



**LEBANON BOROUGH COMMON COUNCIL
MINUTES
April 8, 2014**

The Regular Meeting of the Lebanon Borough Common Council was called to order by Council President Burton at 7:30 p.m.

The meeting was convened in compliance with the Open Public Meeting Act of 1975; notice was sent to three local newspapers and posted on the bulletin board at Borough Hall.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Councilman Burton.

ROLL CALL:

Present: Council President Burton, Councilman Berger, Councilwoman Schmidt, and Councilman Pittinger

Absent: Mayor Reino, Councilman Knoble, and Councilman Junge

Also Present: Clerk Karen M. Romano

OPEN PUBLIC SESSION OR ORDINANCE 2014-02:

Councilman Berger made a motion to open the public session. Councilwoman Schmidt seconded the motion with the unanimous approval of Council the floor was opened.

There being no further public comment Councilman Pittinger made a motion to close the public session. Councilwoman Schmidt seconded the motion with the unanimous approval of Council the floor was closed.

ORDINANCE 2014-02:

Council President Burton made a motion to Adopt Ordinance 2014-02 with a second by Councilman Berger.

**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
ORDINANCE NO. 2014-2**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCES OF THE BOROUGH
OF LEBANON REGARDING WATER SERVICE DURING THE MORATORIUM
IMPOSED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

WHEREAS, Ordinance 2013-3 was adopted to amend the Land Use Ordinances of the Borough of Lebanon to recognize the interim moratorium imposed by the New Jersey Department of Environmental Protection on the Clinton Water Company's provision of new water services to residents and developments within those municipalities serviced by the Clinton Water Company; and

WHEREAS, prior "will-serve" letters had been provided by the Clinton Water Company to residential and commercial developers in the Borough of Lebanon, and based thereon, applications for future development were processed and approved by the Planning Board and/or Board of Adjustment of the Borough of Lebanon; and

WHEREAS, as a result of the NJDEP moratorium issued to the Clinton Water Company, pre-approved developers have been rejected and denied on their applications for current water service by the Clinton Water Company; and

WHEREAS, the Governing Body of the Borough of Lebanon adopted Ordinance No. 2013-3 to amend the site plan, subdivision, change of use and checklist requirements of the Borough's Land Use Ordinance to prohibit the review of a development showing a public utility or utilities without an executed contract for such service or services being provided in advance of said review; and

WHEREAS, the Clinton Water Company will not enter into contracts authorizing, approving and granting water service for any proposed development while the interim moratorium is in effect thereby rendering compliance with the current checklist requirement regarding same a practical impossibility, and thus effectively preventing a determination of completeness for any such application and barring a public hearing on same; and

WHEREAS, the New Jersey Department of Environmental Protection will not review a plan for development requiring public water until that plan has received approval from the municipal board having jurisdiction over the application; thereby preventing any owner or developer of property from obtaining any type of review of its plan at this time; and

WHEREAS, some new developers, being aware of the existing moratorium, nonetheless are desirous of conditionally processing their applications for development approval before the Planning Board/Board of Adjustment.

WHEREAS, the Borough of Lebanon has determined that such owners and developers should be permitted to present their applications under certain conditions which protect the Borough of Lebanon from any future adverse actions or ramifications based upon allowing the municipal review of such applications for development under the current circumstances.

NOW THEREFORE BE IT ORDAINED by the Council, of the Borough of Lebanon, in the County of Hunterdon, and State of New Jersey, with the approval of the Mayor, that the Land Use Ordinances of the Borough of Lebanon shall be amended to provide as follows:

SECTION ONE: Any applicant for approval of development by the Planning Board and/or Board of Adjustment of the Borough of Lebanon may submit an application which acknowledges by way of separate written agreement, that in consideration of the Board deeming the application complete without a contract for water service from the Clinton Water Department and hearing such application, the applicant acknowledges and it shall be made a condition of any approval and included in the Board's Memorializing Resolution that:

(1) The applicant acknowledges that there exists a moratorium by the New Jersey Department of Environmental Protection issued to the Clinton Water Company prohibiting any new water service agreements or hook-up pending further Order of the NJDEP.

(2) Nonetheless, the applicant desires to proceed with an application to seek Board approval subject to such conditions imposed by the Board, including but not limited to the requirement to secure a written contract for water service by, though, or with the Clinton Water Company or authorization for such other water service source

approved by the New Jersey Department of Environmental Protection or such regulatory agency having jurisdiction.

(3) The Applicant acknowledges that all conditions of the Board approval, including the provision of sufficient water service to the development shall be satisfied prior to a construction permit being authorized for the development.

(4) The Applicant, Owner and Developer of the property assumes all risks associated with the failure to first secure a written contract for the provision of water to their development or such other pre-approved water source as outlined above.

(5) The Applicant, Owner and Developer hereby indemnifies and shall hold the Borough of Lebanon, all government agencies, their agents, representatives, employees, elected representatives, and professional consultants, harmless from any and all claims of any party which may result or be causally related to their decision to pursue approvals without first securing such prior agreements for water service or pre-approved alternate water source for their property.

SECTION TWO: All other provisions of the Ordinance shall remain unchanged and in full force and effect. This Ordinance shall take effect immediately after final adoption and publication in accordance with the laws of the State of New Jersey.

SECTION THREE: In event that any clause, section, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason; it shall be deemed severable, and the Borough Council hereby declares its intent that the balance of the Ordinance shall not be affected by the said invalidity, and the remainder shall remain in full force and effect.

SECTION FOUR: Effective date. This Ordinance shall take effect upon final adoption and publication in accordance with the law.

ATTEST
Karen Romano, Borough Clerk

BOROUGH OF LEBANON
Michael Reino, Mayor

Vote after public hearing and upon final adoption:

Berger 1
Burton 1
Junge 0
Knoble 0
Pittinger 1
Schmidt 1

Ordinance approved by the Governing Body and presented
to the Mayor on _____, 2014

Veto in Whole or Part:
Michael Reino, Mayor
Date:

Approved:
Michael Reino, Mayor
Date:

Returned to Borough Clerk with statement attached on _____, 2014

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on March 19, 2014 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Lebanon to be held on at April 8, 2014 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey

Karen M. Romano, Borough Clerk

**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

ORDINANCE NO. 2014-02

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCES OF THE BOROUGH
OF LEBANON REGARDING WATER SERVICE DURING THE MORATORIUM
IMPOSED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION
NOTICE**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Lebanon, in the County of Hunterdon, State of New Jersey, held in the Municipal Building on the 19th day of March 2014, and the same came up for final passage at a meeting of the said Borough Council on the 21st day of April 8, 2014 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey.

Karen M. Romano, RMC
Borough Clerk

INTRODUCED: March 19, 2014

ADOPTED: April 8, 2014

The motion passed by the following roll call vote:

YES: Councilman Knoble Council President Burton, Councilman Berger, Councilwoman Schmidt, Councilman Pittinger and Councilman Junge

NO: None

ABSTAIN: None

ABSENT: None

ADJOURNMENT:

Councilwoman Schmidt moved and Councilman Pittinger seconded a motion to adjourn, there being no further business to come before Council. The meeting was adjourned at 7:45 PM by unanimous vote.

Respectfully Submitted

Karen M. Romano, RMC
Borough Clerk

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LBCC
1-15-2014

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LBCC
1-15-2014

LBCC

2-20-13

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