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WORKSHOP MEETING
APRIL 3, 2012
7:00 P.M.
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The Workshop Meeting of the Borough of Butler Mayor and Council was opened by Mayor Alviene who indicated that the meeting was being held in compliance with the Open Public Meetings Act having been duly advertised and posted in Borough Hall.

ROLL CALL

PRESENT: Mayor Robert W. Alviene, Council President Edwin Vath, Councilman Robert Fox, Councilman Stephen Regis, Councilman Raymond Verdonik, Councilman Robert Meier and Councilman Sean McNear

ALSO PRESENT: J. Lampmann, Borough Administrator, R. Oostdyk, from the Office of the Borough Attorney and M. O'Keefe, Borough Clerk

R 2012-37 RESOLUTION OPPOSING SENATE BILLS S-1451 AND, AMENDING THE OPEN PUBLIC MEETINGS ACT AND S-1452 AMENDING THE OPEN PUBLIC RECORDS ACT

The Mayor and the Council concur that this legislation would create additional costs to the taxpayers of the Borough and oppose the passage of this legislation.

Moved: Vath

Second: Meier

Voted Aye: Regis, Fox, Meier, Verdonik, Vath and McNear

Voted Nay: None

R 2012-37 adopted.

R 2012-38 RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO MORRIS COUNTY OPEN SPACE AND HISTORIC PRESERVATION TRUST FUND FOR PHASE II OF THE BUTLER MUSEUM RESTORATION

Mr. Lampmann explained that if this grant is approved it will complete the restoration of the Butler Museum; it is approximately \$300,000, with the Borough providing a portion of additional funding.

Moved: Fox

Second: Verdonik

Voted Aye: Regis, Fox, Meier, Verdonik, Vath and McNear

Voted Nay: None

R 2012-38 adopted.

DISCUSSION:

REQUEST OF THE SALVATION ARMY FOR THE PLACEMENT OF AN ADDITIONAL COLLECTION BOX IN THE BOROUGH HALL PARKING LOT

Mr. Lampmann received a request from the Salvation Army for the placement of an additional collection box for clothing in the Borough Hall Parking lot, discussion ensued it was determined that the request be tabled for three months. Ms. O'Keefe will notify the Salvation Army regarding the postponement of a decision.

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PROPERTY TRANSFER – ARCH STREET

Mr. Lampmann reported on the progress of the property transfer noting that one homeowner signed the agreement; another homeowner denied ownership of the structure on the encroachment. The Passaic River Coalition (PRC) may remove the structure once the property transfer is completed. Numerous telephone messages were left for the remaining property owners; these individuals have an issue with insurance. One of the affected individuals stated she would probably sign the easement; however, she still has questions. The PRC is aware of these situations, as Mr. Lampmann has emailed them, regarding the insurance issues PRC feels that they have moved enough on insurance. Mayor Alviene noted that this has been going on for quite some time and we need to conclude this matter. The property owners do not want the additional expense of adding the PRC as an additional insured. Mr. Lampmann asked for direction from the Council and the Borough Attorney. A formal letter will be prepared stating that not all the affected parties have signed requesting a decision from the PRC regarding this property.

REQUEST OF THE RIVER PLACE HOMEOWNERS ASSOCIATION

The Homeowners Association notified the Borough that they are having an issue with skateboarders and bicyclists on their property. They approached the Borough with questions regarding what steps can be taken to alleviate these problems. Mr. Oostdyk explained that the area in question is private property once appropriate signage is posted trespassing laws could be enforced. Mr. Oostdyk explained that riding bikes and or skateboards on the property is considered defiant trespass. Mr. Lampmann to notify the Homeowners Association regarding the steps to be taken to alleviate the problem.

AMENDING BOROUGH CODE TO DEFINE, CANVASSERS, SOLICITORS AND PEDDLERS

At issue is the definition of the Borough Code regarding what constitutes a canvasser, solicitor and a peddler. The Board of Health recently considered eliminating mobile vendors of food they will be considering the adoption of an ordinance that would prohibit any mobile vendor of food. Members of the Council disagreed with this decision; they feel that ice cream trucks should not be included in the ordinance. If the ordinance is put forth to the Council, some members decided that they would not vote for an ordinance such as this, as they feel this is too big of a change to the community. Mr. Verdonik noted that the Health Department could perform a health inspection on the vendor at any time.

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OPEN PUBLIC DISCUSSION

Sherry Bednarz-Mosier, 62 Arch Street commented on the property transfer to the Passaic River Coalition (PRC) questioning as to whether or not the property owners on Arch Street had contacted their insurance companies about coverage costs. She stated her additional insurance cost is only \$40.00, however, Mr. Lampmann stated that he could not tell property owners that is the fixed cost because he has no way of knowing the actual costs nor would he put the Borough in that untenable position should that information be incorrect. Additionally, he will not browbeat the residents to sign these easements noting they have the right to decline signing. Ms. Bednarz-Mosier asked what would happen with the property transfer if the easements were not signed. Ultimately, the decision to accept this property lies with the Passaic River Coalition. Mr. Regis stated he had heard from one of the affected residents that their insurance company would not put the PRC as an additional insured on the policy.

Seeing no one else come forward to speak a motion was made to close the public portion of the meeting.

Moved: Fox
All in favor.

Second: Regis

Motion to adjourn the meeting.

Moved: Fox
All in favor.

Second: Regis

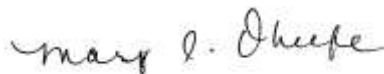
ADJOURNMENT: 7:45 p.m.

Adopted: April 24, 2012



Robert W. Alviene, Mayor

Attest:



Mary A. O'Keefe, RMC
Municipal Clerk

Dated: April 24, 2012

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**BOROUGH OF BUTLER
RESOLUTION #R2012-37**

RESOLUTION OPPOSING SENATE BILLS S-1451, AMENDING THE OPEN PUBLIC MEETINGS ACT AND S-1452, AMENDING THE OPEN PUBLIC RECORDS ACT

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 Butler 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

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- 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 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 Butler 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

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- 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 a 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

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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 Butler 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 Butler, County of Morris, 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

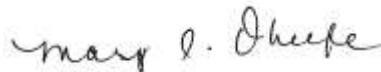
BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Senator Barbara Buono, Senator Shirley Turner, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, Assemblyman Upendra Chivukula, the legislators of the 26th State Legislative District, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

Adopted: April 3, 2012



Robert W. Alviene, Mayor

Attest:



Mary O'Keefe, Borough Clerk

Dated: April 3, 2012

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**BOROUGH OF BUTLER
RESOLUTION NO. 2012-38**

**RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO
THE MORRIS COUNTY OPEN SPACE AND HISTORIC PRESERVATION TRUST
FUND**

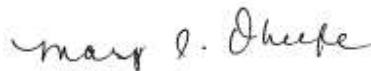
WHEREAS, the Borough of Butler desires to continue restoration of the NYSW Train Station that it currently uses as its' local museum; and

WHEREAS, the Borough of Butler has allocated \$60,460 in funds to be used towards the construction of Phase II Exterior Restoration of the Butler Railroad Station and for the required matching funds should the grant be successful; and

WHEREAS, the Borough of Butler has discussed and approved this application at a public meeting on April 3rd, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Butler, County of Morris, State of New Jersey, that the Borough Administrator is hereby authorized to sign the application on behalf of the Borough.

Adopted: April 3, 2012



Mary A. O'Keefe, Borough Clerk



Robert W. Alviene, Mayor