

**TOWNSHIP OF PEMBERTON
REGULAR MEETING
FEBRUARY 1, 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

Sherry Scull
Jason Allen
Ken Cartier
Richard Prickett
Diane Stinney

ABSENT

Also present: Mayor David Patriarca, Business Administrator Chris Vaz, 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. 48-2012

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 AGREEMENT
GENERAL WORKERS COMP CASES
HISTORIC TRUST 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 Scull to approve Resolution No. 48-2012. Prickett, yes; Scully, 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 – In regards to Res. 53-2012 asked Council if they knew what type of insecticide would be used, to which she was told that they did not and perhaps she could get that information from the County.

Fred Moorehead, Browns Mills Emergency Squad – 1. Thanked Mr. Vaz for all his work to get the agreement before Council and expressed he was glad to be involved in the process.

Thomas Maahs, Presidential Lakes – In regards to resolutions 51, 52 and 53 asked what the

amendments are. Mr. Vaz explained that the wording “amendment” in the resolution title was misunderstood, and that actually they were just renewals. 2. He advised that the agenda indicated Presidential Lakes Fire Co. #1 but in reality it is Presidential Lakes Fire and Rescue Squad.

America Phillips, Presidential Lakes – Asked if Presidential Lakes was going to be taken care of as always in the past once the agreements were passed. President Cartier explained that nothing would change as this agreement only deals with the housing of equipment.

There being no other members wishing to be heard, President Cartier closed the meeting to public comments on the consent agenda.

Mr. Prickett requested the bill to the Pinelands regarding check 84 and that Resolutions 53 and 54-2012 be pulled from the consent agenda. Mrs. Stinney requested to pull the minutes from the consent agenda. Mrs. Scull explained she wanted to abstain on the minutes for the meetings she did not attend. After a brief discussion with the Solicitor they determined they could actually vote on approving the consent agenda with abstentions on the specific items they wanted to abstain from.

MINUTES FILED BY MUNICIPAL CLERK

Regular Meeting, December, 7, 2011; Regular Meeting, December 21, 2011; Reorganization Meeting, January 4, 2012; Regular Meeting, January 4, 2012; Regular Meeting, January 18, 2012.

CONSENT AGENDA RESOLUTIONS

RESOLUTION NO. 49-2012

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE CHIEF FINANCIAL OFFICER IS HEREBY AUTHORIZED AND DIRECTED TO REFUND MONIES TO THE FOLLOWING PERSONS FOR THE AMOUNTS AND REASONS SET FORTH:
TOBY CHILDRESS, \$35.00, REFUND OF YOUTH INDOOR SOCCER PROGRAM FEE.
HUTCHINSON, \$198.90, REFUND OF PERMIT FEE, CUSTOMER CANCELLED JOB.

RESOLUTION NO. 50-2012

WHEREAS, COUNTRY LAKES VOLUNTEER FIRE COMPANY NO. 1 (“COUNTRY LAKES”) IS LOCATED WITHIN THE TOWNSHIP OF PEMBERTON (THE “TOWNSHIP”); AND
WHEREAS, THE TOWNSHIP AND COUNTRY LAKES DESIRE TO ENTER INTO AN AGREEMENT (THE “LEASE AGREEMENT”) WHEREBY COUNTRY LAKES WILL LEASE SPACE IN ITS BUILDING TO THE TOWNSHIP IN ORDER TO HOUSE TOWNSHIP OWNED FIRE APPARATUS AND EQUIPMENT; AND
WHEREAS, THE LEASE AGREEMENT WILL COMMENCE ON JANUARY 1, 2012 AND END ON DECEMBER 31, 2012; AND
WHEREAS, THE TOWNSHIP WILL PAY COUNTRY LAKES A SUM OF \$13,000 ANNUALLY; AND
WHEREAS, THE TOWNSHIP COUNCIL HAS DETERMINED THAT IT IS IN THE BEST INTERESTS OF THE TOWNSHIP TO ENTER INTO THE LEASE AGREEMENT WITH COUNTRY LAKES.
NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY THAT THE MAYOR IS HEREBY AUTHORIZED TO EXECUTE THE LEASE AGREEMENT, IN A FORM LEGALLY ACCEPTABLE TO THE TOWNSHIP SOLICITOR, BETWEEN THE TOWNSHIP AND COUNTRY LAKES VOLUNTEER FIRE COMPANY NO. 1 FOR SPACE TO HOUSE TOWNSHIP FIRE EQUIPMENT; AND
BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. COUNTRY LAKES VOLUNTEER FIRE COMPANY NO. 1
- B. TOWNSHIP CHIEF FINANCIAL OFFICER
- C. GLUCKWALRATH LLP

RESOLUTION NO. 51-2012

WHEREAS, BROWNS MILLS FIRE COMPANY NO. 1 (“BROWNS MILLS FIRE”) IS LOCATED WITHIN THE TOWNSHIP OF PEMBERTON (THE “TOWNSHIP”); AND
WHEREAS, THE TOWNSHIP AND BROWNS MILLS FIRE DESIRE TO ENTER INTO AN AGREEMENT (THE “LEASE AGREEMENT”) WHEREBY BROWNS MILLS FIRE WILL LEASE SPACE IN ITS BUILDING TO THE TOWNSHIP IN ORDER TO HOUSE TOWNSHIP OWNED FIRE APPARATUS AND EQUIPMENT; AND
WHEREAS, THE LEASE AGREEMENT WILL COMMENCE ON JANUARY 1, 2012 AND END ON DECEMBER 31, 2012; AND
WHEREAS, THE TOWNSHIP WILL PAY BROWNS MILLS FIRE A SUM OF \$13,000 ANNUALLY; AND
WHEREAS, THE TOWNSHIP COUNCIL HAS DETERMINED THAT IT IS IN THE BEST INTERESTS OF THE TOWNSHIP TO ENTER INTO THE LEASE AGREEMENT WITH BROWNS MILLS FIRE.
NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY THAT THE LEASE AGREEMENT BETWEEN THE TOWNSHIP AND BROWNS MILLS FIRE COMPANY NO. 1 FOR SPACE TO HOUSE TOWNSHIP FIRE EQUIPMENT IS HEREBY APPROVED; AND
BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. BROWNS MILLS FIRE COMPANY NO. 1
- B. TOWNSHIP CHIEF FINANCIAL OFFICER
- C. GLUCKWALRATH LLP

RESOLUTION NO. 52-2012

WHEREAS, PRESIDENTIAL LAKES FIRE & RESCUE SQUAD (“PRESIDENTIAL LAKES”) IS LOCATED WITHIN THE TOWNSHIP OF PEMBERTON (THE “TOWNSHIP”); AND
WHEREAS, THE TOWNSHIP AND PRESIDENTIAL LAKES DESIRE TO ENTER INTO AN AGREEMENT (THE “LEASE AGREEMENT”) WHEREBY PRESIDENTIAL LAKES WILL LEASE SPACE IN ITS BUILDING TO THE TOWNSHIP IN ORDER TO

HOUSE TOWNSHIP OWNED FIRE APPARATUS AND EQUIPMENT; AND
WHEREAS, THE LEASE AGREEMENT WILL COMMENCE ON JANUARY 1, 2012 AND END ON DECEMBER 31, 2012; AND
WHEREAS, THE TOWNSHIP WILL PAY PRESIDENTIAL LAKES A SUM OF \$13,000 ANNUALLY; AND
WHEREAS, THE TOWNSHIP COUNCIL HAS DETERMINED THAT IT IS IN THE BEST INTERESTS OF THE TOWNSHIP TO ENTER INTO THE LEASE AGREEMENT WITH PRESIDENTIAL LAKES.
NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY THAT THE MAYOR IS HEREBY AUTHORIZED TO EXECUTE THE LEASE AGREEMENT, IN A FORM LEGALLY ACCEPTABLE TO THE TOWNSHIP SOLICITOR, BETWEEN THE TOWNSHIP AND PRESIDENTIAL LAKES FIRE & RESCUE SQUAD FOR SPACE TO HOUSE TOWNSHIP FIRE EQUIPMENT; AND
BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. PRESIDENTIAL LAKES FIRE & RESCUE SQUAD
- B. TOWNSHIP CHIEF FINANCIAL OFFICER
- C. GLUCKWALRATH LLP

NEW BUSINESS

Approval of 2012 Gold License application for Idan Aharoni, T/A BEH Gold, LLC, at 18 Broadway, Browns Mills.

Acknowledgement of fire co. membership/relief association applications for: Samuel Dante Hodnett, Dominico J. Hodnett, Jinsoo Kim, for Country Lakes Fire Co.

Approval by Council required for payment of vouchers on bill list dated 1/27/12.

Motion by Stinney and Allen to approve the consent agenda as amended.
Stinney, yes; Allen, yes; Scull, *yes with an abstention on the December 7th and January 18th meeting minutes*; Prickett, *yes with an abstention on check no. 84 listed on the bill list in the amount of \$200.00 to the Pinelands Commission*; Cartier, yes. Motion carried.

RESOLUTION NO. 53-2012

RESOLUTION NO. 53-2012

WHEREAS, IN ORDER FOR THE BURLINGTON COUNTY DIVISION OF MOSQUITO CONTROL TO OPERATE AIRCRAFT AND APPLY MOSQUITO LARVICIDE AND/OR ADULTICIDE OVER PEMBERTON TOWNSHIP IN 2012, IT IS NECESSARY FOR THE MAYOR TO EXECUTE AN AGREEMENT; AND

WHEREAS, THE AGREEMENT IS REQUIRED BY FAA REGULATIONS AND IS REQUESTED ANNUALLY.

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

1. THAT THE MAYOR AUTHORIZED TO EXECUTE THE ATTACHED AGREEMENT/AUTHORIZATION; AND
2. THAT THE DIVISION OF MOSQUITO CONTROL IS AUTHORIZED TO PERFORM ITS AERIAL APPLICATIONS OVER PEMBERTON TOWNSHIP DURING 2012; AND
3. THAT A COPY OF THIS RESOLUTION SHALL BE FORWARDED TO THE BURLINGTON COUNTY DIVISION OF MOSQUITO CONTROL.

Mr. Prickett noted that with gypsy moth spraying they are advised what chemical is being used and what the proposed spray areas are as well as the dates. He advised that he would approve this resolution tonight but wants Administration to get the information. He asked if approved tonight if they could rescind that decision later. The Mayor pointed out that the County knows what the hot spots are noting it's done routinely. Mr. Prickett expressed that they still need to know when and what they are spraying.

Motion by Prickett and Scull to approve Resolution No. 53-2012. Prickett, yes; Scull, yes; Stinney, yes; Allen, yes; Cartier, yes. Motion carried.

RESOLUTION NO. 54-2012

RESOLUTION NO. 54-2012

WHEREAS, THE TOWNSHIP OF PEMBERTON, PURSUANT TO N.J.S.A. 40:5-2 MAY MAKE A VOLUNTARY CONTRIBUTION OF NOT MORE THAN \$70,000 ANNUALLY TO ANY DULY INCORPORATED FIRST AID SQUAD OR VOLUNTEER AMBULANCE SERVICE RENDERING SERVICE THROUGHOUT THE MUNICIPALITY; AND

WHEREAS, THE BROWNS MILLS EMERGENCY SQUAD (BMES) RENDERS SERVICE THROUGHOUT PEMBERTON TOWNSHIP, IN PARTICULAR IN THE BROWNS MILLS AREA OF THE TOWNSHIP; AND

WHEREAS, THE TOWNSHIP APPROPRIATED IN 2011, AND INTENDS TO APPROPRIATE AGAIN IN 2012, FUNDS FOR THE BENEFIT OF BMES; AND

WHEREAS, THE TOWNSHIP DESIRES TO CONDITION THOSE FUNDS ON CERTAIN REQUIREMENTS AND PERFORMANCE STANDARDS BEING SATISFIED BY BMES; AND

WHEREAS, THE AFORESAID REQUIREMENTS AND STANDARDS ARE SET FORTH IN THE ATTACHED AGREEMENT.

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

1. THAT THE MAYOR IS AUTHORIZED TO SIGN THE ATTACHED AGREEMENT; AND
2. UPON EXECUTION OF THE ATTACHED AGREEMENT FUNDS APPROPRIATED IN 2011 MAY BE RELEASED TO BMES; AND
3. THAT A COPY OF THIS RESOLUTION SHALL BE FORWARDED TO THE BROWNS MILLS EMERGENCY SQUAD.

Mr. Prickett expressed that Council had a right to have a say when an agreement would be terminated. He suggested eliminating #26 of the agreement.

Motion by Prickett and Scull to approve the resolution with the deletion of item #26 in the agreement.

Mr. Bayer explained that under the Faulkner government the Mayor has the right to enforce provisions and in regards to enforcement he recommended leaving that language in. Mrs. Scull suggested only removing the words "contract termination". The Mayor relayed that Council can't expect him to enforce the contract without the threat of termination for not following the rules. He further advised that he would not be willing to sign a contract without that power to enforce the provisions properly. Discussion ensued regarding the possibility of a Council being swayed and what happens if they have a Mayor is unreasonable. Mayor Patriarca relayed there is only an issue if there's a breach in the contract, noting that if there is no conflict, there is no issue. Mrs. Scull expressed that if there is a violation the Mayor should bring it back to Council to vote whether or not to terminate. Discussion ensued regarding how the wording originated, Council's concern of being taken out of the equation, and the Mayor's concern with not being able to enforce the agreement provisions without leverage. Mayor Patriarca proposed that they could consider eliminating item #26 from the agreement and if the situation ever did arise they could rely on what the law allows. Mr. Fred Moorehead expressed that if there's a termination issue their Board of Trustees would like an appeals process. Mr. Bayer reiterated that the Mayor stated that he was willing to have this approved with the elimination of item #26. The Mayor confirmed that he would be comfortable with them eliminating item #26.

Motion by Prickett and Allen to approve Res. 54-2012 as amended by eliminating item #26 on the agreement. Prickett, yes; Allen, yes; Scull, no, Stinney, yes; Cartier, yes. Motion carried.

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

ORDINANCE 1-2012 (NOTE: The public hearing for this ordinance was held on 1/18/12, wherein said ordinance was amended. Public hearing for 2/1/12 is only on amendment)

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"

Council President Cartier read the title of Ordinance No. 1-2012 noting that the amendment corrects the name of the location on Pemberton-Browns Mills Road to read "From Four-Mile Road to Springfield Road".

Motion by Scull and Prickett to adopt Ordinance No. 1-2012.

He then opened the meeting up to the public for comments on the amendment to Ordinance No. 1-2012. There being no members of the public expressing a desire to speak, he closed the meeting to the public for comments on Ordinance No. 1-2012.

Scull, yes; Prickett, yes; Allen, yes; Stinney, yes; Cartier, yes. Motion carried.

NEW BUSINESS

Review of draft ordinance amending chapter 190, Zoning of the code of the Township of Pemberton.

The Mayor advised Council that this ordinance originated from issues such as a local contractor working on a home that was non-conforming could not get a permit for

putting on an addition because the structure was non-conforming. It was noted that the Board routinely approves variances in these types of situations and it puts a burden on the public. The thought is if it will not increase the non-conformance they should be able to obtain a construction permit and avoid the added cost of a variance and delaying their project. Council discussion ensued regarding the difficulty in understanding the language as phrased in the draft ordinance and it was requested that the Planner bring back a revised ordinance that is easier to understand in laymen's terms and to more clearly define the ordinance definitions.

General Public Comments:

Larry Carulli, Country Lakes – Expressed concerns regarding a commercial business being conducted out of the home on a corner lot on Mohawk Trail. He noted that it is a management company for a landscaping business. He expressed that it should not be permitted in a residential area where it disrupts the neighbors and asked them for an ordinance. He shared that they have to put up with trucks all in the yard, trash all over, having to hear drills and power tools, smelling diesel, spot lights. He passed out pictures to Council, noting the neighbor has dedicated the entire side of his property and actually dumped rock there and has port-o-potties there during the summer. He relayed that he has to put up with the noise and swearing and it is a nuisance which has been going on for four years. President Cartier that the Township does have a noise ordinance. Mrs. Scull questioned if the problem with the noise ordinance had been resolved wherein they were told the Police Department did not have trained officers to run the noise equipment. Mr. Vaz noted that had been corrected. Mayor Patriarca clarified that they have the ability to enforce the noise ordinance but do not have the ability to have the Police Department to enforce it. President Cartier asked them to relay the concerns to the Chief and assured Mr. him that the Solicitor will look at the current ordinance.

Bob Pelletier, Pemberton – 1. Sympathized with the previous speaker, noting he had similar problems in the 80s. He suggested he handle it through court and sign a complaint and have the Judge hear the case. 2. Commented on remark he heard regarding Fred Hardt and expressed his respect for Mr. Hardt noting he had always thought he was a good lawyer. Mr. Bayer assured him that it was only a joke, that he respects Mr. Hardt and it was just a bad attempt at humor. 3. He noted the five meeting minutes listed on the agenda to be approved. He questioned if Council gets copies before the meeting prior to adoption whereby they could say “no I don't like the way I said that and then change it”. President Cartier explained they could not ask for a change by saying “not the way I said that”, but yes, they get them before the meeting. Mr. Prickett explained that it needs to be clear that this is the Clerk's responsibility. He relayed that any changes that they think should be made they have to pass them on to the Clerk and ask her opinion. He stated that if it's a matter of a right or wrong situation that's one thing but if there's a nuance it's the Clerk's domain and she does a great job. Mr. Pelletier explained the reason he asked is that at moments they all get into some lively disagreements and he questioned that once they get the minutes do they get a chance to tame things down. Mr. Prickett and Cartier confirmed they only have input on errors. 4. Reiterated his feelings that after reviewing the statutes regarding abstentions, what is considered substantial, but should not include the control of assets in a non profit entity or labor union when making a decision. He noted the Historic Trust is a non profit organization and expressed belief there should be no problem with Mrs. Scull to vote on their behalf. He questioned if anyone provides ethics training to Council members or Administration. Mrs. Scull noted there are classes that they can attend but they are not mandatory. 5. Questioned how the noise ordinance is working with the new audible device system and does not believe the police want to be bothered enforcing it. President Cartier reiterated that the Mayor had shared when they feel the need for it to be enforced; they can't tell them what to do. Mr. Pelletier questioned why they then have the ordinance. President Cartier explained that the ordinance gives them the ability and the option for the police to enforce it. 6. Asked Mr. Allen if he looked into the Burlink matter and what was their source of revenue, such as tax payers' funds or grant or what in order to operate it. Mr. Allen clarified that that was not what

he was supposed to look into. Mr. Pelletier explained the reason he asked is that some times it's more of an impact when looking into something when you're talking about tax payers' money funding it as opposed to grant money from Washington.

John Shaw, Browns Mills – 1. Reported that on Broadway between Texas Ave. and the entrance of the shopping center one of the decorative pole lights are missing and the wires are out. The Mayor noted they will look into it. 2. Expressed concern with the number of dead carcass on PBM road and on the bi-pass and the long delay for removal. Administration confirmed they are County roads. The Mayor noted they will look into the County's process and determine why it takes them so much longer than the Twp that picks up on Township roads in a timely manner.

America Phillips, Presidential Lakes – 1. In regards to the train station and the trails she expressed shame to the Township for allowing the destruction. She urged they not take the residents' right to exercise and hopes the station is not going to go away. 2. Asked Mr. Allen what he learned regarding Burlink. Mr. Allen shared that he spoke with David Wiche the transportation coordinator for Burlink who advised the decision was made long ago that there was no need for the service to go to Presidential Lakes. He advised that in the past there was a group formed in Presidential Lakes. Ms. Phillips noted that she was one of the members. Mr. Allen advised that based on the research and documents the group submitted to Burlink they thought there was no need for the service. Mr. Wiche said they conducted surveys and they didn't think the residents would use the service for employment or to go shopping. Mr. Allen relayed that he was told however, that if someone wanted to form another committee and submit the number of 200 names then they will be willing to conduct another study to see if they would allow the service to go to Presidential Lakes. Mr. Allen offered his contact information.

Claire Wadsworth, Browns Mills – 2. Asked when the public would get the budget. President Cartier noted it would be available when Council gets it at the first budget meeting. He shared that statutory requirement is for them to receive it this Friday. 3. Questioned about an Opra request she submitted for copies of the Private Investigator contract and RFP noting she should have received it in seven business days and questioned when she would get it. President Cartier advised that it is being worked on and Mrs. Finlay relayed that she would check on it for her tomorrow.

There being no other members of the public wishing to be heard, Council President Cartier closed the meeting to the public for general comments.

Solicitor's Report

Mr. Bayer noted he did not have anything to report tonight.

Engineer's Report

Kelly Willis reported: 1. That they have been working with FEMA and Bureau of Dam Safety regarding Bayberry Dam. Along with Public Works she took a further look at Bayberry Dam damage as requested by FEMA. FEMA then asked them to do a geotechnical analysis and they currently have a proposal in to Administration to do that work. Last night she took more pictures on site and discovered more damage with more settlement. Today her office contacted DEP who met them out at the site today and did a full analysis with two DEP members and their staff member and they found it to not be in eminent danger, there's no threat of failure at this point but they will be keeping a closer monitor of the dam, and they have taken some survey shots so they have more of a base line, than the naked eye to visually see where the problem is. Ms. Willis reported that FEMA has been discussing back and forth whether or not they will keep Bayberry Dam on their list for funding. She assured they are working with them, trying to give them as much information as possible to keep the Township on their list, but they have no "push" to keep us on their list. She relayed that the reason FEMA is asking for geotechnical information is that originally there was a crack located on the down stream side, which is how the engineer's office new there was undermining, wherein the road started to collapse down stream. In the more recent visits they are

now seeing a crack forming on the up stream side which made them fear that it's starting to fail. However, Ms. Willis noted that today they learned that that is not the case, but that is what they believe started FEMA's concerns wherein they began to request additional information. They are working with DEP, FEMA and the County to see if they can not only get funding for the dam but to discover the right course of action at this point. There is the issue of just putting the dam back to as it was previously, with perhaps something called articulating concrete blocks which is a way to stop erosion on the down stream side, which would take it back to pre-storm. They feel there may be a need for mitigation to upgrade the dam and spillways to ensure this doesn't happen again, noting this is the second time that the same type of failure has occurred out on Bayberry Dam after a large storm, once in 2004 and again in 2011. Therefore, FEMA is looking over old records to review what the Township has applied for in the past before to see if Bayberry is a candidate for mitigation. Mr. Cartier asked what would cause the Township to be dropped from FEMA's list. Ms. Willis did not know as they did not receive reasoning for it but was told that if they sent the additional information FEMA may be able to keep them on. Mr. Cartier asked if they gave a new time line for the survey, to which she advised they did not. Mr. Rehmann informed that they have to prepare new RFQs because of the anticipated amount for the contract for the geotechnical experts. They have talked to Antonella who noted they tried to use the ones they used for Country Lakes but they are too old and in order to stay in compliance with Township code they would have to go back out for RFQs. He noted they need authorization to prepare those specs for the amount of geotechnical work that they need done. He noted that will indicate whether the dam itself is sliding or moving and whether there is undermining occurring or piping through the soil that constitutes the dam. In case they felt that was happening they have talked to the Fish and Wildlife Bureau in order to obtain permission to lower the up stream lake levels down to the down stream lake levels to take some pressure off of the dam in the event they think there is some type of eminent failure. He relayed that the Fish and Wildlife Bureau don't want to give these types of permits because they will shortly be moving into spawning season and that impacts fish production in those lakes. This is why they have to go back out periodically to put some survey elevation points on there that they can go back to check to make sure there isn't some settlement subsiding the dam itself. Mr. Cartier noted that the RFQ process would take some time and questioned what the advertisement time frame and for awarding the bid. Mrs. Finlay noted the RFQ would have to be advertised at least 10 days in advance, however, Mr. Rehmann clarified that they would have to prepare it first. Mr. Cartier asked if it could be done in an emergent fashion. Ms. Willis reiterated that pursuant to their meeting today DEP assured it was not in eminent danger of failure and she is uncertain if it would fall into an emergency category. Mr. Prickett expressed thought that this dam was completely rebuilt a number of years ago to which Mrs. Willis confirmed belief it was in 2000. Mr. Prickett asked if it's her assumption that the dam was built from the foundation up. She noted she would have to check the records to confirm this. Mr. Prickett expressed surprise, noting that when a dam is built these days one doesn't think that five years down the road they are going to have a problem wherein it could fail. Mr. Rehmann reminded that Mirror Lake Dam was rebuilt and even during the flooding event the dam held and there was no disruption down stream and the water in the lake did not have to be lowered. He is uncertain why Bayberry would have these problems. Mr. Prickett questioned the as-built plans to which they are looking at the records to try to determine the cause. Discussion ensued regarding 100 year storm, intense rainfalls and their impacts. Mr. Rehmann relayed that Bayberry can be very expensive to rebuild, noting that one of the limiting factors in Bayberry is the fact that if they raise the dam elevation there are homes that surround it that may have septic systems so they have to be cautious how they look at how that hydraulic situation occurs. He noted that previously they may have tried to protect the down stream from erosion and that may be what they see as slippage. He noted he did not want the work to be done on the Town's money which is why Ms. Willis is keeping up with FEMA. 2. She reported that Well #13 is now operational and in speaking with the licensed water operator who has been pulling out the recommended amount for Well #13, what it is rated for. So the new pump and motor that was installed seems to have done the job. She noted they did put a cctv camera down the well and found a stainless steel strap which could have been from the previous pump that fell off. They believe that is why they had some of the damage. She reflected that to prevent that from coming back up again they have installed a

screen at the bottom of this pump. She then informed that they will be mobilizing Well #12 this Friday to remove the gravel pack.

Mayor's Report

1. Commented on his, Mr. Vaz and Mr. Cartier's visit to the dam site. He noted that one of the causes that may be contributing to the Bayberry issue is that the new dams that were built on the Base are uncontrolled. They don't have control mechanisms to lower or raise to help down stream, noting they just have a spill way. Ms. Willis agreed noting that they have been relaying to FEMA that the waters are coming from Federal lands and are additional waters that were not calculated. 2. Reported that he attended the County's meeting last night regarding the concerns by which seemed to be mostly employees of Buttonwood. He acknowledged understanding the County's position that they are running a business with a loss. He has mixed feelings noting that Buttonwood does provide a service and they should be looking at other methods. This does impact Pemberton Township with the residents that work there, the meals provided by them for the meals on wheels and for the seniors' lunches. He has met with the Office of Aging today to discuss that and he is pleased that they have been taking proactive measures to ensure that those programs will continue.

Mr. Prickett noted that Council will be getting their budget on Friday with only the numbers and later they would get the explanations. Mr. Vaz reflected they should have the surplus numbers tomorrow. Mayor Patriarca confirmed the Auditor should have the final numbers for them tomorrow and they are hoping although they are close they still have to take a look at the surplus numbers. He hopes they will have budget Friday and the work sheets by mid-week. Mr. Prickett asked if the Mayor sees any tax increases in this budget however, the Mayor did not want to comment on that until he has seen all the numbers. He advised his goal is to keep taxes as low as possible and provide the services that the residents are used to receiving. Mr. Prickett noted he did not think he has read anything about proposed layoff plans and questioned if that indicates he will not have any in this budget. The Mayor affirmed he has no intention of laying anyone off although that is not to say if the numbers fall short and the services cant be provided under the budget that they finalize to submit to Council he would have to consider the operating end of the budget in order to balance it.

Mr. Cartier pointed out to Council that their statutory deadline for budget introduction is March 9th. Discussion ensued and it was determined that Council would hold their budget hearings on February 11th and 25th.

Mr. Prickett noted having questions for Mr. Vaz. 1. He asked how much money is left in the account for the Private Investigator or how many hours have they used, to which Mr. Vaz noted they have not been called for anything yet. 2. He noted that in regards to Danitom Development approximately six years ago the Township negotiated and put out an RFP for some 90 lots in Pemberton Township and within the RFP it requested a lot of things that had to be in place. He noted that a number of developers expressed interest, a contract was signed and he is curious that after seven years where they are with this now. Mr. Vaz explained that the project was stalled basically because of the water moratorium that was imposed and they were not able to hold Danitom to his end of the agreement at that point when the Township was going through that. He noted that the moratorium has been lifted. Ms. Willis noted that she has been keeping in contact with Tom Critelli and she believes it was 53 homes that he was looking for to add on to the system and with the Well #12 and #13 both on line now and #11 still off line they have freed up the equivalent of about 86 homes which allows that development and then a very small cap that they can bring on for further homes. She noted that as of December 1st the water moratorium was lifted. Mr. Vaz relayed that shortly after receiving that information he contacted Mr. Critelli and met about two weeks ago. He noted the next step was to ask Mr. Bayer to review the developer's agreement to which Mr. Bayer confirmed they will be discussing that in executive session probably at the next meeting. Mr. Prickett questioned if it was about 1.4 or .5 million that was agreed upon. Mr. Vaz noted the Township has received some of it already. He agreed it's a substantial amount of money that is out there. Mr. Prickett noted that originally when it was discussed the hope was that the money could be used

for the redevelopment area for the Town Center and just wanted to remind of that.

Council Members' Comments

Jason Allen: **1.** Announced that there will be a TAG meeting tomorrow at 7 p.m. at the Country Lakes Club house and encouraged those interested, to come out as they still need more volunteers.

Sherry Scull: **1.** Expressed disappointment for the general sense of lack of respect for history, noting her despair that Morris Mansion was torn down and relayed the history of the mansion. **2.** In regards to the proposed sale of Buttonwood Hospital and last night's meeting she reflected on the history of the hospital and expressed that it was amazing to her that in 1799 the Freeholders then had realized their responsibility to provide for those that can't and the disappointment that they don't this day and age. **3.** In regards to the question posed earlier regarding attendance of ethics training noting that Council does attend. She expressed her belief that the problem is really with the form of government and shared her experience on a previous ethics issue she was dealing with regarding a previous vote she made that was in question ethically and she affirmed she never wanted to vote unethically. **4.** Announced the upcoming seniors' valentines' luncheon, valentines dance and that the annual senior prom is being planned. **5.** She thanked everyone for coming out.

Richard Prickett: **1.** Advised that he also had attended the Buttonwood Hospital meeting noting he believes they should think of the hospital as a long term insurance policy for people in Burlington County that don't have funds for their care. He praised the Buttonwood employees' testimonies and was pleased to hear it was a four star hospital which reflects on the quality of care at a reasonable cost. He suggested that Council pass a resolution in support of Buttonwood Hospital tonight. President Cartier asked Mr. Prickett to prepare one and forward it to Mrs. Finlay for consideration at the next meeting. **2.** Mr. Prickett thanked everyone for coming out tonight.

Kenneth Cartier: **1.** Shared that he has heard all the praise for the Buttonwood employees and expressed that they deserve a little better treatment. **2.** Noted that it was 60 degrees outside and baseball season is around the corner. He announced that baseball registrations were starting across the street and wished everyone a good night.

The meeting was adjourned at approximately 9:00 p.m.

Respectfully submitted by,

MARY ANN FINLAY, MMC, TOWNSHIP CLERK