

**TOWNSHIP OF PEMBERTON**  
**REGULAR MEETING AGENDA**

**FEBRUARY 16, 2011**

**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, Business Administrator Chris Vaz, Township Solicitor Andy Bayer, 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. 62-2011**

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:  
CONTRACT NEGOTIATIONS WITH DANITOM, POTENTIAL LITIGATION CONCERNING THE BROWNS MILLS SHOPPING CENTER
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 Stinney to approve Resolution No. 62-2011.

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

Council President Cartier recessed the open meeting at approximately 6:31 PM to go into closed session, and then 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)

Council President Cartier reported that there would be no formal action necessary pursuant to closed session.

**PRESENTATIONS**

Presentation by Edward Fox, Regional Planning Coordinator regarding Northern Burlington County Growth and Preservation Plan (GAPP) Local Endorsement

Mr. Fox apologized for not being at the last meeting as he was ill. Mr. Fox advised that they are almost at the end of a regional planning process they started in 2002 for the rust belt towns and river front area. He noted they had envisioned a light rail and the redevelopment of some shopping center along the Route 130 corridor and that all happened. Old industries and factory areas were converted to technology and business centers. He commented that all of this happened through the towns working together. They are now looking at working with the Northern Burlington towns to create a regional plan. This area encompasses 240 square miles. Mr. Fox expressed that he was here to present the idea to Council and ask that they send him to the Planning Board to present it there also. Mr. Fox presented the Council with a planning

document and is asking for their endorsement of the plan. Township Planner Owen McCabe noted that he had a chance to review the plan and it was taken into consideration when the Master Plan was done and the Redevelopment Plan and he supports the endorsement of the plan. Mr. Fox advised that there would be a regional advisory board created comprising of a delegate and alternate from each town and five members at large from the business community, farming community and other areas as decided by the Freeholders. Mr. Fox went over the aspects of the report and noted on the map the intersect areas. Mr. Fox advised that the County's intention is to work with the towns to help implement their visions. Councilman Allen question if the ERI recently conducted was taken into consideration to which Mr. Fox noted it was not but he will take a look at it.

Council President Cartier opened the meeting to the public for comments on the presentation.

Claire Wadsworth, Browns Mills - Questioned if the report was available to the public and it was noted that the report would be put up on the Township website.

George Petronis, Browns Mills – Questioned if any public transportation was incorporated into the plan. Mr. Fox advised that it was in the plan and one of the considerations is extending the rail line from Cherry Hill out through Mt. Holly and Ft. Dix and having NJ Transit and the Burlink expanded into Browns Mills.

David Frank, Attorney – Noted that he was at the meeting Community Energy and advised that they are exploring additional solar projects in Pemberton and commented on the restrictions in the larger setbacks and how it inhibits development.

Seeing no other members of the public wishing to be heard Council President Cartier closed the meeting to the public.

Mr. Owen McCabe of Ragan Design Group expressed that while doing the Master Plan Process they reached out to the County so it would include regional planning. Mr. McCabe advised that they concentrated on 4 areas of town, first being Downtown Browns Mills, second is South Pemberton Road, third is Route 206 and North Pemberton and fourth is Arney's Mt. Road from the triangle past the Borough. Mr. McCabe noted that their master plan, revitalization plan and wastewater treatment plan are all consistent with the County's plan and the Pinelands. Mr. McCabe suggests sending it to the Planning Board. Mr. Fox advised that Mansfield Township has endorsed the plan. Mr. Fox thanked the council for their time.

Council President Cartier asked Council how they wished to proceed. Councilwoman Scull expressed they should send to the Planning board and also noted that she is excited about the idea of the Towns working together. All of Council was of a consensus to send it to the Planning Board.

### **CONSENT 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.**

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

#### **Public Comment on Consent Agenda Items**

**Rich Koster**, Browns Mills – **1.** Questioned why the Township is borrowing the \$390,000 for the water improvements and thinks money should have been set aside each year so this could be paid for without taking out a loan. Mr. Vaz advised that in theory that is possible, but under the time constraints of the Administrative Consent Order. Ms. Willis noted that this is actually for a 20% grant, 40% at 0% and the remainder is at ½ of prime. **2.** Mr. Koster questioned the purchases totaling \$9,500 including carpet, a dishwasher, and a countertop and asked that it be considered unnecessary spending in these hard economic times. **3.** Questioned the purchase of the system for the Police Department and asked if there is someone on duty 24 hours why they would need a key card to get in the building. The Mayor advised that the Police are on duty 24 hours but they are not always in the building.

**Bob Pelletier**, North Pemberton Road – **1.** Questioned what the overall cost was for Well #11. Mr. Vaz advised that the loan application is for Well #12 and #6 and the Council were given a revised resolution prior to the meeting. Mr. Vaz also noted that the work on Well #12 and #6 were a result of the problems with Well #11. Mr. Pelletier questioned if they had looked at diluting the water as an effective measure of mitigating the radium problem. Ms. Willis advised that although this practice was used in the past, that treatment method is no longer acceptable. Mr. Pelletier questioned what affect the repairs and treatments would have on the rate payer. Mayor Patriarca noted that it would come from the water budget. **2.** Questioned the purchases on the agenda and if they were budgeted items. Mayor Patriarca advised that four of the five items were from last years appropriations and the fob system for the Police Department are part of the accreditation program and is from the 2011 budget.

Seeing no other members of the public wishing to be heard Council President Cartier closed this portion of the meeting to the public.

Councilman Prickett requested to have Res. 63-2011 and Purchase No. 1 the fobbing, electronic entry system pulled from the consent agenda and Councilman Allen requested to have Res. 64-2011 pulled.

### **\*MINUTES FILED BY MUNICIPAL CLERK**

Regular Meeting, February 2, 2011.

### **\*CONSENT AGENDA RESOLUTIONS**

#### **RESOLUTION NO. 65-2011**

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:  
Lorraine Eischen, \$75.00, refund for Pilates Yoga Mix Program  
Brenda Fiedler, \$59.08, refund for Yoga Program

#### **RESOLUTION NO. 66-2011**

WHEREAS, in accordance with the provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1, et seq., the County has developed, implemented and financed a solid waste management system (the "Solid Waste System") to provide for the processing and disposal of, at a minimum, all solid waste generated within the geographic boundaries of the County, pursuant to the Burlington County District Solid Waste Management Plan (the "Plan"); and  
WHEREAS, the County has determined to provide for the use by the Township of Pemberton, at a guaranteed cost, its solid waste system through the disposal or processing of solid waste, recyclables and household and small quantity generator hazardous waste (the "Solid Waste Services") collected by or on behalf of the Participant; and  
WHEREAS, the Township of Pemberton has determined that it desires to participate in and utilize the Solid Waste System; and  
WHEREAS, the Township Council of the Township of Pemberton has reviewed the Service Contract submitted by the County of Burlington and desires to enter into same.  
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. That the Township Council, for the aforementioned reasons, hereby enters into the Solid Waste Service Contract with the County of Burlington and hereby authorizes the Township Mayor and Clerk to execute any and all documents in order to effectuate the terms of this Resolution.

#### **RESOLUTION NO. 67-2011**

WHEREAS, in accordance with the Faulkner Act, N.J.S.A. 40:69A-43(b), and Chapter 25, Section 3 of the Pemberton Township Code, the Township of Pemberton Fire Department shall be headed by a Department Director who is appointed by the Mayor, with the advice and consent of the Township Council, for a term of four years to run concurrently with the Mayor's term; and  
WHEREAS, the position of Director of the Fire Department is a volunteer position; and  
WHEREAS, in accordance with the above-requirements, the Mayor of the Township of Pemberton has appointed William Doherty to the position of Director of the Fire Department; and  
WHEREAS, the Township Council believes that Mr. Doherty is fully qualified to hold the position of Director of the Fire Department and that it is in the best interests of the Township to consent to the appointment of Mr. Doherty as the Director of the Fire Department.

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 Township Council hereby consents to the appointment of William Doherty as the Director of the Fire Department for the Township of Pemberton for a term of four years; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Christopher Vaz, Township Administrator
- b. GluckWalrath LLP

#### **RESOLUTION NO. 68-2011**

WHEREAS, Sun National Bank (the "Bank") is the owner of certain property in the Township of Pemberton (the "Township") located at Block 406, Lots 25, 26 and 27.01 on the tax maps of the Township, and situated at the corner of Clubhouse Road and Lakehurst Road (the "Property"); and

WHEREAS, the Bank has recently secured both subdivision and site plan approval from the Township Planning Board for various improvements to the Property; and

WHEREAS, in accordance with regulations promulgated by the State of New Jersey Pinelands Commission and as reflected in the Township Code, an applicant submitting stormwater management plans with the Township is required to ensure that all stormwater measures are maintained in accordance with said requirements, which shall be memorialized in a maintenance agreement (the "Stormwater Management Maintenance Agreement"); and

WHEREAS, the Stormwater Management Maintenance Agreement shall include an appropriate guarantee in order to ensure that sufficient funds are available to maintain and replace the stormwater management measures and drainage system if necessary; and  
WHEREAS, the Township and the Bank desire to enter into the Stormwater Management Maintenance Agreement and, accordingly, the Bank has agreed to establish a maintenance fund into which the initial sum of \$8,875.00 shall be deposited, maintained and supplemented.

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 a Stormwater Management Maintenance Agreement, in a form attached hereto, with Sun National Bank for the property located at Block 406, Lots 25, 26 and 27.01 in the Township.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Sun National Bank
- b. Clerk, Township of Pemberton
- c. GluckWalrath LLP

\*Purchases at \$2,625.00 or over:

2. Public Works Dept.: Replacement of overhead garage door in mechanic's shop, from Elmer Door Co., in the amount of \$3,500.00 to be paid for through insurance fund line.
3. Public Works Dept.: Carpeting for Inspections Dept., from Avalon Tile and Carpet, in the amount of \$2,721.60.
4. Senior Center: Dishwasher from Edward Don and Co., in the amount of \$3,988.01.
5. Senior Center: Stainless steel counter with backsplash, from Accu Fab, in the amount of \$2,850.00.

\*Approval by Council required for payment of vouchers on bill list dated 2/11/11.

Motion by Scull and Stinney to adopt the consent agenda as amended. Scull, yes; Stinney, yes; Prickett, yes; Allen, yes; Cartier, yes. Motion Carried.

## **OTHER RESOLUTIONS**

### **RESOLUTION NO. 63-2011**

WHEREAS, THE MAYOR AND THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP") ARE RESPONSIBLE FOR THE OVERSIGHT OF THE WATER UTILITY WITHIN THE TOWNSHIP; AND WHEREAS, THE TOWNSHIP HAS ENTERED INTO AN ADMINISTRATIVE CONSENT ORDER WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION WHERE THE ORDER INCLUDES IMPROVEMENTS AND REPAIRS TO MULTIPLE LOCATIONS WITHIN THE EXISTING WATER SYSTEM IN THE TOWNSHIP; AND WHEREAS, IN ORDER TO MAKE THE NECESSARY REPAIRS AND IMPROVEMENTS THE TOWNSHIP IS SEEKING FUNDING IN ORDER TO COMPLETE THE REMEDIATION WORK NEEDED FOR THEIR WATER SUPPLY WELLS (THE "PROJECT"); AND WHEREAS, THE NJEIT HAS ALLOWED FOR A PHASING OF THE PROJECT TO ADDRESS AT THIS TIME WELL #12, WHICH APPLICATION VALUE IS \$290,000.00, AND WELL #6, WHICH APPLICATION VALUE IS \$100,000.00, FOR A TOTAL PRESENT APPLICATION OF \$390,000.00; AND

WHEREAS, THE FIRST PHASE APPLICATION TO NJEIT WILL BE \$390,000.00; AND

WHEREAS, THE MAYOR STRONGLY RECOMMENDS THAT THE TOWNSHIP SEEK FUNDING FOR THE PROJECT UNDER THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE FINANCING PROGRAM.

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 THE MAYOR IS HEREBY AUTHORIZED TO FILE A LOAN APPLICATION WITH THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE FINANCING PROGRAM IN ORDER TO FUND THE PROJECT, AND TO EXECUTE ANY DOCUMENTS WHICH MAY BE NECESSARY TO EFFECTUATE THE LOAN.

BE IT FURTHER RESOLVED, THAT THE MAYOR IS HEREBY AUTHORIZED TO ACT AS THE AUTHORIZED REPRESENTATIVE TO REPRESENT THE TOWNSHIP OF PEMBERTON IN ALL MATTERS RELATING TO THE PROJECT UNDERTAKEN PURSUANT TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE FINANCING PROGRAM AND WHICH IS TO BE EXECUTED WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE NEW JERSEY ENVIRONMENTAL TRUST; AND

BE IT FURTHER RESOLVED, THAT THE AUTHORIZED REPRESENTATIVE MAY BE CONTACTED AT:

MAYOR DAVID PATRIARCA  
TOWNSHIP OF PEMBERTON  
500 PEMBERTON BROWNS MILLS ROAD  
PEMBERTON, NJ 08068-1539  
PHONE: 609-894-3304

Councilman Prickett advised that this loan for \$390,000.00 was for the first phase of the project and asked if it was known how much more would be borrowed to complete the projects. Mayor Patriarca advised that there is no way of knowing that until the final decisions are made as to what to do with Well #11. Ms. Willis noted that the original loan application was for Well #11 but once the issues with Well #12 and Well #6 were discovered NJEIT agreed to add those projects to the application and do those separates. She further advised that the Well #11 project would be somewhere around \$2.7 million and that this is a finite amount of money you are allowed to request from the funding.

Motion by Prickett and Scull to adopt Resolution 63-2011. Prickett, yes; Scull, yes; Allen, abstain; Stinney, yes; Cartier, yes. Motion carried.

### **RESOLUTION NO. 64-2011**

Council President Cartier noted that he has asked Councilman Allen to pull Resolution 64-

2011, but before he gets to that he is remiss in welcoming Mr. Bill Doherty to the Township folds and noted that Mr. Doherty has graciously stepped up to volunteer to be the Township's new Fire Director, which has been done by Mr. Vaz the last three years. Mr. Doherty was asked to do this to give the fire department a fresh set of eyes to see where changes can be made. Council President Cartier thanked Mr. Doherty for stepping into that position.

Council President Cartier advised this resolution establishes fees for certain recreation programs and as he mentioned in previous council meeting and budget hearings, their fees are skewed quite a bit. He noted that most of them have received an information email concerning the elementary summer rec program that he knows he distributed to everybody, but the fees that are being charged for this program do not come near close enough to covering the operating expenses for this program, so he is requesting that this resolution be tabled until next meeting. He relayed that Mr. Vaz is going to prepare operating expenses for the rest of these programs and hopefully they can adjust these fees to be more in line to what it actually costs to run these programs and requested to have a motion to table this until next meeting.

Motion by Scull and Allen to table Resolution 64-2011. Scull, yes; Allen, yes; Prickett, yes; Stinney, yes; Cartier, yes. Motion carried.

### **ORDINANCES FOR INTRODUCTION**

ORDINANCE NO. 5-2011 (title read by Council President Cartier)

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON AUTHORIZING ACCEPTANCE OF DONATION OF PROPERTY FROM SUN NATIONAL BANK

Motion by Scull and Stinney to introduce Ordinance 5-2011 with a public hearing date of March 2, 2011. .

Councilman Prickett noted that in reviewing the resolutions he answered his question about storm water management, a bond or sum of money to guarantee that part of this property will be maintained, so he does not have a question at this point.

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

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

ORDINANCE NO. 3-2011 (title read by Council President Cartier)

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE II, ENTITLED "NONPROFIT ORGANIZATIONS," OF THE ORDINANCES OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON, AND STATE OF NEW JERSEY, IN ORDER TO REQUIRE CONTRACTUALLY BASED STANDARDS AND CONDITIONS IN CASES OF CONTRIBUTIONS TO VOLUNTEER FIRST AID OR EMERGENCY MEDICAL SERVICES ORGANIZATIONS UNDER N.J.S.A. 40:5-2

Motion by Stinney and Scull to adopt Ordinance 3-2011.

Council President Cartier opened the meeting to the public for comment.

Fred Morehead, President of Browns Mills Emergency Squad – Thanked for listening to their questions. He noted that their squad has been proudly serving the community since 1939. Their mission remains the same to provide free emergency care and transportation to their friends and neighbors. With the Council's financial and moral support and the generous donations of their community they plan to continue along that path for as long as possible. He reported that the last 2 EMT classed by the county they graduated 8 from the last 2 classes and have 6 in the current one and they have 12 new members since the first on January, they are growing and moving in the right direction, as far as they are concerned, the proposed ordinance is merely identifying and setting minimum standards for their squad in return for the substantial support they get from the Mayor, Council and Business Administrator. It lists possible 30 policies and procedures that it

states it is not limited to but with which they are expected to comply. He noted it is the agreement where the details will be. He posed questions for the record and looks for answers either now or later. His first question is about unfunded mandates, he is concerned about some of these things being physical exams and training for mandatory classes that could hurt them financially, and can unfunded mandates be prevented. Councilman Cartier asked if they fall under the same guidelines as the firefighters when it comes to physicals. Mr. Vaz noted they have not in the past. Mr. Cartier asked if they will in the future. Mr. Vaz noted that it is intended. Council President Cartier relayed that the firefighters are funded so he would assume the EMS would be per what Mr. Vaz just said. Mr. Morehead asked how many years the agreement will be in effect. Mr. Vaz would like to see it up to the maximum it can go, which he thinks it is 5 in this case. Mr. Morehead noted that many of the requirements listed in the ordinance, sexual harassment, civil rights, hearing conservation respiratory protection, and any discrimination to name a few have probably already been propagated and printed by the Feds, the State and Township and if they are in the possession of the Township can they tap into that resource rather than have to rewrite all of those. Mr. Vaz agreed that they can do that and most of them come from the JIF and they have model policies that they have asked them to have fire and EMS adopt. Lastly Mr. Morehead relayed they would like to have clearly defined and narrowly drawn standards so that a non-professional administrator of the squad can understand them and guide the squad towards compliance. He reflected that these are their concerns at this time but just as the Township is not going to be limited to their policies and procedures towards them, they are not going to be limited to their concerns and questions as to what they are going to be. He thanked them for listening, expressed appreciation for their support and looks forward to continuing to work with them. Mr. Vaz advised that he met with Mr. Morehead and he was going to take a crack at drawing up the standards, they still waiting for 199 to respond whether they want to meet with or not. Since the last meeting Mr. Vaz reached out to the old guard at 199 because he has not heard from the new guard, gave them a deadline so if they don't hear from them by the end of the week they are just going to move on with the ordinance and with Browns Mills and their suggestions. Mr. Morehead said he heard from 199 and they threatened or promised to be here tonight but obviously didn't make it, he doesn't know what their input is planning to be.

Marisa Wilkins, in reference to the volunteer squads, asked if the CERT members and the Domestic Violence members also fall underneath those categories. Mr. Vaz advised they would not, CERT falls under Emergency Management and that is under the Township.

George Petronis, Browns Mills – One point that he thinks should be raised that he didn't hear so far this evening, granted the emergency squads, fire departments function with the financial support and the assistance of the Administration and the Council and that is all true, but he thinks they shouldn't lose sight of the fact that ultimately they function with the support of the tax payers. He expressed it is good to hear that there will be basic standards to what is done with their money, understands why the guidelines will be in the agreements, however in fairness to the other members of the squads, and the taxpayers, he would like to request that before this ordinance is voted on, there would be at least a general presentation to the public of the guidelines that are going to be negotiated.

Seeing no other members of the public wishing to speak Council President Cartier closed the meeting to public comments on said ordinance.

Council President Cartier advised that prior to the meeting he received an email regarding this ordinance. He advised that they are still working on the standards and some revisions to this ordinance so they were by law required to hold the public hearing because it was advertised. He explained they are being asked to table this until the next meeting until they can get those revisions done at which time if they are deemed substantial changes by the solicitor there will be another public hearing on those changes. He requested a motion to table this until the March 2<sup>nd</sup> meeting. Councilwoman Scull asked when those guidelines are finalized, would they come to the Council anyway or are they just put into effect by Administration. Mr. Vaz noted they would be part of the contract and the contract would be presented to Council for authorization for the Mayor to execute it. Mr. Vaz advised that he indicated when he met with Fred a few weeks back that he would try once he had the final input from 199 to put the contract together so that document was also available at the time of the ordinance being ready to be adopted. It was noted that there would not be another public hearing if the changes were not substantial to the Ordinance itself. Councilwoman Stinney agrees with having a presentation.

Motion by Scull and Stinney to table final adoption of Ordinance 3-2011 until March 2, 2011. Scull, yes; Stinney, yes; Prickett, yes; Allen, yes; Cartier, yes. Motion carried.

ORDINANCE NO. 4-2011 (title read by Council President Cartier)

AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON ESTABLISHING REQUIREMENTS FOR THE PROPER HANDLING OF LEAVES AND OTHER YARD DEBRIS

Motion by Scull and Stinney to adopt Ordinance 4-2011.

Council President Cartier opened the meeting to the public on the ordinance.

Mr. Rich Koster, Browns Mills – Questioned Section 81-14 Prohibited Conduct, what he is concerned about here is appearance of evil. He noted it says the owner or occupant of any property or any employee or contractor or any employee or subcontractor or such or owner or operator engaged to provide lawn care or landscaping service shall not sweep, rake blow or otherwise place leaves in the street unless the leaves are in plastic bags as required herein, if leaves are not containerized, etc. it would be deemed a violation. His problem with the wording is there is no exception for people who don't maintain their property and perhaps a neighbor has property lined with bushes, the wind comes along, the people who don't maintain the property their leaves blow into a nice pile all along the perimeter of his property which gives the appearance that he just dumped his own leaves in the street. Now he is going to get fined on that, and he has a problem with that and thinks there should be some consideration in investigating the appearance of a violation versus an assumed violation. He relayed that he has no trees on his property and doesn't want to come home and find a nasty gram that he is in violation of dumping leaves in the street. Mr. Vaz advised, for there to be a violation they would still have to prove the violation in municipal court beyond a reasonable doubt so that standard is going to apply and they are going to have a little bit more proof other than that the leaves or the debris landed there on its own, just because it is in front of their house may not be sufficient evidence. Mr. Bayer noted the individual responsible for enforcing this ordinance would have to conduct some type of investigation showing that a property owners contractor caused the leaves to end up in that condition.

Jack Tompkins, Pemberton Heights, has a problem with this for multiple reasons, it seems like the Township is trying to penalize people that are taking care of their property, they are investing their time and investing their money in the bags and then they are going to fine them \$500 if they find an error in the way they stack them on the roads. He has a problem with that, and also has a problem with the \$500 fine which he thinks is pretty high. He relayed that everyone says Browns Mills is not a lot of money, \$500 seem like a lot of money, \$50 for the first occurrence or \$100 would be more reasonable in his opinion. Next he relayed that he doesn't use the service as he brings his own stuff here but someday he might have to use it. He informed that he has zoyza grass which dries up and looks like straw, so when he rakes it up he is going to get grass debris in his leaves. He feels that automatically tells him he can't use this service or he is going to get fined if he uses it. He reflected that in section 81-12 it says no grass clippings, so he is excluded from ever using the service unless he wants to take chance at getting a \$500 fine. He then referred to the way it has to be stacked along the road and questioned what is going to stop the kids from kicking the bags, breaking them open or throwing the stuff out into the street. He doesn't agree with being fined for something somebody else did. Personally he thinks there are other codes that need to be enforced like speeding that they need to focus on and not this kind of stuff.

John Shaw, Browns Mills – Does believe there already is an ordinance for basically what they are doing here and questioned if this is an amendment or a whole new ordinance. Mr. Vaz advised it is a combination, there is a yard waste ordinance and these regulations specific to brush collection and leaf collection were added to that section of the ordinance in terms of the content. Most of it is already existing policy that has been in place through the Public Works Department. Mr. Shaw noted that he called up last year before they got the snow and the house directly across from him is vacant, it was in foreclosure, but a maintenance company was out there and they blew all the leaves in the street. He called up before that truck left and nothing has been done, the leaves are still in the road. He questioned that if it is not going to be enforced why even have it to begin with. He relayed there are other people around the town that do the same thing, blow there leaves and garbage, and the trash company leaves stuff in the can when

they come out, turns it over then it blows away. He takes pride where he lives and he only rents, but if it is going to be implemented and amended then it needs to be enforced but there are some things that have to be investigated as well.

Councilwoman Stinney asked about who would be enforcing this and it was noted that it would be Code Enforcement.

Shem Miller, Presidential Lakes – He agrees with John Shaw, instead of trying to reinvent the wheel with this ordinance, and does so state it is an ordinance, why not amend the current ordinance on leaves and pick up and table this right now until it could be reviewed and rewritten. Councilman Prickett noted that at least the definitions are an amendment to the law that is already in place, those areas are meant to be amended by this ordinance, it looks like Article 3 is an addition, so overall we are amending the ordinance even though it doesn't say that for Article but they are updating the ordinance, that is the proposal right now, they are not writing a whole new one. Council President Cartier noted that to amend current codes it has to be done by ordinance that is what this is doing. Mr. Miller asked what the current ordinance says. Councilman Prickett advised that the current ordinance does not have Article 3 in it; it doesn't specify the details that are in this ordinance. Mr. Miller asked again why the wheel is being reinvented if they already have an ordinance and they have just a few amendments to that ordinance then why not write this out as items to be amended. Mr. Bayer noted that it says right up front that Now Therefore be it ordained by the Township Council that chapter 81 collection of yard waste is hereby amended as follows, additions are underlined and deletions are struck through, so they are amending Article 81 of the existing code. That provision as Councilman Prickett pointed out in Article 3 relating to leaf and brush removal didn't exist, that is in addition to the existing ordinance and this is just codifying the current practices. Mr. Vaz noted that this takes into account the new stormwater management regulations that prohibit people from putting leaves in certain places in the streets, also that although code enforcement enforces the ordinance in the strict sense of enforcement, public works employees are required under the ordinance to issue warning stickers and give the residence 10 business days to comply before code enforcement actually issues violations. Mr. Bayer noted that on the penalty provision it is not a \$500 fine, it says a fine up to \$500.

Council President Cartier seeing no other members of the public wishing to comment closed the meeting to the public on said ordinance.

Councilman Prickett expressed that \$500 is too high. He knows there is a second chance, there are 10 days they would be issued a notice of violation, so if the residents complied with this within 10 days they wouldn't be subject to any fine, but he thinks \$500 is too high. Council President Cartier asked where that number came from. Mr. Vaz noted it was a suggestion, he has seen ordinances with higher amounts. Mr. Bayer noted that under state law the maximum penalty for an ordinance violation is \$2,000 and he has seen many ordinances where it just says where the penalty prescribed for the violation is the amount permitted by law, so the court could in that case impose anywhere from 0 to \$2,000. He reflected that here they are limiting to \$500 of that \$2,000 as proposed. Councilwoman Scull asked them to refresh their memory as to why they adding the leaf and brush removal part. Mr. Vaz advised it is to give enforcement power to the existing policy, for instance they limit the weight of what can be placed in the bags, fortunately most residents comply with that, but like many ordinances or policies, there are residents who choose to not follow their policy and will load up the bag with things that don't belong in the bag and or things that make the bags much heavier than what it should be which leads to workers comp cases. He pointed out that they have \$100s of thousands of dollars worth of workers compensation claims. He expressed that basically it is to take the existing policy and codify it so there is some enforcement ability subject to the warning requirement that Public Works will do which is more education to get people to understand what they have to do. The third part is the storm water management aspects of enforcement when people are putting leaves in places they don't belong that subjects the town with problems with the state that enforces the storm water regulations. Councilwoman Scull asked about the memo they received suggesting removing the dates. Mr. Vaz advised that their Supervisor of Public Works came back from a medical leave and they had a meeting with them yesterday and he had just had a chance to look at the final draft before he went out on he leave. He suggested that the specific reference to March 15<sup>th</sup> through April 30<sup>th</sup> and November 15<sup>th</sup> through December 31<sup>st</sup> be removed and replaced with the "collections occurring each spring and each fall", because the actual dates that the collection occurs doesn't coincide with what's in the ordinance. He doesn't think that would



be considered a substantial ordinance. He asks that Council, before they adopt if they are going to adopt, that that section be amended as relayed in the memo.

Councilman Prickett noted there was a request that the dates be taken out, and he would ask that this be posted somewhere. Council President Cartier noted that it normally is, it is on the internet, posted in the paper, and it is also posted in the specific sections by sign. Councilman Prickett asked why not have it in the ordinance, he just thinks he wants to have a document that makes sure Administration posts it and this is a way of following the law, Administration isn't under the law to do those things unless it is in the ordinance and that is why he would like to see it there. Councilman Prickett noted another item he would like to see adjusted has to do with the definitions, 81-12 which have to do with the leaves and includes grass clippings, sticks, and branches. He thinks probably code enforcement would not say that a few blades of grass in a pile of leaves would warrant some kind of a notice but maybe some simple language in there could at least quantify this as significant sticks, branches, and grass clippings as a part of this definition instead of just grass clippings. He knows significant isn't specific either but at least it is something. Mr. Vaz understands his point, but the way it is written now gives them discretion in the enforcement, but when they put in a word like significant or substantial he wonders if they are getting into an area of vagueness. Mr. Bayer noted it would make it harder to prove a case in court. Councilwoman Scull asked if grass clippings could be stricken. Mr. Vaz noted that is part of the problem. Mr. Bayer said if they were going to put something in there they would have to put a quantity of some kind because they if just said good amount or significant, they would never be able to enforce it in court, the property owner would argue. Councilman Prickett noted this puts the responsibility on the resident to make sure there isn't a single grass clipping in the pile of leaves and residents have points too, and if they are going to put them in an unfair situation here they have to prove there wasn't one blade of grass. Mr. Vaz expressed that the homeowner doesn't have to prove anything, Code Enforcement would have to prove whether there was a violation, and the burden of proof is going to be on the Township. This provides discretion and if anybody believes at some point as this moves forward that there has been abuse of that discretion then Council can change the ordinance, by going the other way he wonders if that causes more harm than good that they are intending under this concept of a vague ordinance if it was ever challenged in Municipal Court or in Superior Court that there is a standard that is not clear enough. Mr. Bayer agreed with Mr. Vaz, he doesn't think using a modifier before the words grass clippings would be helpful, they have to have faith in their enforcement and they are going to have to define it more specifically. Council President Cartier asked if the term grass clippings could be defined, noting there is a difference between grass clipping and thatch. Councilman Prickett noted that is a good point. Mayor Patriarca commented that if one thatches their lawn and they had a 30 lb bag of thatching, they can't dispose of that, they can't pick that up, they can't pick up grass clippings. Council President Cartier noted that the resident makes a good point, one can't rake their yard without getting thatch in there, it is an impossibility so they can't dispose of the leaves without blowing them and then they are requiring someone to go out and buy a machine to pick up the leaves. Council Prickett asked how about material disposed from lawnmowers, usually that material is not just clippings; it is usually mulch to some degree. Mr. Vaz advised that the Mayor is suggesting grass clippings generated by cutting the grass as the definition, which he thinks would exclude the types of grass that would be raked up. Mayor Patriarca noted that seems to be where the problem generated from and he can also envision the dethatching of a lawn, especially with zoysa grass as mentioned here, where they can rake their entire lawn and end up with ten bags of thatching which would be no different than ten bags of cutting their grass, but defining it that way as clippings from cutting or dethatching their lawn may define that better. Councilman Prickett noted that addressed his concerns to a degree, and he would like to see the amount of violation changed and if they do that he would be willing to make a motion to do that. Councilwoman Stinney noted that we had a resident come forward and say he called a code enforcement officer and year later that the leaves are still in the road; he has a problem with that. She expressed that if she were him she would have taken a picture, brought it up here and had them deal with the code enforcement officer. Mayor Patriarca noted that since this is the first that they have heard of this through Administration because they did not receive any call, he does have that listed in his notes to address that with code enforcement to send someone out to Mr. Shaw's address.

Motion by Prickett and Scull to reduce the violation cost in section 81-16 violations and penalties from not to exceed \$500 per violation to up to \$300 per violation.

Councilwoman Scull asked if that was a substantial change and Mr. Bayer advised he believes it is. Councilwoman Scull noted she has a problem seconding it if it is a substantial

change and they would have to reschedule this for another time. Mr. Bayer noted that if they want to go ahead and deal with this change and they want to redefine grass clippings more specifically and re-advertise, that is how he would do this and take the dates out. Council President Cartier noted it would give the public a chance to voice their concerns.

Prickett rescinded his motion.

Mr. Bayer noted that the proposed changes are the Mayor's definition of leaves, after the word grass clipping would be "generated from mowing of grass or dethatching of lawns", reduce the maximum penalty from \$500 to \$300 and remove the specific dates and replace with Administration's request, leaf disposal shall take place at the curb of any public roadway for collection by the Township of Pemberton with one collection occurring each spring and one collection each fall, specific collection dates shall be determined by the Superintendent of Public Works and approved and advertised by the Business Administrator.

Motion by Prickett and Scull to approve the changes as read with the public hearing on the amendments to be on March 2, 2011. Prickett, yes; Scull, yes; Allen, yes; Stinney, yes; Cartier, yes. Motion carried.

## **NEW BUSINESS**

Review of draft ordinance establishing regulations for solar energy systems within Pemberton Township.

Owen McCabe and Rick Ragan of Ragan Design group explained the background of the ordinance. This draft is a result of the data of what is being done throughout the state including the Pinelands area as far as renewable energy. He commented on the solar farm application that came out, and that turned out to be a long cumbersome process because there were no standards. So he questioned where they go from here, the State and Federal government are pushing hard on solar, Governor Christie and President Obama's State of Unions are pushing solar energy. Owen noted that there is a State Master Plan out there for energy, requiring that by 2021 that 22 ½% that all of the state energy companies, meaning the people that sell the energy, has to be from renewable sources, so there is a huge demand for solar energy throughout the state. The state needs energy up north, they are very populated up there, they don't have raw land like we do down here. That is the reason they are going to see more interest in Burlington County and the southern parts of the state. The second point is SRECS, solar renewable energy credits; the thing is it is an incentive so the state is giving incentives to these energy developers to build these solar facilities, large scale principle use solar facilities. SRECS unlike a tariff where it tells how much the energy is worth, SRECS are sort of like a free market, so if there is a demand for a lot of energy and there is only a limited amount of renewable energy the prices of SRECS go up, if there is plenty of renewable energy and not that much demand, the SRECS value goes down, right now there is balance, but there is a high demand for renewable energy for the next ten years, so there is a lot of incentive. The federal government for several years is offering a 30% grant for the project, so they have these SRECS they can sell and then they have the federal grant, it is all enticing solar developers renewable energies to come into towns like Pemberton and develop these projects, without these programs these projects would be very hard to develop, that is why they never saw them, but now they are seeing them, people are catching on. California and Colorado are the leading forefronts in this, it has caught on, New Jersey is hot, people are coming, Germany, Florida, South America, they are all coming to New Jersey, it used to be the residential, now it is solar energy, so they have to be proactive and get ready. The State had numerous policies; solar is considered inherently beneficial under the municipal land use law. They have two criteria when they have to prove a use variance, positive and negative criteria. Being considered inherently beneficial they have already the positive criteria, they just have hit the negative criteria, community character impact, how it affects the master plan and the Township's local ordinances. Inherently beneficial uses has been defined as churches, schools, daycare centers, funeral homes, stuff that they need in their neighborhood, the State has deemed these necessary in their neighborhood, now they are saying solar renewable energy is an inherently beneficial use. Next thing is the panel themselves are not to be considered impervious coverage when they are calculating their storm water management. Only the pole and foundation that goes into the ground can be calculated. Council President

Cartier asked Owen to explain why that is. Owen noted it is because it is just runoff, it is not covering, the panels themselves range anywhere from 7' to 15'. It is just a flat panel plate above the ground that is not attached to the ground and considered impervious coverage, meaning they can get underneath it, the groundwater can get down to its natural resource. So the State has really opened up the door for these things. Other things, industrial zones, anything more than 20 acres contiguous, solar is permitted by right, it is already a permitted use, they can come into the Planning Board and say I have 20 contiguous acres in a light industrial zone and want to put solar in their zone, they still have to comply with all the existing bulk requirements and set back standards for that zone, but they already climbed the first by being allowed in that zone. If they want to do a development of more than 25 residential units they now have to offer solar as part of their advertising package, they would be required that they could put solar at the town's cost but they can get the SRECS on their house. The two big items he wants to touch on right now, first is solar is permitted on farmland assessed farms, it is also allowed on preserved farms, the big thing is they can keep their farmland assessment if they meet the criteria for certain things. So just because they are a farm and they have 100 acres and they put solar on it, as long as they meet the farmland assessment they could do up to 2 megs or 10 acres of development. Council President Cartier asked what happens if it exceeds. Owen noted that then they lose their farmland assessment. The big one that just recently came out actually came out before they drafted their recommended zoning ordinance. Pinelands Policy used to be stricter, that has changed and Pinelands now allows it on property, they don't even need their ok, it can be used as an accessory use for residential property, principal use, the large scale they can put anywhere. Owen noted that Pemberton is desirable because they have 4 substations for them to hook into the grid and they have a lot of farm land, vacant land. They have 10-15 years of solar, it is not going away. Owen noted that they should have two standards, one for accessory use to a home and one for principal use for the large scale operations. He has met with a couple people already that are interested. The Pinelands will be adopting their regulations in April and they will be allowed to do it. The town needs to be ready so that it is done in a way which is in the town's best interests. Council President Cartier asked about Class 1 and Class II soils. Owen noted those are prime farming soils, they have the highest nutrition value, they don't want to disturb those, it is hard to recreate them, the idea is to preserve them. These soils exist from South Pemberton Road up to the Township Boundary and East over to the Borough. Council President Cartier noted that if this ordinance was in place, the Wilson farm would not have happened. Councilwoman Stinney asked about the setback requirements. Owen noted they currently have a 500' setback along route 206 and they want to preserve that view, but the idea was there would always be a development with a buffer, the idea is to keep that buffer similar to what is done in Springfield. Owen showed pictures of examples of the different buffer sizes. Council President Cartier commented on the buffer, 190-75 E proposes buffer doesn't stipulate the buffer to adjacent properties, only to roadways and he would like to see something in there as far as that. Owen said that could be added, 50' buffer along adjacent property lines. Councilman Allen asked about the 10-15 years and asked what if the developer comes in and then folds, what happens with those solar panels. Owen noted there is a section on abandonment in the proposed ordinance; the cost to remove has to be put in a fund, 1/10 each year for 10 years so the money is there. Councilwoman Scull asked about the homeowner having solar and not being able to sell the excess. Owen noted that if they put solar on their house they get SRECS. Rick Ragan noted that he has solar on his house, and during the day his meter goes backwards, at night his meter runs forward. He pays the net difference, some months he gets a credit, plus he gets the SRECS. A homeowner can not commercially sell the power back the power company. Councilwoman Stinney asked if they could hear from the Attorney that previously spoke. Council President Cartier noted that he would open the meeting up to the public for comments during General Public Comments. Councilman Prickett asked if they could allow the public to see the draft ordinance, put it on the website before it is introduced. Council President Cartier asked Mr. Vaz if it could be put up on the website with the proposed change.

Councilman Cartier recessed the meeting for a 5 minute break then reconvened the open session.

### **New Business**

Purchases at \$2,625.00 or over:

1. Public Works Dept.: Fobbing (electronic entry) for police doors, from County

Alarm Systems and Technologies, in the amount of \$10, 500.00.

Councilman Prickett questioned if the \$10,500 was for the actual door and the lock, and that they are not just purchasing a system and if there is a computer associated with this. Mayor Patriarca noted that is not correct, they are purchasing an enhancement to a system they already have in place. They have added some doors inside and the new police entrance and it does include a tracking system, but the computer does not need to be upgraded, this is for an additional box for the additional doors.

Motion by Prickett and Scull to authorize purchase. Prickett, yes; Scull, yes; Allen, yes; Stinney, yes; Cartier, yes. Motion carried.

### **General Public Comments.**

Mr. Franks – Here on behalf of Community Energy Incorporated, a developer of renewable energy resources. They are now looking at Pemberton. Their first reading of the ordinance seems it is an anti solar ordinance. He suggested they constructively engage with the Twp. Planner to come up with a much better ordinance that meets the needs of the town and the developer. He expressed there are many ways this ordinance makes solar impossible. He questioned the need to differentiate in the soil classifications, noting it is not done with any other type of development. He further relayed that this is also the only place restrictions are placed on clearing, but in this ordinance there is a limit of ½ of an acre. Trees are a part of their world and a good thing, but this ordinance only singles out solar to have to replace. Solar developers would be happy to contribute to trees, but it should not single out solar. He commented on the setbacks being too restrictive noting it takes up much of the developable land. He suggested there are ways to buffer the views with plantings. He believes the setbacks are a little absurd. He commented on the site restoration, consensus among land use law practitioners noting there is no mechanism in the land use law for requiring removal bonds. There are developments approved, warehouses schools, homes, all of those uses are truly permanent, they don't require removal bonds when they build a house, but they do for solar. His clients are pioneers for removal of projects; they have done it on every one of their projects, voluntarily. Mr. Franks just saw the draft ordinance tonight and noted these are quick things they picked up. He feels it would be extremely constructive if they could sit down with the Planner. Council President Cartier asked that they put it in writing and forward it to Council and they will forward it to the Planner. Mr. Frank commented on the intent of the setbacks to require a greater setback for solar, in that zone, and he feels pretty strongly it runs afoul of the recent legislation that says that Solar is a principle permitted use in all industrial zones, and believes it is not legal. Councilwoman Scull noted that she appreciated the time he took to review the draft ordinance and wants the ordinance to be beneficial to all parties. Councilwoman Stinney also appreciates the time they took to come and comment.

Clare Wadsworth, Browns Mills – Wants to discuss renewable energy, noting it's a little different, but it does include solar, and she has done research. She expressed this is about the Township saving money. She reminded that she mentioned Green Backs to go Green at the last Council meeting, noting they could not make it any easier for the township to investigate renewable energy. She relayed that the Bridge Commission offers a grant that covers 100% of an energy audit. There are grant programs out there with 0% interest. She stated that the Planner talked about the credits, it would make the Township's cost 0. She advised that she brought some information on geothermal noting it is feasible here as it will produce heat and cooling. She shared some basics on how geothermal works noting there is funding for that as well, not as good as the solar, but still feasible. She prepared a packet and gave copies to the Council and informed she will also be bringing information about bio-fuels. Solar arrays can be put on capped landfills, and it's a win, win situation noting they are all ways to save money and generate income, instead of borrowing money for all these grand projects and paying for them. She thinks it is worth some investigating and would be happy to help with it and asked Council to do it for the residents of the town.

Toney Miehle, Browns Mills – Wanted to relay a story he got from one of his clients that called to make fun of him because of the town he lives in. He shared that a caller came in on 101.5 and a resident called in reporting that he parked his car in front of his house and it was gone the next morning. He was told it was towed because it was abandoned. Apparently the fellow had to go to court and pay fines for towing. Mr. Miehle expressed that if it did happen they need to take steps to make sure it doesn't happen again and if it didn't they need to make

sure it doesn't get out on the radio which makes for a bad perception. Councilman Cartier noted that they don't have all the facts and they only have one side of the story. Mr. Miehle commented on advertising of the town and how the public perceives it.

Bob Pelletier, North Pemberton Road – Commented on the commercialization of solar energy, noting there is a draft and the public doesn't get to see it. There is a gentleman here that has a copy of it and wonders if Wiki leaks is at work and asked if it is a policy that you don't give out the drafts to certain people. Councilman Cartier noted that it is not the policy and as they stated before, it will be on the website tomorrow. Mr. Pelletier commented at the zoning board, about NREL, National Renewable Energy Lab, they have a map showing the whole country showing where solar energy is great and not so great. He shared that New Jersey happens to be where it is not so great, it is not like the sun drenched west. He expressed hope they are going to take a real hard look at a solar ordinance and its application noting they do have a lot of farmland and he would like to see it protected and preserved. He commented on Jersey being a desirable place to live and asked them to proceed with a great deal of caution and do their research. He expressed solar not being that dependable and commented on the 500' buffers and how it would be handled in the future if they didn't have the buffers. He spoke of the SRECS and the cap and trade and that solar can not stand on its own without the government subsidies. He expressed that the 21<sup>st</sup> century grid is not here yet and it is 20-30 years away.

Glen McCrum, Browns Mills – Was here 6 weeks ago about the junk yard operating on Pepper Road in Browns Mills. He relayed that there is a lot of noise and cars being crushed. He questioned the status of this matter. Mayor Patriarca shared that there are some things happening out there. Mr. Vaz noted that it is very actively in the hands of their Solicitor and Planner for the purpose of going through the court system. It is potential litigation so they can not discuss it too much. Mr. McCrum advised he operates all hours of the night and summer time he won't be able to have his windows open because all he will hear is the equipment running. He appreciates their help and looks forward to it being taken care of.

George Petronis, Browns Mills – Thanked the Council for an evening full of content. He commented on the solar ordinance and its application to farmland and asked if this ordinance addresses that solar farms can be built on commercial land. Council President Cartier noted that the Planner is making notes and they will address those questions during his comments. He informed that he is a business man; he approves of business and believes in profit motive being a strong proponent of commercial development where it is appropriate in the Township. He thinks there are more desirable and less desirable businesses for any community. He thinks that the best business types for a community are the kind that attracts people to want to come here and spend their money here. He questioned what a solar farm does to encourage someone from another town to come here and spend their money. He questioned if a solar farm employs people and if it would present jobs to Pemberton Township residents and if a solar farm would hire local electricians and plumbers. He also questioned if they are given a footprint of commercial ground what kind of tax revenue a solar farm generates for them as opposed to some other commercial use.

John Shaw, Browns Mills – Asked about the issue with the leaves and if it is going to be taken care of. Council President Cartier noted that Administration made note of it. He relayed that a resident he met up with while running for Council asked about a basketball court that has a light that glares in his house and whether it can that be put on a timer. He asked what the status is of the Old Browns Mills Shopping Center and what is being done. Mr. Bayer noted it is still in litigation and can not be discussed, but there will be some news in a few weeks.

Seeing no other members of the public wishing to speak, Council President Cartier closed the meeting to the public.

#### **Solicitor's report.**

No report.

Council President Cartier asked the Planners to give a report at this time. Owen McCabe reported that: **1.** They are moving along with the form based code. They have a public work shop scheduled for the next planning board meeting on March 3<sup>rd</sup> at 7:30pm. He relayed that it

is not a public hearing; it is a visioning and proposing of concepts. It is going to be a form based code that will give building types, architectural styles and a streetscape plan. This code will be very unique to Pemberton's redevelopment goal. They have been meeting with private and public investors to see the viability of them coming to the downtown area and investing in certain projects. The intention is to go with different developers for different sections so that projects can be going on at the same time. He met with the director of the UEZ Peter Lajoie and he sounds like he is on board. He gave him a presentation which he thought was great and he is taking it to his committee this month. **2.** In regards to the ANJEC Grant Application the town completed a 375 page ERI document, within that there were recommendations for natural resources and habitat ordinances. They are applying for a grant at no cost to the Township for writing those ordinances which is a due March 31<sup>st</sup> and does require a Council resolution and Environmental Commission approval. **3.** Announced that the next Revitalization Meeting will be March 1<sup>st</sup> at 3 p.m., noting it is always the first Tuesday of each month.

Rick Ragan noted in regards to the solar ordinance, solar industry is constantly changing, everything is in flux. He took a lot of information and brought it together for this ordinance. In regards to the soil question, he took a lot of their leads from the State Agriculture Board with regard to their notion on how they would like to see solar develop and sensitive soils. In regard to setbacks, he applied for a solar development in another town and was denied, they had a 1000' setback, he took them to court and he did not win. He commented in regards to paying for removal and thought they were being pretty innovative in figuring out a way it wouldn't burden up front because many towns will just require a bond. He relayed that they can't bond something for 15 years so having a number established they thought was fairly creative, doesn't mean all the creative ideas are necessary legal. In 1983 the recreation fund requirement was done for developers and that was upheld for a long time until a Judge decided against it. He noted he would be happy to work with Mr. Frank and see if they can't come up with a model ordinance for the whole state. Mr. Ragan noted on Mr. Petronis's questions, there are no long term jobs in the solar world noting there would be hiring of electricians and maintenance during construction. He advised there really are no tax ratables out of it, however there is talk going on now among Assessors that if they have a foundation for their solar panels it becomes a structure and if it is a structure it could be taxed. He noted that another thing to look at is consistency, if they are going to have a tree ordinance it should apply across the board.

Councilwoman Scull asked then what is their benefit from having solar if they are not going to get any ratables from it; and questioned what the township gets from it. Mr. Ragan noted if it is in a redevelopment area they can ask for a pilot, (a payment in lieu of taxes) and they can ask for some modicum of funding to come to the town. If it is in a UEZ they can ask for the PILOT and this is in a UEZ territory, they should be able to negotiate something that is amicable. Councilman Prickett noted that a PILOT program excludes school taxes. Mr. Ragan expressed that is up to the town. Mr. Ragan relayed there is no school children generated and the school budget has to be set on its own merits, not what comes into the town. The school budget is supposed to be set on the demand created by the student population not by what the tax ratables structure of the town.

#### **Engineer's report.**

Ms. Willis noted that have no report for this evening.

#### **Mayor's and/or Business Administrator's report.**

Mayor Patriarca reported that: **1.** DPW continues to work on some of their capital projects, one being the police entrance creating easier access to the police department and to help conform to the accreditation process and that is being done mostly in-house. He relayed they are working on the water department building, the old fleet garage, and they just finished up the back roof. He informed that the water department has moved about 75% of their operations into that building and are brining it up here to this level rather than down on the Lester Street property. They are out continually working on potholes, and he encouraged the public to report them. **2.** The Senior Center is getting a dishwasher noting they are seeing a high number of seniors come in there. There were 125 seniors there the other day for lunch which puts a tremendous burden on their staff and this dishwasher will certainly help them. He is trilled with the amount of participation and use the facility gets. **3.** Reported that they recently met with the Engineers and representatives from the Army Corp of Engineers and the CLHA. They went out and looked at the dams in Country Lakes, and are looking for options for funding to continue that project. **4.** Noted that on the 27<sup>th</sup> at the high school along with Deborah Heart and Lung Center they will hold the annual Heart Challenge, and he encouraged people to attend.

Council President Cartier asked Ms. Willis if the train station project has been resumed. Ms. Willis noted the contractor was out there today installing more decking and some railing and he will be on site again tomorrow. She informed that they are still on hold with change orders 3 and 4 and believes SHIPO and NJDOT will be coming out tomorrow to look at the roof leaders. Council President Cartier asked for an anticipated completion date. Ms. Willis advised that it depends on when she gets approval for the change orders and when it gets warmer to pour concrete. She relayed that once the contractor gets back on the site full time it should only be a few weeks.

Councilwoman Scull asked the Mayor about the status of the towing ordinance. Mr. Vaz advised it is one of the ordinances they can give them at any time, they have just been trying to work them in. Councilwoman Scull asked what the plan is for the Lester Street building. Mayor Patriarca noted that they don't have any plan for it at this time but they intend to keep it in the public works system. Councilwoman Scull asked about her request for monthly reports. Mr. Vaz noted he gave Council reports tonight for Police, Recreation and Senior and he is working on a similar type of report for Public Works. Councilwoman Scull is looking for information on what is going on with the Staff.

Councilwoman Stinney asked the Mayor about the heavy traffic issue on Trenton Road. Mayor Patriarca advised that they have not met again with JLUS.

Councilman Prickett asked about the lights and poles. Ms. Willis noted that the poles have always been part of the contract and they are cast iron.

Mr. Vaz wanted to point out that Mr. Dogherty is not just a resident of Pemberton Township, he brings a lot of experience in the fire service, he has served as a volunteer fireman, and he has held numerous officer positions within local fire companies and is involved today on the State level. He is looking forward to another person to see what is going on and seeing what needs to be tweaked. Council President Cartier noted that with his experience being on Council the last 4 years he has been at every budget hearing advocating for fire services and EMS.

#### **Council Members' Comments.**

**Sherry Scull:** 1. Asked Council to respond to Ebba regarding the Senior Citizens Valentines luncheon. Councilwoman Stinney noted that she did respond. Mrs. Scull commented on the Valentine Senior Dinner Dance held by the Interact Club from the high school noting it was a very good time for both the seniors and the students. 2. She commented on not being able to control what people say on the radio or on blogs noting people do and say stupid things and there is no holding anybody accountable to the truth. She expressed that they have a great community and more people should be talking about that. 3. Commented on 18 Classroom Aides that took college courses through a grant at BCC and expressed that definitely benefits their children through the staff's professional development. She relayed that BCC is a partner in their community and worked with NJEA to develop the program. She thanked everyone for coming out.

**Diane Stinney:** 1. Noted that on February 5<sup>th</sup>, there was a grand opening for one of their local residents who opened up a consignment shop called Patty Cakes, noting this is one of their local residents. She asked the rest of Council if they could do a Local Business Day in recognition of their local businesses that have stayed through during these hard economic times. 2. Reported that she went to the post office yesterday and the seniors were parking all over the place and she couldn't get in the post office. She expressed that the Senior Building has grown and questioned if there is any place in this township that could accommodate them, and if there is any place that these seniors could go and be as happy as they are at the building. 3. Thanked everyone for coming out and expressed hope that they can get code enforcement to address some of the issues they heard from the residents. 4. Thanked Mr. Ragan for being willing to work with Mr. Frank and feels they have something they can work with to put themselves on the map.

**Rick Prickett:** 1. Commented on Puxatony Phil and hopes he was right that there are 6 weeks of winter left. He is sure Administration is relieved the salt and sand is not being used up, and that hopefully there will not be a surprise. He wished everyone a good night.

**Jason Allen:** 1. He took the opportunity to promote 2 programs he recently found out about that

may benefit the residents. The first is one the Township Clerk Mrs. Finlay emailed the Council about, a one stop career center which allows residents to explore job opportunities, workshops, and training programs. He advised that if they know someone that is out of work or looking for a career change, he has that information. The second is called the White House Internship, which is open, nationwide, but it is an internship where a person would actually be able to intern at the White House. He again advised if anyone knows anyone interested in the programs to let him know as he has the information. **2.** Thank everyone for coming out.

**Ken Cartier:** **1.** Announced that baseball registrations final sign ups are next week, and there will be no late registrations this year. He relayed that tryouts will be held on March 12<sup>th</sup> and the season will be starting shortly after. **2.** Thanked everyone for coming and their input on all of the topics, noting they will weigh everyone's comments as needed, and wished everyone a safe trip home.

The meeting was adjourned at approximately 10:28 pm.

Respectfully submitted:

Mary Ann Finlay, MMC  
Township Clerk