

**BOROUGH OF SOUTH TOMS RIVER
SPECIAL MEETING
JANUARY 7, 2014, 7:00 PM**

A regular meeting of the Council of the Borough of South Toms River was held at the Borough Hall on Monday, January 7 at 7:00 p.m

Moment of silence

Mayor Joseph Champagne observed the moment of silence.

Salute to flag

Mayor Joseph Champagne led the flag salute

Roll Call:

Present: Councilmen: Oscar Crale, Gregory Handshy, Edward Murray, Ernest Reevey, William Gleason, and Mayor Champagne
Absent: Mosley

Notice of meeting:

Joseph Kostecki, Municipal Clerk read the following statement; This meeting of the Mayor and Borough Council was called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was sent to the Asbury Park Press on January 5, 2014: in addition a copy of notice is posted on the bulletin board in the Municipal Building, and filed in the office of the Borough Clerk.

Municipal Clerk presented Ordinance 1-14, and read the First Reading by Title.

Ordinance 1-14 An Ordinance Amending Chapter Twenty Six of the Borough Code to Eliminate appeals from the Land Use Board to the Governing Body

1 -14

**THE BOROUGH OF SOUTH TOMS RIVER
IN THE COUNTY OF OCEAN
PUBLIC NOTICE**

**AN ORDINANCE AMENDING CHAPTER TWENTY SIX OF THE BOROUGH CODE TO
ELIMINATE APPEALS FROM THE LAND USE BOARD TO THE GOVERNING BODY**

WHEREAS, the Borough of South Toms River currently provides an interested party the right to appeal certain final decisions of the Borough Land Use Board to the Borough Council as more particularly described in 26-1.13 of the Borough Code; and

WHEREAS, the Borough Council intends to eliminate the right of appeal reflected in 26-1.13 of the Borough Code.

NOW THEREFORE BE IT ORDAINED that the Borough of South Toms River's Borough Code shall be amended to delete 26-1.13 in its entirety.

BE IT FURTHER ORDAINED that any Ordinance or parts of any Ordinance inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency; and

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon its final passage and publication as provided by law.

Land Use Attorney, Michael Elward, was asked to provide a brief overview on the Ordinance.

Mr. Elward stated the Ordinance provides applicants in front of the Land Use Board the right to appeal to the Superior Court system. He further stated that the current code places the appeal in front of the Borough Governing Body, and in a sense places another layer of administration to the process, which generally municipal governing bodies are less inclined to do since the subsequent appeal process would be at the Superior Court regardless. Mr. Elward stated that if the Governing Body was to maintain the current code and hear any appeals, they would not be allowed to start a case over. The Governing Body would have to review the current facts that were presented to the Land Use Board.

Councilman Reevey asked if this new change in ordinance isolates the borough in any way.

Mr. Elward stated no, and this provides one less meeting or action for the Governing Body.

Mayor Champagne stated that if the Governing Body was to hear the appeal, and then render a decision, would this still go to the Superior Court? Mr. Elward stated yes.. He further stated that the appeal going directly to the Superior Court would essentially eliminate one step along the way.

Councilman Cradle asked for clarification as to the current process.

Councilman Gleason stated that he does not like giving up any rights, and he feels this is in a sense, giving up rights. He further stated this could go the other way, and the Governing Body could vote differently from the Land Use Board.

Mr. Elward states that municipal boards generally get it right. In a sense, having both the Land Use Board and the Governing Body there is unnecessary - paralleling that a person generally uses a belt and not both a belt and suspenders.

Councilman Handschy stated that if the Governing Body turns down an applicant after the Land Use Board turns down a vote, the applicant would go to the Superior Court anyway. Mr. Elward stated that the Governing Body would be Appellate in nature, you would have to take notice of facts. Mr. Elward responded to the Councilman confirming that the Governing Body could overturn a vote of the Land Use Board, however either way the appeal can still go to the County Superior Court.

Councilman Cradle stated that he would like to take a stronger look at the Ordinance but would like to make a motion for first reading.

MOTION	SECOND	NAME	YEA	NAYS	ABSTAIN	ABSENT
x		Cradle	x			
		Handschy	x			
		Murray	x			
	x	Reevey	x			
		Gleason			x	
		Mosley				x

PUBLIC COMMENT

Sandy Ross 16 Hummel Dr stated that by passing this Ordinance, this eliminates an option by the Governing Body that can be appealed to the Superior Court anyway.

Seeing no other comments, Public Comment was closed and a resolution was read by the Municipal Clerk for Executive Session

EXECUTIVE SESSION

Resolution 2014-50 Approving the Governing Body to go into Closed Session for the purpose of discussion Personnel and Collective Bargaining

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
x		Cradle	x			
		Handschy	x			
		Murray	x			
	x	Reevey	x			
		Mosley				x
		Gleason	x			

Unanimous consent to end Executive Session and enter back into Public Session and the Municipal Clerk entertained a motion to adjourn

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT
x		Cradle	x			
		Handschy	x			
		Murray	x			

	x	Reevey	x			
		Mosley				x
		Gleason	x			

ADJOURNMENT at 7:30 pm

Respectfully submitted by Municipal Clerk

Approved

Joseph M. Champagne, Mayor

Joseph A. Kostecki, RMC
Municipal Clerk