

**TOWNSHIP OF PEMBERTON
REGULAR MEETING
JANUARY 4, 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
Sherry Scull
Diane Stinney

ABSENT

Also present: Mayor David Patriarca, Township Solicitor Andrew Bayer, Township Engineers Chris Rehmann and 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. 35-2012

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 Scull and Prickett to approve Resolution No. 35-2012. Scull, yes; 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. Seeing no members of the public wishing to speak, Council President Cartier closed the meeting to the public for comments on the consent agenda items.

***8. CONSENT AGENDA RESOLUTIONS**

36-2012 Resolution authorizing submission of application to Local Finance Board in connection with Township's participation in the year 2012 New Jersey Environmental Infrastructure Financing Program to finance the costs of water utility improvements.

37-2012 Authorizes various routine refunds.

38-2012 Appoints Council Member to serve as TAG Liaison and Chair and Vice Chair of TAG.

39-2012 Adopts changes to existing deferred compensation plan pursuant to final Internal Revenue Code Section 415 Regulations, Pension Protection Act of 2006, Heroes Earnings Assistance and Relief Tax Act of 2008 and the Worker, Retiree and Employer Recovery Act of 2008.

40-2012 Affirms consent of Council to Workers Compensation Counsel appointment.

10. NEW BUSINESS

***a.** Purchases at \$2,000.00 or over:

***Tax Assessor:** Purchase of Notice of Assessment post cards including set up and postage from Microsystems-NJ.com, LLC in the amount of \$5,632.96

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

ORDINANCES FOR INTRODUCTION

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"

President Cartier reminded Council that they approved this no parking ordinance last year and sent it to the County. He relayed that the County has discussed it and noted a correction that needs to be made which is the draft they now have. He explained that the ordinance is basically the same with the exception of the change on County Route 687. There is a portion of Pemberton-Browns Mills Road that is 687, not County Route 530.

Motion by Prickett and Scull to introduce Ordinance No. 1-2012 with a public hearing to be held on January 18th, and advertised in accordance with law. Prickett, yes; Scull, yes; Stinney, yes; Allen, yes; Cartier, yes. Motion carried.

General Public Comments.

Diane Fannucci, Pemberton Borough – 1. Noted that Ms. Wadsworth had brought up the leaf vacuum at the last meeting so she suggested to her Borough Council last night that perhaps they could enter into a shared services agreement with the Township. 2. In regards to the Train Station she expressed confusion over why two Council members voted no to the resolution rescinding the previous resolution. She questioned why this problem exists in the first place and that if the public wants it, Council wants it why is this being done and who was spoken to on the County level. Mr. Cartier explained again that it's the Mayor's responsibility to negotiate contracts. The Mayor advised that he has already had a conversation with Ms. Fannucci and will not reiterate it tonight, but that she can come to his office to discuss it further. She expressed frustration as to how one person can oppose the will of what the public and Council wants. Mr. Bayer explained again why Council voting to rescind their prior action was not valid as only the Mayor can present contracts. He read case law of similar cases that supports his opinion, which would lead to further legal matters.

Stephen Fenstor, Pemberton Borough – He noted visiting and walking the trails once a week for five years. He advised that he can't go to the train station or visit the museum because there is a sign stating it's closed by order of the Mayor. He expressed that many are being punished over the Train Station and the trails are

degrading. He advocated for the trains and the Train Station. He is in support of the County taking this over and wants to see the land swap go through. He questioned why one person can hold this up and expressed his disappointment and anger over the situation.

Andrew Adams, Camden City, for Township resident - 1. Felt that it was appropriate for Ms. Fannucci to ask who or whom on the County level because Freeholders could be one, two, or three persons. 2. Expressed perhaps Council needed an apology because the public has only received bits and pieces of information. 3. He noted that they have a strong Mayor in Camden City and they have separate Counsel that represents the Mayor and Council. 4. Expressed thanks to Mrs. Stinney, Mr. Prickett, and Mrs. Scull for supporting the Train Station. As a former resident he is saddened over the matter. He expressed disappointment in Mr. Allen and Administration. He commented that people are going to remember this in the future.

America Phillips, Presidential Lakes – 1. She noted having seen a lot of politics this past year. She expressed that the Township is going backwards and questioned why they are being punished. She questioned why the Mayor did not have a public meeting and expressed that the Mayor should be ashamed.

George Petronis, Browns Mills – He noted that based on the last meeting's comments one of the issues outstanding is the number of cars. He expressed his feelings about value of the rolling stock and artifacts and admonished the Mayor for his disrespect and comments that the public is grand standing.

Marisa Wilkins, Browns Mills – 1. Noted that the building was cold the other day when she came in yesterday to purchase a dog license. She was told that the circulator pumps were not working and they are taking care of the problem. She expressed concern for health issues resulting from the lack of heat and hot water. 2. She questioned if the police department showers have separate boiler and noted that years ago a gas line was run to the building and questioned if that project would ever be finished. Mr. Cartier noted that is a project that would have to be presented to Council by the Mayor. 3. She questioned how much they pay for the new software that was installed. The Mayor explained the project but noted he did not have the amount with him tonight. 4. She asked if there are any cameras or video monitoring system in the building. Mrs. Stinney noted they do not, and that she has been advocating for this for quite some time. 5. She questioned how many years Boman has served as Auditor to which she was advised that it is their third year. 6. Questioned who donates the 1st, 2nd and 3rd place prizes for the Winter Carnival, which it was unknown. 7. Asked why the definition of rental in regards to family members was changed. Mr. Bayer explained it was because the ordinance as drafted did not address the property owner that has family members living on their property. 8. Again expressed that she wants a policy established regulating the services rendered. Mr. Bayer explained that now it's being used for a legal case but later for workers comp cases.

Mike Tamn, Pemberton Township Historic Trust – Spoke of the ongoing negotiations, noting the Trust had compromised the issue of the number of cars down to 6 cars instead of 12, acknowledging that the main outstanding issue was over the number of cars. He expressed his frustration over the method of negotiations. He spoke of an email that was sent to Council asking the Trust to return the key. He advised that they have been packing and have consulting with two movers to put their items in storage. He expressed that the Mayor has pushed the issue on the basis that the Freeholders want the trains out which is impossible to do with the terms he has laid out. Mrs. Scull questioned if the Freeholders had given him anything in writing that they want the trains out because the last thing she recalled is that they approved the land swap with the 9 cars. Mrs. Stinney clarified that she was asking who on the County level was being spoken to and asked Mr. Bayer his opinion on their previous resolution regarding the land swap. Mr. Bayer noted that there is an agreement in place. There is no question that the resolution was adopted and that there is an agreement in place. He noted that Council President raised a point that the County has indicated they won't go to closing. He noted they have options as in any contract that doesn't close; they can walk away or they can sue. So the question is whether the Township wants to sue the County of

Burlington over this land swap issue.

Claire Wadsworth, Browns Mills – 1. Noted that she was previously told that the State Police could not help in the matter of the need for the private investigator. Mr. Bayer explained that the matter was a legal matter not a criminal matter. 2. She noted that the Council tried to adopt a resolution rescinding their previous action to terminate the lease, and asked if the case law that Mr. Bayer had cited was current case law and whether they were published and whether he looked for case law that would support, to which Mr. Bayer interjected that he looked for whatever case law regardless of the position it supports.

Solicitor's report.

Mr. Bayer had no report for tonight.

Engineer's report.

Ms. Willis reported 1. Thanked Council for their appointment. 2. Noted they will receive bids tomorrow for well #12 and will have a new pump installed at Well #13. 3. Reported that the Country Lakes Geo Technical contract is on hold.

Planner's report.

Mr. Ragan thanked Council for his appointment and spoke of progress for the New Year. He noted they are working on three things, one of which is the redevelopment area in Browns Mills. Secondly, Pinelands has authorized a grant to the community for some ministerial items that need to be changed to Pinelands standards and they will be looking into. Third, Administration is working on an ordinance to assist the home owners that have non-conforming properties that have to keep coming back and forth to the Zoning Board to seek variances.

Ms. Stinney asked about the status of the new dialysis center. Mr. Ragan noted that the developer is making effort to meet with the Church and hopefully will have some answers after the next strategy meeting.

Mayor's report.

Mayor Patriarca noted that he did not have comments. Mr. Prickett expressed his understanding to the Mayor that Administration is working on putting together another historic organization to take over the Train Station. The Mayor noted he was not privy to the memo he is referring to. He shared an email was sent to the Trust by Mr. Vaz notifying that the Mayor intends to start moving property out of the building starting on Thursday and that tomorrow an announcement would be posted on the web site asking interested persons to attend a meeting that would focus on the forming the Pemberton Township Historic Society. Mr. Vaz noted speaking to residents that have expressed interest in forming a new organization that does not include Mr. Tamn and other Trust members and that many people have historic items they would like to share if Mr. Tamn was out of the picture. The Mayor acknowledged having conversations with Mr. Vaz regarding the residents' expressed interest in forming a new organization as a result of the Trust indicating that they were going to Mt. Holly. They felt there was a need for some group to continue preserving the town's history. Mrs. Scull and the Mayor disagreed over their opinions over the status of the Train Station and removal of items, number of cars, etc.

Council Members' Comments.

Jason Allen: 1. Expressed confusion as to why Mr. Adams was disappointed in him when there were three people that supported the resolution to end legal action and begin contract negotiations, which was himself, Mrs. Stinney and Mr. Cartier. He noted that at the last meeting Mr. Prickett presented a resolution in which he and Mr. Cartier voted no against it and Mrs. Stinney and Mr. Prickett suggested that the resolution should move forward. He further noted however, that the Solicitor stated that Mr.

Prickett's resolution involves a contract and only the Mayor can negotiate contracts. He explained that in order to show that he has supported the Train Station; he has had many conversations with Mr. Tamn and Mrs. Leonard, so he is confused why he was being singled out. 2. He announced that TAG would be having a meeting on February 2nd at 7 PM at the Country Lakes Club House for those interested in supporting them; they are looking for more volunteers.

Diane Stinney: Said that she just wants to say goodnight and that she is going to start some research on a new form of government.

Richard Prickett: He reflected that at the last meeting he read a resolution, 282-2011, which was added to the agenda for discussion and was defeated because the vote was 2 to 2. He noted having heard tonight the Council is interested in having their own Counsel, noting they have talked about this for quite awhile. He expressed belief that if they had passed this resolution in December they would now have their own Solicitor to confer with. He believes they should think carefully about that and questioned if they want a Counsel that represents the Council or to continue to go along with status quo with the one Solicitor they have. He then proposed if he received any support he would like to add a resolution to the agenda which would make it resolution no. 41-2012. He explained that it's a resolution rescinding prior action of the Township Council terminating the lease of the Pemberton Historic Trust. He read the resolution for the record.

Motion by Prickett and Stinney to add Resolution No. 41-2012 to the agenda.

Mr. Allen noted that he thought Council had clarified that it was illegal and that he is not certain that everything in Mr. Prickett's resolution is accurate. It sounds good on record, and they have already established that everyone on Council is for the Train Station and they would like to see it there. He questioned why move forward with a resolution that would cause further legal action. Mr. Prickett contended that it's not illegal and if they move forward with the Resolution they would be able to get their own lawyer to consult with to confer with over the action. Mr. Bayer clarified that they would need the Mayor's consent and for him to provide that to them. He added that assuming that his resolution is approved he questioned if they go back to the Superior Court and say that they are back in the litigation they were in back in November over those issues over the prior license agreement. Mr. Prickett reiterated that perhaps they can potentially get advice from their Solicitor that represents the Council on those matters. Mr. Bayer noted that the lawsuit was dismissed and it was represented to the Court that the basis of that dismissal upon which the Court agreed to allow it to be dismissed was that the Council terminated the license agreement. Based upon that representation that was presented to the Court the case was dismissed. Mrs. Scull asked if that wasn't because the Mayor did not have the right to end the lease and that the Council was advised that in order to stop the costs for the legal expenses that they had to also uphold cancelling the lease. Mrs. Stinney noted that the public had continually asked Council to stop spending money on lawyers and the Solicitor advised that the only way that could happen was to terminate the lease. She expressed that at the time she had faith in Administration to make the right decision and that good faith negotiations would take place. She reiterated that she took that stand for the residents under the advice given by the Solicitor.

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

Council President then noted they now have Resolution No. 41-2012 to take action on. Mrs. Stinney then asked whether Mrs. Scull should recuse herself from the dais. President Cartier stated that she did when she abstained. Mrs. Scull then offered that she would step down from the dais. Mrs. Stinney noted that by her stepping down, the record would reflect that she's not sitting up at the dais, period.

RESOLUTION NO. 41-2012

Council President asked Mr. Prickett to read the title of the resolution which he stated

for the record that resolution no. 41-2012 was a resolution rescinding prior action of the Township Council terminating the lease of the Pemberton Township Historic Trust for the Township's Rail Road Station.

Motion by Prickett and Stinney to approve Resolution No. 41-2012. Prickett, yes; Stinney, yes; Mr. Allen, no; (It was noted that Mrs. Scull stepped down from the dais) Cartier, no. Motion failed for lack of the three votes required for passage of a resolution.

Mrs. Stinney asked if the results of the votes constituted a tie. President Cartier explained that the resolution failed for a lack of majority vote. Mr. Allen commented that that was the same thing that happened the last time. Mrs. Stinney disagreed noting that the last time their Solicitor did not ask Mrs. Scull to step down so therefore her vote counted and that was an abstention on her part which meant it was a no vote. She relayed that now they had four Council members up at the dais which is two and two that took a vote and asked in that case where do they go for the third vote. Mr. Bayer noted that they don't have a third. Mrs. Stinney asked where they go for the tie breaker. Mr. Bayer noted that in this form of government the Mayor only votes under one circumstance which is not that situation which allows for that. Mrs. Stinney reiterated what happens then in the case of two to two. Mr. Bayer explained that if four people are eligible to vote they need three votes to pass and without the three required votes the motion fails. From the audience Mrs. Scull asked if the abstention can come back and vote to which she was told no. Mr. Bayer explained that Mrs. Scull recused herself. President Cartier further explained that an abstention is not a vote.

Mr. Cartier asked if any other Council members had further comments.

Richard Prickett: Wished everyone a good night.

Diane Stinney: Thanked everyone for coming out and announced that she will be looking into a new form of government.

Sherry Scull: 1. Noted to Andrew Adams in the audience that Mr. Allen voted no on the advice from their Solicitor, actually the Mayor's attorney, but he really did believe that the Mayor was going to negotiate in good faith. 2. Expressed that they should have an ongoing list of projects and whether or not they are approved and if they are funded and noted she will be looking carefully at what gets funded. 3. Expressed that as far as the topic of the traffic engineer that instead of worrying about trains Administration should have been paying more attention to the traffic in Browns Mills and Pemberton and what Ft. Dix's intentions noting talk of traffic being proposed to by-pass Browns Mills and spoke of her concerns with this matter and how many people will be by-passing the town's businesses and the other proposal of opening Pipeline Road. 4. Thanked Mr. Allen for his participation in TAG and wished everyone a good night.

Kenneth Cartier: Noted it was nice to see everyone tonight.

The meeting was adjourned at approximately 8:44 p.m.

Respectfully submitted,

MARY ANN FINLAY, MMC, TOWNSHIP CLERK