

**TOWNSHIP OF PEMBERTON
REGULAR MEETING**

**May 18, 2016
6:30 P.M.**

FLAG SALUTE

Council President Allen 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

Norma Trueblood
Kenneth Cartier
Jack Tompkins
Jason Allen

ABSENT

Letha Jackson

Also present: Mayor David Patriarca, Business Administrator Dennis Gonzalez, Solicitor Andrew Bayer and Township Clerk Amy P. Cosnoski.

CALL TO ORDER

Council President Allen called the meeting to order at 6:30 p.m.

MOMENT OF SILENCE

Council President Allen noted the passing of former Mayor, Elmer D'Imperio and asked for a moment of silence in his memory.

CLOSED SESSION

120-2016 Authorizes Council to go into Closed Session - **Not Adopted**

Council President Allen advised that there would be no Closed Session at this meeting.

PUBLIC COMMENTS

Council President Allen opened the meeting up to general public comments.

Anne Quinn, Country Lakes - 1. Questioned the item under New Business for the vacation of Kentucky Trail. Council President Allen explained that there was a request from the adjoining property owners and explained the reason for the ordinance. It was noted that this was a paper street.

William Ostner, Presidential Lakes - 1. Noted that his purpose for requesting for the vacation of Kentucky Trail is to cut down on illegal dumping and motorcycle traffic in and out of the pit.

Seeing no other residents wishing to be heard Council President Allen closed this portion of the meeting to the public.

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.

Councilman Tompkins asked to pull Resolutions 122-2016, 124-2016 and 125-2016. Councilman Cartier asked to the Purchase over \$2,000 for the Fire Department.

CONSENT AGENDA

***CONSENT AGENDA RESOLUTIONS**

121-2016 Authorizes various routine refunds in the total amount of \$1,740.00.

122-2016 *Pulled from the Consent Agenda and considered later in the meeting.*

123-2016 Authorizes the Township to accept a Municipal Park Development Grant from Burlington County to improve Bayberry and Mirror Lake Parks in the amount of \$180,000.00.

- 124-2016 *Pulled from the Consent Agenda and considered later in the meeting.*
- 125-2016 *Pulled from the Consent Agenda and considered later in the meeting.*

***MEETING MINUTES**

Regular Meeting, May 4, 2016.

NEW BUSINESS

***a.** Purchases over \$2,000

1. Fire Department – Purchase of annual hose and ladder testing from Fireflow in the total amount of \$3,407.46. *Pulled from the Consent Agenda and considered later in the meeting.*
2. Finance Department – Purchase of valuation service of post-employment benefits from Summit Benefit Consultants, LLC in the total amount of \$7,500.00.

***b.** Social Affair Permit

1. American Legion Eden-Stanley Post 294, on August 6, 2016 from 11:00 am - 10:00 pm for pig roast supporting American Legion Programs.
2. American Legion Eden-Stanley Post 294, on August 20, 2016 from 11:00 am - 8:00 pm for Poker Run Pig Roast and Basket Auction.

Motion by Trueblood and Cartier to approve the consent agenda as amended. Trueblood, yes; Cartier, yes; Tompkins, yes; Allen, yes. Motion carried.

RESOLUTIONS

122-2016 Authorizes the Community Development Director to submit a grant application to the New Jersey Department of Transportation for the Busansky/Emmons School Multimodal Improvements Safe Routes Project. *(Pulled from the Consent Agenda)*

Councilman Tompkins questioned if this is a grant or loan. Mayor Patriarca stated that it is a grant. Councilman Tompkins asked for a brief synopsis of what is looking to be done and if that could be given before they vote. Mayor Patriarca explained that they are looking to do sidewalks and tree removal for pathways from the neighborhoods to the schools. A discussion ensued on other things that are needed in this area. Councilman Tompkins questioned the street light that is listed. It was noted that it would be for traffic control. Mr. Gonzalez noted that when we apply the Engineers do some of the work but that ultimately there would be a more detailed rendering and description of the work that will be done and can be afforded depending on the amount of money received. Noted that Council would still have the opportunity to accept the grant if it is awarded as well as award contracts. Councilman Tompkins questioned what the current Engineers costs would be. Council President Allen noted that the work is already done and is included in the grant.

Motion by Cartier and Trueblood to approve Resolution 122-2016. Cartier, yes; Trueblood, yes; Tompkins, yes; Allen, yes. Motion carried.

124-2016 Requests permission from DLGS for insertion of a special item of revenue into the 2016 Budget in the amount of \$180,000.00 from the Burlington – Municipal Park Development Grant – Bayberry & Mirror Lake Parks. *(Pulled from the Consent Agenda)*

Council President Allen explained to the public that this was a Resolution from the DLGS to insert grant money received into the budget. Councilman Tompkins questioned why it said Fiscal Year 2014 instead of 2016. It was noted to be a typo and would be updated.

Motion by Tompkins and Trueblood to approve Resolution 124-2016. Tompkins, yes; Trueblood, yes; Cartier, yes; Allen, yes. Motion carried.

125-2016 Authorizes the purchase of one New Jeep Patriot Vehicle for the UCC Office under State Contract #A83011 in the amount of \$19,038.00. *(Pulled from the Consent Agenda)*

Councilman Tompkins noted that this was for a Jeep for Code Enforcement and asked if this was being paid for out of a trust account. Mr. Gonzalez noted that this

vehicle was for use by the Construction Official/Building Sub-Code Official and all expenses with respect to the Uniform Construction Code come from the Uniform Construction Code Trust fund. Noted that all of the fees go into the trust fund and all of the expenses come from there. Mr. Gonzalez noted the differences between Code Enforcement and Uniform Construction Code. Councilman Tompkins questioned if an old police car could be used for this. Mr. Gonzalez advised that he does not believe that they have any available and they have a high amount of mileage on them costing more to maintain than they are worth.

Motion by Trueblood and Cartier to approve Resolution 125-2016. Trueblood, yes; Cartier, yes; Tompkins, no; Allen, yes. Motion carried.

ORDINANCES FOR SECOND READING AND/OR PUBLIC HEARING

ORDINANCE 8-2016

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON AMENDING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF PEMBERTON ENTITLED "TOWING".

Council President Allen opened this portion of the meeting for the public Hearing.

Andy Mull, Andy's Pro Auto Repair - 1. Noted that he had received the ordinance the day after the last meeting and that there were many changes to the ordinance that he was unaware of. Commented on the original ordinance 2-2013 that was adopted to protect the consumers from being overcharged or from being towed without consent. Noted he requested that the fees be raised and Council was in agreement but that now he feels this is retaliation to the towers by the Business Administrator and the Mayor as they have added 39 more changes. Stated he feels the ordinance should be more simple and less regulated and then adopted. Mr. Mull asked for the free tows to be removed and noted that just because they apply for the contract does not mean that they are making a lot of money. Council President Allen asked how many tows his company does per year under Pemberton Township. Mr. Mull stated about 200 per contract over the 3-year period. Mr. Mull asked that the Saturday hours be removed and that a statement is put in the ordinance that the tow bill must be paid for before the car can be stripped. Mr. Mull stated that the towers accepted 4 free tows but would prefer 0 and that they do not want to do 5. Mr. Mull explained the various other items he would like to see changed in the ordinance. Commented on towing a township vehicle today and noted that he asked that they call central dispatch to make sure it is on the record. Commented on being suspended if a phone call is missed but there being a provision in the same section advising to go to the next tower on the list. Commented on missing a call because things happen and that should be taken into consideration. Stated maybe a warning should be issued instead of suspension. Noted that the ordinance constantly says that the Business Administrator can suspend and noted that they should not be penalized for missing a call. Noted that he was happy with what they had agreed on in the last 2 months and his changes were minimal except for heavy duty towing.

Joseph Elmendorf Jr., Ridge Road Auto & Repair - 1. Noted that he had just received the revised ordinance and that he had reviewed ordinances from other towns with more specific amounts for different situations such as a car on the roof. Passed out some highlighted ordinances from other towns that he had found. Noted the differences between different types of town including cars verse motorcycles. Expressed that there are some things in the ordinance that should be addressed or changed. Councilman Tompkins asked if the other towns ordinances were as large. It was noted they were not. Mr. Elmendorf commented on other items and issues he feels are in or missing from the ordinance. Stated he would like to not be able to be open on Saturday. Council President Allen questioned why if he felt the ordinance was unfair he would enter into a contract. Mr. Elmendorf commented that the ordinance being presented is very different from what was in place from 3 years ago. Mr. Bayer explained the process and the concerns that were expressed at the time. Noted that the new ordinance was requested by the towers for new fees and was the key issue at the time and that Administration was okay with whatever Council adopted. Stated that this ordinance has been discussed and made public for months and that the main issue was the fees. Council President Allen questioned if being in a contract with Pemberton Township benefits his company. Mr. Elmendorf stated that it benefits him through collision but not through impounds.

Robert DeCharleroy, Browns Mills - 1. Noted he has seen a lot of improvement in this Township because the businesses invest in the Township. Stated he feels that this ordinance is burdensome and over regulated and that the Township to get out of their pockets and let them run their businesses. Commented that public servants need to serve the public.

Ed Smith, Pemberton Township- 1. Commented on only being able to hear Mr. Gonzalez because he is hard of hearing. Stated he came out to stand up for some of the small businesses. Noted that he feels the ordinance is terrible and overregulated. Suggested that the Township throw out this ordinance and bring back something simply worded that will allow these towers to do their job.

Seeing no other residents wishing to be heard, Council President Allen closed this portion of the meeting to the public.

Council President Allen asked Council if there was any further discussion about this ordinance. Mr. Bayer advised that he just wanted to give some background on this. Noted that last year there was litigation that was initiated by a tower who sued the Township because he was suspended for refusing to go to a call. Noted that in the lawsuit the plaintiff argued that the existing ordinance was vague and argued that the only power the Township had was to terminate a towers contract rather than suspend them. Stated that the trial court upheld the ordinance and said that it was enforceable and that the Townships actions for opposing the penalty for refusing to make the call were reasonable and so the Township won the lawsuit. Noted that the point is that a lot of the changes that were put in here that are being called overregulated were put in there to eliminate those kinds of arguments that the tower made last year that the ordinance was too vague. Commented that when the ordinance was too vague the tower used it to his advantage and argued it was too vague to oppose a penalty. Noted that now that it is in more detail and made clearer then it becomes overregulation. Further explained some provisions in the ordinance including the protections. Noted that the ordinance does not require that a tower be suspended for missing a call. Noted that any penalty that is imposed has to be reasonable and cannot be arbitrary or capricious. Commented on the protections and advised that State Law requires that a business be open at least 5 days a week so it is a floor not a ceiling and having hours from 9 am until 1 pm on Saturday is not a violation of law. Noted that all of the fees that were requested by Mr. Mull were discussed in detail and updated. Councilman Tompkins stated he agreed with a lot of the public comments and spoke about storage location potentially being outside of the Township and that being unrealistic. Mr. Bayer advised this is to encourage local towers to do business within the township. Mr. Gonzalez advised that the language was intended to describe the requirements for application for a towing contract and all 3 companies on the list right now have specific approved storage locations within the township and are not allowed to change towing locations. Councilman Cartier questioned Section 170-9a. Mr. Bayer advised that this was not a change but has been in the ordinance since 2013. Mayor Patriarca stated they are not enforcing zoning or changing zoning regulations in other towns but rather telling other towers that if they want to tow in Pemberton this is the standard you have to meet. Councilman Tompkins questioned Section 170-10 regarding complaints and noted there will always be complaints. Mr. Bayer noted that the Police do investigate these complaints. Councilman Tompkins questioned Section 170-17 and having to provide a list of charges to the owner of the vehicle and asked what happens if the owner of the vehicle is taken away by ambulance. Mr. Bayer noted that any law has to be enforced in a reasonable fashion. Councilman Tompkins feels this ordinance should deal with pricing and a lot of the stuff in here is duplication of the State and he does not support it. Councilwoman Trueblood noted that everyone should be on the same page regarding the ordinance and the police department should know what this regulation is about so that needs to be looked into. Councilman Cartier asked Mr. Bayer about the last paragraph in the ordinance regarding authority being given by the Police Chief or his designee for any special equipment and noted that in the instance of a motor vehicle accident the Chief of the Fire Department or his designee has control of the scene. Asked if this is a substantial change to correct now. Mr. Gonzalez noted that it would be fine to add Fire Chief, Emergency Management Coordinator as applicable. Mr. Bayer noted that with that language it is not a substantive change. Confirmed it would be Chief of Police, Fire Chief, OEM Coordinator and/or Scene Incident Commander or their designee. Councilman Tompkins questioned what if it is a non-Pemberton entity that is on scene. It was noted that it would still be whoever is the On Scene Commander. Councilwoman Trueblood questioned what winching was. Mayor Patriarca advised

that when you have a flatbed truck there is a winch with a cable that pulls the vehicle up onto the bed of the truck.

Councilwoman Trueblood noted she agrees with the changes just made and explained that she believes that the towers are highly respected and they believe in what the businesses are doing here and this is to do what is best for the residents but also with respect to the towers.

Motion by Cartier and Trueblood to adopt Ordinance 8-2016. Cartier, yes; Trueblood, yes; Tompkins, no; Allen, yes. Motion carried.

NEW BUSINESS

1. Fire Department – Purchase of annual hose and ladder testing from Fireflow in the total amount of \$3,407.46.

Motion by Tompkins and Trueblood to approve the purchase for hose and ladder testing from Fireflow in the amount of \$3,407.46. Tompkins, yes; Trueblood, yes; Cartier, abstain; Allen, yes. Motion carried.

- c. Discussion and possible introduction of an ordinance vacating a portion of Kentucky Trail.

Councilman Cartier asked about the other roads and if this would just push the problem down the road. Mr. Gonzalez stated he was sure there would be other situations where adjacent property owners would be interested. Noted that they cannot force property owners to do it and this came as a matter of request from the adjacent property owners of this street. Council President Allen asked what the Township's responsibility was for this property. Mr. Gonzalez advised that Mr. Ostner and his neighbor have provided \$1,000.00 to cover the legal costs and the Engineering costs that would be associated with the transfer of the property and creation of the deed. Council President Allen asked if the Township had future plans for this street. Mr. Gonzalez advised they did not but would keep easements to gain quick access to the property if needed in the future. Councilman Tompkins questioned if there would be zoning issues due to the fence that would be put up. It was noted that they would have to follow the Township code.

Motion by Tompkins and Trueblood to Introduce Ordinance 9-2016 with a public hearing to be held on June 15, 2016. Tompkins, yes; Trueblood, yes; Cartier, yes; Allen, yes. Motion carried.

REPORTS AND COMMUNICATIONS FILED WITH THE CLERK

Engineer's Report – May 18, 2016.

Council President Allen asked if Council had any discussion for the report. Seeing none Council moved onto the next item of business.

BILL LIST

Approval by Council required for payment of vouchers on bill list dated 5/13/2015.

Motion by Trueblood and Tompkins to approve the Bill List. Trueblood, yes; Tompkins, yes; Cartier, yes except for all fire department bills on page 6; Allen, yes. Motion carried.

SOLICITOR'S REPORT:

Mr. Bayer reported: No report.

MAYOR'S AND/OR BUSINESS ADMINISTRATOR'S REPORT:

Mayor Patriarca reported: Mayor Patriarca commented that last night there was an open house at the Fire Department held at Station 3. Noted that all the participants did a great job and gave his compliments to all. Advised that part of this was to honor EMS week and commented that our EMS crew stands up to the challenge and does a phenomenal job. Noted that the work associated with the grant, that was approved tonight to be put into the budget, will begin immediately at Bayberry Park. Noted that this park will begin to be dismantled and redevelopment started. Stated that road paving is underway and Bellevue was just completed and moved on to Hunter Boulevard which is almost done being milled.

Advised that Public Works is about to start demolition of the old doctors office in town and the building should be gone within a week or two. Added that the Pothole Killer is out filling potholes and are averaging approximately 100+ potholes a day.

COMMENTS BY COUNCIL MEMBERS:

Councilman Tompkins - Asked about the streetlights and that he couldn't find on the Township website where to request one being fixed. Mayor Patriarca advised he would have the link located under the "How Do I" tab. Councilman Tompkins commented on a Code Enforcement violation notice that a resident was given and requested to have the notice removed from their file. Mayor Patriarca advised on what actually occurred and the process and noted we do not have the authority to destroy records under the law. Noted that there will be a record of a notice of violation but there will also be a record of the dismissal of the case. Councilman Tompkins advised that he was driving through town and went by the Veteran's Memorial Park and saw the workers out there putting flowers in and cleaning up. Noted he was happy to see that being done and thanked them. Commented that the Memorial Day parade is on May 30th, at 10:00 a.m., which starts at the Stackhouse School.

Councilwoman Trueblood - Commented that she had attended the Pinelands Family Success Grand Opening in town and noted that this is a resource for the town. Stated that they are going to provide various services and she was very impressed with the Director and was happy to see this brought here to the Township. Added that she feels we do respect the businesses in town and do not retaliate and resents that word.

Councilman Cartier - No comments.

Council President Allen - Thanked everyone for coming out and looks forward to seeing all at the next meeting.

The meeting was adjourned at approximately 8:01 p.m.

Respectfully submitted by,

Amy P. Cosnoski, RMC, Township Clerk