

**BOROUGH OF MEDFORD LAKES**  
**REGULAR COUNCIL MEETING**  
**NOVEMBER 8, 2007**

The Regular 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 7:30pm. Following the Pledge of Allegiance, Mayor Casey read the Statement of Compliance with the Open Public Meetings Act. This is to announce that adequate notice in the form of Notice of Meetings was (1) posted on the Administration Building bulletin board, (2) mailed to The Central Record, Medford, NJ, (3) mailed to the Burlington County Times, Willingboro, NJ, (4) mailed to the Courier Post, Cherry Hill, NJ, and (5) filed with the Municipal Clerk. Advance written notice of this meeting was mailed to all persons who requested such notice according to the Clerk of the Municipality.

In attendance were Mayor Casey, Councilman Weiss, and Councilman Woodend. Also present were Solicitor Lange, Manager Knight, and Deputy Clerk McIntosh.

Council and the public observed a moment of silence to honor those service men and women currently in harm's way overseas.

**PUBLIC COMMENT**

*There was no public comment at this time.*

**PERSONNEL MATTER**

Mayor Casey advised the public that a "Rice Notice" was served to Manager Knight, advising him that Council wanted to discuss personnel matters concerning him in an Executive Session. Mr. Knight opted for an open public meeting. No public comment or discussion is allowed at the open meeting in lieu of an Executive Session.

In the Borough's form of government, the Manager serves at the pleasure of Council and can be removed for lack of confidence, without "cause." Mayor Casey explained he has lost faith Manager Knight's ability to perform his duties, his showing a lack of organization, a lack of supervision of Borough employees, and questionable contract negotiations. Mayor Casey said he began to have doubts about Mr. Knight's abilities over one year ago.

Mayor Casey made a motion, seconded by Councilman Woodend, for the preliminary removal of Richard Knight as the Borough Manager.

Manager Knight read aloud a statement, which is included verbatim in these minutes.

*"I want to begin by expressing my appreciation to Council and the residents of Medford Lakes for allowing me the privilege to serve as Municipal Clerk and Borough Manager for the past four years. I especially want to acknowledge and thank my wife, Peg and my family for the support and sacrifices that they have made during throughout these years. Any accomplishments that I have been able to achieve are due to their willingness to share my time and energy with my responsibilities to the Borough.*

*Since my appointment in September of 2003, Medford Lakes has faced the challenges of inadequate office space, outdated personnel policies, increasing taxes and the need for effective management oversight of our operations. I accepted these challenges in 2003 and committed my efforts to bringing accountability and responsibility to every facet of Borough operations. I continue to instill a commitment to 'Customer Service' on each employee of the Borough. Our residents deserve nothing less and I will insist that anyone who receives a paycheck funded by the taxpayers of Medford Lakes understands my expectations.*

*During my tenure as Manager and Municipal Clerk, we have constructed a revenue generating cell tower, supported the construction and opening of P J Whelihan's restaurant, created an Employee Personnel Policies Manual, improved financial management and reporting, secured Grants to offset costs to our taxpayers and restored essential Community assets that were destroyed in the Flood Disaster of July 2004. At the risk of stating the obvious, our residents demanded our full attention to the reconstruction of our dams and restoration of our lakes. I believe that we have responded to these demands and if this delayed the completion of other tasks, I sincerely apologize. The demands on my office change with every telephone call, resident request, employee demand, Council request and visit to the Administration Trailer.*

*On October 24, 2007, Council decided to appoint a replacement Municipal Clerk without my knowledge, without any conversation with me prior to taking action and doing so while I was out of Town on vacation with my family. Although this appointment was necessary because I did not satisfy the certification requirements of the State of New Jersey, it was done in haste and in an unprofessional manner. Council had a deadline of November 9, 2007 to make this appointment from the Director of the Division of Local Government Services. This allowed ample time for Council to discuss the matter with me but chose instead to avoid any conversation with me and has created confusion among Borough employees and undermined my ability to manage the Borough.*

*I continue to be committed to the people of Medford Lakes and to accomplishing the completion of Oaks Hall, reimbursement of our flood expenses from FEMA and our Insurance Carrier, delivering quality services at reasonable costs, demanding a full days work for a full days pay from Borough employees and being responsive to the taxpayers of Medford Lakes. My goal has been and continues to be to....make the right decision, at the right time, for the right reason."*

Mr. Casey stated he wanted to conform to the standards of the open public meeting (in lieu of an Executive Session) and disallow public comment. However, Councilman Woodend was amenable to public comment, as was Councilman Weiss.

Mayor Casey agreed to allow the public one minute each for public comment, without rebuttal.

Public comment was offered by several residents, most of whom stated they were unhappy with the manner in which Council had decided to remove Manager Knight. Residents urged Council to allow Mr. Knight to have a probationary period in which to rectify problems he is having. All agreed that Mr. Knight is pleasant and cooperative whenever they need his assistance. Most were not aware of any shortcomings in his management of the Borough.

Many residents voiced opinions concerning the action, including Susan Ansberry, Joe Aromando, Claire Carlisle, Dennis Dalton, Bill Garvey, Bob Hanold, Bob Lee, Gary Miller, Mike Powers, Betty Reis, Debby Smith, Maurice Poulin, and Jerry St. John. Borough Wastewater employee Bob Palfy advised of his support for Manager Knight. He was the only employee to do so.

Following public comment, Council discussed the removal of Mr. Knight as manager. They spoke about problems in the Borough, most of which they feel are directly related to Mr. Knight's failure to act or his taking the wrong action.

Councilman Woodend asked Mr. Knight if he had any alternative suggestions about the motion; however, Mr. Knight told Council he had no other comment and they should vote on the motion.

Councilman Weiss made a motion, seconded by Councilman Woodend for discussion, to table the vote to allow him more time to investigate the situation.

**VOTE TO TABLE MOTION**

Ayes: Weiss

Nays: Casey, Woodend

Motion to table fails

Mayor Casey amended his original motion, again seconded by Councilman Woodend, for the removal of Mr. Knight from the position of Borough Manager and for the suspension of his duties as Borough Manager.

**RESOLUTION 142-07**

**A RESOLUTION PURSUANT TO 40:69A-93 FOR PRELIMINARY REMOVAL**

**WHEREAS**, Mr. Richard Knight is currently the Borough Manager for the Borough of Medford Lakes; and

**WHEREAS**, members of Council have a general lack in confidence in the Borough Manager's ability to perform the essential duties of the office;

**NOW, THEREFORE, BE IT RESOLVED** by Borough Council as follows: The Borough Manager is hereby removed preliminarily from his position pursuant to N.J.S.A. 40:69A-93 and is immediately suspended from duty.

**VOTE TO APPROVE RESOLUTION 142-07**

Ayes: Casey, Woodend

Nays: Weiss

Motion carries

Council recessed for 10 minutes, during which time Mr. Knight relinquished his building keys and then left the meeting.

**APPROVAL OF MINUTES**

Mayor Casey made a motion, seconded by Councilman Weiss, to approve the minutes of the October 25, 2007 Budget Workshop and Regular Council Meeting.

Councilman Woodend made a motion, seconded by Mayor Casey, to amend wording in Resolution 136-07.

**VOTE TO APPROVE AMENDED MINUTES OF OCTOBER 25, 2007**

Ayes: Casey, Weiss, Woodend

Nays: None

Minutes are approved

Mayor Casey made a motion, seconded by Councilman Weiss, to approve the minutes of the November 1, 2007 Special Council Meeting.

**VOTE TO APPROVE MINUTES OF NOVEMBER 1, 2007**

Ayes: Casey, Weiss, Woodend

Nays: None

Minutes are approved

**WASTEWATER UNION CONTRACT DISCUSSION**

Bob Palfy is the shop steward for the union. He has been negotiating the contract with Manager Knight for almost two years, and is seeking its adoption. Mayor Casey advised Mr. Palfy that the extended negotiation process was one of the points that he considered when seeking to remove Manager Knight. Although negotiating for almost two years, Mr. Knight only provided Council with a draft copy of a contract three weeks prior to this meeting. It was decided that Councilman Weiss and Solicitor Lange will meet with the bargaining unit next week (date certain) to discuss finalizing the contract.

**ORDINANCES**

Mayor Casey introduced Ordinance 539 on Second Reading, seconded by Councilman Woodend. The ordinance amends Ordinance 533.

**ORDINANCE 539**

**AN ORDINANCE OF THE BOROUGH OF MEDFORD LAKES, AMENDING SECTION VIII, PENALTIES, OF ORDINANCE NO. 533, A STORMWATER CONTROL ORDINANCE**

**WHEREAS**, Ordinance Number 533 was adopted by the Borough of Medford Lakes, on May 10, 2007; and

**WHEREAS**, the Borough needed to add appropriate language to section 8; and

**WHEREAS**, the Borough Solicitor has reviewed the ordinance and has made recommendations;

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Medford Lakes, County of Burlington and State of New Jersey that the following language be added at paragraph "A":

"Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to a fine of not more than \$1,000.00 or imprisonment for ninety (90) days or both. Each day that a violation continues shall be regarded as a new and separate violation of this chapter."

**VOTE TO APPROVE ORDINANCE 539**

Ayes: Casey, Weiss, Woodend

Nays: None

Ordinance 539 is approved of Second Reading

Mayor Casey introduced Ordinance 540 on First Reading, seconded by Councilman Weiss.

**ORDINANCE 540**

**AN ORDINANCE AUTHORIZING THE BOROUGH OF MEDFORD LAKES TO PROVIDE LEGAL COUNSEL AND INDEMNIFICATION FOR OFFICIALS, EMPLOYEES AND APPOINTEES OF THE BOROUGH OF MEDFORD LAKES IN CERTAIN ACTIONS BROUGHT AGAINST SAID OFFICIALS, EMPLOYEES AND APPOINTEES.**

**BE IT ORDAINED** by the Borough Council that:

**Section 1.** Except as hereinafter provided, the Borough of Medford Lakes, hereinafter known as the "Borough," shall upon the request of any present or former official, employee or appointee of the

Borough provide for indemnification and legal defense of any civil action brought against said person or persons arising from an act or omission falling within the scope of their public duties. The indemnification obligation provided herein shall be limited to an amount equal to all then existing and applicable policies of insurance maintained by the Borough for such purposes.

**Section 2.** The Borough shall not indemnify any person against the payment of punitive damages, penalties, or fines, but may provide for the legal defense of such claims in accord with the standards set forth herein. The Borough may refuse to provide for the defense and indemnification of any civil action referred to herein if the Borough Council determines that a) the act or omission did not occur within the scope of a duty authorized or imposed by law; b) the act or failure to act was the result of actual fraud, willful misconduct or actual malice of the person requesting defense and indemnification; or c) the defense of the action or proceeding by the Borough would create a conflict of interest between the Borough and the person or persons involved.

**OPTIONAL WORDING FOR SECTION 2:**

**Section 2.** Pursuant to 59:10-4, the indemnification and defense provided for in this ordinance shall include exemplary or punitive damages resulting from the employee's civil violation of State or federal law if, in the opinion of the Borough Council the acts committed upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.

**Section 3.** The terms of this ordinance and the definition of official, employee and appointee are to be construed liberally in order to effectuate the purposes of this ordinance except that these terms shall not mean a) any person who is not a natural person; b) any person while providing goods or services of any kind under any contract with the Borough except an employment contract; c) any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Borough; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Borough and/or secure insurance.

**Section 4.** The Borough shall provide for defense of and indemnify any present or former official, employee or appointee of the Borough who becomes a defendant in a civil action if the person or persons involved a) acted or failed to act in a matter in which the Borough has or had an interest; b) acted or failed to act in the discharge of a duty imposed or authorized by law; and c) acted or failed to take action in good faith. For purposes of this ordinance, the duty and authority of the Borough to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

**Section 5.** In any other action or proceeding, including criminal proceedings, the Borough may provide for the defense of a present or former official, employee or appointee, if the Borough Council concludes that such representation is in the best interest of the Borough and that the person to be defended acted or failed to act in accord with the standards set forth in this ordinance.

**Section 6.** Whenever the Borough provides for the defense of any action set forth herein and as a condition of such defense, the Borough may assume exclusive control over the representation of such persons defended and such person shall cooperate fully with the Borough.

**Section 7.** The Borough may provide for the defense pursuant to this ordinance by authorizing its attorney to act in behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the Borough under any appropriate insurance policy that requires the insurer to provide defense.

**Section 8.** This ordinance shall take effect immediately upon passage and publication as required by law.

VOTE TO APPROVE ORDINANCE 540

Ayes: Casey, Weiss, Woodend

Nays: None

Ordinance 540 is approved on First Reading

Second Reading/Public Comment for Ordinance 540 will be November 29, 2007.

**CONSENT AGENDA RESOLUTIONS**

“Consent Agenda” items are considered to be routine and will be enacted with a single motion; any items requiring expenditure are supported with a Certification of Availability of Funds from the Chief Financial Officer; and item requiring discussion will be removed from the Consent Agenda; all Consent Agenda items will be reflected in full in the minutes.

Mayor Casey introduced Consent Agenda Resolution 132-07, seconded by Councilman Woodend.

**RESOLUTION 132-07**

**A RESOLUTION OF THE MEDFORD LAKES BOROUGH COUNCIL ADOPTING PERSONNEL POLICIES AND PROCEDURES**

**WHEREAS**, it is the policy of the Borough of Medford Lakes to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations including, but not limited to Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, the Age Discrimination in Employment Act, the Equal Pay for Equal Work Act, the Fair Labor Standards Act, the New Jersey Law Against Discrimination, the Americans with Disabilities Act, the Family and Medical Leave Act, the Conscientious Employee Protection Act, the Public Employee Occupational Safety and Health Act, the New Jersey Workers Compensation Act, the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) and the Open Public Meeting Act; and

**WHEREAS**, the Borough Council has determined that there is a need for personnel policies and procedures to ensure that employees and prospective employees are treated in a manner consistent with these laws and regulations;

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council that the Personnel Policies and Procedures Manual attached hereto is hereby adopted; and

**BE IT FURTHER RESOLVED** that these personnel policies and procedures shall apply to all Borough of Medford Lakes officials, appointees, employees, volunteers and independent contractors. In the event there is a conflict between these rules and any collective bargaining agreement, personnel services contract or Federal or State law, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail; and

**BE IT FURTHER RESOLVED** that this manual is intended to provide guidelines covering public service by Borough of Medford Lakes employees and is not a contract. The provisions of this manual may be amended and supplemented without notice and at the sole discretion of the Borough Council; and

**BE IT FURTHER RESOLVED** that to the maximum extent permitted by law, employment practices for the Borough of Medford Lakes shall operate under the legal doctrine known as “employment at will” ; and

**BE IT FURTHER RESOLVED** that Peter C. Lange, Jr., Esq. is hereby appointed as Borough Solicitor to advise the Borough of Medford Lakes in personnel matters; and

**BE IT FURTHER RESOLVED** that the Borough Manager and all managerial/supervisory personnel are responsible for the enforcement of these employment practices. The Borough Clerk and the Borough Solicitor shall assist the Borough Manager in the implementation of the policies and procedures in this manual.

VOTE TO APPROVE RESOLUTION 132-07

Ayes: Casey, Weiss, Woodend

Nays: None

Resolution 132-07 is approved

Council directed Deputy Clerk McIntosh to distribute the Policies and Procedures Manual to each employee and obtain signatures confirming receipt.

### **RESOLUTIONS**

Councilman Woodend made a motion, seconded by Mayor Casey for discussion, to table Resolution 140-07, in order to create two separate resolutions.

VOTE ON MOTION TO TABLE

Ayes: Woodend

Nays: Casey, Weiss

Motion to table fails

Mayor Casey introduced Resolution 140-07, seconded by Councilman Weiss.

### **RESOLUTION 140-07**

**A RESOLUTION APPROVING PAYMENT ESTIMATE NUMBER 17, IN THE AMOUNT OF \$421,727.26, FOR THE PROJECT KNOWN AS RECONSTRUCTION OF LOWER AND UPPER AETNA DAMS**

**WHEREAS**, the Borough Engineer, Richard A. Alaimo Association recommends approval of Estimate No. 17; and

**WHEREAS**, it is the desire of the governing body to accept the recommendation of the Borough engineer to approve payment for estimate #17, dated September 18, 2007, in the amount \$421,727.26 which includes a reduction in the amount of \$205,000.00 for liquidated damages;

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Medford Lakes, County of Burlington, AND State of New Jersey, that Payment Estimate No. 17 be and is hereby approved; and

**BE IT FURTHER RESOLVED**, that the Mayor and Borough Clerk are hereby authorized to execute the necessary documents relative to this change order attached.

VOTE TO APPROVE RESOLUTION 140-07

Ayes: Casey, Weiss, Woodend

Nays: None

Resolution 140-07 is approved as amended

Mayor Casey introduced Resolution 141-07, seconded by Councilman Weiss.

**RESOLUTION 141-07**

**A RESOLUTION APPROVING CHANGE ORDER NUMBER 3, FOR THE PROJECT KNOWN AS RECONSTRUCTION OF LOWER AND UPPER AETNA DAMS, AMENDING THE CONTRACT WITH NORTHEAST REMSCO FROM \$8,354,778.45 TO \$7,902,881.06, A DECREASE OF \$451,897.39**

**WHEREAS**, Change Order No. 3 for the project known Reconstruction of Lower and Upper Aetna Dams, was developed to provide for quantity adjustments and other materials to complete the project; and

**WHEREAS**, Change Order No. 3, dated September 18, 2007 amends the contract with Northeast Remsco from \$8,354,778.45 to \$7,902,881.06, a decrease in the contract of \$451,897.39; and

**WHEREAS**, the Borough Engineer, Richard A. Alaimo Association recommends approval of said change order; and

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Medford Lakes, County of Burlington, State of New Jersey, that Change Order No. 3 be and is hereby approved; and

**BE IT FURTHER RESOLVED** that Change Order No. 3 hereby amends the contract price from \$8,354,778.45 to \$7,902,881.06, a decrease in the contract of \$451,897.39; and

**BE IT FURTHER RESOLVED** that the Mayor and Borough Clerk are hereby authorized to execute the necessary documents relative to this change order attached.

VOTE TO APPROVE RESOLUTION 141-07

Ayes: Casey, Weiss, Woodend

Nays: None

Resolution 141-07 is approved as amended

**OLD BUSINESS**

**OAKS HALL** – W.J. Gross was notified of his bid award as contractor for the fit out on Oaks Hall. Solicitor Lange will have the contract signed.

Deputy Clerk McIntosh has obtained 10 potential bidders for the stain work. Bid openings will be held on November 21, 2007, at 10:00am.

**DAM RECONSTRUCTION** – Council agreed it is time to begin renovations on Quogue Dam.

The Borough still has to appeal, in a timely manner, FEMA's decision on ownership of the Lower Aetna Dam. Councilman Weiss is working toward a political solution to the problem. The appeal is a legal brief, most of which has already been completed.

FEMA has offered \$940,000 toward rebuilding the Upper Aetna Dam; the overall cost was in excess of 4.5 million dollars. The Borough's engineers will meet with FEMA representatives to argue that \$940,000 is not enough and hope to have them amend the amount offered.

Solicitor Lange advised the window for obtaining reimbursement is closing; Council should oversee an intense effort to put all paperwork in order.

Council directed Deputy Clerk McIntosh, Municipal Clerk Keizer, and Solicitor Lange to submit all current invoices immediately.

Council directed Deputy Clerk McIntosh to ask Engineer Joe Augustyn to inspect the lighting on Beach Drive Dam to determine if it is angled wrong or too bright, following a resident's complaint.

**DPW BUILDING** – Re-routing of the plumbing has started. The plumber and the electrician will be working together on Friday, November 9, 2007.

**TABERNACLE ROAD BRIDGE** – Repairs will take longer than anticipated. Mayor Casey asked that Tabernacle Road remain closed until the work is complete.

DPW will be putting in a collection box on the bridge. Council authorized overtime for work during the weekend.

### **NEW BUSINESS**

Council discussed advertising for a Borough manager and did not rule out someone in an interim position. In the meantime, Clerk Keizer, Deputy Clerk McIntosh, and Solicitor Lange will carry out daily responsibilities, while keeping Mayor Casey apprised.

Council directed Clerk Keizer to advertise for a certified clerk, while keeping open the option of having one qualified person as the certified clerk and manager.

### **PAYMENT OF BILLS**

Mayor Casey made a motion, seconded by Councilman Woodend, to approve payment of the bills.

VOTE TO PAY BILLS  
Ayes: Casey, Weiss, Woodend  
Nays: None  
Payment of bills is approved

### **ADJOURNMENT**

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

VOTE TO ADJOURN  
Ayes: Casey, Weiss, Woodend  
Nays: None  
Meeting adjourned at 11:20pm