

**BOROUGH OF MEDFORD LAKES, NJ**  
**REGULAR COUNCIL MEETING**  
**September 9, 2009**

A regular meeting of the Borough Council of the Borough of Medford Lakes, New Jersey, was held on the above date in Oaks Hall at Municipal Cabin, 1 Cabin Circle, Medford Lakes, NJ 08055 beginning at 7:30pm. Following the pledge of allegiance and moment of silence (Council and the public observed a moment of silence to honor service men and women defending our country), Clerk McIntosh read the Statement of Compliance with the Open Public Meetings Act: this is to announce that adequate notice had been provided to allow publication 48hours in advance and was (1) posted on the Administration Building bulletin board, (2) advertised in the Burlington County Times, Courier Post and Central Record, (3) posted on the Borough Web Site and (4) filed with the Municipal Clerk. Advance written notice of this meeting was mailed or emailed to all persons who requested such notice according to the Clerk of the Municipality.

**ROLL CALL**

Acting Clerk McIntosh called roll. Mayor Paul G. Weiss, Esq., Councilman Timothy S. Casey and Councilman Gregory Lackey answered in attendance. Also present were Manager Geoffrey D. Urbanik, Solicitor Peter C. Lange, Jr., Construction Official Tom Heck, Borough Engineer Jim Giordano, Environmental Commission Chairperson Carl Pellegrino and Deputy Manager/Acting Clerk Mark J. McIntosh.

**PUBLIC COMMENT (in bullets)**

***Mayor Weiss opened the meeting for public comment***

**Dave Wasson, 97 Wabun Trail:**

- The recall committee was not successful. Appreciate the fairness and courtesy shown during the process.
- Thank council for the opportunity for the residents to be heard at the upcoming Salmon Ventures presentation

**Joe Aromando, 285 Shingowack Trail:**

- Status of the police vest?

***Manager Urbanik stated that he hoped to have it back this week***

- Disappointed in the lack of urgency by Medford to return it and lack of effort by our elected officials
- Status on the trash truck. Is council just going to wait until November? Has anyone approached Evesham on the shared service study? I am talking to the residents about the upcoming vote

***Councilman Lackey stated he didn't much care what Joe tells people.***

***Mayor Weiss closed public comment***

**MINUTES**

***Mayor Weiss motioned for adoption of the August 5, 2009 Emergency Meeting (Canoe Carnival) minutes, seconded by Councilman Lackey***

VOTE TO ADOPT MINUTES

Ayes: Weiss, Lackey

Nays: None

Abstain: Casey

Minutes Adopted

**REPORTS (in bullets)**

**Manager Urbanik submitted a written report and highlighted the following:**

- Greenhouse reduction grant applied for farmers market project
- Website now being updated with new pass-code
- Storm debris clean-up going well
- Police Study public hearing scheduled for 9/21
- New Finance software has been installed
- Trash co-op with County Bridge Commission is showing some towns are saving by eliminating the use of transfer stations

***Mayor Weiss is interested in investigating this further***

- Reval is advancing

**Deputy Manager/Acting Clerk McIntosh submitted a written report and highlighted the following:**

- August 29<sup>th</sup> auction brought in \$67.00 revenue
- Ordinance #563 will be municipal question on ballot at General Election
- Beginning mandatory Recycling Coordinator classes through Rutgers
- Evesham FD evaluating our confined space rescue team needs

**Solicitor Lange highlighted the following:**

- Having on-going meetings with Planning Board members Adison and Adamson regarding various recommendations of the land use ordinance

**ORDINANCES**

***Mayor Weiss motions to untable Ordinance Number 566, seconded by Councilman Casey***

VOTE TO UNTABLE ORDINANCE NUMBER 566

Ayes: Weiss, Casey, Lackey

Nays: None

Motion carries

***Councilman Lackey asked Construction Official Heck if spacers can be more than ¼ inch***

***CO Heck stated that he was unaware of the construction code defining spacer widths. Most use 1/8 inch or 1/4 inch***

*Council agrees to use no larger than 1/8 inch in Ordinance*

*Councilman Lackey discusses surface coverage credit and rain barrels  
Council agrees to use 55-gallon containers in Ordinance*

*Councilman Lackey expressed concern that without permitting then how will the borough enforce. Even a “zero” fee permit would allow the borough knowledge. He also asked about credit for stone aprons.*

*Councilman Casey stated that a resident should be able to apply liquid sealant and fill cracks without a permit. They are more examples of maintenance vs. repairs.*

*Mayor Weiss recommended that council separate out maintenance*

*Engineer Giordano stated that he will draft changes to include the stone apron and maintenance.*

*Mayor Weiss states if we can define maintenance clearly then all else is repairs*

*Councilman Lackey stated that weed paper usage is possibly unenforceable*

*Council discussed how close a resident can install a driveway to their neighbor’s property and the need for setbacks to be defined.*

*Engineer Giordano stated that setbacks can best be defined in the design standard section*

*CO Heck stated that he was not thrilled with a proposed 40 to 50% lot coverage and provided council with a memo and information related to soil percolation.*

*Mayor Weiss motioned to retable Ordinance Number 566 to allow for additional amendments, seconded by Councilman Casey*

VOTE TO TABLE ORDINANCE NUMBER 566

Ayes: Weiss, Casey, Lackey

Nays: None

Motion carries

### **SPECIAL DISCUSSION**

*Mayor Weiss opens discussion of the pending Underground Storage Tank (UST) Ordinance*

*Mayor Weiss explains that council is interested in attempting to regulate them do to the numerous environmental issues*

*EC Chair Pellegrino states that the borough has hosted three (3) public information sessions with great attendance. The EC has publicized the environmental threats caused by leaky tanks and that they encourage above-ground storage units only.*

*Solicitor Lange explains the background of our draft UST ordinance*

*CO Heck states that most leaking tanks were built for interior use only but were installed outside. He further stated that most homeowners can't get insurance with underground tanks.*

*EC Chair Pellegrino stated that testing is the key*

*Mayor Weiss asked if we knew how many UST's are in the borough and how do we regulate them.*

*Solicitor Lange stated that we could regulate them through the sale of the property similar to extraneous flow and fire inspections*

*Mayor Weiss asked if the NJ DEP would fully fund a 100% UST removal at all borough properties.*

*EC Chair Pellegrino stated that the State Grant is well funded*

*Councilman Casey stated that we should pull out the certification process into its own section and coordinate changes with the Environmental Commission. He asked what the cost is for a UST test.*

*Engineer Giordano stated that it was between \$150 and \$300 for a negative pressure test and should be required every five (5) years.*

*CO Heck said that if the borough regulates them we should require a survey showing location, type, etc.*

*Solicitor Lange stated that we should get feedback from the Environmental Commission after the September 22<sup>nd</sup> meeting.*

*Councilman Casey stated that the next draft should include the Construction Officials requests and establish installation regulations for new UST's*

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### **CONSENT AGENDA RESOLUTIONS**

*Mayor Weiss moved the lone Consent Agenda Resolution to the regular Resolution section*

### **RESOLUTIONS**

*Mayor Weiss introduced Resolution Number 144-09, seconded by Councilman Casey*

RESOLUTION NUMBER 144-09

A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE COUNTY OF BURLINGTON FOR ENROLLMENT IN THE BURLINGTON COUNTY COOPERATIVE PRICING SYSTEM #4 BuCCP FOR THE PERIOD JANUARY 1, 2010 THROUGH DECEMBER 31, 2014

*Mayor Weiss introduced Resolution Number 143-09, seconded by Councilman Lackey*

RESOLUTION NUMBER 143-09

A RESOLUTION AMENDING A PROFESSIONAL SERVICES CONTRACT FOR LEGAL SERVICES

*Mayor Weiss motions to untable Resolution Number 141-09, seconded by Councilman Casey*

VOTE TO RESTORE RESOLUTION 141-09

Ayes: Weiss, Casey, Lackey

Nays: None

Resolution restored

*Solicitor Lange states that the new packet should include a General Planning Board application and change the wording to Application/Petition of Appeal and that he will check the code to see if council has to approve forms or not.*

*Mayor Weiss motions to re-table Resolution Number 141-09, seconded by Councilman Casey*

VOTE TO RE-TABLE RESOLUTION 141-09

Ayes: Weiss, Casey, Lackey

Nays: None

Resolution tabled

### OLD BUSINESS

#### HEALTH BENEFITS:

*Manager Urbanik states for the borough to get the NJ State claims history it will cost \$4,000 and he needs councils approval.*

*Mayor Weiss motions for authorization to the manager to spend \$4,000 to get claims history, seconded by Councilman Lackey*

VOTE TO MOTION

Ayes: Weiss, Lackey

Nays: None

Abstain: Casey

Motion approved

#### CONTINGENCY:

*Manager Urbanik explains the contingency requests within various department budgets*

*Council approves of the contingencies*

#### RECYCLING:

*Recycling Coordinator McIntosh explains the proposed County new toter program and asks council for verbal support to pursue.*

*Council approves investigating the County program*

**NEW BUSINESS**

*None*

**PUBLIC COMMENT #2**

*Mayor Weiss opens the meeting to public comment*

Bob McGowan, 18 Cochise Circle:

- Is the reval process on track?
- Can the sign at Cochise Circle be repaired/replaced?
- Vaughan Hall crosswalk needs attention
- Is large trash pickup on schedule again after the storm?
- The new recycling program sounds great

*Manager Urbanik states that PW will look into the sign and the crosswalk. Large trash will be resuming.*

Joe Aromando, 285 Shingowack Trail:

- The UST Ordinance should include; Identification, registration, education, removal, testing, age of tank, limit to only replacement with above-ground and should be by variance.
- The driveway Ordinance should include what the average property is allowed to have (i.e. house, shed, deck). Some right-of-ways extend 20plus feet and are impractical and ridiculous. Disagree with Tom Heck's soil assessment. The rain barrel credits are only for home with gutters. A lot of homes don't have gutters.

*Chief Frank Martine explains to council the Police Live Scan Grant. It's a \$20,000 piece of machinery with a \$2,400 per year maintenance agreement after 3<sup>rd</sup> year.*

*Council authorizes management to apply for the grant.*

*Mayor Weiss closed public comment*

**VOTE ON ORDINANCES**

*Ordinance Number 566 tabled earlier in meeting.*

**VOTE ON CONSENT AGENDA RESOLUTIONS**

*Single Resolution moved to regular section*

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**VOTE ON REGULAR RESOLUTIONS**

*Mayor Weiss motions for adoption of Resolution Number 144-09, seconded by Councilman Casey*

RESOLUTION NUMBER 144-09

A RESOLUTION AUTHORIZING THE BOROUGH OF MEDFORD LAKES TO ENTER INTO A  
COOPERATIVE PRICING AGREEMENT

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration;

WHEREAS, the Burlington County Board of Chosen Freeholders, hereinafter referred to as the "Lead Agency," has offered voluntary participation in the Burlington County Cooperative Pricing System #4BuCCP for the purchase of goods and services; and

WHEREAS, on September 9, 2009 the governing body of the Borough of Medford Lakes, County of Burlington, State of New Jersey, duly considered participation in said Cooperative Pricing System for the provision and performance of goods and services;

NOW, THEREFORE, BE IT RESOLVED as follows:

TITLE

This RESOLUTION shall be known and may be cited as the Cooperative Pricing Resolution of the Borough of Medford Lakes.

AUTHORITY

Pursuant to the provisions of N.J.S.A. 40A:11-11(5), the (CHIEF EXECUTIVE OFFICER) is hereby authorized to enter into a Cooperative Pricing Agreement with the Lead Agency.

CONTRACTING UNIT

The Lead Agency shall be responsible for complying with provision of the *Local Public Contracts Law* (N.J.S.A. 40A:11-1 *et seq.*) and all other provisions of the revised statutes of the State of New Jersey.

EFFECTIVE DATE

This resolution shall take effect immediately upon passage.

VOTE TO APPROVE RESOLUTION 144-09

Ayes: Weiss, Casey, Lackey

Nays: None

Resolution approved

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*Mayor Weiss motions for adoption of Resolution Number 143-09, seconded by Councilman Casey*

**Resolution Number: 143-09**

**A RESOLUTION AMENDING A PROFESSIONAL SERVICES CONTRACT FOR LEGAL SERVICES**

**WHEREAS**, the Borough of Medford Lakes has a need to acquire Legal Services pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, legal services resolution number 139-09 amended resolution number 15-09 from a not to exceed (NTE) cost of \$30,000 to a NTE cost of \$70,000 and should have stated a NTE cost of \$80,000; and

**WHEREAS**, the additional amounts are for \$5,000 related to litigation with WJ Gross, Inc. and \$5,000 is related to litigation related to Deborah Gross(300 McKendimen Road); and

**WHEREAS**, a correction is needed to properly fund the Legal Services for the Borough in connection with litigation related to the WJ Gross, Inc. Tenant Fit Out Contract, pre-litigation related to the Waste Water Teamsters Collective Bargaining Agreement and litigation related to Deborah Gross(300 McKendimen Road); and

**WHEREAS**, the certification of the availability of funds requirements per N.J.A.C. 5:30-5.4 has been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Medford Lakes, New Jersey hereby amends Resolution Numbers 139-09, 121-09, 82-09, 81-09 and 15-09 appointing Peter C. Lange, Jr., Esq. as Borough Solicitor for a one year contract with additional appointment as legal counsel for certain pre-litigation for a cost NTE \$80,000 and includes appointment as Legal Counsel for litigation matters related to the WJ Gross, Inc. Tenant Fit Out Contractor a fee NTE \$30,000, Waste Water Teamsters Collective Bargaining Agreement a fee NTE \$15,000 and litigation matters related to Deborah Gross (300 McKendimen Road) a fee NTE \$5,000.

Resolution Number 15-09 is now amended to a NTE contract of \$80,000.

This contract is awarded without competitive bidding as a "Professional Service" under the provisions of the Local Public Contracts Law because it is a recognized profession licensed and regulated by the law.

A copy of this resolution shall be published as required by law.

VOTE ON RESOLUTION 143-09

Ayes: Weiss, Casey, Lackey

Nays: None

Resolution approved

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### CORRESPONDENCE

*None to discuss*

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### BILL LIST

*Mayor Weiss motions approval of the bill list, seconded by Councilman Casey*

VOTE TO APPROVE THE BILL LIST

Ayes: Weiss, Casey, Lackey

Nays: None

Bill list approved

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### EXECUTIVE SESSION

*Mayor Weiss motions to exit the public meeting and enter an executive/closed session to discuss; Deborah Gross – Potential Litigation and Borough Engineer – Personnel Discussion matters, seconded by Councilman Lackey*

**A RESOLUTION EXCLUDING THE PUBLIC FROM A PUBLIC MEETING**

**WHEREAS**, Section 7.a of Chapter 231, Public Law 1975, otherwise known as the "Open Public Meetings Act" states that except as provided by Section 7.a, all meetings of a public body, such as the Borough Council, shall be open to the public at all times: and,

**WHEREAS**, Section 7.b provides that the Borough Council may exclude the public only from the portion of a meeting at which Borough Council discusses certain subjects which are listed in the aforementioned Section; and,

**WHEREAS**, the Borough Council desires to discuss certain subject(s) which are listed in the aforementioned section and desires to exclude the public from the portion of the meeting at which the Borough Council will discuss said subject(s); and,

**WHEREAS**, Section 8 of Chapter 231, Public Law 1975 states that no public body shall exclude the public from any meeting to discuss any matter described in Section 7.b until the public body shall, at a meeting to which the public shall be admitted, first adopt a resolution making certain statements with respect to the subject(s) to be discussed;

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Medford Lakes, in the County of Burlington, State of New Jersey, as follows:

1. That the Borough Council hereby declares that the general nature of the subject(s) to be discussed by the Borough Council in closed session as follows:

- *Deborah Gross – Potential Litigation*
- *Borough Engineer – Personnel Discussion*

2. That the Borough Council hereby declares that its discussion of the aforementioned subject(s) may be made public at time when the Borough Solicitor advises the Borough Council that the disclosure will not detrimentally affect any right, interest or duty of the Borough or any other entity with respect to said discussion.

3. That the Borough Council for the aforementioned reasons hereby declares that the public is excluded from the portion of the meeting during which the above discussion shall take place and hereby directs the Borough Clerk to take the appropriate action to effectuate the terms of this resolution.

**VOTE TO ENTER EXECUTIVE/CLOSED SESSION**

Ayes: Weiss, Lackey, Casey

Nays: None

Motion Approved

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*Mayor Weiss motioned to exit executive Session and return to regular public meeting, seconded by Councilman Casey*

**VOTE TO RETURN TO REGULAR MEETING**

Ayes: Weiss, Lackey, Casey

Nays: None

Motion carries

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*Mayor Weiss motioned to adjourn regular public meeting, seconded by Councilman Casey*

**VOTE TO ADJOURN REGULAR MEETING**

Ayes: Weiss, Lackey, Casey

Nays: None

Motion carries