

DOWNE TOWNSHIP COMMITTEE
REGULAR MEETING
MAY 4, 2015
7:00 P.M.

The Downe Township Committee met in the Meeting Room of the Municipal Complex on Monday, May 4, 2015 at 7:00 p.m. Mayor Robert G. Campbell presided. Committee members present were Larry Jordan, Sr., Stephen Byrne, Dennis Cook (Deputy Mayor) and Edward Bart. Municipal Solicitor, John Carr, was also present.

CALL MEETING TO ORDER / PLEDGE OF ALLEGIANCE / STATEMENT
REGARDING COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

Mayor Campbell called the meeting to order; led the Pledge of Allegiance and read the Open Public Meetings Act Statement.

ROLL CALL

Present – Jordan, Byrne, Bart, Cook, Campbell
Absent – 0

MUNICIPAL SOLICITOR'S REPORT

Solicitor Carr reported on the following topics: Shared Services Agreement for Joint Municipal Court and Comcast. Mayor Campbell asked that an Executive Session be considered for later in the meeting as pertains to litigation relative to the Comcast matter.

PUBLIC HEARINGS

A motion was made by Cook and seconded by Byrne to open the Public Hearing on Ordinance No. 2015-3 entitled *AN ORDINANCE FOR DUNE PRESERVATION*.
Vote: All in favor

Karen Smith, Raybin's Beach, stated that she liked seeing this, however, enforcement is a concern. Mayor Campbell agreed and added that it is a tool for controlled management.

There being no further comment, the Public Hearing was closed on a motion by Cook and seconded by Byrne.
Vote: All in favor

Clerk Garton added that the proposed ordinance was referred to the Planning Board for review and recommendation as required by the Municipal Land Use Law and the Board concurred with its adoption.

A motion was made by Cook and seconded by Byrne to adopt the aforementioned Ordinance No. 2015-3 on second reading.

Roll Call: Aye – Jordan, Byrne, Cook, Bart, Campbell
Nay - 0

A motion was made by Cook and seconded by Jordan to open the Public Hearing on Ordinance No. 2015-4 entitled *AN ORDINANCE FOR ACCESS RESTRICTIONS SEEKING TO PROTECT AND PRESERVE HORSESHOE CRAB SANCTUARY AREAS BETWEEN MAY 7TH TO JUNE 7TH OF EACH YEAR.*

Vote: All in favor

Michael Oates, Fortescue, thanked the Township Committee for what is being done in Fortescue; it's looking good. He thinks the Ordinance is a good idea, but has a couple suggestions. On page two he referred to *Horseshoe Crab Sanctuary Restricted Area* and questioned the parameters reflected. Mayor Campbell interjected that a wording change has been proposed to the end of the paragraph to read...*to the perpendicular bulkhead at the south end of the public beach.* Solicitor Carr clarified that this change would narrow the scope and Mr. Oates and Mayor Campbell concurred. Mr. Oates added that the Horseshoe Crab Sanctuary is opened 24/7. There was also concern that a restriction would affect a federal count. Mr. Oates also stated that the spawning dates for horseshoe crabs are really April 15 to July 1. His last comment was beach closure for migratory shore birds. He wished that there was a Migratory Shore Bird Sanctuary Ordinance which is really what this is all about. Mayor Campbell stated that this is a start and that it may evolve into a Wildlife Sanctuary for the crabs and birds.

Bill Miller, Fortescue, stated that the area that gets roped off is for the birds, not the crabs which are counted at night. Mayor Campbell stated that he does not think the area will be roped off, but that there will be signage.

Bernie Sayers, Newport, asked for an explanation of Section 1.6 Violations and Penalties. Mayor Campbell stated that Fish and Wildlife and a couple other agencies will enforce the ordinance.

Karen Smith, Raybin's Beach, asked for clarification of the restricted area. Mayor Campbell reiterated the area from the Oyster Creek Bridge to the southern edge of the public beach where access will be restricted from for May 7th to June 7th.

There being no further comments, the Public Hearing was closed on a motion by Byrne and seconded by Cook.

Vote: All in favor

The Township Committee reviewed the following changes with Solicitor Carr so that he could make a determination about the extent and scope of changes.

- Section 1.3
Add *unauthorized* public access to the first sentence.

- Horseshoe Crab Sanctuary Restricted Area

The last line is to read *north along the public fishing beach parallel to New Jersey Avenue to the perpendicular bulkhead defining the southerly edge of the public fishing beach.*

Deputy Mayor Cook stated that this is very confusing and that he is suspect of Fish and Game. He reacts poorly to the dictation of when we have to close the beach. He would like to have the latitude and longitude to define the area.

Bernie Sayers, Newport, said that the whole ordinance should be redone and pointed out a typo of the word regular that should be regulate under letter D on the first page.

Deputy Mayor Cook stated that the dates reflected are incorrect. Mayor Campbell stated that the dates are decided by the State. Deputy Mayor Cook was not inclined to act on the Ordinance in its present form this evening.

Michael Oates, Fortescue, reiterated that the timeline really pertains to migratory birds not horseshoe crabs.

Solicitor Carr stated that if you change it from horseshoe crabs to birds that's a change, however wildlife encompasses all.

Michael Oates, Fortescue, has encountered that there is now stronger enforcement. There's going to be issues, to do nothing is worse.

Committeeman Jordan stated that he does not like to act on an Ordinance with problems; he likes the reference of wildlife.

Solicitor Carr asked for clarification of the *Horseshoe Crab Sanctuary Restricted Area* reflected on page two as pertains to public fishing beach versus public beach. The Township Committee concurred that it should read *public beach* and to strike the word fishing. Latitude and longitude will be inserted. Also, the section will reflect Oyster Creek *Bridge* and the word mouth will be removed. Solicitor Carr said that in his opinion the scope of the Ordinance has been restricted. Deputy Mayor Cook suggested that the first line of letter A add *and migratory shore birds who depend on them* and the Township Committee concurred. A discussion ensued about enforcement. Page 3, Section 1.6 (1) was changed to remove *Imprisonment in the County jail for a term not exceeding 10 days; or by a fine not exceeding \$250.00; and A fine not exceeding \$125.00* was added.

Jean (last name indiscernible), suggested that the Ordinance be publicized.

A motion was made by Cook and seconded by Bart to adopt the aforementioned Ordinance No. 2015-4 on second reading with the aforementioned recommended changes.

Roll Call: Aye – Jordan, Byrne, Cook, Bart, Campbell
Nay - 0

PUBLIC COMMENT ON RESOLUTIONS

A motion was made by Cook and seconded by Byrne to open the meeting for comments on the following resolutions.

Vote: All in favor

- R-50-2015 *Authorizing The Payment Of Bills*
- R-51-2015 *Approving The TWA-1 Form For The State Of New Jersey, Department Of Environmental Protection, Division Of Water Quality Relative To Joe Paik At 236 Cove Road, Gandy's Beach, Downe Township*
- R-52-2015 *Approving The TWA-1 Form For The State Of New Jersey, Department Of Environmental Protection, Division Of Water Quality Relative To John Gilligan At 279 Cove Road, Gandy's Beach, Downe Township*
- R-53-2015 *Authorizing The Township Of Downe To Execute And Participate In The Scenic Byways Sign Agreement*
- R-54-2015 *Appointing Members To The Downe Township Planning Board*
- R-55-2015 *Authorizing The Award Of Bid For One (1) New 2015 Freightliner Model 108SD – Dump Truck With Snow Plow And Spreader*
- R-56-2015 *Authorizing The Rescission Of Declaration Of General State Of Emergency Downe Township, County Of Cumberland And State Of New Jersey*
- R-57-2015 *Authorizing Declaration Of General State Of Emergency, Downe Township, County of Cumberland And State Of New Jersey For The Hurricane Season 2015, Effective Through November 1, 2015*
- R-58-2015 *Approving Entry Into An Addendum To Money Island Bulkhead Engineering Service Contract Between David J. Battistini, P.E., Township Engineer And Downe Township*
- R-59-2015 *Corrective Action Plan*

Bernie Sayers, Newport, asked about Resolution No. R-59-2015; if there were no recommendations relative to the 2014 Municipal Audit, what does the Corrective Action Report contain? Mayor Campbell responded do nothing. It is basically not applicable because there is no corrective action to be taken as no Audit Comments/Recommendations were made, but it is a formality to file the Plan with the State.

Deputy Mayor Cook requested that the check to Giordano's be held from Resolution No. R-50-2015 Payment of Bills because the vendor owes the Township money and the matter needs to be resolved. He also mentioned that Planning Board Member, Robert Hunsicker, passed away and recognized Barbara and Robert Hunsicker.

There being no other comments, the segment was closed on a motion by Jordan and seconded by Cook.

Vote: All in favor

RESOLUTIONS

A motion was made by Cook and seconded by Byrne to adopt Resolution No. R-50-2015 *Authorizing The Payment Of Bills* totaling \$883,245.66.

Roll Call: Aye – Jordan, Bryne, Cook, Bart, Campbell
Nay – 0

A motion was made by Cook and seconded by Byrne to adopt the aforementioned Resolution Nos. R-51-2015, R-52-2015, R-53-2015 and R-54-2015 via consent agenda.

Vote: All in favor

A motion was made by Jordan and seconded by Cook to adopt Resolution No. R-55-2015 *Authorizing The Award Of Bid For One (1) New Freightliner Model 108SD – Dump Truck With Snow Plow And Spreader.*

Roll Call: Aye – Jordan, Byrne, Cook, Bart, Campbell
Nay – 0

A motion was made by Jordan and seconded by Byrne to adopt the aforementioned remaining Resolution Nos. R-56-2015, R-57-2015, R-58-2015 and R-59-2015 via consent agenda.

Vote: All in favor

ORDINANCES

A motion was made by Cook and seconded by Byrne to introduce on first reading Ordinance No. 5-2015 entitled *AN ORDINANCE TO DISSOLVE A JOINT MUNICIPAL COURT PURSUANT TO N.J.S.A. 2B:12-1, ET SEQ. BETWEEN DOWNE TOWNSHIP AND COMMERCIAL TOWNSHIP.* A public hearing will be held at the next meeting, June 8, 2015 at 7:00 p.m. in the Meeting Room of the Municipal Complex, 288 Main Road, Newport, NJ 08345.

Vote: All in favor

A motion was made by Cook and seconded by Jordan to introduce on first reading Ordinance No. 6-2015 entitled *ORDINANCE ESTABLISHING THE CUMBERLAND SALEM REGIONAL MUNICIPAL COURT.* A public hearing will be held at the next meeting, June 8, 2015 at 7:00 p.m. in the Meeting Room of the Municipal Complex, 288 Main Road, Newport, NJ 08345.

Vote: All in favor

COMMITTEE REPORTS

Mayor Campbell announced that the Township received a NJ Department of Transportation Award in the amount of \$170,000 for Union Street in Dividing Creek. He also mentioned that the Gandy's Beach Bulkhead is wrapping up.

Deputy Mayor Cook reported that the Horseshoe Crab Festival is being held on Saturday, May 16, 2015 and Michael Oates will be unveiling new signs for two additional areas. Relative to the Audit, for which there were no comments or recommendations, he said that entities are not giving money if you're not managing your money well. Also, big strippers are being caught off the beach and that Charlesworth dolphins were seen at the bulkhead.

Committeeman Bart had no report.

Committeeman Jordan had no report.

Committeeman Byrne reported that he spoke with Animal Control Officer, Jim McCleery, and he is getting no complaints. He reminded folks that music is planned for the Horseshoe Crab Festival May 16, 2015 starting at 11:00 a.m. and that there will also be pony rides and a Lighthouse Tour.

PUBLIC COMMENT

On a motion by Cook and seconded by Byrne, the meeting was opened to the public for comment.

Vote: All in favor

Bernie Sayers, Newport, referred to the Bill List, Page 5, and suggested that the Party Bouncers be hired relative to enforcement issues. Ha! Ha!

Jeremy Wilford, Dividing Creek, quoted comments made at a previous Public Hearing regarding Ordinance No. 6-2014 concerning Animals and Livestock. He held up a record that he received in response to a Government Records Request and wondered if he is being singled out, what's going on. Mayor Campbell responded that a legitimate letter was received from a Dividing Creek resident about a situation at Mr. Wilford's property and that the name was redacted to protect the well-being of the resident. He assured Mr. Wilford that he is not being singled out. Downe Township is a reactive community and when a letter or complaint is received, it has to be checked out. The Ordinance that was passed was initiated regarding a horse situation; it got bigger at the Planning Board. Mr. Burnley, Housing/Zoning Officer, should be treating this as a pre-existing situation, not the new ordinance. It was suggested that Mr. Wilford meet with the Housing/Zoning Officer to figure out a solution to the matter.

Bernie Sayers, Newport, voiced his opinion regarding the redaction by the Municipal Clerk to the Government Records Request. The basics of the legal system is to face your accuser. It's not right that the complainant remains anonymous. Mayor Campbell stated that the Clerk's redaction was done in accordance with regulations.

Karen Smith, Raybin's Beach, was wondering about the completion of the meadows and beach area in South Fortescue. It's tough getting out and will there be speed bumps. Committeeman Jordan's opinion is no; it makes it tougher to maintain the road. Mayor Campbell stated that improvements will occur before the Horseshoe Crab

Festival. Deputy Mayor Cook proposed that the Township Committee meet after the festival to discuss the plans for the projects, status, etc. It would be helpful for members of the Township Committee and the public.

Bernie Sayers, Newport, asked the Mayor to reiterate what he said about the redaction reflected on the government record obtained by Mr. Wilford. Solicitor Carr responded that the public is not entitled to know who the complainant is in this circumstance in accordance with the Open Public Records Act (OPRA). Mr. Sayers requested to know the reason cited for the redaction. Clerk Garton informed Mr. Sayers that Mr. Wilford received her response to his request that set forth the reason for the redaction. Every request is considered and responded to on a case-by-case basis. The Clerk explained her justification. Mr. Sayers accepted her explanation, but he did not agree with it. The Clerk stated that she could not believe this was a matter of discussion at the meeting; if the requestor disagreed with the response, he could file a complaint in Superior Court or with the Government Records Council (GRC). A great deal of time and research goes into responding to such requests.

A woman from Fortescue asked if something could be done about abandoned vehicles. Mayor Campbell informed her that she could bring the concern to the attention of the Housing/Zoning Officer.

Jeremy Wilford, Dividing Creek, asked if people looked around before they move here or do they move here and expect to change things. Mayor Campbell stated some people do and mentioned green head season.

There being no further comments, the public segment was closed on a motion by Jordan and seconded by Cook.

Vote: All in favor

NEXT MEETING

The next meeting of the Downe Township Committee will be held on Monday, June 8, 2015 at 7:00 p.m. in the Meeting Room of the Municipal Complex.

ADJOURNMENT

There being no further business, the meeting was adjourned on a motion by Cook and seconded by Byrne.

Vote: All in favor



Constance S. Garton
Municipal Clerk