**MINUTES
OF THE MAYOR AND COUNCIL MEETING,
BOROUGH OF HOPATCONG,
HELD AT THE MUNICIPAL BUILDING, 111 RIVER STYX ROAD
HOPATCONG, NEW JERSEY
APRIL 1, 2015
OPEN PUBLIC MEETING 7:30 PM**

CALL TO ORDER: Announce Quorum

OPEN PUBLIC MEETINGS ACT STATEMENT: **Mayor Petillo** stated "This meeting is held in accordance with the 1975 Open Public Meetings Act, NJSA 10:4-6 et seq., annual notice having been forwarded to the New Jersey Herald/New Jersey Sunday Herald, and posted on the bulletin board maintained in the Municipal Building for public announcements." (Mayor noted fire exits)

ROLL CALL: The Clerk called the role and the following members were present: Councilman Bunce, Councilman Francis, Councilwoman Galate, Councilman Padula, Councilman Young and Mayor Petillo.

Absent: Councilman Schindelar

MOMENT OF SILENT REFLECTION AND PLEDGE OF ALLEGIANCE: **Mayor Petillo** invited all present to salute the flag and to remain standing for a moment of silence.

ADOPTION OF 2015 MUNICIPAL BUDGET

Public Hearing on 2015 Budget

At this time Mayor Petillo opened the meeting to the public for any questions or concerns that they may have regarding the 2015 Budget.

There being no one from the public who wished to address the Governing Body regarding the 2015 Budget, Councilman Bunce made a motion to close the meeting to the public and return to the regular order of business. Seconded by Councilman Young. All were in favor.

Adoption Ordinance #04-2015 – Establishing a Cap Bank

Councilman Bunce made a motion to adopt an ordinance entitled "AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR THE CALENDAR YEAR 2015". Seconded by Councilman Young.

Before final roll call, Mayor Petillo opened the meeting to the public for any questions or concerns that they may have regarding Ordinance #04-2015.

There being no one from the public who wished to address the Governing Body regarding Ordinance #04-2015, Councilman Bunce made a motion to close the meeting to the public and return to the regular order of business. Seconded by Councilman Young. All were in favor.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

Resolution #2015-107- Adoption of 2015 Municipal Budget

Councilman Bunce made a motion to adopt a resolution adopting the 2015 Budget for the Borough of Hopatcong. Seconded by Councilman Young.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

Resolution #2015-108- Self Examination of 2015 Budget

Councilman Bunce made a motion to adopt a resolution to approve the Self Examination of the 2015 Budget. Seconded by Councilman Young.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

COMMITTEE REPORTS: **Mayor Petillo** allowed each member of the Council, to present their respective committee reports.

Councilman Francis and Councilman Padula made a statement regarding energy later in the meeting.

Councilwoman Galate and Councilman Bunce - Nothing to Report

Councilman Young – Recreation – team was unable to have the field walk due to the weather. The Easter Egg Hunt was cancelled last week and reschedule for Saturday April 4, 2015 at 12 noon in Modick Park.

PUBLIC COMMENT: **Mayor Petillo** opened the meeting to the public for any questions or comments concerning items on the agenda for which no public discussion is provided. (Comments limited to 5 minutes).

There being no one from the public who wished to address the Governing Body, Councilman Bunce made a motion to close the meeting to the public and return to the regular order of business. Seconded by Councilman Young. All were in favor.

APPROVAL OF MINUTES:

Councilman Young made a motion to approve the meeting minutes of the Regular Meeting held on March 18, 2015. Seconded by Councilman Bunce.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

ADMINISTRATOR'S REPORT:

At this time Robert Elia, Borough Administrator, presented his report for the meeting of April 1, 2015. Mr. Elia reported that there is an ordinance on the agenda this evening to establish connection fees for new users to the Water and Sewer system. Also on the agenda is a Resolution to appoint a new Court Administrator, Erin Flannery whom Mr. Elia is recommending to replace Ana Pearn-Torres who is retiring.

CONSENT AGENDA: **Mayor Petillo** requested that all persons present review the consent agenda. If any member of the Council or public wishes an item on the consent agenda to be discussed and considered separately, a motion to this effect shall so be made at this time.

After all persons have had an opportunity to review the consent agenda and offer requests for changes, **Mayor Petillo** requested a motion to approve the consent agenda.

CORRESPONDENCE (ACCEPTANCE FOR FILING ONLY OF THE FOLLOWING):

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Tax Collector's Report: February 2015.

APPLICATIONS (APPROVAL OF THE FOLLOWING):

1. Social Affair Permit: Boy Scouts of America, June 16, 2015.

RESOLUTIONS: (APPROVAL OF THE FOLLOWING):

1. Resolution # 2015-101– Outside Lien Redemption, Blk: 40211 Lt: 12.

2. Resolution # 2015-102– Outside Lien Redemption, Blk: 11013 Lt: 34.
3. Resolution # 2015-105– Outside Lien Redemption

Councilman Young made a motion to approve the consent agenda for the meeting of April 1, 2015. Seconded by Councilman Bunce. All were in favor.

INTRODUCTION OF ORDINANCES:

Introduction Ordinance #05-2015 – Farmers Market Fees

Councilman Young made a motion to introduce an ordinance entitled "AN ORDINANCE OF THE BOROUGH OF HOPATCONG, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AMENDING CHAPTER 108 TO ESTABLISH FARMERS MARKET FEES". Seconded by Councilwoman Galate.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

FINAL READING: APRIL 15, 2015

RESOLUTIONS:

Resolution #2015-100 – Payment of Bills

Councilman Bunce made a motion to adopt a resolution authorizing the payment of bills for the meeting of April 1, 2015, as amended, pulling check numbers 1228, 35595, 35623, 35616. Seconded by Councilman Young.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

Councilman Bunce made a motion to approve the payment of check numbers 1228, 35595, 35623, 35616. Seconded by Councilman Young.

Upon roll call vote:
Ayes: Bunce, Francis, Padula, Young
Nays: None Absent: Schindelar Abstentions: Galate

Resolution #2015-103 – In Support of SCMUA Opposition to Amendment to the Solid Waste Management Plan

Councilman Bunce made a motion to adopt a resolution in support of Sussex County Municipal Utilities Authority's opposition to a proposed amendment to the Sussex County Solid Waste Management Plan. Seconded by Councilman Young.

Mayor Petillo read the entire Resolution into the minutes. Discussion amongst the Council requesting an amendment to the Resolution to include the opposition of Administrator's Action being taken and request modifications to include that we demand and insist that Public Notice and Hearing be required.

Councilman Francis made a motion to amend Resolution #2015-103. Seconded by Councilman Young.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

Resolution #2015-104 – Sussex County Solar Project

Councilman Francis discussed a meeting they had with Sussex County Freeholder and Committee members, with Councilman Padula, Councilman Schindelar and himself. Councilman Francis read his questions into record from the meeting and the County responses to the questions. Attached are Councilman Francis' questions, answers and comments.

Councilman Padula made a statement as to his attendance at the Sussex County meeting. Attached is Councilman Padula's statement.

George Graham, Sussex County Freeholder, made a statement regarding a meeting this evening at the Morris County Improvement Authority stating that resignations were tendered and accepted of Pearlman & Miranda and Gable & Associates. Freeholder Graham shared his statement to the MCIA stating that it's time for the MCIA to exercise its authority to make the changes necessary to untangled the MCIA from those who have used as their own private cash machine; a machine that continues to print money for them regardless of failure or success of the project that they promoted and oversaw. Those that have gambled with the tax payer funds should be held accountable. Their errors and omission policies, insurance policies, malpractice policies and performance assurity bonds should all be reviewed.

Freeholder Graham also presented the statement supplied by Morris County for the record. Freeholder Graham's document is attached.

Resolution 2015-104 – Sussex County Solar Project

Mayor Petillo read the entire Resolution into the minutes. Councilman Bunce made a motion to adopt a resolution regarding the Sussex County Solar Project. Seconded by Councilman Francis.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

Introduction Ordinance #06-2015 – Water And Sewer Connection Fees

Councilman Bunce made a motion to introduce an ordinance entitled: "AN ORDINANCE OF THE BOROUGH OF HOPATCONG, COUNTY OF SUSSEX AND STATE OF NEW JERSEY REGARDING WATER AND SEWER CONNECTION FEES". Seconded by Councilman Young.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

FINAL READING: APRIL 15, 2015

Resolution #2015-109 – Easement With The Board of Education

Councilman Bunce made a motion to adopt a resolution approving an easement with the Board of Education on Block 30706 Lot 1. Councilman Padula stated his concern as to the date of notice for snow plowing. Seconded by Councilman Young.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

Resolution #2015-110 – Appointment of Municipal Court Administrator

Councilman Young made a motion to adopt a resolution appointing Erin Flannery as Municipal Court Administrator. Seconded by Councilman Bunce.

Upon roll call vote:
Ayes: Bunce, Francis, Galate, Padula, Young
Nays: None Absent: Schindelar Abstentions: None

OLD BUSINESS:

NEW BUSINESS:

PUBLIC COMMENT:

Mayor Petillo opened the meeting to the public for any questions or comments concerning the good and welfare of the Borough. (Comments limited to 5 minutes).

There being no one from the public who wished to address the Governing Body, Councilman Bunce made a motion to close the meeting to the public and return to the regular order of business. Seconded by Councilwoman Galate. All were in favor.

COUNCIL COMMENTS:

ADJOURNMENT:

Councilman Bunce made a motion to adjourn the meeting of April 1, 2015.

Sylvia Petillo, Mayor

Catherine Schultz, RMC

COUNTY OF MORRIS
COUNTY ADMINISTRATOR
OFFICE OF PUBLIC INFORMATION

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April 1, 2015
Official News Release
For Immediate Release

STATEMENT ON SOLAR PROFESSIONALS AND DISCLOSURE BY FREEHOLDERS KRICKUS AND SCAPICCHIO

Our terms as Freeholders started on January 1, 2013. From that date until today we both have served as liaisons to the Morris County Improvement Authority. From our first meeting, in closed session, we learned about legal and financial difficulties with the solar projects that were bid and bonded from 2009 to 2011.

There are three areas we would like to address.

1. Resignations have been tendered by Pearlman & Miranda, LLC, counsel to the Morris County Improvement Authority, and Gabel Associates, energy consultant to the Improvement Authority, and accepted by the Improvement Authority.

2. We will recommend to the Freeholder Board that a memorandum addressing construction issues that arose in Solar II be disclosed to the public. The memorandum was delivered to the county and Improvement Authority prior to the decision to settle the Solar II litigation and is currently classified as a privileged document. The county's special counsel has advised the freeholders that they may waive their privilege and, as a result, release the document to the public. We support full transparency.

3. We also will recommend that the Freeholder Board and Improvement Authority provide a semi-annual and annual update on the financial status of the Solar I and Solar II programs. These updates should provide full disclosure of operating income and expenses, debt and asset status, and revenue projections at then-current SREC prices. All professional fees should also be disclosed, whether paid by the Improvement Authority, the Freeholder Board, or the Improvement Authority Bond trustee.

In regards to the Morris County Administrator and County Counsel, their role is to carry out the policy of the Freeholder Board. In our two plus years of working with them, they have performed their roles as expected. Ultimately, the final decision on policy rests with the freeholders in office at the time decisions are made.

(END)

Frank Padula

31 March 2015

Talking points Sussex County Solar Project

1) Original plan was agreed to with little understanding of how the market works
   A. Knowledgeable experts were used that were not either independent or protecting Sussex County Interests (i.e. MCIA etc.)
   B. Contracts were drawn in boiler plate fashion with little oversight and review. They trusted their 'Experts"
   C. At the time Solar was pitched as the panacea for all the fiscal ailments of the county "if it is too good to be true it usually is"
2) Little protection was afforded the County through SLG
   A. SLG put little if no capitol at risk for the project. Sussex County was the "Bank"
   B. Performance bonds were between SLG and Mastec with little or no Sussex County protection.
   C. Mastec argued that they performed and filed for arbitration because of lack of payment for services rendered.
   D. Sussex County officials did not challenge the arbitration findings but rather chose to move forward because of a fear that if they lost in arbitration the outcome would be far worse than moving forward.
3) Additional funds were used to attempt to bring the project to its final completion and avoid lost revenue and returning of used tax credits.
4) Primary concern is that the money has been obligated or spent with little chance for recovery
   A. If the project has a financial shortfall Hopatcong, since we did not benefit from the project directly, should not bare their proportionate cost of making it whole
   B. It is unfair to our taxpayers that a project to which we were not a participant in but did directly assist other local municipalities have its shortfall subsidized proportionately by Hopatcong tax payers.

In summary it is my opinion that the Freeholders truly believed that this project was the best thing ever. They "Drank the Cool aid" put forth by the so called experts and moved forward always taking the path of least resistance with little expert knowledge that had their interests at heart. They are now so far down this path that they cannot turn around and in fact made additional investments to keep things on track in the hope of recouping the total investment.

I believe that we should go on record as not supporting this project, ask for a full independent audit of the project so that we (the County Taxpayers and Municipalities) can determine if we can pull out and save some of the counties initial investment.

In addition we should suggest that the county look into selling the project to a private entity so as to recoup as much on the initial and additional investments as possible. Also the added benefit of selling the project is that future maintenance and operating cost will be paid by the purchaser and not the County.

We should also push hard for a provision that will allow the shortfall that is not directly benefitting either the county or Hopatcong to be paid by those municipalities that directly benefit from the solar project.

M. Franci

Based on available information the Sussex county default on the solar project was really bad oversight by the Morris County Improvement Authority (MCIA).

The MCIA was responsible for reviewing the financials and credentials of the developer, installer, engineering, consulting and legal.

It appears that the only one that fulfilled their obligation was the installer.

The developer (Sunlight) did not have the money to continue so they obviously were insolvent from the very beginning. This should have been identified immediately by the MCIA.

The legal activities that occurred as a result of the default did not include Sussex County until the issue was arbitrated. Sunlight (the developer) was obligated to pay Mas Tec (the installer) a very large amount which led to insolvency of Sunlight.

The only performance bond was on the installer. There is no explanation as to why the there was no performance bond on the developer or the consultants. So the County's financial interests were not adequately protected. Bad due diligence by Sussex County legal.

This is clearly a failed project because of bad oversight and questionable legal advice by MCIA and the county attorney.

Now the county wants to continue this failed project by using 6 million dollars in cash from the Homestead sale to finance more solar projects. This money will be repaid by tax money.

Sussex County should not continue any future solar projects because the same players that got us into this mess are still there and no matter how you spin it the future is still very questionable.

The county does not have the resources to manage any future solar projects and dependence on outside entities not under control of the county will yield the same results.

Until Sussex county can work independently on multi-million dollar solar projects no money should be invested on future projects.

I would urge the Sussex County Freeholders to void the agreement and immediately pursue legal action to recover the tax payers money.

G. Graham

I would like to take a moment to thank you this evening for allowing me an opportunity to address this body tonight. I am not here representing the SC Board of Freeholders or just Sussex residents. I am here on behalf of the taxpayers in my county, my sons, their families and friends that are Morris County residents and my many friends in Somerset County.

As elected officials and commissioners, we share a common bond in our commitment to work for the common good of our communities. We are all public servants. We guide our communities into the future. We know that countless hours of service above and beyond our job descriptions are required every week and I offer my appreciation for your dedication.

Looking around this room I recognize many familiar faces that I know have contributed their time and efforts for many causes over many years.

It also takes a reliable core of professionals that are employed as full time staff or appointed contractors to advise and assist us as we implement policy.

Our lives, full with responsibilities and obligations to our constituents, our day jobs and of course our families are very consuming. So it is imperative that our duties as board members or governing body members are managed effectively and efficiently by qualified professionals to whom we delegate the interests of the taxpayer.

When major projects or policy decisions need to be carried out, we rely on the counsel and experience of these attorneys, engineers, consultants, accountants, auditors and management staff to manage the daily operations.

But when the professionals that we appoint perform inadequately, or in a fashion that conflicts with the best interests of the taxpayers, it is imperative that we act decisively and change course.

Maintaining professional relationships with those who mismanage public resources and fail to meet expectations cannot be tolerated. It wouldn't be in the private sector, and it should not be in government.

Over the last 2 years I have served as an elected Sussex County freeholder. My background includes considerable experience as a GC Project Manager, working on public projects, especially in the mid-2000's that have included solar components.

The very first question I asked in early 2013 when I received the initial briefing on the Solar situation was who did the due diligence on this project?

It is still an open question.

Did anyone know that Sunlight General was not properly capitalized to take responsibility for such a large project?

Was it really unclear that SLG had no real assets or manner of insuring the MCIA in the event of a project failure?

Wasn't Gabel Associates paid over $500,000 by Sussex alone to oversee the project and to keep logs and minutes, review requisitions and certify work and inventory?

Weren't they responsible for oversight?

Why are they still a part of this project?

My county professionals seem to have taken MCIA's assurances at face value, provided by some people that are in this room. Not just once, but many times.

By failing to perform due diligence, some of my county's professionals failed to protect my county's interests.

The lack of a performance bond to protect Sussex County is the most glaring example.

But many in this room also accepted on face value the assurances of those that have collected millions of dollars in commissions and fees.

My dear Irish grandmother would repeat a phrase to me when my promises lead to disappointment that "the road to hell was paved with good intentions."

It has become quite obvious to me and many, many others that the failures and omissions of those who received millions of dollars in professional fees to guide and manage this project led us to the financial debacle.

In 2014, the firm supposedly hired as the Construction Manager on this project, Gabel Associates, assured the Sussex Freeholders that they managed the project in a professional manner.

In 2015 they would not take any responsibility or offer any description as to their full role.

Again I ask, why are they still involved in this project?

I think that it is time to not only demand a full review and accounting of the taxpayer funds involved, but also of the systemic management failure in this project.

It is essential to report to all concerned in a public, transparent manner:

<u>WHO</u>. <u>IS</u>. <u>RESPONSIBLE</u>.

And who will be held accountable.

It is time for this body to exercise their authority to make the changes necessary to untangle the MCIA from those that have used it as their own private cash machine, a machine that CONTINUES to print money for them regardless of the failure or success of the projects that they promoted or oversaw.

Those who have gambled with taxpayer funds should be held accountable.

Their errors and omissions policies, insurance policies, malpractice policies, performance and surety bonds should all be reviewed.

As commissioners you are ultimately responsible for the manner that minutes, bill lists and correspondence are handled.

I don't blame the individuals on this body for the shortfalls by the amply compensated professionals of your staff.

But the failure to recognize the problem that they created, and the failure to replace those responsible will only make matters worse.

Solar Project Meeting

Solar Committee
Frank Padula
Michael Francis
Richard Schindelar

1. Who presented this proposal to the Freeholder Board?
   MCIA made presentation on 2/10/11 to 2 Freeholders.
2. How did the County get involved in the project?
   MCIA made presentation on 2/10/11 to 2 Freeholders.
3. Who identified the risks associated with this type of project? Were the risks clearly outlined for the Freeholders?
   Projections were made by Northwest & Gabel.
4. Who was appointed as the overseer for Sussex County and Contact person between Sussex County and MCIA?
   MCIA Consultants were Gabel and Pearlman.
5. Was there a project manager or any outside engineering firm looking out for Sussex County's interest?
   Concept engineering done by Birdsall and overseer was MCIA.
6. How was this deal structured between the three counties, the MCIA, and Sunlight General?
   It was identical structures on how they did the project. Choosing which projects would be built was independent.
7. What checks and balances were in place to protect the taxpayers?
   Bond on Mastec – Sunlight General had a $1.5 million fund but they used it to pay down the debt.
8. With any construction project there are always safeguards in place in the form of performance bonds for the primary contractor, and many times payment bonds to make sure the sub contractors are paid. What bonds were in place for protection?
   Only bond was on Mastec.
9. If there were performance bonds… to whom were they issued? Why weren't the performance bonds used?
   County made a claim on this issue. It was declined because Mastec did not default – Sunlight General did. There was no bond on Sunlight General.
10. Were there any bonds or any other protections regarding Sunlight General's performance?
    No, just the $1.5 million fund used on debt.
11. Who investigated the financials of Sunlight General and Global Associates? Are those reports available?
    MCIA did the investigation.
12. Did your investigation reveal that SLG and Mastec had assets of 30 million dollars? Did SLG or Mastec overstate their assets?
    See MCIA reports.
13. Who verified their value?
    MCIA.

14. Who was responsible to conduct due diligence for Sussex County?

    County Administrator.

15. Who was watching the contractor to make sure his claims didn't get out of control?

    Gabel.

16. Based on the bond market and cost of electricity, what is the cost benefits?.... Return on investment?

    Cost of electricity is $0.09 a kilowatt, normally $0.11

17. Based on the tax credits Sunlight should have about $7 million. How was that money used?

    Tax money comes back to the county

18. At what point did you realize you were in trouble?

    February 2013

19. How much did we pay in legal bills?

    $1.8 million

20. What safeguards are in place in the settlement to ensure the $7 million will be paid back and that the project will be brought to completion?

    SLG is now a custodial company who answers to the County. SLG will funnel tax credit and any other money generated back to the County.

1. How many solar installations are certified and operable?

   12

2. What is the total amount of megawatts built and operating?

   3.4

3. What is the total value of complete solar installations?

   12.5 million

4. Who received the tax credits?

   Sunlight General

5. How many SRECs have been generated as of today?

   N/A see value

6. What is their total value?

   925,000

7. Who is in possession of the SRECs?

   Sunlight General, under county control and oversight.

8. Who is receiving the income from the SRECs?

   Sunlight General, under county control and oversight.

9. What brokerage house is managing the SRECs?

   Vangard is going to manage.

10. How much of the $24 million was spent on soft cost?

    $1.2 million

11. If $24 million was spent on 45% of the proposed work why will $7 million be enough to do 55%?

    $12 million did the 45%

12. If there was no litigation against the County why was it so urgent to arrive at a settlement which really looks like a bail-out of the developer?

    Because tax credit money would be lost if project if not completed by end of 2016 ($4 to $5 million).