

**MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
JANUARY 5, 2011**

A.) CALL TO ORDER & ROLL CALL

The Ordinance Committee Meeting of the Township of Monroe was called to order at 7:00 PM by **Ordinance Committee Chairman, Cncl. William Sebastian** in the Second Floor Meeting Room of the Municipal Complex located at 125 Virginia Avenue, Williamstown, New Jersey.

This meeting was advertised pursuant to the Open Public Meetings Act of New Jersey (NJSA 10:4-6 thru 10:4-21). Notices were placed in the official newspapers for the Township of Monroe (i.e.: Gloucester County Times, the Courier Post and the Sentinel of Gloucester County) and copies were posted on the bulletin board at the Municipal Complex.

SALUTE TO THE FLAG

Cncl. Walter Bryson led the assembly in the Pledge of Allegiance to Our Flag.

ROLL CALL OF PUBLIC OFFICIALS

Cncl. Walter Bryson	Present
Cncl. Frank Caligiuri	Present
Cncl. Marvin Dilks	Present
Cncl. Rich DiLucia	Present
Cncl. Ron Garbowski	Present
Cncl. Daniel Teefy	Present (Arrived 7:15 PM)
Ord. Chairman, William Sebastian	Present
Business Administrator, Kevin Heydel	Present
Solicitor, Charles Fiore	Present
Dir. Public Safety, Jim Smart	Present
Chief of Police, Daniel Pontano	Present
Deputy Clerk, Sharon Wright	Present

B.) APPROVAL OF MINUTES

Cncl. Marvin Dilks made a motion to approve the minutes as submitted of the Ordinance Committee Meeting of December 1, 2010. The motion was seconded by **Cncl. Ronald Garbowski** and unanimously approved by all members of Council in attendance.

C. PUBLIC PORTION

Cncl. Walter Bryson made a motion to open the Public Portion. The motion was seconded by **Cncl. Ronald Garbowski** and unanimously approved by all members of Council in attendance. With no one wishing to speak **Cncl. Ronald Garbowski** made a motion to close the Public Portion. The motion was seconded by **Cncl. Marvin Dilks** and unanimously approved by all members of Council in attendance.

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D.) ORDINANCES FOR REVIEW

▪ **Taxi Ordinance**

Ord. Committee Chairman, Cncl. Sebastian noted the draft ordinance given to Council for review is a shortened version of our existing Taxicab ordinance and is based upon the Mantua Township Taxi Ordinance. Due to issues in the past with insurance coverage language has been included that requires taxicab owners to maintain insurance for the entire year. Our original Taxicab ordinance incorporated limousines but now two separate ordinances are being proposed; one for taxicabs and the second for limousines. The Limousine Ordinance refers to State Statute regulations since they supersede township regulations. **Solicitor Fiore** felt the ordinances were fine; noting they are simple and straight forward. The only issue he was concerned about was if a taxicab company operated as a broker, as that would mean multiple businesses were being operated out of one particular office. He noted the ordinance states "*applicants shall maintain an office in the Township of Monroe*" and he felt it should include language such as "*as permissible according to all local zoning laws*" due questions in the past as to whether a taxicab business is an in-home occupation. He noted in his opinion it is not, but the zoning official may have a different interpretation. Mr. Fiore noted one cab parked in a residential neighborhood is ok but there have been circumstances where multiple cabs were parked in residential areas. He recommended including language that will require taxicab owners to get a zoning permit just like other businesses. **Cncl. Walter Bryson** questioned whether there were regulations in the zoning law already that deals with this. Mr. Fiore indicated there were already regulations on the books that deal with aspect on most issues. Mr. Fiore spoke of the insurance requirements (\$300,000.00/\$100,000.00) and noted the purpose of increasing that amount from the State's lower requirements of \$35,000.00 is to protect people who utilize cabs, not to be exclusionary like some other towns that have higher insurance requirements. He spoke of the Clerk's Office receiving insurance cancellation notices and suggested that when one is received the Clerk immediately give it to the Police Chief who has the ability to authorize his department to stop the cabs. **Cncl. Ronald Garbowski** requested the ordinance include language requiring cab operator's to post their license in the cab along with the fares. **Cncl. Rich DiLucia** questioned whether the township would be liable if the insurance on a cab was cancelled and it was involved in an accident. Solicitor Fiore replied no, the township would not be liable because we are just establishing the minimum we are not involved in any type of policing procedures. Mr. Fiore explained depending upon the operator's own personal car insurance coverage he might be covered for uninsured drivers but if he drives without insurance and someone is injured, he could face mandatory jail time as well as all the criminal penalties associated with Title 39. Cncl. Sebastian requested Mr. Fiore tweak the ordinance language as discussed.

▪ **Chapter 239 - Refuse Collection and Recycling**

Cncl. Sebastian noted the Mayor requested language be included under Chapter 239 that would allow the municipality to place a lien on a property when the township removes

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D.) ORDINANCES FOR REVIEW (cont'd)

household debris left at curbside. **Solicitor Fiore** distributed the draft amendment to Chapter 239 and explained throughout the Code Public Works has the discretion of what or what not to remove but no procedure is in place to allow the township to get a contractor to remove debris and then place a lien on the property. Section 239-8 "*Collection of Bulky Waste*" was changed to include the following paragraph to deal with that issue:

"If in the discretion of the Director of Public Works or his/her designee determine that bulky waste is not to be collected pursuant to this Chapter, the Director upon due notice to the homeowner, tenant or property owner, shall upon notice have the right to have the municipality remove said debris and assess a municipal lien against the property for the cost of said removal. Due notice shall consist of a forty-eight (48) hour prior notice and shall consist of posting in a conspicuous place a copy of this chapter and the municipality's intent to lien said property for the cost of said removal".

Mr. Fiore explained this language specifically requires the front door of the house to be posted instead of sending notice by way of certified mail, as that process could take up to two weeks and most people do not pick up certified mail. Council questioned whether the ordinance should include a time period the trash can be at curbside and whether this would affect homeowners cleaning out garages. **Solicitor Fiore** advised debris left on the street longer than the specific time period already established under the code would be in violation and the Director of Public Works or his designee can cite a person for putting out items such as furniture prior to the designated pickup schedule. **Dan Kozak** of the Zoning Office advised this amendment would affect garage cleanouts, as it deals with trash that covers the curb but it would not affect a homeowner placing a piece of furniture out a week before bulk pickup. He explained whether trash will be picked up is at the discretion of the truck driver, who knows when he sees it if it is too much. **Cncl. Frank Caligiuri** felt "*if you know it when you see it*" is an abuse of power and not very well defined and he recommended looking at other town's ordinances to see how they handle this. **Cncl. Sebastian** explained usually the type of trash this amendment addresses does not pertain to individual homeowners it deals with bank owned homes in the process of foreclosure. The bank hires individuals to clean out vacant houses and those people leave the trash on the curb instead of hauling it away. Mr. Fiore noted other towns do not pick up unless the trash fits in the trash container. Council expressed their concerns in regards to a Public Works employee making the decision on what trash is acceptable to pickup. **Business Administrator, Kevin Heydel** explained the Public Works employees will take pictures of the debris to support placing a lien on a property. Mr. Kozak explained usually more than one person makes a determination on what should be picked up, as the truck driver contacts his supervisor, who will go to investigate and at times he has contacted the Zoning Office to see if the property is a rental. **Cncl. DiLucia** questioned who would be responsible for rental units. Mr. Kozak advised the property owner. Mr. Kozak explained homeowners are asked to put a little trash out each week because when it is out all at once, the truck may be filled at one stop and not be able to complete its route. Upon conclusion of their discussion Council moved the amendments to Chapter 239 forward for First Reading at the January 11th Regular Council Meeting.

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D.) ORDINANCES FOR REVIEW (cont'd)

▪ **Salary Ordinance**

Business Administrator, Kevin Heydel explained the amendments to the salary ordinance are in accordance with employee contracts. **Cncl. Sebastian** noted a copy of the current salary ordinance was included as a comparison to the proposed one and the only changes between the two are the 2% increases to those titles that were at the top of their salary range. **Mr. Heydel** noted he only made changes to the top of the ranges but the minimum salaries should be reviewed at some point in time. He explained the 1360 Contract includes step increases and those members that are through the steps automatically receive a 2% increase. **Cncl. DiLucia** noted actually the people under the steps get a 4% increase because they get the step increase as well as the general 2% increase. **Mr. Heydel** noted that is correct, those people get the step increase, which is generally between 4% and 5% as well as the 2% increase. **Cncl. DiLucia** noted then someone could end up getting a 7% increase annually. **Mr. Heydel** advised the township has not hired in a long time so only about four employees are still in the steps. None of the other contracts contain steps but the police do have longevity increases of 2% after 10 years, 2% after 15 years and 2% after 20 years. **Mr. Heydel** explained the salary for the Superintendent of Public Works was not changed because there is no one in that position and the Administrative Clerk-Planning Board was not changed because the person in that title is not at the top of the range. **Cncl. Sebastian** polled Council and all were in favor of moving the Salary Ordinance forward for First Reading at the January 11th Council Meeting.

E.) MATTERS FOR DISCUSSION

▪ **Issuing Authority Bingo and Raffle Licenses**

Cncl. Sebastian explained currently bingo and raffle license applications are approved by Council and sometimes because of the time frame of the meetings approval could be granted after the date of the function. For that reason the Clerk suggested she be given the responsibility to approve bingo and raffle license for non-profit organizations. **Cncl. Daniel Teefy** noted Council does not review the bingo and raffle license applications they just take the word of the Clerk that everything is in order therefore he felt she should have the responsibility to approve them. **Cncl. Sebastian** requested **Mr. Fiore** review this issue to see if any ordinances need to be changed to give the Clerk the authority to approve the bingo and raffle applications.

▪ **Military Leave Benefits**

Business Administrator, Kevin Heydel spoke of Governor McGreevy passing an Executive Order in 2004 regarding military leave pay and explained that State Statute requires National Guard members called to federal active duty to be paid 90 days full pay each year and then the difference between their military pay and their salary in order to keep them whole while they are away. Members of the Army, Navy, Marines, Air Force Reserves, etc. are paid 30 days full pay each year and then the difference between their military pay and their employee salary. **Mr. Heydel** noted when our ordinance was adopted no distinction was made

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E.) MATTERS FOR DISCUSSION (cont'd)

between the two and both groups were given 90 days each year. He noted we have done a noble thing for a long period of time but we can no longer afford to do that. He explained if an employee goes on active duty in August he is paid his full pay for September, October and November and at the beginning of January they receive an additional 90 days salary. Cncl. Frank Caligiuri questioned how many people are involved in this. Mr. Heydel replied right now one but Civil Service requires veterans to be hired first so there could be more in the future. Cncl. Caligiuri expressed concern that one person, out of 200 employees, whose military pay is a fraction of his salary would be shafted while sitting in a foxhole. Mr. Heydel explained he receives his full salary plus military pay for 90 days and paid the difference between the military salary and what he makes as a police officer for the remainder of his active duty. He noted in the past we were also very generous and allowed people to utilize their vacation and sick time. He felt it was ok to use vacation but not sick and suggested the ordinance be amended to include language prohibiting sick time from being utilized to supplement military leave. Cncl. Walter Bryson felt Mr. Heydel had a valid point and that things should be done in accordance with State law. He spoke of an officer's family approaching Council in the past requesting to use sick time and he felt if that issue arose again Council could address it on a case by case basis. Cncl. Sebastian noted the administration wants an ordinance that mimics the State requirements because we cannot afford to be generous whether it is for one person or a hundred. The township is not receiving the money the State is supposed to give back to us and in some respects we are being generous to a fault in not only this issue, but others as well and everyone knows that it is time to tighten the belt. Cncl. Marvin Dilks questioned how long the township pays the difference in an employee's salary and his military pay. Mr. Heydel advised the township pays the difference for the entire time of their active duty, which is normally a year or longer. Cncl. DiLucia questioned whether Mr. Heydel was asking to just pay 30 days each year and how much money was involved. Mr. Heydel replied yes, 30 days full pay and the difference in pay beyond that time. He also noted for the current individual the money involved was approximately \$5,000.00 a month or a total of \$10,000.00. Mr. Heydel noted the veterans we hired have stayed in the reserves to get a military pension along with the pension time they are getting here. Cncl. DiLucia questioned whether their benefits continue to accrue while they are on military leave. Mr. Heydel advised vacation and sick time do accrue while employees are deployed. Cncl. Sebastian added they also keep their promotional status. Cncl. DiLucia noted not wanting them to utilize their sick time at today's dollars will cost the Township more in the future when those days are paid at a higher rate of salary. He indicated he would be opposed to creating that liability. Mr. Heydel explained at the end of the 2011 contract the governor's new toolbox maxes out sick time to \$15,000.00 or to whatever employees have accrued to that time over \$15,000.00. Sick time is being capped so whatever sick time employees do not use they will lose. Mr. Heydel indicated he feels it is wrong to utilize sick time for anything other than being sick. Cncl. Sebastian requested the Solicitor to review the State Statute pertaining to this issue and be prepared to discuss it at the next Ordinance Committee Meeting.

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E.) MATTERS FOR DISCUSSION (cont'd)

▪ **EMS Transport Fees**

Business Administrator, Kevin Heydel indicated he received an e-mail from the billing company recommending that our third party billing fees, which have not increased since 2006, be increased from \$500.00 to \$625.00, as our rates are well below neighboring communities. **Cncl. Marvin Dilks** questioned whether the \$625.00 was an average charged by other communities. Mr. Heydel advised that it was. **Cncl. Rich DiLucia** questioned whether the new fees would need to be negotiated with the provider. Mr. Heydel explained it does not need to be negotiated, as there are ceilings of what insurance companies cover. **Cncl. Sebastian** explained if \$625.00 is billed and the insurance company only pays \$500.00, the patient will be balanced billed for \$125.00 but since the township does not require residents to pay for ambulance services, we would accept the \$500.00. **Cncl. Ronald Garbowski** noted taxpayers support our ambulance services so whatever money we can get from insurance companies is less taxpayers need to pay. Mr. Heydel noted in 2009 the township received \$834,000.00 from third party billing. Currently \$816,000.00 was received; however that should have been up to around \$850,000.00. **Cncl. Sebastian** noted those fees cover the operational cost of salaries, fuel and maintenance associated with our ambulance services, which have increased but were not offset with fee increases. Mr. Heydel explained if debt service was eliminated the township would have made better than \$50,000.00 on third party billing. **Cncl. Marvin Dilks** questioned the number of ambulance calls there were last year. Mr. Heydel noted over 4,000 and by increasing fees another \$50,000.00 to \$75,000.00 in revenue could be brought in. **Cncl. Bryson** questioned whether all the ambulance associations were submitting reports so the township could be paid for the calls. **Cncl. Sebastian** noted there has been some improvement but not 100% due to some EMTs being behind on their charts. Mr. Heydel noted he reviewed the charts of the three different organizations and in two of them, patient care records are higher than the number of calls, which can happen when multiple people are treated at one call. The other organization's patient care records are 30% below the calls and that means we are losing money. **Cncl. Caligiuri** noted if the numbers are correct and the township received \$800,000.00 in revenue from 4,000 calls that means the township received about \$200.00 per call. **Director of Public Safety, Jim Smart** noted people out of work have no insurance so we have less chance of recouping money on those calls. **Cncl. Daniel Teefy** questioned whether \$625.00 was the average billed by other municipalities and whether Mr. Heydel knew what the high and low ends were. He noted he would like to come down \$20.00 from the high end number. Mr. Heydel was unaware of the high and low end numbers. **Cncl. DiLucia** noted based upon **Cncl. Caligiuri's** numbers only 30% is being collected and he suggested reviewing that ratio because if it was caused by reports not being completed that could mean a major loss of revenue for the township. Mr. Heydel felt many of the calls could be Medicare calls, which only pay \$200.00 to \$300.00. He went on to explain when an EMT returns from a call they input the patient care record into the system. Once that record is in the system the billing company begins the process to generate a bill by contacting the hospital for insurance information. EMTs are not required to collect insurance information from patients and sometimes it takes longer for the billing company to get that information but as soon as it is received, bills are generated. The issue that needs to be addressed is some EMTs are not finishing charts or inputting into the system and because of that, the billing company cannot begin their process to generate bills.

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Mr. Heydel noted he would find out what the collection rate is and e-mail that information to Council so the fee ordinance could be amended as soon as possible because the longer we wait, the longer we are losing money. **Director of Public Safety Jim Smart** noted the township pays the billing company 2% of whatever they collect so they have a driving force as well to collect more money. **Cncl. Marvin Dilks** requested the issue of EMTs not completing their charts be addressed. Jim Smart advised he would address that issue with the new regime at a meeting scheduled for Wednesday, January 12th. He spoke of previously putting pressure on them to get the ambulances on the street and that has improved 80%. One of the adjustments made was to keep calls in town because that keeps the revenue here as well so if no one responds after the first tone as soon as a second tone is sounded the other squad will respond to the call. Mr. Smart explained the Williamstown Chief is a proactive in keeping track of the charts and is all over his members to get them done. The south end of town chief shares the duties of fire and EMS so he is not as proactive with the charts. Mr. Smart explained the township is under contract with Cooper Hospital and requires those charts be done within 24 hours of a call. **Cncl. Sebastian** spoke of the day crew supervisor going through all the charts, picking out the ones that are not complete and sending them back to the squads to complete. Mr. Smart noted every call number automatically generates into an EMS chart. **Cncl. Bryson** questioned whether all towns charge a fee plus mileage. **Cncl. Sebastian** explained mileage is charged only over a certain mile. If a patient is taken to Kennedy Hospital in Washington Township no mileage is charged, but, if they are taken outside the specified area then 15¢ is charged for each additional mile. He explained if the ambulance transports a patient from the hospital to his home there is no charge. Mr. Smart explained lift assists cannot be billed because there is no transport and those types of calls were extremely high in the beginning of 2009 until a certain situation that amounted to four unbillable calls a day, was rectified. **Cncl. DiLucia** questioned what happens once the fee of \$625.00 and 15¢ a mile is adopted by ordinance and the insurance company rejects that number. **Solicitor Fiore** explained the township would accept what the insurance company pays and not bill the person for the additional amount. **Cncl. Sebastian** noted once Mr. Heydel sends the information to Council and the Solicitor by way of e-mail this matter can be discussed during the January 11th Work Session Meeting and moved forward for 1st Reading if Council chooses to do so.

▪ **Terms of Boards/Commission**

Business Administrator, Kevin Heydel explained the Mayor feels the five year terms for the Parks and Recreation Commission are too long and that the number of members and the length of the terms for each board/commission should be reviewed. Mr. Heydel suggested the State Statute and the Optional Charter be reviewed to see if they address terms and number of board/commission members. **Cncl. Frank Caligiuri** questioned what the justification was for term limits. **Cncl. Sebastian** felt five year terms were too long because an outgoing Mayor could appoint his people in the final year of his term and when the new mayor takes office he would be unable to make any of his own appointments. He added most boards/commissions stagger their terms so some expire each year but in the case of Parks and Rec the terms are not staggered. Discussion took place in regards to why Parks and Recreation increased their members from eleven to fifteen. **Cncl. Daniel Teefy** explained the members were increased

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E.) MATTERS FOR DISCUSSION (cont'd)

because additional people were needed to help out with all the Parks and Rec events. Mr. Heydel suggested getting additional volunteers for specific events rather than locking people in for long periods of time. Cncl. Sebastian noted if the terms were staggered or were shorter there might be more people willing to serve on boards/commissions. Cncl. Teefy suggested also reviewing the boards/commissions to see which ones are functional. Cncl. Sebastian spoke of the Faulkner Act limiting the number of directors and noted if it states our form of government could be run by 100 people and we have 140 then the department heads should explain why they need those additional people. He noted it is not his intent to lay people off but he felt it should be explained why the people we have are needed. Mr. Heydel noted the Faulkner Act does not require a certain number of people but it does define the structure of our form of government. Cncl. Sebastian noted the Road Department is down eight people and is still operating so in that particular case, it was self proven that department can operate with less people and there may be other top heavy departments that will need to justify why they need what they have. Cncl. Rich DiLucia agreed that should be done but he felt the revenue side should also be looked at to see if revenues could be maximized. He suggested the expenditure side for suppliers, contracts and fixed costs that are also negotiable costs, be reviewed by an Oversight Committee who could make recommendations on ways to tighten up expenditures. Cncl. DiLucia noted if additional cuts are made in State funding and the township is facing unrealistic mandates Council should sit down now and do the hard crunching of numbers rather than wait until the end of the year. Discussion took place regarding the various types of guidelines that municipalities go by that recommended (*for instance*) the number of police officers a town should have. Cncl. Sebastian noted last year we got through financially by the skin of our teeth, this year is going to be worse and 2012 will be impossible unless something is done. Cncl. Dilks noted police officers along with other employees were laid off in other towns but council does not want to do that here. Our expenses have been cut through attrition and not hiring new people.

▪ **Council Committees**

Cncl. Pres., Marvin Dilks advised he reviewed the council committees and combined some to reduce the number to ten. Cncl. Sebastian questioned the Solicitor in regards to whether there needed to be any ordinance changes for the Council President to reduce the number of Council Committees. Solicitor Fiore advised no ordinances needed to be changed. Cncl. Pres., Dilks combined the Education Committee with the School Budget Committee and the Law Committee with the Tax Abatement Committee. The Open Space Advisory Committee, the Health Committee, and the MMUA Committee were deleted. Cncl. Pres., Dilks noted he now has ten committees and the members and chairmen have been evenly divided. He submitted a list of his committee appointments to the Deputy Clerk and requested that it be typed and distributed to Council. Cncl. Daniel Teefy suggested the Finance Committee, which consists of Cncl. DiLucia as chairman, Cncl. Bryson and Cncl. Pres., Dilks, schedule a meeting to review the revenue and expenditure sides of the budget. Cncl. Bryson noted last year discussions took place about Council information being distributed electronically, such as by way of an iPad, as a means of saving paper and he questioned whether that can be done legally. Solicitor Fiore advised the information could be transmitted to Council members by way of

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iPad but there must be a permanent paper record in the Clerk's Office. Cncl. Teefy noted iPads with Wi-Fi access can be purchased for between \$400.00 and \$500.00 that would handle all the information Council needs. Cncl. Sebastian noted that is something the Finance Committee will need to work on.

F.) OLD BUSINESS

▪ **Speed Humps – Brookdale Blvd.**

Cncl. Sebastian spoke of the Brookdale Association requesting speed humps on Brookdale Blvd. and of the Solicitor recommending establishing an objective criteria for their installation. Chief Daniel Pontano was in attendance to address the Brookdale request. He reported a traffic survey was conducted on Brookdale Blvd. by the Monroe Township Traffic Division between November 17, 2010 and December 9, 2010. The average traffic was 646 vehicles during the weekday and 601 during the weekends and the greatest volume was between the hours of noon and 7:00 PM. The average speed was 27.7 to 31.3 miles per hour and 85% of the cars traveling on that roadway were between those speeds. There were some phantom readings of 70 miles per hour but that could be contributed to two cars driving over the equipment at the same time in opposite directions. The 19th percentile went from 33.7 to 41.2 miles per hour, which is well above the 25 mile per hour speed limit on that roadway. Chief Pontano noted it is very hard to drive 25 miles per hour so when writing a summons the police have the discretion to give a leeway of 10 miles over the speed limit. The crash data for this roadway from 2007 to 2010 shows four motor vehicle accidents and none were related to speed. Two of the accidents were people backing out of their driveways and striking a parked car, one car went into a collapsed manhole and the other a driver failed to yield at the intersection of Brookdale and Herbert Blvd. The Traffic Division indicated speed humps are not warranted on Brookdale Blvd and recommended selective enforcement for that area. Chief Pontano noted that could be a problem, as manpower is down due to the retirement of upper echelon officers and due to the department scaling back. He explained he has scaled back some specialty units in order to properly staff the Patrol Division to answer the 33% increase in calls the department has had this year. Chief Pontano noted the Traffic Division can be sent to Brookdale Blvd. for selected enforcement but how long that will be controlled is unknown. The Chief noted Brookdale Blvd. is used by people on Sicklerville Road cutting through Holiday City and Brookdale to get out to the Black Horse Pike. He spoke of going out to Brookdale with his radar and the majority of people he stopped were residents of Holiday City. He did issue some summons but the majority of those stopped were given warnings and told that this area was a zero tolerance enforcement area and to slow down or the next time they would be issued a summons. Chief Pontano noted whenever he receives speeding complaints he personally goes to the area with his radar equipment so he can address the situation with those making the complaints. Cncl. Rich DiLucia noted Trinidad Blvd. has speeding issues as well. He noted statistics show one thing but when you stand on the street you see an entirely different picture and something must be done, as residents of the area are complaining to him about the traffic issues. The worst time is between the hours of 6:00 AM and 9:00 AM and then again at night

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F.) OLD BUSINESS (cont'd)

when people are using Trinidad as a shortcut to the pike. He noted he backed off requesting speed humps on Trinidad but if they are put in Brookdale they better also be placed in Holiday City. Cncl. DiLucia suggested another survey be done on Trinidad due to the number of complaints he receives for which he has no answer. He added the street is dangerous because of the parking on both sides and suggested stop signs be put there, as that might slow traffic down. Cncl. Sebastian questioned whether the law prohibits three way stop signs. **Solicitor Fiore** explained we would need to provide data that would support the three way stop signs and that must go to the Department of Uniform Traffic Standards. Cncl. Sebastian noted in the past the township had three way stop signs that were removed because the state would not allow them to be an enforceable violation. **Director of Public Safety, Jim Smart** noted Trinidad Blvd. is the main route in and out of Holiday City and it is difficult to treat patients in the back of an ambulance negotiating over speed humps. The ambulance must delay transport and pull over to the side of the road for the medics to administer medication. Speed humps delay response time for every emergency vehicle because police cars cannot go over them over 25 miles per hour and a fire truck needs to slow down to 10 miles per hour or gear is left sitting on the street. Chief Pontano added structural damage can also be done to fire trucks when they go over speed humps and that can be very costly to repair. Cncl. Bryson questioned whether there were any crosswalks on Brookdale Blvd. and if so could a stop sign be placed there. Chief Pontano advised the school bus stops in the middle of the block but stop signs cannot be installed there. Chief Pontano explained prior to the selected enforcement going into effect the signboard would be posted on Brookdale Blvd. for a period of time warning of the zero tolerance policy. The same procedure will then be followed on Trinidad. He noted he would try to downsize the Traffic Unit to put another man in Patrol but at this time of year with weather related accidents that could be difficult to do. Chief Pontano also noted he would look into three way stop signs for Trinidad Blvd. and what the liability would be if an accident occurred there and someone claimed the stop signs were the cause of the accident. He added if they are not something sanctioned by the State of New Jersey they could make the township liable. Cncl. DiLucia noted in that case a stop sign just on Trinidad may at least slow down traffic. Cncl. **Daniel Teefy** suggested utilizing the traffic survey information as the criteria for the installation of speed humps. Cncl. Sebastian felt utilizing those statistics as criteria might initiate other requests for surveys and according to their outcome, speed humps could be requested. Cncl. DiLucia felt Council should just say speed humps are not good for the emergency vehicles. Chief Pontano noted the correspondence from the Brookdale Association questioned the results of the traffic survey and he suggested sending a copy of the survey to them along with the recommendation from the Traffic Division. Cncl. Teefy questioned if traffic surveys are performed by the electronic speed signs. Chief Pontano answered no and went onto explain the speed is calculated by two tubes laid across the roadway at a certain distance apart. When tires go over the tubes the time between when the tire hits the first tube and when it hits the second one is calculated and that determines the speed. This devise also counts the number of cars that go over it. Cncl. Sebastian noted the general consensus is that no speed humps will be placed on Brookdale Blvd. at least until the selected enforcement is done. Cncl. Marvin Dilks questioned how the new radar equipment is working for the Police Department and if police officers had better results in court with the new equipment. Chief Pontano advised the new Stalker equipment is excellent and can lock in on a vehicle at least a

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quarter mile before the K-55 equipment even picked up its whereabouts. He explained each officer is assigned their own device and every day they log in the time, the weather conditions and go through a process to tune/calibrate the equipment so when the officers testify to that, along with their hands on training, they will generally get a conviction.

▪ **Financial Agreement - Williamstown Square**

Solicitor Fiore updated Council on the status of the financial agreement for Williamstown Square. The Business Administrator was contacted by their attorney last Thursday and the application was submitted to the Local Finance Board who needed additional information from the CFO, Jeff Coles in order to place this matter on the agenda of their first meeting in January. Cncl. Sebastian questioned whether this was time sensitive. Mr. Fiore replied no, we can act upon it for Second Reading even though it is a new calendar year, as we have the same members of council. The only time we would be prevented from acting upon an ordinance that was carried from year to year would be a change in council members. In this case there is continuity and we do not need to re-advertise for First Reading.

G.) NEW BUSINESS

• **Penalties/Interest on Contracts**

Cncl. Frank Caligiuri recommended Council consider adopting an ordinance that would require the administration to notify Council in the event that interest or penalties are assessed on a contract. He felt that was appropriate because, as the legislative body, Council approves the budget and is responsible to provide adequate money for the Mayor to perform certain services and interest or penalties assessed on a contract are above and beyond what Council anticipated when the budget was approved. There may be valid reasons for the administration to incur interest or penalties on a contract but by the same token, there may be occasions where there are not valid reasons. Cncl. Caligiuri spoke of requesting justification as to why payments were delayed. He noted he never received a response and did not carry it any further but now there is some indication, from Kevin's previous statement, that Rodier assessed interest charges. Cncl. Caligiuri noted interest charges should never be assessed because if a person is not performing in accordance with his contract there should be a paper trail that includes notification as to what is not being done and a time period should be given to make good on the performance in accordance with the contract. If the person does not perform, then there should be no assessment of interest and no liability on the township. The only time liability should exist is when we are doing something wrong. Cncl. William Sebastian noted he understood what Cncl. Caligiuri was saying but there is also another issue, which is the contract amount cannot be exceeded. He noted there are terms within a contract regarding additional costs for various things, such as drawings or incurring premium prices that require a bump in cost, but the bottom line is, the contract has a limit and that total number was bonded for. Cncl. Caligiuri noted that is true, but the contract also has payment terms, which we either need to adhere to, or be subject to a penalty for breach of contract. Cncl. Sebastian questioned

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G.) NEW BUSINESS *cont'd*)

how interest or penalties would be handled that exceeds the documented total. Solicitor Fiore advised they could possibly be paid out of the Library Fund (*bonded money for the construction of the Library*). He explained Mr. Rodier's contract maybe \$50,000.00 and the resolution authorizing the mayor to execute the contract may say \$50,000.00 but if he is getting paid penalties or interest over and above the contract from a "*fund*", it is being legally paid for but it is outside the scope of the contract. It is not being funded through the contract; it is being paid through the resolution by another fund. He noted both Cncl. Caligiuri and Cncl. Sebastian are correct because we are tied by the contract; however, the interest being paid is over and above what the contract was awarded for and is being paid from the Library fund. Cncl. Caligiuri noted if there is any interest or penalties assessed against this municipality Council should be notified of that because Council allocated a certain amount of money, approved a certain contract with certain payment terms, with certain limitations and now those payments are exceeding those limitations. He added Council should be notified of this just like we are notified about change orders. Solicitor Fiore noted or Council should be notified in writing if there is justification for the delay in payment; that notification should not be verbal. Cncl. Sebastian noted Council holds the purse strings so if money is being spent that we are not notified about how do we control the money left over. Mr. Fiore advised Council would control it by ordinance and also by looking much more closely when contracts of this nature are being awarded. He added with the Rodier contract all types of issues came up that were unclear and lots of hands were in the project. Cncl. Sebastian noted it was not just with this contract it also happened with the Fire Substation and with contracts the Board of Education had for the additions to the schools. He noted money is assigned to the Library from taxation and if that money was taken to pay the difference in that contract, Council should have been made aware of it. Cncl. Caligiuri noted that was not the case because that money is designated for certain things like the acquisition of new books, it is not designated for construction. He noted he was interested in payment of interest and penalties, which most of the time can be avoided simply by notifying contractors in writing, regarding violations of certain performance issues. Once that paper trail is created the township is protected against liability with respect to violations in the payment terms, but without that protection the township and taxpayers are inappropriately subjected to wasteful spending of their money. Cncl. Daniel Teefy felt anything paid over the contract amount would be a change order and no payment should be made without council's approval. Solicitor Fiore explained the contract includes penalties and interest and a person can send a notice saying under the provisions of the contract he is now forthwith going to be charging interest; but he cannot say in the 19th month that he is charging interest on \$10,000.00 that was owed to him for the last year and half. Mr. Fiore noted there may be legitimate reasons why payment was not made and hopefully that was communicated in writing. He explained his defense to not paying retroactively is the penalty provision of the contract was not enforced before and now all of a sudden they want to enforce it. Cncl. Caligiuri noted the easiest way to accomplish Council being notified is to require the CFO, who receives invoices, to notify this governing body if an invoice includes interest and penalties. The matter could then be discussed with the administration to find out if in fact there was some justification for the interest and penalties. Cncl. Teefy noted interest and penalties are assessed for lack of payment because a job did not get done right and he felt Council should be advised at the time the job is not being done properly so interest and penalties do not get assessed. Cncl. Caligiuri

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G.) NEW BUSINESS *cont'd*)

noted that would be nice but we cannot demand that because we are not the administrator, we are the legislative body and do not have that authority. Cncl. Sebastian noted by creating an ordinance that requires penalties and interest overruns to be reported to Council may make the Administration be more inclined to make sure that does not happen on future projects. Cncl. Caligiuri requested the Solicitor to look into this and prepare an ordinance for further discussion at a future meeting.


- **Police Contracts**

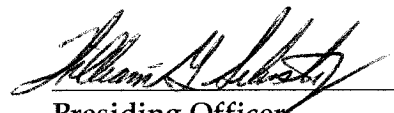
Cncl. Sebastian noted as the chairman of the Public Safety Committee he would like to schedule a meeting to discuss the pending Police Department contract. Cncl. DiLucia noted the committee must also meet regarding the percentage of interest paid on taxes and he suggested these issues be discussed at the same time. Cncl. Caligiuri suggested, since Cncl. DiLucia and Cncl. Bryson researched the issue, that Cncl. Sebastian consider forming a task force as opposed to the Budget Committee (*Caligiuri, DiLucia, Bryson*) and either substitute him (*Caligiuri*) or Cncl. Dilks to ensure that Cncl. DiLucia and Bryson are on the committee. It was noted that Cncl. Pres., Dilks can fill in on any committee for any member of Council and that Cncl. Sebastian and Cncl. DiLucia will discuss a date for their committees to meet.

H.) ADJOURNMENT

With nothing further to discuss Cncl. Ronald Garbowski made a motion to adjourn the Ordinance Committee Meeting of January 5, 2011. The motion was seconded by Cncl. Walter Bryson and unanimously approved by all members of Council in attendance.

Respectfully submitted,


Sharon Wright, RMC
Deputy Clerk


Presiding Officer

These minutes were prepared from excerpts of the recorded proceedings and the hand written notes of the Ordinance Committee Meeting of January 5, 2011 and serve as only a synopsis of the proceedings. That official recording may be heard in the Office of the Township Clerk upon proper notification pursuant to the Open Public Records Law.

Approved as submitted AW Date 2/2/11
Approved as corrected _____ Date _____