

**TOWNSHIP OF CEDAR GROVE
ESSEX COUNTY NEW JERSEY**

COUNCIL STAFF MEETING

MINUTES

DECEMBER 21, 2020

1. ROLL CALL – OPEN PUBLIC MEETING STATEMENT BY MAYOR

Mayor Peterson called the meeting to order at 7:05 p.m. and made the required announcement concerning the Open Public Meetings Act as follows: Adequate notice of this meeting was duly provided to the Verona-Cedar Grove Times and the Star Ledger, filed with the Township Clerk, and posted on the public bulletin board in the Municipal Building's lobby in accordance with the Open Public Meetings Act.

Present: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

Also Present: Township Manager Tucci, Township Attorney Semeraro and Township Clerk Stutz

Absent: Councilman Cicala

2. APPROVAL OF MINUTES

a) Executive Session – November 16, 2020 - Interview

Deputy Mayor Tanella moved approval of the minutes as presented, seconded by Councilman Zichelli, and passed by the following vote:

AYE: Councilman Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSTAIN: Councilman Cicala

b) Staff Meeting – November 16, 2020

Deputy Mayor Tanella moved approval of the minutes as presented, seconded by Councilman Zichelli, and passed by the following vote:

AYE: Councilman Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSTAIN: Councilman Cicala

c) Executive Session – November 16, 2020

Deputy Mayor Tanella moved approval of the minutes as presented, seconded by Councilman Zichelli, and passed by the following vote:

AYE: Councilman Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSTAIN: Councilman Cicala

3. TOWNSHIP MANAGER – The Township Manager reported CARES Act reimbursement from Essex County in the amount of \$75,480.35. Mr. Tucci advised that there are additional reimbursements pending for a fresh air system at the Police Desk and assignment of a police

officer at the West Orange vaccine site. The Manager noted the municipal engineer's recommendation for award of engineering design services for reconstruction of Myrtle Ave. to which the governing body agreed. Mr. Tucci congratulated Mayor Peterson for suggestion of the holiday luminary light display conducted December 19th throughout the town. The Manager also commended the Recreation Dept. for putting the bags together and providing contactless pick up for residents.

4. TOWNSHIP ATTORNEY – No report

5. TOWNSHIP CLERK – No report

6. COUNCIL REPORTS

Councilman Maceri extended happy holiday greetings and thanked employees and volunteers for their service to the Township.

Councilman Zichelli requested to table Agenda Item 7(f) until the next meeting, to which the governing body concurred.

Deputy Mayor Tanella extended happy holiday wishes. Deputy Mayor Tanella requested an executive session to discuss a personnel issue.

Mayor Peterson noted the inability to provide the annual holiday breakfast for employees because of COVID restrictions. The governing body concurred with the Manager's suggestion to possibly provide a picnic in spring. Mayor Peterson also extended holiday wishes to all. Mayor Peterson announced re-appointment of Kate Brindisi to the Library Board of Trustees, to which the governing body concurred.

a) Discussion of Community Center – The Manager requested to table the issue pending obtaining information to which the governing agreed.

7. NEW BUSINESS

a) To consider resolution rejecting bid for Collection, Transportation, Delivery of Solid Waste, Grass Clippings, Vegetative Waste, Comingled/Paper Recycling

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, pursuant to advertising duly made, a sole bid was received for the Collection, Transportation, and Delivery of Solid Waste, Grass Clippings, Vegetative Waste, and Comingled/Paper for the Township of Cedar Grove, and were publicly opened by the Township Clerk on October 21, 2020 and read by the Township Clerk as follows:

OPTION #1
2 DAY /WEEK PICK UP SOLID WASTE
1 DAY/WEEK VEGETATIVE WASTE, COMINGLED/PAPER RECYCLING

BIDDER	1 YEAR	2 YEAR	3 YEAR	5 YEAR
F. Basso Jr. Rubbish, Inc.	\$ 765,300.	\$ 1,530,600.	\$ 2,295,900.	\$ 3,890,500.

OPTION #2

1 DAY /WEEK PICK UP SOLID WASTE

1 DAY/WEEK VEGETATIVE WASTE, COMINGLED/PAPER RECYCLING

BIDDER	1 YEAR	2 YEAR	3 YEAR	5 YEAR
F. Basso Jr. Rubbish, Inc.	\$ 765,300.	\$ 1,530,600.	\$ 2,295,900.	\$ 3,890,500.

WHEREAS, the bids have been reviewed by the appropriate Township officials; and

WHEREAS, Township Attorney review indicated that the mandatory Statement of Corporate Ownership form was omitted from the bid specifications; and

WHEREAS, said omission resulted in the failure of the sole bidder to provide a Statement of Corporate Ownership; and

WHEREAS, the Township Attorney has determined that said omission constitutes a mandatory defect per N.J.S.A. 40A:11-23.2, prohibits the award of contract to the sole bidder, and necessitates rejection of the bid.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Cedar Grove that the sole bid submitted by F. Basso Jr. Rubbish, Inc. for the Collection, Transportation and Delivery of Solid Waste, Grass Clippings, Vegetative Waste, and Comingled/Paper in Cedar Grove is hereby rejected.

BE IT FURTHER RESOLVED that the bid documents be revised to include the mandatory Statement of Corporate Ownership form and the same solid waste collection, transportation and delivery services be re-bid.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- b) To consider resolution concerning administration of provisions of the Affordable Housing Act

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, in 1975 the New Jersey Supreme Court in Mount Laurel I decreed that every municipality in New Jersey, "must, by its land use regulations, presumptively make realistically possible an appropriate variety and choice of housing. More specifically, presumptively it cannot foreclose the opportunity of the classes of people mentioned for low and moderate income housing and in its regulations must affirmatively afford that opportunity, at least to the extent of the municipality's fair share of the present

and prospective regional need therefor” (*10 S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp.*, 67 N.J. 151, 174 (1975)); and

WHEREAS, in 1983, the Supreme Court in Mount Laurel II expanded the Mount Laurel doctrine, saying:

“Therefore, proof of a municipality’s bona fide attempt to provide a realistic opportunity to construct its fair share of lower income housing shall no longer suffice. Satisfaction of the Mount Laurel obligation shall be determined solely on an objective basis: if the municipality has in fact provided a realistic opportunity for the construction of its fair share of low and moderate income housing, it has met the Mount Laurel obligation to satisfy the constitutional requirement; if it has not, then it has failed to satisfy it. Further, whether the opportunity is “realistic” will depend on whether there is in fact a likelihood to the extent economic conditions allow—that the lower income housing will actually be constructed. Plaintiff’s case will ordinarily include proof of the municipality’s fair share of the regional need and defendant’s proof of its satisfaction. Good or bad faith, at least on this issue, will be irrelevant.” (*S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp.*, 92 N.J. 158, 220-22 (1983)); and

WHEREAS, the Supreme Court in Mount Laurel II suggested that builders’ remedies should be used to force compliance by municipalities, reasoning that:

Experience...has demonstrated to us that builder’s remedies must be made more readily available to achieve compliance with Mount Laurel. We hold that where a developer succeeds in Mount Laurel litigation and proposes a project providing a substantial amount of lower income housing, a builder’s remedy should be granted unless the municipality establishes that because of environmental or other substantial planning concerns, the plaintiff’s proposed project is clearly contrary to sound land use planning. We emphasize that the builder’s remedy should not be denied solely because the municipality prefers some other location for lower income housing, even if it is in fact a better site. (*S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp.*, 92 N.J. 158, 279-80 (1983)); and

WHEREAS, the New Jersey Legislature responded quickly to the Court’s Mount Laurel decision by enacting the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., which created the Council on Affordable Housing (“COAH”) which as the Court noted in Mount Laurel IV “...was designed to provide an optional administrative alternative to litigating constitutional compliance through civil exclusionary zoning actions.” (*In re Adoption of N.J.A.C. 5:96 & 97 ex rel. New Jersey Council on Affordable Housing*, 221 N.J. 1, 4 (2015)); and

WHEREAS, COAH, pursuant to the authority granted to it by the Fair Housing Act, then adopted procedural and substantive rules which provided clear guidance to municipalities as to how they could meet their affordable housing obligation; and

WHEREAS, in its rules, COAH assigned a fair share number to each municipality and set forth various mechanisms that a municipality could use in order to satisfy that obligation; and

WHEREAS, the Township of Cedar Grove, like many other municipalities throughout the State of New Jersey, met its First and Second Round Affordable Housing Obligations through the COAH process; and

WHEREAS, COAH adopted the First Round Rules for the period from 1987 through 1993 and the Second Round Rules for the period 1993 to 1999 and ten extended to 2004; and

WHEREAS, COAH was obliged by the Fair Housing Act to adopt Third Round Rules to take effect in 2004, however, but never adopted rules that were acceptable to the Courts; and

WHEREAS, in 2015, the Supreme Court again stepped in, finding that COAH's failure to adopt Third Round Rules forced the Court to intervene; and

WHEREAS, the Supreme Court designated Mount Laurel judges in each of the fifteen court vicinages to hear all Mount Laurel cases; and

WHEREAS, instead of providing clear guidance, like the COAH rules did, the Supreme Court in Mount Laurel IV set forth vague standards that have led to a complex system of non-uniform implementation; and

WHEREAS, as a result of the Supreme Court's decision in Mount Laurel IV, municipalities no longer were assigned fair share numbers, no longer had clear and concise procedural and substantive rules to follow and no longer had one tribunal to decide these issues, which meant that even the threshold issues of regional need and local fair share obligations had to be litigated before fifteen different Mount Laurel judges, and as a result, municipalities were forced to spend tens of thousands, and in some cases hundreds of thousands of dollars to negotiate fair share numbers with the Fair Share Housing Center ("FSHC") and to gain court approval of settlement agreements negotiated with FSHC; and

WHEREAS, the Supreme Court in Mount Laurel IV concluded its opinion by encouraging the Legislature to once again assume responsibility in the area of affordable housing, saying:

"In conclusion, we note again that the action taken herein does not prevent either COAH or the Legislature from taking steps to restore a viable administrative remedy that towns can use in satisfaction of their constitutional obligation. In enacting the FHA, the Legislature clearly signaled, and we recognized, that a administrative remedy that culminates in voluntary municipal compliance with constitutional affordable housing obligations is preferred to litigation that results in compelled rezoning. (Citation omitted.) It is our hope that an administrative remedy will again become an option for those proactive municipalities that wish to use such means to obtain a determination of their housing obligations and the manner in which those obligations can be satisfied" (*In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous.*, 221 N.J. 1, 34 (2015)); and

WHEREAS, it has been five years since the Mount Laurel IV opinion was issued and, to the detriment of each municipality in New Jersey and to the future viability of the State, neither the Legislature nor the Governor nor COAH have taken any action to remedy the situation; and

WHEREAS, if the Governor, the Legislature and COAH continue to ignore their responsibilities, municipalities will once again face a burdensome, time-consuming and expensive process to obtain Fourth Round Mount Laurel compliance starting in 2025.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Cedar Grove in the County of Essex, State of New Jersey, that it does hereby demand that the Governor and the Legislature cease their unconscionable disregard of this most important provision of the State Constitution and take immediate and decisive action to restore a viable administrative remedy that municipalities can use in satisfaction of their constitutional obligations to provide affordable housing.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- c) To consider resolution concerning renewal of limousine license

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, application for limousine license for 2021 has been received from:

APPLICANT	TRADE NAME
Dan Arnautu 28 Haller Dr. Cedar Grove, NJ 07009	S-Class Service, Inc.

WHEREAS, a satisfactory investigation has been conducted by the Police Chief.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Cedar Grove that it does hereby approve said application.

BE IT FURTHER RESOLVED that the Township Clerk be directed to renew said limousine license for the above named applicant.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- d) To consider resolution concerning re-appointment of Planning Board members

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

BE IT RESOLVED by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that Edward Cadillo be re-appointed as a member of the Planning Board for a four-year term, effective January 1, 2021 and terminating December 31, 2024.

BE IT FURTHER RESOLVED that Richard Hamilton be re-appointed as the Class II member of the Planning Board for a one-year term, effective January 1, 2021 and terminating December 31, 2021. Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- e) To consider resolution concerning re-appointment of Advisory Health Council members

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

BE IT RESOLVED by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that Sandra Haine and Radhika Pisupati be re-appointed as members of the Advisory Health Council for three-year terms, effective January 1, 2021 and expiring December 31, 2023.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- f) To consider resolution concerning re-appointment of Downtown Advisory Committee members

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

Tabled by request of Councilman Zichelli with consent of governing body.

- g) To consider resolution concerning re-appointment of Environmental Commission member

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

BE IT RESOLVED by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that Sharon Duhaney be re-appointed to the Environmental Commission for a two-year effective January 1, 2021 and expiring December 31, 2022.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- h) To consider resolution concerning re-appointment of Municipal Alliance Committee member

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

BE IT RESOLVED, by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that Michael Grabas be re-appointed to the Alliance for Substance Abuse Prevention Committee (aka Municipal Alliance Committee) for a three-year term, effective January 1, 2021 and expiring December 31, 2023.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- i) To consider resolution concerning re-appointment of Recreation Advisory Board members

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

BE IT RESOLVED by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that Phil Negra and Mark Peterson be re-appointed as members of the Recreation Advisory Board for three-year terms, effective January 1, 2021 and expiring December 31, 2023.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- j) To consider resolution concerning approval of raffle application – CGHS Lacrosse Club

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, an application for raffle license has been received from:

APPLICANTS

CGHS Lacrosse Booster Club
90 Rugby Rd.
Cedar Grove NJ 07009

EVENTS, DATES TIMES & PLACE

Off-Premise 50/50 Raffle to be held
June 1, 2021 at 3:00 p.m. at
90 Rugby Rd., Cedar Grove, NJ 07009

WHEREAS, the fees have been paid, and the application has been reviewed by the Township Clerk and found acceptable.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Cedar Grove that it does hereby approve said application.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- k) To consider resolution concerning award of contract for professional engineering design services – Reconstruction of Myrtle Ave.

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, The Township has a need for professional engineering design services for the Reconstruction of Myrtle Ave. project; and

WHEREAS, pursuant to advertising duly made for a fair and open contract in accordance with N.J.S.A. 19:44A-20.1 et. seq., proposals were received and publicly opened by the Township Clerk on February 6, 2020 as follows; and

<u>PROPOSER</u>	<u>AMOUNT</u>
Greenman-Pedersen	\$ 15,720.
Neglia Engr. Assoc.	\$ 26,000.
Suburban Consulting Engrs.	\$ 27,715.
Boswell Engineering	\$ 31,850.

WHEREAS, the Municipal Engineer has recommended that a contract for the above referenced professional services be awarded to Greenman-Pedersen; and

WHEREAS, funds are now available for this purpose in 2020 Municipal Budget.

NOW, BE IT RESOLVED by the Township Council of the Township of Cedar Grove, Essex County, New Jersey, as follows:

1. The Township Manager is hereby authorized and directed to execute an agreement with Greenman-Pedersen of Morris Plains, NJ, for an amount not to exceed \$15,720.00 in accordance with the proposal dated October 14, 2020.
2. This agreement is awarded as a “Professional Service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because of the technical of the professional services required for this project; and
3. A notice of this agreement shall be published in the Verona-Cedar Grove Times as required by law.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

- 1) To consider resolution concerning cancellation of water/sewer penalty

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, it has been determined upon investigation of the Township Manger that the water and sewer penalties assessed to the account listed herein should be cancelled:

<u>Name & Address</u>	<u>Water Penalties</u>	<u>Sewer Penalties</u>	<u>Total Cancelled</u>
Rocco Caputo 195 Stevens Avenue Cedar Grove, NJ 07009 Acct. No. 3-3612200	<u>\$18.50</u>	<u>\$21.50</u>	<u>\$40.00</u>

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Cedar Grove that the Chief Financial Officer is hereby authorized to cancel the water and sewer penalties for the above account.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

8. APPROVAL OF BILLS

The Bill Resolution was read by title and amount as follows:

BE IT RESOLVED by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that the attached summary of bills having been duly audited and found correct be and they are thereby ordered paid and that warrants be drawn on the Treasurer in the aggregate amount of \$ 2,892,680.71.

Councilman Maceri moved adoption of the resolution, seconded by Councilman Zichelli and passed by the following vote:

AYE: Councilmember Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

9. PUBLIC COMMENT

Mayor Peterson opened this portion of the meeting to any one wishing to be heard. There being no one present wishing to be heard, Mayor Peterson closed this portion of the meeting.

AUTHORIZATION TO GO INTO EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings' Act (N.J.S.A.10:4-12 (b) (1-9) permits the exclusion of the public from a Meeting of the Mayor and Council in certain circumstances; and

WHEREAS, the Mayor and Council of the Township of Cedar Grove are of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Cedar Grove, County of Essex, State of New Jersey that:

1. The public shall be excluded from discussion of any action on the Executive Session of the Meeting of the Mayor and Council of December 21, 2020.
2. The general nature of the subject matter to be discussed is personnel, RFP for professional services and potential litigation regarding solicitation ordinance.
3. It is anticipated at this time that the above stated subject matter will be made public as soon thereafter as it is deemed in the public interest to do so.
4. This Resolution shall take effect immediately.

Deputy Mayor Tanella moved adoption of the resolution, seconded by Councilman Zichelli, and passed by the following vote:

AYE: Councilman Maceri, Zichelli, Deputy Mayor Tanella, Mayor Peterson

NO: None

ABSENT: Councilman Cicala

10. ADJOURNMENT

There being nothing further to discuss, the staff council meeting adjourned at 7:20 p.m. by acclaim.