRUGGLING TO SURVIVE FINANCIALLY; AND WHEREAS, ELECTED COUNTY AND MUNICIPAL OFFICIALS HAVE, BY CONTRAST, DEMONSTRATED A SENSITIVITY TO OUR RESIDENTS, STRUGGLING TO CUT SPENDING AND TAXES EVEN AGAINST A TIDE OF RISING EXPENSES, WHILE FACED WITH A 2 PERCENT CAP; AND WHEREAS, THE BURLINGTON COUNTY FREEHOLDERS, BY EXAMPLE, HAVE CUT SPENDING BY \$9.6 MILLION AND HAVE CUT TAXES BY \$8.5 MILLION OVER THE LAST FOUR YEARS; AND WHEREAS, NEW JERSEY AMERICAN WATER COMPANY, INC., A PUBLICLY-TRADED COMPANY WHICH ALREADY ENJOYS THE HIGHEST RATE OF RETURN ON WATER AND SEWER SERVICES IN BURLINGTON COUNTY, SHOULD SHARE IN THE RESPONSIBILITY OF REDUCING THE UNPRECEDENTED FINANCIAL BURDENS ON OUR RESIDENTS; AND WHEREAS, THE BUREAUCRATIC PROCESS FOR CONSIDERATION OF SUCH RATE INCREASES DEFIES LOGIC, ESCAPES THE NOTICE OF THOSE MOST IMPACTED, AND, AT BEST, RESULTS IN A NEGOTIATED RATE INCREASE WHICH ADDS TO THE FINANCIAL BURDEN OF RATEPAYERS; NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF BURLINGTON CALLS ON THE BOARD OF PUBLIC UTILITIES TO REJECT THE RATE INCREASE REQUESTED BY NEW JERSEY AMERICAN WATER; AND, BE IT FURTHER RESOLVED THAT A COPY OF THIS RESOLUTION BE FORWARDED TO ALL STATE AND CONGRESSIONAL LEGISLATORS REPRESENTING BURLINGTON COUNTY, AS WELL AS LOCAL GOVERNING BODIES FOR ALL THE IMPACTED TOWNS IN BURLINGTON COUNTY, AND THAT THEY BE ASKED TO JOIN IN OPPOSITION TO THE RATE INCREASE PETITION CURRENTLY BEFORE THE BPU.

RESOLUTION NO. 279-2011

WHEREAS, ALL PUBLIC EMPLOYERS ARE NOW REQUIRED TO ESTABLISH SECTION 125 FLEXIBLE SPENDING ACCOUNTS TO ALLOW EMPLOYEES THE OPTION OF USING PRE-TAX DOLLARS TO SATISFY THEIR REQUIRED CONTRIBUTIONS TO HEALTH BENEFITS COSTS UNDER C. 78, PL 2011; AND WHEREAS, THE TOWNSHIP OF PEMBERTON HAS RECEIVED QUOTES FROM TWO COMPANIES ENGAGED IN THE BUSINESS OF ADMINISTERING SECTION 125 PLANS; AND WHEREAS, THE TOWNSHIP HAS REVIEWED SAID PROPOSALS AND FINDS THAT THE PROPOSAL MADE BY CORESOURCE IS MOST ADVANTAGEOUS TO THE TOWNSHIP AND IS NOT EXPECTED TO EXCEED THE TOWNSHIP'S BID THRESHOLD; AND WHEREAS, THE TOWNSHIP BUSINESS ADMINISTRATOR RECOMMENDS THAT THE TOWNSHIP COUNCIL APPROVE AN AGREEMENT WITH CORESOURCE FOR THIRD PARTY ADMINISTRATION SERVICES AND PREPARATION OF THE SUMMARY PLAN DESCRIPTION PERTAINING TO THE SECTION 125 PLAN. 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. THAT A CONTRACT FOR THIRD PARTY ADMINISTRATIVE SERVICES, INCLUDING CLAIMS ADMINISTRATION, RELATED TO THE TOWNSHIP'S SECTION 125 PLAN IS HEREBY AWARDED TO CORESOURCE, INC., IN ACCORDANCE WITH THE PROPOSAL RECEIVED FROM CORESOURCE, INC., A COPY OF WHICH IS ATTACHED HERETO.
3. THAT THE CONTRACT SHALL TAKE EFFECT ON JANUARY 1, 2012, AND TERMINATE ON DECEMBER 31, 2012, UNLESS OTHERWISE AUTHORIZED TO TERMINATE SOONER BY AGREEMENT OF THE PARTIES.
4. THE MAYOR IS AUTHORIZED TO EXECUTE A CONTRACT, IF NECESSARY, WITH CORESOURCE, INC.

RESOLUTION NO. 280-2011

WHEREAS, LAYNE CHRISTENSEN COMPANY ("LAYNE CHRISTENSEN") IS UNDER CONTRACT TO PERFORM THE 24 HOUR PUMP TEST AND GRAVEL PACK REMOVAL FOR WELL #12; AND WHEREAS, WHILE PERFORMING WORK ON WELL #12, IT WAS DETERMINED THAT WELL #13 NEEDED TO BE REMOVED FROM SERVICE SINCE IT WAS NOT PUMPING TO ITS CAPACITY; AND WHEREAS, WELLS #12 AND 13 ARE THE PRIMARY SOURCES OF WATER WITHIN THE TOWNSHIP SINCE WELL #11 WAS REMOVED FROM THE SYSTEM DUE TO THE EXISTENCE OF RADIUM; AND WHEREAS, IF BOTH WELLS #12 AND 13 ARE OFFLINE, WELL #11 MAY NEED TO BECOME OPERATIVE (WHICH POSES A HEALTH RISK); AND WHEREAS, AN INSPECTION REVEALED THAT PUMPS AND IMPELLERS NEED TO BE REPLACED IN ORDER TO RETURN WELL #12 TO FULL CAPACITY AND WHILE THIS WORK IS BEING PERFORMED, A CHECK FOR STRAIGHTNESS OF THE WELL WILL ALSO BE COMPLETED; AND WHEREAS, PURSUANT TO N.J.S.A. 40A:11-6, A MUNICIPALITY MAY AWARD A CONTRACT WITHOUT PUBLIC BIDDING WHEN AN EMERGENCY AFFECTING PUBLIC HEALTH, SAFETY OR WELFARE REQUIRES THE IMMEDIATE PERFORMANCE OF SERVICES; AND WHEREAS, THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE TOWNSHIP RESIDENTS IS AT RISK AS THIS WORK ON WELL #13 IS NECESSARY TO PREVENT THE NEED TO PUT WELL #11 (AN INFECTED WELL) ONLINE AND ALSO THIS WORK IS NECESSARY TO MAINTAIN THE SCHEDULE TO COMPLY WITH THE REMAINING ISSUES ASSOCIATED WITH WELL #12 AS OUTLINED IN THE ADMINISTRATIVE CONSENT ORDER; AND WHEREAS, LAYNE CHRISTENSEN PROVIDED A PRICE QUOTE, NOT TO EXCEED \$29,000.00, TO PERFORM THE NECESSARY WORK ON WELL #13; AND WHEREAS, THE TOWNSHIP COUNCIL FINDS THAT IT WOULD BE IN THE BEST INTEREST OF THE TOWNSHIP OF PEMBERTON TO AWARD AN EMERGENCY CONTRACT TO LAYNE CHRISTENSEN. 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 AN EMERGENCY CONTRACT INSTALLATION OF A WELL PUMP AND IMPELLERS FOR WELL #13 IS HEREBY AWARDED TO LAYNE CHRISTENSEN COMPANY IN AN AMOUNT NOT TO EXCEED \$29,000.00 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 LAYNE CHRISTENSEN; 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. LAYNE CHRISTENSEN COMPANY
- B. TOWNSHIP ADMINISTRATOR
- C. TOWNSHIP CHIEF FINANCIAL OFFICER

D. GLUCKWALRATH LLP

RESOLUTION NO. 281-2011

WHEREAS, THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP") ISSUED AN INVITATION TO BID ON THE PUMP AND MOTOR REPLACEMENT OF WELL #6 (THE "PROJECT") AS A BASE BID ALONG WITH THE WELL REDEVELOPMENT ("ALTERNATE A") AND ALSO TO BID ON VARIOUS EXTRA WORK ITEMS ("ALTERNATE B") IN ACCORDANCE WITH THE LOCAL PUBLIC CONTRACTS LAW, N.J.S.A. 40A:11-1, ET SEQ.; AND

WHEREAS, THE TOWNSHIP HAS DETERMINED THAT THE LOWEST RESPONSIBLE BIDDER IS A.C. SCHULTES, INC. WITH A BASE BID OF \$36,700.00, WHICH INCLUDES THE BASE BID ONLY; AND

WHEREAS, THE TOWNSHIP HAS ELECTED TO ACCEPT A.C. SCHULTES, INC.'S BASE BID ONLY AND TO EXCLUDE ALTERNATES A AND B; AND

WHEREAS, THE TOWNSHIP SOLICITOR HAS REVIEWED A.C. SCHULTES, INC.'S BID AND FINDS IT TO BE LEGALLY SUFFICIENT.

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 PUMP AND MOTOR REPLACEMENT OF WELL #6 BE AND HEREBY IS AWARDED TO A.C. SCHULTES, INC. IN THE AMOUNT OF \$36,700.00, 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 A.C. SCHULTES, INC.; 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. A.C. SCHULTES, INC.
- B. TOWNSHIP ADMINISTRATOR
- C. TOWNSHIP CHIEF FINANCIAL OFFICER
- D. GLUCKWALRATH LLP

*New Business*

\*a. Purchases at \$2,000.00 or over:

**\*Police Department:** Purchase of uniforms for the patrol division from Oakwood Uniform & Equipment, Inc., in the amount of \$10,878.00.

**\*Fire Department:** Purchase of power charge repair service from Motorola Solutions, Inc., in the amount of \$4,656.00.

**\*Fire Department:** Purchase of 18 vehicular chargers kitting from Motorola Solutions, Inc., in the amount of \$5,616.00.

**\*Public Works Department:** Purchase of annual street striping program through Traffic Lines, Inc. through County cooperative purchasing program in the amount of \$9,840.00.

**\*Finance Department:** Purchase of various software from Edmunds Software in the amount of \$2,000.00.

**BILL LIST**

Approval by Council required for payment of vouchers on bill list dated 12/19/11.

Scull, yes; Stinney, yes; Prickett, yes; Allen, yes; Cartier, yes. Motion carried.

RESOLUTION NO. 275-2011

WHEREAS, THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP") HAS AUTHORIZED A REQUEST FOR STATEMENT OF QUALIFICATIONS AND PROPOSALS ("RFP") TO RETAIN THE SERVICES OF A PUBLIC ENTITY INVESTIGATOR AND CONSULTANT; AND

WHEREAS, FALLON ASSOCIATES. IS A LICENSED, BONDED AND INSURED PRIVATE INVESTIGATION AND CONSULTING FIRM WHICH HAS SUBMITTED A PROPOSAL TO PROVIDE INVESTIGATION SERVICES TO THE TOWNSHIP (THE "PROPOSAL") IN ACCORDANCE WITH A FAIR AND OPEN CONTRACTING PROCESS SUBJECT TO N.J.S.A. 19:44A-20.5 ET SEQ.; AND

WHEREAS, THE TOWNSHIP FINDS FALLON ASSOCIATES TO BE QUALIFIED TO PROVIDE INVESTIGATION AND CONSULTANT SERVICES AS REQUESTED BY THE TOWNSHIP; AND

WHEREAS, THE LOCAL PUBLIC CONTRACTS LAW (N.J.S.A. 40A:11-1 ET SEQ.) PERMITS THE AWARD OF CONTRACTS FOR PROFESSIONAL SERVICES WITHOUT COMPETITIVE BIDS.

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 A CONTRACT FOR PUBLIC ENTITY INVESTIGATION AND CONSULTING SERVICES BE AND HEREBY IS AWARDED TO FALLON ASSOCIATES CONSISTENT WITH ITS PROPOSAL TO THE TOWNSHIP 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 FALLON ASSOCIATES, IN AN AMOUNT NOT TO EXCEED \$5,000.00; AND

BE IT FURTHER RESOLVED, THAT THE CHIEF FINANCIAL OFFICER HAS EXECUTED A CERTIFICATION OF FUNDS FOR THIS CONTRACT, WHICH IS ATTACHED HERETO, AND THAT SUFFICIENT FUNDS ARE AVAILABLE FOR SAID CONTRACT FROM ACCOUNT NUMBER #2-01-23-215-000-201; AND

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

- A. FALLON ASSOCIATES
- B. TOWNSHIP ADMINISTRATOR

Mr. Prickett noted that the Township has not entered into a contract with a private investigator in the past and this is something new. He reflected that the CFO has certified funds in the amount of \$25,000.00 and questioned if Administration has that amount in cases. He expressed concern that the private investigator could be used in some way other than what was intended. He expressed the need for establishing some type of policy, and that they control the amount. Mrs. Scull agreed for the need of some type of policy as she does not want to see a personal agenda. Mr. Prickett suggested that they could table the resolution until a policy is implemented. Mr. Vaz asked if Council would consider limiting the resolution for at least the one case they are currently pursuing at an amount of perhaps \$5,000.00 noting they could always come back later to amend it. Council discussed and agreed to amend the resolution to add in the last sentence to limit the amount not to exceed \$5,000.00.

Motion by Prickett and Stinney to approve resolution no. 275-2011 as amended. Prickett, no; Stinney, yes; Scull, yes; Allen, yes; Cartier, yes. Motion carried.

#### RESOLUTION NOS. 277-2011 and 278-2011

Mr. Prickett expressed concern over acting on these resolutions since Administration had previously said he would do a presentation for the public and would like to put this off till perhaps the first or second meeting in January to afford time for the presentation.

Motion by Prickett and Stinney to table Resolution Nos. 277 and 278-2011 until the New Year in order to afford time to have a presentation first. Prickett, yes; Stinney, yes; Scull, yes; Allen, yes; Cartier, yes. Motion carried.

#### ORDINANCE NO. 26-2011 (Title read by Mr. Cartier)

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON AUTHORIZING ACCEPTANCE OF PROPERTY IN LIEU OF FORECLOSURE FROM THE ESTATE OF ALEXANDER A. OWCZARSKI

Motion by Scull and Allen to adopt ordinance no. 26-2011.

Council President Cartier opened the meeting up to the public for comments on the ordinance. There being no members of the public indicating a desire to be heard, he then closed the meeting to public comments on said ordinance.

Mrs. Scull asked if the property was environmentally challenged in any way to which she was advised it did not.

Scull, yes; Allen, yes; Stinney, yes; Prickett, yes; Cartier, yes. Motion carried.

#### ORDINANCE NO. 28-2011 (Title read by Mr. Cartier)

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON AMENDING CHAPTER 148 OF THE TOWNSHIP CODE, ENTITLED "RENTAL PROPERTIES", IN ORDER TO REVISE THE DEFINITION OF RENTAL UNIT

Motion by Scull and Allen to adopt ordinance no. 28-2011.

Council President Cartier opened the meeting up to the public for comments on ordinance no. 28-2011.

George Petronis, Browns Mills: Questioned if the purpose of the ordinance was to relieve landlords from the burden when any of their rentals are occupied by family

members. If so he would like to expand that definition as he has friends living at his property that lost their home. Mr. Bayer explained that he brings up a valid point but it would be too extremely difficult to manage as there is a lot of room for abuse and it becomes difficult from an enforcement issue as they would have to apply evenly across the board.

Scull, yes; Allen, yes; Prickett, yes; Stinney, yes; Cartier, yes. Motion carried.

## **NEW BUSINESS**

- b.** Review of draft ordinance amending the code to amend the responsibilities of the Police Chief and to clarify the investigatory powers of the Council and Administration.

Mr. Bayer explained the draft ordinance they had before them, noting that he researched state law and took language from the statutes and incorporated them into the draft. Mr. Prickett expressed concern that Code Enforcement should be under the police department, and noted it was important to update the rest of the ordinance. Mr. Cartier advised that Administration and the police department wanted it moved. Mr. Prickett noted the conflicting code is property maintenance and questioned where they would go. Mr. Vaz relayed that it would go to construction department. Mr. Prickett expressed that they should consider both ordinances, the one removing them from the police department and the one placing them with the construction department, at the same time and there was a consensus of Council that they consider the ordinances some time in the New Year.

Council President Cartier recessed the meeting for a short break from 7:58 till 8:11 p.m.

## **GENERAL PUBLIC COMMENTS:**

Diane Fanucci, Pemberton Borough – She noted that at the last meeting it had appeared that Council seemed to be in support of the train station and rails to trails and asked why she is hearing people say that they are being kicked out. Mr. Vaz explained that Administration and the Trust have not been able to negotiate. She questioned if Council does not want to own the property and are still seeking a land swap. Mr. Vaz noted that the deal is on hold and will not accept the property with the present rolling stock on the property and are not comfortable with entering into a relationship with the Trust at this time. She expressed displeasure with the condition of the trails and as a jogger she has encountered graffiti and advocated that the trails are a tourist attraction. She expressed that egos are involved from both sides.

Theresa Lettman, Pinelands Preservation Alliance – She shared that the municipal property has ongoing violations and noted that in October most of the plants had died. She passed out a letter to the Township from Pinelands outlining these issues.

America Phillips, Presidential Lakes – Expressed displeasure with the situation between the Trust and the Township and urged that everyone stop acting like children and consider all the people involved with the Trust and those in support of them.

George Petronis, Browns Mills – 1. Questioned the costs involved with Resolution 275-2011 and was advised that it was adopted with a cap of \$5,000 which can be amended later, but for now limits the scope of work. 2. Noted that in regards to the Train Station the real issue with the County is that they objected to all the yelling and screaming, and that if the matter could be resolved they would reconsider, but is uncertain what the County will accept if they are faced with an empty building.

Mr. Prickett asked if this contract would be a carry over as with other professionals' contracts. Mr. Bayer noted that this is a different situation, and the contracts issued at Reorganization specifically states that it's a carry over. He clarified that this type of contract would be limited by the dollar amount.

Bob Pelletier, Pemberton – 1. In regards to the Train Station he spoke of a letter he

obtained, dated December 19<sup>th</sup>, from the Business Administrator to the Trust, noting that the Trust's proposed agreement was unacceptable. He expressed his displeasure with the matter and feels its not in good faith. He expressed his support that the trains should stay and feels a simple agreement could be reached if the parties truly want it.

Claire Wadsworth, Browns Mills – 1. Questioned if the property next door belongs to the County and if the County has given the Township permission to use it, to which Mr. Cartier confirmed they have from time to time, but clarified the permission is actually given to the organizations using it. She questioned who was liable insurance wise, and Mr. Cartier explained the organization is required to have the insurance. She questioned who is responsible for insurance if someone is injured in or by a police vehicle to which she was advised that it would be the Township's insurance. 2. She spoke of the leaf collection program and questioned if all leaves have been collected. Mr. Vaz explained that they have finished all the areas but there will have to be random pick ups for some missed or put out late. 3. She shared further research she did regarding the leaf vac machines, noting that while sand is an issue, she spoke of a company that could offer one with minimal parts that deal with the sand at a cost of \$50,000.00 and shared her statistics of these.

Mrs. Scull stepped down from Council during this portion of the meeting.

Mike Tamn, Pemberton Twp. Historic Trust – 1. Wanted feedback on the proposal that was submitted by the Trust and feels they have not had a hearing to present their side. He expressed his displeasure over the negotiations process, and his feelings that the agreement is fair. He believes Council has the authority to approve it as with any other contract and cant understand why the Council can't partake in the negotiations. Mr. Cartier clarified that Council has the authority to approve contracts that the Mayor presents, and that they are implemented only if and when the Mayor decides to sign off on the contract. Mrs. Stinney asked if they have not sat down with the Mayor regarding the proposed agreement, to which he acknowledged they had not.

Diane Fannucci, Pemberton Borough – Questioned that in this form of government what all five people and the public wanted to do could be stopped by one person. Mr. Bayer explained to her how contracts and leases are approved.

Sherry Scull, Pemberton Township Historic Trust – She expressed how difficult it has been for her to sit on Council all these months and not be able to express her feelings or even discuss the matter with Council. She expressed frustration with one person having all the power in this form of government and advocated for the volunteers of the Trust. She disagreed with the Township only accepting two trains in the rolling stock. She wanted the residents to understand Council's lack of ability to resolve this issue. She questioned why the County suddenly has a problem with the rolling stock. She disagreed with putting the Trust out by January 1<sup>st</sup> and feels it will hurt the Township and wants to see this matter resolved.

Mrs. Scull returned to the dais.

Paul Smith, Browns Mills – Shared that the property at the train station used to be an abandoned building that was fixed up by the non-profit organization from grant monies. Now that everything has been fixed they are told to be out. He warned that once this facility is gone, it's gone and there will be no replacing it.

Adriene Leonard, Browns Mills – 1. Thanked the Mayor for leaving the pass through window in the BMIA building and she is delighted. 2. She expressed that she is leaving here this evening with a heavy heart and thanked Mrs. Scull for her efforts.

There being no other members of the public wishing to speak, President Cartier closed the meeting to public comments.

Solicitor's Report:



Mr. Bayer noted he had nothing to report tonight. Mr. Prickett questioned the municipal use of the County property next door with the old cars and concrete and things, noting he thought there needed to be a shared services agreement. Mr. Bayer agreed there should be an agreement. Mr. Vaz explained the plan was to be the owner of the property by now and to be applying for a buffer reduction. The Mayor has been trying to explore ways with the County to move forward with the acquisition next door even though the issue with the Train Station is not yet resolved. Mr. Prickett wanted to make sure that individual Council members would not be held liable since they did not approve it. Mr. Bayer clarified that if the Township was sued, the Council would be defended and indemnified.

#### Engineer's report.

Mr. Rehmann thanked Council for their appointment. 1. He noted that they are in the process of completing the design for the road program they approved. He hopes to have the bids ready by the beginning of February. 2. They are in the process of updating the capital program and are working with the Mayor. 3. In regards to Country Lakes Damns, they had their pre-application meeting with Pinelands and have a number of issues that will have to be addressed. 4. They have finished the primary hydraulics for the three damns, and coming up with the most economical and safe design. 5. There is an issue with the Geo Technical contractor and are asking the Township to withhold any further payments until they have completed all the information they need to give them under their contract so that they can continue with design. 6. They have been working with FEMA on some of the issues and Kelly has been working with the Public Works Department to maximize the amount of money that FEMA is to give the Township to fix some of the issues. 7. He hopes the fuel facility will be part of their 2012 capital program.

#### Planner's Report.

The Planner had nothing to report tonight.

#### Mayor's Report:

The Mayor reported that 1. Noted that they have been dealing the issue with the Historic Trust for over a year and worked their way to a point in the negotiations that they felt was a fair position. The last proposal that was submitted to him took them back to day 1. He expressed that it gets to a point that negotiations are just done and there's no point starting over and over. He gave his feelings on the current form of government and the responsibilities of the Council and the Mayor. 2. He advised that the North Road Project was completed today up to the point where they are now where the paving will be in the upcoming road project. 3. He reaffirmed that leaf pick up was completed today and they are exploring the possibility (without a guarantee), of sending public works out to those missed. 4. Invited Mrs. Leonard to come back to the BMIA building to see the progress being made.

President Cartier asked the Mayor where they are with Rancocas Lane that has been sitting that way for almost a year. Mrs. Willis asked if he was referring to the head wall. The Mayor noted they have one storm water pipe that failing, and regarding the pipe that ends up in the Rancocas has also been failing and the Engineers have been out on those matters. Mrs. Willis noted that the Solicitor was looking into whether they have an easement out there. They are going to have Public Works come dig that area out so they can see the real root of the problem and explained the technical problems with the pipes and head walls.

Mrs. Stinney expressed that negotiations that are ongoing is what negotiating is all about. She expressed that she had trust that the Mayor was going to negotiate with the Trust. She asked if sat down with the Trust to negotiate the latest proposed agreement submitted by the Trust. He explained that they negotiated the issues that were provided in the end of this negotiation from day 1. He noted that he does not accept it. Mrs. Stinney asked if the Trust will have to remove all their items by January 1<sup>st</sup> as

stated in the letter sent to the Trust. He confirmed that it would. Questions ensued regarding the rolling stock, the Mayor's plan, and to which he noted that he would not reveal anything at this time as he has not ironed out his plan, and will follow the law of what he can do. Mrs. Stinney asked Mr. Bayer the options. He stated belief that the letter requested that the Trust remove the equipment as of January 1<sup>st</sup>. Secondly the stock would have to be removed, because of the value, through some type of contract, noting that was one alternative. He relayed another alternative would be to get a court order compelling the Trust to remove the equipment. Mrs. Stinney expressed to the Mayor that they trusted he would sit down and negotiate with them. She noted Council stopped the spending of Township funds by ending the litigation. The Mayor and Mrs. Stinney disagreed over whether the Mayor truly negotiated with the Trust. She read the Trust's proposed agreement for the record, as the Mayor left the room. President Cartier expressed concern with her reading the agreement for the record as it is part of negotiations. He noted that Mr. Bayer has repeatedly reminded them that negotiations should be discussed in closed session. Mr. Bayer stated that based on where they are in this process negotiations are over and what Mrs. Stinney is reading is the last proposal from the Trust which the Mayor rejected. Mrs. Stinney expressed her sadness over the current situation. The Mayor reiterated that they are back to square one. Mr. Allen addressed to Mr. Tamn and Mrs. Leonard, that if knowing that the number of rolling stock was the primary road block to the negotiations why any of the contracts they have presented did not contain less rolling stock. Mrs. Stinney asked if Council can have dialogue to which Mr. Cartier clarified that as long as Council knows they can not negotiate. At this time Mrs. Leonard noted the original 18 page contract the Trust was asked to sign that came from the State of New Jersey, and felt that no one in their right mind would sign. She relayed in their last negotiations, when they had their meeting they talked about changing some of the things. Mr. Bayer noted that every request their attorney made concerning the proposed license that the Township had been agreed to and the only remaining issue is the number of rolling stock. Mr. Allen asked if the Trust ever submitted a contract with a number less than the number presented in the last contract, to which Mrs. Leonard acknowledged no. Discussion continued regarding the back and forth issues that have transpired throughout negotiations. Mr. Allen asked the Mayor if he could sit down with the Trust with the Trust's new proposed number of rolling stock as that is the last stumbling block with negotiations, prior to the end of the year. The Mayor reiterated that he has made his mind up on his last proposal and if the Trust is willing to agree to it they can discuss that. Mrs. Scull again expressed her dismay over the failed negotiations and asked for clarification on the property next door to which Mr. Vaz explained the history in the matter.

#### Council Members' Comments.

Richard Prickett: He expressed belief that Council can do something regarding the Trust matter and read a resolution for the record which rescinds prior action taken to cease the lease agreement.

Motion by Prickett and Stinney to add Resolution No. 282-2011 to the agenda.

President Cartier asked Ms. Colella her opinion of the legality of that resolution. Ms. Colella explained that the problem here is that Council would be rescinding a contract, and only a Mayor brings a contract to Council, and only a Mayor can terminate a contract. Mr. Allen asked if what she is saying is that this action would not be legal. Ms. Colella expressed belief that it will lead to additional problems and does not feel it's a clean resolution. Mrs. Scull asked what she meant by additional problems. Ms. Colella felt it could be challenged by an outside resident or anyone and could lead to further litigation. Mrs. Scull asked if would be able to stop the Trust from being kicked out on December 31<sup>st</sup>? Ms. Colella affirmed belief that it would not have the effect of recreating the original agreement.

Prickett, yes; Stinney, yes; Scull, abstained; Allen, yes; Cartier, no.

Motion by Prickett and Stinney to approve Resolution No. 282-2011.

Mr. Allen asked if this resolution is approved if it could lead to further legal action, to which he was told yes. Mr. Bayer noted there would be a litigation over the legal effect of the resolution. President Cartier asked if this would also reopen the litigation that the Trust had against the Township. Mr. Bayer noted that it could lead to the reinstatement of it. Mrs. Stinney again asked Mr. Bayer if what they are doing is right. She reiterated that she made a decision to originally let it go with the understanding there would be true negotiations. After further discussion Council President returned to roll call on the vote of the proposed resolution no. 282-2011.

Prickett, yes; Stinney, yes; Scull, abstained; Allen, no; Cartier no. Motion failed.

Jason Allen: 1. Expressed that as they go forward, even though Mr. Prickett's resolution failed, he again suggested that Mrs. Leonard and Mr. Tamn go speak with the Mayor as soon as possible and negotiate the number of the rolling stock as the Mayor indicated that is the number one stumbling block and he stated it on record, and its no clearer than that. 2. Announced that on January 3<sup>rd</sup> the teen youth initiative will be having their third annual kick-off event for their community information session for after school activities that they will be having for kids ages 12-19, at the Dominique Johnson building from 6pm-8pm. He wished everyone happy holidays and looks forward to seeing everyone in the New Year.

Diane Stinney: Expressed that she is truly sorry that this has come to what this is here, and that negotiations is not really what they call negotiations. She wished everyone happy holidays, and safe travels throughout the holidays and thanked everyone for their comments.

Sherry Scull: 1. Asked who is charge of UEZ now. Mr. Vaz noted that Administration is and they had a meeting with the State about two weeks ago regarding, possible uses of UEZ monies and future projects. 2. Clarified for the record that she was absent from the last meeting due to the passing of her mother. 3. Expressed that no one person should have so much authority in the government and noted that the community is being punished. She wished everyone happy holidays.

Kenneth Cartier: Asked Mr. Bayer if there was a need for a second closed session to which he was told no.

The meeting was adjourned at approximately 10:35 p.m.

Respectfully submitted,

MARY ANN FINLAY, MMC, TOWNSHIP CLERK