

**TOWNSHIP OF PEMBERTON
REGULAR MEETING
APRIL 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

Sherry Scull
Jason Allen
Ken Cartier
Richard Prickett
Diane Stinney

ABSENT

Also present: Mayor David Patriarca, Business Administrator Chris Vaz, Township Solicitor Andrew Bayer and Jaclyn Baker 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. 87-2012

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:
SETTLEMENT NEGOTIATIONS OF UNPAID TAXES
HARRY WILKINS WORKERS COMP SETTLEMENT
BROWNS MILLS SHOPPING CENTER POTENTIAL CONTRACT NEGOTIATIONS/REDEVELOPMENT
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 Allen and Stinney to approve Resolution No. 87-2012. Allen, yes; Stinney, yes; Scull, yes; Prickett, yes; Cartier, yes. Motion carried.

Council President Cartier recessed the open meeting at approximately 6:30 PM to go into closed session and reconvened the open meeting at approximately 7:00 PM.

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

President Cartier advised the public that formal action pursuant to closed session is already included on the agenda.

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.

PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY.

Council President Cartier opened the meeting to the public for comments on the Consent Agenda items.

John Shaw, Browns Mills – 1. Asked in regards to Res. 95-2012 what roads were being done. Ms. Willis reported the list of roads consists of College Drive, Phase II which is Yale Road to Scrapetown Road; Kentucky Drive, Phase II which is New York Road to New Hampshire Road; Columbus Drive; Tensaw Drive which is from Choctaw to Tallapoosa Trail; North Road from

Rt. 206 to Creek Road; Elm Ave.; Sunset Street; Aston Street; Deerborn Avenue, New Jersey; Coville, and Market. The Mayor noted for clarification that Tensaw Drive is not in this program but he believes its going to be done through the NJDOT. Ms. Willis explained that Tensaw Drive, Phase I is going to be done in this program, but phases II and III will be funded through the DOT Local Aid. 2. He questioned the status of the 2012 Road Program. President Cartier explained that it's still being worked on.

Tamara Kelly, Presidential Lakes – 1. Began speaking but President Cartier interjected that he knows why she is here and had tried calling her yesterday, and that this portion of public comments was not pertaining to her subject matter, but rather its on the agenda later in the meeting. 2. Noted that she had requested New Hampshire and Louisiana to be looked at and noticed that they are not on the list. Mr. Rehmann explained that the lists are researched and put together by recommendation of the public works department that surveys the roads and recommends those that are most in need first. He noted having received her request and they are looking for those roads as part of the 2012 Road Program.

There being no other members indicating a desire to be heard, he closed the meeting to public comments on the Consent Agenda.

Mr. Prickett requested to pull Resolution 97-2012, and New Business item 11. *a. *1. regarding ARH's proposal for inspection of Lebanon Forest # 1 Dam from the consent agenda.

Consent Agenda Items:

CONSENT AGENDA RESOLUTIONS

RESOLUTION NO. 88-2012

WHEREAS, THE 2012 SUMMARY MUNICIPAL BUDGET OF THE TOWNSHIP OF PEMBERTON WAS POSTED ON THE OFFICIAL BULLETIN BOARD IN THE MUNICIPAL BUILDING FOR A PERIOD OF AT LEAST ONE FULL WEEK PRIOR TO THE PUBLIC HEARING SCHEDULED FOR SAME; AND

WHEREAS, FULL COPIES OF THE 2012 MUNICIPAL BUDGET WERE MADE AVAILABLE FOR EVERY PERSON REQUESTING THE SAME DURING SAID WEEK PRIOR TO THE PUBLIC HEARING AND ARE NOW AVAILABLE TO ALL PERSONS ATTENDING SAID HEARING; AND

WHEREAS, IN ACCORDANCE WITH N.J.S.A. 40:4-8, AS AMENDED BY CH. 259 PL 1995, THE MUNICIPAL CLERK HAS CERTIFIED BY SCHEDULE A ATTACHED TO AND MADE A PART OF THIS RESOLUTION, THAT COPIES OF THE 2012 MUNICIPAL BUDGET WERE DELIVERED TO, AT MINIMUM, THE BURLINGTON COUNTY LIBRARY IN WESTAMPTON TWP., NEW JERSEY; TO THE BRANCH LOCATION OF THE BURLINGTON COUNTY LIBRARY; LOCATED IN PEMBERTON TOWNSHIP; THE BURLINGTON COUNTY COLLEGE LIBRARY LOCATED IN PEMBERTON TOWNSHIP; AS WELL AS POSTED ON THE TOWNSHIP'S OFFICIAL WEB SITE;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, THAT THE CONDITIONS SET FORTH IN N.J.S.A. 40A:4-8; HAVE BEEN MET, AND IT IS HEREBY DETERMINED THAT THE 2012 MUNICIPAL BUDGET SHALL BE READ BY TITLE ONLY.

RESOLUTION NO. 89-2012

WHEREAS, PEMBERTON TOWNSHIP FIRE DEPARTMENT DESIRES THAT, PURSUANT TO THE PROVISIONS OF N.J.S.A. 15:8-4, CERTAIN PERSONS BE APPOINTED TO PERFORM PERMITTED POLICE DUTIES AT FIRES AND FIRE DRILLS;

NOW, THEREFORE BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE BELOW LISTED MEMBER BE APPOINTED AND DESIGNATED AS FIRE POLICE OFFICER FOR A TERM OF FIVE YEARS FROM THE DATE OF THIS APPOINTMENT TO PERFORM DUTIES AS PRESCRIBED IN N.J.S.A. 15:8-4 UPON TAKING APPROPRIATE OATH BEFORE THE TOWNSHIP CLERK, A COPY OF WHICH IS TO BE FILED WITH THE CLERK AND ALSO THE CHIEF OF THE FIRE COMPANY: DANIEL EDWARDS

RESOLUTION NO. 90-2012

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:

BAO REALTY LLC, \$160.00, REFUND OF PARTIAL PAYMENT FOR PROPERTY THAT HAS MUNICIPAL LIEN, BLOCK 894, LOT 14.

01

HORACE & BOBBIE WALKER, \$494.63, OVERPAYMENT DUE TO STATE PAYING HOMESTEAD CREDIT TO TOWNSHIP FOR PROPERTY LISTED AS 100% TOTALLY DISABLED VETERAN, BLOCK 836, LOT 16.

CHARLES & MARTA GODFREY, \$127.43, OVERPAYMENT DUE TO STATE PAYING HOMESTEAD CREDIT TO TOWNSHIP FOR PROPERTY LISTED AS 100% TOTALLY DISABLED VETERAN, BLOCK 626, LOT 9.

THOMAS MCNAUGHTON, \$43.10, REFUND OF PROGRAM FEES, PROGRAM WAS CANCELLED DUE TO LOW ENROLLMENT.

RESOLUTION NO. 91-2012

WHEREAS, PURSUANT TO THE PROVISIONS OF THE IN REM FORECLOSURE ACT (1948), N.J.S.A. 54:5-104.29 *ET SEQ.*, AS AMENDED AND SUPPLEMENTED, THE TAX COLLECTOR HAS CERTIFIED TO THE TOWNSHIP COUNCIL THAT THE TOWNSHIP OF PEMBERTON IS THE HOLDER OF CERTAIN TAX SALE CERTIFICATES COVERING THE LANDS, FOR THE AMOUNT INCLUDING SUBSEQUENT LIENS, SHOWN ON THE TAX FORECLOSURE LIST HEREUNTO ANNEXED AND MADE A PART THEREOF;

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, THAT IS IT HEREBY DETERMINED THAT PARKER MCCAY P.A. LOCATED IN MOUNT LAUREL, NJ, FORECLOSE BY SUMMARY PROCEEDINGS IN REM, AS PROVIDED IN THE IN REM TAX FORECLOSURE ACT (1948), N.J.S.A. 54:5-104.29 *ET SEQ.*, AS AMENDED AND SUPPLEMENTED, THE TAX SALE CERTIFICATES HELD BY IT AS LISTED ON THE ATTACHED TAX FORECLOSURE LIST HEREUNTO ANNEXED AND MADE A PART HEREOF.

RESOLUTION NO. 92-2012

WHEREAS, THE COUNTY OF BURLINGTON HAS AWARDED GRANT FUNDS IN THE AMOUNT OF \$21,500 TO PEMBERTON TOWNSHIP FOR ITS MUNICIPAL ALLIANCE COMMITTEE; AND

WHEREAS, IN ORDER TO COMPLY WITH GRANT REQUIREMENTS THE TOWNSHIP MUST SIGN AN AGREEMENT WITH THE COUNTY WHICH REQUIRES VARIOUS PROGRAM AND FINANCIAL CONTROL AND REPORTS TO BE ESTABLISHED; AND

WHEREAS, IT IS FURTHER REQUIRED THAT THE TOWNSHIP PROVIDE A TWENTY-FIVE PERCENT CASH MATCH TO THIS GRANT, WHICH MATCH HAS BEEN APPROPRIATED IN THE 2012 MUNICIPAL BUDGET, AND A SEVENTY-FIVE PERCENT MATCH IN KIND; AND
WHEREAS, THE TOWNSHIP IS IN SUPPORT OF THE EFFORTS OF THE MUNICIPAL ALLIANCE TO PROVIDE CONSTRUCTIVE ALTERNATIVES AND ACTIVITIES FOR THE YOUTH OF PEMBERTON TOWNSHIP;
NOW, THEREFORE BE IT RESOLVED, THAT THE TOWNSHIP COUNCIL OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE MAYOR AND CLERK ARE HEREBY AUTHORIZED TO EXECUTE THE ATTACHED AGREEMENT WITH THE COUNTY OF BURLINGTON.

RESOLUTION NO. 93-2012

WHEREAS, A THREE YEAR CONTRACT WITH TWO ONE YEAR RENEWAL OPTIONS, FOR SOLID WASTE COLLECTION SERVICES WAS AWARDED TO REPUBLIC SERVICES OF NEW JERSEY LLC COMMENCING ON APRIL 1, 2009 PURSUANT TO RESOLUTION NO. 42-2009; AND
WHEREAS, IT IS IN THE BEST INTERESTS OF THE TOWNSHIP TO EXTEND SAID CONTRACT WITH REPUBLIC SERVICES OF NEW JERSEY LLC PURSUANT TO THE FEES INDICATED ON THEIR BID CONTRACT DOCUMENTS FOR THE ONE YEAR EXTENSION;
NOW THEREFORE, BE IT RESOLVED, THAT THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, HEREBY AUTHORIZES A ONE YEAR EXTENSION OF THEIR SOLID WASTE COLLECTION CONTRACT SERVICES AS BOUND BY THEIR BID CONTRACT, COMMENCING RETROACTIVELY TO APRIL 1, 2012.

RESOLUTION NO. 94-2012

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 PEMBERTON FIRST AID SQUAD (PFAS) RENDERS SERVICE THROUGHOUT PEMBERTON TOWNSHIP, IN PARTICULAR IN THE AREAS SET FORTH IN THE OFFICIAL COVERAGE GRID; AND
WHEREAS, THE TOWNSHIP APPROPRIATED IN 2011 AND 2012 FUNDS FOR THE BENEFIT OF PFAS; AND
WHEREAS, THE TOWNSHIP DESIRES TO CONDITION THOSE FUNDS ON CERTAIN REQUIREMENTS AND PERFORMANCE STANDARDS BEING SATISFIED BY PFAS; 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. THAT A COPY OF THIS RESOLUTION SHALL BE FORWARDED TO THE PEMBERTON FIRST AID SQUAD.

RESOLUTION NO. 95-2012

WHEREAS, THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP") HAS AUTHORIZED THE ACCEPTANCE OF BIDS FOR THE AWARD OF A CONTRACT FOR THE 2011 PEMBERTON ROAD PROGRAM PROJECT, WHICH INCLUDES RESURFACING AND IMPROVEMENTS TO CERTAIN ROADS WITHIN THE TOWNSHIP (THE "PROJECT"), IN ACCORDANCE WITH THE LOCAL PUBLIC CONTRACTS LAW, N.J.S.A. 40A:11-1, *ET SEQ.*; AND
WHEREAS, THE TOWNSHIP INSTRUCTED BIDDERS TO SUBMIT A BASE BID FOR THE PROJECT AND ALSO TO BID ON ADDITIONAL IMPROVEMENTS TO NEW JERSEY ROAD ("ALTERNATE A"), COVILLE DRIVE ("ALTERNATE B"), MARKET STREET ("ALTERNATE C"), TENSAW DRIVE PHASE II ("ALTERNATE D"), AND TENSAW DRIVE PHASE III ("ALTERNATE E"); AND
WHEREAS, THE TOWNSHIP HAS DETERMINED THAT THE LOWEST RESPONSIBLE BIDDER FOR THE PROJECT IS ASPHALT PAVING SYSTEMS, INC. ("ASPHALT PAVING") WITH A BASE BID OF \$917,000.00; AND
WHEREAS, THE TOWNSHIP HAS DECIDED TO EXCLUDE ALTERNATE D AND ALTERNATE E AS THOSE PROJECTS WILL BE FUNDED THROUGH OTHER SOURCES; AND
WHEREAS, ASPHALT PAVING SUBMITTED AN ALTERNATE BID OF \$1,189,245.00, WHICH INCLUDES ITS BASE BID PLUS ALTERNATE A, ALTERNATE B AND ALTERNATE C; AND
WHEREAS, THE TOWNSHIP ENGINEER RECOMMENDS THAT THE CONTRACT FOR THE PROJECT BE AWARDED TO ASPHALT PAVING AS THE LOWEST QUALIFIED BIDDER SUBMITTING A CONFORMING BID; AND
WHEREAS, THE TOWNSHIP SOLICITOR HAS REVIEWED ASPHALT PAVING'S BID AND FINDS IT TO BE LEGALLY SUFFICIENT; AND
WHEREAS, THE TOWNSHIP COUNCIL FINDS THAT IT WOULD BE IN THE BEST INTEREST OF THE TOWNSHIP OF PEMBERTON TO AWARD THE CONTRACT FOR THE 2011 PEMBERTON ROAD PROGRAM TO ASPHALT PAVING.
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 CONTRACT FOR THE 2011 PEMBERTON ROAD PROGRAM BE AND HEREBY IS AWARDED TO ASPHALT PAVING SYSTEMS, INC. IN THE AMOUNT OF \$1,189,245.00, WITH INCLUDES ITS BASE BID PLUS ALTERNATES A, B, AND C, AND THAT THE MAYOR IS HEREBY AUTHORIZED TO EXECUTE A CONTRACT, IN A FORM LEGALLY ACCEPTABLE TO THE TOWNSHIP SOLICITOR, BETWEEN THE TOWNSHIP OF PEMBERTON AND ASPHALT PAVING; AND
BE IT FURTHER RESOLVED, THAT THE CHIEF FINANCIAL OFFICER HAS EXECUTED A CERTIFICATION OF FUNDS WHICH IS ATTACHED HERETO, AND THAT SUFFICIENT FUNDS ARE AVAILABLE FOR SAID CONTRACT FROM ACCOUNT NUMBERS C-04-908-919, C-04-06-910-402-904, 04, C-04-06-922-407-904, C-04-04-913-413-904, C-04-10-912-912-904, C-04-11-925-925-004; AND
BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. ASPHALT PAVING SYSTEMS, INC.
- B. TOWNSHIP ADMINISTRATOR
- C. TOWNSHIP CHIEF FINANCIAL OFFICER
- D. GLUCKWALRATH LLP

RESOLUTION NO. 96-2012

WHEREAS, THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP") AND PBA LOCAL 260 REACHED AN IMPASSE IN NEGOTIATION OF ITS COLLECTIVE BARGAINING AGREEMENT; AND
WHEREAS, ACCORDINGLY, THE TOWNSHIP PETITIONED THE STATE OF NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION ("PERC") FOR ARBITRATION OF THE MATTER; AND
WHEREAS, ON MARCH 9, 2012, PERC RANDOMLY SELECTED FRANK A. MASON AS ARBITRATOR; AND
WHEREAS, PURSUANT TO N.J.S.A. 34:13A-16F(5), THE DECISION OF AN ARBITRATOR SHALL BE RENDERED WITHIN 45 DAYS OF PERC'S ASSIGNMENT OF THE ARBITRATOR; AND
WHEREAS, IN ANTICIPATION OF THE ARBITRATION, THE TOWNSHIP REQUIRES THE SERVICES OF A FINANCIAL CONSULTANT IN ORDER TO SERVE AS AN EXPERT WITNESS AND TO PREPARE REPORTS IN CONNECTION WITH NEGOTIATION OF THE COLLECTIVE BARGAINING AGREEMENT; AND
WHEREAS, THE LOCAL PUBLIC CONTRACTS LAW (N.J.S.A. 40A:11-1 ET SEQ.) PERMITS THE AWARD OF CONTRACTS FOR PROFESSIONAL SERVICES WITHOUT COMPETITIVE BIDS; AND
WHEREAS, PURSUANT TO THE TOWNSHIP'S PAY-TO-PLAY ORDINANCE, ORDINANCE NO. 29-2005, NO PROFESSIONAL SERVICES CONTRACTS SHALL BE AWARDED UNLESS A SPECIFIC COMPETITIVE, QUALITY-BASED, FAIR AND OPEN PROCESS IS FOLLOWED; AND
WHEREAS, ORDINANCE NO. 29-2005 IS NOT APPLICABLE HERE AS IT ONLY GOVERNS THE APPOINTMENT OF CERTAIN SPECIFIED POSITIONS, NONE OF WHICH CONSIST OF THE POSITION OF A FINANCIAL ADVISOR; AND

WHEREAS, ON MARCH 26, 2012, ACACIA FINANCIAL GROUP, INC. (“ACACIA”) SUBMITTED A WRITTEN PROPOSAL TO THE TOWNSHIP; AND
WHEREAS, THE TOWNSHIP COUNCIL FINDS THAT IT WOULD BE IN THE BEST INTEREST OF THE TOWNSHIP OF PEMBERTON TO AWARD THE CONTRACT TO ACACIA.

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 A CONTRACT FOR FINANCIAL CONSULTING SERVICES IS HEREBY AWARDED TO ACACIA FINANCIAL GROUP, INC. IN ACCORDANCE WITH THE TERMS SET FORTH IN ACACIA’S MARCH 26, 2012 PROPOSAL LETTER, AND THAT THE MAYOR IS HEREBY AUTHORIZED TO EXECUTE A CONTRACT, IN A FORM LEGALLY ACCEPTABLE TO THE TOWNSHIP SOLICITOR, BETWEEN THE TOWNSHIP OF PEMBERTON AND ACACIA; AND

BE IT FURTHER RESOLVED, THAT THE CHIEF FINANCIAL OFFICER HAS EXECUTED A CERTIFICATION OF FUNDS WHICH IS ATTACHED HERETO, AND THAT SUFFICIENT FUNDS ARE AVAILABLE FOR SAID CONTRACT; AND

BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. ACACIA FINANCIAL GROUP, INC.
- B. TOWNSHIP ADMINISTRATOR
- C. TOWNSHIP CHIEF FINANCIAL OFFICER
- D. GLUCKWALRATH LLP

NEW BUSINESS

- 11 a. *2.** Construction Dept.: Annual maintenance agreement for the construction software program, from Mitchell Humphrey in the amount of \$2,025.00.

BILL LIST

Approval by Council required for payment of vouchers on bill list dated 3/30/12.

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

RESOLUTION NO. 97-2012 (Pulled from Consent Agenda Earlier)

RESOLUTION NO. 97 –2012

WHEREAS, HARRY WILKINS, AN EMPLOYEE OF THE TOWNSHIP OF PEMBERTON (THE “TOWNSHIP”), FILED A WORKER’S COMPENSATION CLAIM AGAINST THE TOWNSHIP (THE “CLAIM”); AND

WHEREAS, THE TOWNSHIP RECOMMENDED THAT THE CLAIM BE SETTLED IN FULL FOR \$20,000.00; AND

WHEREAS, MR. WILKINS AGREED TO ACCEPT THE TOWNSHIP’S OFFER TO SETTLE THE CLAIM FOR \$20,000.00; AND

WHEREAS, THE TOWNSHIP’S WORKER’S COMPENSATION ATTORNEY HAS RECOMMENDED THAT THE TOWNSHIP COUNCIL APPROVE THIS PROPOSED SETTLEMENT AS IT IS FAIR AND REASONABLE; AND

WHEREAS, JUDGE GEIST, THE PRESIDING JUDGE IN THE MATTER, AUTHORIZED ALLOWANCES PAYABLE BY MR. WILKINS IN THE AMOUNT OF \$5,407.50, THEREBY REDUCING THE NET AMOUNT OWED BY THE TOWNSHIP TO MR. WILKINS TO BE \$14,592.50; AND

WHEREAS, THE MAYOR HAS RECOMMENDED THAT THE TOWNSHIP COUNCIL APPROVE SETTLEMENT OF THE CLAIM FOR \$20,000.00.

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

1. THE SETTLEMENT OF THE CLAIM FOR \$20,000.00 IS HEREBY APPROVED.

2. THE CHIEF FINANCIAL OFFICER OF THE TOWNSHIP IS HEREBY AUTHORIZED TO ISSUE PAYMENT IN THE AMOUNT OF \$14,592.50 TO HARRY WILKINS PLUS ANY FEES AND COSTS AS REQUIRED UNDER LAW IN FULL SETTLEMENT OF THE CLAIM UPON RECEIPT OF A RELEASE AND/OR OTHER DOCUMENTS DEEMED NECESSARY BY THE TOWNSHIP’S WORKER’S COMPENSATION COUNSEL.

3. THE MAYOR IS HEREBY AUTHORIZED TO SIGN ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE TERMS OF THE SETTLEMENT OF THE CLAIM SO LONG AS SUCH DOCUMENTS ARE IN A FORM ACCEPTABLE TO THE TOWNSHIP WORKER’S COMPENSATION ATTORNEY.

BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

I HEREBY CERTIFY THAT THE FOREGOING RESOLUTION WAS ADOPTED BY THE GOVERNING BODY OF PEMBERTON TOWNSHIP ON APRIL 4, 2012.

Motion by Allen and Stinney to approve Resolution No. 97-2012. Allen, yes; Stinney, yes; Scull, yes; Prickett, abstain; Cartier, yes. Motion carried.

OTHER RESOLUTIONS

63-2012A Adopts 2012 Municipal Budget (**TITLE OF BUDGET RESOLUTION READ BY COUNCIL PRESIDENT**)

Motion by Allen and Scull to adopt Resolution No. 63-2012A

Council President Cartier opened the meeting up for public comments on the 2012 Municipal Budget.

Clare Wadsworth, Browns Mills – 1. Advised that she obtained a copy of the CD of the minutes from the last meeting wherein the Mayor had stated that the budget gets more difficult each year and assured that he assured it does not reflect a spending problem but rather a revenue problem. She disagreed and expressed that spending could have been curtailed. She

exampled spending on the BMIA, Atrium with water feature, and the new Community Development Department. She noted salaries and overtime had increased for Buildings and Grounds. She relayed that in regards to Recreation last year they did not use all the money budgeted for and this year they are again asking in one line. She expressed it had not been used last year, and in her opinion it is not needed and reflects overspending. She noted proposed new Holland tractor at \$83,000 and two 4x4 John Deer tractors at \$43,000 and expressed that that \$129,000 alone is over a penny of the tax increase they are about ready to approve. She noted that the Mayor further stated that the budget reflects a tax increase of 2.7 %, which is 1.8% over last year's budget and she knows people that did not get a 1.8% raise last or this year. She urged that considering all that she would ask the Council not approve this budget and that they consider cutting some of this waste. President Cartier asked the Auditor Mr. Applegate to clarify what the increase. He clarified that the increase is 2.7 cents and 1.88%.

There being no other members of the public indicating a desire to comment, Council President closed the meeting to the public comments on the 2012 Municipal Budget.

Mr. Prickett relayed that last year Council increased taxes and this year it looks they will increase the taxes again and for those individuals that are on fixed income this is money they are never going to see again. He noted the tax increases are apparently because of decrease in revenues which are a function of delinquent taxes and failing businesses which all indicates bleak finances in Pemberton Township. He advocated that now is not the time to raise taxes and agreed with Ms. Wadsworth that they should vote no on the budget.

Mrs. Scull asked if the decrease in revenues were also affected by what they do not receive from the State Aid. Mr. Vaz explained that State Aid was flat this year. Mrs. Scull noted that in that case it did not help with the increases of gas or any of those issues. Mr. Vaz added that the State is still holding all of that money that they have been keeping all these years for the energy receipt taxes that is supposed to come back to towns and for Pemberton that's over 7 million dollars. Mrs. Scull expressed that no one wants to increase taxes but they have to be responsible noting alternatives are layoffs. She noted that Mr. Prickett was part of the Council raised taxes the most in many years in Pemberton Township. He interjected that they don't have to raise them now. She expressed concern over what happens in the future years and what would happen to surplus that would be less to carry over. She expressed that money not spent is not over spending; if it's not spent it can be used the next year but once it's gone, it's gone. She reiterated that this budget is a reasonable and responsible budget and noted that Council took pay decreases.

Mr. Prickett agreed that ten years ago when he first came into office there was a large tax increase. He questioned if it was such a high tax increase why do they need to continually increase taxes. He expressed if the increase was made then, they should not have to make increases now, especially during bleak times.

Mrs. Stinney expressed that she also feels that this is a reasonable and responsible budget, with keeping services and avoiding layoffs.

Mr. Allen also agreed that it is a responsible budget and expressed that its easy to go through the budget book and look at areas and propose reducing dollar amounts but without asking questions and learning why the dollar amounts are set, they wont know and they would just be reducing without knowing what effect it may have on the budget or different departments throughout the year.

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

Council President Cartier announced that the 2012 municipal budget has been adopted.

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

ORDINANCE NO. 2-2012 (TITLE READ BY COUNCIL PRESIDENT)

ORDINANCE AMENDING CHAPTER 190, ZONING OF THE CODE OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, AND STATE OF NEW

JERSEY (NOTE: PLANNING BOARD RECOMMENDATION HAS BEEN RECEIVED AS REQUIRED)

Motion by Stinney and Allen to adopt Ordinance No. 2-2012.

Council President opened the meeting to the public for comments on Ordinance No. 2-2012. There being no members of the public indicating a desire to be heard, he closed the meeting to comments on said ordinance.

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

NEW BUSINESS

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

***1.** ARH Engineers: for inspection of Lebanon Forest #1 Dam in the amount of \$3,600.00

Mr. Prickett expressed that it is terrific that this dam is being checked, but was unsure how often it would be checked. Ms. Willis explained that this is an every other year inspection that has to be done and there will still be a quite lengthy report which is being mandated by the DEP. Mr. Prickett asked if they are mandating that all the dams be inspected on an every other year basis to which she advised it was. Mrs. Scull questioned if the DEP was going to give them money or does it have to come out of their budget. Ms. Willis acknowledged that it does have to come out of their budget.

Motion by Prickett and Stinney to approve the expenditure of \$3,600 for ARH to inspect Lebanon Forest #1 Dam. Prickett, yes; Stinney, yes; Scull, yes; Allen, abstain; Cartier, yes. Motion carried.

General Public Comments

Tamara Kelly, Presidential Lakes - 1. Noted that she did not understand an ordinance they passed last year regarding fences. She advised that she has been trying to clean her property and purchased two additional lots on the side of Kentucky Trail. She advised there was an existing fence there which was destroyed and she is now being told that she can't replace the fence in her back yard and has to have it 25 feet from her property line. She asked for an explanation. Mr. Ragan advised her to give him her number and he will call her in the morning and he will try to help her. She noted her address is 401 New Hampshire Road. President Cartier noted it's a corner lot and discussion ensued that is most likely the problem but Mr. Ragan said he would work out the details.

John Shaw, Browns Mills – 1. Announced that the Pemberton Lions has an Easter egg hunt this Saturday, a ten o'clock, at Mirror Lake basketball courts. 2. Reiterated that at the last meeting he had mentioned the lighting in front of the building noting that nothing has been done about it and expressed it should be well lit for the safety of the senior and handicapped especially. 3. Also reminded that he has spoken regarding the lighting on Texas Avenue from Stackhouse School down to the 7'11 and wants to know what's being done. 4. Regarding the budget he expressed that Council was wrong noting that in the past Council went over the budget, line by line and noted they did not do that with this budget and expressed concern for those on fixed incomes. President Cartier and Mr. Allen both assured that they went over the budget line by line. President Cartier advised that they did and added that Council had the budget book 15 days before the budget hearing and he spent 15 days going over it, line by line and is sure most of Council did as well and to say they did not do that is false.

Clare Wadsworth, Browns Mills – 1. Noted that three weeks ago she received a response to an OPRA request wherein she asked for the mileage on the \$115,000 dump truck, for which purchase was approved in last year's budget and learned that the truck has not yet been received and asked if it is on backorder. The Mayor advised that it should be here shortly, it was ordered and they are building it. 2. She asked if they will be having spring leaf pick up this year to which President Cartier noted they probably will not noting they did not have one last year. 3. She asked if they have an idea when the BMIA building is going to be completed and opened. The Mayor noted they are still awaiting the flooring to come in and should receive that within a week. He further noted that once that's in there are just a few more things to do. 4. She

expressed in regards to the budget, regardless of where decreased revenue is coming from, noting that she is aware its coming from less taxes, state funds, it doesn't change the fact that they have less money and they just approved continued spending of more money.

George Petronis, Browns Mills - 1. He expressed disappointment over how the direction of how budget hearings are going. He noted he used to attend budget meetings and the Council did go over each line by line so the public could listen to the discussions and ask questions and grasp what their tax dollars are being spent on. He relayed that last year the Administration published a preliminary budget on Friday with a hearing on Monday. He reflected that there were a number of people that made recommendations. He relayed that this year the budget was provided at the meeting resulting in anyone wanting to comment on it had to read it as they were trying figure out their comment. He noted there were specific recommendations made last year, with a lot of public feedback. He expressed that the questions raised by Ms. Wadsworth tonight were not answered and he refuted that if there is an explanation they all deserve to hear it.

There being no other members of the public indicating a desire to comment, President Cartier closed the meeting to General Public Comments.

Solicitor's report

Mr. Bayer reported that a tort claims matter that was brought against the Township wherein the plaintiff's attorney had made a \$150,000 demand, they received last week they obtain summary judgment dismissing the complaint as a matter of law based on a legal argument; flaw in the plaintiffs complaint against the Township. He expressed that it is a significant victory and potential savings to the Township.

Mr. Prickett reported having received the law suit that the Township is seeking against the Pemberton Township Historic Trust and Michael Tamn and asked when the bill for this preparation of the law suit will be on the bill list and submitted to Township. Discussion ensued that it would be in the March bill.

Engineer's report

Ms. Willis reported 1. They have had a rig out on site at Bayberry Street Dam doing some test pits and monitoring wells and taking samples to determine if the foundation of the dam has been compromised. She noted that while that has been going on they have had survey crews out not only at Bayberry, but Hanover and Mirror Lake Dams getting information to prepare an H and H study analysis. 2. In regards to the Well #12 Treatment Building they heard today they will be getting their VSTW permit and will be able to move forward with construction of that project. 3. The Country Lakes Dams 1, 2 and 3 are still under review by the construction engineer working on the spill ways and once that's complete they will be meeting with the DEP. 4. Thanked Council for approving the 2011 Road Program and is happy they will be able to get so much accomplished this year, noting the prices came in at a great rate and with the help of the CFO they were able obtain additional funds from older ordinances that remained opened in order to make this happen. She is pleased with the amount of roads they got and will actually going to be cleaning up all the previous roads in years they have not been able to be completed. She noted that with the \$213,000 that they received from DOT Local Aid they will be able to do the full length of Tensaw Drive this year.

Mr. Vaz asked Council if they looked at ARH's letter that was in the meeting package in regards to the 2011 Road Program there is a need to approve ARH's construction management portion. Ms. Willis further noted that within that proposal would also be to update their five-year road program taking them to year 2016 which would be adding two additional years to their original five-year road program as well as then giving them a recommendation for 2012. Mr. Prickett asked in regards to revising the five-year road program is there a way to announce this to the public so they know that the plan is being revised, so that they can have a voice in this program. Ms. Willis interjected that they are still taking in complaints from residents and they make a note of them as well while determining the road program.

Planner's report

Mr. Ragan reported 1. They are continuing to work on the downtown and expressed concern with

the number of vacancies in the downtown area noting the economy, despite any projections to the contrary are very difficult for retailers. He reported that Home Depot who originally wanted to come to Medford and after they did their market study could not make their numbers work. He pointed out that was just the situation for Medford, not Browns Mills. He expressed that the economy is still showing them that the difficulty in bringing tenants to the town continues to be hard. He announced that they don't really have a UEZ program at the moment so at no charge to the town he decided that they would summarize the market study that they had done last year that shows they have a big opportunity for restaurants. He called Sun Bank and what they are looking to do with their property and is looking to send out this package of information to a number of good restaurants such as Olive Garden, TGIF or to any others recommended. He explained that the important part of any time they send out letters to attract people they have to have a place for them to go within two to three months time that they suggest to them that they can come here. He reflected that at least if they know that they have someplace that's vacant and available and they have a dialogue with the owner and potential tenant they can try to make that connection. He advised that for the next few months they will be working on that and keep them updated.

Mayor's report

Mayor Patriarca 1. Thanked Council for approving the budget noting it will help them with operations and continuing to provide the services to the resident. He agreed in the belief that it is a responsible budget. He noted the budget actually represented a decrease from last year's and the budgets they have been presenting and have had approved have been on the same path each year. He spoke of prior Council's budgets having had large increases due to various issues that arose at that time. He noted that this Administration has been presenting budgets with minimal increases as possible and to still provide the services. 2. Reported that they assigned Ms. Willis to work on a new County Recreation grant with the recreation department with this year's goal to try and obtain a grant for the Nesbit field. Mrs. Stinney asked where they are with the Scrapetown Road project. Ms. Willis advised that they completed the grant application and submitted it and in speaking with Ms. Kosko who has been dealing with the County and feels they have actually looked into potentially giving the town some money for the soft costs.

Mr. Prickett asked the Mayor about the salary list with the names and other information that Mrs. Scull had requested at the previous meeting. He wondered if Council is still going to get that document with the salary sheets including the names of the employees, which is a public document to his belief. The Mayor noted he should have that ready by tomorrow.

Mr. Vaz asked if Council is going to consider ARH's proposal for the construction management and the five-year road program update. President Cartier asked if the CFO has certified the funds to which Mr. Vaz confirmed that it is on the same certification that the road program was on.

Motion by Scull and Stinney to add ARH's proposal to the agenda. Scull, yes; Stinney, yes; Allen, yes; Prickett, yes; Cartier, yes. Motion carried.

Motion by Scull and Stinney to approve ARH's for professional services for 2011 Road program. Scull, yes; Stinney, yes; Allen, yes; Prickett, yes; Cartier, yes. Motion carried.

Council Members' Comments

Diane Stinney: 1. Thanked for the grant received through the NJEA for the Seniors' prom that she and her husband had the opportunity to attend. She thanked and praised the students of Pemberton Township High School for their participation noting the importance for them doing so and spoke of the good time had by all. 2. Thanked everyone for coming out. 3. Regarding the budget she spoke of the economy and the struggles of keeping the services in tact, avoid layoffs and noted problems with foreclosures and she supports this budget without layoffs and with continued services.

Jason Allen: 1. Reported that last Friday he had the opportunity to speak at Newcomb for their annual career day noting that it was a good experience and he hopes he was able to influence a student or two, the importance of staying in school and choosing a career. 2. He volunteered at the BCCAP Day Care on Lakehurst Road, noting they are open to having other volunteers. 3. Noted he has scholarship information for Association of women in science students. 4. Addressed Ms. Wadsworth explaining that his comment was not direct towards her and did not suggest that she did

not go through the budget line by line. He explained that he was saying that it's easy to look at the numbers but if they don't know the details behind the numbers sometimes it's hard to make those decisions so if there was something in a line item last year and it was raised this year there may have been a reason. **5.** Thanked everyone for coming out, noting it was good to see so many people and he appreciated the comments.

Sherry Scull: **1.** Warned the residents that there is someone in the area claiming to be Township employee who wanted to see their electric and gas bills which was not true. She cautioned everyone to get ID from anyone trying to enter their home especially with all the scams that go on. **2.** Noted the break on Lakehurst Road and explained it's an MUA sewer main break. She expressed that this is a perfect example of why they need extra money in the budget noting that break will be costing the MUA approximately \$200,000. She reiterated the need for surplus money. **3.** She relayed that she has been coming to Council meetings for over 25 years off and on. She noted that every Council when they approved the budgets there have been people in the audience that have recommended cuts, there have been residents that suggested cutting out Recreation altogether, or cut senior services. She expressed it's not easy as no one wants to raise taxes but the thing that has the country in a choke hold are the groups of people who feel they should never raise taxes ever. She believes that this Council over the last six years has been responsible and she does realize the need for surplus to be available for the next year and she again supported this year's budget. **4.** She thanked Rick, Diane and the Mayor for coming to the Seniors' prom. She was happy for the \$30,000 in grant money from NJEA and expressed praise of the school and the students' participation. **5.** She thanked everyone for coming out tonight.

Richard Prickett: **1.** Gave praise to all of the students that assisted and participated in the Seniors' prom. **2.** Also expressed praise to the students in the Pemberton ROTC that gave a fantastic presentation at the BMIA. **3.** Spoke of a recent Pinelands short course at the Burlington County College and was pleased to see the kids and adults as well participating in the course. **4.** In regards to the budget he acknowledged that reasonable people not seeing eye to eye and this year he does not see eye to eye with his colleagues. He noted there were very little questions and believes he asked the most of the questions. He stated that he respects the Council's position but disagrees and feels that there could have been more cuts without any layoffs, noting that no one talked about layoffs or decrease in services. He also relayed that he voted no on this budget as well as last year's which was not an election year. He reflected that those who are working have an opportunity to receive salary increases but those that are retired on pensions or social security he does not know how many increases are coming their way and they have to consider that. **5.** He wished everyone a good night.

Kenneth Cartier: **1.** Thanked everyone for coming out tonight and for their comments, noting it was nice to see some new faces, and wished everyone a safe holiday weekend.

The meeting was adjourned at approximately 8:15 p.m.

Respectfully submitted by,

MARYANN FINLAY, MMC, TOWNSHIP CLERK