

**STILLWATER TOWNSHIP COMMITTEE MEETING**  
**MINUTES**  
**October 4, 2011**  
**Regular Meeting**

A REGULAR MEETING of the Stillwater Township Committee was called to order by Mayor Scott at 6 p.m. noting the meeting date, time and place were duly published in the New Jersey Herald and posted at the Town Hall and advised those present that this meeting was being held in compliance with provisions of P.L. 1975, Chapter 231, Sections 4 & 13.

Roll Call was taken and the flag was saluted.

PRESENT: Mayor Scott, Deputy Mayor Fisher, Committeeman Morrison, Committeeman Gross, Committeewoman Straway, Acting Municipal Clerk Lynda Knott and Attorney Lawrence Cohen.

**Executive Session:**

After the reading of the following Resolution to enter into Executive Session, a **motion** was made by Mrs. Straway, seconded by Mr. Fisher and unanimously carried by roll call vote to adopt the resolution permitting the Committee to go into Executive Session at 6:12 p.m.

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting under certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Stillwater, in the County of Sussex and State of New Jersey as follows:

1. The public shall be excluded from that portion of this meeting.
2. The general nature of the subject matter to be discussed is as follows: Personnel; Contract; Real Property; Litigation/Potential Litigation
3. As nearly as can now be ascertained, the matter or matters to be discussed at this time will be disclosed to the public when such matters are resolved.

There being no further business to attend to, a **motion** was made by Mr. Fisher, seconded by Mayor Scott to conclude the Executive Session at 7:05 p.m., unanimously carried by roll call vote.

**Regular Session:**

**CONSENT AGENDA:**

**ALL MATTERS LISTED BELOW ARE CONSIDERED ROUTINE IN NATURE AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF ANY DISCUSSION IS DESIRED, THAT PARTICULAR ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED SEPERATELY ON THE REGULAR AGENDA.**

**Reports:**

Tax Collection Report: September 2011

Building Department Report: September 2011

**Minutes:**

Regular Meeting: September 20, 2011

Executive Session: September 20, 2011

**Resolutions:**

**2011-60** Recognizing October as Breast Cancer Awareness Month

**2011-61** Approving Submission of a Grant Application and the Execution of a Grant Contract with the New Jersey Department of Transportation for the Middleville Road Improvements Phase II

**2011-62** Approving Submission of a Grant Application and the Execution of a Grant Contract with the New Jersey Department of Transportation for the Sprout Hill Improvements

**2011-63** Proclaiming October as Community Planning Month

**2011-64** Establishing a Petty Cash Fund

Mr. Gross made a **motion** to approve the Consent Agenda, seconded by Mr. Fisher.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

**Bill List Cycle #17:** \$1,502,324.92

Mr. Morrison made a **motion** to approve Bill Cycle #17, in the amount of \$1,502,324.92, subject to the approval of the Municipal Auditor, seconded by Mr. Fisher.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

**Amendments to the Agenda:** None

**Committeeperson Reports:**

**Mr. Fisher** reported the following on the Recreation Commission (RC) meeting: The RC discussed appointing alternate members; moving Stillwater Day to June 9<sup>th</sup> next year, future park plans, and composing a listing of all volunteers who helped clean the parks for FEMA.

Mr. Fisher reported the Stillwater Fire Department had 66 calls during the month of September.

Mr. Scott asked Mr. Fisher to ask the RC to consider providing bags for dog droppings at the parks.

Mr. Morrison stated the RC is statutory and to appoint alternate members the RC would have to be dissolved and a Recreation Committee established. Attorney Cohen would research the procedure and whether or not a referendum would be necessary.

**Mrs. Straway** reported the following on the Stillwater Board of Education meeting: Christopher Bell, the new Assistant Principal, was in attendance; school trips were approved; a power point presentation was provided on the school's report card and they did very well; a personal aide was hired for an IEP student; and there will only be one BOE meeting during October due to the school board convention.

**Mr. Gross** reported the following on the Zoning Board meeting: The Nextel application was heard at the last meeting and was carried to October 24, 2011 at 7:30 p.m. at Stillwater School.

He reported the Recycling Center purchased a new cash register.

**Mr. Morrison** reported he met with Mr. Vreeland regarding the Middleville Road project. He provided an update on the project progress. Mr. Morrison would like to research if track filling could be done on Mt. Benevolence Road through the Morris County Co-op. He would report back to the Committee on his research results and estimates obtained over the next few weeks.

Mr. Morrison discussed an email that was sent from the RC Chairperson to the Clerk, referencing a request made at the September 6, 2011 Township Committee meeting regarding the services of the Township Engineer at Veteran's Memorial Park (VMP) and he clarified that such a request was never made. Mr. Morrison felt no member of the RC or any other board should be meeting with professionals for any reason without a Committee member or two present as discussions are misinterpreted or never take place and there is a loss in continuity. Mr. Morrison expressed concern that the email from the RC Chairperson did not copy the liaison to that Commission. He stated the Committee makes decisions collectively, and prior to professionals being authorized to do something, the entire Committee has to be polled or it must be addressed at a meeting. Mr. Gross stated all correspondence must go through the Municipal Clerk to be distributed to the appropriate person. Mrs. Straway stated that at the September 6, 2011 Committee meeting, the Committee requested that all issues dealing with the hurricane be addressed through the office of the Clerk. Mr. Morrison stated it is the responsibility of the Chair of a board or commission to make sure the liaison is copied.

**Mayor Scott** reported that he, the Clerk and representatives of Fredon met with FEMA on September 30, 2011. Mayor Scott stated he and other Committee members would be attending the next Freeholder's Meeting to address the issue of cleaning the debris from under the County bridge at Neldon's Brook. Mayor Scott reported that he and Mrs. Straway met with Prosecutor Higgins at the Courthouse and the case files have to be re-boxed due to mold and dampness. He is currently talking to Mr. Hendershot about building a container to store the items properly.

Mayor Scott referred to the dispatching services agreement and asked the Committee to review it as well as others that are submitted. This item will be added to the next agenda for consideration.

Mayor Scott reported Jackman Excavating will perform the work on Five Points Lane and he commended the excavating company on their work in Swartswood.

**Open Public Session (agenda items only):**

**This portion of the meeting was opened for public comment on agenda items only.**

**There being no members of the public wishing to speak, this portion of the meeting was closed.**

**New Business:**

**ORDINANCE #2011-12 for Public Hearing and Adoption**

**TOWNSHIP OF STILLWATER  
SUSSEX COUNTY, NEW JERSEY**

**ORDINANCE 2011- 12**

**CHAPTER 240-114P**

AN ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP OF STILLWATER'S BUILDING AND HOUSING ORDINANCE (CHAPTER 240-114P), SPECIFICALLY ADDING SECTION 114P REGULATING OUTDOOR WOOD FURNACES

**SECTION 1. PURPOSE.** This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Township of Stillwater due to the air pollution and fire hazards of Outdoor wood furnaces and outdoor burning.

**SECTION 2. FINDINGS.** Outdoor Wood Furnaces, including outdoor wood-fired hydronic heaters, (OWF), typically burn wood to heat water that is piped underground to a nearby structure (usually a home) resulting in heat for a building. With smoldering fires and short smokestacks OWFs can create heavy smoke that is released close to the ground, where it is not only a nuisance but unhealthy to breathe. Smoke contains **particulates** which can affect both the lungs and the heart. Therefore, in order to promote public health, safety and welfare of the citizens of the Township of Stillwater OWFs as defined in this ordinance shall be subject to regulation as set forth herein.

**SECTION 3. DEFINITIONS.**

A. **Outdoor Wood Furnace:** Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is primarily hand-loaded for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler, Outdoor Wood-fired Hydronic Heater, Outdoor Hydronic Heater or Outdoor Wood Pellet Furnace.

B. **Chimney:** Flue or flues that carries off exhaust from an Outdoor Wood Furnace firebox or burn chamber.

C. **EPA OHH Phase 2 Program:** EPA OHH (Outdoor Hydronic Heater) Phase 2 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly.

D. **EPA OHH Phase 2 Program Qualified Model:** An Outdoor Hydronic Heater that has been EPA OHH Phase 2 Program qualified. The model has met the EPA OHH Phase 2 emission level and is labeled accordingly.

E. **Existing Outdoor Wood Furnace:** An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this ordinance and has been issued the Certificate of Occupancy (CO).The furnaces shall at a minimum meet EPA and NJDEP air emission requirements.

F. **New Outdoor Wood Furnace:** An Outdoor Wood Furnace that is first installed, established or constructed after the effective date of this ordinance. All new furnaces shall meet or be more limiting in air emissions than the EPA OHH Phase 2 Program requirements and shall be in compliance with NJDEP air emission requirements.

G. **Natural Wood:** Wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

H. **Permit to Operate an Outdoor Wood Furnace:** All persons or authorized representatives planning to install an Outdoor Wood Furnace shall file a site plan for conditional use in all zones, as stated in Section 5 E. and F. of this ordinance, from the Planning Board prior to obtaining a permit from the Building Department and submit required documentation in accordance with this ordinance, including the required affidavit of knowledge regarding the installation and use of an OWF. This permit shall be in addition to any other permits, such as plumbing, electrical, and other sub-code permits and fees, as required by the Building Department. Fees shall be set by the Township Committee. A permit shall be obtained prior to operation, as defined by burning of fuel, connection of electric, and connection of plumbing. A permit shall also be obtained prior to operating an Outdoor Wood Furnace following a transfer or sale of property at which the furnace is located. This shall be incorporated as part of the Certificate of Continued Occupancy (CCO).

I. **Significant Changes in Elevation:** For the purpose of this ordinance, significant changes in elevation are any natural or manmade objects, such as hills, ridgelines, stone outcroppings, tree lines, and structures, which are greater than 30 feet in height above the natural grade of the Outdoor Wood Furnace.

J. **Site Plan:** For the purpose of this Ordinance, a site plan can be prepared by the owner of the property and does not require a professional engineer or surveyor. The most recent Survey for the property should be used and indicate all structures on the owner's property. The site plan shall indicate the location of the furnace and height of the chimney. The site plan shall be prepared by the owner or authorized representative of the owner of any Outdoor Wood Furnace and shall at a minimum show the metes and bounds of owner's property and straight line distance from the Outdoor Wood Furnace to 1) property lines, and 2) owner's residence.

K. **Definition of Affidavit of Knowledge:** Acknowledgement of New Jersey Administrative Codes, Title 7, Chapter 27 (N.J.A.C. 7:27).

**SECTION 4. REGULATIONS PERTAINING TO CONSTRUCTION AND INSTALLATION; NUISANCE**

A. No person shall, from the effective date of this ordinance, construct, install, establish, operate or maintain an Outdoor Wood Furnace other than in compliance with the applicable sections of this ordinance.

B. No person shall, from the effective date of this ordinance operate an Existing Outdoor Wood Furnace unless such operation conforms with the manufacturer's instructions regarding such operation and maintenance, and the requirements of this ordinance regarding fuels that may be burned in an Outdoor Wood Furnace as set forth in Sections 3.A, 3.B, 3.J, and 5.A of this ordinance.

C. All Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this ordinance. In the event of a conflict, the requirements of this ordinance shall apply unless the manufacturer's instructions are more strict, in which case the manufacturer's instructions shall apply. Outdoor woodburning boilers in New Jersey must comply with NJAC 7:27-3.2, "Control and Prohibition of Smoke from Combustion of Fuel." This regulation mandates that stationary indirect heat exchangers, such as outdoor woodburning boilers, produce no smoke, except for three minutes in any 30-minute period. This does not include outdoor fireplaces such as chimineas and firepits.

D. The owner of any new Outdoor Wood Furnace shall obtain a Permit to Operate an Outdoor Wood Furnace and submit the following documents:

1. The manufacturer's owner's manual or installation instructions to the building department prior to installation
2. Provide a site plan
3. Affidavit of Knowledge

All Outdoor Wood Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards and meet emission limits of EPA OHH Phase 2 Program.

F. **Nuisance:** Nuisance and nuisance element are defined in Section 240-4 of the Stillwater Land Development Code. If any Outdoor Wood Furnace is, through the course of a proper investigation by local or state authorities, creating a verifiable nuisance, as defined by ordinance or law, the owner shall be required to take the following steps at the direction of the building department or code enforcement officer of Stillwater Township:

Modifications made to the unit to eliminate the nuisance such as extending the chimney or relocating the Outdoor Wood Furnace or both, as specified in this ordinance.

Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.

Demonstrate that the Outdoor Wood Furnace is installed in compliance with manufacturer's instructions.

G. The sale or transfer of any property with an Existing Outdoor Wood Furnace shall be required to obtain a permit to operate as defined in Section 3.H of this ordinance. The furnace unit shall not be operated until an inspection of the furnace is conducted and operation of the furnace in accordance with manufacturer's instructions is verified by the appropriate official.

#### **SECTION 5. REGULATIONS PERTAINING TO OPERATION, SETBACKS AND CHIMNEY HEIGHT**

Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

A. Fuel burned in any Outdoor Wood Furnace shall be only natural untreated wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas, or propane backup.

B. The location of any Outdoor Wood Furnace shall not be located in front of the primary residence. For corner lots, this limitation shall apply to both residential structure sides fronting a roadway.

C. No Outdoor Wood Furnace shall be located within 500 feet of the property lines of a school, daycare, medical facility or public park.

D. The following fuels are strictly prohibited in any new and/or existing Outdoor Wood Furnaces:

(1) Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.

(2) Rubbish or garbage, including but not limited to food wastes, food packaging, food wraps.

(3) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

(4) Rubber, including tires or other synthetic rubber-like products. Newspaper, cardboard, or any paper with ink or dye products.

Any other items not specifically allowed by the manufacturer or this provision. Setbacks for any New Outdoor Wood Furnace model:

The Outdoor Wood Furnace setback from property lines shall comply with Chapter 240, Section 114P of Stillwater Ordinance for Yard and Dimensional setbacks but at a minimum shall not have less than a 200 foot side yard and 200 foot rear yard from the property line.

The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.

Chimney heights for any New Outdoor Wood Furnace model:

(1) The stack height shall be in accordance with manufacturer's instructions but in no case be less than 5 feet above the peak roof line of the furnace unit.

Outdoor wood-pellet furnaces that are specifically designed to burn wood pellet fuel, corn or other biomass pellets with metered fuel and air feed and controlled combustion engineering shall be installed per the manufacturer's recommendations.

The OWF is only to be used October 1<sup>st</sup> through May 1<sup>st</sup>.

**SECTION 6. SITUATIONS AS TO WHERE THIS ORDINANCE DOES NOT APPLY.** This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances. This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned are specifically precluded by this ordinance. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

**SECTION 7. VIOLATION AND PENALTIES.** Please refer to Stillwater Land Development Code Section 240-132.

**SECTION 8. INSPECTION AND RIGHT OF ENTRY.** The code enforcement officer of Stillwater Township or any authorized officer, agent, employee or representative of the Township who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. If the owner or occupant of the premises denies access to the property for this purpose, the Township may apply for a court order or warrant pursuant to law to compel entry to the property to carry out the provisions of this ordinance.

**SECTION 9. SEVERABILITY.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provisions so declared invalid shall be inseparable from the remainder of any portion thereof.

**SECTION 10. INCONSISTENT ORDINANCES REPEALED.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 11. EFFECTIVE DATE.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Mrs. Straway made a **motion** to open this portion of the meeting for public comment on Ordinance 2011-12, seconded by Mr. Gross.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes  
**Carol Fredericks, 913 Middleville Road** asked for clarification on whether or not her outdoor wood furnace would be grandfathered regarding the required setbacks. Mrs. Straway stated Mrs. Fredericks would not be affected by the ordinance and would be well within the permitted setbacks.

**There being no further public comment on Ordinance 2011-12, this portion of the meeting was closed.**

Mrs. Straway made a **motion** to adopt Ordinance 2011-12, seconded by Mr. Fisher.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

### **ORDINANCE #2011-13 for Public Hearing and Adoption**

#### **TOWNSHIP OF STILLWATER SUSSEX COUNTY, NEW JERSEY ORDINANCE NO. 2011-13**

ORDINANCE AMENDING SECTION 10, ENTITLED "ADMINISTRATION" OF THE STILLWATER TOWNSHIP MUNICIPAL CODE AND ESTABLISHING ARTICLE 27, ENTITLED "RESTRICTION ON CONTRACTORS DEALING WITH TOWNSHIP OF STILLWATER (PAY-TO-PLAY REGULATIONS)" **CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE**

BE IT ORDAINED by the Township Committee of the Township of Stillwater, County of Sussex, State of New Jersey, as follows:

WHEREAS, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and bylaws as necessary and proper for good government, as well as the public health, safety and welfare; and

WHEREAS, pursuant to N.J.S.A. 40A:11-51, a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

WHEREAS, in the interest of good government, the people and the government of the Township of Stillwater desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

NOW, THEREFORE, BE IT ORDAINED, that it shall be the policy of the Township of Stillwater to create such a regulation which states that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the Township of Stillwater.

BE IT FURTHER ORDAINED by the Township of Stillwater, in the County of Sussex, and State of New Jersey, as follows:

#### **SECTION I**

The following is added to Chapter 20 of the Code of the Township of Stillwater:

#### **Article II**

Contracts – Pay to Play Restrictions

20-5 Definitions.

As used in this ordinance:

(a) "Campaign Committee" means (i) every candidate for Stillwater Township elective municipal office; (ii) every candidate Committee established by or for the benefit of a candidate for Stillwater Township elective municipal office; (iii) every joint candidate Committee established in whole or in part by or for the benefit of a candidate for Stillwater Township elective municipal office; (iv) every political party Committee of Stillwater Township; and (v) every political party Committee of the County of Sussex. The terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7.

(b) "Contribution" has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.

(c) A "contract for professional or extraordinary services" means all contracts for "professional services" and "extraordinary unspecifiable services" as such term is used in N.J.S.A. 40A:11-5.

(d) For purposes of this Ordinance, a “Business Entity” whose contributions are regulated by this ordinance means: (i) an individual including the individual’s spouse, and any child/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (i) and (ii) above and their spouses and child/children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive, from a person described in subparagraph (i) above, more than \$100,000.00 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve (12) month period prior to the award of, or during the term of, a contract subject to this ordinance; and (vi) all persons who are an “affiliate” of a Business Entity as defined in sections (i), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

#### 20-6 Prohibition on Awarding Public Contracts to Certain Contributors.

A. To the extent that it is not inconsistent with state or federal law, Stillwater Township and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure “professional services” as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance or other consulting service (hereinafter “Professional Services”), nor “extraordinary unspecified services” as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter “Extraordinary Unspecified Services”) from any Business Entity if such Business Entity has solicited or made any Contribution to (i) any candidate for Stillwater Township elective municipal office; (ii) any candidate Committee established by or for the benefit of a candidate for Stillwater Township elective municipal office; (iii) any joint candidate Committee established in whole or in part by or for the benefit of a candidate for Stillwater Township elective municipal office; (iv) any political party Committee of Stillwater Township; and (v) any political party Committee of the County of Sussex in excess of the thresholds specified in subsection (g) within one calendar year immediately preceding the date of the contract or agreement.

B. No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with Stillwater Township or any of its departments or instrumentalities, for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution, to (i) a candidate, candidate Committee or joint candidates Committee of any candidate for elective municipal office in Stillwater Township, or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Stillwater Township or County of Sussex political Committee or political party Committee between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.

C. The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year each for any purpose to any candidate or candidate Committee for Mayor or governing body, or \$500 per calendar year to any joint candidates Committee for Mayor or governing body, or \$300 per calendar year to a political Committee or political party Committee of Stillwater Township; and (ii) \$500 maximum per calendar year to a County of Sussex political Committee or political party Committee. However, for each Business Entity party to a contract for Professional or Extraordinary Unspecified Services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such Business Entity’s Contribution is aggregated with all “persons” defined in subparagraph (d) of “Definitions” above, by virtue of their affiliation to that Business Entity party, a maximum of \$2,500 to all Stillwater Township candidates, candidate Committees, joint candidate Committees, and holders of public office having ultimate responsibility for the award of a contract, all Stillwater Township or County of Sussex political Committees and political party Committees as described herein combined, without violating subsection (a) of this section.

D. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (i) the Stillwater Township Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing body, or (ii) the Mayor of Stillwater Township, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

E. Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this ordinance.

#### 20-6. Contributions Made Prior to the Effective Date.

No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

#### 20-7 Contract Renewal.

No contract subject to this ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this ordinance if it were an initial contract.

#### 20-8 Contribution Statement by Business Entity.

A. Prior to awarding any contract or agreement to procure Professional Services” or Extraordinary Unspecified Services” from any Business Entity, Stillwater Township or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he/she/it has not made a Contribution in violation of Section 1 of this Ordinance. Stillwater Township, its purchasing agents and departments shall be responsible for informing the Mayor and Committee that the aforementioned sworn statement has been received and that the Business Entity is not in violation of this ordinance, prior to awarding the contract or agreement.

B. A Business Entity shall have a continuing duty to report to Stillwater Township any Contributions that constitute a violation of this act that are made during the negotiation, proposal process or the duration of a contract. Stillwater Township, its purchasing agents and departments shall be responsible for informing the governing body within ten (10) business days after receipt of said report from the Business Entity, or at the next Mayor and Committee meeting following receipt of said report from the Business Entity, or whichever comes first.

C. The certification required under this subsection shall be made prior to entry into the contract or agreement with Stillwater Township, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

20-9 Return of Excess Contributions.

A Business Entity that is a party to a contract for Professional Services or Extraordinary Unspecified Services may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and receives reimbursement of the Contribution from the recipient of such Contribution.

20-10 Exemptions

The contribution limitations prior to entering into a contract in Section 1(a) do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefore within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

20-11 Penalty

A. It shall be a material breach of the terms of a Stillwater Township agreement or contract for Professional Services or Extraordinary Unspecified Services when a Business Entity that is a party to such agreement or contract has: (i) made or solicited a Contribution in violation of this Ordinance; (ii) knowingly concealed or misrepresented a Contribution given or received; (iii) made or solicited Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (iv) made or solicited any Contribution on the condition or with the agreement that it will be re-contributed to a candidate, candidate Committee or joint candidates Committee of any candidate for elective municipal office in Stillwater Township, or a holder of public office having ultimate responsibility for the award of a contract, or any Stillwater Township or County of Sussex political Committee or political party Committee; (v) engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by the professional Business Entity itself, would subject that entity to the restrictions of this Ordinance; (vi) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of this Ordinance.

B. Furthermore, any Business Entity that violates Section 7 (a) (i-viii) shall be disqualified from eligibility for future Stillwater Township contracts for a period of four (4) calendar years from the date of the violation.

C. Any person who knowingly, purposely, or recklessly violates any provision of this ordinance, or who conspires with another person to violate any provision of this ordinance, or who, with the purpose of promoting or facilitating a violation of this ordinance, solicits another person to commit it, or aids or agrees, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the ordinances of Stillwater Township.

## SECTION II

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

## SECTION III

All ordinances or parts of ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

## SECTION IV

This Ordinance shall become effective twenty (20) days following the final adoption thereof by the Mayor and Committee of Stillwater Township and shall be published as required by law.

Mr. Gross made a **motion** to open this portion of the meeting for public comment on Ordinance 2011-13 seconded by Mrs. Straway.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

**There being no public comment on Ordinance 2011-13, this portion of the meeting was closed.**

Mrs. Straway made a **motion** to adopt Ordinance 2011-13, seconded by Mr. Gross.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

## **ORDINANCE #2011-14 Introduction:**

**2011-14 Ordinance Fixing Salaries and Wages of Officers and Employees of the Township of Stillwater, County of Sussex and State of New Jersey, for the year 2011**

Mrs. Straway made a **motion** to introduce Ordinance 2011-14, seconded by Mr. Gross.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

**The public hearing will be held on October 18, 2011**

**Discussion Item:**

**Neldon's Brook:** Mrs. Straway reported that she and Mr. Vreeland have walked the site several times. She reviewed a report submitted by Mr. Vreeland who is in contact with County Engineer Bill Koppennal to address the debris under and on the other side of the bridge. The biggest concern is preventing the undermining of the bridge pilings. She reviewed recommendations made by Mr. Vreeland and stated the bend in the stream has been reestablished and armored. Mr. Vreeland has recommended extending the existing rock wall to allow the additional channel the ability to overflow. Mr. Morrison will meet with Mr. Vreeland to discuss the project further and obtain estimates.

**Open Public Session:**

**There being no members of the public wishing to speak, this portion of the meeting was closed to the public.**

**Attorney Report:** Attorney Cohen reported the final decision on the Wolosky matter has been received, confirming the success of the Township in the case.

**Correspondence:**

•Mayor's Advisory Correspondence is available for review in the Correspondence Binder.

Mrs. Straway made a **motion** to close the public portion of the meeting, seconded by Mayor Scott.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

**Executive Session:**

After the reading of the following Resolution to enter into Executive Session, a **motion** was made by Mr. Morrison, seconded by Mr. Fisher and unanimously carried by roll call vote to adopt the resolution permitting the Committee to go into Executive Session at 7:50 p.m.

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting under certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Stillwater, in the County of Sussex and State of New Jersey as follows:

1. The public shall be excluded from that portion of this meeting.
2. The general nature of the subject matter to be discussed is as follows: Personnel; Contract; Real Property; Litigation/Potential Litigation
3. As nearly as can now be ascertained, the matter or matters to be discussed at this time will be disclosed to the public when such matters are resolved.

There being no further business to attend to, a **motion** was made by Mr. Morrison, seconded by Mr. Fisher to conclude the Executive Session at 8:30 p.m., unanimously carried by roll call vote.

**Regular Session:**

Mayor Scott made a **motion** to authorize the Municipal Auditor to reconcile the bank accounts and begin the audit process, seconded by Mrs. Straway.

**Roll Call Vote:** Deputy Mayor Fisher, yes, Mr. Gross, yes, Mr. Morrison, yes, Mrs. Straway, yes, Mayor Scott, yes

There being no further business, Mrs. Straway made a **motion** to adjourn the meeting at 8:30 p.m., seconded by Mr. Fisher. In a voice vote, all were in favor.

Respectfully submitted,

Kathy Wunder