

MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
APRIL 6, 2011

A.) CALL TO ORDER & ROLL CALL

The Ordinance Committee Meeting of the Township of Monroe was called to order at 7:07 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 (NJS 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. Daniel Teefy 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		Excused
Cncl. Ron Garbowski	Present	
Cncl. Daniel Teefy	Present	
Ord. Chairman, William Sebastian	Present	
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 March 2, 2011. The motion was seconded by **Cncl. Pres., Marvin Dilks** and approved by all members of Council in attendance with the exception of **Cncl. Pres., Marvin Dilks** who **Abstained**.

C.) PUBLIC PORTION

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

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D.) ORDINANCES FOR REVIEW

- **Chapter 175-113 - Homeowner Associations**

Cncl. Frank Caligiuri explained during the last Ordinance Meeting the proposed amendment to Chapter 175-113, which adds language to protect homeowners, was brought up and directed to the Planning Board for review and final approval. Cncl. Caligiuri spoke of how he and Cncl. Bryson met with Carriage Glen residents who want to be sure the developer continues paying HOA fees for his share of the basin maintenance cost. Because of the resident's concerns Cncl. Caligiuri and Bryson recommended the language be included in the ordinance to make developers provide full transparency and full disclosure of fees when submitting their developer's agreement to the township, as that would allow Council to know whether or not they (*developers*) are providing the same numbers to the homeowners.

Cncl. Walter Bryson made a motion to move the proposed amendment to Chapter 175-113 "Homeowner Associations" forward for First Reading. The motion was seconded by Cncl. Marvin Dilks and unanimously approved by all members of Council in attendance.

Cncl. Ronald Garbowski questioned whether Cncl. Caligiuri knew if the issue of a developer having one vote for each lot he owned was addressed. Cncl. Caligiuri felt that issue is covered under State Statute. Solicitor Fiore added the developer gets one vote per lot so if he owns more than 50% of the lots he would have control over the HOA.

- **Chapter 175-51 I & 175-54 C - Site Waiver Fee & Application**

Cncl. Frank Caligiuri explained the Planning Board recommended a slight increase in the application fee schedule (\$250.00 to increase to \$350.00) for site plan waivers and the addition of the following paragraph:

The reviewing board may waive site plan approval requirements whenever it determines that the proposed construction or alteration or change of occupancy or use does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of site plan review. Any applicant desiring a waiver under this provision shall present sufficient evidence to the Board to reach such conclusions as would permit a waiver. This evidence shall consist of a current survey, sketches, description of property and appurtenances, methods of operations, photographs or other information or documentation as the Board may require. The Board shall base its decision on such evidence and may attach conditions to any waiver. The Planning Board and/or Zoning Board of Adjustment shall have the authority to grant a site plan waiver.

Cncl. Sebastian explained the township code previously included a provision for site plan waivers but that was removed a number of years ago. A recommendation was made to re-establish the site plan waiver because the Boards are running into situations where people purchase properties, make no changes to that property but are required to submit a full site plan just for a change in use. Solicitor Fiore noted our zoning official has always interpreted the law that if a use is permitted in a commercial zone nothing is needed while zoning officials from other towns interpret the law that a change in use will trigger site plan. With the

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D.) ORDINANCES FOR REVIEW (cont'd)

proposed language an applicant still needs to go before the appropriate board, which will be able to make them do so such things as installing a fence around their dumpster, shrubbery etc. but all the applicants money will be spent on the project rather than on soft costs for attorney and engineering fees. He noted this will take a lot of discipline from the board members to "remain consistent" because we have the ability to get legally burned in the event we are not being equitable across the board. He felt this is a good idea as long as it is implemented properly. Cncl. Sebastian referred to the second sentence "This evidence shall consist of a current survey, sketches, description of property and appurtenances, methods of operations, photographs or other information or documentation as the Board may require" and recommended the word "or" be changed to "and" as he felt the sentence could cause legal issues in the future the way it is written. Solicitor Fiore referred to the language in the first sentence that states "determines that the proposed construction or alteration or change of occupancy" and questioned why construction was included in the ordinance. He noted he could understand alteration or change of occupancy but not construction because that generally means a new structure. Cncl. Caligiuri explained the verbiage came from the planner with the intent that the construction would be within the confines of the approved building envelope. Solicitor Fiore was concerned the escrow amount may not cover the cost for professionals and that there may be a run on site plan waivers because the zoning official will be directing people to apply for site plan waivers instead of spending thousands of dollars for attorneys and engineers. Cncl. Sebastian agreed that could happen; but, he also felt a site plan was unnecessary if nothing was changing. He noted he recommended the word "or" be changed to "and", as that will require all the requested data to be submitted so the engineers will know when they do their inspections whether something was changed. If the language "or other information" is left in the ordinance it depicts that everything before it can be negated. He noted with the word "and" everything prior to that word would be required where if the language stated may consist of, the word "or" would be proper. Cncl. Caligiuri felt the safe approach might be to have "and/or". Cncl. Sebastian noted with the word "or" attorneys might feel the documents were not needed.

Cncl. Daniel Teefy made a motion to move the ordinance forward with the word "and" as discussed. The motion was seconded by Cncl. Marvin Dilks.

Cncl. Walter Bryson questioned whether the escrow was refundable. Cncl. Sebastian explained a minimum amount is required to be kept in the escrow account such as \$1,000.00. If \$500.00 of that is paid to attorneys and the project is still ongoing, the applicant will be required to put in another \$500.00 in order to maintain his escrow account of \$1,000.00. Whatever money is left in the escrow account at the end of the project is refunded to the applicant.

Cncl. Frank Caligiuri suggested a copy of the proposed revision to Chapter 175-54C be sent to the Planning Board with a note asking them to advise Council if they have any objections to the language change. Cncl. Sebastian questioned whether Cncl. Caligiuri wanted to hold the ordinance until the Planning Board had the opportunity to review and respond to the language change. Cncl. Caligiuri did not want the ordinance held up. He indicated he just wanted the Board advised of the change and if they had objections, they could be addressed

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D.) ORDINANCES FOR REVIEW (cont'd)

between First and Second Reading. Cncl. Sebastian polled Council and all were in favor of moving the ordinance forward for First Reading at the April 26th Regular Council Meeting.

- Chapter 249 "Streets and Sidewalks"

Cncl. Sebastian advised discussion of Chapter 249 would be postponed until Cncl. Rich DiLucia could be in attendance to address snow removal issues pertaining to Holiday City.

E.) MATTERS FOR DISCUSSION

- Establishing Protest Zones-Military Funerals

Solicitor Fiore explained at a previous meeting the Mayor recommended creating protest zones for military funerals due to the Westboro Case, which was the subject matter of a Supreme Court decision. Mr. Fiore noted the Supreme Court ruled protesting military funerals is protected speech but indicated cities/municipalities could create what are referred to as "safety/buffer zones". Mr. Fiore noted he prepared a draft ordinance and provided Council with copies of what can and cannot be done under the law. Because the township has a veteran's cemetery he recommended Council consider adopting an ordinance that would concur with the Supreme Court decision in order to preserve everyone's constitutional right to protest as well as to protect the rights and respect the sanctity of individuals participating in a memorial service. He requested Council review the draft ordinance and make any suggestions they may have at the next Ordinance Committee Meeting. He explained the protest zone must be established somewhere rationally related to the cemetery area such as within a 1,000 feet. He felt after reading the Supreme Court decision establishing the protest zone at the Pfeiffer Center would not fly constitutionally. **Business Administrator, Kevin Heydel** suggested the protest zone for the Veteran's Cemetery be located at the Mary Mazza Duffy Park. Mr. Fiore felt that was a good idea since that cemetery is the one that will be affected the most in this. He went on to explain how the law has evolved now allowing municipalities to be held responsible to pay attorney fees and cautioned that if an ordinance is created that could be deemed unconstitutional, the cost to prosecute a case brought forward on behalf of a litigant could be recouped and that could amount to thousands of dollars. He felt the ordinance should require a distance of at least 1,000 feet from the entrance of any township cemetery, funeral home, mortuary or other location where a funeral is conducted.

- Boards/Commissions

Cncl. Ronald Garbowski noted Citizens Outreach sponsored a seminar at the Library promoting volunteerism to try to get people to volunteer to serve on boards/commissions. Approximately twenty-five people attended the seminar and will be completing and submitting applications for various boards/commissions to the Clerk's Office. Cncl. Sebastian noted representatives from the County along with chairmen from various boards/commissions were in attendance to answer questions and he made a suggestion that the people list a couple of different boards they may be interested in serving on in case their first choice had no opening.

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E.) MATTERS FOR DISCUSSION (cont'd)

Solicitor Fiore referred to his memorandum summarizing how boards/commissions were created and explained that was generated because questions were posed about changing the terms of the Parks and Rec Commission. He spoke of researching NJSA 40:61-17, the statute our Parks and Rec Commission was created from. He explained that law requires a minimum of three commission members, permits the municipality to create the number of positions and their terms and it gives Council the ability to review and stagger those terms if they chose to do so. **Cncl. Ronald Garbowski** questioned whether Council could create an auxiliary group for the Parks and Rec Commission. Mr. Fiore explained the State Statute is very broad and allows municipalities to do almost anything so an auxiliary group with no voting powers could be created. **Cncl. Teefy** noted the Parks and Rec Commission would like to allow a woman, whose husband works for the township, to be a participating voting member of the commission without the ability to hold an office since she is not a resident. Mr. Fiore noted there is nothing in State Statute that prohibits a residency requirement, the number of members or such things as auxiliary members. This State Statute is referred to as the "enabling statute" because it is very broad while others such as the Planning Board and Zoning Board Statutes are much more restrictive and very specific. Mr. Fiore noted the Zoning Board Statute permits four alternate members. Our Zoning Board currently has two alternate members so that can be increased to four. **Cncl. Sebastian** advised the second alternate position will not be filled, as all regular Zoning Board members are attending the meetings and they do not want to pay additional people for just sitting at meetings. **Cncl. Bryson** referred to how the State Statute establishing the Municipal Alliance Commission recommends representatives from the police department, superintendent of schools etc. and expressed his concern that our commission has evolved so there is hardly any people on that board anymore.

- **Zoning Solutions for Digital Signage**

Cncl. Sebastian spoke of an article in the New Jersey Planner magazine regarding the need for municipalities to regulate certain aspects of digital signs such as the looms/brightness, size and colors. He suggested Council consider establishing those types of regulations because the Zoning Board will be seeing more and more applications for digital signs since the Zoning Official is no longer approving them. **Cncl. Sebastian** spoke of the digital sign installed at the old municipal building being removed because it did not receive Zoning Board approval and of how he received a letter requesting donations for the Grand Theatre that stated once the theatre project was completed donor names would be shown on the new LED marquee. **Cncl. Sebastian** noted he was not opposed to digital signs but there should be some control over the size, brightness etc. **Cncl. Frank Caligiuri** noted the article in the NJ Planner stated the Federal Highway Administration performed a survey and could not reach a conclusion that digital signs are outright public safety risks. The article also gives eight regulations but does not say what these regulations are based upon or justify any reason to prohibit digital signs. The article also spoke of a trade-off provision that allowed for removal of a traditional billboard for every digital billboard erected. **Cncl. Caligiuri** noted the Pfeiffer Center sign is the worst digital sign in town because it does not display a complete message on one display. Council went on to discuss the various digital signs located throughout the township and all were in agreement that each display should contain a complete message. **Cncl. Teefy** questioned whether Council

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E.) MATTERS FOR DISCUSSION (cont'd)

wanted to limit the number of digital signs. Cncl. Sebastian noted people cannot be stopped from going before the Zoning Board for relief from an ordinance but Council can establish regulations such as restricting size, the amount of light and can say sign lettering can only be one color at a time. Solicitor Fiore indicated he would contact the New Jersey Planner's Association to see if they have a sample ordinance for digital signs.

- **Tax Abatement**

Cncl. Sebastian explained tax abatement was placed on the agenda for discussion because the mayor feels it is no longer needed to entice businesses now that commercial establishments are coming here. If tax abatement is eliminated and then found to be needed in the future it could always be reinstated. Cncl. Sebastian noted Wal-Mart is not seeking tax abatement, the new Cross Fit Gym located on Tuckahoe Road is seeking it and abatement was written into the Williamstown Square package. Cncl. Bryson felt tax abatement should remain in place, as council has the discretion to grant it or not. By eliminating it Council would need to go through the entire ordinance process again to bring it back in the future. Cncl. Sebastian explained the ordinance is not laying dormant, people are applying for tax abatement. Solicitor Fiore noted tax abatement is twofold, it is to attract new business and it is also for retention. He suggested Council review all the applications to see if they are new businesses or an addition such as the abatement granted to Al Fabrico, owner of VFI Fabricators, who built an addition to his warehouse and kept his business here. He explained Council can make a distinction between new and additions that may be beneficial in keeping other businesses here. Cncl. Frank Caligiuri questioned whether the current ordinance is discretionary. Mr. Fiore noted it is. He went on to explain the ordinance contains a minimum of 5,000 square feet of floor space and if a structure falls within a certain category we are almost bound to grant the abatement because what reasons would there be to not grant it. Cncl. Caligiuri spoke of tax abatement that had been approved for an office building along the Black Horse Pike and how that applicant felt the abatement period would commence at the time a CO was issued due to the way the ordinance was written. Cncl. Caligiuri noted this is a rare instance and he felt to resolve this problem a modification to the ordinance could be to consider new construction abatement only when it is outside a contiguous commercial corridor, as that would be an incentive for someone to start a new commercial corridor. Cncl. Teefy noted when the tax abatement ordinance was adopted in 2002 Council felt abatement should be available until businesses started coming to the township and once that happened, that door should be shut. He noted we are at that point where changes should be made to the tax abatement ordinance. Cncl. Caligiuri noted the Cedar Creek project and the landfill area is removed and would not benefit from the Wal-Mart construction and he felt tax abatement should not be eliminated completely because Council may want to offer that incentive in some areas of the township. Cncl. Garbowski felt Brownfield areas should definitely be considered for abatement. Cncl. Bryson questioned whether the State places limitations or minimum lengths of time for tax abatement. Mr. Fiore explained tax abatement cannot be for more than five years but it can be granted for less time. Cncl. Bryson noted recently PILOTs have been given, not tax abatement and he questioned whether they were basically the same thing. Mr. Fiore explained PILOTs fall under a different provision of the law, are allowed for up to thirty years and have a different

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E.) MATTERS FOR DISCUSSION (cont'd)

criteria all together. Discussion took place regarding previously granted tax abatements, how initially tax abatement applications were submitted prior to the issuance of a building permit and how that was changed to applications being submitted prior to issuance of a CO. It was noted that even if tax abatement is unavailable, PILOT Programs, which bigger companies want as they provide rights for such things as borrowing money, which abatement does not cover, are always on the table but they are limited to redevelopment and landfill remediation areas. **Cncl. Sebastian** requested the Solicitor to inform the Mayor that Council did discuss tax abatement at the Ordinance Committee Meeting and will review the current ordinance to refine it, as they feel some type of abatement should remain in place.

F.) OLD BUSINESS

Cncl. Frank Caligiuri requested the following disclaimer be added to all contracts:

"Suppliers, vendors, professional consultants, etc. (hereafter known as suppliers) entering into a contract with the Township of Monroe in the County of Gloucester, State of New Jersey to provide goods and/or services are hereby advised that all contractual terms including, but not limited to, timely payments, products and services to be provided, and expenditures defined in this instrument were subject to the approval of the governing body (hereafter known as Township Council). Suppliers are hereby required to officially notify the suspected breach of contract by either party including but not limited to, potential default, failure to conform with terms, potential claims for interest or penalties, change orders, or any other event that could potentially impact any terms, conditions, additions or deletions in product or services, or any other matter that might impact the monies allocated, cost listed, or services defined in this instrument."

He explained this language means any change in potential liability, such as interest charges, should be brought to the attention of Council, who previously approved the contract document and expenditures. He spoke of incidents where the township was charged interest and penalties resulting in taxpayer money being wasted and explained this language places the responsibility on the supplier to notify the governing body if he intends to charge interest or penalties. He suggested the disclaimer be printed on all contracts in bold face type above the signature line so it is very obvious to the signatory that this is an obligation on their part to notify the governing body of the change. He noted issues have come up on two occasions, one of which could have cost the township a great deal of money legally because that supplier was well within his rights to sue. The other supplier did claim interest and penalties and was successful in getting it. **Cncl. Sebastian** indicated he agreed with this in principle. He gave an example of how it would be assumed money would be saved if a lump sum \$200,000.00 contract ended up costing only \$180,000.00. However, if \$19,000.00 in penalties/interest were paid, without Council's knowledge, the contract amount would still be under the \$200,000.00 that was approved. If Council knew penalties/interest was going to be assessed steps could be taken to resolve the issues to save that money. Mr. Fiore explained contracts have default provisions and Council is supposed to receive written notice whenever there is a breach, as they control the money; however that has not happened. **Cncl. Sebastian** noted this language gives a time frame and it also makes it the responsibility of the supplier to notify Council; not the contractor. Mr. Fiore agreed this language may resolve the problem and advised he would prepare the draft ordinance for First Reading at the April 26th Regular Council Meeting.

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G.) NEW BUSINESS


• **Peddling & Soliciting Ordinance**

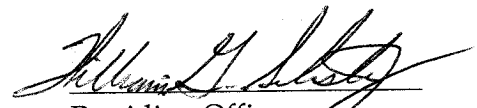
Cncl. Frank Caligiuri noted after reviewing the sample Peddling and Soliciting Ordinances Mr. Fiore provided during the last Ordinance Committee Meeting he found the Glassboro ordinance to be very restrictive. The Washington Township ordinance is the clearest and seems to be complete, provides adequate penalties and allows persons seeking public office to knock on doors, which the other ordinance prohibited. Cncl. Caligiuri suggested including in the ordinance a designated area where vendors would be encouraged to sell their wares. Cncl. Sebastian agreed the Washington Township ordinance was the best. He questioned whether a municipality could restrict vendors to a vendor zone on municipal property, such as Wagner Field, and then charge them a fee for being there. Mr. Fiore explained Council could designate an area and put out RFPs for someone to run that entire project separate and distinct from the ordinance. Cncl. Caligiuri noted he was thinking of separately defining "temporary designated vendor areas", which would be areas that would be declared vendor areas for a day, such as during the Main Street Fair. Cncl. Sebastian requested Mr. Fiore review the Washington Township Ordinance to possibly work something in for vendor zones. He noted Council had also discussed splitting the Peddling and Soliciting Ordinance so there would be a separate ordinance dealing with parades and carnivals. Cncl. Bryson questioned whether the crab vendor on Rt. 322 would go through the Zoning Board. Cncl. Sebastian explained that is an in-home occupation and it would be addressed by the Zoning Official. This ordinance needs to address the crab and pizza vendors located on the Black Horse Pike because they are taking business away from businesses paying property taxes and that is not fair. Mr. Fiore indicated he would review the Washington Township Ordinance as requested.

H.) ADJOURNMENT

With nothing further to discuss Cncl. Daniel Teefy made a motion to adjourn the Ordinance Committee Meeting of April 6, 2011. The motion was seconded by Cncl. Frank Caligiuri 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 April 6, 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 SW Date 6/1/11
Approved as corrected _____ Date _____