

**Independence Township Committee
Regular Meeting Agenda
May 14, 2024
7:00 pm**

This is a regular meeting of the Township Committee of Independence Township, Warren County, New Jersey. This meeting was called to order by Mayor Robert Giordano at 7:00 p.m. with the following announcement: “Adequate notice of this meeting was given in accordance with the Open Public Meetings Act by providing a schedule of regular meetings to the Herald Times and The Express Times, posting a copy thereof on the Township bulletin board and filing a copy thereof in the office of the Municipal Clerk.” The Pledge of Allegiance to the American Flag was led by Mayor Giordano.

Roll Call: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano

Department Reports:

Melissa Shurack, Recreation Director thanked Mr. and Mrs. Kelsey for their generous donation of clay for the baseball fields.

Melissa Shurack explained that the fields are in full swing and the DPW has been working hard on all of the fields.

Mr. Pennington stated that the last fire house breakfast will be next month.

Ms. Hrebenak stated that she has two items for discussion in Executive Session and that everything is going very well.

Consent Agenda:

24-37
RESOLUTION

CALLING FOR THE MODERNAZATION OF THE OPEN PUBLIC RECORDS ACT
(OPRA) AND THE SWIFT PASSAGE OF S-2930/A-4045

WHEREAS, in the 2002 “lame duck” session the Open Public Records Act (OPRA) was approved to make government records, “readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public interest” while protecting “a citizen’s right to a reasonable expectation of privacy”; and

WHEREAS, as local leaders we reaffirm our support and commitment to open and transparent government and public access to records, at the same time, we strongly support necessary reforms; and

WHEREAS, in the twenty years since the enactment of OPRA and with the advent of new technologies, we have witnessed unintended consequences and, in some cases, abuses of OPRA that place an unfair burden on local governments and taxpayers; and

WHEREAS, municipal staff and budgets are increasingly utilized to accommodate the requestors and commercial entities who inundate municipalities with public records requests to the extent that in some instances, additional personnel are hired primarily to handle such requests; and

WHEREAS, OPRA has become broadly construed in favor of access and the requestor who prevails in any proceeding in appealing a denial of access of records is permitted to collect exorbitant attorney's fees, which impacts the taxpayers and municipalities who must pay these fees; and

WHEREAS, municipalities have seen outside businesses and interests who abuse OPRA for marketing and commercial gains while utilizing municipal employees paid by the taxpayers for this benefit; and

WHEREAS, due to court decisions over the years, reasonable expectations of privacy have been diminished when it comes to the balance of transparency and OPRA perpetuates for-profit data-mining, unsolicited marketing, and uncontrolled publications of records on internet search engines specifically designed to circumvent and bypass what few protective measures currently exist under OPRA, all while allowing the requestor to remain cloaked in anonymity, should they choose to exercise that option; and

WHEREAS, when commercial entities are constantly emailing OPRA requests looking for the latest lists of dogs licensed that month, inground pool permits issued, solar roof permits issued, etc., it causes our residents to not want to license their dogs, comply with permits, or interact with the municipality because they don't want to lose their privacy and/or have their information tracked and monetized for commercial purposes; and

WHEREAS, reforms to modernize OPRA are long overdue, among them: the need to address requests by commercial entities that utilize public records and the services of local government employees to generate profits, mandatory prevailing attorney fees, which created a cottage industry, and to add language so that such fees are based on facts and circumstances and not an automatic granting; and

WHEREAS, Senators Sarlo and Bucco and Assemblyman Danielsen and Assemblywoman Flynn have introduced S-2930/A-4045, which makes commonsense reforms that do not hinder residents or journalists from using OPRA to access public records, but will protect citizens' personal information from disclosure, addresses the burdensome commercial requests and provide discretion when awarding prevailing attorney fees;

NOW, THEREFORE, BE IT RESOLVED, the governing body of the *(insert name of municipality)* in the County of *(insert name of County)* respectfully request the adoption of much-needed reforms to modernize and strengthen the legislative intent of the Open Public Records Act (OPRA) and urges the swift passage of S-2930/A-4045; and

BE IT FURTHER RESOLVED, as local leaders, we reaffirm our support and commitment to open and transparent government and public access to records but at the same time, we strongly support necessary reforms; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Senate President Scutari, Assembly Speaker Coughlin, *(insert name of State Senator)*, *(insert name of Assembly representatives)*, Governor Murphy, and the New Jersey League of Municipalities.

24-38

RESOLUTION

Redemption of Tax Lien Certificate #23-00001

WHEREAS, on October 24, 2023, Tax Lien Certificate #23-00001 or property assessed to PATRICK D. BEAM JR and known as Block 17; Lot 11, Sold to TAX LIEN FUND, LP

WHEREAS, redemption of Certificate # 23-0001 was made by VANTAGE POINT TITLE, INC

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Independence, that the Tax Collector, having received redemption monies from VANTAGE POINT TITLE, INC and having received Tax Lien Certificate #23-00001 from TAX LIEN FUND, LP be authorized to forward said redemption monies to TAX LIEN FUND, LP the amount being \$13,758.35.

ALSO, the Premium which was paid by TAX LIEN FUND, LP be returned to TAX LIEN FUND. LP in the amount of \$9,000.

No. 24-39

Date of Adoption: May 14, 2024

Title: 50/50 Raffle

WHEREAS, Warren County Habitat for Humanity is registered by the State of New Jersey to operate legalized games of chance, (521-4-36490) and,

WHEREAS, they have submitted applications for a 50/50 Raffle to be held on June 29, 2024 and all fees have been paid,

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Independence, that RA#2024-06 (50/50) be issued to Warren County Habitat for Humanity.

Resolution 24-40

INDEPENDENCE TOWNSHIP COMMITTEE

2024 Recycling Tonnage Grant

WHEREAS, NJS 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Township of Independence has received notice of an award of \$1,137.47 from the State of New Jersey, Special Legislative Grant and wishes to amend its 2024 Budget to include this amount as a revenue.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Independence in the County of Warren State of New Jersey hereby requests the Director and the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2024 in the amount of \$1,137.47 which is now available as revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated
With Prior Written Consent of the Director of the
Division of Local Government Services:

State and Federal Revenues Off-set with
Appropriations: State of New Jersey Special Legislative Grant

BE IT FURTHER RESOLVED, that the sum of \$4,695.70
Be and the same is hereby appropriated under the caption of
General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by
Revenues: 2024 Recycling Tonnage Grant

BE IT FURTHER RESOLVED, that the Township Clerk forward one certified copy of this resolution to the Director of Local Government Services for approval.

Mr. Pennington made a motion to approve the Consent agenda as presented, which was seconded by Mrs. Gesumaria.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano

Nays: None

Absent: None

Abstain: None

Ordinance:

First Reading

Ord. #2024-04

**AN ORDINANCE OF THE TOWNSHIP OF INDEPENDENCE,
COUNTY OF WARREN, STATE OF NEW JERSEY,
AMENDING CHAPTER 176, HOUSING, OF THE TOWNSHIP
CODE, TO REQUIRE LEAD PAINT TESTING AS MANDATED
BY P.L. 2021, C.182**

WHEREAS, N.J.S.A. 52:27D-437. 1 established the Lead Hazard Control Assistance Act lead-based testing program for residential rental properties; and

WHEREAS, N.J.S.A. 52:27D-437.16 now requires all municipalities to inspect every single-family, two-family and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards; and

WHEREAS, the Mayor and Committee of the Township of Independence have determined that it is in the best interest of the Township to amend the Township Code to require such inspections to conform with State law.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Committee of the Township of Independence, County of Warren, State of New Jersey, as follows:

SECTION 1. General Legislation, Chapter 176, Housing, of the Township Code is hereby created to establish Lead-Based Paint Hazard Inspection Requirements for Rental Dwellings, to read as follows:

Lead-Based Paint Hazard Inspection Requirements for Rental Dwellings

§ 176-1 Definitions.

The following term shall have the meanings indicated below pursuant to N.J.S.A. 52:27D-437.16 and N.J.A.C. 5:28A-1.2, both of which are incorporated by reference.

COMMON INTEREST COMMUNITY

A real estate development or neighborhood in which the property is burdened by servitudes requiring property owners to contribute to maintenance of commonly held property or to pay dues or assessments to an owners' association that provides services or facilities to the community. Common interest community includes, but is not limited to, condominiums and cooperative housing corporations.

DUST WIPE SAMPLING

A sample collected by wiping a representative surface and tested, in accordance with a method approved by the United States Department of Housing and Urban Development (HUD) and as conducted pursuant to N.J.A.C. 5:28A-2.3.

DWELLING

A building containing a room or rooms, or suite, apartment, unit, or space, that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

DWELLING UNIT

A unit within a building that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

LEAD-BASED PAINT

Paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5 percent by weight, or such other level, as may be established by federal law.

LEAD-BASED PAINT HAZARD

Any condition that causes exposure to lead from lead-contaminated dust or lead- contaminated paint that is deteriorated or present on surfaces, that would result in adverse human health effects.

LEAD EVALUTION CONTRACTOR

A firm certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17. This includes the ability to perform dust wipe sampling.

LEAD-FREE CERTIFICATION

Lead-free certification means the certificate issued in accordance with N.J.A.C. 5:17, which states that there is no lead-based paint, or that the dwelling has undergone lead abatement, in accordance with N.J.A.C. 5:17.

MULTIPLE DWELLING

"Multiple dwelling" means any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other. "Multiple dwelling" also means any group of 10 or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied, or intended to be occupied, by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded pursuant to N.J.S.A. 55:13A- 3(k).

REMEDIATION

Interim controls or lead abatement work undertaken in conformance with this chapter to address lead-based paint hazards.

TENANT TURNOVER

Tenant turnover means the time at which all existing occupants vacate a dwelling unit, and all new tenants move into the dwelling unit or the time at which a new tenant enters a vacant dwelling unit.

VISUAL ASSESSMENT

a visual examination for deteriorated paint or visible surface dust, debris, or residue, and as conducted pursuant to N.J.A.C. 5:28A-2.3.

§ 176-2. Standards.

Inspections for lead-based paint in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq. (Lead Hazard Control Assistance Act) and implementing regulations at N.J.A.C. 5:28A-4.1 et seq., and N.J.S.A. 55:13A-1 et seq. (Hotel and Multiple Dwelling Law), as may be amended from time to time.

§ 176-3. Lead-based paint inspections by Township.

The Township shall inspect every single-family, two-family, and multiple rental dwelling located within the Township at tenant turnover for lead-based paint hazards or by July 22, 2024, whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification. The owner of any such rental dwelling shall not permit any tenant turnover without first complying with this section. The Township shall charge the dwelling owner or landlord, and the dwelling owner or landlord shall pay the Township in advance of any inspection, applicable fees set forth in §176-12, which fees shall be dedicated to meeting the costs of implementing and enforcing this section. For the purposes of this section, "Township" shall mean the Construction Code Official, Health Officer or designee, or lead evaluation contractor hired by the Township.

§ 176-4. Option for Owner/Landlord to Hire Lead Evaluation Contractor.

The dwelling owner or landlord may directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of § 176-3, instead of the Township conducting the inspection. In the event that a dwelling owner or landlord directly hires such a lead evaluation contractor, "Township" shall also mean and include such privately hired lead evaluation contractor for purposes of this section, except for the purposes of § 176-14.

§ 176-5. Consultation with Local Health Board.

The Township may consult with the local health board, the New Jersey Department of Health, or the Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint.

§ 176-6. Exceptions for Inspections.

Notwithstanding any language in §176-. to the contrary, a dwelling unit in a single-family, two- family, or multiple rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards if the unit:

- A. has been certified to be free of lead-based paint;
- B. was constructed during or after 1978;
- C. is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1, et seq.);
- D. is a single-family or two-family seasonal rental dwelling that is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or
- E. has a valid lead-safe certification issued in accordance with this section.

§ 176-7. Remediation.

If the Township finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to §176-3, then the owner of the dwelling unit shall remediate the lead-based paint hazard by using abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D-437.1 et al.). Upon the remediation of the lead-based paint hazard, the Township shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

§ 176-8. Lead-Safe Certification.

If the Township finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to § 176-3, or following remediation of a lead-based paint hazard pursuant to § 176-7, then the Township shall certify the dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to N.J.S.A. 52:27D-437.20. The lead-safe certification provided to the property owner by the Township pursuant to this section shall be valid for two years.

§ 176-9. Property Owner Production of Lead-Safe Certification.

Property owners shall:

- A. Provide evidence of a valid lead-safe certification obtained pursuant to this section as well as evidence of the most recent tenant turnover at the time of the cyclical inspection carried out under the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A1, et seq.), unless not required to have had an inspection by the Township pursuant to paragraph (A), (B), or (C) of §176-6.
- B. Provide evidence of a valid lead-safe certification obtained pursuant to this section to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by the Township pursuant to paragraphs (A), (B), (C), and (D) of §176-6, and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and
- C. Maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants, if the inspection was conducted during a period of tenancy, unless not required to have had an inspection by the Township pursuant to paragraphs (A), (B), (C), and (D) of §176-6.

§ 176-10. Notification to Commissioner of Department of Community Affairs.

If the Township finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this section, then the Township shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D- 437.8).

§ 176-11. Inspection of Two- or Three-Dwelling Units.

If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three-dwelling units, then the Township shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The Township shall charge an additional fee as set forth in § 176-12 of the Township Code each additional inspection.

§ 176-12. Fees.

The following fees shall apply:

- A. Visual assessment inspection: \$200.00 per dwelling unit.
- B. Dust Wipe Sampling: \$50.00 per sample.
- C. Filing of a Lead-Safe Certification or Lead-Free Certification: \$30.00.

- D. In addition to the fees charged for inspections, the Township shall assess an additional fee of \$20.00 per unit inspected as required by the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D 437.1, et seq.) unless the unit owner demonstrates that the Department of Community Affairs already has assessed an additional inspection fee of \$20.00 pursuant to the provisions of N.J.S.A. 52:27D-437.10. The fees collected pursuant to this section shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to N.J.S.A. 52:27D-437.4.
- E. In a common interest community, any inspection fee charged pursuant to this section shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

§ 176-13. Inspections as a Result of Testing of Children of Six Years of Age or Younger.

- A. If less than three percent (3%) of children tested in the Township, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the New Jersey Department of Health pursuant to N.J.S.A. 26:2-137.6, or according to other data deemed appropriate by the commissioner (as such term is used in and for the purposes of N.J.S.A. 52:27D- 437.16), then the Township may inspect a dwelling located therein for lead-based paint hazards through visual assessment.
- B. If at least three percent (3%) of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the New Jersey Department of Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed appropriate by the commissioner, then the Township shall inspect a dwelling located therein through dust wipe sampling.
- C. If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three- dwelling units, then the Township, designee, or certified lead evaluation contractor shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead- based paint. The inspector may charge fees in accordance with this section for such additional inspections

§ 176-14. Violations and penalties.

The Township shall be authorized to conduct investigations and issue penalties to enforce a property owner's failure to comply with N.J.S.A. 52:27D-437.16 or this section. If the Township determines that a property owner has failed to comply with a provision of N.J.S.A. 52:27D-437.16 et seq. or this section regarding a rental dwelling unit owned by the property owner, the property owner shall first be given thirty (30) days to cure any

violation by conducting the required inspection or initiate any required remediation efforts. If the property owner has not cured the violation after thirty (30) days, the property owner shall be subject to a penalty not to exceed \$1,000.00 per week until the required inspection has been conducted or remediation efforts have been initiated.

SECTION 2. Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

This Ordinance shall take effect upon final passage, publication, and filing, all in accordance with the law.

Mr. Stuber made a motion to introduce Ordinance 2024-04 as presented, which was seconded by Mrs. Gesumaria.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano
Nays: None
Absent: None
Abstain: None

Bill List

Mr. Pennington made a motion to approve the Bill List as presented, which was seconded by Mrs. Kelsey.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano
Nays: None
Absent: None
Abstain: None

Public Comment :

Mr. Wiseman questioned the lead paint ordinance and the year of the house that this is required for. Also mentioned was that there are still presently speeders on his road.

Executive Session:

Mr. Pennington made a motion to go into Executive Session to discuss a Contractual and a Litigation matter 7:44 pm, which was seconded by Mrs. Gesumaria.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano
Nays: None
Absent: None
Abstain: None

Mrs. Kesley made a motion to come out of Executive Session at 8:08 pm, which was seconded by Mr. Stuber.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano
Nays: None
Absent: None
Abstain: None

RESOLUTION # 24-41
RESOLUTION OF THE TOWNSHIP OF INDEPENDENCE APPROVING CONTRACT WITH POLICE CHIEF CHRISTOPHER PRELL

WHEREAS, the Township Committee of the Township of Independence (hereinafter referred to as the "Township") has historically entered into contractual agreements with its Chief of Police (hereinafter referred to as the "Chief"); and

WHEREAS, on or about February 13, 2024, Lieutenant Christopher Prell was promoted to and named Chief of Police of the Township of Independence; and

WHEREAS, the Township and the Chief have negotiated a contractual agreement which is acceptable to all parties; and

WHEREAS, a copy of the amended agreement is on file at the office of the Township Clerk and can be reviewed during normal business hours.

NOW, THEREFORE, BE IT RESOLVED, this 14th day of May, 2024, by the Township Committee of the Township of Independence, County of Warren, State of New Jersey, as follows:

1. The Township accepts and approves the aforementioned Agreement with Police Chief Christopher Prell, a true copy of which is on file and can be viewed by the public during normal business hours.
2. The Township authorizes and directs the Mayor, Township Clerk and/or Township CFO to execute any and all necessary documents in order to implement the intent of this resolution.

Mrs. Kelsey made a motion to approve the passage of Resolution 24-41, which was seconded by Mrs. Gesumaria.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano
Nays: None
Absent: None
Abstain: None

Mrs. Kelsey made a motion to adjourn at 8:10 pm, which was seconded by Mr. Stuber.

Ayes: Mrs. Gesumaria, Mr. Pennington, Mr. Stuber, Mrs. Kelsey, Mayor Giordano

Nays: None

Absent: None

Abstain: None