

May 18, 2023

Township of Randolph
Municipal Building
Randolph, NJ
May 18, 2023

A. OPENING OF REGULAR MEETING

1. Call to Order

A regular meeting of the Randolph Township Council was called to order at 6:00 p.m. by Mayor Nisivoccia. This meeting held pursuant to the New Jersey Open Public Meeting Act. Adequate notice of the meeting has been provided by posting written notice of the time, date, location and to the extent known, the agenda of the meeting in Randolph Township. This notice was posted on the bulletin board in Town Hall, it was filed with the Township Clerk, and it was provided to those persons or entities requesting notification. Notice was also provided to the Randolph Reporter and the Morris County Daily Record on December 15, 2022, by emailing them the annual resolution adopted by the Council on December 8, 2022. The annual resolution, which included this meeting date, was advertised in the Randolph Reporter and the Daily Record on December 22, 2022. Notice was also provided to TapInto Randolph, the official Township online digital publication, on December 21, 2022.

2. Roll Call

PRESENT: Councilmember Elbaum
Councilmember Forstenhausler
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia

Also Present: Township Manager Greg Poff and Township Attorney Ed Buzak and Attorney Michael Edward of the Surenian Edwards, Buzak & Nolan Law Group.

3. Pledge of Allegiance

Mayor Nisivoccia led the Pledge of Allegiance.

B. PRESENTATION/PROCLAMATION

- 1. Presenting NJ State League of Municipalities Award for the 29th Annual Louis Bay 2nd Future Municipal Leaders Scholarship Competition to Tyler Zepp**

Tyler Zepp thanked the council for the recognition. He stated that he was involved in municipal services and first response within the community. He hoped to pursue a career in municipal government. He thanked the township for this opportunity.

2. Proclamations for Eagle Scouts: Drew Hull, Andrew Browne, Kole Lockett, Darren Gao and Jan Hagadorn which will be presented by Mayor Nisivoccia

Councilmember Forstenhausler made a motion to approve the proclamations. Councilmember Potter seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Forstenhausler
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia

NAYS: None

3. R-110-23 Recognizing National Gun Violence Awareness Day - June 2, 2023

Councilmember Potter made a motion to approve R-110-23. Deputy Mayor Carey seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Forstenhausler
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia

NAYS: None

C. OPEN TO THE PUBLIC

Seeing and hearing no one, the public session was closed.

D. MANAGER'S REPORT

Manager Poff reported the following:

Arts in the Park – This event is scheduled for Saturday, May 20 (Rain Date: May 21) beginning at 11:00 a.m. through 5:00 p.m. at Veterans Community Park. This annual festival celebrates visual, performing, and literary art. Local artists will have an opportunity to showcase their talent, and attendees will be able to enjoy the arts, browse vendors, and enjoy a variety of food and beverages.

Rehabilitation of County Bridge No. 1400-765 and Millbrook Avenue Closure – Morris County will be restoring the historic bridge on Millbrook Avenue between Fords Road and Pierson Hill Road. The project will require a full road closure from June 19 through August 25. The timing has been arranged so that the road is closed during the summer recess for the schools. It is recommended that residents plan accordingly. Communication of the project details and traffic detours to the public is being coordinated between the county and the township.

2023 Road Resurfacing Program – The council’s Infrastructure Workgroup has met and reported the proposed 2023 road resurfacing program favorably to the council. As a result of NJNG installing gas lines on a number of township roads, they have to pave by June 30, 2023, per their agreement with the BPU. NJNG, typically, is only required to pave ½ widths on roads that they have gas installed since they only typically disturb one side of the road. In the past, Randolph has entered into an agreement to share the costs and have the entire roads repaved where gas mains are installed. Engineering has reviewed all of the completed roads and the attached represents the agreement between NJNG and the township, which includes full-width resurfacing of Mountainside Drive, Everdale Road, Pleasant Hill Road, and Righter Road.

2023 Clean Communities Grant – The township has been notified of a \$67,813 grant award from the New Jersey Clean Communities Council. Much of this money is used for Saturday morning cleanup crews, mini-grants to community organizations that assist with Clean Communities Day, and part-time recycling center employees.

Morris JIF 2022-2023 Elected Officials Seminar – An instructor-led, live webinar for elected officials is being sponsored by the Morris County Joint Insurance Fund. The seminar is being held on May 31 at 5:00 pm (details enclosed). Attendance earns the township \$250 per elected official/administrator (subject to a cap of 5% of the MEL JIF assessment).

Installation of Wibit at Randolph Lake - Randolph Lake is getting an upgrade with the addition of a Wibit Inflatable Sports Park. The attraction allows patrons the option to reserve a set block of time per day to use the system, similar to boat rentals on the lake. Registration for membership to Randolph Lake is open.

Low-Income Household Water Assistance Program and Winter Termination Program – The Township Council is being asked to consider a resolution authorizing this federally funded program that provides funds to assist low-income households with water and sewer bills. To be eligible for LIHWAP benefits, the household must be responsible for their own water/sewer costs and have a gross income that falls at or below 60% of the New Jersey State Median Income level. The Winter Termination Program allows eligible residential customers to avoid service shutoff from November 15 through March 15 for non-payment of water, sewer, or electric service.

E. APPROVAL OF MEETING MINUTES

1. Approving the Regular Council Meeting Minutes for April 20, 2023 and May 4, 2023

Councilwoman Veech made a motion to approve the Regular Meeting Minutes of April 20, 2023 and May 4, 2023. Councilmember Hathaway seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Forstenhausler
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia

NAYS: None

F. PUBLIC HEARING - SOIL MOVEMENT HEARING – RANDOLPH REDEVELOPERS

1. Public Hearing – Randolph Redevelopers, LLC

Mayor Nisivoccia explained that the township received an application for a soil movement permit from Randolph Redevelopers for Block 119, Lot 30 on the tax map. The applicant received a preliminary and final major site plan approval along with a C-variance approval and minor subdivision approval from the Planning Board for a new multi-family residential development referenced as Liberty Village. The applicant seeks to import approximately 8,400 cubic yards of soil. Pursuant to Ordinance 15-47.4C of the Land Development Ordinances, the council has jurisdiction over the matter because the applicant seeks to import more than 2,001 cubic yards of soil onto the site. The purpose of the hearing is for the Township Council to review and act on the application. Particular consideration will be given to the following factors: soil erosion by water and wind, drainage, soil fertility, lateral support slopes, grades abutting streets and lands, land values and uses, and any other factors bearing upon or relating to the physical development of the township.

Township Clerk Donna Luciani confirmed receipt of the applicant’s proof of notice for the property owners within 200 feet, as well as the proof of publication.

Manager Poff explained that that township soil movement application process is prescribed by local ordinances. He explained that this hearing gives the public the opportunity to understand what the applicant has proposed by way of soil movement. The particular factors deal specifically with soil erosion and drainage, as well as any other factors that may be relevant to the physical development of the property as approved by the Planning Board.

Project Attorney, Peter Flannery, Esq. and Project Engineer Brian Woods of Bowman Engineering, Parsippany, NJ, were sworn in by the Township Attorney.

Mr. Flannery explained the purpose of the project. He stated that the project was for an inclusionary development that was a part of the township’s affordable housing settlement. He shared that the application was presented to the Planning Board late last year. The project

provides for a major site plan, subdivision, and various approvals for steep slopes and soil movement/import.

Councilwoman Veech inquired about the process of determining if the imported soil is graded and acceptable by the township. Mr. Wood explained that the soil is tested to ensure that requirements are met. He added that the testing is forwarded and evaluated by the Township Engineer.

Councilmember Potter referred to the application and asked why the section for large bulk permits was not filled. Mr. Woods reviewed the checklist items for the soil movement process.

Mayor Nisivoccia asked Attorney Buzak if the application was considered complete. Attorney Buzak confirmed that it was considered complete so long as the township had testimony on it.

Councilmember Potter asked if the site was defined as where the dirt was being loaded. Mr. Woods explained that the loading referred to the Randolph site, not where the dirt is coming from.

Councilmember Forstenhausler asked how many truckloads would be required to import the 8,001 cubic yards. Mr. Woods explained that the trucks could accommodate 25 cubic yards of soil. He estimated that the project would require 336 truckloads.

Councilwoman Veech asked if the trucks were anticipated to come from Hanover Avenue or Sussex Avenue. Mr. Woods stated that they did not yet anticipate the route; he added that it likely depended on the location of the pits.

Councilmember Elbaum asked if the property would be accessed from the existing curb cut on Hanover Avenue. Mr. Woods confirmed she was correct.

Councilmember Hathaway asked where the soil was needed on the property. Mr. Woods explained that the immediate front of the property was sloped.

Deputy Mayor Carey inquired if traffic disruption would not be a result of the truck loads. Mr. Woods confirmed that they had previous testimony indicating so.

OPEN TO THE PUBLIC

John Ragan of the Shongum Lake Property Owners Association (SLPOA) asked if drainage and runoff issues would result from vegetation clearing for the project. Mr. Woods stated that there would be no increase in runoff as a result of the construction process. He assured Mr. Ragan that the project would be in accordance with the township's soil movement restrictions.

Mr. Ragan asked if it was possible that a change in runoff coefficients would result in increased runoff. He asked if the soil erosion measures would contain the potential increase in runoff. Mr. Woods reviewed some of the measures. Mr. Flannery stated that they had previously provided testimony on the project's soil erosion control.

Mr. Ragan stated that the information was new to him. He informed the council that the SLPOA was concerned about the impacts of the soil movement and the potential for increase in runoff. He explained that the SLPOA had borne the cost of the dam improvements and increases for

water and sediment factors. He asked that those factors be considered as the council moves forward.

Councilwoman Veech asked if there were elements the Township Engineer could require before approval to satisfy the association's concerns. Mr. Ragan stated that removing the vegetation and changing the ground characteristics would change the flow and resistance of water in the area. He recommended that a sediment basin be installed to control the increase in runoff and allow time for the sediment to filter out.

Mr. Flannery stated that the applicant would be happy to work with the Township Engineer to address the concerns.

Mr. Ragan stated that the lake would like to have notice of when the application is submitted to the township for review. Attorney Buzak asked if he was referring to a different application. Mr. Flannery stated that the applicant would be working with the Township Engineer; they could provide an update, but he did not think the lake was required to be a part of those discussions.

Councilmember Forstenhausler referred to the retention basin in the plan. Mr. Woods explained that there were several retention basins. Councilmember Forstenhausler asked if the retention basins were separate from the permanent basins. Mr. Woods stated that it was possible depending on the site grading. Councilmember Forstenhausler asked if the developer would be working with the Township Engineer to ensure that the basins maintain the proper runoff. He asked if additional vegetation would be added to the area to replace removed vegetation. Mr. Woods confirmed that it would be added.

Mr. Ragan inquired about the revegetation timeframe for the soil movement and the revegetation. Mr. Woods briefly described soil erosion standards; he stated that the revegetation would consist of grass. Mr. Ragan asked if a developer's agreement was in place. Mr. Flannery explained that the agreement is currently in process and would be submitted soon. Mr. Ragan asked if the submission would happen presently or after the soil movement. Mr. Flannery stated that it would be after.

Councilmember Forstenhausler asked if there was a written landscaping plan and if it had been approved by the Planning Board. Mr. Woods confirmed that there is a plan and it had been approved.

Councilmember Potter asked if the water health would be evaluated for construction sediments coming into Denbrook. Mr. Woods explained that the Morris County Soil Conservation District typically inspects the construction sites for compliance.

2. R-104-23 Approving the Soil Movement Permit for Randolph Redevelopers, LLC, for Block 119, Lot 130 located at 1 West Hanover Ave. in the Township of Randolph

Mayor Nisivoccia explained that as the council is the issuing authority, they are responsible for determining if the proposed soil movement would not create conditions that are harmful to the public's health, welfare and safety, and would not result in the creation of any pits or depressions, soil erosion or facility problems, depressed land values, nor create any drainage, sewage problems or any other dangerous conditions.

Attorney Buzak explained that a memorandum issued by the Township Engineer made it clear that there would be a pre-construction meeting in the field prior to any soil movement activity. He added that the Township Engineer was cognizant of the issues Mr. Ragan raised. He assured the council that this was not the end of the process. He stated that if the council was inclined to grant the soil movement, they could do so with the addition of including a recommendation to the Township Engineer to consider the use of a sediment or retention basin and taking necessary steps to limit significant runoff. He commented that this would allow the council to emphasize the point to the Township Engineer during his review and determination.

Councilmember Forstenhausler asked if there should be a stipulation that the SLPOA be informed of the Township Engineer's determinations for moving forward. Attorney Buzak did not recommend that a special protocol be determined as the soil movement follows a standard procedure. He stated that the burden should be on the association to exercise their right to monitor the project by reaching out to the Engineering Department.

Councilmember Potter made a motion to approve R-104-23 with the addition of the addendum suggested by Attorney Buzak. Councilwoman Veech seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia
NAYS: None
ABSTAIN: Councilmember Forstenhausler

G. COMBINED ACTION RESOLUTIONS

Item #3- R-107-23 – Manager Poff explained that this item is a special solicitation that the NJDOT has made outside of what the township is applying for as a part of the local aid program. The Engineering Department recommended putting in for the resurfacing of parts of South Road and other improvements.

1. R-105-23 Release of Police Detail Escrow to the Randolph Educational Foundation - \$780.00
2. R-106-23 Authorizing the Public Display of Fireworks for the 2023 Freedom Festival on July 8 (raindate - July 9th)
3. R-107-23 Authorizing Approval to Submit a Grant Application and Execute a Grant Contract with the NJ Department of Transportation for the South Road 2023 Road Improvement Project
4. R-108-23 Refunding a Portion of Registration Fees for Recreation Programs to Various Residents - Total \$750.00

5. R-109-23 Release of Cash Bonds posted to guarantee work within the Township Right of Way to two entities totaling - \$1,800.00
6. R-111-23 Release Performance Bond in the Amount of \$646,480.00 and the Final Payment (Including Final Retainage) in the Amount of \$74,435.19 and Accept the Maintenance Bond in the Amount of \$77,840.79 for the Brundage Park Lighting Project by Tiffany Electric, Inc.
7. R-112-23 Authorizing the Rejection of a Bid for MCCPC Contract #46 (Preventive Maintenance/Repair of Emergency Generators)
8. R-113-23 Authorizing the Award of MCCPC Contract #10 - Lumber, Insulation, Hardware, Paint, and Paint Supplies to various bidders
9. R-114-23 Authorizing the Rejection and Award of MCCPC Contract #13-B - Repair and Rebuilding of Fire Water Pumps on Motorized Fire Apparatus with Various Bidders
10. R-115-23 Authorizing the Award of MCCPC Contract #29 - Pest Control Services - Buildings to E&G Exterminators, Inc.
11. R-116-23 Authorizing the Award of MCCPC Contract #37 - Traffic Signal Maintenance & Repair to Jen Electric, Inc.
12. R-117-23 Authorizing the Rejection and Award of MCCPC Contract #47 - Water Meters/Data Recorders & Radio Frequency Meter Interface Units with Various Bidders
13. R-118-23 Authorizing the Rejection and Award of MCCPC Contract #13-A - Fire Equipment Services with Various Bidders
14. R-119-23 Authorizing the Award and Rejection of MCCPC Contract #30 - Office Paper Supplies with Various Bidders
15. R-120-23 Authorizing Change Order #1 with Dulaine Contracting, Inc. for the County College of Morris Pump Station Project - an increase of \$33,317.94 bringing the new project total to \$990,815.94
16. R-121-23 Authorizing the Execution of a Vendor Contract and a Data Sharing Agreement with the State of New Jersey, Department of Community Affairs in Connection with the Low-Income Household Water Assistance Program

Councilwoman Veech made a motion to approve the Combined Action Resolutions.

Councilmember Elbaum seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
 Councilmember Forstenhausler (Abstained to Item #10 and Item #14)
 Councilmember Hathaway
 Councilmember Potter
 Councilwoman Veech
 Deputy Mayor Carey
 Mayor Nisivoccia

NAYS: None

H. UPCOMING EVENTS

1. Randolph Memorial VFW Post 7333, Annual Memorial Day Ceremony, Monday, May 29, 2023, 11:00 a.m. at Post 7333 Building, 103 Carrell Road, Randolph, 07869
2. Artworks Reception at Town Hall, Thursday, May 18, 2023, 5:30 p.m. - 7:30 p.m.
3. Arts in the Park, Veterans Community Park, 100 Calais Road, Randolph on May 20, 2023, from 11:00 a.m. - 5:00 p.m.
4. Randolph Indian Association Holi Event, on Sunday, May 21, 2023, from 2:00 p.m. - 6:00 p.m. at Freedom Park
5. Habitat for Humanity Bennett Avenue Dedication of Completed Buildings, Thursday, June 1, 2023, at 11:00 a.m.
6. Grand Opening - Morris County Wrestling & Martial Arts, 1248 Sussex Tpk., B-11, Saturday, June 3, 2023, 2:00 - 5:00 p.m.
7. Girls Softball "Under the Stars" Championship Game on Saturday, June 10, 2023, at Brundage Park - Championship game begins at 7:00PM
8. Flag Retirement Ceremony at VFW Post on Carrell Road, Randolph, Thursday, June 15, 2023, at 10:00 a.m.
9. United Methodist Church - 190th Anniversary Service at 246 Millbrook Avenue on Sunday, June 25, 2023, at 1:00 p.m.
10. Library Music Event, 28 Calais Road, Randolph, Monday, June 26, 2023, at 7:00 p.m. - Jake Thistle & Band
11. Library Music Event: 28 Calais Road, Randolph, Monday, July 3, 2023, at 7:00 p.m. - Unusual Suspects
12. Freedom Festival at County College of Morris with Games, Crafts, Rides, Food Vendors and Beer Garden nightly starting Thursday, July 6th from 6:00 p.m. - 11:00 p.m. (Band - Stereo Junkies), Friday, July 7th from 5:00 p.m. - 11:00 p.m., (Band - The Norton Smull Band), Saturday, July 8, 2023, from 6:00 p.m. - 11:00 p.m. (Band - Jerseytones).
Fireworks - Saturday, July 8th at 9:45 p.m. - Rain date - July 9th
13. Grand Opening/Ribbon Cutting: Muchnik Elder Law at 10 W. Hanover Ave., Suite 111, Randolph on Saturday July 8, 2023, at 3:00 p.m. with a rain date of July 15th
14. Library Music Event: 28 Calais Road, Randolph, Monday, July 10, 2023, at 7:00 p.m. - Jersey Sound
15. Library Music Event: 28 Calais Road, Randolph, Monday, July 17, 2023, at 7:00 p.m. - Rosewood Band
16. Library Music Event: 28 Calais Road, Randolph, Monday, July 24, 2023, at 7:00 p.m. - Jack the Band

17. Library Music Event: 28 Calais Road, Randolph, Monday, July 31, 2023, at 7:00 p.m. - Country Comfort
18. Library Music Event: 28 Calais Road, Randolph, Monday, August 7, 2023, at 7:00 p.m. - Fab Forward Band
19. Library Music Event, 28 Calais Road, Randolph, Monday, August 14, 2023, at 7:00 p.m. - The Green Planet Band
20. Library Music Event, 28 Calais Road, Randolph, Monday, August 21, 2023, at 7:00 p.m. - Fish Eyed Blues
21. Library Music Event, 28 Calais Road, Randolph, Monday, August 28, 2023, at 7:00 p.m. - Five Wheel Drive

I. ORDINANCES SECOND READING/PUBLIC HEARING/RESOLUTIONS: NO. 122-23 AND NO. 123-23

- 1. Ordinance No. 11-23 Authorizing Special Assessment for the Dredging and Restoration of Shongum Lake, Hydro-Raking, Cleaning-Restoration of a Portion of Den Brook and the Implementation of Other Non-Point Source Pollution Control Measures in the Township of Randolph, Including the Completion of Engineering and Environmental Investigations, Sampling and Laboratory Analysis and Design Necessary to Complete Plans and Specifications, Permitting and Construction Of the Project as well as Construction Inspection Services to the Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003, and the Green Acres Clean Water, Farmland and Historic Preservation Bond Act of 1992**

BE IT RESOLVED, that an Ordinance entitled, An Ordinance Authorizing Special Assessment for the Dredging and Restoration of Shongum Lake, Hydro-Raking, Cleaning/Restoration of a Portion of Den Brook and the Implementation of other Nonpoint Source Pollution Control Measures in the Township of Randolph, Morris County, New Jersey, Including the Completion of Engineering and Environmental Investigations, Sampling and Laboratory Analysis and Design Necessary to Complete Plans and Specifications, Permitting and Construction of the Project as well as Construction Inspection Services to the Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003, and the Green Acres Clean Water, Farmland and Historic Preservation Bond Act of 1992, be read by title on second reading and a hearing held thereon.

Manager Poff explained that the Shongum Lake Property Owners Association (“SLPOA”) had been conditionally awarded a loan from the New Jersey Department of Environmental Protection (“NJDEP”) to perform the dredging of strategic areas within Shongum Lake. NJDEP has conditionally awarded the amount of \$5,000,375. The loan is repayable at two percent (2%) interest, over the course of twenty (20) years. The law governing the NJDEP loan program requires that Randolph Township act as co-applicant and co-borrower on the loan, and specially assess all of those properties that benefit from the project. The assessment would be made

against all of the approximately 801 properties that have a license or a lake right to use Shongum Lake. The amounts assessed would be used to pay-off the loan over the twenty-year period.

SLPOA approached the Township and asked if there would be support for the township to act as co-applicant and co-borrower on the loan for the strategic dredging of Shongum Lake. The Township Council deliberated on the dredging, and otherwise improving, the lake. There is clearly value to the properties within the Shongum Lake project area from having a well maintained and viable lake. The Township Council further reflected and believed there is a broader benefit to the entire community in terms of maintaining property values across the township by seeing the lake sustained as a natural resource and a place of recreation.

Randolph Township and SLPOA relied upon a preliminary appraisal report prepared by Holzauer & Hostenstein, LLC ("H&H") to estimate the benefit to each of the properties that have a license or lake rights to use Shongum Lake. The H&H appraisal report determined that there are three distinct categories of benefit and recommended that the assessment be made on a tiered basis, including lakefront, canal access, and lake community.

Randolph Township required that SLPOA demonstrate a minimum of two-thirds of the approximately 801 properties are in favor of the project and the special assessment. On February 9th, the Township received a total of 538 petitions in favor of the proposed project satisfying the Township's requirement in order to contemplate authorizing a co-borrower agreement and special assessment ordinance.

This evening the township council considers the adoption of the necessary special assessment ordinance, which will allow the process of the strategic dredging of Shongum Lake to continue. It should be noted that such a special assessment is not reflected as township debt. In addition, all the costs associated with this project will be covered by SLPOA as part of an agreement, which will be considered by the township council immediately following the second reading and public hearing this evening.

The legislative process the township council must follow includes ample opportunity for public input, including the public hearing on this special assessment ordinance (scheduled for May 18), the public meeting to determine assessments once the project is completed and total costs are certified, and finally a public hearing on the confirmation of the assessments.

Randolph Township has prepared frequently asked questions about the special assessment process which is available on the township website.

Attorney Buzak explained that this ordinance is required to follow the standard procedure for public hearing and adoption of township ordinances. He added that since this was a special assessment ordinance, a copy of the ordinance was required to be mailed to the effected property owners at least seven days prior to the public hearing. Clerk Luciani confirmed that all the required notices were sent out on Friday, May 5.

OPEN TO THE PUBLIC

Robert Yellen of 23 Ripplewood Drive thanked the council and SLPOA for their efforts. He expressed concern over the association properties not being included in the ordinance's property

index, the assessment disbursement, the contractor's project estimate, and the township oversight of the project.

Mayor Nisivoccia informed Mr. Yellen that the liability limits for the project were set by the township's insurance policy. He explained that the project is the SLPOA's responsibility and that while the township was not involved in the day-to-day operations, frequent project updates would be provided to the municipality as a part of the agreement conditions. He explained that during the preliminary assessment, the SLPOA properties were determined to not be included; pending the project's completion another assessment would occur to evaluate the overall cost and how it would be shared.

Attorney Buzak explained that the properties that were preliminarily assessed were the ones that depended to this ordinance. He added that the amount of the assessment was yet to be determined and stated that the association members would in a way pay for the assessment through a variety of membership dues.

Nick Montefusco of 57 Beech Road explained that the association dues process is related to how deeds are structured. He stated that the dues would not capture the assessment costs since it did not apply to property owners that do not pay dues. He echoed Mr. Yellen's statement about the association properties being included in the assessment.

Eileen Born, ESQ of Dolan & Dolan, PA, shared that she was the counsel for the SLPOA. She provided a background on the project and explained that on several occasions it was discussed if the Shongum Lake properties should be assessed. She explained that state statute explained that properties that benefit from the project are subject to the assessment. She explained that the reason the association properties were not included was due to not being subject to comparable sales and deed restrictions. She stated that the association has committed its resources to cover the cost of the initial study, application engineering, and preparation over the last five years; they planned to continue to do so. She explained that as much dredging as possible would be completed with the loan. She stated that the assessment was not based on the use of the lake. She explained that the project expenses would come from the loan and would be used via a voucher system that is applied through the NJDEP and approved by the project engineer. She stated that the township did not have the jurisdiction to oversee the project, but the NJDEP does.

Thomas Lui of 3 Meadowbrook Road stated that he examined this project on a technical basis and cost basis. He felt this project was necessary, and agreed with the assessment report and the 3-tier examination approach. He compared the 2022 Assessment Report date for lakefront vs. lake community properties and found that the ratio then was 1.48%. He conducted the same research on the proposed assessment and found that the ratio between the two property types was 3.5%. He did not feel the ratio difference was fair. He felt that it may have been set up in this way to attract more people to approve the project, and to lower the cost. He stated that he approved of the project, but he did not feel the cost disbursement was fair.

Nick Montefusco asked what would happen if the project cost exceed the loan amount. SLPOA Attorney Eileen Born explained that the loan agreement for the project stipulated that they only do as much dredging as the loan would allow. They can do as much as possible within the \$5 million scope. Mr. Montefusco asked if the sediment had been tested to ensure the disposal costs

are within the budgeted amount. Ms. Born explained that it has not been tested yet, as it was part of the process; once the financing is in place, the engineering studies will be conducted.

Mr. Montefusco asked if the project could be paused if the testing demonstrates that disposal costs are much higher than anticipated. Ms. Born explained that once the SLPOA is committed to the loan it does not need to be immediately drawn upon it. Mr. Montefusco asked who would make that decision. Ms. Born stated that it would be the association. Mr. Montefusco was concerned that the association would approve of going forward with a project that has a high disposal cost and only a small amount of dredging without township or resident input. Ms. Born explained that the members of the SLPOA would have input. She stated that it was in everyone's best interest to conduct as much dredging as possible, but nothing would move forward until the dredging was done.

Mayor Nisivoccia asked Attorney Buzak to explain the process for reevaluating the assessment upon the project's completion. Attorney Buzak clarified that this ordinance did not impose any monetary assessments on properties; the ordinance imposes a lien on properties via an unconfirmed assessment; the amount of which will be determined after the project is completed. He explained that once the project was complete and costs were certified to the NJDEP and the township, an assessment committee composed of township representatives would be assembled. He stated that the committee would likely attain the services of an appraisal firm that would examine the preliminary appraisal and the aggregate amount of the total project. He stated that the preliminary assessment was not required, but it was completed to provide an estimation for residents and the affected property owners. He added that the methodology used for the preliminary assessment was subject to change.

He continued to explain that the appraiser would submit a report to the committee with recommendations, and the committee would develop a report that would be submitted to property owners prior to a public hearing of which they would be notified. He stated that it was yet to be seen if the final assessment would change drastically from the preliminary assessment. The assessment would undergo additional review between the Township Council and the assessment committee. He stated that the council would vote to confirm the assessment after a public hearing. If approved, the first assessment bill would be received fairly soon after, and an annual bill would follow.

Jack Yacker of 20 Beaver Dam Road asked if a plan had been developed for the disposal elements of the project. Ms. Born stated that the disposal methodology would be dependent on the testing.

Thomas Lui asked if the new assessment would result from the ratio of properties bearing the costs, or would follow the three-tier method. Attorney Buzak stated that the new assessment would not have to follow the same methodology that resulted in the ratio.

Attorney Buzak explained that the council was not imposing a specific monetary amount or assessment on the properties. The ordinance being adopted states that these properties are subject to an assessment and that the unconfirmed assessment status will show up on township records; once the final assessment is approved the records would be updated again.

Allan Graff of 8 Blue Fern Lane asked when the dredging would take place. Attorney Buzak explained that after this step, it is up to the association to move forward with the dredging project. He stated that this would not hold up the commencement of the activity.

Eli Shy of Deer Run Road asked if the project would be put on hold if it was determined that the loan would not cover the whole cost of the lake dredging. Mayor Nisivoccia stated that the \$5 million loan was the maximum amount the NJDEP would grant; this was a very rare opportunity.

Philip Montesano of 59 Meadowbrook Road stated that he has lived in the Shongum Lake area for 50 years and he has watched it deteriorate. He emphasized that the time to conduct the dredging was now and that it would be detrimental to wait.

John Ragan of 56 Radtke Road explained that the association membership voted not to exceed the \$5 million loan back in 2016 due to cost concerns. He stated that the health of the lake was at stake and that the water quality worsens each time it gets shallower. He explained the environmental effects of the degradation of the lake's water quality.

Robert Yellen asked that the shore properties be kept in mind throughout the dredging project.

John Ragan explained that the permits for the project do not allow the association to dredge to the natural bottom of the lake. He stated that the lake shorelines approached the natural ground. He explained that those property owners could apply to the NJDEP through a similar permitting process to conduct the work themselves.

Nick Montefusco referred to the survey that was sent out; he was concerned that the tiered methodology for the preliminary assessment and survey would be thrown out. He felt that the attempt to gauge support was based on one thing, and would be finalized under something different.

Mayor Nisivoccia clarified that the purpose of the preliminary assessment was to provide an estimation based on the benefit of each of the properties and verify that the amount of the assessment reflected that value increase. Mr. Montefusco stated that he was worried that on the surface level people would perceive it as unfair.

Eileen Born explained that the township set a high bar for the association to meet regarding membership interest in the project. She stated that extraordinary efforts were made by the association, and a vote of 2/3 approval had to be obtained to demonstrate adequate interest.

John Ragan added that economic factors should be considered as well, as the \$5 million scope was likely to go less far in the future.

Andrew Ciaravino of 57 Radtke Road stated that he supported the project.

Brian Palumbo of 8 Bayberry Lane understood that all the concerns were legitimate. He stated that the lake community needed to move forward with the project. He felt that the lake community would benefit from the dredging and a better maintenance plan. He was disheartened that his family could not enjoy the lake.

A resident of Deer Run Drive inquired about how long the lake dredging work would take. John Ragan explained that the SLPOA anticipated the dredging to start in the fall and continue through the spring, with the possibility of working into a second season. The resident asked if the tier system would still be utilized. Mayor Nisivoccia explained that the methodology for the final assessment would be up to the assessment committee. The resident stated that she was concerned about paying the same fee as lakefront property owners.

Attorney Buzak explained that the council could not make that determination at this time. He restated the process for the final assessment determination. The resident inquired about when notifications would be sent out. Attorney Buzak explained that residents would be notified once the project is complete and the costs are certified. He reviewed the assessment committee's role, public hearings for the assessment, and the council's review and final determination.

A resident asked if he was correct in understanding that the state was asking the township to cosign the loan to make sure it gets paid. He stated that costs would increase for the project the longer it is delayed. He commented that it was time to make a decision and move forward.

Tom Tatum of 26 Springhill Road shared that he was the SLPOA President. He thanked the council for their cooperation over the past five years. He stated that a vast majority of the SLPOA members supported the project. He briefly shared the association's vision for the project and future lake maintenance.

Michael Quataert of 16 Deer Run Drive explained that when he approached the association to terminate his lake rights, he learned that the lake essentially had a lien against his property. He felt that the lake did not contribute impactfully to the value of his home as there were many other community benefits. He stated that he did not want to participate in the project. He thanked everyone involved for their efforts and recognized the extensive amount of work that went into the preparation of the project agreement. He asked that the language about lake rights/liens be made clearer.

Seeing and hearing no one further, the public session was closed.

BE IT RESOLVED, that an Ordinance entitled, An Ordinance Authorizing Special Assessment for the Dredging and Restoration of Shongum Lake, Hydro-Raking, Cleaning/Restoration of a Portion of Den Brook and the Implementation of other Nonpoint Source Pollution Control Measures in the Township of Randolph, Morris County, New Jersey, Including the Completion of Engineering and Environmental Investigations, Sampling and Laboratory Analysis and Design Necessary to Complete Plans and Specifications, Permitting and Construction of the Project as well as Construction Inspection Services to the Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003, and the Green Acres Clean Water, Farmland and Historic Preservation Bond Act of 1992, be passed on final reading and that a Notice of Final Passage of said Ordinance be published in the official designated newspaper according to law.

Councilmember Potter stated that she was appreciative of the work of all the professionals involved. She agreed that the situation was not perfect, but she was in favor of approving the ordinance to allow the project to move forward.

Mayor Nisivoccia thanked the members of the public for sharing their concerns. He echoed Councilmember Potter's statements. He appreciated the attorneys on both sides for their efforts and stated that he supported the project.

Deputy Mayor Carey a motion to adopt the ordinance. Councilwoman Veech seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia
NAYS: None
ABSTAIN: Councilmember Forstenhausler

2. R-122-23 – Authorizing the Execution of a Certain Agreement by and Between the Shongum Lake Property Owners Association and The Township of Randolph Dated May 18, 2023

Councilmember Potter made a motion to approve the resolution. Councilmember Hathaway seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia
NAYS: None
ABSTAIN: Councilmember Forstenhausler

3. R-123-23 – A Resolution of Co-Borrower, Township of Randolph on a Loan Agreement Between Shongum Lake Property Owners Association and the State of New Jersey by and for the Department of Environmental Protection

Deputy Mayor Carey made a motion to approve the resolution. Councilwoman Veech seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia
NAYS: None
ABSTAIN: Councilmember Forstenhausler

J. ORDINANCES: INTRODUCTION

1. Ordinance No. 12-23 Amending and Supplementing Chapter 26, Housing, and Appendix A, Fee Schedule of the Revised Ordinances of the Township of Randolph Regarding Lead-Based Paint Inspections

Manager Poff explained that the purpose of this ordinance is to amend and supplement Chapter 26, Housing, of the Revised Ordinances of the Township of Randolph, by the addition of Article X, Lead-Based Paint Inspections, which requires the owner, landlord and/or agent of every single-family, two family, and/or multiple dwelling units offered for rental to obtain an inspection of the unit for and remediate lead-based paint hazards. Additionally, the Ordinance amends Appendix A, Fee Schedule, of the Revised Ordinances of the Township of Randolph to add investigation and administrative fees related to lead-based paint inspections. He added that modifications were made to the ordinance language based on recommendations from the Health Officer and presented to the Board of Health. He reviewed the modifications.

BE IT RESOLVED, that an Ordinance entitled, “An Ordinance Amending and Supplementing Chapter 26, Housing, And Appendix A, Fee Schedule of the Revised Ordinances of the Township of Randolph Regarding Lead-Based Paint Inspections,” be introduced, read by title by the Township Clerk and passed on first reading.

BE IT RESOLVED, that said Ordinance shall be further considered for final passage at the meeting of the Township Council of the Township of Randolph on the 6th, of June, 2023 at 6 o’clock in the evening, prevailing time, at the Town Hall in said Township, at which time and place all persons interested shall be given an opportunity to be heard concerning said ordinance.

BE IT FURTHER RESOLVED, that the Township Clerk be authorized and directed to advertise said Ordinance in full or by summary with the notice of introduction thereof, in the official designated newspaper according to law.

Deputy Mayor Carey stated that the Board of Health had previously expressed concerns about the fee structure within the ordinance. After learning that the fees are in line with other municipalities and how they compare to private inspections, she felt that the board would approve of the established fees and modifications. She inquired about the number of rental units in the township and asked if there was a large burden for township staff.

Manager Poff stated that he believed the township had sufficient resources to conduct the inspections. He added that there was a tradeoff via a proposal of state-regulated inspections, which require special licenses, being undertaken by the state. The lead inspections to be conducted by the township would offset the loss of revenue from the transfer of the state-regulated inspections. He stated that a report was being developed on this item.

Mayor Nisivoccia asked if this change was a result of the state no longer allowing passive lead testing. Manager Poff confirmed he was correct and explained that the township’s performance of rental inspections made it compulsory to perform the lead inspections. He further explained

that other municipal jurisdictions without housing inspectors typically contracted with a state-certified inspection service.

Deputy Mayor Carey a motion to introduce the ordinance. Councilmember Forstenhausler seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Forstenhausler
Councilmember Hathaway
Councilmember Potter
Councilwoman Veech
Deputy Mayor Carey
Mayor Nisivoccia

NAYS: None

K. OPEN TO THE PUBLIC

Jim McConnell of 45 Carrell Road asked why the township was obligated to cosign for the Shongum Lake dredging project. He stated that parts of the township required sewer connections. Manager Poff explained that R-122-23 was a resolution the council approved to set forth that project defaults would be the responsibility of the SLPOA. He explained that the resolution protected the township. He added that the township had to cosign on the project as a requirement of the state's special assessment. He credited all the parties involved in the agreement process for their careful work in establishing the protections for the township.

L. COUNCIL COMMENTS

Councilmember Elbaum reported that the Trails Advisory Committee is working on updating the Trails Master Plan; the plan would eventually be presented to the Township Council for review. She shared that the committee was working to implement the QRFit App on the trails. The committee is working on addressing the Wi-Fi capabilities on the trails to ensure the app connection is strong. She concluded her report by sharing that the Trails Facebook page had 200 followers; she encouraged people to follow the page. She reported that Randolph Lake would be open on Saturday, May 27.

Councilwoman Veech asked if the Trails Advisory Committee could look into identifying suitable biking trails for residents and families.

Councilmember Forstenhausler had nothing to report for this meeting.

Councilwoman Veech reported that the Planning Board approved the Dover Mt. Sinai Cemetery expansion. She provided a brief background of the project and shared that the applicants negotiated the tree bank; as a result of its non-profit status, the tree bank fee was dropped by half to equal \$200 per tree. She concluded her report by sharing that she attended a Community Garden meeting. She stated that many new gardeners were in attendance. There are 15-18 new gardeners and 30 individuals on the garden waitlist.

Councilmember Potter reported that the Recycling and Sustainability Workgroup met with Pinto Consulting to review the proposed edits for the first draft of the Environmental Guidebook. She shared that they discussed an interactive electronic copy of the guidebook. She stated that the Recycle Coach App had now surpassed 500 users within Randolph Township. She reported that the Rockaway Valley Regional Sewer Authority had a ribbon cutting for a new filtering building.

Councilmember Hathaway acknowledged former Councilmember Jim Loveys for his efforts throughout the Shongum Lake Agreement negotiations during his term. He reported that Parks and Recreation Assistant Director Steve Eisenstein presented the Recreation Advisory Committee with a report on how the township's youth sports programs compared to other programs hosted by Morris County municipalities. The report demonstrated that Randolph was among the top municipalities for providing the most programs.

Deputy Mayor Carey reported that the Board of Health discussed the township's flu vaccine vendor and delivery timing issues. She explained that the vaccines are typically delivered in November after most people want to receive their flu shots. She stated that the Township Manager and Health Officer were working on the state contract.

She reported that the library gazebo was taken down, and the new one would soon be installed. She shared that the library was conducting its One Book, One Community program, and many other summer programs, including the summer concert series. She reported that post-Covid, January – April 2023, the library had 35,000 visitors; in 2022, the visitor count for this period was 23,000. She shared that attendance for the juvenile programs was just under 5,000; in 2022 the attendance was 2,000. She concluded her report by sharing that the library averaged 800 visitors per day. Clerk Luciani informed Councilmember Carey that the gazebo roof was on backorder; she estimated that it should be delivered in three to four weeks.

Mayor Nisivoccia congratulated former Councilmember Jim Loveys for being recognized as a Randolph Rockstar by the Randolph Education Foundation. He was happy to announce that the Randolph Historical Society and Liberty Tree Preservation Committee received a grant from the Morris County Heritage Commission to preserve two tree rings. He stated that additional commemorative ideas for the Liberty Tree were welcomed by the committee. The committee is still fundraising for the project and planned to be present at the Arts in the Park event. He concluded his report by sharing that he attended the Morris Habitat for Humanity Women's Build event, a Randolph Rotary Club meeting, a Community Garden meeting, the Student Artworks Show, the Firehouse Beefsteak Dinner, a meeting with Cub Scout Troop #109, and the Randolph High School Hall of Fame selection meeting.

M. EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 (N.J.S.A. 10:4-12) 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 Mayor and Council of the Township of Randolph, in the County of Morris, and State of New Jersey, as follows:

1. The public shall be excluded from the Executive portion of the meeting.
2. The general nature of the subject matter to be discussed is as follows:
 - a. Attorney Client Privilege: State Licensed Housing – CSLR
 - b. Litigation – Zotynia v. Randolph
3. As nearly as now can be ascertained, the matter or matters to be discussed at this time will be disclosed to the public at such time and under such circumstances as are prescribed by law.
4. At the conclusion of the Executive Session, the Council may or may not reconvene in public session for the purpose of taking formal action.

Councilmember Forstenhausler made a motion to move into Executive Session at 8:35 p.m. Deputy Mayor Carey seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Forstenhausler
Councilmember Hathaway
Councilmember Potter
Councilmember Veech
Deputy Mayor Carey
Mayor Nisivoccia
NAYS: None

Councilwoman Veech made a motion to close the Executive Session at 9:20 p.m. Councilmember Forstenhausler seconded the motion, and the following roll call vote was taken:

AYES: Councilmember Elbaum
Councilmember Forstenhausler
Councilmember Hathaway
Councilmember Potter
Councilmember Veech
Deputy Mayor Carey
Mayor Nisivoccia
NAYS: None

N. ADJOURNMENT

Councilwoman Veech made a motion to adjourn the meeting at 9:20 p.m. Councilmember Forstenhausler seconded the motion and following roll vote was taken:

AYES: Councilmember Elbaum
 Councilmember Forstenhausler
 Councilmember Hathaway
 Councilmember Potter
 Councilmember Veech
 Deputy Mayor Carey
 Mayor Nisivoccia
NAYS: None