

TOWNSHIP OF BORDENTOWN

TOWNSHIP COMMITTEE REGULAR MEETING AGENDA

DATE: APRIL 9, 2012 TIME: 7:30 P.M. MEETING ROOM, MUNICIPAL BUILDING

ATTENDANCE:	PRESENT	ABSENT	
	_____	_____	Mayor Feltes
	_____	_____	Deputy Mayor Dauber
	_____	_____	Committeeman Cann
	_____	_____	Committeewoman DiMattia
	_____	_____	Committeewoman Popko
	_____	_____	Township Clerk Eckert
	_____	_____	Attorney Drollas
	_____	_____	Construction Official Carbone
	_____	_____	Chief Financial Officer Kocian
	_____	_____	Public Works Director Buhrer
	_____	_____	Police Chief Nucera
	_____	_____	Engineer Ruddiman

1. Salute to the flag and moment of silence.
2. Roll Call.
3. Open Public Meeting Announcement:

In compliance with the Open Public Meetings Act, adequate notice of this meeting was provided in the following manner:

On January 9, 2012, advance written notice of this meeting was posted on the bulletin board opposite the main entrance to the meeting room in the Municipal Building; was faxed to the REGISTER-NEWS, the BURLINGTON COUNTY TIMES and THE TIMES; was filed with the Clerk of Bordentown Township; and was mailed to all persons who requested and paid for such notice.

4. The proceedings of this meeting, which are open to the public, are being electronically recorded. Requisite minutes are kept for all meetings, whether open or closed to the public.
5. Mayor’s Proclamation proclaiming April 2012 as Alcohol Awareness Month.
6. Public Hearing on 2012 Municipal Budget.
7. Resolution #2012-100-7 entitled ADOPTION OF 2012 MUNICIPAL BUDGET.
8. Administrative Review
 - a. Review of agenda
 - b. Review of correspondence

CONSENT AGENDA ITEMS:

- a. Township Committee review and discussion of Consent Agenda Items.
 - b. Questions or comments from the audience on consent agenda items.
 - c. Motion, Second and Roll Call to adopt Resolutions #2012-100-9 through #2012-100-13.
9. Resolution #2012-100-9 entitled APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: PAYMENT OF BILLS.
 10. Resolution #2012-100-10 entitled APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: MINUTES OF MEETINGS.
 11. Resolution #2012-100-11 entitled RESOLUTION REQUESTING PERMISSION OF THE DIRECTOR OF THE NJ DIVISION OF LOCAL GOVERNMENT SERVICES TO INCLUDE AN ITEM IN THE DEDICATION BY RIDER IN THE 2012 MUNICIPAL AND SUBSEQUENT BUDGETS IN ACCORDANCE WITH N.J.S.A.40A:5-29 AND 40A:4-39 (NORTHERN COMMUNITY PARK – LIGHTING DONATIONS).
 12. Resolution #2012-100-12 entitled RESOLUTION OPPOSING SENATE BILLS 1451 AND 1452.
 13. Resolution #2012-100-13 entitled RESOLUTION SUPPORTING A-2717 EXTENDING THE TIME PERIOD FOR MUNICIPALITIES TO COMMIT TO EXPEND COLLECTED DEVELOPMENT FEES AND PAYMENTS-IN-LIEU OF CONSTRUCTING AFFORDABLE UNITS.
 14. Public Hearing on Ordinance #2012-3 entitled AMENDING ORDINANCE OF THE TOWNSHIP OF BORDENTOWN ESTABLISHING MERCANTILE LICENSES.
 15. Consideration of Adoption of Ordinance #2012-3 entitled AMENDING ORDINANCE OF THE TOWNSHIP OF BORDENTOWN ESTABLISHING MERCANTILE LICENSES.
 16. Consideration of Introduction of Ordinance #2012-4 entitled AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN, IN THE COUNTY OF BURLINGTON, NEW JERSEY, APPROPRIATING THE GRANT OF \$250,000 FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO THE DESIGN OF THE NEW JERSEY TRANSIT RIVERLINE TRAIN STATION AND TO INTERSECTION IMPROVEMENTS ON ROUTE 130 IN CONNECTION WITH THE BORDENTOWN WATERFRONT REDEVELOPMENT PROJECT.
 17. Township Committee discussion of Public Works Facility Expansion Project Conceptual Plan with Alternate Twp. Engineer, Fred Turek.
 18. Township Committee discussion with Chief Nucera regarding Upgrade to Video-Conferencing Equipment for Municipal Court.
 19. Township Committee and Staff Reports.

20. Public Participation.

Questions, comments or statements from members of the public in attendance.

21. Any additional matters or correspondence to be reviewed, discussed or acted upon at the discretion of the Township Committee.

22. Resolution to meet in closed session:

BE IT RESOLVED by the Township Committee of the Township of Bordentown that it does hereby (adjourn) (recess) this Regular Meeting to meet in Closed Session for the purpose of discussing:

RESOLUTION #2012-100-

APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: PAYMENT OF BILLS

BE IT RESOLVED by the Township Committee of the Township of Bordentown that all of the bills listed to be paid on the list dated April 9, 2012, as submitted by the Office of the Treasurer are hereby approved for payment and the Office of the Treasurer is directed to pay the same.

04/09/12

RESOLUTION #2012-100-

APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: MINUTES OF MEETINGS

BE IT RESOLVED by the Township Committee of the Township of Bordentown that the minutes of the Township Committee Closed Session Meeting of March 26, 2012, the Special Meeting of March 5, 2012, and the Regular Meeting of March 12, 2012, as submitted by the Clerk and posted on the bulletin board, be and are hereby approved as (_____ submitted) (_____ corrected).

04/09/12

**TOWNSHIP OF BORDENTOWN
RESOLUTION 2012-100-**

**RESOLUTION SUPPORTING A-2717
EXTENDING THE TIME PERIOD FOR MUNICIPALITIES TO COMMIT TO EXPEND
COLLECTED DEVELOPMENT FEES AND PAYMENTS-IN-LIEU OF CONSTRUCTING
AFFORDABLE UNITS**

WHEREAS, P.L. 2008, c. 46 established a four year timetable for municipal housing trust dollars to be “committed for expenditure, or risk forfeiture to the State;” and

WHEREAS, the 2008 Act did not define the term “committed for expenditure” and deferred to the Council on Affordable Housing (COAH) to promulgate regulations as to the requirements to be met for “committed” as well as a timetable for expenditures; and

WHEREAS, neither COAH nor the Department of Community Affairs has adopted, nor proposed, the regulations pursuant PL 2008, c. 46; and

WHEREAS, hundreds of municipalities submitted spending plans to COAH, of which only a fraction of these plans were reviewed by the agency, and most of these municipalities have not been provided any guidance on their spending plans; and

WHEREAS, at the time of 2008 Act, COAH was prepared to adopt its “3rd round regulations” establishing municipal obligations under the “Fair Housing Act”; and

WHEREAS, COAH’s 3rd round regulations were highly controversial and fundamentally flawed, and subsequently set aside by the Appellate Division, and the appeal of that decision now awaits consideration by the State Supreme Court; and

WHEREAS, eight years of litigation over COAH’s methodology has had a chilling effect not only on the development of affordable housing, but on the ability of local governments to commit trust fund dollars without knowledge of their respective obligations, and certainty that such commitment would count towards its housing obligation; and

WHEREAS, forfeiture of trust fund dollars starting in July 2012 would be fundamentally unfair, inequitable and indefensible since neither COAH nor DCA has provided the required guidance or certainty; and

WHEREAS, these trust fund dollars should be used as intended: to subsidize the costs for municipalities in meeting their affordable housing obligations while assuring that these costs do not fall to local taxpayers; and

WHEREAS, forfeiture of these dollars, estimated by some to be as much as \$200 million, would displace this financial obligation to the taxpayers in these communities; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Committee of the Township of Bordentown urges our State Legislators to **support and approve A-2717**, which will provide a four-year extension for municipalities to commit the municipal housing trust fund dollars; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the sponsor of A-2717, Assemblyman Anthony Bucco, Senator Diane Allen, Assemblymen Troy Singleton and Herb Conaway, members of the Assembly Housing and Local Government Committee, the New Jersey State League of Municipalities and the Office of the Governor.

DISTRIBUTION LIST FOR RESOLUTIONS SUPPORTING A-2717

1. The Hon. Anthony Bucco,
Assemblyman, District 25
1040 Route 10 West, Suite 140
Randolph, NJ 07869
AsmBucco@njleg.org
2. The Hon. Jerry Green
Chair, Assembly Housing and Local Government Committee
Assemblyman, District 22
17 Watchung Ave
Plainfield, NJ 07060
AsmGreen@njleg.org
3. The Hon. Mila Jasey,
Vice Chair, Assembly Housing and Local Government Committee
Assemblywoman, District 27
511 Valley St.
Maplewood, NJ 07040
AswJasey@njleg.org
4. The Hon. Michael Patrick Carroll,
Assemblyman, District 25
146 Speedwell Ave.
Morris Plains, NJ 07950
AsmCarroll@njleg.org
5. The Hon. Robert Clifton
Assemblyman, District 12
516 Route 33 West, Bldg. 2, Suite 2
Old Bridge, NJ 08857
AsmCarroll@njleg.org
6. The Hon. Angelica M. Jimenez
Assemblywoman, District 32
5600 Kennedy Blvd., Suite 104
West New York, NJ 07093
AswJimenez@njleg.org
7. The Hon. Annette Quijano
Assemblywoman, District 20
985 Stuyvesant Ave
Union, NJ 07083
AswQuijano@njleg.org

- 8.** NJ League of Municipalities
222 West State Street
Trenton, NJ 08648
Admin@njlsom.com
- 9.** The Hon. Chris Christie
Governor, State of New Jersey
Office of the Governor
PO Box 001
Trenton, NJ 08625

RESOLUTION #2012-100-

Resolution Opposing Senate Bills 1451 and 1452

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 Township of Bordentown 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 Township of Bordentown 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 Township of Bordentown 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 Township of Bordentown, County of Burlington, 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 7th Legislative District, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

It is hereby certified that the foregoing is a true and correct copy of a resolution adopted by the Township Committee of the Township of Bordentown at a meeting held on April 9, 2012.

COLLEEN M. ECKERT, RMC, TWP. CLERK

04/09/12