

**TOWNSHIP OF PEMBERTON  
REGULAR MEETING  
JUNE 6, 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  
Jason Allen  
Ken Cartier  
Richard Prickett

**ABSENT**

Sherry Scull (Arrived at 6:44 p.m.)

Also present: Mayor David Patriarca, 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**

**CLOSED SESSION**

RESOLUTION NO. 116-2012

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:  
PERSONNEL: INTRODUCTION TO ACTING BUSINESS ADMINISTRATOR DENNIS GONZALEZ  
LITIGATION: BUSTERS GARAGE VS. PEMBERTON TWP.  
CONTRACT: REGARDING ACACIA FINANCIAL SERVICES  
NEGOTIATIONS WITH BURLINGTON COUNTY REGARDING BAYBERRY STREET DAM
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. 8116-2012. Prickett, yes; Stinney, 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 pursuant to closed session at this time but that they will have to return to closed session after the meeting.

**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. Those commenting were:

**Clare Wadsworth**, Browns Mills – **1.** Asked that in regards to the possible confirmation of the Business Administrator and in light of the newspaper articles, whether anyone on Council had contacted anyone he has worked with. Council each noted they had done their research. She asked President Cartier if she could ask who was spoken to and what they said. President Carter said no, noting that the matter was still under discussion. She asked if she could ask each Council person what the individual(s) they spoke with say to convince them that Mr. Gonzalez can lead by building consensus. President Cartier explained that at this time it was not appropriate to discuss that because he has not formally been appointed and Council is still in discussions over that.

**Bob Pelletier**, Pemberton – **1.** Noted that he too had read the article regarding the proposed Business Administrator which raised some of his concerns and agreed with Mr. Prickett's comments made in the paper. He expressed hope that Mr. Gonzalez is a good Business Administrator but expressed that they need to weigh all the information. **2.** In regards to the Kubota Tractor he questioned if there is a requirement to buy American. The Solicitor was not sure if that requirement was still in effect and Ms. Willis said that some contracts require but was uncertain regarding this one. It was noted that the Kubota was being purchased under a State contract vendor that is already approved.

There being no other members of the public indicating a desire to comment on the consent agenda, the meeting was closed to public comments.

President Cartier noted the need to pull Res. 121-12, Mr. Prickett asked to pull Resolution numbers 119-2012 and 122-2012 and New Business item \*a. \*1. (1. and 2.), and a. \*2 and \*a. \*4., Mrs. Scull requested to pull off the Bill List item 12-01538 in the amount of \$521.82, and Mr. Prickett also requested to pull Res. 118-2012.

## **CONSENT AGENDA ITEMS**

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

Regular Meeting, May 16, 2012.

### **CONSENT AGENDA RESOLUTIONS**

#### RESOLUTION NO. 117-2012

WHEREAS, NJSA 40A:4-87 PROVIDES THAT THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES MAY APPROVE THE INSERTION OF ANY SPECIAL ITEM OF REVENUE IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY WHEN SUCH ITEM SHALL HAVE BEEN MADE AVAILABLE BY LAW AND THE AMOUNT WAS NOT DETERMINED AT THE TIME OF THE ADOPTION OF THE BUDGET; AND

WHEREAS, THE DIRECTOR MAY ALSO APPROVE THE INSERTION OF AN ITEM OF APPROPRIATION FOR EQUAL AMOUNT, NOW, THEREFORE, BE IT RESOLVED, THAT THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON IN THE COUNTY OF BURLINGTON, NEW JERSEY, HEREBY REQUESTS THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO APPROVE THE INSERTION OF AN ITEM OF REVENUE IN THE BUDGET OF THE YEAR 2012 IN THE SUM OF \$60,000.00, WHICH IS NOW AVAILABLE FROM THE SAFE AND SECURE COMMUNITIES GRANT IN THE AMOUNT OF \$60,000.00.

BE IT FURTHER RESOLVED, THAT THE LIKE SUM OF \$60,000.00 IS HEREBY APPROPRIATED UNDER THE CAPTION SAFE AND SECURE COMMUNITIES GRANT.

BE IT FURTHER RESOLVED, THAT THE ABOVE IS THE RESULT OF FUNDS FROM THE STATE DEPARTMENT OF LAW AND PUBLIC SAFETY IN THE AMOUNT OF \$60,000.00.

#### RESOLUTION NO. 120 -2012

A RESOLUTION OF THE TOWNSHIP OF PEMBERTON AUTHORIZING THE PURCHASE OF ENERGY GENERATION SERVICES FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

WHEREAS, THE TOWNSHIP OF PEMBERTON HAS DETERMINED TO MOVE FORWARD WITH THE EMEX REVERSE AUCTION IN ORDER PROCURE ELECTRICITY FOR THE TOWNSHIP OF PEMBERTON; AND  
WHEREAS, THE LOCAL UNIT TECHNOLOGY PILOT PROGRAM AND STUDY ACT (P.L. 2001, C. 30) (THE "ACT") AUTHORIZES THE PURCHASE OF ENERGY GENERATION SERVICE FOR PUBLIC USE THROUGH THE USE OF AN ONLINE AUCTION SERVICE; AND  
WHEREAS, THE TOWNSHIP OF PEMBERTON WILL UTILIZE THE ONLINE AUCTION SERVICES OF EMEX, LLC, AN APPROVED VENDOR PURSUANT TO THE ACT, WAIVER NUMBER EMEX LLC-1, LOCATED AT WWW.ENERGYMARKETEXCHANGE.COM; AND  
WHEREAS, THE AUCTION WILL BE CONDUCTED PURSUANT TO THE ACT; AND  
THEREFORE, BE IT RESOLVED, THAT A CERTIFIED COPY OF THE WITHIN RESOLUTION SHALL BE FORWARDED TO THE DIVISION OF LOCAL GOVERNMENT SERVICES.

### **UNFINISHED BUSINESS**

**Recreation Department:** purchase of design, preparation and printing services of the township newsletter from Deans Graphics in the amount of \$3,618.00. Postage cost for the mailing will be \$1,631.15.

### **NEW BUSINESS**

**Public Works Department:** Purchase of 6 gate valves for the Water Department, from Atlantic Plumbing Supply Corp., in the amount of \$7,931.00.

**Public Works Department:** Purchase of 2013 GMC Utility Body Truck from State contract vendor Flemington Chevy Buick GMC Cadillac, LLC, in the amount of \$33,500.00.

Acknowledgement of fire co. membership/relief association applications for: Jonathan Dengler, John M. Shaw, Bryan Wey, and Troy Gurganious, Country Lakes Fire Co.

Council approval for annual solicitation of bids for the purchase of plumbing supplies.

Approval by Council required for payment of vouchers on bill list dated 6/1/12

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

### **RESOLUTION NO. 118-2012 (Pulled from consent agenda)**

#### RESOLUTION NO. 118-2012

WHEREAS, THE PROPERTY OWNERS ON THE ATTACHED SCHEDULES A THROUGH K WERE IN VIOLATION OF CHAPTER 145 OF THE CODE OF THE TOWNSHIP OF PEMBERTON ESTABLISHING REGULATIONS FOR PROPERTY MAINTENANCE; AND  
WHEREAS, THE TOWNSHIP OF PEMBERTON, AFTER SERVING THE REQUIRED NOTICES, AND HAVING RECEIVED NO RESPONSE, PROCEEDED WITH THE NECESSARY ACTION THROUGH THE CODE ENFORCEMENT OFFICE TO ABATE THE VIOLATIONS; AND  
WHEREAS, THE CODE ENFORCEMENT OFFICIAL HAS CERTIFIED THE COSTS OF THE AFOREMENTIONED ACTION AS SET FORTH IN THE ATTACHED SCHEDULES A THROUGH K;  
NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, THAT THE TAX COLLECTOR IS HEREBY AUTHORIZED AND DIRECTED TO IMPOSE A LIEN UPON THE PROPERTY(S) SET FORTH IN THE ATTACHED SCHEDULES A THROUGH K.

Mr. Prickett noted that each of the properties are categorized as letters A through K and asked why they are presented as schedules and if the Township will continue to cut the grass throughout the summer if necessary. The Mayor confirmed that the Township will continue to maintain the properties and continue to add liens on as necessary. President Cartier noted that it appeared a column was missing from the front page which would reflect an A, B or C.

Motion by Prickett and Allen to approve Resolution No. 118-2012. Prickett, yes;  
Allen, yes; Scull, yes; Stinney, yes; Cartier, yes. Motion carried.

### **RESOLUTION NO. 119-2012 (Pulled from consent agenda)**

President Cartier noted that Mr. Prickett wanted this resolution would be held off till after the second closed session is held. There was Council consensus to do so.

### **RESOLUTION NO. 121-2012 (Pulled from consent agenda)**

President Cartier noted that Administration would like this resolution to be held till after the second closed session and that he also has questions and requested to wait till then. There was

Council consensus to do so.

### **RESOLUTION NO. 122-2012 (Pulled from consent agenda)**

#### RESOLUTION NO. 122-2012

WHEREAS, N.J.S.A. 40A:9-146 PROVIDES FOR THE APPOINTMENT OF A TAX ASSESSOR; AND WHEREAS, THE MAYOR OF PEMBERTON TOWNSHIP HAS ADVISED THE GOVERNING BODY OF PEMBERTON TOWNSHIP OF HIS RE-APPOINTMENT OF MAUREEN FRANCIS AS TAX ASSESSOR FOR A SECOND TERM OF FOUR (4) YEARS THAT WILL COMMENCE ON JULY 1, 2012 AND CONCLUDE ON JUNE 30, 2016.

WHEREAS, THE GOVERNING BODY HAS BEEN ASKED BY MAYOR DAVID A. PATRIARCA FOR THEIR CONSENT TO SAID RE-APPOINTMENT;

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 RE-APPOINTMENT OF MAUREEN FRANCIS AS TAX ASSESSOR FOR PEMBERTON TOWNSHIP WITH A FOUR YEAR TERM THAT SHALL COMMENCE ON JULY 1, 2012 AND CONCLUDE ON JUNE 30, 2016.

Mr. Prickett expressed wanting to recognize that Mrs. Francis is doing a very good job and does very well by the Township.

Motion Prickett and Scull to approve Res. 122-2012. Prickett, yes; Scull, yes; Allen, yes; Stinney, yes; Cartier, yes. Motion carried.

### **ORDINANCES FOR INTRODUCTION**

#### ORDINANCE NO. 11-2012 (Title read by President Cartier)

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

President Cartier announced that again, this is in regards to a matter that still needs to be discussed during the second closed session. Mrs. Scull asked Mrs. Finlay if they would be permitted to introduce an ordinance at that point after closed session. Mrs. Finlay confirmed that they could, noting it is still listed on the agenda and they are merely tabling the matter till later in the meeting. There was Council consensus to do so.

### **NEW BUSINESS**

#### **\*a. 1. (Pulled from consent agenda)**

- \*1. Administration:** Per ARH, **1.** Request for engineering services in connection with a Preliminary Assessment for the Bayberry Street Dam project in the amount of \$2,250.00. **2.** Request for engineering services in connection with preparation of design plans, technical specifications, required permitting, and solicitation of public bids for the improvements to the Bayberry Street Dam, in the amount of \$97,435.00.

Mr. Prickett expressed that he would like Ms. Willis to give a little more detail description of the report that is being proposed in order to move forward with Bayberry Dam in the amount of \$97,435.00. Ms. Willis clarified that there are actually two proposals listed in item #1. She noted the first proposal is for the preliminary assessment for \$2,250.00 and the proposal he is indicating for \$97,435.00 is actually the full design and bidding of all the repairs for Bayberry Dam, and also includes coordination with FEMA, Office of Emergency Management, the County, sub-preliminary habitat assessment, hydraulic analysis which will help them design the articulating concrete blocks which will stabilize both sides of the dam. She added that it also included preparation of the technical specs and bidding documents, going to all agencies that they would need permitting from including but not limited to Pinelands Commission, Burlington County, Burlington County SCD, NJ Fish and Wildlife and NJDEP Dam Safety as well as any regulatory agency meetings and they will be doing a presentation to the Council on what their design plans are. Mr. Prickett commented that in order to do the repairs they will have to go through all those agencies to get their approval. She then went over the technical details of all the assessments. Mr. Chris Rehmann the explained that they also have included in their proposal the cost for Tridet Associates who are specialists in wildlife regarding the issue of turtle habitat and issues as to when they can do construction associated with the two lake system. He noted there are also some additional geotechnical work they believe they will have to stabilize the road surface by injecting grout into the sub-soils to build a cut off wall through that area. He explained they have included all of their sub-contractors/specialists within the \$97,435.00 figure. Mr. Prickett asked if the grout would be on one side of the dam

or throughout the entire dam. Mr. Rehmann noted they still have to determine that. He advised that the reason they believe the system failed is that when the dam was originally built they did not compact the underlying soils sufficiently and the dirt is starting to slough off because there are no firm material in there that could take the overtopping. Mr. Prickett commented that it's actually cracking on both sides, noting belief that's where the joints are for the asphalt when it was originally laid down. Mr. Rehmann does not believe so, noting that after inspection of it with the County Engineer one of them may be but the road is not that wide and the joint is along the center line and these two longitudinal cracks are about three or four feet in from each of the ends of the pavement. Mr. Prickett asked if the borings just measure how permeable the sand is or did it measure compactions as well. Ms. Willis acknowledged that it did measure compaction which is how they were able to determine that it wasn't compacted to the 95 percentile it is supposed to. She explained they had a comparison of the original borings from 2000, the new borings done in the roadway and outside the roadway. Mr. Prickett then asked about pollutants from further upstream as he had thought the pollutants were actually coming from the sand within the dam itself. Ms. Willis explained that at this point they don't know what could be there. She shared that what comes to her mind is air planes so there are cleaning products that come from the planes, fuel and anything that is runoff, because anything that is runoff from the base is obviously coming to these water ways. She advised that type of analysis that will be looked at as well as anything that might be involved that they don't know about. Mr. Prickett asked if the thought is that some of those pollutants could get absorbed by the dam and contaminate the soils there. Mr. Rehmann clarified that it could be water borne and that the lake itself is acting like a sediment basin due to the velocity at times. He noted that what they are concerned about over the course of time is that's moving down and settling up against the dam. He explained this may not be required but they have it in there if it is required and they will talk to the agencies and if they can they will save the money.

Motion by Prickett and Scull to approve New Business item a. 1., 1 and 2 for \$2,250.00 and \$97,435.00. Prickett, yes; Scull, yes; Allen, abstain; Stinney, yes; Cartier, yes. Motion carried.

**a\*2. (Pulled from consent agenda)**

**Public Works Department:** Purchase of Kubota Tractor from Kubota Tractor Corporation, in the amount of \$18,875.00.

Mr. Prickett wanted to reiterate that he has not been in support of this tractor. He noted the Township has three tractors and feels the Township could find a tractor or perhaps two that could cut grass for the price of the Kubota and he appreciates Mr. Pelletier's comment that they should be buying American.

Motion by Scull and Allen to approve New Business item a.2.

Mrs. Scull noted that it did have a bid on an American product that was \$4,000 higher. She explained that she also strongly believes in buying American but in considering bids they normally take the lowest bid. Mr. Prickett expressed his belief that there are other mowing tractors available that can do the job, perhaps not in the same category as the Kubota but that they could do better on the price or maybe get two for the price of one.

Scull, yes; Allen, yes; Prickett, no; Stinney, yes; Cartier, yes. Motion carried.

**a\*4. (Pulled from consent agenda)**

**Public Works Department:** Purchase of 2012 Ford F450 Regular Cab 141" Wheel Base with 9' Rack Body and Lift Gate for Clean Communities, from State contract vendor Warnock Fleet, in the amount of \$40,384.00.

Mr. Prickett recalled that years ago the Water Superintendent drove around with a station wagon and how difficult it was to find the money for a pick up truck for that department and now he looks at the 2011 report on tangible items and finds that there are approximately 18 pick up trucks and thinks they are adding two or three more to this list and commented on whether the intention is for everyone to have a pickup truck. He expressed the need for a plan; the need to keep them fueled, insured, maintained and Administration should forward a plan to Council reflecting the needs for these items. He indicated that in this point in time they should

be cutting back on all these vehicles and he will not oppose this purchase but would like to see a plan on how they can most efficiently use the 18 or so pickup trucks they will have in the fleet.

Mrs. Scull expressed they should have more than just a plan for their pickup trucks but that Council should look at everything that cost quite a bit of money overall in the Township so they can better prepare for later down the road. She did note however that this is Clean Communities and asked if that means they are getting grant money to help pay for this vehicle. The Mayor explained that it means that all of the money for the purchase for this vehicle is paid for out of grant money and this is one of their most used vehicles in the Township. He noted they have one older vehicle now and this new purchase will add to the fleet.

Mr. Allen acknowledged seeing that this is taken out of the grant fund and in addressing Mr. Prickett's question, asked if there is a plan for everyone to in fact have a pickup truck. The Mayor clarified that is not the intention but that personally he will look at that because there are times that they send two employees in a vehicle when one could go out to a job and the other could go out to a separate job depending on what that job is. He informed that generally they send two employees out in either a pickup or dump truck depending on the job. He noted having discussed with public works about splitting those duties, depending on the duty, for one in the vehicle in order to get more out of the employees by sending them in different directions.

Mr. Prickett commented that he could have pulled New Business item #5. which wasn't funded by Clean Communities which was a Cadillac pickup truck but did not do that. He explained that he pulled this one not because it would be funded by Clean Communities, although it's great. The Mayor interjected that it is not a Cadillac, but rather comes from a Cadillac GMC dealer that sells, Cadillacs, GMCs, Chevys, etc.,. Mr. Prickett was glad for the clarification. He then noted that in regards to the Clean Communities truck, they may not be paying for it but they will be paying for the tires, gas and maintenance and will still be a responsibility to the Township and still serves as an example as to why they should have some kind of a plan on the use of the vehicles of the fleet.

Motion by Prickett and Stinney to approve item a.4. the purchase of the F450 regular cab at the price of \$40,384.00. Prickett, yes; Stinney, yes; Allen, yes; Scull, yes; Cartier, yes. Motion carried.

Discussion regarding application to Burlington County Bridge Commission for grant writing assistance for grant program participation with NJDOT for securing funding for streetscaping and ADA improvements in the downtown district.

Mrs. Stinney advised that she and Mrs. Scull have been looking through various grant opportunities. She noted that various professionals have their grant writers within but she and Mrs. Scull found this grant opportunity and met with the Mayor telling him that they need to get as much as they can, when they can, because they don't know what is going to happen down the road the way the economy is. She noted the particulars of this grant and suggested that perhaps she and Mrs. Stinney can work as a sub-committee to continue to bring grant opportunities for Council's consideration. Mrs. Scull noted that with this, anything for transportation, museum, railroad and restoration of railroad equipment is what the NJ DOT is offering to do. However, the more she and Mrs. Stinney looked at the paperwork they thought it would be appropriate to tie it into their downtown redevelopment. She expressed hope that what will happen is that the grant writer which will be free will come in to take pictures of Trenton and Lakehurst Road and put in for a grant for sidewalks, handicap accessibility, bicycle lanes, etc. They are very excited about that noting that it's up to a couple hundred thousand dollars. She expressed if they can get some of that money they felt it was worth an effort to try. She advised that they have to provide intent for the grant by July 9<sup>th</sup> and the grant writer will have by September to finish up the grant application. Mr. Prickett asked if they have a copy of the grant and asked if this is for planning the streetscape and bicycle paths. Mrs. Scull informed it is for actually doing it. Mr. Prickett asked if this person will pick the roads or do they suggest. Mrs. Scull stated that considering their Town Center is Trenton Road, Broadway and Lakehurst Road, those are the areas that they will start with. President Cartier noted that the Mayor has already signed the document.

## **General Public Comments.**

President Cartier opened the meeting to general public comments. Those commenting were:

**Scott Hamilton, Browns Mills – 1.** In regards to Bayberry Dam he heard Ms. Willis's report regarding contamination coming off the air craft and noted that there is a smell of jet fuel by where he lives that the planes dump before they come in to land if they have too much. He expressed concern over the fish and birds, etc., that are getting sprayed. **2.** He also noted Ms. Willis's report regarding the cracks in the dam and advised that he went over to look at the dam. He advised that those are the joints in the pavement that are perfectly parallel. He expressed fear that Council was going to make a mistake in his opinion. He spoke of the money spent on the lobbyist that tried to get some of the Obama stimulus money for the town and expressed that the tax payers are now out \$88,000.00 and they have nothing to show for it. He expressed that the Mayor's visions of bringing in stimulus money turned into \$88,000.00 flowing out. He noted that the Township, the MUA and Water Department are carrying in excess of 30 million dollars in debt and the interest payments on these loans costs the tax payers over one million dollars a year. He commented that the Federal and State governments have major financial issues as does the Township. **3.** In regards to Bayberry Bridge, he acknowledged they were struck with a major weather event that brought heavy rains and strong winds last August, he was advised by one of his neighbors that he had phoned the Pemberton Township Office of Emergency Management to warn them that the level of the level of the upper portion of Little Pine Lake was much too high and should be lowered since the forecast called for over eight inches of rain. His neighbor was told that everything was under control and his neighbor noted that no one ever came to lower the level. Mr. Hamilton advised that once the rain subsided he went to the Bayberry Dam and videotaped the water flowing and inspected the damage to the sidewalk unfold before his eyes. He noted that was approximately August 30<sup>th</sup> and the roadway has been closed ever since, and traffic has been re-routed across the Hanover Dam to a very dangerous 5 or 6 point intersection. Up East Lakeshore Drive is in such poor condition he would not advise driving over it at night over 20 miles per hour. He expressed that with Bayberry being out it adds fuel costs for the buses and slows emergency response since they have to drive all the way around. He read in the BCT that Pemberton Township was denied FEMA funds to start the repairs for 1.2 million dollars and that at the last Township meeting they voted for \$300,000.00 bonds to be sold for the repair of this. He expressed concern over seeing numbers like this because he knows how poor the state of their financial affairs are. He also noted that the Township is going to appeal the decision but as they spend time and money fighting FEMA the Bayberry Dam is still closed and the lower portion of Lakeshore Drive continues to deteriorate. He noted having visited the Bayberry Dam several times. He noted the holes being bored in the roadway and suggested using ground penetrating sonar on it they would have received a better picture. He gave suggestions on how the repairs could be done at a cost of approximately \$30,000.00. He reiterated that the Dam failed because the water was not lowered. He and President Cartier exchanged words regarding their lack of the proper experience on how to base determinations. Ms. Willis explained that they have to go by current standards and regulations and reiterated what they have done, what they have found and explained the upstream is Ft. Dix and they have no control over the waters on Ft. Dix and up hill and explained everything that everyone that has been involved with the project has done. Mr. Prickett thanked him for his efforts noting he did not mean to criticize Mr. Cartier to which President Cartier disagreed and expressed that he did criticize him. Council members Scull, Allen Prickett and Stinney expressed their thanks for his research.

**Ray Wells, Pemberton – 1.** Noted that at the last meeting he was asked to ask the Board in regards to the "lake" in front of the new Early Childhood Development Center. He stated having given the Mayor a report. He advised that the State is in a lawsuit with the builder and that the building has not totally been turned over to them yet. He commented that there is nothing going on with mosquitoes; however, President Cartier noted concern concerning that West Nile was found in Birmingham. **2.** In regards to Mr. Hamilton's comments he wanted to note that Mr. Hamilton does care about the town and that he encouraged more resilience over comments that are made. **3.** In regards to newspaper articles he asked that before Council votes that they hear why the Mayor picked him. The Mayor explained that he picked him over the last three and felt he was best to benefit the community. He noted having evaluated approximately 30 applications and his decision was made because of all of his qualities and his overall credentials.

**America Phillips, Presidential Lakes – 1.** Asked when her street will be next. The Mayor noted that it may not be this year but it is on the agenda for repairs. She added that drainage needs to be addressed on her street as well.

**Bob Pellitier, Pemberton – 1.** He noted having seen the 2012 Budget Synopsis in the paper which included the employees. **2.** Noted in the papers that they received some aid and understands the basis but didn't know what was so unique regarding Tensaw Drive and suggested that perhaps it can be done in phases. He asked how Tensaw made the list. Ms. Willis first answered in regards to Ms. Phillips comments that she believes that her street may be on the list in the next year or two, to include the drainage. Ms. Willis then explained the 5-year road program and how the ratings are based on Rutgers guidelines and once determined they go out every year. **3.** Asked about the vehicle inventory. **4.** Would like to know why the barriers are still closed at the train station. **5.** Noted the Mayor needs a new Business Administrator and suggested that perhaps they can trade such as in horse trading, to get the train station opened up as a condition to approval of the Business Administrator appointment.

**Marisa Wilkins, Manchester Township – 1.** Advocated for opening up the parking lot of the train station.

#### **BILL LIST ITEM (Pulled from the consent agenda)**

Item #12-01538. Mrs. Scull noted it's a payment for a bill for legal services in connection with the Historic Trust. She noted that she needs to abstain on that vote.

Motion by Allen to approve the bill #12-01538. Motion died for lack of a second.

Mrs. Stinney asked what would happen if the bill does not get paid. Mr. Bayer noted it's like any bill, if it's authorized and in the budget and the work has been done it should be paid. Mrs. Scull asked if he was going to sue them. He said absolutely not.

#### **Solicitor's report**

Mr. Bayer noted he had nothing further to report tonight. Mrs. Stinney noted the bill could come back at a future meeting, to which she was told it could. Mrs. Stinney then asked if this bill falls under his normal monthly salary. Mr. Bayer explained no, noting that it falls under litigation which is billed hourly and all other work is billed on a flat fee basis, but this matter is litigation. She then asked what the litigation is. He explained it's the complaint the Township filed since the Historic Trust did not sign it after it had been approved. He explained the lawsuit was brought since there's no legal agreement between the Trust and the Township the Mayor authorized lawsuit. Council concurred to have the bill and the matter put under closed session on the next meeting.

Mr. Prickett then asked Mr. Bayer noted that before his time Mr. Domzalski was the sitting attorney and many years ago he recognized that the Township had many acres of wetlands that the PDCs for the most part had been severed and he had initiated with the Park Service and DEP and Township in selling this property to the DEP for Green Acres to go along with the Brendan T. Byrne State Park. He note this has been going on for years and at one point they saw a figure of around \$300,000.00 that they were willing to pay the Township for these properties. He noted that it appears that the State is ready and asked if for whatever reasons the Township is holding off on following through with these transactions and getting that money or if there is some other hold up. Mr. Bayer advised that the transactional documents that his office prepared has been with State Attorney General's office for a substantial period of time. He noted having been told that the documents are being reviewed by the State Attorney General's office and they were transmitted to them a long time ago. He advised that they were advised by the Attorney General's office, literally today, that a supervisor of the attorney is now reviewing what would the lower level attorney reviewed and they should be getting an answer soon and they should be able to close soon. Mr. Prickett asked if the amount was indeed in the area of \$300,000.00, the Mayor thought it was closer to \$200,000.00 and Mr. Prickett commented that it then was somewhere in between \$2-\$300,000.00. Mr. Bayer relayed that he will check the actual document and get him the correct figure.

#### **Engineer's report**



Mr. Rehmann reported: **1.** The road program is underway and construction is happening and the roads should be completed by fall. **2.** He noted they are investigating a problem at Well #12. He advised he was at the site today and he received a report that things should be okay, that there could be a problem on the column pipe on the well but they will investigate that a little further. They have field work done on survey of the church property that they are going to purchase under the Freeholders Green Acres Grant and informed that in the last two years they have received \$432,000.00 in NJDOT grants for the Township when not all towns in Burlington County get grants. They have a New Jersey Trust below market rate loan and grant program for \$296,000.00 and they did along with the Mayor's advice and consent received \$896,000.00 in Green Acres low interest loan and 50% of that is in the form of grants. He also noted they have 1.2 million dollars before FEMA, not only to pay for construction of Bayberry Dam but it will also cover the cost that they require the Township to do for Geotechnical and for the Hydraulic Studies that have been done. He shared that the NJDOT Bureau Dam Safety has determined that that dam is unsafe. He relayed that when the storms occurred last July in Cumberland County there was a series of Dam failures, noting that one dam did not fail which was designed by ARH and for which they were proud of that fact. He shared that also with the Medford and Lumberton areas where a lot of those dams failed and Cranberry Lake did not fail. He informed that he also happens to be a licensed land surveyor, licensed planner and licensed professional engineer. He explained that a licensed land surveyor discoverer of facts that goes into the fields to route out the issues that an engineer uses to design. He advised that he has instructed his survey teams that he is only as good as the information that they bring back from the field and that they are a critical element in everything they do. He advised that he appreciates what Mr. Hamilton did and he has taken notes and will go out to look at the seam. He shared that if he is wrong he will state that publicly because it's important that they listen to citizens because sometimes he's on the dam site three and four times and they may have been on the site twenty or thirty times and may have seen conditions that he may not have seen. **3.** He relayed that Mr. Gonzalez and he do not know each other very well. He noted that he may have dealt with the better portion of his firm, such as Richard Rehmann such as when they did the tax map for the City of Trenton and they worked with Pat Heist the Tax Assessor. He commented that if one survives the City of Trenton there is something to be said with that. President Cartier asked in regards to safety, at the last meeting they stated they were going to do all the drainage first then go back and do all the paving, however he believes it's causing safety issues as the drainage inlets are not being properly marked. They are being corrected and the problems are being fixed but the holes that are being left by the edge of the road are going to cause an accident. Ms. Willis noted that she did not know that that was a problem and she will take that back to their inspectors to make sure that does not happen.

Mrs. Stinney noted they speak highly for the Township in regards to situation that have to go through the County and asked why they have to continue to send letters to the Freeholders that West Lakeshore Drive and Evergreen Blvd. that they continue to address the dangers there. She gave thanks that the Mayor addressed the lights situations which helped prevent an accident. Mr. Rehmann noted he will bring that up with the County Engineer and commented on the petition that was received regarding Evergreen and Apple regarding speed control and they will look into that as well.

### **Planner's report**

**Mr. Regan reported 1.** That he echoed Mr. Rehmann's comments and Mrs. Stinney's on the grants noted grants his firm has brought in and those of ARH. **2.** Reported that the Dialysis Center has applied to the Zoning Board and are waiting for the letter of compliance, the certificate of filing from the Pinelands which is anticipated within the next ten days.

### **Mayor's report**

The Mayor reported **1.** Noted he attended the 90<sup>th</sup> Anniversary of Deborah Heart and Lung today along with several Council members, gave praise of the event and pride for having them in our community. He spoke of a time capsule that was done at the event wherein students from several schools had presented things to a contest and three of their schools were winners to be included in the capsule. **2.** He is checking out the road program that's underway and also noted of damage to the Country Lakes Building in the recent months where kids have smashed the fence. He advised that the police have arrested the individuals and they will review having security cameras at all their facilities. Mr. Prickett asked in regards to the Work Where You Live Program if there are any indications of how effective it's being used in Pemberton

Township. The Mayor knows if it's been used at all but knows they promote it constantly. Mr. Prickett also asked in regards of a number of meetings ago Mrs. Scull asked about the employee data lists that usually come with the budget that contained steps and other financial information. The Mayor thought they had already received it and will look into it and make sure they get it. Mr. Prickett questioned if the Township will institute any kind of ATV program this year, noting that with Chief Lewandowski, his plan was effective. The Mayor advised he will get with the current Chief and get a recommendation. Mr. Prickett then asked in regards to the T-21 grant report noting getting reimbursement for the costs and noted a long line of reports that needed to be completed. He asked for the status. Ms. Willis noted that all documentation has been submitted and they are going to be issuing the payment on the construction and the construction management portion. DOT noted the last portion remaining is for the design and the Township has been paid 27 out of the \$30,000.00. Lastly, Mr. Prickett noted having gone out with Mr. Hamilton looking at the Bayberry Dam and noticed there was fencing out there to keep people off of the sidewalk and noted that the fencing is held up with posts. He relayed that base of the posts are rail road plates and wondered how the Historic Trust rail road plates got welded to a post and nailed down to the asphalt on the Bayberry Bridge Dam.

### **Council Members' Comments**

**Richard Prickett** – 1. Praised the Memorial Day Parade noting that all four services participated. 2. Complimented Deborah's 90<sup>th</sup> Anniversary noting it was spectacular. 3. Announced that the Blueberry Festival will be held on Saturday, June 23<sup>rd</sup> and encouraged everyone to attend. 4. Wished everyone a good night.

**Sherry Scull** – 1. Spoke of the Memorial Day Parade noting it was one of the best they have seen in many years and praised the Public Works Department for all their efforts. 2. Noted that last Saturday they hosted at the Library the County Historians Round Table, and said the County Historian Joe Walker from Southampton said it is the best Memorial Park in Burlington County. 3. Expressed that the 90<sup>th</sup> Anniversary for Deborah was wonderful and it was great to see the schools' participation. 4. Thanked the Mayor and the police department for their help and participation for the bus tours they held. She spoke of the field trips and noted they were the best behaved and asked the best questions. 5. Noted on the comments made on grant money being tax payers' money and agreed that is true and appreciates grants that are brought in. She expressed understanding them not wanting to go into debt, but she can't recall having seen as much grant money coming in as they have now. 6. Clarified that when she had previously spoke of teachers salaries she was talking about education as a whole and reiterated her explanation that the figure she stated was not necessary this town's. She noted that she had been chastised for bringing up School Board issues here. She advised that she explained to one of the Board members that when they are losing twelve and a half million dollars over four to five years it impacts their community. She apologized if her comments were mistaken or taken personally. 7. Thanked everyone for coming out.

**Jason Allen** – 1. Congratulated the High School students graduating Monday. 2. Announced that Life Opportunities is having a presentation the Tuesday before the next Council meeting, June 19<sup>th</sup> in the Dominique Johnson Building.

**Kenneth Cartier** – Thanked everyone for coming out this evening and announced that Council will be going back into closed session and there may be formal action following.

Council President Cartier recessed the open meeting at approximately 9:30 PM to go into closed session and reconvened the open meeting at approximately 9:50 PM.

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

### **FORMAL ACTION PURSUANT TO CLOSED SESSION**

#### **RESOLUTION NO. 119-2012 Gives Advice and Consent to Mayor's appointment of Dennis Gonzales:**

RESOLUTION NO. 119-2012

A RESOLUTION CONSENTING TO THE APPOINTMENT OF DENNIS GONZALEZ AS THE BUSINESS ADMINISTRATOR FOR THE TOWNSHIP OF PEMBERTON

WHEREAS, A VACANCY EXISTED IN THE OFFICE OF BUSINESS ADMINISTRATOR IN THE TOWNSHIP OF PEMBERTON; AND  
WHEREAS, N.J.S.A 40:69A-43 AND N.J.S.A. 40:69A-44, INCLUDED WITHIN THE FAULKNER ACT, AND ARTICLE VI, DEPARTMENT OF ADMINISTRATION, § 3-13 GENERAL PROVISIONS OF THE PEMBERTON TOWNSHIP CODE, REQUIRE THAT A DEPARTMENT OF ADMINISTRATION BE ESTABLISHED AND THAT THE HEAD OF SUCH DEPARTMENT BE THE BUSINESS ADMINISTRATOR WHO IS APPOINTED BY THE MAYOR, WITH THE ADVICE AND CONSENT OF THE TOWNSHIP COUNCIL, FOR A TERM TO COINCIDE WITH THE TERM OF OFFICE OF THE MAYOR, AND UNTIL THE APPOINTMENT AND QUALIFICATION OF HIS SUCCESSOR; AND  
WHEREAS, IN ACCORDANCE WITH SAID REQUIREMENTS, THE MAYOR OF PEMBERTON TOWNSHIP MADE AN OFFER OF EQUAL TERMS AND CONDITIONS THAT WERE RECEIVED BY THE FORMER BUSINESS ADMINISTRATOR, CHRISTOPHER VAZ, TO BE PRORATED BASED ON THE DATE OF APPOINTMENT TO DENNIS GONZALEZ FOR THE POSITION OF BUSINESS ADMINISTRATOR OF THE TOWNSHIP OF PEMBERTON; AND  
WHEREAS, DENNIS GONZALEZ ACCEPTED THE POSITION OF BUSINESS ADMINISTRATOR OF PEMBERTON TOWNSHIP AND ACCEPTED THE TERMS AND CONDITIONS SET FORTH BY THE MAYOR; AND  
WHEREAS, UPON ADVICE AND CONSENT AND OF COUNCIL, THE MAYOR WILL APPOINT DENNIS GONZALEZ AS THE PEMBERTON TOWNSHIP BUSINESS ADMINISTRATOR;  
WHEREAS, THE TOWNSHIP COUNCIL NOW DESIRES TO CONSENT TO THE APPOINTMENT OF DENNIS GONZALEZ AS BUSINESS ADMINISTRATOR OF PEMBERTON TOWNSHIP; AND  
NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, THAT THE TOWNSHIP COUNCIL HEREBY CONSENTS OF THE APPOINTMENT OF DENNIS GONZALEZ AS THE BUSINESS ADMINISTRATOR FOR THE TOWNSHIP OF PEMBERTON FOR A TERM TO COINCIDE WITH THE TERM OF OFFICE OF THE MAYOR AND UNTIL THE APPOINTMENT AND QUALIFICATION OF HIS SUCCESSOR; AND  
BE IT FURTHER RESOLVED THAT THE TOWNSHIP COUNCIL HEREBY CONSENTS TO THE TERMS OF EMPLOYMENT SET FORTH BY THE MAYOR; AND  
BE IT FURTHER RESOLVED THAT THE TOWNSHIP COUNCIL HEREBY WAIVES THE RESIDENCY REQUIREMENT ACCORDING TO N.J.S.A. 40:69A-44.  
BE IT FURTHER RESOLVED THAT A CERTIFIED COPY OF THIS RESOLUTION BE FORWARDED TO DENNIS GONZALEZ AND THE CHIEF FINANCIAL OFFICER.

Motion by Scull and Allen to approve Res. 119-2012. Scull, yes; Allen, yes; Stinney, yes; Prickett, no; Cartier, yes. Motion carried.

### **RESOLUTION NO. 121-2012 Approves MOA with SOA**

#### RESOLUTION NO. 121-2012

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, APPROVING A MEMORANDUM OF AGREEMENT WITH PBA LOCAL 260 – SUPERIOR OFFICERS AND AUTHORIZING THE MAYOR TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT WITH PBS LOCAL 260 – SUPERIOR OFFICERS FOR THE TERM COMMENCING JANUARY 1, 2010 AND ENDING DECEMBER 31, 2014  
WHEREAS, A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWNSHIP OF PEMBERTON AND PBA LOCAL 260 – SUPERIOR OFFICERS TERMINATED ON DECEMBER 2009; AND  
WHEREAS, REPRESENTATIVES OF THE TOWNSHIP AND PBA LOCAL 260 – SUPERIOR OFFICERS HAVE MET ON NUMEROUS OCCASIONS IN ORDER TO NEGOTIATE A SUCCESSOR AGREEMENT; AND  
WHEREAS, THE TERMS OF THE PROPOSED SUCCESSOR AGREEMENT ARE SET FORTH IN THE MEMORANDUM OF AGREEMENT (MOA) ATTACHED HERETO AND INCORPORATED HEREIN IN ITS ENTIRETY BY REFERENCE.  
NOW, THEREFORE, IT IS RESOLVED, BY THE TOWNSHIP COUNCIL OF PEMBERTON TOWNSHIP, LOCATED IN BURLINGTON COUNTY AND THE STATE OF NEW JERSEY, THAT THE GOVERNING BODY HEREBY EXPRESSES ITS SUPPORT FOR THE MOA, AND THAT THE MAYOR IS HEREBY AUTHORIZED TO EXECUTE SAID MOA AND A COLLECTIVE BARGAINING AGREEMENT WITH THE PBA LOCAL 260 –SUPERIOR OFFICERS FOR THE TERM COMMENCING JANUARY 1, 2010 AND ENDING DECEMBER 31, 2014 PURSUANT TO THE TERMS SET FORTH IN THE MOA.

Motion by Stinney and Scull to approve Res. 121-2012. Stinney, yes; Scull, yes; Allen, yes; Prickett, yes; Cartier, yes. Motion carried.

### **ORDINANCES FOR INTRODUCTION**

#### ORDINANCE NO. 11-2012 (Title read by President Cartier)

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 Stinney to introduce Ord. 11-2012 with a public hearing to be held on June 20, 2012. Allen, yes; Stinney, yes; Scull, yes; Prickett, yes; Cartier, yes. Motion carried.

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

Respectfully submitted by,

MARYANN FINLAY, MMC, TOWNSHIP CLERK