

**STILLWATER TOWNSHIP COMMITTEE MEETING  
MINUTES  
February 21, 2012  
Regular Meeting**

A REGULAR MEETING of the Stillwater Township Committee was called to order by Mayor Scott at 6:10 p.m. noting the meeting date, time and place were duly published in the New Jersey Herald and posted at the Town Hall and advised those present that this meeting was being held in compliance with provisions of P.L. 1975, Chapter 231, Sections 4 & 13.

Roll Call was taken and the flag was saluted.

PRESENT: Mayor Scott, Deputy Mayor Fisher, Committeewoman Chammings, Committeeman Gross, Committeewoman Straway, Acting Municipal Clerk Lynda Knott, and Attorney Larry Cohen

**Executive Session:**

After the reading of the following Resolution to enter into Executive Session, a **motion** was made by Mr. Gross, seconded by Mr. Fisher and unanimously carried by roll call vote to adopt the resolution permitting the Committee to go into Executive Session at 6:12 p.m.

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting under certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Stillwater, in the County of Sussex and State of New Jersey as follows: Personnel: Certified Public Works Manager, Tax Assessor Reappointment/Tenure; Potential Litigation: Sparta Dispatch

1. The public shall be excluded from that portion of this meeting.
2. The general nature of the subject matter to be discussed is as follows:
3. As nearly as can now be ascertained, the matter or matters to be discussed at this time will be disclosed to the public when such matters are resolved.

There being no further business to attend to, a **motion** was made by Mr. Fisher, seconded by Mr. Gross to conclude the Executive Session at 7:00 p.m., unanimously carried by roll call vote.

**Proclamation:** Read Across America Day – March 2, 2012

**Regular Session:**

**CONSENT AGENDA:**

**ALL MATTERS LISTED BELOW ARE CONSIDERED ROUTINE IN NATURE AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF ANY DISCUSSION IS DESIRED, THAT PARTICULAR ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED SEPERATELY ON THE REGULAR AGENDA.**

**Minutes:**

Regular and Executive: February 7, 2012

**Department Reports:**

Building Department – January 2012

**Resolutions:**

2012-031 Approving the Refund of Permit Fees for 937 West End Drive

2012-033 Lien Redemption for Block 3703, Lot 6

Ms. Chammings made a **motion** to approve the Consent Agenda, seconded by Mr. Fisher.

**Roll Call Vote:** Ms. Chammings, yes, Deputy Mayor Fisher, yes, Mr. Gross, yes, Mrs. Straway, yes, Mayor Scott, yes

**Bill List Cycle #4:** \$98,588.22

Mr. Gross made a **motion** to approve Bill List Cycle #4, seconded by Mr. Fisher.

**Roll Call Vote:** Ms. Chammings, yes, Deputy Mayor Fisher, yes, Mr. Gross, yes, Mrs. Straway, yes, Mayor Scott, yes

**Amendments to the Agenda:** Add to New Business: 50/50 Raffle – First Aid Squad; Add to Old Business: Discussion – Land Conservancy Revised Contract

**Open Public Session (Agenda Items Only):**

**Kathleen Draghi, 1016 Route 619** asked if approval of the Executive Session minutes meant they would be released, noting she did not recall such approval included on the agenda before. Attorney Cohen explained the minutes can be obtained through an OPRA request however material related to ongoing matters will be redacted. Mayor Scott indicated Executive Minutes have always been included on Consent Agenda in the past.

**Bill Steckowich, 907 Hardwick Road** asked for clarification on payment of the DPW union dues listed on the bill list. The Committee explained the dues are paid by the employee through a paycheck deduction.

**There being no further members of the public wishing to speak, this portion of the meeting was closed.**

**Committee Reports:**

**Mr. Fisher:** The cost to complete a survey of the drainage easement on West End Drive/Dove Island Road will be \$1,500 and can be done in two weeks. Once a survey is completed the DPW can address the pipe to allow the properties to drain adequately.

Mr. Fisher made a **motion** to allow Township Engineer Vreeland to authorize a surveyor to complete a survey on the West End Drive/Dove Island Road property to aid in resolving the drainage issue, at a cost of \$1,500, seconded by Mr. Gross.

**Roll Call Vote:** Ms. Chamblings, yes, Deputy Mayor Fisher, yes, Mr. Gross, yes, Mrs. Straway, yes, Mayor Scott, yes

Mr. Fisher reviewed the quotes received for groundwater sampling for the year 2012 at the Stillwater Township Sanitary Landfill as follows:

QC Laboratories: \$4,984.00

Garden State Laboratories: \$12,398.00

Mr. Gross made a **motion** to hire QC Laboratories to conduct the groundwater sampling at the landfill for the year 2012, in the amount of \$4,984.00, seconded by Mrs. Straway.

**Roll Call Vote:** Ms. Chamblings, yes, Deputy Mayor Fisher, yes, Mr. Gross, yes, Mrs. Straway, yes, Mayor Scott, yes

**Ms. Chamblings:** The Environmental Commission presented a guest speaker at their last meeting, John Anthony, who provided a lengthy presentation on Agenda 21. The information provided cautioned the Commission to read the fine print on any documentation included in the Sustainable Jersey process. The Commission voted to continue moving forward with the Sustainable Jersey certification process, and Ms. Chamblings asked that the Township Committee revisit Resolution 2012-021, supporting participation in the Sustainable New Jersey Municipal Certification Program. Ms. Knott stated Mrs. Wunder had asked the resolution to be held so that members from other aspects of the community could be included in establishing the Green Team which is part of Resolution 2012-021.

Ms. Chamblings noted members of the Environmental Commission were present and authorized to speak on behalf of the Commission with respect to the revised Land Conservancy Contract for 2012.

The Planning Board conducted their budget review and submitted their 2012 request to the CFO. They are moving forward with review of the Master Plan.

Ms. Chamblings discussed the groundwater sampling results from the landfill, noting the iron, manganese, and ammonium nitrate levels are high and she has asked Mr. Vreeland to provide prior reports for comparison to make sure the levels are declining, not increasing. Mr. Gross stated the testing is State mandated, results are reviewed by the State and there has never been an issue. Ms. Chamblings noted the issue seems to be downstream from the landfill, not upstream, which may indicate leeching from the landfill and she would like to be proactive to avoid any problems.

**Mr. Gross:** Sims Recycling Solution Holdings, Inc. will collect the electronic equipment and materials from the Recycling Center free of charge. They have also agreed to install a container to hold the material at the Recycling Center and will haul and properly dispose of the items.

Mr. Gross reviewed the Building Department Report for January 2012 indicating \$4,907.00 was collected. The department has been continuously busy resolving issues at the campground.

**Mrs. Straway:**

Mrs. Straway read the following statement into the record:

*Ms. Chamblings has made allegations of my possible interference in the payment of bills and perhaps been influencing the past CFO and now current temporary CFO in a letter dated Dec 28, 2011.*

*This unfounded allegation, which she states is hers alone stems from the Business Administrators request at Stillwater School to clarify who should receive the invoice for custodial services after Ms. Chamblings asked for the bill to be changed from the Historical society to the Recreation Commission for the 2011 Fall festival.*

*A letter dated 12/23 was sent to the school with minutes attached showing the invoice should be sent to the historical society.*

*I did not conduct my own investigation as Ms. Chamblings has stated – my action was prompted by the request of the school. Subsequently the bill was not the municipalities to pay, and I acted in the best interest of the taxpayers.*

*Ms. Chamblings letter, the letter to Stillwater school and the supporting minutes are public records and are available with an opra request.*

*Ms. Chamblings has also made an inquiry to our clerk Lynda Knott and committeeman Gross regarding campaign contributions - I have the following response:*

*I have not solicited nor received any monetary contributions or services from Dan Rivara contracting in exchange for a yes vote to accept his bid for the phase 1 renovations at town hall.*

*I was not involved with planning this project and to this day – I have never met Mr. Rivara.*

*Candidate contribution disclosure forms are public records and can be accessed on the NJ elec website. Ms. Chamblings is fully aware of this, so I do not understand why she asked them the question rather than look the information up herself.*

*I financed my campaign in its entirety – I did not take contributions from any one, unlike Ms. Chamblings who has reported receiving campaign contributions from several people, the largest coming from one who holds a position with the Historical society.*

*Ms. Chamblings infers wrong doing by me – yet she makes an independent decision, circumvents the vote and then when questioned by the rec commission she chaired, simply responds with ... we always pay it.*

*I am stunned at the level of arrogance Ms. Chamblings displays –and outraged that she has the audacity to accuse me of taking money when public records show I had not. And yet as a matter of public record she herself reports accepting a contribution which can be linked backed to the organization she wanted the town to cover the bill for.*

*Ms. Chamblings ran on a campaign of transparency in government, financial oversight and accountability - apparently she believes this applies to everyone except her.*

Mrs. Straway reported Stillwater School passed a resolution moving their election to November.

She spoke about the proposed tuition increase Sussex County Vo-Tech is requesting from \$1900 to \$2500 per pupil, a 31.5% increase. The sending district has called upon the Vo-Tech to reduce that tuition to within the 2% cap and a resolution will be sent indicating such.

The School Board renewed their membership with the Morris County Co-op, and a Cultural Arts Night will be held on February 24, 2012 from 7-9 p.m.

**Mayor Scott:** Mayor Scott represented Stillwater at a presentation held at Picatinny Arsenal in support of our servicemen and their placement at the conclusion of their duty.

The DPW/Township Engineer matter will be discussed at the next meeting.

The Paulinskill Lake Association snow plowing reimbursement information was provided for Committee review; the total amount for 2011 was \$86,619.

Mr. Gross discussed the scuba mask flow test for Swartwood Fire Department and the cost of such, which is not incorporated into the budget. He described the flow test which is conducted by a specialist and required by OSHA, and he indicated it would be at a cost of \$710.00.

**Dave Van Gorden, Stillwater Fire Chief** stated there are many issues to be addressed including the flow testing, hose testing, new regulations, and communications that the department cannot afford at this time. He felt the fire department needed to meet with the Committee to review their budget.

**Anthony Ashley, Swartwood Fire Chief** addressed the bill submitted for the flow testing and he described the air packs and what they are used for, noting they are required by law to be tested once a year.

## **Old Business:**

### **Land Conservancy Revised 2012 Contract:**

Ms. Chamblings provided a brief overview of the denial of the original Land Conservancy 2012 Contract. A revised contract has since been submitted by the Land Conservancy and Environmental Commission (EC) members are present to address the matter. Ms. Chamblings made a **motion** to revisit the Land Conservancy 2012 Revised Contract; and she described the differences between the two contracts. There was no second provided on the motion. Ms. Chamblings asked if the Environmental Commission members could speak and then the Committee could decide whether or not to revisit the matter. Ms. Chamblings provided a background on the open space tax and the non-binding referendum supporting it.

**Paul Klimek, EC Vice-Chairperson** explained the County process vs. the Land Conservancy process. He noted the Land Conservancy contributed \$106,000 toward preservation of one of the farms, and in comparison the LC only cost \$55,000 over the last five years. Over those five years the LC prevented quite a few subdivisions in the township including 10 homes on Mt. Benevolence Road, the Shotmeyer property consisting of 160 acres, the Harte property that was set to be purchased and developed into mini farms, and the Calitre property that was preserved on Partridge Road, noting if that property had been developed into one or two homes the township would have been responsible for costly improvements to half of the road. Mr. Klimek discussed the perfect acre ordinance and stated lots can be configured to meet a perfect acre, noting in the last subdivision the impact was minimal. He referred to a property with wetland constraints, stating a good portion of the property could still be developed, and he spoke about the PSE&G power line project mitigation explaining the Land Conservancy would be instrumental and have already classified several farms along the lines totaling 670 acres.

In response to questioning by Mr. Fisher, Mr. Klimek stated 33% of Stillwater is open space, not including the private camps. He stated there were 119 properties in Stillwater that fit the requirements for the PSE&G mitigation. Mr. Fisher felt with wetland constraints, trout brooks, and zoning restrictions, future development would be limited.

Mrs. Straway stated she attended a Sussex County League of Municipalities roundtable which included discussion on future land projections, indicating over the last 20 years Stillwater has declined in population; over the last five years the entire County only grew by 5,000; and the projection for the next 20 years is that the County will increase by less than 10,000. The municipalities have to consider what adjustments need to be made to prepare for that projection. She questioned when the last successful subdivision was built in Stillwater and stated not signing on with the Land Conservancy does not prevent a landowner from preserving their property. Mr. Klimek indicated the process would be very difficult for an individual owner to pursue on their own and a single family home places a deficit on the tax. Attorney Cohen stated there are attorneys and consultants who can handle the process for a property owner. Mr. Klimek stated Hardwick, Fredon, Hampton, Frankford, and almost every municipality in Sussex County use the Land Conservancy as a go between due to the funding. Mr. Gross stated the open space funding can be used for recreation purposes and the Recreation Commission is currently working on installing a playground at the park. Mr. Klimek stated his interpretation of the use for the open space tax is for farmland, open space, historical preservation, and passive recreation. Mrs. Straway questioned how much open space would be considered enough if the township is at 35% at this point. Mr. Klimek stated he felt the public made it very clear they want it and he asked the Committee to reconsider their decision.

## **Discussion:**

### **Open Space Tax:**

#### **The following opinion letter from Attorney Cohen was read into the record:**

*Dear Mayor and Committee Members:*

*You have asked that I research and provide an opinion as to how the Township Open Space Trust Funds can be used. I have reviewed Chapter 76 of the Township Municipal Code, entitled "Trust Funds," as well as the original voter referendum that was held in 2005, which authorized the establishment of the Open Space Trust Fund and funding of the same through local property taxes.*

*N.J.S.A. 40:12-515.7 permits by referendum the creation of a "Municipal Open Space, Recreation and Farmland and Historic Preservation Trust Fund."*

*A referendum was adopted by majority of the voters in the general election of 2005. The referendum among other things, indicated as follows:*

*Such funds shall be designated solely for (1) the acquisition, development and maintenance of land for recreation and conservation purposes...*

*An Ordinance was adopted after that known as Ordinance No. 2006-2, on April 4, 2006. The Ordinance, in addition to creating the Trust Fund and setting aside \$0.02 per \$100 of ratable for the Fund, specifically set forth as its purposes "to maintain lands acquired for recreation and conservation purposes." The Ordinance also provides as a purpose "to develop lands/properties acquired within the Township for passive recreation and conservation purposes." I note that the referendum did not talk of development and maintenance of land for recreation as passive recreation, but just used the word "recreation."*

*In my research, I have determined that the language of the referendum should be controlling. What was authorized by the voters in this case was the use of the Trust Funds for the acquisition, development and maintenance of land for recreation and conservation purposes. It is clear that the voters authorized these funds to be used for development and maintenance of recreational lands.*

*The statute, particularly N.J.S.A. 40:12-15.1, defines recreation to mean the use of lands for parks, open space, natural areas, ecological and biological studies, forest, water reserves wildlife preserves, fishing, hunting, camping, boating, winter sports, or similar uses for either public outdoor recreation or conservation of natural resources or both, or the use of lands for public indoor recreation. Public indoor recreation is defined as including, but not limited to, swimming pools, basketball courts and ice skating rinks. It is clear that although athletic recreation is not mentioned, it is encompassed in the broad definitions of recreation, and especially public indoor recreation.*

*It is my opinion that since the referendum did not restrict the development and maintenance of recreational property to passive recreation that it, therefore, allows for development and maintenance of active recreation areas.*

*As indicated, the Ordinance refers to the maintenance of lands acquired for recreation without referring to passive recreation. When it allows for development of lands, it refers to passive recreation.*

*It is my further opinion that based upon the authorization given by the voters in the referendum of November 2005, the Township can use these funds for development and maintenance of active recreational areas. For instance, the monies could be used to construct a backstop for a ball field, install swings or playground equipment, and development of that nature. It can also be used to maintain such types of facilities. It could certainly be used to maintain fields, or to install, for example, a watering system, or things of that nature.*

*Because there is a slight discrepancy in the Ordinance, and the referendum allows, in my opinion, for the development of active recreation, I suggest that we amend Chapter 76 to remove the word "passive" recreation in Section 76-2B. I am enclosing a copy of both the Ordinance and the Referendum for your reference.*

*I would be happy to discuss this further at any future meeting. In the meantime, if anyone should have any questions, please do not hesitate to contact me.*

*Very truly yours,*

*Lawrence P. Cohen*

Following a brief discussion, Mr. Fisher made a **motion** to amend Chapter 76 Trust Fund to include the actual open space tax charge collected of .5 cent per \$100, and to remove the word "passive" from Section 76-2B, seconded by Mr. Gross.

**Roll Call Vote:** Ms. Chamings, no, Deputy Mayor Fisher, yes, Mr. Gross, yes, Mrs. Straway, yes, Mayor Scott, yes

#### **Discussion Items:**

#### **Additional Hours for the Tax Collector – Resolution 2012-030:**

Mr. Gross made a **motion** to adopt Resolution 2012-030, seconded by Mr. Fisher.

#### RESOLUTION 2012-030

#### RESOLUTION OF THE TOWNSHIP OF STILLWATER, COUNTY OF SUSSEX APPROVING ADDITIONAL TWENTY HOURS FOR TAX COLLECTOR

WHEREAS, Gisele Boltzer was hired by the Township of Stillwater as Tax Collector by an Employment Agreement effective March 1, 2011; and

WHEREAS, the Employment Agreement stated the Tax Collector would be employed for a total of twelve hours a week; and

WHEREAS, the Tax Collector noted that when quarterly tax payments are due she requires additional hours to complete her workload; and

WHEREAS, the Tax Collector has requested the Township Committee approve her request for an additional five (5) hours quarterly for a total of twenty (20) hours for 2012; and

BE IT RESOLVED by the Township Committee that they do hereby approve the additional twenty hours and each hour shall be compensated at the rate of \$45.67 per hour.

**Roll Call Vote:** Ms. Chamblings, yes, Deputy Mayor Fisher, yes, Mr. Gross, yes, Mrs. Straway, yes, Mayor Scott, yes

**Electronic Recycling Agreement – Resolution 2012-034:**

Mr. Gross made a **motion** to adopt Resolution 2012-034, seconded by Mr. Fisher.

RESOLUTION 2012-34

RESOLUTION AUTHORIZING CONTRACT BETWEEN THE TOWNSHIP OF STILLWATER AND SIMS RECYCLING SOLUTION HOLDINGS, INC.

WHEREAS, the Township maintains a recycling center; and

WHEREAS, the Township is in need of services to allow residents of the Township to recycle electronic scrap equipment and material; and

WHEREAS, the Sims Recycling Solution Holdings, Inc. (“Sims”) is in the business of providing such services, and is licensed by the State of New Jersey to perform such services; and

WHEREAS, Sims has provided a Contract to the Township, wherein it agrees to provide a means to collect such material at the Township Recycling Center, and it will provide free of charge the necessary containers and other equipment to allow the Recycling Center to collect this material, and will haul said material away and properly dispose of it in accordance with New Jersey law; and

WHEREAS, there will be no charge for these services provided to the Township.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Stillwater, Sussex County, New Jersey, that the Mayor and Clerk are authorized to execute the Agreement between Sims Recycling Solution Holdings, Inc. and Stillwater Township in the form attached hereto.

**Roll Call Vote:** Ms. Chamblings, no, Deputy Mayor Fisher, yes, Mr. Gross, yes, Mrs. Straway, abstain, Mayor Scott, yes

**Part-time Account Clerk Position:** The Committee agreed to advertise the position.

**Sussex County Division of Planning and Farmland Preservation – Syberg application – Resolution 2012-032:** This item was tabled to the 3/6/12 Township Committee meeting

**At this point, this portion of the meeting was opened to the public:**

**Tammy Richardson, Swartswood Fire Department** asked if the fire department would be eligible to use QC Laboratories for their water testing at the reduced township rate. The Committee agreed.

Ms. Richardson asked for clarification on the March 1<sup>st</sup> deadline for retail food establishment licensing when the license actually expires on 12/31 of the prior year. The Committee would research the matter.

**Bill Steckowich, 907 Hardwick Road** expressed his dismay with the memo read into the record by Mrs. Straway regarding Ms. Chamblings.

**Denise Current, 955 Fairview Lake Road** spoke in support of Ms. Chamblings and expressed disapproval of the memo that Mrs. Straway read into the record. Mrs. Current asked if the Account Clerk position would be advertised through Civil Service meeting all requirements of such. Mr. Gross indicated Civil Service has been contacted regarding the position.

**Bill Morrison, 901 Old Schoolhouse Road** spoke about other municipalities not wanting to participate in shared services with Stillwater. He strongly expressed his displeasure with Ms. Chambling’s actions prior to the last election.

**There being no further members of the public wishing to speak, this portion of the meeting was closed.**

There being no further business, Mr. Fisher made a **motion** to adjourn the meeting at 9:40 p.m., seconded Mr. Gross. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder