

**TOWNSHIP OF PEMBERTON  
REGULAR MEETING  
JUNE 20, 2012  
6:30 P.M.**

**FLAG SALUTE**

Council President Cartier 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**

Diane Stinney  
Sherry Scull  
Jason Allen  
Ken Cartier  
Richard Prickett

**ABSENT**

Also present: Mayor David Patriarca, Business Administrator Dennis Gonzalez, Township Solicitors Andrew Bayer and Jaclyn Baker of GluckWalrath, Township Engineer 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. 123-2012**

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 CONTRACT NEGOTIATIONS  
HISTORIC TRUST LITIGATION  
BUSTERS' LITIGATION
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 Stinney to approve Resolution No. 123-2012. Prickett, yes; Stinney, yes; Scull, yes; Allen, yes; Cartier, yes. Motion carried.

Council President Cartier recessed the open meeting at approximately 6:30 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)

President Cartier advised the public that there was no formal action necessary pursuant to closed session.

**PRESENTATIONS**

Presentation by Fire Director Bill Doherty.

Mr. Doherty noted that he sent a letter to the Mayor and read part of it to the Council and public.

He wants everyone to know when he leaves here tonight what the Director has done since the position was established, the goals he set and the objectives he tried to meet. He thanked the Mayor, Council and public for one of the greatest opportunities ever allotted him in all his years of his fire service, and he tried to serve this position to the best of his ability and will cherish the rest of his days. He relayed having 16 months in this position. He referenced the closing of Magnolia Road Fire House, several members that resigned or moved, the Assistant Fire Chief resigned as well as the Deputy Chief. He expressed that since that time great things have happened. He reported that they appointed a new Assistant Chief, they have two Deputy Chiefs, they are operating with a full staff and things are working much better, noting it's a team effort they way it should be. He thanked and praised the Chief for the dedication he has in getting things going in the right direction. He noted that while under his watch there were rumors that the Fire Department is not working within the rules and regulations, and the rumors regarding closing the Presidential Lakes Fire house and he adamantly reported that these rumors were not true. He shared that he explained all this to the Fire Department and also to the Presidential Lakes Civic Association and to the Presidential Lakes Fire House that these rumors were not true and that he and this Administration have no intentions of closing the Presidential Lakes Fire House. He informed that he sent the Mayor a seven year project consisting of a 3, 5 and 7 year project for the Fire Department. One was to consolidate three companies into one led under one set of Officers and not three. He advised that two are on board and negotiating now, putting by-laws together and hopefully they will have the third on board. He relayed that his second project in his 3-5 years project was a LOSAP program which is a length of service award program which is given to the firemen for the services they have rendered. It is a program that is set up through the municipalities that add to the fund and when a fireman retires or leaves there are funds there for them. He feels this is a program that he feels this town should seriously look into as they are having problems keeping their volunteer firemen here, noting they are going elsewhere. His third project part of the 5-7 years project is to see a new fire house at Presidential Lakes, noting that none of that can happen till the consolidation program is completed. He again thanked the Mayor and Council for the opportunity to serve, and for his memories and for working for and with them. The Mayor then presented him with a framed proclamation that contained the "Key to the City" and read the proclamation to Mr. Doherty and the public, and praised and thanked him for all of his services to the Township.

**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.**

## **PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY.**

Council President Cartier opened the meeting to the public for comments on the Consent Agenda items. There being no members of the public indicating a desire to be heard, he closed the meeting to public comments on consent agenda items.

Mrs. Scull asked to pull from the bill list under legal services, #12-01765 in the amount of \$1,503.20 and #12-015380 in the amount of \$521.82.

## **CONSENT AGENDA ITEMS**

### **MINUTES FILED BY MUNICIPAL CLERK**

Regular Meeting, June 6, 2012.

### **CONSENT AGENDA RESOLUTIONS**

#### RESOLUTION NO. 124-2012

WHEREAS, APPLICATIONS HAVE BEEN MADE TO THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON FOR RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSES AND CLUB LICENSES FOR THE PERIOD OF JULY 1, 2012 TO JUNE 30, 2013; AND

WHEREAS, THE SAME HAVE BEEN DULY ADVERTISED AND NO OBJECTIONS HAVE BEEN FILED WITH THE TOWNSHIP CLERK; AND

WHEREAS, THE RENEWAL APPLICATIONS HAVE BEEN COMPLETED IN ALL RESPECTS AND ALL OF THE BELOW-NAMED APPLICANTS ARE QUALIFIED TO BE A LICENSEE IN ACCORDANCE WITH ALL STATUTORY, REGULATORY, AND LOCAL GOVERNMENTAL ABC LAWS AND REGULATIONS;  
NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, THAT THE FOLLOWING LICENSES BE RENEWED FOR THE PERIOD OF JULY 1, 2012 TO JUNE 30, 2013, EFFECTIVE UPON ADOPTION OF THE RESOLUTION HEREIN:

CLUB LICENSES:

BROWNS MILLS MEMORIAL VFW POST 6805 #0329-31-020-001  
EDEN STANLEY AMERICAN LEGION POST 294 #0329-31-018-001

PLENARY RETAIL CONSUMPTION LICENSES:

JORMAR, INC. #0329-33-015-008  
T/A COUNTRY LAKES LIQUORS & PUB  
LAXIMI KRUPA CORPORATION #0329-33-009-004  
T/A PIG'N WHISTLE  
SAI RNJ CORP. #0329-33-001-005  
T/A BELLY BUSTERS GENERAL STORE  
THE HUNGRY PINEY, INC. #0329-33-007-010  
T/A QUICKSTOP DELI HUNGRY PINEY  
THOMAS R. INGE ENTERPRISES IV, LLC #0329-33-004-009  
T/A THE HORNET'S NEST  
KUDAN CORPORATION #0329-33-021-006  
T/A BOBBY DS

BE IT FURTHER RESOLVED, THAT THE FOLLOWING LICENSEE WHICH CURRENTLY HOLDS A POCKET LICENSE WAS NOT RENEWED LAST YEAR DUE TO THE FACT THAT HE DID NOT RECEIVE TAX CLEARANCE. HE HAS NOW RECEIVED TAX CLEARANCE FOR LAST YEAR'S LICENSING PERIOD OF 7/1/11-6/30/12 AND FOR THIS YEAR'S LICENSING PERIOD 7/1/12-6/30/13 AND THEREFORE IS HEREIN APPROVED AND RENEWED FOR BOTH LICENSING YEARS, 7/1/11-6/30/12 AND 7/1/12-6/30/13:  
MERKO INCORPORATION #0329-33-016-005

BE IT FURTHER RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, THAT THE FOLLOWING POCKET PLENARY RETAIL CONSUMPTION LICENSE HAVING RECEIVED IT'S SPECIAL RULING FROM THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL FOR PERMISSION TO RENEW ITS LICENSE, IS HEREIN APPROVED AND RENEWED WITH THE PREVIOUSLY IMPOSED CONDITIONS AND/OR RESTRICTIONS AS LISTED BELOW:

SKIPS BAR & GRILL #0329-33-011-008

CONDITION #1

THE BACK DOOR SHALL BE USED AS AN EMERGENCY EXIT. IT WILL NOT BE USED AS AN ENTRANCE. AN APPROPRIATE SIGN SHALL BE POSTED ON THE DOOR.

CONDITION #2

NO PARKING SHALL BE PERMITTED AT THE BACK OF THE BUILDING, DEFINED AS THE AREA BETWEEN THE REAR CORNERS OF THE STRUCTURE AND THE REAR PROPERTY LINE. SUITABLE BARRIERS WILL BE INSTALLED TO PREVENT SUCH PARKING.

CONDITION #3

ALL DOORS AND WINDOWS OF THE BUILDING WILL BE KEPT CLOSED DURING ENTERTAINMENT.

CONDITION #4

LIMIT HOURS OF OPERATION:  
ENTERTAINMENT TO 1:00 A.M. AND CLOSING TIME TO 2:00 A.M.

CONDITION #5

PROVIDE ADVANCED NOTIFICATION (MONTHLY CALENDAR IDENTIFYING ENTERTAINMENT IF FEASIBLE) TO THE TOWNSHIP AND/OR POLICE DEPARTMENT OF ALL EVENTS INVOLVING ENTERTAINMENT.

CONDITION #6

DESIGNATE A SMOKING AREA WITH PARAMETERS FOR CONTROL OF PATRONS, SUBJECT TO APPROVAL BY THE TOWNSHIP.

CONDITION #7

PROVIDE ADEQUATE SECURITY PERSONNEL (EITHER OFF DUTY POLICE OFFICERS OR ACTIVE DUTY MILITARY PERSONNEL) FOR ALL EVENTS INVOLVING ENTERTAINMENT AND FOR THE MONITORING OF THE DESIGNATED SMOKING AREA AND PARKING LOT DURING EACH EVENT.

CONDITION #8

MONITOR THE NUMBER OF PATRONS INSIDE THE BUILDING AS PER THE MAXIMUM ALLOWABLE CAPACITY DESIGNATED BY THE OFFICE OF THE STATE FIRE MARSHALL AFTER COMPLETION OF A FIRE INSPECTION AND REASSESSMENT OF BUILDING CAPACITY.

CONDITION #9

INSTALL LIGHTING IN THE REAR OF THE BUILDING, PARKING LOT, AND THE EMPLOYEE SIDE OF THE BUILDING, SUBJECT TO THE TOWNSHIP ENGINEER'S REVIEW.

CONDITION #10

MARK OUT INDIVIDUAL PARKING SPACES AND/OR CURB STOPS IN CONFORMANCE WITH REQUIREMENTS OF THE MUNICIPAL LAND USE LAW (MLUL) AND/OR PEMBERTON TOWNSHIP ORDINANCE(S).

RESOLUTION NO. 125-2012

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:  
MILDRED TUCHEZ, \$320.00, REFUND OF MIDDLE SCHOOL SUMMER RECREATION PROGRAM FEE. PROGRAM CANCELLED DUE TO LOW ENROLLMENT.

**NEW BUSINESS**

Purchases over \$2,000.00

**\*1.Recreation:** Purchases of tickets to Six Flags Great Adventure and Clementon Park for elementary field trip week summer program in the amount of \$4,488.00.

Approval of annual New Jersey Ride Against Aids: Ride from High Point to Cape May, 9/22/12.

Approval by Council required for payment of vouchers on bill list dated 6/15/12.

Motion by Scull and Allen to approve the consent agenda as amended. Scull, yes; Allen, yes; Prickett, yes; Stinney, yes; Cartier, yes. Motion carried.

### **ORDINANCES FOR SECOND READING, PUBLIC HEARING AND/OR FINAL ADOPTION**

#### **ORDINANCE NO. 11-2012 (TITLE READ BY COUNCIL PRESIDENT)**

AN ORDINANCE TO AMEND NO. 22-2009, WHICH ESTABLISHED SALARIES, COMPENSATION AND BENEFITS WITHIN THE TOWNSHIP OF PEMBERTON FOR THE YEARS 2011 THROUGH 2014, AND AMENDING ORDINANCE NO. 10-1994 AS SUBSEQUENTLY AMENDED

Motion by Allen and Scull to adopt Ord. 11-2012.

Council President opened the meeting up for public comments on Ord. 11-2012. There being no members of the public indicating a desire to be heard on said ordinance the meeting was closed to public comments on Ord. 11-2012.

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

### **NEW BUSINESS**

Parade Permit Application (**REQUIRES PUBLIC HEARING**) Presidential Lakes Fire & Rescue, annual Fourth of July parade, from New York Rd. (Firehouse) to Virginia Drive, to Presidential Lakes Beach, on 7/4/12 from 9:30 a.m.-1:00 p.m.

Council President opened the meeting up to the public for comments on the parade permit application. There being no members of the public indicating a desire to be heard, President Cartier closed the meeting to public comments on the parade permit application.

Motion by Scull and Prickett to approve the parade permit for Presidential Lakes Fire and Rescue. Scull, yes; Prickett, yes; Stinney, yes; Allen, yes; Cartier, yes. Motion carried.

Discussion regarding County's proposed acquisition of development easements on Howard & JoAnn Stevenson's farm on Pointville and Ft. Dix Roads; Black Dog Industries (Michael Stavola's) farm on Catesville Rd.; Francis, Jr. and Robert Bush's farm on Sheep Pen Hill Road, and determination of approval of permanent deed of easement for road and drainage improvement purposes.

Mr. Prickett noted that Council had already approved these farms by resolution last October and questioned why they are before Council again. The Mayor explained that this issue involves the right of way and the County routinely on these preservation projects send the Township's and adjoining properties notice these right of ways and they are expressing concerns that they would like right of ways on the properties that adjoin the Township's roadways so that if they expand some day. He clarified they are not opposing the preservation projects but just asking for right of way permission which is routinely granted. Mr. Prickett asked if there are time constraints to which the Mayor noted it was this Friday. Mr. Prickett asked if it would be possible to pass a resolution tonight moving forward on this so they can complete what they have to do with the easements. Mrs. Finlay commented that if it requires a resolution. Ms. Willis explained they will be deed restricting the areas on all of these properties existing on Catesville Road and Sheep Pen Hill Road they have less than what they would normally like for right of ways. She noted 30 feet on Sheep Pen Hill Road and 33 on Catesville Road. They are asking the County to just not include those two roads for the right of ways in their deed restrictions. They are not asking to take over the property at this time but to just exclude those areas so that down the line if they need to do a road widening. Mr. Prickett asked if this needs a resolution to which Ms. Willis did not believe so. She asked for consent to send the County the forms back that they requested saying that they would like 8.5

feet on Catesville Road on that side of the street and they would like 10 feet on either side of Sheep Pen Hill Road. Council gave Ms. Willis their consensus.

## **BILLS PULLED FROM BILL LIST ON CONSENT AGENDA**

Mrs. Scull noted that she just needs to abstain on the two bills that were pulled from the consent agenda.

Motion by Allen and Stinney to approve bills #12-01538 for \$521.81 and #12-01765 for \$1,503.20. Allen, yes; Stinney, yes; Prickett, yes; Scull, abstain; Cartier, yes. Motion carried.

## **General Public Comments**

**Scott Hamilton, Browns Mills – 1.** Recalled that at the last meeting he had expressed concerns regarding the failure of the office of Emergency Management to properly deal with heavy flow of water under the Northern portion at Little Pine Lake at the end of August, 2011 causing the damage to the pedestrian walkway and partially undermining the South side curb. He had noted then that he was extremely concerned that the path for the repair was going to be mapped out that the Township could not possibly afford. He had requested to meet with people on the Council and Councilman Cartier noting that Councilman Cartier outright rejected any meeting with him. He expressed feeling that Council President Cartier had mocked him a little, noting that he had spent a considerable amount of time going over there and looking at it. He felt many people may not know about his background and think that he is just an insurance adjuster guy. He gave an autobiography of his life from birth through childhood, growing up, his education, his past work experiences one involved with restoration and working with Allstate. He noted some of his co-workers enjoyed a higher standard of living than he had, spoke of kick backs, and the need to monitor waste, fraud and abuse that drove up costs of claims, which he feels is the same as with their governments that drive taxes up and causes people to leave. **2.** He noted people wanted to know how much money has been dumped in the BMIA project at this point, noting that he had stopped in and inspected it as well as the dock on the beach. He commented that he has come hear to talk about the bridge lying down on the ground and although he's not a certified Engineer or anything, but noticed is that inside the BMIA building they have large timbers that appear to be 12"x12" and approximately 16 feet long which are supporting the roof that makeup trusses. He expressed that each looks to weigh in excess of eight hundred pounds. I saw four of them which would be more than two tons of weight suspended over people's heads and noted the electrical work and wondered who did the blue prints. He asked if the personnel doing the work have been certified to be performing this work. He then asked about the work being performed on the doc and whether there are architectural drawings for this. He expressed that the dock appears to be large enough to hold possibly 50 people, and if each person weighs about 150 pounds that will equate to 7500 pounds and hopes someone has checked the capacity and hopes someone checked the pilings. He also commented that the lake does contain wood boring microbes and they may want to check with the experts on that. **3.** Mr. Hamilton noted there are two ways to get people to do things which are with logic and reason or by force or body gestures. He noted his attendance at meetings and expressed that two people that are here are rude to Mr. Prickett and that Councilman Cartier was previously rude to Mrs. Dwane at a past meeting by threatening her to be removed if she was not quiet which he found offensive. He expressed displeasure with how he talked to her and how he spoke to him at the last Council meeting. He asked the Mayor if after working on the police force if that has not shaped his perspective and view on the town and residents and wonders if he sees a lot of them as either suspects or criminals.

**Joe Gidzinsky, 45 Vincentown Rd., Pemberton-** Expressed concern regarding the ordinance for solar panels. He noted that on 53 Vincentown Rd. the owners are trying to have ground mounted solar panels installed and is in the backyards of R1 Residential area. His and his neighbor's concerns are for safety since there are no provisions for the safety side of it such as fencing also is a hazard from the elements it creates. He expressed concern over the children and his grandchildren when they visit. He stated it is a unique installation as its being put on the ground in the back yards instead of on the roof without regard for safety and he is concerned over the size of it noting that its sixty feet long with 55 panels, 12 feet high, it looks industrial and they fear it will decrease their property values. Mr. Ragan noted that he heard of an application before the board and looked at the ordinances. He advised that Pinelands enacted

regulation that would allow them to go anywhere but in residential it must go on the roof. He advised that last year's ordinance they prepared did not get adopted because they were waiting for Pinelands ordinance to get adopted had suggested a fence and buffer in the back yard, not in the front yard. It was meant for the roof. He referred to Burlington's sample ordinance that would not allow it to exceed 7' in height and could require an alarm system and safety disconnects. Their concept was to do no front yard mounts and that Pinelands recommends 500 feet of clearance. He advised that they are prepared to discuss with Council and take the information they have, coordinate with Pinelands come back with an ordinance that might set down the rules as guidance for the Zoning Board.

**Joe Gidzinsky, Pemberton** – Reiterated his concern is that they are indicating how many feet that it must be off the line but there is also some restrictions of how far off the road it wants to be and through this presentation there are already a couple of things that exceeds what they have mentioned. First it's an 11'8" high that is being proposed. He feels the proposal was made and they did not present it properly and it could not be heard. He expressed that this is the first to his knowledge in a residential back yard on the ground for those kinds of presentations. He expressed the need to be concerned of fire hazards and the safety of children, noting that Busansky and Emmons schools are just behind them. He noted not having issues with the roof mounted panels. Mr. Ragan informed that everyone they know of is fenced, either commercial or residential.

**Tina Johnson, 47 Vincentown Rd., Pemberton** – She advised that she is a property manager and deals with this matter in all her communities. She deals with multiple Townships with ordinances that have been enacted and she sees the good and bad of this. She stated that she has never seen in any of her residential communities where they allowed ground mounted solar panels because of the decrease in property value, the unappealing esthetics, and the reflection it generates. She noted dealing with Bordentown, Marlton, Medford, Westampton, Burlington, Camden, noting that she has over a couple thousand units that she deals with. She does not know any community that permits ground mounted panels because of the ramifications of it and especially the resale value and unappealing esthetics of it. She expressed that this project looks like a bleacher and is not a solar panel just for a home but is like a solar panel farm and expressed it is huge and is not like they are putting it their to merely service their residential property, it is ungodly used and has taken away the value of their properties, the esthetics. She noted having recently married and that they spent thousands of dollars upgrading their back yard and this project would totally ruin it. She explained that they are coming here to ask the Council and the Board to make sure that they take account of everything, noting they have all the plans and not one neighbor in that area wants it done. She relayed that they tried to approach them as neighbors to ask them to put it on their roof, noting they have no problem with them putting it on their roof, it's the ground mount that is unnecessary and the size of it. She expressed that even if its 6 feet or 7 its going to take away from their property values, it will still be an eyesore and there are a lot of ramifications that the Council and Planning and Zoning Boards that all have to take in every aspect before its approved. Mrs. Scull asked if she knew the size of lot. Ms. Johnson noted that its 2.3 quarters of an acre, noting that all those living on Vincentown Road have the huge back properties. Mrs. Stinney noted the pictures she had with her and asked Council President if she could present them to Council. Mr. Allen asked what the neighbor's response when they spoke with the homeowner when they requested mounting on the roof. Ms. Johnson was that they will let the Township decide, noting that it's before the Board. President Cartier noted his understanding that they still have an application before the Zoning Board. Mr. Ragan explained that the application was not complete or perfected so they have to re-advertise and will probably be scheduled at the next Zoning Board. Ms. Johnson also wanted to share, since she deals with this matter all the time in her communities another point. She shared that she knows for a fact that there are people that have gone ahead and installed these on their property because the solar panels are only about the money and the companies have told the residents not to worry about they fines because they will pay the fines for them, then it takes a year or two for the Towns to get them removed. She noted this to the Zoning Board and when she asked them what would be the time frame if this should happen and it was mentioned about a year. Ms. Johnson said they all want to make sure that it's not going to be done. She passed out the plans to Council. Mr. Allen asked Mr. Ragan that when she mentioned that there are no other townships with ground mounted panels it appeared that he knew of a township. Mr. Ragan shared that in Medford across from his office on Jackson Road there is a ground mount. Mrs. Scull and Mr. Allen asked if it was a residential home. Mr. Ragan noted that it's next to a residential home but is actually ground mounted on the road, but he has not seen any that he can

recall that are ground mounted noting that he himself has one on his roof. President Cartier shared his understanding that the Zoning Board sent them here to Council, noting that would be for any future legislation they might decide to pass in the Township. He asked Mr. Bayer and Mr. Ragan to confirm that the resident already has an application before the Zoning Board, which they did. President Cartier explained that the application wasn't perfected and they have to re-advertise and do their notifications, which is what the problem was. The application still exists there and he doesn't want them to feel that he is bouncing them back there, but ground mounted solar is not a permitted use in any residential zone, but it is up to the Zoning Board to grant variances, and they have that well within their rights if the property owner proves the hardship that there's a reason why it can't go on the roof. He explained that any legislation Council might pass now is not going to affect this application, because it has already been submitted. Mrs. Stinney asked about the safety issues. President Cartier explained he understands those concerns but reiterated that any legislation they pass now is not going to affect this applicant, they have to take their argument to the Zoning Board when that application comes up to be heard. Mrs. Scull stated that the Zoning Board then needs to deny a variance. President Cartier clarified that the Zoning Board needs the testimony to make the determination. Mr. Bayer informed that since the economic crisis in 2008 when the State was trying to encourage development the Municipal Land Use Law was amended. He noted that the law used to be that if there was an application for some sort of land use approval pending, whether it be Planning Board or Zoning Board and the municipal Council then changed the zone ordinance that would have impacted that application, the Board had to take into account that legislation even if the application predated it. However, the Land Use Law was changed in the last couple years, such that that is no longer the law. Mr. Bayer further explained that if the Council adopts an ordinance it takes two meetings as well as publishing the pending ordinance and referring it to the Planning Board and then theoretically it could be adopted, so it could take to the end of August. He noted that even if they did all that the property owner's application would not be legally impacted by it, if the Zoning Board grants the use variance. President Cartier explained that is why he is saying that their arguments at this time is better taken to the Zoning Board and they should express their concerns there when that application can officially be heard. Mr. Bayer noted that that is not to say that this Council will not consider setting standards for the future. Mrs. Scull asked if the Pinelands determination that no ground mounted in residential areas carry some weight at the Planning Board. Mr. Ragan agreed that would be a good question because the question would be if they need a certificate of filing from the Pinelands before they can make an application to the Zoning Board. Ms. Willis expressed that if it is that large of a development it would be her opinion that they would need a certificate of filing. Mr. Ragan suggested that the Solicitor may want to research a property owner's rights to do whatever they would like in their back yard as long as it is within the confines of the building setbacks, noting that's the more legal issue that he is worried about. He noted the Zoning Board has every right to deny it since it is not a permitted use in the area, but what they have said is Council should review this because they want to ensure they are doing the right thing overall as well. Ms. Johnson recapped that Council is telling them they have to go back to the Zoning Board. Mr. Ragan urged that they do not want to not be there when the applicant's there. Mrs. Stinney asked Ms. Johnson that she said there has already been activity back there. Ms. Johnson noted they have just been marking it out and their Engineer or Planning people went out to make sure. Mrs. Stinney explained she just wanted her to state that on the record that no activity or some activity there. Ms. Johnson noted that her neighbors at 49 Vincentown Road are right next to it and literally where they want to put the structure is borderline on their property line, with no setbacks, no buffers, nothing. President Cartier expressed concern with her comments that the company is saying just go ahead and put it up and they will pay their fines. He urged that if they see any activity out there they have to be proactive and contact the Township immediately. Mrs. Scull suggested they call the Mayor. President Cartier stated that way Administration can send someone out there and have them cease and desist. Mrs. Scull recalled a prior conversation with Mr. Ragan that they were so concerned about the commercial use coming in that it wasn't too close to someone's property line and wasn't seen from the roadway and can't imagine this and knows that she would be opposed to ground mounted in a residential area at all. She is most concerned about the talk of possibly putting it right on a property line. She asked if Mr. Ragan is saying they can't do anything about it if the Zoning Board approves it. Mr. Ragan explained that first of all, the Zoning Board if they were to consider any positive construction they have the right to create the location, the setbacks, and all those other things as conditions of any approval they might grant. Mr. Ragan expressed that he would be happy to meet briefly with the residents after the meeting and try to understand what the application is like and it seems to him that this needs to be negotiated. He stated that if the owner is saying to let the Board decide, then they

will talk to the Board about deciding on the roof. He informed that there is another issue as to whether you can put enough panels on your roof to do your house. In regards to the comment made that the project is like a commercial development, under the rules governing solar in the state one can not produce more power than the house uses, noting they can't take it anywhere else, they put it back in the grid only when they are not using it certain times. He noted that averaging it out over the year it has to be equal to or less than the total power consumption. Mrs. Scull noted that as Council works with their ordinance she would not want to see 2.5 acres which in her opinion is too small and she is trying to focus on the amount of acreage, and being away from neighbors' site. Mr. Ragan recalled they talked about approximately 25 feet, and fencing that would be opaque so that one could not look through it. He advised that the State wants to encourage alternative energy, noting the Governor is very pro Green energy as the whole country is. So to the extent that there are inherently beneficial rights to a property owner they have to try and weigh that and figure out a good solution for everybody.

**William & Joyce Kirby, 61 Vincentown Rd., Pemberton** - Mrs. Kirby advised that they are directly next door to the property in question. She asked that since that neighbor's proposal has not been before the Board what rights does she have for planting trees. Mr. Kirby expressed that the neighbor is putting the structure in so he should have the expense for hiding it. He surmised that with roof mounting one would have to have a ten-year or fairly new structural bottom face on the roof, noting that this house in question the roof hasn't been replaced other than shingles which would mean that everything would have to be torn off the house in order for roof mounting which is why he is proposing to ground mount. Mr. Ragan commented that the Board may or may not consider that a hardship because they could go in and put internal bracing in the attic that doesn't require to rip everything off that roof so if he was sitting on the Board he would not consider that to be a hardship. Mr. Kirby then recalled the comments of those that go ahead and put them up; they were under the understanding that this neighbor already has a signed contract with the solar company. President Cartier agreed they probably do but it's probably contingent upon receiving Township approvals. President Cartier reiterated that everyone needs to be diligent and keep watch and if anything does happen as far as construction of these panels they need to let the Township know right away. Mr. Bayer explained that the Board probably didn't hear these residents yet because the application was deemed incomplete which is why they didn't want to hear much of their comments that night. Mrs. Scull expressed gratitude that they brought this matter to Council and it should help in the decision. Mr. Prickett recalled that a while back they had an ordinance and they determined to wait till Pinelands established their regulation which they have so they now need their ordinance. President Cartier asked Council their feelings on ground mounted panels. Mrs. Stinney expressed that she would not like to see them out her windows or door and thinks the Zoning Board should look out there. Mr. Allen expressed that the idea should be thoroughly looked into and that they consider the concerns expressed. He noted that personally he would not like to see it and likes the idea of roof mounted solars. President Cartier agreed with all the comments and asked that the Zoning Board take serious consideration of what the Pinelands has established and to remind them what the Pinelands rules are. He asked that Mr. Bayer send the Zoning Board a letter to the Zoning Board requesting that until Council has a chance to look into this further that they take serious consideration the standards that have been set by the Pinelands Commission. He clarified that although Council does not intend to step on their authority to hear and judge this application Council just wants to make sure they are aware. Mr. Ragan reminded Mr. Bayer to remind the Board about the certificate of filing and the Pinelands recent rules indicating the structures in residential zones are to be on buildings and out buildings. Mr. Prickett asked if they would be moving forward with an ordinance, noting they should be emphasizing tonight to get the ordinance on the books for the areas in the Pinelands as well as outside of it. He expressed they spent a lot of time on this a number of months ago and if they had followed through on that they would have an ordinance on the books today and they would be able to address this. Mrs. Scull noted that she does not believe they had language in to prevent what is happening then, but they are now educated enough that they want they want the language in the next one and that anywhere that there is ground mounted that a fence is required if that's legal to do. Mr. Allen commented on a buffer. President Cartier relayed that right or wrong he does not believe they can expressly prohibit but they can just not permit them in any zone. Mr. Ragan agreed. President Cartier stated that anyone that wants to do this still has the recourse of going to the Zoning Board and requesting a variance. Mr. Ragan noted that is correct but if they lay out the rules of how they are permitted that gives the Zoning Board more guidance.

**William Kirby, Pemberton** – Asked that if this project goes through he doesn't know why they



couldn't put two rows of them and two high on one section and three high on the other section which would get the height down low enough if there are made to put up a privacy fence. Mr. Prickett suggested that the Zoning Board would be very interested in hearing those remarks. He replied that the Board didn't want to hear anything because the application was not complete. President Cartier confirmed that they will once they deem the application complete and they start hearing testimony they will want to hear that. President Cartier asked Ms. Willis what are the appeal processes from the Zoning Board. Ms. Willis noted she would have to get back to him on that. He noted there is an appeal process from the Zoning which might be something to look into. Mr. Bayer noted that the Municipal Land Use law allows towns to put ordinances in allowing appeals from Zoning Board decisions granting or denying use variances to the Council. President Cartier reiterated that Mr. Ragan send letter to the Board from Council and get it to Council for their review so they have time to get it to the Board. Mr. Prickett asked that on the next agenda that they have consideration of a new ordinance, and that they take a look at the Pinelands amendment so they can identify all the elements in there that may be of interest to them and start putting together an ordinance. He noted it takes awhile but the sooner they get started the better. He reminded that the Pinelands amendments are not in the package provided. Mr. Ragan agreed.

**Tina Johnson, Pemberton** – Asked for clarification in that Council does not have anything to do with what the Zoning Board does with this matter. President Council explained that the Zoning Board is its own entity and Council should not influence them and they have no say as to their rulings other than as Mr. Bayer has said regarding an appeal. If there is ever an appeal filed on an application then he believes it would come to this Council. Mrs. Scull added that the Zoning Board has their own Engineer and Planner and they should be pointing this out the Board, or if you bring the subject up they should know the answers.

**William Kirby, Pemberton** – Reiterated that they should be made to put the trees up and spoke of reflection issues between the neighbors on either side. He also brought up the matter of the humming noise from the panels.

President Cartier reiterated to Mr. Ragan that he will revise the ordinance and have it ready for them for the next meeting and prepare the memo to the Zoning Board for Council's review at the next meeting.

**America Phillips, Presidential Lakes** – **1.** Commented on how she watered the plantings they did at the area entrance noting they watered them with milk containers. **2.** Questioned the status of her request for portable potties at the park. Mrs. Scull noted that when they were there they had been paid for by the ball teams. Due to a malfunction with the recording equipment Council took a short break to enable the Mayor to investigate the problem and resumed shortly there after. Ms. Phillips expressed that since the park is part of recreation there should be portable potties. **3.** Noted that for three years she has been advising of a vacant house on 200 New Hampshire Road that borderlines her property. She advised that the banks will not maintain them and spoke with the person who cleaned that yard who advised her that the bank told him to bring a lawn mower and make a little trail from the street to the house and around the perimeters which him took him 15 minutes to finish. She asked him if he was done and he noted that he has 25 houses to do and he was instructed to do it this way within 10 minutes per houses listed. President Cartier asked Administration to look into that as this was a problem for them last year. Mr. Gonzalez advised that he will have Code Enforcement look into it. **4.** She commented that "her turn" is coming up, noting she was walking on New Jersey Road and asked how many roads are being fixed in Presidential Lakes this year. Ms. Willis noted the two are Kentucky Trail and New Jersey. She asked what they are doing on New Jersey Road. Ms. Willis expressed belief that it is being milled and paved. Ms. Phillips noted that walking from 523 New Jersey Road to 515 that she noted there are six drains and she is only asking for three. She thought that at the last meeting the Mayor had said she would get her drainage and the road paved in 2014. The Mayor noted that he has been in discussion with the Engineers to look at her project and see if they can move it forward on the Road Program. Ms. Willis assured her that they are preparing the updated 5-year program and her road was brought up as a specific project they are taking an extra look at to make sure and see where it can be moved up on the list depending on the severity. She also explained that the drainage Ms. Phillips is seeing on some of these properties are not all connected but rather pipes put under road just to hold the water temporarily until it goes back into the ground. They are not drains that connect and ultimately give a downstream outlet. They are in their opinion not the best drainage structures because they

will fail in time, sediment up and eventually not work. They have a little bit of a problem designing putting these in. They are trying to find a way to better handle it to actually give her positive outfall so the water has a place to go and is not just sitting under her road and silting up that pipe that's going to be put under there. **5.** She reported a vacant house at 400 New Jersey Road that has a swimming pool in back yard that poses dangers to the children and asked if Council knows about the situation it's a liability. **6.** Asked the status of the land swap with the County for the adjacent property for the train station. President Cartier noted that nothing has come before Council yet. They have a Memorandum of Understanding but other than that nothing has finalized. She spoke of things being authorized to be moved from the property prior to Mr. Vaz leaving and had asked then how things could be moved if they did not own the property yet. **7.** She questions what was going to happen to the residents of the Buttonwood Hospital. She expressed there will be a lot of residents in town that they will not know who they are because Mr. Gorman does not want to take care of them. **8.** Asked if anyone found out who the dead body was that was found the other day. **9.** Asked Mr. Gonzalez if the newspaper article accusations against him are true regarding being fired from Edison position and regarding lawsuits against him. Mr. Gonzalez explained the termination from Edison had to do with the politics of the Council fighting with the Mayor and not liking reforms that saved millions of dollars for the Township. He noted that in terms of being sued, as an appointed public official subject to be sued by anyone, he assured that no one that ever sued him in Edison, Trenton or Perth Amboy has ever been successful in court.

**Bob Pelletier, Pemberton – 1.** Asked for clarification from the Mayor when he had noted having graduated with Mr. Doherty's daughter to whom the Mayor confirmed that to be correct. **2.** In regards to the salary ordinance he asked if Lieutenants are represented by a bargaining unit to which he was advised they were. He then commented on the increase percentage for which he was told was based on Pea's arbitration. He expressed that in today's economy the percentage was rather generous. **3.** In regards to the Right of Ways on Coatesville and Paintsville Roads whether there is any DOD money. He was explained that its part of the County's farmland preservation and Ms. Willis reiterated the explanation of what the County was requesting. **4.** Commented on the previous solar ordinance he expressed he only has a problem with commercial and the importance of setbacks being far enough off the roads and noted dangers to the deer. **5.** Asked if they are looking at a revaluation soon and was explained that it is hoped that the tax maps can get done by the end of the year and it is currently anticipated for 2014. He asked if it is done by a private company or if any towns do it in-house. The Mayor noted it was done in-house many years ago and it was very cumbersome and does not believe they currently have the ability to do it in-house without bringing on more staff. Mr. Pelletier expressed that they are left at the mercy of the company if they go that route.

### **Solicitor's report**

Mr. Bayer had nothing more to report tonight.

### **Engineer's report**

Ms. Willis reported that **1.** The County is out on Bayberry Street doing some repairs. They did get an interim approval from the Bureau of Dam Safety to compact the material underneath and resurface the road to allow it to be open to traffic. She noted they are still under the same requirements to move forward with their design and full repair of the dam, but they are looking to get the road open as quickly as possible. She advised that the County Engineer is keeping them up to date with all the inspection reports. They were on site Monday and Tuesday this week but they will not be back the rest of the week due to a problem with some of the delivered material. **2.** She was asked by Administration to review a flood hazard area permit for Sybron and Lanex. She advised they have requested a general permit and the flood hazard permit because they will be removing some asphalt from the front of the property along Birmingham Road and they will also be resurfacing some of the existing asphalt out there. She noted there are also some erosion problems where the water drains off their site from the parking lot directly to the water and they are installing some soil erosion measures as well as an outlet structure. Her office has found that they are actually reducing the runoff from the property and it's actually a benefit to the flood waters that are going to be going through that area.

## **Planner's report**

Mr. Ragan reported **1.** That they are working on the amendment to Pemberton's Master Plan and Land Use ordinances that were required by the Pinelands, so any invoices they may have seen comes from a grant to make this change. **2.** He noted they are 99 % there but there was an issue that they have to resolve with Susan Grogan at the Pinelands and it had to do with the R100 zoning in Presidential Lakes. The zoning around it follows the R17 rules and they have R100 lots in an R17 area and they would flood the Zoning Board with applications unnecessarily. Once they resolve that issue they will be able to present the ordinance and Master Plan changes for their review. The Mayor asked if the Pinelands hold up any other projects or applications or issues that the Township has because of this issue because he was a little concerned the memo from the Pinelands that appeared they were holding them hostage if they don't get this issue dealt with they will not deal with their other issues. Mr. Ragan noted that with their working with them they did not indicate that would be the case. The Mayor noted an email he received from them noting they would address another concern after this concern. Mr. Ragan explained they had another phone conversation after that and were told that was not necessary.

## **Mayor's report**

The Mayor reported: **1.** Expressed his concerns with the solar panel ground mounts noting that he did hear positive comments from members of Council. But he does think this is something the Township should address in a very timely fashion. He expressed if this is started and became acceptable he thinks they will probably be the only town that has ground mounts all over town. **2.** Regarding the energy auction went through and they did receive a very good offer from Green Mountain Energy and the projections based on last year's energy use would be a potential savings of \$41,000.00. Mr. Prickett asked if they looked at the highest and lowest bills. The Mayor confirmed they went through a whole year of bills, analyzed it and compared what they were paying and came up with the lowest.

Sherry Scull: **1.** Asked the Mayor about the senior's lunch program noting she had thought that nothing would change. She was advised that the County did an RFP and was told it didn't work out going through the College but that Colonial Caterers got the bid. He noted they will notice that the change will be the quality as he knows Mr. Jerome's standards. **2.** Mrs. Scull then asked how much was spent on the BMIA, noting they have \$7,000 dollars in bills here. The Mayor noted they are still under budget and they have two more large purchases but they will still be under budget. She asked if there are any other bills that have gone through like a blanket item that has gone to the BMIA. The Mayor noted there shouldn't. **3.** She noted there was a bill on the bill list for a portable potties and asked what that would be for. The Mayor guessed it might be at the soft ball field at the legion or for Memorial Day, but would look into. She noted that they have a lot of parks and can't put one in at Presidential Lakes without putting some at the rest of their parks and recreation sites. The Mayor expressed that it would be very expensive. He expressed his personal feelings based on his childhood that if one needed to use the bathroom they just went home. He questioned if it was stretching the government's responsibility. **4.** In regards to notification of the dead body that was found she actually expressed appreciation of being notified when there is an issue going on in town. Mr. Prickett asked in regards to RCAs if there is any money left in the program and what they are doing with it. The Mayor explained that Mr. Benedetti is working through on this project.

## **BUSINESS ADMINISTRATOR'S REPORT**

Mr. Prickett asked Mr. Gonzalez in regards to the last meeting wherein he mentioned Edmunds reports and asked if he can provide Council with some of the reports that Edmunds can produce regarding the finances of what ever the program is and what kind of reports they can generate. Mr. Gonzalez asked if he is looking to find out what types of reports can be generated as opposed to a specific report. He advised that he will provide the Clerk with the information that he requests. The Mayor expressed belief that they can make Edmunds available to members of the Council in a read only access to the program. He explained it would have to be done here however.

## **Council Members' Comments**

**Jason Allen: 1.** Announced two upcoming events, the first is a Youth Explosion hosted by a youth group at IRT (International Revival Tabernacle church) in Country Lakes in conjunction with TAG on June 23<sup>rd</sup>, at 6PM at the High School. The second event will be held on June 30<sup>th</sup> by the Teen Youth Initiative community picnic, Saturday, June 30<sup>th</sup>, from noon till 4PM at the Dominique Johnson Rec Building in Lake Valley.

**Sherry Scull: 1.** Spoke of the New Jersey 23<sup>rd</sup> Civil War Unit, noting that the Historic Trust will be sponsoring an event at the Browns Mills Library in August. She noted the 23<sup>rd</sup> was pulled together in August of 1862 and were a ten month unit and were involved in the battles of Fredericksburg and the Burnside Mud March. She noted that many of the men from Company E were from Pemberton Township and gave the history of these. She looks forward to the event and thanks everyone for coming out this evening.

**Diane Stinney: 1.** Thanked everyone for coming out and hopes to see everyone at the July 4<sup>th</sup> parade.

**Richard Prickett: 1.** Reiterated hope that everyone is at the July 4<sup>th</sup> parade noting it's a wonderful event that Presidential Lakes Fire Company puts on every year and they should be commended for that. **2.** He noted they hear so much about dead bodies being found, and children's behavior in school and wanted to emphasize that the students participating in the High School graduation exhibited exemplary conduct. Mrs. Scull reminded him not to forget to mention the Blueberry Festival. He then announced that it would be this Saturday at 10 AM.

**Kenneth Cartier: 1.** Also noted that the Earth Fair would be held on Sunday that the County puts on yearly. **2.** He reminded the public that the next meeting would be July 11<sup>th</sup>, which is the second Wednesday of July and the only meeting in July.

**Sherry Scull: 1.** Noted that she attended the graduation party at the High School from 7:30 to 10:30 and there were a lot of nice door prizes that the students could use when they go off to college.

**Richard Prickett: 1.** Commented that it sounds like the behavior and fund that the kids have had in Project Graduation during the years that he participated.

Kenneth Cartier wished everyone a very safe Fourth of July and to have a good evening.

The meeting was adjourned at approximately 9:56 p.m.

Respectfully submitted by,

MARYANN FINLAY, MMC, TOWNSHIP CLERK