

**MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
MARCH 2, 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 **Cncl. Daniel Teefy** 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. Ronald Garbowski 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		Excused
Cncl. Rich DiLucia	Present	
Cncl. Ron Garbowski	Present	
Cncl. Daniel Teefy	Present	
Ord. Chairman, William Sebastian	Present	(Arrived 8:25 PM)
Business Administrator, Kevin Heydel	Present	
Solicitor, Charles Fiore	Present	
Deputy Clerk, Sharon Wright	Present	

B.) APPROVAL OF MINUTES

Cncl. Walter Bryson made a motion to approve the minutes as submitted of the Ordinance Committee Meeting of February 2, 2011. The motion was seconded by **Cncl. Rich DiLucia** and approved by all members of Council in attendance with the exception of **Cncl. Ronald Garbowski** who **Abstained**.

C.) PUBLIC PORTION

Cncl. Rich DiLucia 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. Walter Bryson** made a motion to close the Public Portion. The motion was seconded by **Cncl. Frank Caligiuri** and unanimously approved by all members of Council in attendance.

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D.) CORRESPONDENCE

▪ Bingo License BA-2 - Oak Knoll PTO

Cncl. Ronald Garbowski made a motion to approve Bingo License BA:2 for Oak Knoll PTO. The motion was seconded by Cncl. Rich DiLucia and unanimously approved by all members of Council in attendance.

E.) ORDINANCES FOR REVIEW

• Chapter 65-23.1 "Military Leave Benefits"

Cncl. Daniel Teefy noted the draft ordinance includes the language "*30 workdays and 6 weeks or 24 hours*" that was requested at the last Ordinance Committee Meeting and he asked if any member of Council had any questions regarding the proposed language changes. Business Administrator, Kevin Heydel questioned whether the change just pertained to the military; not the National Guard. It was noted that it did.

Cncl. Walter Bryson made a motion to move the amendments to Chapter 65-21.1 forward for First Reading at the March 8th Regular Council Meeting. The motion was seconded by Cncl. Rich DiLucia and unanimously approved by all members of Council in attendance.

• Chapter 249 "Streets and Sidewalks"

Cncl. Teefy noted the draft ordinance included the changes to Chapter 249 that were requested by the Chief of Police at the last Ordinance Committee Meeting. The proposed amendments include increasing the width required to be shoveled to *two feet*, the hours allowed to clear sidewalks to *24 hours* after the snowfall and a fine of \$50.00 *for the first offense* with subsequent offenses being at the discretion of the municipal court judge *not to exceed \$500.00*. Cncl. Rich DiLucia went on record to say he opposed this ordinance during the last Ordinance Meeting and he continues to oppose it on the basis that some people are physically unable to comply with the ordinance requirements. He noted he thought about including language that would exclude Holiday City because it is an age restricted community but that would not be fair to the other people in the same category that do not live in age restricted areas. Cncl. DiLucia noted after the last discussion of this matter he drove through Holiday City and found 85% of sidewalks in the development were not cleared. He explained everything else was cleared because contractors are paid to remove the snow and that he gave the trustees a heads up that there is a possibility this ordinance will be enforced. He added the people in Holiday City maintain their properties so it is not that they are irresponsible, it is that they physically cannot clear the sidewalks. Cncl. Frank Caligiuri questioned whether there was any school bus traffic or any children in Holiday City. Cncl. DiLucia explained under the rules there should be no children as the community is age restricted and no one under 19 years of age can live there. Children can visit on a temporary basis by registering but after a week questions would be posed as to whether they are permanent or not. Cncl. Caligiuri suggested allowing 36 hours in age restricted zones since there is no regular foot traffic of children and the residents are principally retired. Cncl. DiLucia explained to include clearing sidewalks to the snow removal contract would be financially impossible, as the snowfall over the last couple of years

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E.) ORDINANCES FOR REVIEW (cont'd)

has totally depleted the reserve account for snow removal and this year people were assessed an additional \$140.00. Cncl. DiLucia expressed concern that it may appear to some people that Holiday City was getting preferential treatment and that could create a problem for the other members of Council and the four other districts he represents. Cncl. Caligiuri explained the ordinance would not say Holiday City it would say "*age restricted developments without school age children*". **Dan Kozak** noted there have been no complaints from Holiday City but if someone would call they could be told the ordinance does not pertain to that development. **Cncl. Walter Bryson** felt the ordinance must be applied to the entire town or not at all and if need be, the time for snow removal should be increased from 24 hours to 36. He noted selected enforcement could also be utilized but he questioned if that was done would the township be held liable if someone fell in Holiday City and broke a hip. **Solicitor Fiore** explained the township has immunity even if we make a mistake. Cncl. Teefy was against using selected enforcement. Cncl. DiLucia noted some people in Holiday City are on walkers and could not shovel their sidewalks if they were given until summer. **Cncl. Ronald Garbowski** spoke of some towns allowing 48 hours to remove snow and indicated he had no problem with the 24 hour requirement but would recommend the time period start after a state of emergency declaration has been lifted because many people contract out for snow removal and no one is supposed to be on the roads during a state of emergency. Cncl. Bryson spoke of the problems snowplows have trying to maneuver around parked cars and noted other townships prohibit parking vehicles on streets during snowstorms and he recommended language dealing with that issue be included in the ordinance. **Zoning Official Fred Weikel** suggested amending the time period to 24 hours and handling the enforcement issue based upon complaints because chances are, no complaints will be received from Holiday City. Cncl. DiLucia noted this matter is only being addressed because a few complaints were received and he felt the best way to handle it might be not to amend the ordinance and continue handling complaints as they are received. He was concerned that if the ordinance is amended Holiday City residents who cannot shovel or afford to have it done may be cited. Mr. Kozak indicated his office would need to receive a complaint from one of the neighbors before that would happen. Mr. Fiore explained complaints do not need to be in writing they can just be called in to the municipality. **Cncl. DiLucia** requested before any decision is made on this that Council give him until the next Ordinance Committee Meeting to discuss with the trustees the possibility of negotiating a new contract with Guzzo to clear the sidewalks, as that may resolve the problem in Holiday City.

Cncl. Ronald Garbowski made a motion to Table the amendment to Chapter 249 "Streets and Sidewalks" until Cncl. DiLucia had the opportunity to discuss this matter with the Holiday City trustees. The motion was seconded by **Cncl. Frank Caligiuri** and unanimously approved by all members of Council in attendance.

- **Chapter 4-29 "Removals" (Boards/Commissions)**

Solicitor Fiore noted Sections E. and F. of the draft ordinance are additions to the existing code. After reviewing the draft the Clerk's Office pointed out that a portion of Section E, which addresses what constitutes a vacancy and types of removal proceedings may cause some confusion with Section D of the existing code that requires 70% or more attendance at

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E.) ORDINANCES FOR REVIEW (cont'd)

meetings and has a procedure to follow for removal. Mr. Fiore noted Section F. includes a Citizenship Leadership form that must be completed by people interested in board/commission positions. Council questioned what the point was for two different removal processes and whether the ordinance should just have one or the other. Mr. Fiore explained Section D is our current code and Section E is boiler plate language that adheres to vacancies under State Statute. He explained both sections can remain, as there could be someone that missed four consecutive meetings but still have 70% attendance or the 70% that could be removed and we could follow State Statute or make our ordinance more restrictive to require three or more meetings missed. Cncl. Frank Caligiuri questioned whether the additional language was verbatim to State Statute. Mr. Fiore advised that it was. Cncl. Caligiuri referred to Section E. (*Vacancy deemed on resignation, incapacity, death, residence, absence, or removals: filling unexpired term*) and recommended including additional language that would define incapacity and residence. He suggested "*medically documented incapacity*" be added because he was concerned with who would be the authority to determine whether or not someone is incapacitated. He also suggested including language such as "*in areas where there is a residency requirement*" because he felt there may not be a residency requirement in some offices. Cncl. Caligiuri noted in Section E. f. the term "*appointing authority*" is subject to interpretation of who that person is. He suggested that section say, "*upon determination of the appointing authority that there is sufficient evidence that exists that the officer is in violation of a lawful residency requirement*", as that would give some reason to believe the person is not a resident when he/she is required to be one. Cncl. Teefy questioned whether the residency requirement was found in a different section of the code. Mr. Fiore explained there are certain positions where residency is required and others where it is not. He noted there can be many domiciles but only one residence that can be legally determined from a driver's license, voter registration, etc. Cncl. Teefy questioned whether Mr. Fiore was talking about boards/commissions and employees and department heads. Mr. Fiore indicated that was correct. He went on to speak of an incident that happened in Salem County when Diane Cohen, who works with a large law firm in Camden County, was appointed as Superior Court Judge in Salem County. Her family owned a property on the Delaware River in Salem County, which was not her house but was her legal residence under the law. Cncl. Caligiuri suggested the language "*upon the documented medical determination*" be included in Section E. d. and "*appointing authority*" be removed because the burden to assess physical or mental incapacity should not be placed on the appointing authority. Mr. Fiore noted he would include in Section E. d. that "*upon a determination from the appointing authority supported by objective and documented medical evidence that such officer is physically or mentally incapable of serving*" along with the language Cncl. Caligiuri recommended for Section E. f. Cncl. Rich DiLucia noted during labor relations each side has expert witnesses and he questioned whether this ordinance would be creating a financial monster if there were a legal battle. He noted since he has been on Council no one has been removed from a board. Council agreed board members are not removed very often and upon further discussion they requested Mr. Fiore to tweak Section E as well as the sections dealing with percentages for removal. Cncl. Teefy spoke of the Parks and Rec request regarding a non-resident being a member of that board. Mr. Fiore felt there is a residency requirement for Parks and Rec and explained that he is in the process of preparing a list of all boards/commission, their statutory requirements and what they can and cannot do.

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E.) ORDINANCES FOR REVIEW (cont'd)

- **Ordinance To Exceed The Municipal Budget Appropriation Limits And To Establish A Cap Bank (N.J.S.A. 40A:4-45.14)**

Business Administrator, Kevin Heydel explained this ordinance allows the township to establish a cap bank to be utilized in the future if necessary. He noted according to his calculation we are currently \$560,000.00 under the 2% cap this year but it is always good to have a cap bank in place in case we would need it in the future. **Mr. Fiore** added this also extends the township's credit line.

Cncl. Walter Bryson made a motion to move the Cap Bank Ordinance forward for First Reading at the March 8th Regular Council Meeting. The motion was seconded by **Cncl. Rich DiLucia** and unanimously approved by all members of Council in attendance.

Cncl. Frank Caligiuri referred to the third paragraph in the Cap Ordinance and noted it specifically refers to the 2011 calendar year and says *"the Council finds it necessary to increase the budget by 3.5% over the previous year's final appropriations, in the interest of promoting the health safety and welfare of its citizens"*. Solicitor **Fiore** noted it should say *"may if necessary"*, as that language implies that it is automatically going up 3.5%. Discussion ensued in regards to whether this was a boilerplate ordinance that is done each year. **Cncl. Caligiuri** felt that it was not since it states specific dollar amounts over last year's appropriations. **Mr. Heydel** noted the dollar amount is the only thing that changes in the ordinance each year. **Cncl. DiLucia** questioned whether this ordinance was required to be done ahead of time in the event the township would need to increase the budget and if it was not done, would that mean we could not request an increase. **Mr. Heydel** explained we have adopted this ordinance every year, as the State allows municipalities to bank excesses that can be drawn upon and used if needed in following years. He suggested this question be posed to the CFO as he was not sure how we would draw upon that money to go over the 2% cap. **Cncl. Bryson** spoke of an email from the State that required the township to hold a referendum if the township budget was going to be over the 2% cap and of the email from the COF that said we did not need a referendum. **Mr. Heydel** explained if the township exceeded the 2% tax levy cap calculation we would need to go out for referendum but ours is \$560,000.00 below that calculation, which contains a million dollars in exceptions. He gave the example that if our health benefits increased by 8%, 6% of that would be an exception to the 2% cap. **Cncl. Caligiuri** suggested including the words *"may if necessary increase"* into the ordinance. A recommendation was made to place this ordinance on the March 8th Work Session Meeting to allow the CFO to answer Council's questions.

Cncl. Rich DiLucia made a motion to reconsider the Cap Bank Ordinance at the March 8th Work Session. The motion was seconded by **Cncl. Walter Bryson** and unanimously approved by all members of Council.

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F.) MATTERS FOR DISCUSSION

- **Chapter 74 "Fees" - Summer Camp Program**

Cncl. Teefy noted Jim Bonder requested the fees for the summer camp program to be increased from \$145.00 to \$150.00. Mr. Heydel advised the weekly Counselor In Training Program (CIT) fee should also be increased to \$100.00. He explained 8th graders attending camp are given a 2/3 discount from the regular rate because they assist camp counselors by helping supervise camp activities for the younger children. Cncl. Bryson questioned whether Mr. Bonder needed extra money to run the summer camp program. Mr. Heydel replied no, the increase is just keeping the program in line with the rates in other municipalities. Cncl. Bryson questioned whether raising the CIT Program fee to \$75.00 would be better, as he was concerned that \$100.00 may hurt the program. Mr. Heydel replied no and explained that the \$50.00 shown in the current ordinance was incorrect because \$90.00, which is approximately 2/3 of the \$145.00 camp fee is what has been charged. He felt \$50.00 was probably the discounted price and was included in the ordinance as the total fee by mistake.

Cncl. Ronald Garbowski made a motion to move the amendments to Chapter 74 "Fees" forward for First Reading at the March 8th Regular Council Meeting. The motion was seconded by Cncl. Walter Bryson and unanimously approved by all members of Council in attendance.

Solicitor Fiore recommended while Chapter 74 is being amended the application fee for limousines and taxicabs be included in the amendment. Cncl. Teefy polled Council and all were in favor of including the limousine and taxicab fees in the amendment to Chapter 74.

Cncl. Teefy reported Don Kensey owner of Au Premier Limousine Company was very pleased with the new limousine and taxi ordinances and expressed his appreciation that Council took the suggestions he made at an Ordinance Meeting last year into consideration when adopting these ordinances.

- **Chapter 230 "Peddling and Soliciting"**

Solicitor Fiore noted Chapter 230 has been the subject of many discussions since it was adopted in 1967 and Council must look at why it was adopted and why it was adopted the way it was with a little niche that allowed stationary vendors. He noted ordinances from the other towns do not even come close to allowing what we have allowed over the years. Our ordinance was litigated during the McGuckin years and was the subject matter of superior court judges and the Appellate Division. Mr. Fiore explained when reviewing ordinances from other municipalities he found language such as *"protecting the health, safety and welfare of the community"* along with other language that passes constitutional muster. He noted if our ordinance is going to be changed Council should think about why they are changing it. He felt that the Glassboro ordinance summarizes it all in section 357-2, which states *"the purpose of the ordinance is to promote orderly business practices, protect public safety and health, prevent unfair business practices, promote the quiet enjoyment of public and private lands and to provide for the appropriate use of land of the Borough of Glassboro in accordance with the Development Regulations and Zoning Ordinances"*. Mr. Fiore referred to the first purpose, *promoting orderly business practices* and noted the township has received complaints from business people who went through the

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F.) MATTERS FOR DISCUSSION (cont'd)

approval process and pay taxes while someone else is opening up a stand down the street without paying any of those fixed costs. He noted the most important purpose is to provide for the appropriate use of land in accordance with development regulations. He spoke of unfair business practices and questioned whether roving vendors are fair to individuals paying escrow fees, storm water management fees and numerous other fees. He spoke of a proponent of the Peddling and Soliciting license fighting for it in court based upon the fact that he was a veteran and explained veterans are regulated and exempt from the licensing fee. Mr. Fiore explained none of the six ordinances from the other municipalities allow peddling and soliciting as we know it with a vendor on a site for one day. These ordinances deal with vendors for parades and some are very restrictive. He noted the types of vendors applying for peddling and soliciting licenses here are food vendors that may be in competition with local businesses that have spent millions of dollars on their buildings. **Zoning Official, Fred Weikel** agreed all the food carts should be prohibited. He spoke of also having problems when parade vendors come in at the last minute, as it takes time to process their applications and perform background checks. He expressed his concerns that the background check the police department performs only checks for violations in Monroe Township, which could be a problem if an out of town pedophile came here and something happened. Mr. Weikel referred to the fingerprinting and photograph requirements in the sample ordinances and noted we would get less traffic if those requirements were included in our ordinance. He also noted if the current ordinance is going to remain in place there should be more stringent regulations such as self contained vehicles, as that would prevent vendors from having two or three carts. He felt the township should have an ordinance such as the one we had in the past when Parks and Rec handled parade vendors because the Zoning Office currently spends a lot of time on them and due to fee exemptions the township receives no money. **Cncl. Bryson** suggested eliminating the exemptions so everyone pays the same. **Dan Kozak** explained parade vendors should be a separate category that Jim Bonder handles, as he may want to regulate how many vendors he has participating in an event. **Cncl. Teefy** indicated Jim Bonder is moving in that direction and looking at having one vendor to run a food court during the Main Street Music Festival. **Solicitor Fiore** cautioned that Mr. Bonder should check into having one vendor exclusively run the food court, as that may not be permitted during a public event. **Cncl. Teefy** questioned whether an ordinance would be needed to allow Parks and Rec to have managers during events. Mr. Fiore explained if that were done the ordinance should stipulate a special license would be issued under the direction of the Parks and Rec Department Head. **Cncl. DiLucia** spoke of questioning whether the township could help with solicitation, as the residents of Holiday City are getting deluged by people knocking on their doors to sell something. He noted this ordinance says "*no person shall solicit house to house in an attempt to sell goods*" and that would deal with the concerns of those residents. Mr. Fiore noted we can regulate solicitation by requiring people to register with the township for a license. A background check would be done and all the relevant information would be provided to get the license. **Cncl. DiLucia** questioned whether this would take away a person's constitutional rights. Mr. Fiore replied no, you cannot prevent someone from handing out literature. **Cncl. DiLucia** also questioned what the legal interpretation of a mailbox is. Mr. Fiore explained things can be hung on a mailbox but nothing can be placed inside of it. **Cncl. DiLucia** questioned who would enforce the ordinance. Mr. Fiore explained the Zoning Office enforces all ordinances but the police could

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F.) MATTERS FOR DISCUSSION (cont'd)

also be called. Mr. Weikel noted according to George Reitz and Jim Smart Jehovah Witnesses are exempt from getting a peddling and soliciting license. He indicated he disagreed but was told there is a federal law dealing with that. Mr. Fiore noted he would look into that. Cncl. Teefy questioned whether amending our ordinance would restrict the barbeque vendor from operating as he has for years. Mr. Fiore advised it would, however if he has a license for this year that cannot be rescinded. Mr. Weikel felt that vendor had not come in yet for his 2011 license. Cncl. Bryson questioned how this would affect vendors such as Mr. Softee. Mr. Fiore explained that type of roving vendor is exempted in the ordinance. Mr. Weikel explained all the food vendors are shut down at this time and he has notified them that they cannot be at their locations anymore because the township was amending the ordinance. He felt as soon as the weather changes they will begin applying for a 2011 license and two of them are going to apply for site plan variances to stay in their location. Mr. Weikel questioned Mr. Fiore on whether they can apply for a variance since peddling and soliciting is not under land management. Mr. Fiore questioned whether they were applying for a second use on the site. Mr. Weikel explained the variance process is an appeal against his decision. Mr. Fiore noted the crab man on Rt. 322 could apply for a zoning permit for an in-home occupation to sell crabs out of his house. Mr. Weikel questioned whether that would also apply to a cart on someone's property. Mr. Fiore explained on residential property that would be a second use and a commercial enterprise, as there will be traffic in and out, parking counts that need to be done and handicap parking needed. Cncl. Teefy questioned whether this would affect the people putting vegetables from their garden out front with a tin can to collect the money. Mr. Fiore explained that would be permitted but if someone wanted to open a full blown food stand that's a different story. Mr. Weikel noted another issue that comes up is the Easter and Mother's Day flower stands. Mr. Fiore noted the current ordinance deals with seasonal greenery, which is something that should be reviewed because it has evolved into Christmas Trees being sold on used car lots. He suggested the Peddling and Soliciting ordinance be sent to the Law Committee for further discussion. Cncl. Teefy polled Council and all members in attendance agreed the Law Committee should review proposed changes to the Peddling and Soliciting ordinance.

G.) OLD BUSINESS

Solicitor Fiore spoke of other towns having ordinances that allow used cars lots only when they are associated with a new car lot. He noted an ordinance of this type would not affect current used car lots but if Council wants to get control over future ones they may want to consider such an ordinance. Mr. Weikel noted our used car ordinance exempts new car lots.

H.) NEW BUSINESS

Cncl. Walter Bryson referred to previous discussion regarding snow removal and suggested language be included in our ordinance that prohibit cars from parking on the street during snowstorms. Cncl. William Sebastian noted during the JIF/MEL meeting he attended the snow removal issue was brought up and a sample resolution was distributed exempting municipalities from liability if they have an ordinance in place that requires residents to

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H.) NEW BUSINESS (cont'd)

maintain their sidewalks. He explained there is case record that when those ordinances are in place people have sued both the municipality and the homeowner and the municipality was held liable. Mr. Weikel advised when the schools send out snow closing announcements they request cars be removed from the streets and sidewalks be shoveled. He spoke of attending a class at the County, along with OEM Coordinator, Frank McLaughlin, where they were informed they will be able to utilize the Global Connect to notify of snow removal, evacuations and any other type of emergencies and that will be done at the County's expense. Cncl. Sebastian questioned whether cars are to be removed from the streets when a state of emergency is declared. Cncl. Teefy felt that requirement was designated by emergency routes in the larger cities. Cncl. Bryson noted he has seen signs in other towns in Camden County and Gloucester County that require vehicles to be removed from the streets during snow removal. He felt cars could park in driveways or if need be on lawns. Cncl. DiLucia noted Holiday City prohibits cars on lawns and enforces that law and requires residents to pay the attorney fees. He noted residents with one car garages are also not allowed to widen their driveways. Cncl. Teefy questioned what residents in developments such as Forest Hills would do when they have three or four cars in a family, only room for two in the driveway and they cannot put them on their lawn because of landscaping. Cncl. Bryson replied he didn't care where they put the cars just so they were off the street because they tie up snow plows from clearing streets, which ties up residents from getting out. He also expressed concern that after plows go by people who park in the street throw the snow from their cars back on the street that was just plowed. Further discussion took place regarding this issue but no decision was made at this time to restrict vehicles from parking on the street during a snow event.

Business Administrator Kevin Heydel advised at the next Council Meeting a resolution will be on the agenda dealing with our reserve for uncollected taxes. He explained our collection rate has dropped by almost 1% and when the calculation was done we had to add \$892,000.00 to the reserve for uncollected funds, which meant a 6% tax increase. The CFO reviewed State Statute and found that we can adopt a resolution that would take into consideration the taxes not collected because of tax appeals, which was approximately \$680,000.00. The resolution would reduce that number bringing the proposed budget down from a 6% tax increase to approximately 2.5% and we could get under the 2% cap if we wipe out the Open Space tax. This resolution puts us in a more manageable position for this year but it does not eliminate the problem next year. He explained we were fortunate this year to have the \$840,000.00 from the County and an appropriation reserve of \$1.8 million in surplus, but next year we will not have those things. Some good news is three police officers are retiring this year bringing our current number of 62 officers down to 59. Cncl. Sebastian questioned what division the officers were retiring from. Mr. Heydel advised the Chief, one captain and one sergeant are retiring and will not be replaced. He suggested Council review the ordinance dealing with the structure of the police department. He spoke of calculations/statistics that require one police officer for a certain number of people and of how Franklin Township utilized those calculations to lay off police officers based upon their population. Cncl. Sebastian explained three major organizations the FBI, State and local municipalities deal with those statistics and police departments pick and chose which one they feel best fits their needs. He also spoke of the Lexington Plan; noting that was established during better economic times. He

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H.) NEW BUSINESS (cont'd)

felt this plan should be looked at because the township may be able to save money in gas if the cars were parked at the police station instead of being utilized for personal use. Cncl. Bryson noted in the business world employees allocated cars are given a 1099 every year and he questioned whether our police officers receive them, as that is an issue that should also be addressed. Cncl. Sebastian noted the Lexington Plan states criminal elements may be deterred when they see police cars parked in residential neighborhoods or when they're utilized for personal use, as it seems there is additional police presence on the streets. He noted at some point we need to weigh that deterrent against our costs. Mr. Fiore noted statistics in support of the Lexington Plan show vehicles assigned to officers are better maintained and last longer. Mr. Heydel added vehicles last longer because everyone has different driving habits, which makes more wear and tear on the vehicle. Cncl. Sebastian explained he was just suggesting vehicles be parked here at the municipal building after an officer's shift instead of him taking it home. Mr. Fiore indicated that would bring up a parking issue at the municipal building and Mr. Heydel felt taking the vehicles home may be a contractual issue. Discussion took place regarding replacing the police chief. Mr. Heydel noted the question is, if the captain is moved to chief, can lieutenants, which are on every shift, perform the captain duties or do we need two captains that rotate on-call duty every third week. He noted we need more officers on the street but when one retires and others are promoted, we are reducing patrol and it has come down to what we can afford. Cncl. Sebastian felt a chief and two captains are needed. Mr. Heydel noted and then we will have a shift with no lieutenant. Cncl. DiLucia noted he found when reviewing the budget that out of 66 police officers 33 have rank so for every patrolman we have a ranking officer, which he felt was wrong. He felt a decision should be made as to what rank should stay and which ones should be replaced or at some point in time there will be a disproportionate number of ranking officers. Cncl. Sebastian explained there is more than one lieutenant per shift because three are detectives. Mr. Heydel added three lieutenants and a sergeant that are part of different task forces. He noted Deptford is comparable to Monroe but has no corporals because that rank is not recognized by Civil Service. Mr. Heydel spoke of Hamilton Township, which has the same staffing levels as us, responding to 59,000 calls while we responded to 37,000 and they are laying off eleven police officers. Cncl. Teefy questioned whether we have money in the budget to cover the sick time buyouts. Mr. Heydel advised there is \$350,000.00 in a trust that has been building up for the last few years for that purpose. One officer will receive close to \$115,000.00 and the other will get \$95,000.00 depending upon when they leave. He noted the budget includes their salaries for the entire year and that will go towards their payout and anything in excess will be taken from the trust account if necessary. Mr. Heydel noted Nancy Marino and Mary Lynn Forczek are also retiring. Someone will be trained to replace Nancy as the township is required to have a Registrar but Mary Lynn will not be replaced. Cncl. Sebastian noted we have an ordinance on the books that says after 25 years of service employees receive benefits for life when they retire. Mr. Heydel explained in 1982 a resolution was approved adopting the State Health Benefits Plan, which basically stated an employee gets health benefits for life after 25 years in the pension system. In 1993 when we came out of the State Health Benefits Plan and went to a privatized plan, Council was astute enough to say an employee had to have 25 years of service with the township. Mr. Heydel explained we now have a retiring police officer who says he is eligible for lifetime benefits after working only 15 years for the township and he thought since the officer started here in 1995, he

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H.) NEW BUSINESS (cont'd)

would not be eligible. He felt the officer could have been grandfathered or had a valid point if he had started working here before 1993 when we were covered under the State Health Benefits Plan. However, he found the police contract states they can retire and get benefits if eligible for a pension so if they work ten years somewhere else and come here for the last fifteen years of their career, we have to pay their benefits for life. Mr. Heydel noted he checked to see how long that language has been included in their contracts and found the exact wording in contracts back to the 1980's. He explained because of that clause, 19 police officers are eligible to retire from here with an average of 22 years of service, which means a total of 60 years will not be worked here for a total cost of \$1.2 million, as a liability. Mr. Heydel questioned why we would hire anyone with prior years of service somewhere else, as that would make no sense. He noted the starting point for negotiations for new contracts will be benefits after 25 years will not be given. He explained right now someone could be single for 25 years, retire, get married and have kids and now we have to provide health coverage for everybody. Mr. Heydel spoke of another incident that involved a police officer and his wife who both worked for the township for 25 years and when they retired they each wanted a husband and wife plan. The township fought it and lost in court because while they were employees there was no ordinance in place preventing both of them from having coverage. The only benefit to having duplicate coverage is that they could get double lifetime limits, if that was ever needed. We are now paying \$18,000.00 each or \$36,000.00 a year for their coverage. Recently we received a notarized letter from their daughter and her husband saying that they are giving up their rights for schooling and medical issues and turning over custody of their child to their parents. Now, their two, husband and wife plans, will go to two family plans in order to cover three people costing the township \$54,000.00 a year. Mr. Heydel noted he sent a letter back requesting the court order authorizing the legal adoption or custody for the child over to the grandparents and he is waiting to see what happens. Cncl. DiLucia noted there are provisions in insurance plans that prevent coordination of benefits beyond 100% and he felt our Aetna Plan says that it will not coordinate with another plan as long as the services are covered in full so a husband and wife having the same plan becomes a mute point. He did not understand how the courts could make a ruling like that and noted he would not pay it and make them go back to court to enforce it instead of paying an extra \$20,000.00 of taxpayer's money for something that is of no benefit to them since they have an HMO. Cncl. Sebastian questioned how they have the right to change anything once they have retired. Mr. Heydel noted that is the law because we have adopted the State plan and that allows any eligible dependent to be covered; it does not say that now that you are retired you're done. Cncl. DiLucia noted when a person retires they are forced by law to make an election on survivors benefits and once that selection is made that is memorialized. They made a selection when they left employment that they wanted husband and wife benefits and do not have the right to change that, as they are no longer covered by a collective bargaining agreement. Mr. Fiore felt the plans are designated single or family and they are entitled to a family plan. Cncl. DiLucia spoke of a representative from the insurance company speaking to Council when he was asked why retirees were not paying the same co-pay as current employees he said that once someone takes something in retirement it is memorialized and cannot be changed. Cncl. DiLucia questioned why these people would not be memorialized as husband and wife and how can they have an option beyond what they selected at the time of retirement. Cncl. DiLucia noted even if the court said they were entitled

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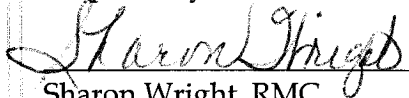
H.) NEW BUSINESS (cont'd)

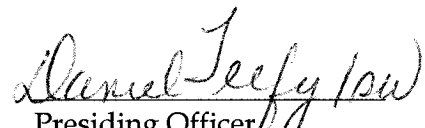
to a buyout one should have taken the \$2400.00 buyout like other employees get. Mr. Heydel noted the court is not making policy, that is done by the legislators and those policies have gotten us into this position. Mr. Fiore explained the fight will be whether or not when someone has a vested entitlement, which is what a retirement benefit is and whether it can legally be changed through legislation. Cncl. DiLucia noted this has nothing to do with the collective bargaining agreement entitlement, this deals with State entitlements, which is even worse because collective bargaining agreements could be renegotiated when the contract expires. Mr. Heydel explained we cannot negotiate something like this out of the current contract because we still have a husband and wife working for the township that may chose to take this type of coverage but we could include language in a new collective bargaining agreement that new hires after a specified date would be affected by the change. Cncl. DiLucia felt if Mr. Heydel went before a union stating if the township was going to continue funding that \$25,000.00 that cost, which has no benefit to anyone, would come out of the total settlement, they would move quickly to address that issue. Cncl. Sebastian explained that couple's defense was in the event of a divorce or one of them died and the remaining or divorced party remarried they wanted to have the ability to insure the new spouse. They stated they both worked 25 years for the municipality and were entitled to their own individual benefit. Mr. Kozak explained Governor Christie already makes employees working for the State to choose one plan, they cannot both have insurance coverage, there is no buyout and if one dies the other can open their own plan. Discussion took place regarding the governor's proposed changes to lifetime benefits. Mr. Heydel explained those changes would be done for new hires not for those already vested. Cncl. DiLucia added that will be negotiated under the collective bargaining agreement. Cncl. Sebastian spoke of the governor changing the law so that people in State Health Benefits that were hired after May 22, 2010 do not get lifetime benefits after 25 years of service.

I.) ADJOURNMENT

With nothing further to discuss Cncl. Ronald Garbowski made a motion to adjourn the Ordinance Committee Meeting of March 2, 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 March 2, 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 _____ Date 4/6/11
Approved as corrected _____ Date _____