

**REGULAR MEETING MINUTES  
TOWNSHIP COUNCIL – TOWNSHIP OF OCEAN**

**JANUARY 18, 2011**

**OAKHURST, NEW JERSEY**

---

The Regular Meeting of the Township Council was held in the Township Meeting Room, First Floor, Public Meeting Room, 399 Monmouth Road, Oakhurst, NJ 07755 at 6:00 p.m.

**Present:** Mayor Larkin  
Councilmember(s) Garofalo, Schepiga

**Absent:** Councilmember Siciliano

**Others:** Martin J. Arbus, Esq., Township Attorney  
Andrew Brannen, Township Manager  
Vincent Buttiglieri, Township Clerk

**Statement of Compliance with the Open Public Meetings Act:**

Mayor Larkin announced that the notice requirements of the Open Public Meetings Act for this meeting have been satisfied; a copy of the Annual Notice was sent to the Asbury Park Press and The Coaster, posted in Town Hall and filed in the Office of the Township Clerk on December 6, 2010 and revised on December 30, 2010.

**Fire Exit Procedures:**

There are two emergency exits on the wall to my right that will take you to the front of the building and another one to my left that will take you to the rear parking lot.

**NOTICE:**

All cell telephones must be turned off. If you need to make a call, please make your call outside the meeting room.

---

**SPECIAL RESOLUTION:**

**11-020 Appoint W. Michael Evans to fill the vacancy on the Council**

**WHEREAS**, there currently exists a vacancy on the Township Council of the Township of Ocean due to the resignation of Deputy Mayor J. David Hiers; and

**WHEREAS**, the Municipal Vacancy Law N.J.S.A. 40A:16-1 et seq. sets forth the manner in which a vacancy shall be filled; and

**WHEREAS**, N.J.S.A. 40A:16-4(b) provides that the Governing Body may fill the vacancy temporarily by appointment and that said vacancy shall be permanently filled for the unexpired term at the next general or municipal election, whichever occurs first; and

**WHEREAS**, the Governing Body of the Township of Ocean wishes to temporarily fill said vacancy in order that the business of the Township may be conducted and acted upon by a full body; and

**WHEREAS**, the Township Council has considered and reviewed the qualifications of various candidates and has determined that **W. Michael Evans** is most qualified to fill said position and further meets all the qualifications required by law and accordingly, desires to appoint him thereto;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Ocean, County of Monmouth that **W. Michael Evans** be and the same is hereby appointed as a member of the Township Council to fill the vacancy created by the resignation of Deputy Mayor J. David Hiers for a term until the election and qualification of a successor pursuant to N.J.S.A. 40A:16-4(b); and

## MEETING MINUTES

JANUARY 18, 2011

**FURTHER BE IT RESOLVED** that W. Michael Evans shall take office immediately after appointment and qualification; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution shall be forwarded to the following:

1. W. Michael Evans
2. New Jersey State League of Municipalities
3. Bertha Sumick, Monmouth County Clerk of Elections

Record of Vote	Vacant	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Mayor Larkin
Motion To Approve		X			
Motion to Second			X		
Approved		X	X		X
Opposed					
Not Voting/Recuse					
Absent/Excused				X	

Mayor Larkin commented that the Township had performed an exhaustive search for Deputy Mayor Hiers replacement and Mr. Evans will be a great addition to the Council.

Mayor Larkin read a brief summary of Michael's qualifications and life-long volunteerism to the Township of Ocean.

Prior to administering the Oath of Office to W. Michael Evans, Mayor Larkin introduced Mike's sister Linda and his brother Larry, whom he coached in Little League. Both Linda and Larry held the Bible for their brother.

Subsequent to taking the Oath, Mr. Evans thanked everyone for attending, especially his sister and brother and all the volunteer firefighters from the Wanamassa Fire Company.

Mayor Larkin expressed the appreciation of the entire Governing Body to all that the volunteer firefighters and EMS workers for what they do on a daily basis to make the Township safe.

#### **PUBLIC COMENTS:**

**Don Geiger** inquired as follows:

1. Resolution #11-022 – where is the property located and why is the Township requesting to go out to bid for this property

Mr. Brannen stated that the property is located on Centre Street and this resolution is necessary because the current tenant has terminated their lease.

2. Resolution #11-023 – inquired about where these funds will go once the ordinances are cancelled

Mr. Brannen stated that these funds will revert back to the Capital Fund

**Bob Ades** inquired as to the reason for Resolution #11-025

Mr. Brannen stated that these contractors had been used to assist the Public Works Department in the recent snow emergency.

There were no additional questions at this time.

**CONSENT AGENDA:**

**RESOLUTIONS:**

**11-021 Approve the person-to-person transfer of Plenary Retail Consumption license issued to Agimi, Inc to 2132 Ichiban, LLC effective January 18, 2011**

**WHEREAS**, an application has been filed for a person-to-person transfer of Plenary Retail Consumption Liquor License, Number 1337-33-004-006, heretofore issued to Agimi, Inc. d/b/a Ichiban Japanese Restaurant; and

**WHEREAS**, the submitted transfer application is complete in all respects, all appropriate State and Township fees have been paid, and the license has been renewed for the current license term; and

**WHEREAS**, it has been determined that the applicant is qualified to be licensed in the State of New Jersey in accordance with all standards established by Title 33 of the New Jersey Statutes and all pertinent local ordinances pertaining to same; and

**WHEREAS**, the applicant has disclosed, and the issuing authority has reviewed, the source of all funds used in the purchase of said liquor license;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Ocean, County of Monmouth that it does hereby approve, effective January 18, 2011, the person-to-person transfer of the aforesaid Plenary Retail Consumption License, Number 1337-33-007-008, to 2132 Ichiban, LLC; and

**FURTHER BE IT RESOLVED** that the Township Clerk is hereby directed to endorse the license certificate as follows: ***“This license, subject to all its terms and conditions, is hereby transferred to 2132 Ichiban, LLC, effective January 18, 2011; and***

**FURTHER BE IT RESOLVED** that a certified copy of this resolution shall be forwarded to the following:

1. Chief of Police
2. State of New Jersey, Division of ABC
3. Richard Kaplan, Esq., attorney for 2132 Ichiban, LLC

**11-022 Authorization to accept bids for the Lease of the Boise Building**

**WHEREAS**, the Township Council is desirous of receiving bid(s) for the following:

*Administration Department:*

*Lease of Boise Building*

**WHEREAS**, specifications for the aforesaid items will be on file in the Police Department and will be available for inspection.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Ocean, County of Monmouth that it does hereby authorize the Township Clerk to advertise for bids for the aforesaid item(s) as per the specifications on file and will be received by the

**MEETING MINUTES****JANUARY 18, 2011**

Township Manager in the Township Manager's Conference Room, Third Floor, Township Hall, 399 Monmouth Road, Oakhurst, New Jersey on a date to be determined.

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution be forwarded to the following:

1. Director of Finance
2. Township Manager

Vote on all Consent Agenda Items:

Record of Vote	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Councilman Evans	Mayor Larkin
Motion To Approve	X				
Motion to Second		X			
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

**INDIVIDUAL ACTION:****RESOLUTIONS:****11-023 Authorize a Road Opening Permit for New Jersey Natural Gas for various locations throughout the Township**

**WHEREAS**, a request has been received from New Jersey Natural Gas for the granting of a street opening permit along the following roadways:

<u>ITEM #</u>	<u>LOCATION</u>
1	Hillcrest Avenue between Bimble Boulevard and Parkview Avenue
2	Overbrook Avenue
3	Hillcrest Avenue between Parkview Avenue and Lincoln Avenue
4	Colonial Avenue between Parkview Avenue and Lakeview Avenue

**WHEREAS**, the Township Manager and the Director of Public Works have fully investigated this request and informed New Jersey Natural Gas of the five-year moratorium for the opening of the street following resurfacing, which has occurred as follows:

<u>ITEM #</u>	<u>DATE OF PAVING</u>
1	October 2009
2	October 2008
3	Will be done in Spring 2011
4	December 2010

**WHEREAS**, under the provision of Chapter 8 of the Revised General Ordinances of the Township of Ocean, 1965, the Township Council can authorize the granting of a road opening permit within five years from the point in time when a street is resurfaced providing certain penalties are paid; and

**WHEREAS**, the penalty fees have been determined to be as follows, in accordance with the provisions of Section 8-1.8C of the Revised General Ordinances of the Township of Ocean, 1965;

<u>ITEM #</u>	<u>AMOUNT OF PENALTY</u>
1	\$1,238.40
2	\$1,705.54
3	\$2,508.00
4	\$2,508.00

- For Item 3 Only - The opening will only be needed if direct drilling is not possible. If, however, the openings are made following the paving (scheduled for the Spring 2011), the above noted fee will be required to be paid.
- There is also a \$125.00 application fee for each opening.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Ocean, County of Monmouth that the Township Manager or his designee is hereby authorized to grant a road opening permit, as noted in the request from New Jersey Natural Gas and in this resolution, providing the penalty assessments be paid pursuant to Section 8-1.8C of the Revised General Ordinances of the Township of Ocean, 1965 prior to the issuance of the permit; and

**BE IT FURTHER RESOLVED** that the additional requirement of full restoration is that there shall be an infrared treatment performed on the final patched surface to minimize the impact on the structural integrity of the roadway and to provide a level driving surface

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to the following:

1. William McMahon, Public Works Director
2. Director of Finance
3. New Jersey Natural Gas

Record of Vote	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Councilman Evans	Mayor Larkin
Motion To Approve	X				
Motion to Second		X			
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

**11-024 Authorize the cancellation of various unexpended and dedicated balances from various Township ordinances**

**TOWNSHIP OF OCEAN  
COUNTY OF MONMOUTH  
CANCELLATION OF CAPITAL ORDINANCES RESOLUTION**

**WHEREAS**, certain improvement appropriation balances within the General Capital Fund remain dedicated to projects now completed; and

**WHEREAS**, it is necessary to formally cancel said balances so that the unexpended balances may be returned to Capital Fund Balance, and unused debt authorizations be canceled within the General Capital fund;

**NOW, THEREFORE BE IT RESOLVED**, by the council of the Township of Ocean, that the following unexpended and dedicated balances be canceled:

Appropriation			Amount	
General Capital Fund Appropriations				
Ord. No.	Ord. Date	Description	Funded	Unfunded
1647	7/21/1993	Improve to Devco Wayside Estates	17,237.40	
1885/1894 /1926	3/14/2001	Various Township Improvements	5,052.50	
1912/1935	1/9/02 and 8/14/02	Various Township Improvements	14,783.69	
1982	5/4/2004	Various Township Improvements	59,087.79	
1990	8/15/04	Alpern Avenue Sidewalks	16,443.25	
2012	5/25/05	Various Township Improvements	52,069.19	
2021	7/13/05	Lakeview Avenue Sidewalks	30,560.76	
2045	4/26/06	Various Township Improvements	500,526.90	
<b>Total General Capital Fund Cancellations</b>			<b>\$695,761.48</b>	

**BE IT FURTHER RESOLVED**, that two certified copies of this resolution are to be filed with the Director of the Division of Local Government Services.

Record of Vote	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Councilman Evans	Mayor Larkin
Motion To Approve	X				
Motion to Second		X			
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

**11-025 Approve an emergency procurement for private contractors to assist the Township in snow removal operations from December 26-30, 2010 at a cost not to exceed \$35,125.00**

**WHEREAS**, a snow emergency occurred in the Township of Ocean between December 26-30, 2010 where an excess of 30 inches of snow fell on Township roadways; and

**WHEREAS**, the Township of Ocean was in need of assistance from private contractors to assist in the removal of snow from Township roads and due to the emergent nature of the situation, the Director of Public Works was able to locate the following two contractors, without soliciting bids or quotes, to assist in the snow removal operation: D & D Utility Contractors, Inc., Long Branch, NJ and L & L Paving Co., Inc., Tinton Falls, NJ; and

**WHEREAS**, the Township Manager authorized the hiring of said contractors for the duration of the snow removal operation; and

**WHEREAS**, the Director of public Works has received invoices from said contractors noting the following cost for their services:

D & D Utility Contractors, Inc.	\$16,425.00
L & L Paving Co., Inc.	\$18,700.00

**WHEREAS**, the Director of Finance has certified that funds are available in the Department of Public Works 2010 Budget, as follows:

Contract Services – account #0-01-26-760-247	\$ 3,500.00
Contract Services – account #0-01-26-765-247	\$31,625.00

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council in the Township of Ocean, County of Monmouth that authorization is hereby given to approve the emergency procurement of private contractors to assist Township personnel in their snow removal operations from December 26-30, 2010; and

**BE IT FURTHER RESOLVED** that authorization is hereby given to remit payment as noted above for said services; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to the following:

1. Director of Finance
2. Township Auditor

Record of Vote	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Councilman Evans	Mayor Larkin
Motion To Approve	X				
Motion to Second		X			
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

**11-026 Authorize the Tax Collector to issue a refund to property owners who have received a favorable State Tax Appeal judgments**

**AUTHORIZING THE CANCELATION OF 2008, 2009 AND 2010 TAXES AND REFUNDING THE TAX OVERPAYMENTS FROM 2008, 2009 AND 2010 RESULTING FROM NEW JERSEY STATE TAX COURT JUDGMENT TO THE TAXPAYER**

**WHEREAS**, the State of New Jersey Tax Court has rendered judgments on appeals made by a tax payer regarding the property assessment of their property, and,

**WHEREAS**, the property had their property assessment reduced by the State of New Jersey Tax Court resulting in a reduction in the total taxes to be paid to the Township of Ocean for the years 2008, 2009, and 2010,

**WHEREAS**, proper procedures require that the 2008, 2009 and 2010 tax assessments be adjusted and refunds be made for taxes overpaid in 2008, 2009 and 2010 that resulted from New Jersey Tax Court judgments reducing the property assessment reflected in the Tax Assessor’s Field Book for 2008, 2009 and 2010.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township council of the Township of Ocean, County of Monmouth and State of New Jersey that it does hereby authorize the Tax Collector to adjust the 2008, 2009 and 2010 tax assessment based on the State Tax Board Judgment and refund the tax overpayments for 2008, 2009 and 2010 taxes as listed below:

Block/Lot	Property Owner	Property Address	Tax Overpayments			Total
			2008	2009	2010	Refund
141/1	SEAVIEW SQUARE,LLC% LINQUE MNGMT CO	2301 ROUTE 66	-	190,500.00	60,048.87	250,548.87
Totals			-	190,500.00	60,048.87	250,548.87

**BE IT FURTHER RESOLVED** That a copy of the within resolution be forwarded to the following:

1. Tax Collector
2. Township Auditor

Record of Vote	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Councilman Evans	Mayor Larkin
Motion To Approve	X				
Motion to Second		X			
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

**ORDINANCES:**

**Introduction(s):**

Ordinance #2166 – An Ordinance providing for the vacation of a certain part of Lawrence Avenue in the Township of Ocean, County of Monmouth (P.H. 2/21/11 Coaster)

**ORDINANCE #2166**

**AN ORDINANCE PROVIDING FOR THE VACATION OF CERTAIN PART OF LAWRENCE AVENUE IN THE TOWNSHIP OF OCEAN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY”**

**WHEREAS**, it appears that there has been a dedication of certain lands as a public street or highway and the same has not been improved by the municipality; and

**WHEREAS**, the Governing Body of the Township of Ocean have determined that the public interest would be better served by releasing said parts thereof from such dedication; pursuant to the provision of the Revised Statutes 40:67-19 et seq. and the amendments and supplements thereto;

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Ocean, County of Monmouth, State of New Jersey that:

SECTION 1: The following described parts or portions of land heretofore dedicated as a public street or highway, now commonly known or designated as that portion of Lawrence Avenue west of the westerly line that connects the streets known as Kneeley Blvd and Eagle Ave at the intersection of Kneeley Blvd (50' wide R.O.W.) and Eagle Ave. (50' wide R.O.W.), also described as area "A" on the attached tax map. The same is hereby released and extinguished to the end that the land and premises in question shall effectually discharged there from as though the dedication has not taken place.

**SEE ATTACHED HERETO: "Schedule A" dated January 10, 2011**

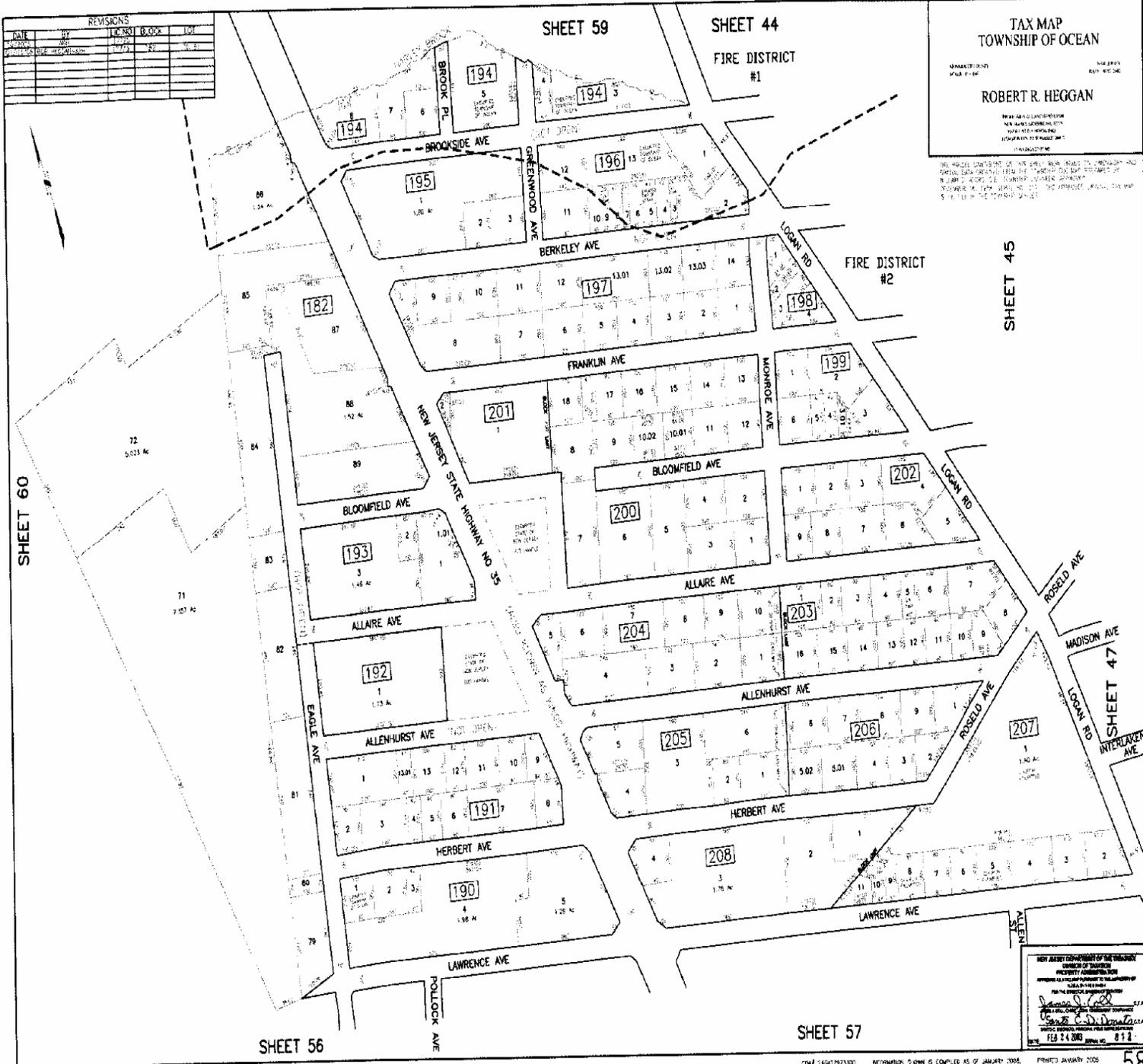
SECTION II: This vacation is subject to and conditioned upon the following:

- A. All rights and privileges now possessed by the public utilities as defined by R.S. 48:2-13, by any cable television company as defined in the "Cable Television Act", P.L. 1972, c. 186 (C. 48:5A-1 et seq.), and any public entity with facilities such as storm or sanitary sewer to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated are expressly reserved and excepted.

SECTION III: This ordinance shall take effect after its final passage and advertisement in accordance with the law.

REVISIONS				
DATE	BY	DESCRIPTION	BOOK	PAGE

**TAX MAP**  
**TOWNSHIP OF OCEAN**  
 MARKET ROAD  
 PAGE 11-14  
**ROBERT R. HEGGAN**  
 NEW JERSEY LAND DEVELOPMENT  
 NEW JERSEY DEPARTMENT OF TREASURY  
 COUNTY OF OCEAN  
 JANUARY 2008



NEW JERSEY DEPARTMENT OF TREASURY  
 COUNTY OF OCEAN  
 JANUARY 2008

## MEETING MINUTES

JANUARY 18, 2011

Record of Vote	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Councilman Evans	Mayor Larkin
Motion To Approve		X			
Motion to Second	X				
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

**Council Reports:**

Councilmember(s) Garofalo and Schepiga, as well as Mr. Brannen and Mr. Arbus, welcomed Mike Evan and looked forward to working with him.

**PUBLIC COMMENTS:**

**Don Geiger** asked if the fact that garbage collection is being moved to Saturday because of the snow that blanketed the Township this week is causing the Township to incur overtime.

Mr. Brannen stated that this revision has caused the Township to incur overtime.

Mr. Geiger asked how the budget is with regard to snow removal.

Mr. Brannen stated that the 2010 budget is fine, however, it is too early to tell with regard to 2011.

**Michelle Lee** inquired as follows:

1. Why are there three men still on the garbage trucks if the system is automated

Mr. Brannen explained that the automated trucks would not be in all the sections of the Township and some of the older trucks would still need to be utilized, which is the case in the area that Ms. Lee is discussion. Additionally, due to the large amount of snow still exist on Township roadways, the Township is utilizing all available personnel to perform this function.

**F.K. Hudson** inquired about the following:

1. What company does Mr. Evans work for

Mr. Evans stated that he works for Twin Towers Trading which is located in Manalapan.

2. Various Matters of Litigation:

- a. **Stop & Shop**

Mr. Arbus reported that this matter has been dismissed without prejudice, which means that the suit can be reinstated at any time.

**b. COAH**

Mr. Arbus stated that the new law has passed both the Senate and Assembly, however, it is not helpful to the Township. Under the new legislation, the Township’s obligation could actually be more that it was originally.

As far as the litigation – the Township is proceeding with a Plan and are still negotiating with all parties in hopes of settling with as many as possible, although nothing appears imminent

**Bob Ades** inquired about the status of the 2011 Municipal Budget

Mr. Brannen stated that the state has extended the date that the Budget must be presented to the Governing Body until the beginning of February. Also, the Township is still waiting on the state Aid figures before finalizing the budget.

Mr. Brannen also stated that the Public Hearing on the 2011 Budget is scheduled for Saturday, February 5 beginning at 8:30 am.

Seeing that there were no other questions, the meeting was adjourned.

Record of Vote	Councilman Garofalo	Councilwoman Schepiga	Councilman Siciliano	Councilman Evans	Mayor Larkin
Motion To Approve		X			
Motion to Second	X				
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

Respectfully submitted,

William F. Larkin  
Mayor

Vincent Buttiglieri, RMC/CMC  
Municipal Clerk