

**The Lakewood Township Committee held a Meeting on Thursday, July 14, 2011, in the Lakewood Municipal Building, at 6:30 PM for the Executive Session, and 7:30 PM for the Public Meeting, with the following present:**

**Mayor..... Menashe P. Miller**  
**Deputy Mayor..... Steven Langert**  
**Committee Members..... Albert D. Akerman**  
**Raymond Coles**  
**Meir Lichtenstein**  
**Municipal Manager..... Michael Muscillo**  
**Deputy Municipal Manager..... Steven Reinman**  
**Municipal Attorney..... Jan L. Wouters, Esq.**  
**Municipal Clerk..... Mary Ann Del Mastro**

**Adequate notice of this meeting has been provided in accordance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6, by Resolution of the Township Committee adopted January 7, 2011 and published in the Asbury Park Press on January 10, 2011.**

**ROLL CALL**

**CLOSED SESSION**  
**Resolution No. 2011-214 - Adopted**

**ROLL CALL**

**SALUTE TO THE FLAG AND PRAYER**

**OPEN SESSION**  
Motion by Committeeman Coles, second by Deputy Mayor Langert, and carried, to open the meeting.

**MOTION TO APPROVE MINUTES OF: 06/30/11**  
Motion by Committeeman Coles, second by Committeeman Akerman, and carried, to approve the above Minutes.

**MOTION TO APPROVE CLOSED SESSION MINUTES: 06/30/11**  
Motion by Committeeman Coles, second by Committeeman Akerman, and carried, to approve the above Closed Session Minutes.

**PRESENTATIONS – None**

Mayor Miller asked Moshe Ullman to please come forward, who had submitted a neighborhood request, with signatures of the residents. He asked for a Motion from the

Committee to approve the request for a Carnival on Forest Park Circle from Hazelwood on one side to Hazelwood on the other side. (Attached hereto and made a part hereof.)

Motion by Committeeman Coles, second by Committeeman Lichtenstein, and carried, to approve this request.

### **LAND SALE – BLOCK 89, LOTS 9 & 10**

Mr. Wouters advised this is a Public Sale of property known as Block 89, Lots 9 and 10, with a minimum bid of \$105,000 for both lots. Any prospective bidder must bid on both lots together. The property is sold subject to all the items set forth in the Notice of Sale. The successful bidder will have to leave a deposit of ten percent of the bid with the Clerk tonight, and close within thirty days. He asked if any bidders were present, and to please come forward.

Mordechai Eichorn came forward, and was advised that the minimum bid would be \$105,000.00

Deputy Mayor Langert advised that it was his understanding they were selling this property to be used for parking, but he does not see that in the Notice of Sale. He asked if that was the intention of the Committee that the sale would be with a caveat that it be used to create parking in the downtown area. He asked if a building could be built on it.

Mr. Wouters answered he will go back and look at the Ordinance that authorized the sale.

Deputy Mayor Langert repeated that he was under the impression they were considering this price because it was specifically for parking. Originally they put the land up for sale for half a million dollars. They did not get any bidders. He consulted with Mr. Eichorn and the Tax Assessor and some of the other professionals, and came up with this price based on the fact that it would be for parking.

Mr. Eichorn responded that they came up with that number because it is the value of the property at this time. He is buying the building next door.

Deputy Mayor Langert stated that Mr. Eichorn had advised him that he would use the Township lots for parking, and not for a building.

Mr. Eichorn responded that it would be his immediate intention, for the next many years. But he would prefer not to have any restriction forever, if down the line, ten or fifteen years from now, he would like to not have that restriction. But his intention is, immediately, to utilize it for parking. Otherwise, he can not move his office there.

Deputy Mayor Langert stated that with respect to the Committee, he is not comfortable selling this property, at this minimum bid, unless it is stipulated that it is going to be for parking. Otherwise, he would look to gain a little more money out of the property if it could be used for a building.

Mr. Eichorn asked if there could be a time restriction, say five years....that within the next five years, it can not be used for any sort of construction. He has no problem with restricting it for five or six years.

Mr. Wouters responded that if it is the Committee's intent to impose a restriction on the use of the property, then the property should be withdrawn from the sale at this time, and a new Ordinance be adopted with that restriction, because there could be people out there that would have purchased it under those conditions that are not here tonight.

Committeeman Akerman added that in all fairness, someone did approach him about it, and he told him that it was restricted for parking.

Mr. Eichorn again asked if they could the put the restriction for parking for a certain amount of time.....ten years, but that is not what the Ordinance said.

Committeeman Lichtenstein advised that his initial thought was to say that this was advertised twice in the newspaper, once at \$567,000.....

Deputy Mayor Langert added that at that time, there were no bidders. There was someone in the audience who recommended that the Committee give the property away for \$10.00. But he was under the impression that the reason they were putting it up for sale at this price is because it was to be dedicated for parking. While he would like to see redevelopment there, if it is to be for a building, he is not comfortable putting it up for sale at this price.

Committeeman Lichtenstein asked Mr. Wouters if it was advertised without any parking restrictions, people had an opportunity to come bid on it. He did hear Committeeman Akerman say that he told members of the public that it was the Committee's intention to restrict it for parking, regardless of how it was advertised, but the general impression was that this was going to be restricted for parking, and regardless of what the Committee decides, does that mean they should pull this from the Agenda this evening?

Mr. Wouters responded yes. The fact that a Committeeman said anything about the sale, while it may be helpful, does not help solve the problem of the deficiency in the Notice.

Mr. Eichorn added that he entered into a Contract, and it is a binding Contract, for over a half of a million dollars on a building right next door, based on this Ordinance. Based on this auction, he is closing on that property on July 29<sup>th</sup>, and he can not get out of

that Contract. That is not what it said in the actual publication, nor in the Notice or Ordinance, in the past three Ordinances...in the first reading and the second reading, there was nothing mentioned about it at all. And it will cause him a loss of a \$550,000.00 purchase. It is not fair.

Deputy Mayor Langert stated that when he spoke with Mr. Eichorn, he did say he would be buying it for parking. So, if he were to buy this property tonight, would he be willing to stipulate that this will be restricted for a parking lot.

Mr. Eichorn responded that he would have no problem giving it a certain time frame. But he does not want it to be forever restricted. If he were told it would be for the next five, seven or ten years, he would feel a lot more comfortable. If putting a restriction on something, which later on could be worthless, he would prefer if there was a deadline on it....say five years, seven years, he would be OK with it. Because that was his intention. He had engineering done. He plans on putting parking there, but he does not want it to be a piece of property that he can never do anything with, except for parking. In the meantime, he went into a Contract, a binding contract, closing in two weeks, on July 29<sup>th</sup>, based on that assumption.

Deputy Mayor Langert stated he is OK selling the property; He confirmed that even if they sell the property, the Township has the right to reject any and all bids.

Mr. Wouters responded that is correct.

Deputy Mayor Langert stated he is willing to sell the property, as long as it is stipulated that it will be a parking lot, because it is being sold at this price. And if Mr. Eichorn is willing to stipulate for a certain amount of years, he would be comfortable with a twenty year restriction.

Mr. Eichorn asked if they can do ten years. Twenty years is a long time.

Deputy Mayor Langert again stated he was under the impression it was stipulated in the Ordinance that it was for parking only.

Committeeman Lichtenstein stated if they are not going to do parking, the Attorney has advised that the Notice is deficient, and they can not sell it legally. They can not make a deal for ten years, even if they wanted to.

Mr. Eichorn stated they are only adding a restriction. The way it was posted and noticed is that there were no restrictions at all on it. You are adding a restriction now. He does not know why if you have someone who saw it noticed would have any problem; if he was interested, and you are adding a restriction, why should it have to be noticed again.

Deputy Mayor Langert stated he would like to put this back out, in an Ordinance that says it will be restricted for parking.

Mr. Eichorn responded he would be fine with that, as long as it is for ten years. You are adding a restriction now; it was noticed and published under the assumption that it can be used for anything.

Deputy Mayor Langert again repeated that the reason he was OK with the minimum price was because it was based on a parking lot. The way it was calculated was based on parking. He asked Mr. Eichorn why would he not agree to limit it to a parking lot; why would he say that in ten years he might want to change it.

Mr. Eichorn responded it is a long time. It was published as a property that technically has no restrictions at all. His intention is to use it for parking, but why would he want to have that additional restriction if ten, fifteen, twenty years down the line he wants to sell the property, why would he want to have that restriction.

Deputy Mayor Langert repeated....twenty years.

Mr. Eichorn repeated....ten years is a long time. He is not trying to steal a property. He is bringing a reputable business into town, and this is something that is a necessity.

Committeeman Lichtenstein stated they are having discussion back and forth, which is very nice. But no matter what they decide, are they allowed to sell this property with a limited parking restriction tonight.

Mr. Wouters answered no.

Committeeman Lichtenstein stated they could talk about it all night. They can not sell it.

Mr. Wouters repeated they can not sell it. It was advertised; you either sell it according to the advertisement, or you come back and redo it.

Committeeman Lichtenstein asked if the advertisement was deficient, or can they sell it according to the advertisement.

Mr. Wouters responded you can sell it according to the advertisement, but there is no restriction in there as to the use for a parking lot.

Mr. Eichorn asked if he agrees verbally...?

Committeeman Lichtenstein confirmed that what Mr. Wouters is saying is that this was advertised with no restrictions, which was maybe an error on their part because the

price would not have been so low, but being it was advertised this way, they can either decide to sell it the way it was advertised, or they have to re-advertise it.

Mr. Wouters responded that was correct.

Mr. Eichorn asked, if on his verbal agreement, even if it was being sold without any restrictions, with his verbal agreement and commitment, would that obligate him to restrict it for ten years for parking.

Committeeman Lichtenstein continued that if they are allowed to sell this property as advertised, and now they are discussing further encumbering the property and devaluing it from the original advertisement, because obviously any sort of restriction, if anyone read that and came to Court and said they would have bought it for more money if it was restricted, which obviously is not the case, are they still allowed to sell it and take that restriction. He asked Mr. Wouters if he followed his question.

Mr. Wouters answered no.

Committeeman Lichtenstein again explained that if someone read this advertisement and was willing to come, but was not willing to come tonight to pay \$105,000 for unrestricted use on the property, it certainly stands to reason that if any sort of restriction was put on the property they would not have paid \$105,000.00. The purpose of advertising is to get the highest bidder in here.

Mr. Wouters answered that was correct.

Committeeman Lichtenstein continued, so they are allowed to sell it, with the advertisement that is out there, with no restrictions.

Mr. Wouters responded, correct.

Committeeman Lichtenstein continued that Deputy Mayor Langert is saying he feels uncomfortable doing it without any restriction.

Mr. Wouters responded, then redo it.

Committeeman Lichtenstein continued, then why can't they make a deal and add a restriction. That certainly would not increase somebody's interest, it would only decrease. If no one came to buy it because there is no restriction, then certainly if they add a restriction they are not going to say they would have come to buy it for that.

Mr. Wouters responded, you don't know that. That is the problem.

Mayor Miller stated that they have a person right now who is willing to bid on this property. And the person is willing on his own to say, he is willing to deed restrict it for ten years.

Mr. Eichorn responded that is correct.

Mayor Miller continued, they are selling it as advertised...and Mr. Eichorn came forward and says he is willing to restrict it for ten years. He asked the Committee members if they are in favor of that.

Committeeman Lichtenstein responded that ten years is a little short, but said he would follow what Deputy Mayor Langert said. If there was a twenty year restriction on it, he probably would have agreed to put it out for \$105,000.

Mayor Miller advised he is OK with the ten years.

Committeeman Coles responded that every discussion they have had was that the property was going to be sold to be used for a parking lot, and that is why he went along with dropping the price from where they wanted to be.

Mr. Eichorn asked if a fifteen year restriction would be a compromise.

Deputy Mayor Langert responded that from what he is understanding, they can not sell the property.

Mayor Miller stated they are selling it with no deed restriction, and on his own, Mr. Eichorn is willing to agree to a voluntary deed restriction.

Deputy Mayor Langert asked Mr. Wouters if they can do that.

Mr. Wouters responded that as he understands it, they are satisfied that there is only one bidder for the property, and there is no one else present that wants to bid on this property.

Mayor Miller asked if there was anyone else present who is willing to bid on this property, being unrestricted.

Mr. Eichorn added, for a parking lot...

Deputy Mayor Langert added, for the minimum price of \$105,000.

Mayor Miller again asked if there was anyone else present who wanted to purchase this property.

Someone from the audience offered \$130,000.

Committeeman Coles advised he has to come forward and state his name.

Mr. Wouters advised if he was going to bid, then he has to come forward.

Abraham Goodman came forward.

Mr. Eichorn advised him there would be a parking restriction.

Committeeman Coles added that he must understand that he has to put a deposit down.

Mr. Wouters asked Mr. Goodman if he understands that he has to have a ten percent down payment with him this evening.

Mr. Goodman stated he could bring it tomorrow morning.

Mr. Wouters responded no, that is not sufficient. It has to be tonight.

Committeeman Akerman advised that Mr. Goodman is the person who approached him about this property, and he was told that it is restricted for parking.

Committeeman Lichtenstein concluded that was the answer. The answer is that they have to bring it back. It has to be redone. He is changing what he said before. Seeing that there is someone else present, who was under the impression that this was going to be sold for parking, and is willing to offer more money if it is sold unrestricted, his feeling is that they either put it out as an unrestricted sale, or they don't sell it at all tonight, and redo the Ordinance. The fact that they started at \$105,000 was because they thought there might be a restriction, and therefore, he respectfully changes his vote, he feels they should not be selling this tonight.

Mayor Miller asked for a Motion.

A Motion was offered by Committeeman Lichtenstein not to sell the property tonight; a second to the Motion was offered by Deputy Mayor Langert, for discussion purposes.

Deputy Mayor Langert asked if the Committee would then consider a first reading Ordinance at the next meeting, with the caveat that it be used for a parking lot, for fifteen years.

Committeeman Lichtenstein agreed to the amendment to the Motion.

Deputy Mayor Langert confirmed that it is understood that at the July 28<sup>th</sup> meeting they will have the first reading of an amended Ordinance for the sale of this property, stipulating that it be used for a parking lot for a minimum of fifteen years.

On Roll Call – Affirmative: Committeeman Coles, Committeeman Lichtenstein, Committeeman Akerman, Deputy Mayor Langert and Mayor Miller.

Mr. Wouters suggested that if this is what the intent is, and understanding the situation, Ordinances on first reading are read by title only. He can mark this Ordinance up right now, and they can read it by title only for first reading tonight, so it can be for second reading on July 28<sup>th</sup>.

The Committee members agreed.

Committeeman Lichtenstein stated he knows they are a little out of order; they are not near Ordinances for first reading yet, but he asked permission to offer an Ordinance for first reading.

Motion by Committeeman Lichtenstein, for Block 89, Lots 9 and 10, to be sold for a combined minimum bid of \$105,000, for both lots, with the first fifteen years to be restricted for parking. A second to the Motion was offered by Deputy Mayor Langert.

On Roll Call – Affirmative: Committeeman Coles, Committeeman Lichtenstein, Committeeman Akerman, Deputy Mayor Langert and Mayor Miller.  
Ordinance No. 2011-43 adopted on first reading. Second reading and public hearing to be held on July 28, 2011.

**Comments from the public will be heard for a limit of one (1) hour. Each speaker will have four (4) minutes and shall be limited to one time at the podium.**

Mayor Miller opened the meeting to the public.

Noreen Gill, 192 Coventry Drive – Complained about the traffic on Ridge Avenue; fifteen cars and three buses were parked in front of the private school. Seven cars were parked on the front lawn of the home next door. She feels it is a very dangerous situation, and something should be done.

Mayor Miller advised they are looking very seriously at Ridge Avenue to see what improvements can be made. It is a County road, and they want to work with the County to resolve the problems.

Alice Kelsey, 295B Malvern Court – Commented on the sale of Township property, and as it relates to parking, it should be in perpetuity, not five years, ten years, or fifteen years, etc, but in perpetuity.

Mrs. Kelsey further commented with regard to the lawsuit concerning tent city.

Gerry Ballwanz, Governors Road – Commented with regard to the sale of Township property in the downtown area; agrees with Mrs. Kelsey concerning the parking.

Seeing no one else wishing to be heard, Mayor Miller closed the meeting to the public.

## **CONSENT AGENDA**

The items listed below are considered to be routine by the Township of Lakewood and will be enacted by one motion. There will be no formal discussion of these items. If discussion is desired, this item will be removed from the Consent Agenda and will be considered separately.

- 1. Resolution cancelling unexpended balances of certain General Capital Improvement Appropriations.  
Resolution No. 2011-215**
- 2. Resolution of the Governing Body of the Township of Lakewood Certification of the Annual Audit.  
Resolution No. 2011-216**
- 3. Resolution releasing a Performance Guarantee posted by Dubin Contracting, LLC, in connection with application SP#1678 – Sneddon Minor Subdivision (Pawnee Road), Block 2.08, Lot 4 in the amount of \$10,410.00.  
Resolution No. 2011-217**
- 4. Resolution authorizing the Insertion of a Special Item of Revenue into the 2011 Municipal Budget Clean Communities Grant, in the amount of \$89,651.13. (Chapter 159 – Clean Communities Grant)  
Resolution No. 2011-218**
- 5. Resolution authorizing the Insertion of a Special Item of Revenue into the 2011 Municipal Budget, UEZ Business Assistance Initiative Grant, in the amount of \$100,000.00. (UEA – Chapter 159 – Business Assistance Grant)  
Resolution No. 2011-219**

6. **Resolution authorizing Execution of an Agreement with the New Jersey Transit Corporation for Federal funding for the construction of a Paved Parking Facility.  
Resolution No. 2011-220**
7. **Resolution authorizing a Confirmatory Deed for Block 235, Lot 36.  
Resolution No. 2011-221**
8. **Resolution authorizing Execution of a Shared Services Agreement with Ocean County for use of the Truck Wash Facility at the Lakewood Public Works Complex.  
Resolution No. 2011-222**
9. **Resolution appointing an Alternate Insurance Fund Commissioner.  
(Michael Muscillo)  
Resolution No. 2011-223**
10. **Resolution reducing the Performance Guarantee (First Reduction) posted by 105 River Avenue, LLC, in connection with ZB#3552 (105 River Avenue), Block 758, Lot 1.  
Resolution No. 2011-224**
11. **Resolution authorizing award of contract for Professional Engineering and Survey Services for Lakewood Airport relating to Block 1160, Lots 246, 251 & 269 to Remington, & Vernick Engineers using the Fair and Open Process, in the amount of \$11,500.00.  
Resolution No. 2011-225**

Motion by Committeeman Coles, second by Committeeman Lichtenstein, to approve Resolution Nos. 1 through 11 on the Consent Agenda.

On Roll Call – Affirmative: Committeeman Coles, Committeeman Lichtenstein, Committeeman Akerman, Deputy Mayor Langert and Mayor Miller.

**Resolution Nos. 2011-215 through 2011-225 – Adopted.**

**ORDINANCE SECOND READING - None**

**ORDINANCE FIRST READING – (Ordinance No. 2011-43 discussed earlier in the meeting.)**

**PARKS AND EVENTS CORRESPONDENCE**

Per schedule of ten (10) picnic/event requests, attached hereto and made a part hereof.

Motion by Committeeman Lichtenstein, second by Deputy Mayor Langert, and carried, to approve the above Correspondence items.

**MOTION TO APPROVE BILL LIST OF: 07/12/11**

Motion by Deputy Mayor Langert, second by Committeeman Coles, to approve the above Bill List.

On Roll Call – Affirmative: Committeeman Coles, Committeeman Lichtenstein, Committeeman Akerman, Deputy Mayor Langert and Mayor Miller.

**Bill List approved.**

**COMMENTS FROM COMMITTEE MEMBERS**

Committeeman Lichtenstein commented on the new website. He worked on the area of the website regarding Emergency Management, and there is an opportunity for people to sign up for Township alerts, which they can get by e-mail or text message. They are asking for the public to start signing up so they can see what kind of interest they have, and eventually there will be a menu where they will be able to pick what they want.....weather updates, storm updates, snow plowing, traffic issues, garbage pick, leave collection, etc.

Deputy Mayor Langert commended Mayor Miller on his message regarding the incident in New York with the young child.

Mayor Miller thanked everyone who attempted to come out for the fireworks display. The rain date is September 4<sup>th</sup>, Labor Day weekend.

**ADJOURNMENT**

Motion by Committeeman Lichtenstein, second by Deputy Mayor Langert, and carried, to adjourn the meeting. Meeting adjourned at 8:14 PM.