

**Egg Harbor Township Committee Meeting
Municipal Building, Bargaintown Road
Egg Harbor Township NJ 08234
Wednesday, December 8, 2010 – 5:00 p.m.**

MINUTES

Mayor McCullough called the Meeting to Order at 5:08 p.m.

Deputy Township Clerk Perez read the opening statement pursuant to the Open Public Meetings Act.

Roll Call:	Joe Cafero	present
	John Carman, Jr.	present
	Paul Hodson	present
	John Risley	present
	James J. McCullough	present

Also in attendance were Township Solicitor Friedman, Township Administrator Miller and Engineer Mott.

ACUA 2011 Budget Presentation

Mayor McCullough announced that the 2011 Budget Presentation by the ACUA has been postponed.

Meeting with Township Engineer Mott

Oak Avenue Street Vacation and Road Dedication. Engineer Mott provided the Township Committee with a brief history of the street vacation and road dedication for which two ordinances are scheduled for introduction later on this evening. Administrator Miller indicated to the Committee that Mr. Virdale Tolbert is paying for the publication costs associated with publishing of the two ordinances in The Press.

New Business

- A-307 (Energy Receipt Taxes). Administrator Miller provided the public with a brief explanation of what energy receipt taxes are and indicated that Resolution 456 is on this evening's agenda
- 2010 Budget Transfers. Administrator Miller stated that funds are being authorized to be moved around to where they are needed.
- December 15th Tax Sale. Administrator Miller talked about the tax sale that is held annually in December. When the sale was first advertised, the Township had 1,371 property owners owing \$1.6 million. That number is now down to 816 property owners and down to approximately \$2 million. The Township expects to collect another million before the sale. The 816 number may drop down to about one half of that. Every year the Township authorizes the Administrator to attend the tax sale in order to bid on properties of interest to the Township. The ideal properties are those adjacent to properties already owned. There is a resolution on this evening's agenda (number 457) authorizing the Administrator to bid on properties which are identified on the exhibit.
- Board Appointments. Mayor McCullough indicated that there are several vacancies on the Planning Board and Zoning Board and has recommendations for a Mr. Rosenberg, Mr. Andrew Parker and Mr.

Anthony DiDonato. The Committee agreed that they were excellent choices and those individuals will be appointed at the January 1, 2011, reorganization meeting.

Closed Session

Number	Title
452	Authorizing the Township Committee to convene into a Closed Executive Session to discuss matters which may involve litigation and/or personnel
Motion	Motion Hodson, second Carman to adopt Resolution 452
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes

At 6:01 p.m. the Mayor called the meeting back to order.

Deputy Township Clerk read the video broadcast/television statement at 5:54 p.m.

Deputy Township Clerk reaffirmed the roll call – all members present.

Mayor McCullough led the Pledge of Allegiance.

Presentations

Mayor McCullough made presentations as follows:

-  Plaque to Herbert “Butch” Daisey for 30 years of valued service to the Township of Egg Harbor
-  Proclamation presented with gratitude to EHTs 300th Anniversary Committee

John Risley and Marilyn Gallagher thanked everyone who participated in the Anniversary Committee.

Mayor McCullough advised the public that the Township Committee would be deviating from the agenda in order to begin with Ordinance 32 for which the public is here to discuss.

Mayor McCullough provided the public with background on Ordinance 32. In 2006 English Creek Manor brought a builder’s remedy lawsuit against Egg Harbor Township and the Township has been fighting the lawsuit since 2006. The settlement reached has put the Township in its present position, thus the introduction of Ordinance 32. Mayor McCullough advised that the Township was always of the opinion that they adhered to the low and moderate responsibility because of the mobile homes and rental properties in the Township. The State, however, does not agree with the Township’s position. Assemblyman Vincent Polistina has been asked to do some research through the Office of Legislative Services in the State of New Jersey. There is pending legislation beneficial to Egg Harbor Township for the COAH Legislation. Mayor McCullough introduced Assemblyman Vincent Polistina.

Assemblyman Vincent Polistina. Assemblyman Polistina reported that he spoke with the Governor’s council today. He stated that municipalities had to provide a realistic opportunity for affordable housing in their towns. The State has steered far away from the policy. The Council on Affordable Housing will be abolished, but we are making sure that the policies are not simply carried into another department. The short answer is there are changes coming which would hopefully benefit Egg Harbor Township and the Governor’s Office is pushing for

it. What has happened thus far is contrary to the original mission of this policy. This year or next year there will be revamping.

Mayor McCullough introduced the Township's special counsel on affordable housing, Mr. Jeff Surenian.

Attorney Jeff Surenian. Mr. Surenian provided the public with a background on himself. He stated he only represents municipalities and that his specialty is on matters dealing with affordable housing. Mr. Surenian provided the public with a brief history lesson on affordable housing and municipalities in New Jersey providing realistic opportunities for affordable housing. He further explained the definition of a builder's remedy lawsuit: A builder may sue a municipality but in order to succeed in litigation has to prove the municipality has not satisfied quota that COAH has assigned; they must propose a project where at least 20% is affordable housing and propose a suitable site (COAH decides what is suitable). If developer succeeds, the judge enters an order and this is how the site has to be zoned. That is what the developer has to do and the municipality has to facilitate the developer to make sure it happens.

Attorney Marc Friedman spoke about the municipality having to work with the tools provided. This builder has been aggressive in order to maximize his usage and profit from this project. The Township is trying to come into compliance as best as it can.

Administrator Miller answered why the municipality let someone sue them.

Ordinance - Public Hearings

Number	Title
32	An Ordinance to amend the Code of the Township of Egg Harbor, Chapter 225 thereof entitled "Zoning" and add Section 225-49 thereof entitled "Affordable Housing Zone AH-RG-6"
Purpose	The purpose of this ordinance is to amend the existing Chapter 225 to implement a settlement between the Township of Egg Harbor and Planning Board and English Creek Manor, Docket No. ATL-L-4234-06 P.W., dated June 1, 2006.

Public Comment

Harry Bingeheimer, 134 Alder Avenue. Mr. Bingenheimer read his objections into the record. His statement is attached hereto and made a part hereof as Exhibit A.

Kathy Bechtel, Egg Harbor Township School Board Secretary. Ms. Bechtel spoke about the impact that 572 units would have on the school system. 572 units equates to 1,100 students (conservatively 2 students per household). She urged the Township to vote "no" on the passing of the ordinance. The Township simply cannot fit the students in the present building and have no expectation of receiving funding for even one of the students.

Peter Chamberlain, 3 Faith Drive. Mr. Chamberlain asked whether research had been done regarding suitable property for the area. Mr. Surenian answered that the Township has an obligation under the existing COAH regulations. Administrator Miller stated that the Township does not have a site plan yet from the developer. A formal application has to be submitted to the Planning Board before approval is granted. Attorney Surenian indicated that if the ordinance were to be adopted, the developer would have to come in with a site plan application and then a full analysis would be done to make certain that all standards are satisfied (local and

state). Mr. Chamberlain asked whether there was a time table which had to be adhered to and Attorney Surenian answered that a schedule is set out by the court. The bottom line is that if there is not an amicable resolution, litigation would ensue. Mr. Miller advised that the purpose of this hearing is to listen to testimony and take that testimony under advisement before final action is taken.

Michael Malinsky of the Law Firm of Fitzgerald McGroarty. Attorney Malinsky stated that he was in attendance representing several of the adjoining property owners. Mr. Malinsky touched on the issue of increase in vehicular traffic on Winnepeg Avenue, fiscal impact on schools, and the impact on fire and police. How will the Township be able to meet its fiscal responsibility? This type of development does not promote preservation of the environment. He stated that an entire wooded area would be destroyed. This development would not encourage safe transportation routes and promote traffic congestion. It would not promote open space. He asked if the Township would be able to go back to the table and see if there is an option that would decrease the density. Does the Township have land that it could swap with the developer? Can the Township purchase the property? Homeowners purchased in that zone with an expectation! Mayor McCullough asked that Mr. Malinsky provide written testimony to the Township. Mr. Malinsky indicated he would.

Michael Santoro, 425 Dogwood Avenue. Mr. Santoro stated that he remembered a piece done by George Carlin “NIMBY” – Not in my backyard – Mr. Santoro said he understands and respects the people’s position. He presently has a permit pending in the building department for an addition to this home. That will not be happening with this going on. This development will decrease the value of homes and diminish the integrity of the neighborhood.

Kathleen Kopaz, 132 Alder Avenue. Ms. Kopaz spoke in opposition. She stated that the characteristic of the neighborhood will be altered forever. She has 519 signatures on a petition. This zoning does not just impact her neighborhood, but the entire Township.

Debbie Rockelman, 189 Alder Avenue. Ms. Rockelman spoke in opposition. Ms. Rockelman stated that she couldn’t get approval from the Township for a windmill and now this!

Lou Flem, 413 Dogwood Avenue. Mr. Flem said he did not want to take on someone else’s burden.

Peter Keane, 238 Lily Road. Mr. Keane said that the quality of life will degrade. We built our businesses here because of quality of life here. He has a growing company and will move and take jobs with him. He stated that seniors will have to pay a significant school tax without having children in the school system.

Jody Tucker, 112 Winnepeg Avenue. Ms. Tucker asked the Committee if they would want this if it were in their backyard. Everything she has heard so far has been negative. Is there anything good? She doesn’t think so.

James Pesce, 8038 English Creek Avenue. Mr. Pesce asked how much additional litigation is this town in for if this settlement goes through. If this goes to court, are the citizens of the Township allowed to go to the hearing and speak. Attorney Surenian responded that in a builder’s remedy setting, there is no participation by the public. In a settlement setting, before the judge approves, the public is invited to speak.

Brian Bell, 313 Blossom Circle. Mr. Bell asked if a traffic impact study had been done. Mayor McCullough answered that no study was done. Mr. Bell asked how it could be approved without a study.

Jill Campbell, 22 Emerald Drive. Ms. Campbell stated that she is opposed to this development. She stated that she is not near the development. If the entire Township was aware of this, no one would like it. Who is going to subsidize the children going to school? We have overcrowded classrooms now and the police department is not large enough.

Diane Nettles, 101 Alder Avenue. Ms. Nettles spoke about the recent developments (Community Center, Tony Canale Park) and we have trailer parks within a 5 miles radius of this development. This area cannot sustain any more development. She is opposed.

Robert Callaway, 518 Dogwood. Mr. Callaway said that with the traffic (school buses), he can only make a right turn out of his driveway now. People already feel bad about the traffic.

Paul Rosenberg, 300 Hidden Oak Road. Opposed. What can be forced upon us if we all say “no?” Attorney Surenian answered that if the Township says no, the matter will proceed to litigation. If the judge says no, we win. If the judge says yes, the town will be ordered to re-zone. The court has incredibly broad powers.

Marion Ingemi, 19 Chelsea Avenue. The Township cannot handle this. The area residents have been impacted, not just by this, but other development. The volunteer fire department cannot handle this.

12 Faith Drive. He has a wife and four children in the area. Their biggest fear is that of the unknown. Please vote no.

Lynette Coates, 416 Dogwood. She stated that she intends to call the Audubon Society. A red-headed woodpecker may have been sighted.

Marie Elwood, 162 Alder Avenue. Urge everyone to vote no.

Mayor McCullough asked that if there was anyone in the audience in favor of Ordinance 32, No one raised their hands. He further asked who was in opposition of the Ordinance and the majority of present individuals raised their hands. An exact count was not taken.

Christine Gloth, 8 Faith Drive.

Linda Lindacher, 13 Lenwood Court. Expects vandalism of public property with growth.

Ken Zink, 133 Alder Avenue. Asked about the fixed income residents. What will this mean to the community in the future?

George Nettles, 101 Alder Avenue. Mr. Nettles asked if the ordinance passed and the proposed legislation to change the law passes, what affect would that have on the Township. Attorney Surenian said that it would remain. Mr. Nettles asked if a postponement can be made on this hearing until the legislation is changed. Attorney Surenian advised that it may or may not result in the court taking over.

Richard Rockelman, 189 Alder Avenue. Mr. Rockelman asked if there was an estimated number taken when the attendees raised their hands in opposition of the ordinance. Mayor McCullough stated there were an extraordinary number of people and about 99% of the people in the room raised their hands in opposition.

John Lafpa, English Creek Manor. Spoke about how bad he feels for the affected residents.

Frank Sutton, 503 Dogwood Avenue. Opposes this ordinance. The longer we delay without getting into a lawsuit is very important. Strength is in numbers.

Mike Mozitis, 304 Arrowhead Drive. Advised that the Committee table the ordinance and let the residents get their message out. Mayor McCullough stated that he did whatever he could to encourage people to come out to this meeting. There is a need to be here tonight and it is to credit of the residents.

June Cavalucci, 155 Winnepeg. Ms. Cavalucci stated opposition for herself and her husband. She stated they built their home when there was wildlife.

Len Dagit, 4 Poynte Drive. Mr. Dagit stated that the Township is one community. The vote seems to pretty much unanimous. Some fights are worth fighting and sometimes you gotta fight the fight.

Motion Cafero, second Hodson to close the public portion of Ordinance 32.

Mayor McCullough thanked everyone that came out to speak whether they lived in the impacted area or outside the impacted area. Mayor McCullough further recommended to the governing body that the ordinance not be voted on to pass, but that it be tabled.

Motion Hodson, second Risley to table the ordinance. Committeeman Cafero stated it was the right thing to do. The vote was unanimous – yes to table the ordinance.

Committeeman Hodson stated this is the first step and acknowledged that no one sitting in the meeting this evening wanted this ordinance to pass.

Ordinances - Public Hearings

Number	Title
29	An Ordinance fixing the salaries of certain officials and employees of the Township of Egg Harbor for the year 2011
Purpose	The purpose of this ordinance is to set the salaries for officials and employees of the Township of Egg Harbor for the calendar year 2011.
Public Comment	None
Motion	Motion Cafero, second Hodson to close the public hearing
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Motion	Motion Carman, second Cafero to adopt Ordinance 29 of 2010
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes

30	An Ordinance providing for the Grant of Conservation Restriction/Easement for West Atlantic City Dune Stabilization Gabion Project
Purpose	The purpose of this ordinance is to grant an easement for property located in Blocks 4207 through 4223 and 4302 through 4304 in favor of the State of New Jersey as part of the West Atlantic City Dune Stabilization Gabion Project.
Public Comment	None
Motion	Motion Risley, second Hodson to close the public hearing
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Motion	Motion Hodson, second Cafero to adopt Ordinance 30 of 2010
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
31	An Ordinance providing for the acceptance of a Deed of Dedication and Shore Protection Easement for West Atlantic City Dune Stabilization Gabion Project
Purpose	The purpose of this ordinance is to accept conveyance of an easement for property located on Lot 2 in Block 4223 from the Township of Egg Harbor to the Township of Egg Harbor and the State of New Jersey as part of the West Atlantic City Dune Stabilization Gabion Project.
Public Comment	None
Motion	Motion Cafero, second Hodson to close the public hearing
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Motion	Motion Cafero, second Risley to adopt Ordinance 31 of 2010
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes

Ordinances - Introductions

33	An Ordinance to vacate a portion of Oak Avenue, described by metes and bounds and located in the Township of Egg Harbor, County of Atlantic and State of New Jersey
	<i>Ordinance 34-2010 to be published in <u>The Press of Atlantic City</u> on December 9, 2010, for further consideration at a Public Hearing to be held on December 22, 2010. Copies of this Ordinance are available without cost to any member of the general public from the Township Clerk's Office during regular business hours through to the public hearing date.</i>
Purpose	The purpose of this ordinance is to vacate a portion of Oak Avenue.
Motion	Motion Hodson, second Cafero to introduce Ordinance 33
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes

34 **An Ordinance providing for the acceptance of a deed from Virdale Tolbert conveying real property along Oak Avenue**

Ordinance 34-2010 to be published in The Press of Atlantic City on December 9, 2010, for further consideration at a Public Hearing to be held on December 22, 2010. Copies of this Ordinance are available without cost to any member of the general public from the Township Clerk's Office during regular business hours through to the public hearing date.

Purpose The purpose of this ordinance is to accept a deed of dedication for additional right of way along Oak Avenue.

Motion Motion Risley, second Carman to introduce Ordinance 34

Roll Call Vote Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes

General Public Discussion

James Pesce, English Creek Avenue. Mr. Pesce inquired about the Township's littering laws. He stated that The Current delivers to all homes and if residents are out of town, the newspapers litter the neighborhood. Solicitor Friedman advised that he would look into the littering laws.

Motion Carman, second Hodson to close the general public discussion portion of the meeting.

Vote: All members present voted yes.

Resolutions (Consent Calendar)

Number	Title
453	Resolution approving salary increases
454	Resolution requesting approval of an item of revenue and appropriation pursuant to NJSA 40A:4-87 [Chapter 159] - item of revenue - Community Development Block Grant
455	Resolution authorizing bond payment [Egg Harbor Township Golf Corporation]
456	Resolution opposing the State's retention of Energy Receipts Taxes rightfully belonging to the residents of Egg Harbor Township and supporting Assembly Bill A307
457	Resolution authorizing Township Administrator to bid on certain parcels of land at tax sale
458	Resolution transferring monies from one appropriation to another
459	Resolution authorizing Mayor to execute Amendment 1 to the contract awarded to Vital Communications Inc for municipal-wide revaluation (extending contract time for revaluation)
460	Resolution granting Egg Harbor Township Farmington Volunteer Fire Company retroactive charitable roadway solicitation application

461	
462	Resolution authorizing refund of developers escrow account 152-68 known as Fernwood North a.k.a. Cambridge Crossings
463	Resolution authorizing refund of Curb and Sidewalk Permit 8-2008 (Craftsman Homes of New Jersey LLC)
464	Resolution authorizing refund of Curb and Sidewalk Permit 3-2008 (Himanshu & Binny Patel)
Motion	Motion Hodson, second Cafero to adopt the Consent Calendar Resolutions 453 through 460 and 462 through 464
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes

Resolution	
461	Resolution authorizing acceptance of improvements of Risley Commons Phase II
Motion	Motion to adopt Resolution 461
Roll Call Vote	Cafero - yes Carman - yes Hodson - yes Risley - abstain McCullough - yes

Resolution	
465	Authorizing payment of all bills pursuant to Exhibit A
Motion	Motion Cafero, second Risley to adopt Resolution 465 with the addition of purchase order 10-02379 from Michael Finnerty for tuition reimbursement in the sum of \$1,566.88
Vote	All members present voted yes

Reports

Township Committee:

Committeeman Hodson advised the public that in the past two weeks there was a house fire. He reminded everyone that when they are thinking holiday decorations, to think safety and to be observant of decorations that are being left on.

Deputy Mayor Risley had nothing to report.

Committeeman Carman had nothing to report.

Committeeman Cafero said it was refreshing to see so many people come out and to see a passion in what they believe. He was pleased to see well-thought out arguments.

Approvals

Motion	Motion Hodson, second Carman to approve the payroll for the month of November 2010 in the amount of \$1,064,439.21
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Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Motion	Motion Risley, second Hodson to approve the departmental reports for the month of November 2010
Vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Motion	Motion Cafero second Risley to approve the regular meeting minutes of the special meeting held on November 29, 2010
Roll call vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Motion	Motion Hodson, second Cafero to approve the regular meeting minutes of the Egg Harbor Township Committee held on November 23, 2010
Roll call vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Motion	Motion Hodson, second Cafero to approve the closed executive session meeting minutes of the November 23, 2010 pursuant to Resolution 434-2010
Roll call vote	Cafero - yes Carman - yes Hodson - yes Risley - yes McCullough - yes
Adjournment	
Motion	Motion Hodson, second Cafero to adjourn the meeting
Vote	All members present voted yes

James J. McCullough, Mayor

Olga A. Perez, RMC, Deputy Township Clerk

<p>FOR OFFICE USE ONLY</p> <p>MINUTES APPROVED AT MEETING OF DECEMBER 22, 2010</p>
