

**MINUTES OF A REGULAR MEETING OF THE MAYOR AND BOROUGH
COUNCIL OF THE BOROUGH OF AUDUBON PARK, IN THE COUNTY OF
CAMDEN, NEW JERSEY, HELD APRIL 2, 2012 IN THE MUNICIPAL
BUILDING AT 7:00 PM.**

A regular meeting of the Mayor and Borough Council of the Borough of Audubon Park was convened in the Municipal Building, 20 Road C, 2nd Floor, Audubon Park, NJ on Monday, April 2, 2012, at 7:00 PM.

Mayor Pennock requested all stand for the flag salute.

Mayor Pennock announced that Chapter 231, Public Law 1975 requires adequate notice of this meeting be provided. This was done by placing Annual Notice in the Courier-Post and Retrospect Newspapers and by posting on the bulletin board in the Municipal Building.

ROLL CALL: Councilman Delengowski, Councilwoman Hook, Councilwoman Jones, Councilwoman Lewis, and Councilman Passon. Councilman Beeman was absent (excused). Eric Riso, Esquire was also present.

Motion made by Councilman Passon to approve the minutes of the Regular Meeting held on Monday, March 5, 2012 and the minutes of the Working Session held on Monday, March 19, 2012. Seconded by Councilman Delengowski. Councilman Delengowski-yes, Councilwoman Hook-yes, Councilwoman Jones-yes, Councilwoman Lewis-yes, and Councilman Passon.

ORDINANCES:

**SECOND READING OF ORDINANCE NO. 2012-03 - YEAR 2012 –
ORDINANCE
TO EXCEED THE MUNICIPAL BUDGET COST OF LIVING
ALLOWANCE
AND TO ESTABLISH A CAP BANK WHEN THE COLA IS EQUAL TO
OR
GREATER THAN 2.5% (N.J.S.A. 40A:4-45.14)**

Motion made by Councilman Passon to open the public hearing at 7:01 PM for Ordinance #2012-03. Seconded by Councilwoman Lewis. All ayes.

Judith Vanrell, 6 Nightingale Road – Ms. Vanrell commented on the Borough Clerk's salary in reference to the C.O.L.A.

With no comments from the public, Councilman Delengowski made a motion to close the public hearing at 7:02 PM. Seconded by Councilman Passon. All ayes.

Motion made by Councilwoman Jones to adopt Ordinance #2012-02. Seconded by Councilwoman Hook. Roll call vote: Councilman Delengowski-yes, Councilwoman Hook-yes, Councilwoman Jones-yes, Councilwoman Lewis-yes, and Councilman Passon-yes.

RESOLUTIONS:

RESOLUTION 2012:26

**BILL RESOLUTION (PAYMENT OF CLAIMS)
(April 2, 2012)**

BE IT RESOLVED, by the Borough Council of the Borough of Audubon Park, County of Camden, State of New Jersey, that the claims for payment detailed in the attached voucher list are hereby approved.

Motion made by Councilwoman Lewis to adopt Resolution #2012:26, seconded by Councilman Passon. Roll call vote: Councilman Delengowski-yes, Councilwoman Hook-yes, Councilwoman Jones-yes, Councilwoman Lewis-yes, and Councilman Passon-yes.

**RESOLUTION TO READ THE YR 2012
BUDGET BY TITLE ONLY
2012:27**

WHEREAS, N.J.S. 40A:4-8, as amended by Chapter 259, P.L. 1995 provides that the budget may be read by title only at the time of the public hearing if a resolution is passed by not less than a majority of the full governing body, providing that at least one week prior to the date of hearing, a complete copy of the budget has been made available for public inspection in the free public library, if any, located within our municipality and a county library. If there is no county library located within the municipality, then it must be provided to any county library in the county wherein the municipality is located. Further, the public officer delegated the responsibility for delivery of the copies to said libraries has completed a certification forwarded to the governing body that such deliveries were made and copies have been made available by the Clerk to persons requesting them; and

WHEREAS, these two conditions have been met;

NOW, THEREFORE, BE IT RESOLVED, that budget shall be read by title only.

Motion made by Councilwoman Lewis to adopt Resolution #2012:27, seconded by Councilman Delengowski. Roll call vote: Councilman Delengowski-yes, Councilwoman Hook-yes, Councilwoman Jones-yes, Councilwoman Lewis-yes, and Councilman Passon-yes.

Resolution of the Borough of Audubon Park, County of Camden, and State of New Jersey Opposing Senate Bills 1451 and 1452 – No. 2012:28

WHEREAS, legislation has been introduced to reform and modernize both the Open Public Meetings Act (S-1451) and the Open Public Records Act (S-1452); and

WHEREAS, the governing body of the Borough of Audubon Park agrees with and supports the statement that “the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process”; and

WHEREAS, the changes, however, proposed in S-1451 will not only be a cost driver for local and State government but make government less effective; and

WHEREAS, S-1451 includes a number of proposed requirements which involve costly unfunded mandates, impractical requirements and impediments to the democratic process, including the following:

- A new definition of subcommittees that expands subcommittees to be overly inclusive so that, for example, even research projects assigned to one member of a public body could be covered; and
- A new requirement that all subcommittees meetings include notice of their meeting and the preparation of minutes, which would, among other things, necessitate additional administrative support for all meetings of subcommittees as well as increased legal advertising cost; and
- A new requirement that agendas provide a description of all agenda items, including the names of parties to and approximate dollar amounts of any contracts to be acted upon, which will delay the award of contracts and could lead to the loss of grant monies; and
- A new requirement that the governing body may discuss, but not act upon, an item brought up by a citizen at a public meeting if it was not published as an agenda item, that not only runs contrary to the time honored tradition of holding a public meeting for the very purpose of soliciting such input and acting upon it but is impractical, ineffective and unnecessarily inhibits the operations of municipal government; and

- A new requirement for advance notification of estimated start times for the public portion of the meeting and the portion of the meeting from which the public is to be excluded that is unworkable and disruptive; and
- A new requirement that recordings of meetings become a part of the minutes that renders the recordings a permanent municipal record and is not only counter to the already-established records retention schedule of Division of Archive and Records Management for such records but which will be costly to preserve the records to ensure that they are permanent; and
- A new requirement that electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting become part of the minutes and renders the recordings a permanent municipal record, is unworkable and unmanageable as the technology does not always exist to make “hard copies” or digital copies of text messages and the records custodian does not always have access to them, and which is an unprecedented expansion of the meeting concept; and
- A new requirement that public bodies be permitted to exclude the public from discussion of personnel matters only with the written consent of the employee and potentially affected employees which will inhibit the public bodies’ ability to take necessary actions on personnel matters and could lead to costly litigation; and
- A new requirement that comprehensive minutes that must include each member’s stated reason for their actions or vote, the identity of each member of the public who spoke, and summary of what was said, be made available to the public as soon as possible but no later than 45 days after the meeting that will not only be costly but the historical value of minutes will be lost in order to meet an arbitrary deadline; and

WHEREAS, the governing body of the Borough of Audubon Park agrees that government records should be readily accessible and transparent but there must be an appropriate balance between the need for openness and transparency in government and citizens’ reasonable expectation of privacy; and

WHEREAS, among the costly unfunded mandates and impractical new requirements of S-1452 are the following:

- The expansion of the definition of government record to include records that are required by law to be made, maintained or kept on file by any public agency that will lead to a records custodians to be in violation of OPRA for the non-existence of a government records created before their tenure with the public body; and
- The creation of a definition for “advisory, consultative or deliberative” material that may be contrary to the well established definition in case law leading to costly litigation; and

- The expanding of the definition of government record to include electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting that is unworkable and unmanageable as the technology does not always exist to make “hard copies” or digital copies of text messages, the records custodian does not always have access to the electronic communications and certain cell phone carriers will not provide this information without a subpoena; and
- The inclusion of a subjective definition for “reasonable” that may be contrary to the well established definition in case law leading to costly litigation; and
- A new requirement that any video or audio recordings or public meetings should be available in unedited form will be in direct violation of the Open Public Meetings Act requirement that requires the redacting of discussions in closed session until the matter can legally be released; and
- A new requirement on how to handle redactions and special services fees is time consuming and costly, especially considering that the Government Records Council has already addressed these procedures in their Custodians’ Toolkit, which should be codified; and
- A provision that permits the records custodian to advise a requestor that a government record is readily available on the public agency’s website; however, the bill requires the records custodian to directly provide the records to the requestor if they do not have access to a computer but does not define what is meant by “access to a computer”; and
- A new costly requirement that when there is a special service charge the requestor must be provided, at no cost, an index generally describing the responsive government records to be provided and to the greatest extent possible the index shall include the name of each record or brief description of the record or general categories of records, a detailed breakdown of how the special charges were assessed and if records are exempt or redacted, the records custodian must provide a description of those records; and
- A provision that prohibits the assessment of a special service charge for requests for budgets, bills, vouchers, contracts and public employee salaries and overtime unless the request is deemed voluminous, which is undefined and subjective; and

WHEREAS, the provisions of S-1451 and S-1452 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-1451 and S-1452 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, while the governing body of the Borough of Audubon Park strives for and agrees that open and transparent government is essential to the democratic process, the provisions of S-1451 and S-1452 will make government inefficient;

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Borough of Audubon Park, County of Camden, and State of New Jersey for reasons stated above, does hereby oppose S-1451 and S-1452, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills; and

BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Senator Barbara Buono, Senator Shirley Turner, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, Assemblyman Upendra Chivukula, the legislators of the 5th State Legislative District, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

Motion made by Councilwoman Jones to adopt Resolution #2012:28, seconded by Councilman Passon. All ayes.

RESOLUTION OF THE BOROUGH OF AUDUBON PARK, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY AUTHORIZING AN EXPENDITURE NOT TO EXCEED \$300.00 FOR PURCHASE OF A CAMERA– No. 2012:29

WHEREAS, the Borough of Audubon Park sponsors several public events for the residents; and

WHEREAS, the Mayor and Borough Council would like to memorialize those celebrations with pictures on the town website;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Audubon Park that the Borough be authorized to purchase a camera, for an amount not to exceed \$300.00.

Motion made by Councilman Passon to adopt Resolution #2012:29, seconded by Councilman Delengowski. Roll call: Councilman Delengowski-yes, Councilwoman Hook-yes, Councilwoman Jones-yes, Councilwoman Lewis-yes, and Councilman Passon-yes.

RESOLUTION #2012:25

BE IT RESOLVED that the following statements of revenues and appropriations (\$889,475.35) shall constitute the Municipal Budget for the year 2012: and

BE IT FURTHER RESOLVED that said budget be published in The Retrospect on March 9, 2012.

The Governing Body of the Borough of Audubon Park does hereby approve the following budget for the year 2012.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Audubon Park, County of Camden on March 5, 2012. A hearing on the Budget and Tax Resolution will be held at the Borough Hall on Monday, April 2, 2012 at 7:00 p.m. at which time and place objections to said Budget and Tax Resolution for the year 2012 may be presented by taxpayers or other interested persons.

Motion made by Councilman Passon to open the public hearing at 7:08 PM for the 2012 Municipal Budget, seconded by Councilwoman Hook. All ayes.

Irene Foster, 5 Pelican Drive – Ms. Foster wanted to know how the Clerk's salary went from \$30,000 to \$60,000. Mayor Pennock and Joe Hoffmann proceeded to explain the Shared Services Agreement for Municipal Clerk between the Borough of Audubon Park and Haddon Township and they also explained that the residents of Audubon Park went from paying \$40,000 to \$20,000 for the Clerk, not \$60,000.

Stanley Ross, 3 Albatross Road – Mr. Ross inquired as to the busing of the Audubon Park students to Haviland Avenue and Mansion Avenue Schools. Mayor Pennock explained that due to the 2% levy cap imposed by the State of New Jersey, the Borough is unable to meet that cap with busing. Therefore, the Borough will continue to work with the Audubon Mutual Housing Corporation Board of Trustees to try and resolve this issue.

Mary Ellen Stokes, 18 Dove Terrace – Mrs. Stokes inquired as to why busing wasn't possible with the C.O.L.A. in place. Joe Hoffmann explained the difference between the appropriation cap and the tax levy cap. Eric Riso, Esquire explained that the 2% Cap is imposed by the State of New Jersey and the Borough must follow the law.

Irene Foster, 5 Pelican Drive – Ms. Foster reported to Mayor and Borough Council that she has a 10 year old daughter and she depends on the busing.

Judith Vanrell, 6 Nightingale Road – Ms. Vanrell inquired as to the number of employees going from 6 to 5 and what positions those 5 employees represented. The Mayor responded that the positions were Borough Clerk, Deputy Borough Clerk/Librarian, Treasurer, Chief Financial Officer, and Tax Collector. The Mayor and Joe Hoffmann explained that the Borough employees have not been given % increases in 4 years. Ms. Vanrell asked if the Treasurer's position was mandatory. Joe Hoffman explained that although it is not mandatory it is necessary for the day-to-day business since the Chief Financial Officer is part-time and that we need to have checks and balances in place. Ms. Vanrell also inquired as to the name of the treasurer.

Mary Ellen Stokes, 18 Dove Terrace – Mrs. Stokes inquired about the audit and why reconciliations were not being done. Joe Hoffmann explained that the Borough switched financial software mid-year which interfered with monthly reconciliations being done. This situation has been rectified. Mr. Hoffmann briefly discussed other audit findings with Mrs. Stokes.

Motion made by Councilman Passon to close the public hearing for the 2012 Municipal Budget at 7:30 PM. Seconded by Councilwoman Jones. All ayes.

Motion made by Councilman Passon to adopt the 2012 Municipal Budget, seconded by Councilwoman Jones. Roll call: Councilman Delengowski-yes, Councilwoman Hook-yes, Councilwoman Jones-yes, Councilwoman Lewis-yes, and Councilman Passon-yes.

REPORTS:

Councilwoman Lewis reported that she called three companies to get quotes for concrete pad at Multi-Purpose Building. This discussion will continue at the Working Session on Monday, April 16, 2012.

Councilwoman Hook reported that she communicated with Peter DiGiambattista regarding the claim the Borough filed for the air conditioners that were stolen from the Multi-Purpose Building and why we haven't heard from them yet.

Councilman Passon reported that he read an article about the Township of Deptford being in a trash/recyclable contract with enables them to offset the costs of the trash.

Mayor Pennock reported that the free rabies clinic would be held on Saturday, April 14, 2012 from 10 AM until 11 AM at the Audubon Park Fire Department, the Borough received a letter from the NJ DOT awarding a grant for \$73,000 for Kennedy Blvd., and Creek clean-up will be held on Saturday, April 7th from 9 AM until Noon.

Vital Statistics – March 2012 0-births, 0-deaths, and 1-marriage

Motion made by Councilman Passon to open the meeting to the public at 7:36 PM, seconded by Councilwoman Hook. All ayes.

Mary Ellen Stokes, 18 Dove Terrace – Mrs. Stokes inquired as to the Borough's plans regarding the Creek Restitution. The Mayor briefly explained the plans as presented to the Borough by Chris Stokes, Sustainable Coordinator for the Borough of Audubon Park.

Judith Vanrell, 6 Nightingale Road – Ms. Vanrell inquired if the Borough has requested a green survey be done prior to the Creek Restitution. Mayor explained to Ms. Vanrell that we are at the ground level of planning the project and the Borough has brought in professionals to help.

Motion made by Councilman Delengowski to close the meeting to the public at 7:43 PM, seconded by Councilwoman Jones. All ayes.

Motion made by Councilman Delengowski to adjourn the meeting at 7:43 PM, seconded by Councilwoman Jones. All ayes.

Dawn M. Pennock, RMC
Municipal Clerk

