

**BOROUGH OF MEDFORD LAKES
EMERGENCY COUNCIL MEETING
May 4, 2006**

An Emergency Meeting of the Borough Council of the Borough of Medford Lakes, New Jersey, was held on the above date in the Denby Annex of the Medford Lakes Colony beginning at 6:30pm. Mayor Wasson presided. Following the Pledge of Allegiance, Mayor Wasson read the Statement of Compliance with the Open Public Meetings Act. The normal notice requirements of the Open Public Meetings Act have not been met. It was necessary to call this meeting because of an emergency situation, which has developed. The nature of the urgency is Health, Safety and Welfare of the public would have suffered substantial harm in that Inadequate Fire Suppression Capabilities exist, there may be a Substantial Negative Financial Impact and the likelihood of Immediate Litigation. Advance written notice of this meeting was mailed to all persons who requested such notice according to the Clerk of the Municipality.

Answering Roll Call for Borough Council were Mayor Dave Wasson, Councilman Timothy Casey, and Councilman Gary Woodend. Also present were Manager Rich Knight, Deputy Clerk Mark McIntosh, Colony Representatives Paul Weiss, Betty Reis, Greg Lackey, and Solicitor Peter Lange.

RESOLUTIONS

The following resolution was motioned by Councilman Casey, seconded by Councilman Woodend;

RESOLUTION 68-06

A RESOLUTION AUTHORIZING AN EMERGENCY MEETING

WHEREAS, this emergency meeting has been called for the following purpose:

1. Quit Claim Deed Ordinance; and

WHEREAS, the normal requirements of the law regarding 48 hours notice have not been met due to lack of time and subject matter, however notices of this Emergency Meeting were emailed to the Central Record and the Burlington County Times on May 3, 2006 at 11:27am. and posted on the Official Bulletin Board of the Borough.

1. Nature of urgency and importance- **Public Health, Safety and Welfare**
2. Nature of substantial harm to public interest- **Inadequate Fire Suppression Capabilities Exist, there may be a Substantial Negative Financial Impact and the Likelihood of Immediate Litigation.**
3. That the need for such adequate notice could not reasonably be foreseen at a time when adequate notice could have been provided.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough Medford Lakes, County of Burlington, State of New Jersey that there should be a vote on this Emergency Meeting of 2/3rds of the members of the Governing Body.

VOTE TO APPROVE RESOLUTION 68-06

Ayes: Casey, Woodend, Wasson
Nays: None
Abstain: None
Resolution 68-06 is approved

SOLICITOR COMMENT

Solicitor Lange explains the two documents (QuitClaim Deed and Grant of Easement) in question. Peter also explained the original draft agreement and the second being the revised draft agreement and the changes made from the original to the revised.

COLONY COMMENT

Paul Weiss explains his interpretation of the agreement, its rational and what the Colony's motivation was in asking for this agreement.

COUNCIL COMMENT

Councilman Woodend explains how the Borough got involved because of questions as to who owned the dam. There is documentation showing both entities have had ownership at different times throughout the years. The Borough and Colony got together and it was agreed that the Borough had the financial means to take ownership of the Lower Aetna Dam from this point further. Councilor Woodend explains what a quit claim deed means. The Borough cannot currently spend public moneys on the dam until a quit claim deed was enacted.

Councilman Casey explained his concerns with the limited liability provisions in the first draft. He also questioned why there was no need to get a quit claim deed and easement on the Upper Aetna Dam. He also remarked on how no other municipalities with private dams damaged in the flood have stood up to take on the responsibility of repairs and future maintenance.

PUBLIC COMMENT

Margo Pellegrino, 242 Chippewa Trail- Asked about DEP guidelines and asked if the Borough couldn't make the changes then would the Borough de-commission the lakes and the Colony would have to foot the bill. The Colony does not want to be stuck in the future either.

COUNCIL COMMENT

Mayor Wasson explained that the Colony could not fund the repairs, and the Borough could raise taxes to repair it. Private money would not be allowed to be spent on public entity. Passed council was sued by Medford Lakes resident for using public money to repair a different dam. David also discussed the question of ownership. He also agreed that the hold harmless clause caused him concern.

Councilman Casey asked for clarification from the Solicitor on does the Easement Document expose the Borough to having a private resident start legal proceedings into whether the Borough can enter this agreement. Solicitor Lange stated no. Purposes that justify the expenditure of public funds are independent of the justification to enter into this agreement.

PUBLIC COMMENT

Greg Lackey, 143 Paupakeewis Trail- Colony would be an insurance policy in the event the Borough could not repair the dam in the future before drastic action taken by the DEP. He equated the repairs to that of a

landlord/tenant type relationship. Greg stated the Colony would give proper notice to the Borough and that having the ability would be beneficial to everyone involved.

Solicitor Lange gave his opinion on the merits of the dam ever becoming de-commissioned.

Cindy Gallimore, 83 Pocahontas Trail- seems like there is antagonism between the two entities. Cannot we come up with an agreement?

Sarah Plasha, 201 Migazee Trail- Need to look at the greater good for the community.

Mike Keating, 141 Nantucket- Council has expressed the proper view on this situation.

Bud Wingert, 152 Askoran Trail- the Borough through Statutory provisions can get funds always if the funds used, are to protect the safety of its residents.

Brian Samuelson, 171 Mohawk Trail- We're all tax payers, somebody is going to be responsible in the event of a catastrophic event, Brian doesn't believe that the Council is out of line for refusing the hold harmless agreement.

Joe Aramando, 285 Shingowack Trail- Could the Solicitor explain whether a private entity can do work on a public project. The Borough is showing a great gesture by stepping up and taking ownership of this dam and relieving the Colony of its historical financial obligation in maintaining the dam. Joe thinks the Colony should act by telling the Borough that we have your back in the event of a repair needing funding and the Borough unable to do that repair.

Dick Thurber, 198 Chippewa Trail- Concerned about his waterfront taxes and that if the dam is not built then he wants his lake front premium back.

Jeannie Waters, 269 Chicagami- Lets cooperate, lets get it done.

Jim Walker, 251 Chicagami Trail- is the lack of this QuitClaim Deed slowing down the process of rebuilding.

Lou Potter, 64 Mohave Trail- we keep adding steps to get things done, lets keep things simple and not keep fighting each other.

Paul Weiss, ML Colony- Borough not doing the Colony any favor by rebuilding the dam, the Borough legally is required to rebuild the dam, the QCD is not required to build the dam. This QCD was brought about to streamline the process in the future. The Colony is pending 2.5 million and this is to help preserve its interest in the structure.

Arnold Fishman, 210 Chippewa Trail- Understands the Borough's side of not allowing a blank check and that the revisions made should be acceptable to the Colony.

COUNCIL COMMENT

Mayor Wasson questions the legality of a private entity to complete work on a public project.

Councilman Casey asked Solicitor Lange to answer this question.

Solicitor Lange stated that clearly a private organization can do work on a public entity. You cannot use this to circumvent the public bid statute though.

Councilman Woodend explained that he would not agree to the Colony desires because the nobody knows what the Colony will look like years from today. An example would be in the future that twenty (20) families remain in the Colony, and these twenty would be making a decision for the other 1,000 families in the Borough on spending public funds. Gary will not agree to that.

Councilman Casey explains that the original agreement would allow for taxation without representation. Councilman Casey explains that is why he would not agree with it and instead supports the revision.

PUBLIC COMMENT

Susan Ansberry, 183 Comanche Trail- Hears a power struggle, the money comes out of the pockets of us all, lets get this resolved.

Greg Lackey, 138 Paupakeewis Trail- what happens if you have three council people who say we are not going fix it, let the Colony do it?

Lou Potter, 64 Mohave Trail- who determines if the dam is damaged, the State, the Colony? The State DEP.

Alan Barnes, 70 Manhasset Trail- who is the Solicitor for the Colony? Paul Gericke. Alan believes that the Colony Solicitor should be at this meeting.

Joe Aramando, 285 Shingowack Trail- Explains that the Borough/Colony in the past agreed that Lower Aetna was owned by the Colony, the Borough owned the Upper Aetna Dam. The Borough owned Beach #3 dam and the Colony owned Ballinger. Now we again do not agree or have proof to who owns what so there is a need for written documentation of ownership from this day forward.

Borough Council is submitting the revised document (agreement) as written. The Colony will meet to review /discuss/vote on the agreement.

ADJOURNMENT

Councilman Casey made a motion, seconded by Mayor Wasson, to adjourn the meeting.

VOTE TO ADJOURN

Ayes: Casey, Wasson, Woodend

Nays: None

Meeting adjourned

Respectfully submitted,

Richard Knight
Borough Manager