

Call to Order:

The meeting was called to order at 7:00 p.m. by Chairman McLaughlin who read the following statement: “Notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings. This notice was sent in writing to the Gloucester County Times on June 27, 2011. A copy was posted on the second floor bulletin board of Town Hall and a copy was given to the Township Clerk.”

The Board saluted the flag.

Roll call: Present – Ms. Beltrante, Mr. Carney, Mr. Fritz, Mr. Manfredi, Mr. Price, Mr. Salvadori, Mr. Fitzgerald, Mr. Kozak, Mr. McLaughlin. Absent – Mr. Sander, Engineer, (excused), Mr. Sebastian, Council Liaison, (excused). Also present – Mr. Marmero, Solicitor, Ms. Pellegrini, Planner.

Memorialization of Resolutions:

1. #11-26 – App. #11-13 – James & Kathy Hankins – Side Yard Variance Approved

Motion by Mr. Fritz, seconded by Mr. Salvadori to adopt resolution #11-26. Roll call vote: Ayes – Mr. Fritz, Mr. Salvadori, Ms. Beltrante, Mr. Carney, Mr. Manfredi, Mr. Fitzgerald, Mr. McLaughlin. Nays – Zero. Abstentions – Zero.

2. #11-27 – App. #1713 – Hovbros Stirling Glen, LLC – Continuance Approved

Motion by Mr. Salvadori, seconded by Mr. Fitzgerald to adopt resolution #11-27. Roll call vote: Ayes – Mr. Salvadori, Mr. Fitzgerald, Ms. Beltrante, Mr. Carney, Mr. Fritz, Mr. Manfredi, Mr. McLaughlin. Nays – Zero. Abstentions – Zero.

Public Hearing:

1. #11-12 – Frank Sudano – Use Variance (continued from 8/2/11)

Present – Frank Sudano, applicant, John DelCasale, applicant’s attorney.

Member’s packets contained: 1. A copy of the applicant’s variance application, survey, photographs of the property, and the violation notice issued by Mr. Weikel. 2. Report dated July 26, 2011 prepared by Pam Pellegrini.

The applicant proposes to sell crabs and clams from the garage of his personal residence on a seasonal basis. The applicant does not cook the product on the premises. The property is located at 1142 Glassboro Road, also known as Block 13801, Lot 28.01.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

Mr. DelCasale introduced himself as the applicant's attorney. He stated that they were before the Board requesting a use variance at the property in question. Photographs were introduced to the Board and marked as Exhibits A-1 through A-12; each depicting various views of the property and garage. Mr. DelCasale gave a brief history of the use on the site. Mr. Sudano received a peddler's license from the Township back in 1997 which allowed him to sell crabs from his garage three days a week. He has been operating this seasonal business since that time; however his business has increased and the operation has expanded to five days a week, five months a year. Until recently the business has been operating there without any problems for fifteen years. In July of this year, the person working for Mr. Sudano and living at the residence had a dispute with the neighbor which resulted in the neighbor then filing a complaint against Mr. Sudano claiming there was a smell of seafood. Mr. Sudano was not at the property at the time of the dispute; however when the complaint was brought to his attention, he began freezing the waste from the products so as to eliminate any smell. In addition, it was brought to Mr. Sudano's attention that he is not permitted to operate the business from his home under the current zoning regulations. Mr. DelCasale stated that if there had been a problem prior to this, it would have been brought to the attention of the Township and would have been addressed at that time.

Mr. DelCasale distributed a list of businesses within a half mile of Mr. Sudano's property. Mr. Marmero marked the list as Exhibit A-13. He also submitted Mr. Sudano's Sanitary Inspection Report as well as a license dated February 17, 2011 issued by the County Board of Health which were marked as Exhibits A-14 and A-15. Mr. Sudano also noticed and spoke with other neighbors in the area and no other neighbors are in objection to the granting of the use variance or have complained about any smell. Mr. DelCasale commented that there is no bathroom use on the site for customers, no cooking on the site, and waste disposal is done privately. There is refrigeration in the garage and the customers are only on site for a brief time. There is one employee besides Mr. Sudano; that employee was renting the house since Mr. Sudano moved two years ago. The business operates from April 15th to September 15th. The tenant has moved out and Mr. Sudano will likely move back into the house. Mr. Sudano was sworn in by Mr. Marmero. Mr. Salvadori asked how often the waste is hauled off the site. Mr. Sudano stated that the waste is frozen and either everyday or every other day he personally takes it to the Fish Net Seafood business on Sicklerville Road where he disposes the waste in their dumpster. He has an agreement with the owner of that business to be allowed to dispose of the waste at that site.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

Mr. McLaughlin asked when Mr. Sudano started freezing the waste. Mr. Sudano testified that he started freezing it in July of this year. Mr. DelCasale stated that prior to July there had not been any issue; however Fourth of July weekend was a very busy weekend for Mr. Sudano, a time when he has the most crabs on the site. The police came and informed him of the complaint concerning the smell which is when he starting using the freezer to freeze the waste. The County Health Department has been there several times since July and has not found any issue with odor on the site. Mr. Sudano was asked if he had the written agreement from the Fish Net allowing him to dump the waste in their dumpster and what he would do with the waste if he could no longer bring it there. He replied that he does have a written agreement which will be supplied to the Board and that he would have to find another location if necessary in the future. He has been disposing of the waste there for the last month or so and prior to that he had an agreement with the Baltimore Crab and Seafood restaurant also located in Sicklerville. The crabs are purchased, brought to the site, refrigerated and sold; there isn't any cooking or cleaning of the crabs on the site. The waste consists of the crabs that have died prior to being sold.

Mr. McLaughlin stated that the application was not deemed complete and asked Mrs. Farrell if the application contained the necessary information to be deemed complete by the Board. She replied that it did. Motion by Mr. Salvadori, seconded by Ms. Beltrante to deem application #11-12 complete. Roll call vote: Ayes – Mr. Salvadori, Ms. Beltrante, Mr. Carney, Mr. Fritz, Mr. Manfredi, Mr. Price, Mr. McLaughlin. Nays – Zero. Abstentions – Zero.

Ms. Pellegrini reviewed her report for the Board. She indicated that her report states the site was Mr. Sudano's personal residence; however that does not seem to be the case as he testified that he was renting the home and lived in another location. Since the use is no longer considered a temporary or transient use, a peddling and solicitation license is not appropriate and the applicant must obtain a use variance since the sale of seafood is not a permitted accessory use to a residence in the BP Zone. She stated that the proposed use is not consistent with the goals and objectives of the Master Plan; however the applicant may be required to provide site improvements and address the physical impacts if the use is granted. Mr. Sudano testified that the property is vacant and that he would be moving in.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

There isn't a COAH requirement by the applicant for the operation of this business should the use be granted. The applicant must demonstrate sufficient special reasons why the proposed use carries out the purpose of zoning or how the refusal of the use would impose an undue hardship. In addition, the applicant must demonstrate that the proposed use can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone or the zoning ordinance. The applicant is requesting a site plan waiver along with his application. Ms. Pellegrini inquired as to the court summons that was issued to Mr. Sudano which was scheduled to be heard on August 30, 2011 and she asked about the outcome. Mr. DelCasale informed her that the hearing had been postponed and was heard earlier that day. There were two matters before the judge; one for harassment against Mr. Sudano, which was withdrawn by the prosecutor because he couldn't make a case, and the second is for a violation for continued use of the business on the property after a cease and desist order had been issued. That matter has been postponed because the neighbor, Ms. Garlic, has indicated a desire to privately file a violation notice for each day that Mr. Sudano continued the use after he received the order to stop. There was some question as to whether the prosecutor has the right to pursue a fine for each day Mr. Sudano continued to operate his business after the order was issued so the matter has been postponed and will be heard in three weeks. Mr. Marmero commented that the Board cannot base their decision on what happens concerning the court issue.

Motion passed to open the meeting to the public.

1. Gordon Sunkett, Sicklerville, was sworn in by Mr. Marmero. Mr. Sunkett stated he was before the Board in an official capacity working as a representative from Reverend Al Sharpton's office located in New York. He is in charge in the state of New Jersey that concerns issues perceived as discrimination, which seems to be the case in this matter. He stated that Mr. Sudano has thumbed his nose at the Township with regard to the cease and desist order and that the police were called out many times and didn't do anything. As a civil rights organization, they are concerned that two legitimate businesses owned and operated by African Americans were closed down but Mr. Sudano was allowed to continue to operate his business. The Township closed down businesses that paid their fees and obtained their licenses but there is support for someone else who thumbed his nose at the police officers and the Township. He asked the Board to postpone their decision until they has a chance to question the officers on why they didn't arrest Mr. Sudano.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

2. Terrence Jones, 301 Fox Run Court, Mullica Hill, was sworn in by Mr. Marmero. Mr. Jones stated he is a public safety and law enforcement consultant as well as an American Rights advocate. He commented that this is not a black and white issue but a right and wrong issue. He expressed his concern with the police officers being called out to enforce the cease and desist order and then for whatever reason, it wasn't enforced. He will be conducting an investigation into why there wasn't any enforcement. He asked the Board to investigate the issue as well. He stated he will urge Ms. Garlic to file a complaint against the police department. He asked if there have ever been any other cases where a cease and desist order has not been enforced. Mrs. Farrell replied that it is her understanding a cease and desist order is enforced by the Zoning Officer not the police department; however if he needs their assistance they will help. The officers responded to a resident complaint, they were not called out to assist the Zoning Officer in enforcing the order. In the past there have been other cease and desist orders issued to businesses and the judge would allow the business to continue to operate as long as they were following through on an application for approval with the Township. Mr. Jones asked why Mr. Sudano has been allowed to operate his business for so many years without the Township approvals. Mrs. Farrell replied that to her knowledge, until this year, there haven't been any complaints which would have brought the issue to the Township's attention. He stated he was before the Board to help find a solution and asked the Board to look at the issue impartially and fairly.

There was discussion with regard to the court matter and the cease and desist order. Mrs. Farrell addressed Mr. Sunkett's comments regarding the two businesses that were shut down by the Township. She explained that both of the business owners were afforded the same opportunity as Mr. Sudano, meaning they could submit an application for a use variance. Both business owners picked up applications from the office, one of them was even scheduled for a hearing, but then neither one of them followed through with their applications. Mr. Jones stated that they were shut down where as Mr. Sudano was allowed to remain in business. Mrs. Farrell replied that they were shut down because of the peddling and soliciting ordinance change which doesn't apply to Mr. Sudano's business and the Board of Adjustment is not the enforcing agent for the ordinances. She reiterated that both of those business owners were given applications but never followed through.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

3. Charlene Garlic, 1148 Glassboro Road, was sworn in by Mr. Marmero. Ms. Garlic stated that she abides by the rules and pays her taxes; however it seems like there are two sets of rules; one set for some people and one set for other people. She testified that she has filed complaints in the past due to the smell from Mr. Sudano's business. The County Health Department first knocked on her door over five years ago and asked her why she hasn't complained about the smell since other neighbors had filed complaints. Ms. Garlic stated that at that time she did want to start a fight with Mr. Sudano. She claims that Mr. Sudano did not want to sell them the property because they are African American and that there were a lot of issues during the settlement process. She stated Mr. Sudano moved out of his home less than a year after they built and moved into their home. Her first complaint was filed with the County Health Department on July 7, 2009, not just this year as Mr. Sudano claims. The reports from the County Health Department were submitted to the Board and marked as Exhibits P1 through P-8. The first one dated July 7, 2009 stated that the investigation was started because of a complaint about the smell. They recommended that Mr. Sudano take certain measures to eliminate that issue and they notified the local Board of Health office. Ms. Garlic stated she is severely asthmatic and needs clean fresh air; however she cannot even sit on her deck or open a window because the smell is so bad. She has called the police numerous times and submitted those reports to the Board. They were marked as Exhibit P-9. She was instructed by the Mayor to contact the Township if Mr. Sudano did not comply with the cease and desist order and told they would send a police officer there to stop him from selling the crabs. She called the County Health Department and Mr. Weikel who stated the cease and desist order had been mailed out to Mr. Sudano. Mr. Weikel then called her back a few hours later to apologize because the order had not been mailed out as he thought, however he stated he would handle the matter. Then she received a call from the Mayor who also apologized that the order was not mailed out and he stated that Mr. Weikel would deliver the order personally. Mr. Sudano continued to operate his business after the cease and desist order was issued so she called the police. She alleges that the police officer told her he spoke with Mr. Sudano and informed him he was in violation of the cease and desist order and that Mr. Sudano told him he wasn't going to shut down and to get off his property. She had been instructed to call the police department every time she saw the business still operating. She stated it seems every office she talks to is pointing to another office and no one wants to resolve the issue. She also went to the State and they sent her back to the Township.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

Ms. Garlic then received a letter from Mr. Fiore that stated the Township is aware of the violations concerning the sale of seafood and the rental of the property; however they will not be pursuing the matter in Superior Court or use the police force to shut down the business but would rather wait for the matter to be handled in municipal court and a decision to be made by the Zoning Board. Ms. Garlic stated that ironically the court date kept getting postponed and she was forced to put up with the smell the entire summer. She asked the Board not to reward Mr. Sudano due to his refusal to comply with the rules. She stated she has to stay in her house and cannot enjoy the outside of her property while Mr. Sudano can get in his car and go home and not have to put up with the smell. She didn't understand how the Township could not know Mr. Sudano didn't have a valid permit or approvals to operate his business when there are big signs on his front lawn advertising his business. Mrs. Farrell replied that Mr. Sudano's business is not the only business to operate without the proper permits or approvals and even if the Zoning Officer is aware of that fact he will not issue any violations unless someone complains.

Mr. McLaughlin asked when the issue of the smell first became a problem. Ms. Garlic replied that it was an issue the summer after they moved into their house but they didn't want to fight with Mr. Sudano since he made it very clear he didn't want them there. Also at that time they went away a lot on the weekends but with her health and the economy they cannot do that now. Mrs. Farrell asked if there has been any noticeable difference with regard to the smell since Mr. Sudano started freezing the waste. Ms. Garlic replied that the waste was dumped in the trash but when the County Health Department showed up, Mr. Sudano and his employee quickly moved it into the garage and shut the door. In addition, Ms. Garlic stated she called the Baltimore Crab and Seafood restaurant and they claimed they never had a contract with Mr. Sudano to allow him to dump his waste in their dumpster and that he only entered into an agreement with the Fish Net this August. She provided the Board with a copy of the agreement dated August 22, 2011; it was marked as Exhibit P-10.

Mr. Kozak asked if the smell has declined since Mr. Sudano closed his business. Ms. Garlic replied that the smell is not as strong but it gets into the grass and the trees and she can still smell it. Mr. Kozak asked if there were any other issues with the traffic or cars using her driveway for Mr. Sudano's business or was it just the issue of the smell. Ms. Garlic replied there weren't any other problems other than the smell and the fact that he is able to operate illegally and she cannot enjoy her property.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

Mr. Kozak asked if they noticed the smell when they were in the process of building their home. Ms. Garlic replied that they did not because they did not spend a lot of time at the property during construction. He commented that he thought it might have been very noticeable since a police officer just stopping by noticed the smell immediately. Ms. Garlic stated that at that time there were a lot more trees and brush which they removed later. Mr. Carney asked how many times the Zoning Officer visited Mr. Sudano's property. Mr. McLaughlin commented that they couldn't know that without him there to answer the question. Ms. Garlic stated she doesn't believe he ever went to Mr. Sudano's because he is claiming he couldn't shut down the business. She asked the Board to allow her to enjoy her property.

Ms. Beltrante commented that the first complaint was dated in 2009; Ms. Garlic confirmed that fact and stated she called the police and Mr. Weikel. Mrs. Farrell commented that she asked the Zoning Office if they had received any complaints about the smell from Mr. Sudano's property prior to this year and they stated they had not. Ms. Garlic stated that according to the County Health Department report, Mr. Weikel was contacted in 2009.

Mr. DelCasale asked Ms. Garlic if her deck was on the front or rear of her house and how far her house is from Mr. Sudano's. Ms. Garlic replied that her deck is on the rear of the house and that the houses are approximately eighty or ninety feet apart. She then corrected that distance to say there is only thirteen feet to the property line, so the houses are approximately twenty-six feet apart. Mr. DelCasale pointed out that Mr. Sudano's garage is not on side next to Ms. Garlic's property.

4. Margaret Helton, 16 Millstone Court, Sicklerville, was sworn in by Mr. Marmero. She stated that she had to quit her job in Atlantic City in order to care for her mother. She and her husband operate a small business selling seafood/crabs from a trailer. She replied to Ms. Farrell's comment about being able to apply for a variance and stated that they did not have the money to do so. They have been operating their business for quite awhile without any issues; however on the Fourth of July weekend. Mr. Kozak told them that he was shutting them down. She stated they didn't understand why because they never had any complaints; they leave the premises clean and their customers looked forward to them being there on the weekends. Ms. Helton stated that they didn't have any warning and expressed her frustration that Mr. Sudano is allowed to continue to operate and they were shut down. She stated that they work very hard and that this business is their livelihood.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

She commented that the new ordinance will only allow them to be in one location one day a week for four hours which includes setting up and breaking down. It takes an hour to set up and another hour to clean up and she doesn't know how the Township can expect anyone to make a living working for only two hours a day, one day a week. She commented that they were only asking that they be treated fairly by the Township. Mr. McLaughlin stated that at that time, Mr. Kozak was enforcing the ordinance as a Township official and not acting at the direction of the Board. Mrs. Farrell commented that the ordinance was changed by the ordinance committee and suggested that they attend a Council meeting or an ordinance meeting concerning the changes to the ordinance. Ms. Helton asked that the Township treat them fairly and with respect and give them a chance to make a living.

The Board took a brief recess.

5. Mitchell Helton, 16 Millstone Court, Sicklerville, was sworn in by Mr. Marmero. Mr. Helton asked why Mr. Weikel was not in attendance since he is the one who is supposed to enforce the ordinances and he has the answers to their questions. He commented that Mr. Weikel had no problem sending someone right out to shut his business down. Mr. McLaughlin commented that Mr. Weikel never attends the Zoning Board meetings and that he is not required to attend the meetings because his function and the Board's function are two separate things. Ms. Pellegrini stated that the Board has an application before them and while they take all the information into consideration, Mr. Weikel, in his position, plays no role in the Board's decision for any application.

6. Cecile Stewart, 21 Magnolia Street, Westville, was sworn in by Mr. Marmero. Ms. Stewart testified that she accidentally pulled in Mr. Sudano's driveway one day thinking it was Ms. Garlic's driveway. She stated that the smell was atrocious and that she would not want to live next door to a business that produced such an odor. Mr. McLaughlin asked when that incident occurred. Ms. Stewart replied that it was last year.

7. Loretta Winters, 219 Jones Kane Road, was sworn in by Mr. Marmero. She commented that the zoning application before the Board was for a mixed use not just for a business. She asked if the proper inspections would be conducted if the Board granted the use variance. Mrs. Farrell stated that inspections would be handled by the proper offices. Mr. Marmero commented that any approval would be subject to the applicant receiving all applicable outside agency approvals.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

Ms. Winters asked if there are any other small businesses in the same area as Mr. Sudano's. Mr. McLaughlin replied that Mr. Sudano provided the Board with a list of other businesses in the area. She asked if the vendors selling goods at the upcoming Ocktoberfest would be required to get a peddling license. Mrs. Farrell stated that Ms. Winters should contact Mr. Bonder from Parks and Recreation for that information. Ms. Winters asked why the peddling and soliciting ordinance was revisited and reduced down to four hours a day, one day a week. Mrs. Farrell replied that Ms. Winters would have to ask the Ordinance Committee which is made up of Council members. She stated that the minutes from their meetings should be available through the Clerk's office. Ms. Winters asked the Board to take into consideration the appropriateness of selling crabs and seafood around residential homes.

8. Charlene Garlic, 1148 Glassboro Road, previously sworn in by Mr. Marmero. Ms. Garlic wanted to clarify the term "mixed use" with regard to Mr. Sudano's application. Mr. Marmero stated that the application is to allow Mr. Sudano to continue to operate his business at that location. She asked if she could get an application to run a business out of her garage. Mrs. Farrell stated that she could and that she would have to go through the same process as Mr. Sudano to request a use variance.

9. Ronald Austin, 165 Broadlane Road, was sworn in by Mr. Marmero. Mr. Austin stated that he has been paying taxes in this town for over forty-five years. He had been operating his business at the same location for three years before he was shut down this year too. He stated he had the proper inspections and permits to operate his business and that he didn't bother anyone. He cleaned that area before he left and the property owner didn't have any complaints. Mr. Austin stated that the Mayor told him he would talk to the committee; however the next thing he knew he was being told he had to shut down. Mr. Salvadori commented that the Township should consider providing an area where vendors can operate three days a week from the Spring to the Fall. Mr. Marmero stated that the Board could certainly send a letter to Council recommending that they look at that suggestion since the Board will probably be facing more of these issues due to the change in the ordinance. Mr. Austin stated that he has never had any complaints but was told by Mr. Weikel that someone complained. He was advised he could request a copy of the complaint by filling out paperwork in the Clerk's office.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

10. Daniel Garlic, 1148, Glassboro Road, was sworn in by Mr. Marmero. Mr. Garlic stated that issues have come to light concerning the ordinance and zoning that affects other people's lives and businesses and that a lot of the questions they have cannot be answered because Mr. Weikel is not in attendance. He asked why the Township would change an ordinance that hurt small businesses. With regard to the issue with Mr. Sudano, Mr. Garlic stated that he isn't mad at him because of his business, but he is mad because of the smell that is offending his home. He is not trying to put Mr. Sudano out of business; he also runs a business out of his home but he has a license to do so. He understands the ball has been dropped by the Township but the Board also should understand how the new ordinance has affected some people and how it appears to the public when two African American business owners were told to shut down their business and Mr. Sudano was allowed to continue to keep running his business.

11. Loretta Winters, 219 Jones Kane Road, previously sworn in by Mr. Marmero. Ms. Winters stated that as President of the NAACP, it appears that the Township is practicing differential treatment.

Motion passed to close the hearing to the public.

Mr. DelCasale stated that he would like to address the issue of the odor. He commented that Ms. Garlic testified that there weren't any other issues with regard to Mr. Sudano's business but the smell. He asked the Board to look at Exhibit P-1 which is the report from the County Health Department. In the report dated July 7, 2009, the County inspector wrote that she visited Ms. Garlic and no odor was detectable. She then went to Mr. Sudano's and wrote an odor was noted while in the driveway. The next report dated July 13, 2009, was conducted to check the status of the odor. The inspector wrote the only odor was near the trash cans. In the report dated June 1, 2010, the inspector states that he did not observe any overpowering odors only slight seafood odors. In addition, that report indicated there was a satisfactory evaluation with the exception that Mr. Sudano had to do something about the flies. The report dated August 5, 2011, states there wasn't any evidence of flies or foul odors. The last report dated August 8, 2011, states the inspector did not observe any foul odors or flies on either side of the property or at the curb; there was a slight odor at the trash area.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

Mr. DelCasale stated that the Board has to find where the truth is with regard to the smell. There is the truth and an exaggeration of the truth. But there are four years of independent observations by inspectors from the County Health Department offered into evidence by the public. There was testimony claiming the odor is so bad it makes you want to vomit; which is perception. Mr. DelCasale stated he was sorry other businesses were closed but that's not a reason to close Mr. Sudano's business. He stated that if the use is granted, they would work together with the neighbor to find a solution to the odor issue. Mrs. Helton testified that they also cook the crabs on site and there aren't any complaints of odor when they leave the site. If you combine that testimony with the documents from the County, you have your answer. The police officer's statement in Exhibit P-9, dated July 5, 2009 notes that the smell was very bad and seemed to be getting worse. Mr. DelCasale did not know how to reconcile that statement with those of the County Health inspector except to say that he believed the inspector would have a better understanding of the issues than the police officer.

Motion passed to reopen the hearing to the public.

1. LaRae Carter, 2600 Main Street, Millville, was sworn in by Mr. Marmero. Ms. Carter asked if the days the County inspected the area were days after the trash was picked up. She stated that someone who lives in town stated they were so that there wouldn't be an odor after the trash is picked up. Mr. DelCasale replied that that argument doesn't work given the testimony that the smell permeates the grass and the trees and even lingers in the winter time.

2. Daniel Garlic, 1148 Glassboro Road, previously sworn in by Mr. Marmero. Mr. Garlic stated that he understood Mr. DelCasale's point; however they have to live there. He also stated that if Mr. Sudano sells the crabs over the weekend the trash doesn't get picked up until Tuesday and by Saturday and Sunday the smell is ripe. He wasn't saying Mr. Sudano wasn't cleaning up because by Tuesday or Wednesday, they could breathe again. He expressed his feelings over the fact that Mr. Sudano wasn't man enough to reach out to them and try to resolve the problem.

Public Hearing: (continued)

1. #11-12 – Frank Sudano (continued)

3. Gary Sunkett, previously sworn in by Mr. Marmero. Mr. Sunkett stated he wanted to redirect the Board because he could see who was tied into whom by their body language. The answer to why Mr. Sudano was allowed to operate his business for years without a permit cannot be determined at this time. The issue of why the police weren't able to close him down could not be determined. However based on the facts and Mr. Sudano's behavior, he should not be allowed to operate a business in the Township.

4. Charlene Garlic, 1148 Glassboro Road, previously sworn in by Mr. Marmero. Ms. Garlic submitted articles from the Courier Post dated August 25, 2011 and August 28, 2011. She stated that on August 25, 2011, the reporter stated in his article that he had to fight off the flies while they were talking to Mr. Sudano.

Motion passed to close the hearing to the public.

Mr. Sudano stated that he asked the reporter if he could tell his side of the story. The reporter visited his garage and there were some flies but there wasn't any odor and that was stated in the article. He testified that he has been freezing the waste since this issue was raised earlier this year. Mr. DeCasale verified the days of the week the County Health Department visited the site. Mr. Sudano also testified that he does not put the waste into the Township trash. He stated that he sympathized with the Heltons and Mr. Austin and that there should be a way for them to conduct their business in this town. Mr. DeCasale commented that Mr. Sudano did not move from his residence on Glassboro Road until 2008; not in 2005 as Ms. Garlic had stated.

Ms. Beltrante stated that a lot of the required positive criteria wasn't given by the applicant. Mr. DeCasale stated that the positive criteria were that Mr. Sudano is operating a viable business in the Township and paying taxes; it also brings business to the town and that the business has been established in that location for over fifteen years.

Mr. McLaughlin stated that a lot of evidence was presented to the Board and he wanted the Board's opinion on the whether they should continue the hearing so that they could review all of the information. Ms. Pellegrini commented that the positive criteria given wasn't enough based on the requirements for the use variance.

Public Hearing: (continued)

1. #11-12 – Frank Sudano(continued)

She also stated that Mr. Weikel's presence at the next hearing would bear no weight on the Board's decision and that the application was to allow a business to continue to operate after many years of operating illegally on that site and nothing Mr. Weikel did or did not do has any bearing on the application.

Mr. Salvadori agreed the meeting should be continued so the Board could review the information. Mrs. Farrell commented that the next available meeting would be on October 4, 2011 and that no further notice would be sent. Motion by Mr. Salvadori, seconded by Mr. Fritz to continue the meeting to the October 4, 2011 regular meeting. Roll call vote: Ayes – Mr. Salvadori, Mr. Fritz, Ms. Beltrante, Mr. Carney, Mr. Manfredi, Mr. Price, Mr. McLaughlin. Nays – Zero. Abstentions – Zero.

The Board agreed that they would like Mr. Marmero to send a letter to Council inquiring about the ordinance concerning peddling and soliciting. Motion by Mr. Carney, seconded by Mr. Salvadori to send the letter to Council. Voice vote; all ayes, motion passed.

The Board also discussed having Mr. Weikel attend one of their future meetings so they can get some clarification on his procedures with regard to cease and desist orders and other matters. Motion by Mr. Carney, seconded by Mr. Salvadori to send a letter to Mr. Weikel inviting him to a future meeting for discussion. Voice vote; all ayes, motion passed.

Public Portion:

Motion passed to open the meeting to the public. There being none, motion passed to close the meeting to the public.

Reports:

No reports.

Approval of Minutes:

1. 09/06/11 regular meeting.

Motion by Mr. Carney, seconded by Mr. Fritz to approve the minutes from the September 6, 2011 regular meeting. Voice vote; all ayes, motion passed.

Adjournment:

The meeting was adjourned at 10:15 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings. The tape of the meeting is stored in the office of the Board.

Ninette Orbaczewski
Clerk Transcriber