

**MAYOR AND COUNCIL
REGULAR MEETING
December 16, 2014
7:00 P.M.**

CALL TO ORDER

SALUTE TO COLORS

Mayor Maio invited all those present to stand in a salute to the colors.

MAYOR'S STATEMENT AS TO COMPLIANCE WITH P.L. 1975

Adequate Notice of this Meeting has been provided according to the Open Public Meetings Act, Assembly Bill 1030. Notice of this Meeting was included in the Annual Meeting Notice sent to the New Jersey Herald and the Daily Record on January 8, 2014 and was placed on the Official Bulletin Board in the Municipal Building.

In the event the Mayor and Council have not addressed all items on this Agenda by 11:00 PM and they are of the opinion that they cannot complete the Agenda in a reasonable time period, the Mayor and Council may exercise their option to continue this meeting at an agreed to date, time and place within ten (10) days of this meeting. Please turn off all cell phones for the duration of this meeting.

ROLL CALL

Council Members:

Councilwoman Zdichocki – present	Councilman Depew – present
Councilman Thornton - present	Councilwoman Thistleton – present
Councilwoman Kuncken - present	Councilman Benson – present

Mayor Maio – present

Mayor Maio stated tonight is Councilman James Benson's last meeting as a member of the Governing Body after serving for 14 years. Councilman Benson has also served on the Land Use Board, the Board of Health and will continue to serve on the MSA. Councilman Benson has also volunteered to serve again on the Land Use Board. Mayor Maio stated that Councilman Benson had made it clear to Administrator McNeilly that he did not wish to receive the traditional going away clock. Mayor Maio presented Councilman Benson with his gift. Councilman Benson confirmed he had expressed a wish not to receive the clock but he is very grateful and will treasure it. Councilman Benson stated the Governing Body has achieved many things and he gave an overview of the projects the Borough has undertaken through the years which have benefitted the community. Councilman Benson stated there have been debates and arguments from time to time but at the end of the meeting those differences were left behind.

Mayor Maio announced a fifteen minute recess for refreshments and to congratulate Councilman Benson. The meeting resumed at 7:18PM.

CITIZENS TO BE HEARD

Mayor Maio opened the meeting to the public after advising attendees that there is a five (5) minute time limit for each speaker.

Seeing no one from the public wishing to speak, Mayor Maio closed the public portion of the meeting.

MINUTES FOR APPROVAL

Mayor Maio read aloud the list of minutes being presented for approval:

November 25, 2014 Regular Business Meeting & Closed Session

On motion by Councilman Benson, seconded by Councilwoman Thistleton and carried by a majority voice vote the above listed minutes were approved. Councilman Depew abstained.

CORRESPONDENCE (List Attached)

On motion by Councilwoman Thistleton, seconded by Councilwoman Zdichocki and unanimously carried by voice vote, the list of correspondence was accepted and ordered placed on file.

COUNCIL COMMITTEE REPORTS

On motion by Councilwoman Kuncken, seconded by Councilman Depew and carried unanimously by voice vote, the Council Committee Reports were waived for this meeting.

Public Safety – Councilwomen Kuncken/Thistleton

(Police, Fire, Ambulance, Court & Violations Bureau, Emergency Management)

Finance & Administration – Councilman Benson/Councilwoman Kuncken

Community Development – Councilwoman Zdichocki/Councilman Thornton

(Zoning, Construction, Code Enforcement, Economic Development, Chamber of Commerce, Downtown Revitalization)

Municipal Infrastructure – Councilman Thornton/Councilwoman Zdichocki

(Water Distribution, Sewer Collection System, Road Construction & Maintenance, Buildings & Grounds)

Information Technology – Councilmen Depew/Benson

Boards/Commissions – Councilwoman Thistleton/Councilman Depew

ADMINISTRATOR'S REPORT

Electric Supplier Auction – Administrator McNeilly stated two bidders participated in the Residential Aggregation Auction last Friday. The Passaic County Energy Pricing Cooperative System rejected the bids due to the fact that the lowest conforming bid came in higher than the current rate of \$0.102869 per kilowatt. The auction may take place again in the future. Mayor Maio asked Administrator McNeilly how the residents are going to be informed. Administrator McNeilly stated a flyer can be placed in the next water bill. Mayor Maio suggested the information be placed on the Borough website and a handout be placed on the counter at Borough Hall. Councilwoman Zdichocki suggested sending out a NIXLE community message. Administrator McNeilly stated all of the towns participating in the energy co-op are on hold at this time; Andover Borough, Franklin Borough, Hardyston Borough, Fredon Township, Stanhope Borough and Wayne Township. If the results had been different, the savings for the five Sussex County towns could have had an estimated savings of \$1.4 million.

Sussex County Division of Planning (Wastewater Plan) – Administrator McNeilly stated Alice Brees from the Sussex County Division of Planning has requested information for the wastewater management plan. Administrator McNeilly stated he and Eric Keller, Borough Engineer, will work together to prepare the required information.

Borough 2015 Calendar – Administrator McNeilly asked Linda Chirip, Deputy Clerk, to give an update on the calendar. Ms. Chirip stated the Borough calendar has been printed and the printer, Castle Printing, will be bringing them to the post office on Thursday. This is the first time a printer has offered to process the calendars at the Post Office. Mayor Maio asked if arrangements will be made for residents who have post office boxes to have the calendar delivered to their box. Ms. Chirip stated the calendars cannot be delivered to the post office boxes. The Post Office is not able to indicate which boxes belong to Stanhope residents. In order to deliver to the boxes, 400 calendars would have to be printed and post marked for delivery to every post office box. Calendars will be placed on the counter at the Post Office for residents who have post office boxes and a notice will be placed on the bulletin board at the Post Office.

COUNCIL DISCUSSION

Mr. & Mrs. Olivo Refund Request – Mayor Maio stated Mr. & Mrs. Olivo have requested a refund for various fees collected with regard to a variance they received for their property located on Sparta Road.

Administrator McNeilly stated there is a letter of request from Mr. & Mrs. Olivo. Administrator McNeilly stated he contacted the department heads and asked for a report detailing the funds which were collected. The Construction Department has collected \$2,135. Escrow developer fees total \$500 and COAH fees collected total \$2,625. As per Borough ordinance, the Construction Department would retain 20% (\$427.00) of the fee collected for plan review. The total fees which have been collected are \$5,260.00. The total of \$5,260 minus \$427 leaves a balance of \$4,833. In order for a refund to be issued for the construction and escrow fees, a resolution would have to be adopted by the Governing Body.

Mayor Maio asked what policies are in place regarding the escrow fees for the engineer. Mr. Stein stated the engineer fees are for inspections. If nothing is going to be built the fees would be returned to the applicant in due course. Mayor Maio asked what the impact would be to the variance if a refund is granted. Mr. Stein stated if the building permit is withdrawn, the variance would die. Mr. Stein stated it is his understanding that the variance came up to a year and Mr. & Mrs. Olivo asked for an extension, which was granted. Toward the end of the extension the building permits were applied for in order to keep the extension alive. If the building permits are voided, the variance will no longer exist.

Mayor Maio stated if the variance no longer exists and Mr. & Mrs. Olivo decide to build on the property in the future or sell to another owner, a new application would have to be filed with the Land Use Board. Mr. Stein confirmed Mayor Maio's statement. Councilwoman Kuncken asked why the variance does not stay with the property. Mr. Stein stated the Borough ordinance has a one year time frame. If no action takes place on the variance within that year, the applicant can go back to the board and ask for an extension. Obtaining the building permits keeps the extension valid for the year. If no work is done within that year, the applicant would be able to go back to the Land Use Board and request another extension.

Councilwoman Kuncken stated she is of the opinion there are other properties in the Borough which have gone before the Land Use Board and for various reasons work was not been done. Councilwoman Kuncken asked if they have also fallen under this type of situation. Mr. Stein stated there is a difference between a site plan and a variance. Site plans do not expire however; the Borough cannot change the ordinance or conditions for two years. In addition, three one more year extensions can be requested in order to be protected from ordinance changes. After five years the property owner would no longer be protected from ordinance changes but the site plan would remain in place. There are special provisions for a variance which require going back to the board for an extension after a year if work has not been done.

Mr. Stein stated again that the building permits were taken out to toll the expiration of the variance. If the building permits are withdrawn which were protecting the variance, the variance also goes away. Mayor Maio stated that Mr. & Mrs. Olivo were present in the audience and asked them if they understand the situation. Mr. Olivo stated his understanding is that the variance was granted to the property, not to him. The permit was issued and work has begun on the seepage pit on the property. Mr. Stein stated he was not aware work had begun and that would change the situation. Administrator McNeilly stated the Construction Official is not available at this time and Administrator McNeilly is unaware of what work may have taken place which may require an Engineer's inspection. Mr. Olivo stated the work is not ready to be inspected. Mr. Stein stated if site work has been done within the purview of the Borough Engineer, particularly drainage which will be connected to the Borough's system, an inspection will need to be done. There is a \$500 escrow fee in place for that inspection which would not be refundable. Mr. Olivo stated he understands that. Councilwoman Kuncken asked Mr. Olivo if he plans to complete this phase of the construction to the point where an inspection will be necessary and then stop moving forward. Mr. Olivo stated at this time they are unsure whether or not the property will be sold. The original plan was to stay in Stanhope but that is not working out.

Administrator McNeilly asked if the construction fees, minus the engineer's escrow, are refunded will the current work be enough to keep the variance active. Mr. Stein stated the way the ordinance is written work must begin within the year and it must be pursued. Administrator McNeilly stated his concern is what a future owner will encounter. Whatever action takes place must be firm. Mr. Stein stated the Governing Body would make the decision regarding the financial side and the Land Use Board would determine if the variance is active or expired.

Mayor Maio stated in her opinion Mr. Stein should speak with the Land Use Board Attorney to clarify the issue. Mayor Maio stated if the construction fees and the COAH fees are returned, a determination needs to be made as to whether or not it will negatively impact the variance. Mr. Olivo asked if this will prolong the refund. Mayor Maio stated the discussion this evening was strictly to discuss if the Governing Body was in agreement to return the fees. The fees, if returned, would have to be done so by a resolution at the next business meeting in January.

Mr. Olivo asked if he sells the property will the variance stay with the property. Mr. Stein confirmed the variance at this time would stay with the property. Mr. Stein stated the buyer of the property could reimburse Mr. Olivo for the fees which have been paid to the Borough. The buyer of the property would become the beneficiary of those funds. Mr. Stein stated if the property is sold Mr. Olivo could include in the contract that the rights would be assigned to the new owner. Mr. Olivo would then submit a letter to the Borough indicating the property was sold and assigning the rights to the new owner. Mayor Maio stated in her opinion if Mr. and Mrs. Olivo intend to sell the property, it would be in their best interest to keep the variance in place and be reimbursed by the buyer.

Mr. Stein stated he will speak with Mr. Thomas, Land Use Board Attorney, and Mr. Stein will inform Administrator McNeilly of the determination. Mr. Olivo stated unless Mr. Stein determines the funds can be refunded without impacting the variance he will keep the fees in place to be transferred to the new owner. Mayor Maio stated this issue will be put on hold for future discussion if necessary. Mayor Maio and Councilwoman Kuncken wished Mr. & Mrs. Olivo well and stated they were sorry the plan to build a home did not work as expected. Mr. & Mrs. Olivo thanked the Governing Body and left the meeting.

Holiday Decorating Contest Winners – Councilwoman Zdichocki stated the Recreation Commission spent several hours yesterday to select the winners of the annual holiday decorating contest. The winners are 25 Lloyd Avenue, 12 Elm Street, 9 Oak Drive, 14 Sagamore Road, 1 Towpath Lane and 12209 Dell Place.

NEW BUSINESS

RESOLUTIONS

Mayor Maio offered the following resolutions which were read by title:

Resolution 193-14

RESOLUTION APPROVING FINAL CONTRACT AMOUNT AND AUTHORIZING PAYMENT TO PACT CONSTRUCTION INC. FOR JAMES STREET WATER MAIN REPLACEMENT PROJECT

WHEREAS, the Borough of Stanhope heretofore publically bid for the James Street Water Main Replacement Project; and

WHEREAS, PACT Construction, Inc. was found to be the lowest responsive, responsible bidder with a bid in the amount of \$184,480.00; and

WHEREAS, the Borough of Stanhope heretofore awarded a contract to PACT Construction Inc. in an amount not to exceed \$184,480.00 for the James Street Water Main Replacement; and

WHEREAS, by letter dated November 25, 2014, the Borough Engineer has advised the Governing Body that PACT Construction, Inc. has submitted its final payment requisition with a total contract amount of \$187,500.00;

WHEREAS, PACT Construction, Inc.’s final payment requisition exceeds by \$3,020.00, the authorized contract amount; and

WHEREAS, the \$3,020.00 is the result of unit price adjustments primarily related to rock excavation; and

WHEREAS, the Borough Engineer has recommended to the Governing Body that the Borough award final payment to PACT Construction, Inc., based upon a total contract amount of \$187,500.00;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Stanhope that the Borough does hereby authorize an increase in the contract amount for the James Street Water Main Replacement in the amount of \$3,020.00, based on unit price adjustments; and

BE IT FURTHER RESOLVED that the Borough does hereby authorize payment to PACT Construction, Inc. for its final payment requisition based on the increased contract amount of \$187,500.00; and

BE IT FURTHER RESOLVED that the final payment to PACT Construction, Inc. is subject to certification of the availability of funds by the Chief Financial Officer.

On motion by Councilman Depew, seconded by Councilwoman Zdichocki and unanimously carried by the following roll call vote the foregoing resolution was duly adopted.

Roll Call:

Councilwoman Zdichocki – yes	Councilman Depew – yes
Councilman Thornton - yes	Councilwoman Thistleton – yes
Councilwoman Kuncken - yes	Councilman Benson – yes

Resolution 194-14

RESOLUTION AUTHORIZING A TRANSFER OF 2014 APPROPRIATIONS

WHEREAS, the Finance Officer certifies that there appear to be insufficient funds in the budgetary accounts listed below to meet the demands thereon for the balance of the year; and

WHEREAS, the Finance Officer certifies that there appears to be a surplus in the budgetary accounts listed below, over and above the demand deemed necessary for the balance of the year; and

WHEREAS, N.J.S. 40A:4-58 provides that transfers of funds may be made during the last two months of the budget year;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stanhope that the Borough Finance Officer is authorized to make a transfer in 2014 budget appropriations in the amount of \$90.00 within the Current Fund, as follows:

CURRENT FUND	From:	To:
Land Use - O/E	\$ 90.00	
Land Use - S & W		\$ 90.00
	<u>\$ 90.00</u>	<u>\$ 90.00</u>

On motion by Councilman Benson, seconded by Councilwoman Zdichocki and unanimously carried by the following roll call vote the foregoing resolution was duly adopted.

Roll Call:

Councilwoman Zdichocki – yes	Councilman Depew – yes
Councilman Thornton - yes	Councilwoman Thistleton – yes
Councilwoman Kuncken - yes	Councilman Benson – yes

CONSENT AGENDA (All items listed on the Consent Agenda are considered routine by the Borough Council and were enacted by one motion of the Borough Council with no separate discussion.)

Resolution 195-14

**RESOLUTION OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF STANHOPE
AUTHORIZING THE ISSUANCE OF A TAXICAB
LICENSE TO STAR LIMO SERVICE LLC**

WHEREAS, Chapter 126 of the Stanhope Code of Ordinances requires that anyone operating a taxicab service within the Borough must obtain a license for same; and

WHEREAS, Star Limo Service LLC, operating at 122 Route 183, Stanhope have applied to the Borough Clerk for a taxicab license and have complied with all the provisions of Chapter 126; and

WHEREAS, the following vehicle is to be operated by Nelson Zuniga and Denise Padilla within the Borough of Stanhope:

Vehicle #1 – 2004 Dodge Caravan, VIN # 1D4GP24R84B507238; and

WHEREAS, the Municipal Clerk and the Zoning Officer have reviewed said application and recommend approval; and

WHEREAS, said approval is contingent upon receipt by the Borough Clerk of proof of required insurance and payment of all fees;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stanhope, County of Sussex, State of New Jersey, that the Borough Clerk is hereby authorized to issue, for the year 2015, said taxicab license to operate expiring at midnight December 31, 2015.

Resolution 196-14

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE
BOROUGH OF STANHOPE AUTHORIZING THE
ISSUANCE OF RAFFLE LICENSE RA-601**

WHEREAS the following Raffle Application has been submitted for Mayor and Council approval;

<u>Raffle #</u>	<u>Applicant</u>	<u>Type of Game</u>	<u>Dates</u>
RA-601	Stanhope Borough Senior Citizens	50/50	January 22, 2015 February 26, 2015 March 26, 2015 April 23, 2015 May 28, 2015 June 25, 2015 July 23, 2015 September 24, 2015 October 22, 2015 November 19, 2015

and;

WHEREAS said Raffle Application has been provided to the Mayor, Council and Police Department for their review;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stanhope, County of Sussex, State of New Jersey, the following:

1. The appropriate officials are hereby authorized to execute the findings and determination for the above application and shall forward same to the Legalized Games of Chance Control Commission (LGCCC) for review.
2. That the above license shall be issued pending LGCCC approval, pursuant to N.J.A.C. 13.1 et seq.

On motion by Councilman Benson, seconded by Councilman Thornton and unanimously carried by the following roll call vote the foregoing resolutions were duly adopted.

Roll Call:

Councilwoman Zdichocki – yes	Councilman Depew – yes
Councilman Thornton - yes	Councilwoman Thistleton – yes
Councilwoman Kuncken - yes	Councilman Benson – yes

PAYMENT OF BILLS

Resolution 197-14

RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF STANHOPE AUTHORIZING PAYMENT OF BILLS

WHEREAS, the Chief Finance Officer has certified that funds are available in the proper account; and

WHEREAS, the Chief Finance Officer has approved payment upon certification from the Borough Department Heads that the goods and/or services have been rendered to the Borough;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stanhope that the current bills list, dated December 16, 2014 and on file and available for public inspection in the Office of the Chief Finance Officer and approved by the Chief Finance Officer for payment, be paid.

On motion by Councilman Benson, seconded by Councilwoman Kuncken and unanimously carried by the following roll call vote the foregoing resolution was duly adopted.

Roll Call:

Councilwoman Zdichocki – yes	Councilman Depew – yes
Councilman Thornton - yes	Councilwoman Thistleton – yes
Councilwoman Kuncken - yes	Councilman Benson – yes

ATTORNEY REPORT

Mr. Stein stated he had no report.

CITIZENS TO BE HEARD

Mayor Maio opened the meeting to the public after advising attendees that there is a five (5) minute time limit for each speaker.

Seeing no one from the public wishing to speak, Mayor Maio closed the public portion of the meeting.

CLOSED SESSION

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

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stanhope, County of Sussex, New Jersey as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter-specified subject matter(s).
2. The general nature of the subject matter(s) to be discussed is as follows:
 - 1 – Personnel – Policy Manual
 - 1 – Potential Litigation – PACT Construction
3. It is anticipated at this time that the above stated subject matter(s) will be made public at the conclusion of each individual specified subject matter.
4. This resolution shall take effect immediately.

On motion by Councilman Benson, seconded by Councilman Depew, and unanimously carried by voice vote, the foregoing resolution was adopted.

Mayor Maio and Council went into Closed Session at 7:56 P.M.

At the conclusion of the Closed Session, Mayor Maio and Council reconvened the public meeting at 8:02 P.M. with all present.

Mayor Maio wished everyone a Merry Christmas. Mayor Maio stated the Reorganization Meeting will be held on January 6, 2015.

ADJOURNMENT

On a motion by Councilman Benson, seconded by Councilman Thornton, and unanimously carried by voice vote the meeting was adjourned at 8:03 P.M.

Approved:

Linda Chirip
Deputy Clerk