



Police Department. He received that letter, and was told by one of the captains that this was the first time in a long time that he really remembers the leadership of a Police Department all working so closely together, so well, for the betterment of the Police Department. When he hears something like that, and he sees everyone in the leadership so unified and willing to move forward, he does not think that he has a choice but to do what it is that the leadership wants and what the officers want. With that in mind, he asked the Committee to take a Motion now, on a Resolution, based on the agreement he received signed by the three captains in the SOA, to please request that the Manager reinstate a Police Chief to the Township of Lakewood with two Deputy Chiefs, to be done in the proper Chief/Deputy Chief system.

The Motion was offered by Deputy Mayor Coles, second by Senator Singer.

**On Roll Call** – Affirmative: Senator Singer, Mr. Miller, Mr. Cunliffe,  
Deputy Mayor Coles and Mayor Lichtenstein.

Mr. Cunliffe stated that his daughter is an officer here in Lakewood Township, and he has talked to the DCA and to the Finance Board, and he intends to vote on this and he offered his vote in the affirmative.

Mayor Lichtenstein further commented on the an Ordinance for first reading on the Agenda; this Ordinance is what he discussed at the last meeting, and it was going to help him make his decision, and he does not think they need that option open any more, and that was to bring in a title of Police Director. He wanted to go out of order on the Agenda, and take a vote on that Ordinance at this time.

**An Ordinance of the Township of Lakewood, County of Ocean, State of New Jersey, amending and supplementing Chapter II of the Code of the Township of Lakewood entitled “Administration” (Police Department)**

Read by title only for first reading.

The above Ordinance was offered by Deputy Mayor Coles, second by Mr. Cunliffe.

**On Roll Call** – Negative: Senator Singer, Mr. Miller, Mr. Cunliffe,  
Deputy Mayor Coles and Mayor Lichtenstein.

**Ordinance was not adopted.**

Senator Singer commented on the Police Chief matter. He personally thanked the Ocean County Police Chiefs Association. They have always been very supportive of his efforts toward a Chief. They have met many times on this issue, and they know that his feelings were for a Chief. He is very happy that the PBA has endorsed the fact that they want to see a Chief in Lakewood. He is very happy to see that they are back to having a Chief. For the reasons he stated originally, he wants to see someone who lives in his town. He wants to see the fact that the officers know they can come up in the ranks and be Chief of their own department, as opposed to a Director. And more importantly, the Chief is the Chief. He is the top law enforcement person in the community. A Police Director is a civilian, and he has always felt that a civilian should not run the Police Department. He appreciates everyone’s support.

## **PRESENTATIONS: Avallone Tax Abatement Block 1606 Lot 3**

John Meary, Esq., from the law office of Abraham Penzer, 1203 Madison Avenue, Lakewood – Requesting the favorable consideration by the Committee of a tax abatement application on behalf of Alpha Associates, a firm located in Woodbridge, NJ. They have had a site, employing about twenty-five employees, in the Industrial Park, for the past ten years. The expansion project includes the construction of a 52,000 square foot building to support the growth of the company, and there will be a vast increase in the number of employees, which will provide a fair amount of increased employment for the Lakewood Township area.

Dick Young, Director of Manufacturing of Alpha Associates, reviewed the basics of the proposed construction project, and the background on the company and its operations.

## **ORDINANCES FOR DISCUSSION: Plot Plan Ordinance**

Mayor Lichtenstein advised they received a copy of the proposed Plot Plan Ordinance, which requires plot plans and as-built surveys. He understands that the purpose of this Ordinance is so that when people build single-family homes, they can not create a mountain with water charging off it and flooding out their neighbors property. That obviously makes sense; they don't want that to happen.

Senator Singer pointed out that it is not just if you build a house; it is also if they put in a swimming pool, or a shed, which has created problems in many cases, because that is not on the original plot plan.

Mr. Cunliffe agreed. It could also be a retaining wall. The removal of the soil could change the elevation greatly and cause problems for adjoining property owners.

Mayor Lichtenstein asked about Item H...if a basement is proposed, a sub-surface soils investigation certified by a licensed engineer shall be permitted with a plot plan.

Mr. Mignella explained it is a soil boring to ensure that the water table is at a sufficient depth. They have had some problems where a basement is proposed and during construction they find that the water table is too high, they raise the house, then the driveway is too steep, it exceeds or is close to the maximum allowable slope for driveways, and other potential problems. So, it is a good idea to have that.

Mayor Lichtenstein commented on Items I and G, with regard to the as-built.

Mr. Kielt explained that the as-built would be provided by the applicant's engineer, submitted to the Township Engineer for review and approval prior to a C.O., and would be performed by the applicant's professional.

Mr. Cunliffe commented that Item I is so important in terms of the foundation and the backfilling, especially homes with basements. He knows there are quite a few

neighborhoods in the south part of Lakewood where there have been basement failures because of uneven fill, because the foundations have been buried too high and major structural damage has occurred. This is something that is to the benefit of the homeowner.

Mayor Lichtenstein continued that this is obviously not for developers; they have to go to the Planning or Zoning Board and they will get this kind of engineering approval. This is more for the single family lots.

Mr. Kielt answered that basically it is for both. The problem you have in subdivisions, is when you submit a grading plan for a subdivision, typically the engineer will show a grading rectangle; they don't have an actual footprint of the house. They will show a fifty by thirty foot rectangle, just to show a representation of where the house is going to go. We all know that is not where the house ends up. If a mansion is built, and you start to improvise with the grading, that is where you run into problems. So it is a suggestion that you come in with a plot plan that shows the actual footprint of the proposed dwelling, you have to alter the grading on the grading plan to be sure it fits the site. And that is going to ensure that the grading does work, versus if you have a grading rectangle.

Mayor Lichtenstein continued that his question was in understanding that when you have a single family person who is doing an addition or building a home, we have engineering and soils, he is looking at the \$150.00 fee, which he is sure is not an issue. Obviously they want to protect the neighbors. But he would not want it to be cumbersome to the point where people who are coming to put a thousand foot addition on their house would end up going through the same hoops that a developer had to go through.

Senator Singer stated that he understands the point about putting up an addition. But the problem is that the addition could create the same type of drainage problems. They had had greater problems with people putting additions on homes and other added features affecting the neighbors. Because they presently do not have that same regulation on that thousand foot addition, it absolutely does affect the neighbor.

### **Mayor Lichtenstein reviewed quality of life items from the previous meeting.**

As to the issue of the County Building parking lot, Mayor Lichtenstein commented that Mr. Kielt informed him that the County sometimes has employees coming into work in the evenings and they do not want to take down the signs in the County lot.

Mr. Kielt said he spoke with the administrators office and they have advised that the nutritionists do not have set hours. They work many different hours, including night hours, and they felt that altering the signs would not be appropriate.

Senator Singer stated they are looking at moving the WIC program out of the County Building, because unfortunately there is not enough space at the County Building. They are trying to negotiate for a new site in Lakewood. Maybe once they obtain that site, and move the nutritionists out of there, they may be able to make the request again.

AS to the issue of the school buses in Lafayette Green, Mayor Lichtenstein asked that this

matter be brought back for discussion at the next meeting. And hopefully at the next meeting on December 21st there will be someone here from the Police Department and they can make sure this item gets addressed.

As to the tree cutting on the east side of Forest Avenue, north of Sixth Street, Mayor Lichtenstein advised he did see a copy of a letter that was sent to the resident.

As to the issue of the light survey to see if additional lighting is required in the area of First Street and Lexington Avenue, in the vicinity of the New Jersey Transit station, Mayor Lichtenstein requested this item be brought back to the next public meeting for review by the Police Department.

As to the street light outage issues, Mr. Edwards advised he spoke with Pete Joyner of JCPL, who indicated that as to the Spruce Street cul-de-sac issue, they had a layout technician working on it right now to provide a cost estimate. That will be provided to the Township shortly. As to the other issue concerning the underground wire on Sterling, he indicated there is the possibility that it could be done with an overhead, and not necessitate an underground, which would be an expense to the Township. But it traverses a small portion of another individual's lot. So they wrote to that individual asking them to grant an easement or right-of-way to JCPL, and the person has some questions, and they will get together to see if they can work it out.

Mr. Miller asked if there was a time frame on the Spruce Street light.

Mr. Edwards answered he was led to believe it would probably be within the next week or so.

Mayor Lichtenstein asked if they would have an answer by the December 21st meeting on both of those items.

Mr. Edwards answered hopefully...the one depends on whether or not the homeowner will cooperate with the proposal.

Mayor Lichtenstein asked about the Avenue of the Americas light outages.

Mr. Edwards stated his understanding was that Mr. Franklin looked into that issue. He believes there was something that was done by the development, when he put some signage up and broke one of the lines.

Mr. Franklin agreed that was what happened. They tried to get the contractor back to repair the lines, and he said his lines were working and he was signed-off by the power company that everything was fine. Then the general contractor for the job put the street signs in and he must have driven them through the cables, because he did not get a mark out. That is what the problem is; they threw the breakers back on a few times and stopped doing it because someone will get killed if they touch one of the signs. Someone has to do the repairs; it should be the contractor who put the road in who is responsible for repairing the lights.

Mr. Cunliffe asked if you do not call for a mark out, and you do something like that, are there fines and penalties that should be imposed.

Mr. Franklin answered yes. But what happened is that he probably did that when it was still under construction.

Mr. Cunliffe stated he would like to see that the contractor is fined. Here they thought it was JCPL, and it was the contractor who severed a power line.

Mr. Miller said regardless of that, he still feels they should not be paying a bill on twenty-five lights that have not been on since February.

Mr. Franklin added that it has been longer than that.

Mr. Cunliffe stated they should deduct it, and Mr. Miller agreed.

Mr. Cunliffe added that if they know it is a severed line, they should either get the contractor to fix it, or get JCPL to fix it, and back-charge the developer or the contractor, but the Township should not be paying for lights that are not on.

Mr. Miller added that not only should they not be paying for it, but they should get a credit for monies paid for all these months

Deputy Mayor Coles if the Township still had any bonds on that job that they could call in.

Mayor Lichtenstein asked that someone look into this and report back at the meeting on December 21st.

As to the issue of the chevron signs in the Industrial Park, Mr. Franklin advised the work has been completed.

### **Comments from Committee Members:**

Mr. Miller thanked Mayor Lichtenstein and Mr. Franklin for allowing him to join them on a tree survey this past week, in certain areas where they thought that snow may slow them down. He asked Mr. Franklin if they had a time frame when the trimming would take place.

Mr. Franklin answered it would probably be in January.

Mr. Cunliffe asked the Engineering Department to check the Ordinances with regard to road opening permits. They had a meeting of the Industrial Commission today and there were many issues brought up about the utilities, and they are not taking out road opening permits, and they are just cutting through roads, before the moratorium. He asked what is the moratorium when they pave a road here in Lakewood.

Mr. Mignella answered it is three years with Township money and five years with NJDOT money. Most utility companies have been filing permits; the only one who is not is the Lakewood MUA, and he just sent a letter to them to try to work out an agreement that they file permits with the town.

Mr. Cunliffe continued that the reason it came up is that they are about ready to have quite a few of the roads in the Industrial Park repaved. And they do not want to repave them only to have them dug up in another two or three months. He asked that the Engineering Department send a memo to Mr. Corby on the procedures, and asked if there was a way for them to notify the utilities and the Planning and Zoning Boards, as to any planned development.

Mr. Cunliffe also asked that Mr. Edwards notify the Police Department that there is major construction on New Hampshire Avenue from Oak Street down to Route 70. There are barrels there that change every day; there is no police control there whatsoever; and you can not figure out which way they want you to drive.

Mr. Mignella advised that he spoke with the County Engineer's Office today, and their roadway supervisor, and they are aware of the construction. The construction is for emergency water repairs. The representative is coming to their office tomorrow to discuss the job, and the duration of construction.

Senator Singer asked the Inspection Department to look into the issue of builders being granted building permits, and even though the MUA have agreed that they have the capacity to take them on, in some cases, they have not done their agreements with surrounding developers to be able to bring the water in. And they are building these developments without having that permit. They have to have everything in place prior to getting their building permit, because they are building homes and they do not have an agreement yet to bring the sewer and water in. And they are not designed for septic.

Senator Singer also asked Mr. Cunliffe to bring to the attention of the Industrial Commission the matter of resigning the Industrial Park. They need to find an affordable way to do it. It is a mess and people do not know where they are going. Those signs are twenty years old, and need to be replaced.

Mr. Cunliffe answered he will bring this matter back as it has been discussed both at the Industrial Commission meeting and the LDC meeting.

Mr. Miller commented on the signage along Route 9. The Committee had been corresponding with the NJDOT about all along Route 9 by the traffic lights, where the signage for the streets have faded. He asked if they have heard anything about the changes.

Mr. Mignella advised that the design is still in progress with the State. They are starting in South Jersey, working their way North. He does not know the time frame, but they will receive a memo from the DOT in about two to three weeks updating him on all the various state issues. He spoke with the DOT last week and they have advised they will be sending out a memo in a week or two.



**COMMENTS FROM THE PUBLIC** will be heard for a limit of one (1) hour. Each Speaker will have four (4) minutes and shall be limited to one time at the Podium.

Mayor Lichtenstein opened the meeting to the public.

Lynn Celli, 579 Patriots Way – Commented on the issue of school bus safety in Lafayette Greens. Wished everyone a happy holiday. And spoke in support of the appointment of a Police Chief.

Vince Corsaro, 28 Autumn Tide – Commented on the appointment of a Police Chief. Also commented on the Smart Growth application.

Chris Abrams, Coral Avenue – Commented on her study of the Kettle Creek area for the Master Plan re-examination, and asked the Committee to look into certain possible violations of CAFRA regulations as to the way that the creek may have been illegally detoured or blocked. She offered photographs to the Engineering Department. She explained there are two areas: in the area of a home on Salem Street off New Hampshire Avenue, as you drive along the side of the home and you go down to the back, in two spots it looks like the area has been filled in over on top of the creek. And there are outbuildings, like a garage. At the second area, there is a pipe that looks like it was put in to divert the water. She would like the Township to check into this.

Mayor Lichtenstein asked that this information be given to the Engineering Department for them to see if in fact someone built on the wetlands without the proper permits.

Mr. Cunliffe stated that if investigated and found to be true, he would like the Police to go there tomorrow, and document this, and he would also like to get the DEP and the EPA brought in.

Mr. Edwards added that DEP is the enforcement agency.

Ms. Abrams stated that it is all polluted back there, strewn with litter, and garbage that people have dumped back there.

Alice Kelsey, 295B Malvern Court East – Commented on the issue of the dismissal of the Public Safety Director, and the appointment of a Police Chief.

Rich Orne, Manchester – Commented a recent school bus accident.

Carol Suckno, 59 Foxwood Road – Commented on the issue of the dismissal of the Public Safety Director.

Howard Suckno, 59 Foxwood Road – Commented on the appointment of a Police Chief.

David Drukaroff, 1433 Laurelwood Avenue – Commented with regard to his recent correspondence with Rabbi Weisberg.



Janice Urbasitis, 68 Seminole Drive – Voiced her concerns with regard to the development in Lakewood, and that she feels the current laws no longer protect the residents. Also complained about the condition of the property at 60 Seminole Drive. She submitted pictures of the property to Mr. Mack.

Mayor Lichtenstein asked Mr. Mack to look at the property.

Edward Frankman, 49 Buchanan Street – Commented on the Buchanan and McKinley Street vacations.

John Newman, 1586 Salem Street – Asked about water, sewer and fire protection for his development.

Joe Kirsch, 64 Skyline Drive – Commented on the appointment of a Police Chief.

Larry Simons, 30 Schoolhouse Court – Commented on the tax abatement application of Parkway Lodging Realty LLC. Also commented on the salary range for a Deputy Chief.

Bob Cook, 45 Drake Road – Commented on the street vacations for DeKalb and Filbert Avenues. Also commented on the trailer on the school construction site in his neighborhood.

Mr. Mack advised there is a problem with the site, and he will be issuing a summons for non-compliance.

Gerry Ballwanz, Governors Road – Commented on the Somerset Development construction site on County Line Road, that she believed to be dedicated open space.

Mr. Edwards advised that Mr. Secare is involved in trying to negotiate a sale price.

Seeing no one else wishing to be heard, Mayor Lichtenstein closed the meeting to the public.

Deputy Mayor Coles commented on the Police Department issues; he advised that all the captains, and officers in the Department know their jobs, and they know them well. At no point in time over the past few weeks has the Department been without a leader. They have been doing their jobs, and doing them well and professionally. There should be no concerns as to what is going on in the Department.

Deputy Mayor Coles further commended Mayor Lichtenstein on his actions over the past year. They have had heated discussions and disagreements, but at no time has the Mayor ever cared about anything other than what is best for the entire town of Lakewood. He has nothing but respect for the Mayor, and considers him to be a very close friend. He would gladly serve at his right hand for the next three years if he wanted to keep the center seat.

Mayor Lichtenstein thanked Deputy Mayor Coles for his comments, and further commented on the issues in the Police Department. As to the departure of the Public Safety Director, there was no firing of the Director; it was in the best interest of his family, for him, and for the Department. That is what happened. As far as who will be appointed

Chief and as Deputy Chiefs, as he did not vote for the Chief's position, and he still does not know that he feels one hundred percent that it should be a Chief as opposed to a Director. That is his true feeling; he does not know. But the three top officers, the three longest serving Captains in the Police Department who were eligible to take the Chief's test, have offered an agreement as to how they want to work things out, as to who should be Chief and the two Deputy Chiefs, he has to say to himself, that he may be a little undecided, a little indecisive in this matter, but it is time to take a step. And his fellow Committeeman have told him the same thing.

Mr. Cunliffe stated he supports the Mayor in his comments. The three Captains, part of the SOA, came to them and offered the Committee a way to resolve the problem, for the betterment of the Police Department, and for the harmony and well-being of the Police Department. They worked it out amongst themselves, and offered the Committee a solution. The Mayor took advantage of that, and it was the right thing for him to do. And it was a very noble thing for those three Captains to work that out between themselves. That in itself shows true leadership on the part of each of the Captains.

Senator Singer, stated from the minority perspective, that he had been opposed to the concept of a Director, but had voted with the Committee in order to be supportive of the Committee's decision to appoint the past Directors. He supports the appointment of a Chief at this time. For the first time in a long time they have a Police Department on one page, and he thinks that is something that benefits all the residents of Lakewood, and the Police Department. He commended the Mayor on his decision.

Mr. Miller advised he received a letter from a resident from Columbus Avenue South about noise from a home behind him that had a fire recently, and a generator has been running for quite a long time. He asked Mr. Mack to look into it.

The professionals left the meeting at this time.

## **CONSENT AGENDA**

The below listed items are considered to be routine by the Township of Lakewood and will be enacted by one motion. There will be no formal discussion of these items. If discussion is desired, this item will be removed from the Consent Agenda and will be considered separately.

1. Resolution authorizing submission to New Jersey Urban Enterprise Zone Authority for Enterprise Zone Assistance Funds for the year 2007.  
Resolution No. 2006-471
2. Resolution releasing a Performance Bond posted by Avinash Gupta and waiving the Maintenance Bond requirement in connection with Block 778.06 Lots 27, 52, 53 and 78.  
Resolution No. 2006-472
3. Resolution reducing a Performance Guarantee posted by 319 Lincoln LLC in connection with Block 174.01 Lots 4,5 and 10, Block 771 Lot 1 and Block 772 Lot 1.  
Resolution No. 2006-473

4. Resolution reducing a Performance Guarantee posted by Lugano Estates, LLC in connection with Block 174.04 Lots 54 and 55.  
Resolution No. 2006-474
5. Resolution authorizing a state contract purchase of six patrol vehicles from Warnock Motor Sales, Inc., sum not to exceed \$133,103.70.  
Resolution No. 2006-475
6. Resolution awarding a contract to L & L Paving Company for the completion of the improvements at Gardens By Yomah, sum not to exceed \$219,686.00.  
Resolution No. 2006-476

**Motion by Mr. Cunliffe, second by Senator Singer, to approve Resolutions 1 through 6 on the Consent Agenda.**

**On Roll Call –** Affirmative: Senator Singer, Mr. Miller, Mr. Cunliffe and Mayor Lichtenstein.

Not present for the vote: Deputy Mayor Coles

**Resolution Nos. 2006-471 through 2006-476 – Adopted.**

## **ORDINANCES SECOND READING**

**An Ordinance of the Township of Lakewood, County of Ocean, State of New Jersey, vacating all right, title and interest of and to a portion of streets in the Township of Lakewood, pursuant to and in accordance with N.J.S.A. 40:67-1 et seq. (DeKalb Ave. between James St. & Ridgeway Pl.)(Filbert Ave. between James St. & Ridgeway Pl.)**

Read by title only for second reading.

Mayor Lichtenstein opened the meeting to the public. Seeing no one wishing to be heard, the hearing on this Ordinance was closed to the public.

**The above Ordinance was offered by Mr. Cunliffe, second by Senator Singer.**

**On Roll Call –** Affirmative: Senator Singer, Mr. Miller, Mr. Cunliffe and Mayor Lichtenstein.

Not present for the vote: Deputy Mayor Coles

**Ordinance No. 2006-78 adopted on second reading.**

## **ORDINANCES FIRST READING (2nd Reading and Public Hearing 12/21/06)**

**• An Ordinance amending and supplementing an Ordinance entitled “An Ordinance establishing the annual minimum and maximum salary ranges for the offices and positions of persons employed by the Township of Lakewood in the County of Ocean and State of New Jersey” and, providing for an effective date 20 days after publication after final adoption.**

Read by title only for first reading.

**The above Ordinance was offered by Mr. Cunliffe, second by Deputy Mayor Coles. Mayor Lichtenstein asked that the title of Police Director be omitted from the Ordinance.**

**Mr. Cunliffe and Deputy Mayor Coles agreed to the amendment to delete the title of Police Director.**

**On Roll Call – Affirmative:** Senator Singer, Mr. Cunliffe, Deputy Mayor Coles and Mayor Lichtenstein.

Not present for the vote: Mr. Miller

**Ordinance No. 2006-81 adopted on first reading, as amended. Second reading and public hearing to be held on December 21, 2006.**

**• An Ordinance of the Township of Lakewood, County of Ocean, State of New Jersey, amending and supplementing Chapter XI of the Code of the Township of Lakewood entitled “Traffic”. (No Stopping & No Standing on East Ninth St.)**

Read by title only for first reading.

**The above Ordinance was offered by Mr. Cunliffe, second by Deputy Mayor Coles.**

**On Roll Call –** Senator Singer, Mr. Cunliffe, Deputy Mayor Coles and Mayor Lichtenstein.

Not present for the vote: Mr. Miller.

**Ordinance No. 2006-82 adopted on first reading. Second reading and public hearing to be held on December 21, 2006.**

**• An Ordinance of the Township of Lakewood, County of Ocean, State of New Jersey, vacating all right, title and interest of and to a portion of streets in the Township of Lakewood, pursuant to and in accordance with N.J.S.A. 40:67-1 et seq. (Buchanan St. & McKinley Ave.)**

Read by title only for first reading.

**The above Ordinance was offered by Mr. Cunliffe, second by Deputy Mayor Coles.**

**On Roll Call – Affirmative:** Senator Singer, Mr. Cunliffe, Deputy Mayor Coles and Mayor Lichtenstein.

**Ordinance No. 2006-83 adopted on first reading. Second reading and public hearing to be held on December 21, 2006.**

**• An Ordinance of the Township of Lakewood, County of Ocean, State of New Jersey, pursuant to N.J.S.A. 40A:21 et seq., granting abatement to local property taxes to Parkway Lodging Realty, LLC (for purposes of the Lakewood Hilton Garden Inn, Longhorn’s Steakhouse and Ruby Tuesday’s only) for facilities located at Block 1235 Lot 36, and authorizing the Mayor and Township Clerk to execute any and all documents necessary and proper to enter into a Tax Abatement Agreement.**

Read by title only for first reading.

Mayor Lichtenstein advised he would be stepping away from the dais for this vote.

**The above Ordinance was offered by Deputy Mayor Coles, second by Mr. Cunliffe.**

**On Roll Call –** Affirmative: Senator Singer, Mr. Miller, Mr. Cunliffe, Deputy Mayor Coles.  
Mayor Lichtenstein recused himself from this matter.

**Ordinance No. 2006-84 adopted on first reading. Second reading and public hearing to be held on December 21, 2006.**

**• An Ordinance of the Township of Lakewood, County of Ocean, State of New Jersey, authorizing the conveyance of a deed of easement from the Township of Lakewood to Luis and Edwin Ortiz for access over the America Avenue Right of Way.**

Read by title only for first reading.

**The above Ordinance was offered by Mr. Cunliffe, second by Deputy Mayor Coles.**

**On Roll Call –** Affirmative: Senator Singer, Mr. Miller, Mr. Cunliffe, Deputy Mayor Coles and Mayor Lichtenstein.

**Ordinance No. 2006-85 adopted on first reading. Second reading and public hearing to be held on December 21, 2006.**

## **CORRESPONDENCE**

Letter from Vito Imperiale of the Catholic War Veterans requesting a poppy fund drive within the Township between April 30, 2007 and May 6, 2007.

**Motion by Mr. Cunliffe, second by Deputy Mayor Coles, and carried, to approve the above request.**

## **PARKS AND EVENTS CORRESPONDENCE**

Per schedule of one (1) item attached hereto and made a part hereof.

**Motion by Mr. Cunliffe, second by Deputy Mayor Coles, and carried, to approve the above request.**

**MOTION TO APPROVE BILL LIST OF:** None

## **COMMENTS FROM COMMITTEE MEMBERS**

Mayor Lichtenstein advised they discussed in Closed Session, the issue of a non-profit synagogue that was in the middle of a tax exemption process. They discussed it as

pending litigation and the Township Attorney had advised that the proper thing to do was to bring the discussion out into the open. He would like to put this matter on as a Resolution, and asked Mr. Ryan to provide the details.

Mayor Lichtenstein stated that before they put this on as a Resolution, he would like to state for the record, that from what he understands in the different specific facts of the case, there was a building that was built...the building was taken down, and now they want to rebuild the building....that non-profit has been there for a while. His request was that....can the Committee allow the taxes, because it is tax exempt, not to be paid, and the response of the Attorney was that being it is in litigation, because of the rule if the home is no longer there, that it is not a decision that the Committee is permitted to make. He just wanted to put that on the record, and make sure that it is clear.

Mr. Ryan explained that the Mayor was correct. The Tax Assessor has the ability to do that, and he understands there was a statute presented to the Mayor regarding the ability of a governing body to refund taxes on which property should have been granted an exemption. But that statute is not applicable here. That would be a case where either the paperwork was not filled out in time, or for whatever reason the Tax Assessor made an error and then comes to the governing body and says that they should have granted an exemption, and the taxes should be returned. That is not the case in this particular matter.

Mayor Lichtenstein asked if that would have been the case, the Committee would have the right to vote on that, but being it is not the case here, they do not have the right to vote on it.

Mr. Ryan answered that was correct. He was asked to look into, with respect to the payment of taxes while the appeal is pending. The New Jersey statutes are designed to prevent an interruption of tax revenues to a municipality in the event that appeals are filed. So typically the procedure is that the taxpayer must in fact continue to pay the taxes due while prosecuting an appeal. That would be an appeal from either the assessment, or in this case, an exemption. He understands the Mayor's position that this is a hardship on this particular non-profit entity to do that, and it is in the best interest of the municipality to get a ruling on this to find out if the property is exempt or not exempt. In this regard, the particular statute, NJSA 54:3-27 provides that the Tax Court can in fact relax that requirement of paying taxes while prosecuting an appeal if the interests of justice may require. He believes the property owner may make that argument to the Tax Court and what the Committee can do is entertain a Resolution that pursuant to the statute cited that the Township Committee is in favor of, and believes that the interests of justice are best served, by relaxing that requirement and allowing the appeal to be decided on the merits. Let the process wind its way through the Tax Court and let a Judge decide if it is exempt property or non-exempt property. In that regard, if the Committee would like to entertain a Motion, the property in issue is three lots. The first one is Block 56, Lot 3; the second two properties are in Block 48, Lots 10 and 11.

Mr. Cunliffe asked if what they would be doing is asking the Court to give certain dispensation under this litigation?

Mr. Ryan explained that the way it works is that the property owner would be asking the Court to do that, and the Township Committee would be agreeing, or at least voicing your opinion, that the interests of justice are best served by allowing the matter to be decided on its merits. This is similar to, or very common, that indigent persons get relief from filing fees. The Municipal Court does it all the time with respect to Public Defender clients. It happens in Federal Court that people get relief from filing fees and in this regard it is a procedural requirement to pay that money while you are prosecuting your appeal, and what you are saying is that the interests of justice are best served by allowing the taxpayer to go ahead and have a hearing without having to pay the taxes in the meantime. And I understand this is scheduled for next week. So it is not as if you are granting a lengthy delay.

Mr. Cunliffe confirmed that it is scheduled for next Monday.

Senator Singer stated that the Resolution would say that basically they are asking the Court, that the Township does not have a problem if the Court was so willing to grant and be heard in front of them, even though taxes have not been paid, and it would be a hardship for the non-profit. And then the decision would then be left to the Court.

Mr. Ryan stated that is correct. And if it is the Committee's wish, he will try to put that in the form of a Resolution.

Mayor Lichtenstein answered yes.

Mr. Ryan recited the Resolution as follows:

Resolution of the Township of Lakewood, County of Ocean, and State of New Jersey, finding that the interests of justice are best served by the Tax Court dispensing with the requirement, that the property owner pay all outstanding taxes prior to proceeding with the appeal of the exemption denial for Block 48, Lots 10 and 11 and Block 56, Lot 3.

**A Motion was offered by Senator Singer, second by Mr. Cunliffe.**

**On Roll Call –** Affirmative: Senator Singer, Mr. Miller, Mr. Cunliffe, Deputy Mayor Coles and Mayor Lichtenstein.

Mr. Miller stated that he has sat on the Committee with the Mayor for the past three years and all of the Mayor's actions have been for all the people of Lakewood. He has shown up at fires in the middle of night to help the victims of the fire; the Mayor was the one who was very involved in trying to provide a site for the day laborers; and he is a person who cares, not just about any part of Lakewood, but all of Lakewood.

## **ADJOURNMENT**

**Motion by Senator Singer, second by Deputy Mayor Cunliffe, and carried, to adjourn the meeting. Meeting adjourned at 9:30 P.M.**