

**TOWNSHIP OF PEMBERTON
REGULAR MEETING
JANUARY 18, 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

Jason Allen

Ken Cartier

Richard Prickett

Diane Stinney

ABSENT

Sherry Scull

Also present: Mayor David Patriarca, Business Administrator Chris Vaz, Township Solicitor Andrew Bayer, Antonella Colella of Gluckwalrath, Township Engineer Kelly Willis, and Township Clerk Mary Ann Finlay.

CALL TO ORDER

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

CLOSED SESSION

RESOLUTION NO. 42-2012

WHEREAS, SECTION 8 OF THE OPEN PUBLIC MEETINGS ACT, CHAPTER 231, P.L. 1975 PERMITS THE EXCLUSION OF THE PUBLIC FROM A MEETING IN CERTAIN CIRCUMSTANCES; AND

WHEREAS, THIS PUBLIC BODY IS OF THE OPINION THAT SUCH CIRCUMSTANCES PRESENTLY EXIST;

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

1. THE PUBLIC SHALL BE EXCLUDED FROM DISCUSSION OF AND ACTION UPON THE HEREINAFTER SPECIFIED MATTERS.
2. THE GENERAL NATURE OF THE SUBJECT MATTERS TO BE DISCUSSED IS AS FOLLOWS:
BROWNS MILLS SHOPPING CENTER REDEVELOPMENT CONTRACT NEGOTIATIONS
HISTORIC TRUST CONTRACT NEGOTIATIONS
3. IT IS ANTICIPATED AT THIS TIME THAT THE ABOVE-STATED SUBJECT MATTERS WILL BE MADE PUBLIC WHEN THE MATTERS HAVE BEEN RESOLVED.

Motion by Prickett and Allen to approve Resolution No. 42-2012. Prickett; yes; Allen, yes; Stinney, yes; Cartier, yes. Motion carried.

Council President Cartier recessed the open meeting at approximately 6:31 PM to go into closed session and reconvened the open meeting at approximately 7:00 PM. Mr. Cartier noted that there was no formal action necessary pursuant to closed session.

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

CONSENT AGENDA

All items listed with an asterisk (*) are considered to be routine by the Township Council and will be enacted by one motion. Should a Council Member wish to discuss a consent agenda item separately, that item can be removed from the consent agenda and considered in its normal sequence on the regular agenda.

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

Claire Wadsworth, Browns Mills – Noted that she thought in regards to the budget transfer resolution that transfers could only be done at the end of the year and how much was being transferred. She was explained that they can be done during the last two months of the year and the first three months of the year. Mr. Cartier read the transfer amounts and the departments affected. She questioned why they would put more in legal when they voted to reduce the legal line in the temporary budget. It was explained that there are residual charges from the previous year to be covered.

Bob Pelletier, Pemberton – In regards to the consent of the Solicitor's appointment he expressed

that he did not feel that Mr. Bayer represented Council’s interest in the Historic Trust matter.

William Fitzpatrick, Presidential Lakes – Tried to discuss the lack of bus transportation in Presidential Lakes when President Cartier explained that the present public comments is for consent agenda items only and that he could address that during the general public comments.

At this time Mr. Prickett requested to pull Resolution Nos. 46-2012 and 47-2012 from the consent agenda

CONSENT AGENDA RESOLUTIONS

RESOLUTION NO. 43-2012

WHEREAS, THERE EXISTS A NEED BY THE TOWNSHIP OF PEMBERTON FOR THE SERVICES OF A SOLICITOR FOR THE YEAR 2012; AND

WHEREAS, IT HAS BEEN CERTIFIED BY THE CHIEF FINANCIAL OFFICER OF PEMBERTON TOWNSHIP THAT FUNDS ARE AVAILABLE FOR THESE SERVICES IN THE AMOUNT AND ACCOUNT NUMBER AS STIPULATED IN THE ATTACHED CERTIFICATION OF FUNDS; AND

WHEREAS, THE LOCAL PUBLIC CONTRACT LAW (N.J.S.A. 40A:11 ET SEQ.) REQUIRES THAT THE RESOLUTION AUTHORIZING THE AWARD OF CONTRACTS FOR SUCH SERVICES WITHOUT COMPETITIVE BIDS AND THE CONTRACT ITSELF BE AVAILABLE FOR PUBLIC INSPECTION; AND

WHEREAS, THE MAYOR HAS RECOMMENDED TO THE GOVERNING BODY THE APPOINTMENT OF ANDREW BAYER, ESQ. AND GLUCK WALRATH LLP, AS SOLICITOR FOR THE TOWNSHIP OF PEMBERTON FOR THE YEAR 2012, COMMENCING ON JANUARY 1, 2012 AND TERMINATING ON DECEMBER 31, 2012 OR UNTIL SUCH TIME AS THE APPOINTEE’S SUCCESSOR IS APPOINTED AND QUALIFIED, WHICHEVER LATER OCCURS;

NOW, THEREFORE, BE IT RESOLVED, BY THE GOVERNING BODY OF PEMBERTON TOWNSHIP, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, THAT CONSENT OF THE SAID GOVERNING BODY IS HEREIN GIVEN TO THE APPOINTMENT OF ANDREW BAYER, ESQ. AND GLUCK WALRATH LLP, AS SOLICITOR FOR PEMBERTON TOWNSHIP FOR THE YEAR 2012 OR UNTIL SUCH TIME AS THE APPOINTEE’S SUCCESSOR IS APPOINTED AND QUALIFIED, WHICHEVER LATER OCCURS.

BE IT FURTHER RESOLVED BY THE GOVERNING BODY, AS FOLLOWS:

1. THE MAYOR AND CLERK ARE HEREIN AUTHORIZED TO EXECUTE AN AGREEMENT FOR SERVICES WITH ANDREW BAYER, ESQ. AND GLUCK WALRATH LLP.
2. THIS CONTRACT IS AWARDED IN ACCORDANCE WITH N.J.S.A. 19:44A-20.5 ET SEQ., THROUGH THE FAIR AND OPEN PROCESS AND IN ACCORDANCE WITH THE LOCAL PUBLIC CONTRACTS LAW.

RESOLUTION NO. 44-2012

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE FOLLOWING INDIVIDUALS ARE HEREBY APPOINTED TO THE PEMBERTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY, FOR THE TERMS INDICATED BELOW:

ADRIENNE LEONARD	REGULAR MEMBER	TERM 2/1/12-2/1/17
KARA C. SCHNURE	ALT. #1 MEMBER	2/1/12-2/1/17

RESOLUTION NO. 45-2012

WHEREAS, N.J.S.A. 2A:8A-1, ET SEQ. PROVIDES THAT A MUNICIPALITY WHICH HAS A MUNICIPAL COURT SHALL APPOINT A MUNICIPAL COURT JUDGE TO ADMINISTER SAID COURT; AND

WHEREAS, THE STATUTE PROVIDES THAT THE APPOINTMENT OF THE MUNICIPAL COURT JUDGE SHALL BE FOR A TERM OF 3 YEARS FROM THE DATE OF APPOINTMENT AND UNTIL HIS SUCCESSOR IS APPOINTED AND QUALIFIED; AND

WHEREAS, PEMBERTON TOWNSHIP IS GOVERNED BY A MAYOR-COUNCIL FORM OF GOVERNMENT; AND

WHEREAS, IN ACCORDANCE WITH THAT FORM OF GOVERNMENT, THE MUNICIPAL COURT JUDGE IS APPOINTED BY THE MAYOR WITH THE ADVICE AND CONSENT OF THE TOWNSHIP COUNCIL; AND

WHEREAS, MAYOR DAVID A. PATRIARCA RECOMMENDS THAT CHARLES SHIMBERG, ESQ. BE APPOINTED AS JUDGE OF THE MUNICIPAL COURT OF PEMBERTON TOWNSHIP.

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, THAT THE TOWNSHIP COUNCIL DOES HEREBY CONSENT TO THE MAYOR’S APPOINTMENT OF CHARLES SHIMBERG, ESQ., WHOSE OFFICE IS LOCATED AT 20 BRACE ROAD, SUITE 350, CHERRY HILL, NEW JERSEY, 08034, TO SERVE AS JUDGE OF THE MUNICIPAL COURT OF PEMBERTON TOWNSHIP FOR A 3 YEAR TERM TO COMMENCE ON FEBRUARY 17, 2012 AND EXPIRE ON FEBRUARY 17, 2015.

Approval by Council required for payment of vouchers on bill list dated 1/13/12.

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

RESOLUTION NO. 46-2012

WHEREAS, PEMBERTON TOWNSHIP HAS AUTHORIZED BENEFICIAL BANK AS AN AUTHORIZED BANK FOR DEPOSIT OF PUBLIC FUNDS;

WHEREAS, IT IS NECESSARY TO PROVIDE FOR WIRE TRANSFERS OF PUBLIC FUNDS IN ORDER TO CONDUCT DAILY OPERATIONS OF THE TOWNSHIP;

NOW, THEREFORE BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE MAYOR IS HEREBY AUTHORIZED TO SIGN A WIRE TRANSFER AGREEMENT BETWEEN THE TOWNSHIP OF PEMBERTON AND BENEFICIAL BANK.

Motion by Prickett and Stinney to approve Resolution No. 46-2012. Prickett, yes; Stinney, yes; Allen, yes; Cartier, abstain. Motion carried.

RESOLUTION NO. 47-2012

Mr. Prickett expressed concern with the legal line transfer and suggested reducing the amount. Mr. Vaz noted that it could be for November and December bills. Discussion ensued and

Council determined to move on with the agenda until Mr. Vaz could find an explanation.

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

ORDINANCE 1-2012 (TITLE WAS READ BY MR. CARTIER)

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON SUPERSEDING ORDINANCE 24-2011 AND AMENDING SECTION 182-31 OF THE TOWNSHIP CODE, ENTITLED “SCHEDULE A: NO PARKING”

Motion by Stinney and Allen to adopt Ordinance No. 1-2012

President Cartier opened the meeting up to public comments on the ordinance. There being no members of the public indicating a desire to speak, he closed the meeting to public comments on the ordinance.

President Cartier noted the email they received regarding the correction needed on one of the roads. Mr. Bayer shared that the ordinance came from the County. They discussed the need to correct the road listed on Pemberton-Browns Mills Road to read from Four Mile Road to Springfield Road. Mr. Bayer confirmed that it would be considered a substantial change. Mrs. Finlay advised that they could approve the amendment and hold a public hearing on the amendment only, at their next meeting prior to adopting the amended ordinance.

Motion by Allen and Stinney to amend Ordinance No. 1-2012 with the change in name of the road from Four Mile Road to Springfield Road, with a public hearing on the amendment to be held at the February 1st meeting and duly advertised. Allen, yes; Stinney, yes; Prickett, abstain, Cartier, yes. Motion carried.

RESOLUTION NO. 47-2012

WHEREAS, N.J.S.A. 40A:4-59 PERMITS THE TRANSFERS OF FUNDS FROM APPROPRIATIONS WITH EXCESS BALANCES DEEMED NECESSARY TO FULFILL THE PURPOSE OF SUCH APPROPRIATIONS TO APPROPRIATIONS DEEMED INSUFFICIENT TO FULFILL THE PURPOSES SPECIFIED IN THE BUDGET.

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE FOLLOWING TRANSFERS IN THE 2011 BUDGET APPROPRIATIONS BE MADE:

CURRENT FUND

<u>FROM</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>	
STREETS & ROADS—SALARY	1-01-26-290-000-110	\$11,000.00	
BUILDINGS & GROUNDS—SALARY	1-01-26-310-000-110	<u>\$20,100.00</u>	
TOTAL			\$31,100.00
<u>TO</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>	
LEGAL SERVICES	1-01-20-155-000-271	\$21,500.00	
GASOLINE	1-01-31-460-000-000	\$ 9,100.00	
FUEL/OIL	1-01-31-447-000-000	<u>\$ 500.00</u>	
TOTAL			\$31,100.00

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

Mr. Vaz explained that the back sheet of the bill list is for items that are authorized by resolutions. Mr. Prickett suggested reductions for the resolution. Mr. Vaz further explained that the transfer has to come first, then the bill list, and then Finance does the transfer. Mr. Bayer also noted his portion of the bill.

Roll call vote continued: Prickett, yes; Allen, yes; Stinney, yes; Cartier, yes. Motion carried.

General Public Comments.

William Fitzpatrick, Presidential Lakes – 1. Questioned the status of bussing in Presidential Lakes. He expressed his frustration and anger that all other areas of the town had transportation except Presidential Lakes and expressed anger that a bus stops short of approximately 6 miles from them and takes a nap. Mr. Cartier relayed that the Township has reached out to the County on numerous occasions but they refuse. Mrs. Stinney suggested his testimony be sent to the County. Mr. Allen offered to contact the County. 2. Commented on the lakes, South Dakota side noting there used to be a spill well and it is not there anymore. Now they only have a lake with mosquito problems. and down from Rt. 70 there’s a ditch with tires lost in the lakes. 3.

Expressed his displeasure with the Rail Road train ongoing issues.

John Shaw, Browns Mills – 1. Expressed thought that monies have to be in the account before any bills can be paid, to which Mr. Vaz explained the budget process to him. 2. Noted concern that Pear Ave. is still a drag street and questioned if a traffic study could be done. Mrs. Willis noted they did do a study on it but would look into it further.

Mike Tamn, Historic Trust – 1. Questioned who put out information that the Historic Trust had abandoned history at the station, noting it was in the paper to which he was advised by President Cartier that he would have to ask Mr. Tait since it was his story. 2. Relayed that some material has been removed out of the train station and the matter is becoming serious. He expressed that no one understands that many items were awarded to them by State and Federal agencies and they are historic. He expressed the train station is the gateway of the Township. He expressed displeasure with negotiations and urged Council to take action. He advised that the Trust agreed to the contract and did not understand what the problem is. He relayed the ongoing issues with negotiations and feels they are not getting Township support. Mr. Tamn commented on the items being moved around by the Township and expressed concern with the historic nature of the items.

Adriene Leonard, Browns Mills – 1. Thanked Council for appointing her to the MUA, noting she enjoyed working on the board. 2. Congratulated Mr. Prickett on his appointment to the Pinelands Commission.

Bob Pelletier, Pemberton – 1. Commented on the Burlink issue in Presidential Lakes and agreed that he would like to see it go out there. 2. Spoke of an experience down at the train station one day wherein an elderly woman was there that said she wanted her husband's artifact back as she only wanted it at that train station as well as another woman's similar experience. 3. Addressed the appearance of conflicts of interest. He questioned if the Township has in their code anything that addresses conflicts of interest to which Mr. Bayer noted that all municipalities are governed state law in this regard which is the Local Government Ethics Law. He thought that the ethics issues mainly pertained to monetary gain by that person and felt that in Mrs. Scull's case since she did not gain a monetary gain as a trustee of the Trust and questioned why she would be prevented from voting on any of the Trust matters. Mr. Bayer explained that the Local Government Ethics Law goes further than monetary gain and gave his examples of impartiality issues. 4. Expressed displeasure with the Mayor's comments such as when he was indicating that the public was "grandstanding".

Karen Bryant, Browns Mills – Questioned the status of the proposed recycling bank program that was present a few years ago. Mr. Vaz noted that out of seven towns that entered, three determined not to renew, one is in the process, and another is assessing the situation. He explained there have been problems with the program in that the towns have discovered that the cost of paying the annual fee per household has not translated into a benefit on the side of an increase in recycling and the program itself has found it very difficult to find businesses willing to participate in the coupon program.

Claire Wadsworth, Browns Mills – 1. Asked how she can obtain a copy of the contract and the RFP for the private investigator to which she was told she could obtain it through an OPRA request. 2. Read a letter that she attached to a petition of signatures urging Council to initiate action to change the Township's current form of government.

America Phillips, Presidential Lakes – 1. Noted that Presidential Lakes brings their problems to them and some are resolved and some not. 2. Expressed her shock at hearing there are no cameras in the building and noted a majority of lights out in the front of the building. She expressed that cameras would provide evidence if anything happens. 3. Commented on vacant houses that are not boarded up in her community many of which are from foreclosures. She questioned whose responsibility it would be. President Cartier noted it would be the banks' responsibility and that Administration could let the banks know. Mr. Prickett added that pursuant to a Township ordinance that covers a vacant house registry and in need to be boarded up and she as a resident should be able to request to review that file. 4. Expressed dismay over the condition of the train station and that her daughter-in-law could not run on the trails last week because the parking lot was blocked. She was upset because when she called she was advised that she could park in the WaWa parking lot. 5. Agreed with the dismay regarding the

lack of buses in Presidential Lakes. 6. Complained that the entrance of New York and Tennessee Trail there is a blind spot due to foliage blocking the view. 7. Spoke of drainage problem on her street and at the house at 419 New York. 8. Questioned the status of the old Acme, to which she was advised by the Solicitor that a new redevelopment plan has been approved and they have designated a redeveloper, they are in discussions over an agreement. He noted that until they get someone in place to move forward they can't do anything. 9. Asked the status of the closed down Obies Bar. She was advised that there were no bidders to the most recent auction of the bar.

Marisa Wilkins, Browns Mills – 1. Noted in regards to speed bumps, suggested a type she has seen in Maryland which is a circle of flowers which she thought was pretty and seemed to do the job. 2. Noted she was looking into the abstention votes issues and noted what she has researched regarding the matter noting that abstention votes do not count toward the count and does not count toward the yes nor the no votes. Mr. Bayer commented on the Local Government Ethics Law which notes numerous reasons.

Rich Koster, Browns Mills – Questioned what the town's current outstanding debt is. President Cartier acknowledged that he did not know at this moment and that the Auditors are presently working on ascertaining that.

Jim Wasniewski, Country Lakes - 1. Requested what the current requirements are. Mrs. Willis shared the web site he could refer to and is something she can look into and give to the Clerk's office. He requested one for Choctaw Road and for Chippewa. The Mayor noted they could look into it. 2. Expressed he is elated that the damns are finally being worked on. He further noted that 100 Spring Terrace has two septic tanks and in reconstructing the damn there he can't see how that's going to be allowed to continue and advised them to investigate that house. The Engineers office will have to look into it with the MUA and consult with the Solicitor's office.

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

Solicitor's Report:

Mr. Bayer thanked Mayor and Council for their support. Mr. Prickett noted looking into the Faulkner Act and the current form of government noting that the town was under the Committee form in 1990. He noted that in the statutes there is a section D regarding abandonment of an Optional Plan and reversion to a prior form. He relayed that the statute that regulates that is 40:69A-25. He advised that it goes into how they would get that to the public to vote on whether or not they want to change back to the old form of government. He asked if the Solicitor could review that statute and come back with an explanation of this. Mr. Prickett noted that a lot of the surrounding municipalities have the Committee form of government, including Pemberton Borough, noting also Princeton and Middleton. He questioned if they could use this statute to consider changing to another form of government.

Engineer's Report:

Mrs. Willis reported that they have met with the Tax Office and they are starting phase III of the Tax Maps, and they are working on the corrections for phase II.

Mayor's Report:

Mayor Patriarca noted in regards to Ms. Phillips' comments, that he and Mrs. Willis have recently spoken about the fifth year of the Road Program and bringing that portion of Tennessee and Wisconsin into the program to address the drainage issues in Presidential Lakes.

Mr. Prickett asked the Mayor in regards to the paper recycling if this is costing the town money which he believes that is the reason the some of the other municipalities have pulled out of the program. The Mayor noted seeing the savings in the tipping fees, and the other benefit of the program is the recycling of products and they are getting the benefits of both. He clarified that the recycling bank is a separate program to provide incentive to recycle. Mr. Prickett questioned regarding Ms. Phillips' comments on vacant houses and the vacant house registry. He noted his main concern is if they are being boarded up and anything the Township can do to ensure that they all get boarded up. The Mayor noted that they just received information from Code Enforcement that they have been out identifying the homes and will be sitting down with

Administration to go over this. He relayed that they already directed Public Works and they have purchased the materials. He noted the process is in place and they are acting on it.

Council Members' Comments.

Diane Stinney: 1. Shared that the Friendship A.M.E. Church celebrated Martin Luther King Day with a heart warming service by their local students, and many town clergy and residents. 2. Gave thanks to the volunteer fire fighters that so diligently stand to the call of duty when there is a fire in the town and in surrounding areas, particularly noting a fire on Hargrove on Sunday. 3. In regards to Mr. Fitzpatrick's comments, she suggested that when the County has there public hearings on transportation perhaps someone could be sent to speak on behalf of Pemberton Township. She assured Mr. Fitzpatrick they are lobbying for them. 4. Extended congratulations to Mr. Prickett for his appointment to the Pinelands Commission. 5. Announced that the County is having a public hearing on January 31st regarding the closing of the Buttonwood Hospital.

Richard Prickett: 1. In regards to ethics, and abstentions and leaving the dais, he noted that he abstained tonight because he is now a member of the Pinelands Commission which votes on municipal master plans and ordinances as well as County master plans and ordinances. He expressed not wanting to be in the position where he votes two times on something and still has to work out what the appropriate things are that he should vote on and what constitutes conflict. He expressed that his first priority is to cast a vote here for the Township but needs to work that out with the Township and Pinelands Solicitor. He informed that when dealing with a big issue in the past he not only recused himself but also left the room. 2. Expressed pleasure in seeing an article about Geraldine Coleman Brown creating family atmosphere here in Pemberton Township, noting that it's important that more people express interest in kids which will make a big difference in everyone's future.

Jason Allen: 1. Affirmed that he heard Mr. Fitzpatrick say that he would be sharing his comments at the next Council meeting so he's assuming he will be here on February 1st and Mr. Allen will share the research that he conducts with the Burlington County Transportation System. 2. In regards to Mrs. Wilkin's comments regarding abstaining from a vote and Mrs. Scull he noted that he had two interesting pieces of literature that might be able to explain that a little better to her and we share that with her after the meeting. 3. Thanked everyone for coming out and he looks forward to seeing everyone on February 1st.

Kenneth Cartier: Thanked everyone for coming out, asked everyone to stay safe in the event of inclement weather and announced that there would not be a second closed session this evening.

The meeting was adjourned at approximately 9:22 p.m.

Respectfully submitted by,

MARY ANN FINLAY, MMC, TOWNSHIP CLERK