

**MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
NOVEMBER 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 **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. Rich DiLucia led the assembly in the Pledge of Allegiance to Our Flag.

ROLL CALL OF PUBLIC OFFICIALS

Cncl. Walter Bryson	Present	
Cncl. Frank Caligiuri		Excused
Cncl. Marvin Dilks		Excused
Cncl. Rich DiLucia	Present	
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. Rich DiLucia made a motion to approve the minutes as submitted of the Ordinance Committee Meeting of October 5, 2011. 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. Rich DiLucia 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. Rich DiLucia and unanimously approved by all members of Council in attendance.

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D.) ORDINANCES FOR REVIEW

- **Chapter 254 "Taxicabs"**

Solicitor Fiore explained the draft ordinance includes the amendments to the Taxi Ordinance that were discussed at the last Ordinance Committee Meeting. Cncl. Sebastian questioned whether the Director of Public Safety has the authority to enforce. Solicitor Fiore replied yes and he can direct the Police Department to enforce the ordinance as well. Cncl. Bryson questioned whether the State has stopped inspecting vehicles for safety issues. Mr. Fiore noted the State has stopped those inspections on private vehicles but not on commercial ones. Cncl. Sebastian polled Council and all members in attendance were in favor of moving the amendments to Chapter 254 forward for First Reading at the November 22nd Regular Council Meeting.

- **Chapter 69 "Police"**

Cncl. Sebastian explained the BA requested Chapter 69 be amended, as he is concerned that if the code establishes a specific number of police officers and the word "shall" is utilized instead of the word "may" the police department will expect the township to hire additional officers to meet that number. The Solicitor prepared the amendment but the language was not exactly what Mr. Heydel had requested so both Solicitor Fiore's and Mr. Heydel's recommended changes were included for Council's review. Cncl. Sebastian noted he preferred Mr. Heydel's amendment as it states "*may consist of up to a total of 70 law enforcement officers*" as well as "*may consist of up to*" one Chief of Police, one Deputy Chief, etc. **Business Administrator, Kevin Heydel** added he preferred that language as it has flexibility to it. Cncl. **Rich DiLucia** expressed concern that the sentence "*The number of police officers within the department is predicated upon the financial limitations within the municipal budget*" could be interpreted in such a way that if the budget contained extra money at the end of the year, the police department could insist it be utilized to hire additional police officers. Cncl. Sebastian explained that was in the ordinance because prior to enumerating the number of officers and ranks the Administration had the ability to give promotions and that created bumps in salaries that were not accounted for within the budget. Council discussed Cncl. DiLucia's concern and made the decision to remove that sentence from the ordinance. Mr. Fiore questioned whether Council wanted to keep the original language that was in the code (*within the municipal budget limitations*) or remove that as well. Council felt that should be removed as well because if money is available anywhere within the entire municipal budget with that language the police department may request it be transferred into their account for the purpose of hiring additional officers. Cncl. **Daniel Teefy** questioned whether the ordinance should include justification. **Solicitor Fiore** explained rather than just saying the money is in the budget the police department will need to put forward a case objectively warranting why additional lieutenants/officers are needed and the Mayor and Council will make that decision based upon the information provided to them. Cncl. **Bryson** noted the Traffic Division is understaffed and he questioned if there was a section in the code that allows Council to specify what division of the police department they would like additional officers assigned to. Cncl. Sebastian explained Council could recommend by ordinance but the Chief of Police is responsible for the everyday workings of the Police Department under Title 40 and he is the one who says what division

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officers are assigned to. Solicitor Fiore added all police officers including the Chief and detectives can write speeding tickets; not just members of the Traffic Unit. Cncl. Sebastian noted through attrition the Police Department now consists of 59 officers some of which are doing double duty while officers are on vacation or sick. Cncl. Sebastian spoke of Gerald Sinclair's correspondence written on behalf of the owners of the former Brodtkin's Corner that referenced Title 39:5A-1, which allows property owners to give police departments authorization to patrol on private property. He noted he wondered how many business owners know about this law. **Dan Kozak** explained the Planning Board is trying to be more creative in addressing problems and one that concerned residents in that area of Brodtkin's Corner was noise from trucks parking at that building overnight. The Police Department did not have the right to patrol or issue tickets on that property so the Planning Board is making Title 39:5A-1 part of their resolution of approval. Cncl. Sebastian felt the Zoning Board of Adjustment should do the same thing. **Cncl. Rich DiLucia** noted speeding issues also need to be addressed throughout the township and he questioned whether Council and the Police Chief could discuss dedicating an officer to areas where speeding complaints have been received. This issue cannot continue to be ignored and tickets should be issued even if residents are the ones getting them. **Cncl. Sebastian** noted the Public Safety Committee can address that with the Chief but what it comes down to is manpower. Council discussed the possibility of hiring an additional officer specifically dedicated to speeding issues and what it would take to financially cover the cost of that officer. Cncl. Bryson questioned whether tickets are being written according to State Statute or to a local ordinance. Solicitor Fiore replied State Statute; the law changed and the township no longer has the ability to write tickets on local ordinances. The township does receive half the revenue from the tickets that are generally \$120.00 to \$133.00 along with a point violation. Many times tickets are amended by the court to unsafe operations that has a onetime surcharge of \$250.00 and \$103.00 in court costs but there are no points. Mr. Heydel noted the township cannot hire an additional officer and require him to make a quota in order to pay for his salary. Cncl. Teefy spoke of how the residents on Sykesville Road complained about speeders and how they have not been back in years because the police wrote tickets to everyone speeding on that road. He noted the police need to write tickets even if it is to 70 year olds in their own development. **Cncl. Sebastian** noted the proposed ordinance with the noted language changes would be moved forward for First Reading at the November 22nd Regular Council Meeting

E.) MATTERS FOR DISCUSSION

• **Monroe EMS**

Cncl. Sebastian reported the Public Safety Committee met with the chiefs of the different organizations and one of the points addressed was Monroe Township ambulance taking calls that were not being made by Cecil ambulance. The Cecil chief indicated he would like the Cecil ambulance squad moved out of their building and into the more centralized location of the Monroe Township Ambulance Building. If the Mayor approves that move the Township Code needs to be amended to delete Cecil Ambulance. The Public Safety Committee is looking at this as a cost saving measure because Cecil previously requested additional

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funding to expand their building and if the ambulances are removed they will not need that additional funding. Cncl. Bryson questioned whether Cecil had a paid crew. Cncl. Sebastian explained Cecil has no paid crew. Monroe Township has two paid crews that operate out of the Monroe Township Ambulance Building on an overlapping daytime schedule of 6:00 AM to 2:00 PM and 10:00AM to 6:00 PM. The volunteers handle nights and weekends with the crews staying overnight in order to respond to calls immediately. When enough personnel are available a second crew will be placed on duty and stay overnight as well. The only members that cannot stay are the junior members of the association, as they are required to be home at 10:00 PM. When there are not enough people available for a second crew an "all call" will be issued for the second ambulance. By putting Cecil ambulances in the Monroe Township Ambulance Building Cecil ambulance personnel will also be required to stay on site while on duty. Cncl. Sebastian is in the process of preparing the Public Safety Committee's recommendation for capital improvement items as well as moving Cecil ambulance and once the recommendation is reviewed by the committee it will be sent to the Administration and Council. Cncl. Bryson questioned whether this would affect the services from Cooper. Cncl. Sebastian replied no and explained Cooper is the licensed association that performs third party billing and those services go through the EMS Department. Cncl. Sebastian noted Frank McLaughlin is thankful this move may take place because the State keeps saying Cecil is not licensed to third party bill and he has to keep telling them that Cecil, by way of ordinance, is part of Monroe Township EMS. Cncl. Sebastian noted the Cecil organization will make the decision on whether their ambulance crew will remain members of their fire department, as it may be beneficial to them since volunteer ambulance members do not receive State death benefits like volunteer fire department members do. **Business Administrator, Kevin Heydel** noted many times Cecil ambulance does not respond on the first tone, the second tone goes out after five minutes and then an "all call" goes out to Monroe so by moving the operation to one building it may save up to eight minutes on a call. Cncl. Sebastian added if Monroe is out it could be another few minutes for a crew to respond from home and for those in need of the ambulance that time could feel like forever, which is why Monroe crews are required to stay on site. During the hurricane three crews were on duty in the ambulance building 24 hours a day for the entire weekend. **Cncl. Daniel Teefy** questioned whether it's time to move our ambulance services to the County. Cncl. Sebastian felt even though there may be a slight monetary advantage to that, we are not at that point yet, as some response time could be lost for our residents. Mr. Heydel added when that was previously discussed it was said it would be done in steps and Cecil moving is the first step to that process. If this works, it will be great, but if it doesn't work, we have the alternative to go to the County. Cncl. Sebastian noted Monroe has thirty plus volunteers that do not cost the township a penny and those volunteers not only do ambulance calls but they do other things within the municipality such as keep up the equipment, standby at football games, participate in parades and go anywhere else an ambulance is requested. If we go to the County those services will be lost plus the County is not taking the rescue portion of our services. That will all be explained in the Public Safety Committee's recommendations because it may come to a point when the County takes over our EMS the Cecil and Monroe rescue trucks will be traded in for one new rescue truck that will be manned by the remaining volunteers. Cncl. Sebastian spoke of a County representative stating during the course of a year the township missed a certain percentage of ambulance calls

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that had to be handled by mutual aid. When Cncl. Sebastian questioned that he was told the calls were missed because all three of our ambulances were already out on other calls. When he questioned if calls would be missed if the township went to the County it was explained there would be no missed calls because all calls would fall under the same emergency services department no matter how long the response time was. Cncl. Sebastian noted at some point in time when our cost exceeds the services we are supplying then it will be time to go to the County EMS and the ambulance squads understand that. Mr. Heydel added not only cost but if we get to the point where the volunteer organization is not responding in a timely manner. Cncl. Teefy questioned when this move takes place will Cecil Fire and Ambulance Association become Cecil Fire Department. Cncl. Sebastian noted that is up to them, as they could still call their organization Cecil Fire and Ambulance since they are incorporated but the Township would not recognize them as an ambulance service, as we have contracts with the various EMS servers because they are covered by the JIF. Council questioned whether the ordinance should be amended now. Cncl. Sebastian advised the ordinance cannot be changed until the mayor makes the decision to move Cecil ambulances.

- **Clustering in Pineland Areas**

Cncl. Sebastian noted the Pinelands Commission has requested the township adopt an ordinance regarding the cluster development amendments they made to the Pinelands Comprehensive Management Plan. Cncl. Caligiuri had requested this matter be discussed, but, since he was not in attendance, it will be placed on the next meeting agenda as the Planning Board will be addressing it at their January meeting. Solicitor Fiore indicated there was a deadline for this of March 2011 but that date has been extended to March 2012. Cncl. Bryson questioned whether our Master Plan would reflect this change. Cncl. Sebastian replied there is no change to the Master Plan, it will just change what the Pinelands will allow within Pineland areas. Dan Kozak explained Cncl. Caligiuri requested the Environmental Commission provide input on the sample ordinance and they will be discussing it at their November or December meeting, as Cncl. Caligiuri wants to present the commission's ideas/views to the Planning Board.

- **Salary Ordinance**

Business Administrator, Kevin Heydel requested Council consider amending the Salary Ordinance in order to comply with a contractual obligation with the Chief Financial Officer that requires him to be paid the highest percentage increase negotiated by any of the collective bargaining units. The police negotiated basically a 5% increase of 3% and 2% over the last couple of years and the CFO was given that percentage only in 2008. In 2009, 2010 and 2011 he was given 2% and according to the contractual obligation he must be given the additional 3% for those years. The salary ordinance caps the CFO position at \$102,000.00 therefore that amount needs to be increased to \$112,000.00 and it needs to be done now in order to pay him the additional money this year. Once this matter is settled the \$4,000.00 Director of Finance salary will go to zero, which means the net effect of this increase will be only \$6,000.00. Cncl. Sebastian referred to State Statute 40A:9-165 that not only deals with four statutory positions

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(CFO, Municipal Clerk, Tax Collector and Tax Assessor) but also allows the public 20 days in which to file a petition against salary increases and he questioned if language dealing with that should be included in the ordinance. Solicitor Fiore advised Ed Knorr asked that same question several years ago when Council was getting a salary increase and that is not legally required to be included in the ordinance. He added if all conceivable language that applied to a position had to be included the ordinance would be 87 pages long. State Statutes are available to the public, who has a right to challenge ordinances through a referendum or through the procedure under the statute. Cncl. Rich DiLucia questioned whether this was the first time the CFO raised this issue and if not why was nothing done about it before. Mr. Heydel advised the issue was raised but not pursued because the CFO did not have tenure. Cncl. DiLucia noted before anything was paid he wanted to see how the increase was being calculated because there is a difference between a carryover rate and a back pay obligation. Mr. Heydel indicated he already calculated all the numbers by laying out exactly what the CFO received from the 2% increases and calculated what he would have gotten each year in the 3%/2% sixth month scenario. The CFO counted his council meeting time as part of his 40 hours per week but according to his contract that time is not to be included and has been deleted from what the net is going to be. The rate the CFO is supposed to receive will not change only the amount of back pay he gets will change. Cncl. DiLucia expressed his concerns that the CFO, who has predicted doom and gloom for the next year, delayed taking money on an annualized basis when it was in the budget and now, wants a lump sum since he was just reappointed and is now safe. Cncl. DiLucia noted he will consider this when the CFO shows Council how we can get a zero tax increase. Cncl. Sebastian questioned whether Mr. Heydel wanted to amend the CFO salary ordinance to \$108,000.00. Mr. Heydel indicated he wanted to raise it to \$112,000.00 because that is what the salary will be for 2011. Solicitor Fiore questioned whether Council would also need to amend the Director of Finance Ordinance to show that the CFO and the Director of Finance is one and the same person. Mr. Heydel recommended the director position remain in place but with a zero salary. Cncl. Bryson questioned if there was anything in the CFO contract that says if he is not paid in the current year he would not get it retro. Mr. Heydel replied no and went on to explain that the township is in violation of this contract. Cncl. Sebastian noted there are two other people employed by the municipality that fall under this State Statute and he questioned whether they will request it once they have tenure. Mr. Heydel noted they do not have contractual employment agreements. Cncl. Sebastian noted that does not matter because State Statute says *"no such ordinance shall reduce the salary of or deny without good cause an increase in salary given to all other municipal officers and employees to any tax assessor, chief financial officer, tax collector or municipal clerk during the term for which he shall have been appointed"* so they fall under the same category and are entitled to the same increase. Solicitor Fiore questioned whether the statute said anything about the same percentage or increase. Cncl. Sebastian advised it does not say a percentage or increase it just says what is given to the other employees. Mr. Fiore noted in his opinion if those employees feel they are entitled to it they should send a letter to the Administration for review and they can interpret what the Statute means, as that is the only objective way to handle this. Mr. Heydel indicated he will request an opinion from Labor Counsel on that. Cncl. DiLucia questioned whether the CFO had a four year contract. Mr. Heydel explained the CFO has an employment agreement that has no termination date attached to it and now since he was reappointed he has tenure in the position. Cncl. DiLucia questioned

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whether the employment agreement was addressed prior to his reappointment and whether the salary associated with that position could be cut. Mr. Heydel explained the employment agreement was not readdressed, the salary cannot be cut and it increases to the highest percentage negotiated in other contracts for as long as he is employed. It also includes a stipulation that if he was not reappointed he would get X number of months of severance. Council members expressed their concerns that the Administration did not renegotiate the CFO contract prior to his reappointment. Cncl. Sebastian noted Mr. Heydel's recommendation is to increase the CFO salary range to \$112,000.00 but whether he is paid that amount of money is not the issue for Council, as the Mayor has the responsibility of what to pay him. Mr. Heydel noted legally for the CFO to be paid the salary range should be \$112,000.00 and any back pay for 2009 and 2010 will be designated as a settlement because previous year salary ordinances cannot be changed. Cncl. Teefy questioned why he did not previously get the 5% according to his contract. Mr. Heydel replied he was not authorized to give it to him. Cncl. Teefy felt if the Mayor refused to pay the additional money the salary ordinance should not be increased and the CFO could fight with the Mayor for it. Cncl. Sebastian noted if the Mayor says no the CFO will take the issue to court where he will win and the township will still owe him the money. Mr. Heydel noted he advised the Mayor that this was being brought before Council and why and he responded positively when he was advised it was a legal issue that the township could not win. Cncl. DiLucia noted he feels Council has been wronged. Cncl. Bryson expressed concern that during these hard economic times if the township had to cut salaries they could not cut the CFO's because of his employment agreement. It was noted that no salaries could be cut there would need to be layoffs. Cncl. DiLucia noted since the CFO contract stays in place forever and he gets the highest increase of anyone in the municipality's employment, Council must take into consideration how that affects all labor negotiations from the other municipal organizations. Cncl. Sebastian noted the way around that is to give a dollar amount increase rather than a percentage increase because there is a big difference in 3% given to an employee making \$30,000.00 and 3% given to a person making \$150,000.00. In a scenario where everyone is given a dollar amount or a bonus he would get whatever the greatest number is, not a percentage based upon his salary. Cncl. Sebastian noted his contract states he receives the highest salary, wages or compensation so he would be entitled to anyone of them. Cncl. Bryson noted the State mandated employees pay up to 30% for their health insurance premium so if Council compensated them to cover that cost we would have to pay him that percentage as wages. Solicitor Fiore noted there is a legal part to this issue but it is the personal factor that Council finds the most offensive. Cncl. DiLucia noted this matter should have been handled much differently than it was. Mr. Heydel agreed that it should have and noted that he will take responsibility for that. Cncl. Sebastian felt it was not all Mr. Heydel's fault because the CFO previously requested it; but, after the Mayor denied it, he did not pursue it further until now. Mr. Heydel explained the additional salary will be around \$8,000.00, as he is calculating it down to the penny and deleting any time over 40 hours that was calculated at time and a half. Council questioned whether the CFO's work hours are stipulated in the contract. Mr. Heydel replied yes, four ten hour days is included in the contract. Solicitor Fiore advised the township is legally obligated to increase the salary ordinance amount in order to pay the CFO the amount

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he is owed according to his contract. If the ordinance is not increased he can explore his legal options and if a legal proceeding is instituted Council may be compelled to pay him by way of a court order. He noted the CFO has streamlined the Finance Department and was able to cut out two salaries, which saved the department money. Mr. Heydel added the Audit Reports are also clean as a whistle and the performance of his job is way above board. Cncl. DiLucia noted he will be voting no on this matter because he has a problem with why the CFO did not force the issue and stand up to the Mayor three years ago instead of creating an obligation that Council must now address. Cncl. Sebastian polled council and all members in attendance, with the exception of Cncl. DiLucia, felt the salary cap should be increased since the township had an obligation according to the CFO's contract. Cncl. Teefy questioned whether the CFO was involved in any contract negotiations. Mr. Heydel replied absolutely not. Cncl. Bryson questioned whether there were any other situations like this that needed to be addressed prior to the end of the year. Mr. Heydel replied there was another issue for Council to entertain that he delayed addressing since he will be going into contract negotiations shortly but he was asked to bring this matter to Council. He explained a personnel assistant in his office is performing the work of a personnel officer and is not being compensated for those additional duties, which is clearly an inequity since the township saved \$70,000.00 when the personnel officer position was vacated. Cncl. Sebastian questioned whether this would involve a title change and whether she was qualified to perform the work. Mr. Heydel stated she is clearly qualified but the preference is not to promote her to the higher title but to keep her in her current title with a salary increase. Cncl. DiLucia questioned whether she had a degree. Mr. Heydel indicated he didn't know what degree she has but she does have a certification in Human Resources plus nine years of on the job training. Cncl. Sebastian questioned whether the vacated higher position has a salary scale and if so did the low end of the scale exceed what Mr. Heydel wanted to pay the employee. Mr. Heydel noted the high end of her current job title is \$44,000.00 and the higher title pay scale goes from \$42,000 to \$69,000.00. Cncl. Sebastian noted she could technically be promoted to the higher position and paid towards the lower end of the salary scale. Mr. Heydel explained salary scales generally include the base, first third, second third and top third or they can be cut down into midpoints and quarters. He felt just by changing the title would not make it equitable, as the lower number in the higher title would not match her years of service, qualifications and educational level in performing that job. Cncl. Sebastian noted Mr. Heydel would like to give this employee a larger salary and that requires an increase to the salary ordinance but she is a member of an association with people on the same level so when that increase goes into effect, those people could possibly get the same increase, as the salary is not specific to that job, it is specific to the association and their Civil Service titles. Mr. Heydel advised the salary is specific to the job not the association; nothing is specific to the association and everyone has Civil Service titles. Cncl. DiLucia suggested Mr. Heydel create another job title and salary for that employee because that will avoid a conflict with another contract. Mr. Heydel explained the association was created to recognize their job titles and to ensure those employees were given the same benefit packages as other employees. There is nothing specific to anyone's salary in the contract for the Administration Association or the Supervisor's Association. Salaries and hourly rates are only identified in the 1360 Contract and that is only for steps one through five. The police contract also identifies salaries specific to rank. Mr. Heydel recommended the personal assistant range be increased but he felt that

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becomes a double edge sword because as we go through attrition more employees will be doing work above what they normally do in their job title. Cncl. Sebastian felt that's why she should be given the higher position at the lower end of the salary scale, as that would not affect anyone else since it would be considered a promotion to a new position. However, the new position would take her out of the association leaving her unprotected. Mr. Heydel explained the preference now is to keep her at the personnel assistant level and she agrees with that. Cncl. Teefy expressed concern that if the personnel assistant salary is increased now and in the future the current employee is promoted to the higher title another person could take over the personnel assistant position at the higher salary. Mr. Heydel explained Council has the discretion to amend the salary ordinance at any time and could decrease that salary if that were to happen. He explained most people are at the top of their salary range because of years of service but in some instances if the ranges are bumped up employees may expect to be paid the top amount. Cncl. DiLucia questioned how that would affect the CFO's contract if this employee is given an increase of \$3,000.00, which amounts to 7½% increase. Mr. Heydel felt it would not affect him because this is specific to a person and her job functions. Solicitor Fiore noted he will look at the specific language in the employment agreement and if this does affect him the Administration would be better moving her to the higher title. Cncl. DiLucia noted the only other alternative is to create another job title for her with a salary established by ordinance. Cncl. Sebastian referred to the current salary ordinance and noted it is disparaging that the top range for Planning Board Administrative Clerk is \$63,800.00 while the Municipal Clerk's top range is \$62,500.00 and she is the one who falls under State Statute that could have been getting a higher percentage over the years. No action was taken on this matter but Mr. Heydel did request Council to consider this issue as it does need to be addressed.

• **Procedure for New Businesses**

Mr. Heydel recommended a procedure for new businesses or changes of use be established by ordinance. He explained when applicants come in they go to the Zoning Official, who has a freehand to grant zoning permits and nothing is being done to improve properties. He recommended applicants be required to go before the Planning Board as the township would then be able to give guidance into what is coming here. Cncl. Sebastian questioned whether a business going onto a commercial site would be charged the fee and saddled with the bureaucratic red tape of going before the Board. Mr. Heydel indicated they probably would. Solicitor Fiore explained the classic example is of an "*approved commercial use*" because some people are of the interpretation that if a person wants to open a restaurant where an animal hospital once was they don't need to go before a board because both are commercial uses. Mr. Fiore noted in his opinion they would need to go before a board because even though they are both commercial they are different uses. Cncl. Sebastian questioned whether it would be easier to require a site plan that would go to either the Planning or Zoning Board. Dan Kozak replied no, due to the expense involved in site plans. He spoke of the owner of Brodtkin's Corner going before the Planning Board and how the Board was able to work out issues with the neighbors. He went onto explain when an application comes in prior to it getting a zoning permit it should be reviewed by the Planning Board to see what the situation is. The fee is \$850.00 of which \$350.00 is nonrefundable and \$500.00 is held in escrow to cover the cost of the

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professionals. Cncl. Sebastian felt the definition of a "use" must be established because if it is just defined as commercial it would go before the Planning Board. Mr. Fiore noted commercial uses go before the Planning Board. The only time it would go before the Zoning Board is if it is not permitted in that zone or if there is some sort of variance to that affect. Under the Municipal Land Use Law the first person an applicant goes to is the Zoning Official to get a zoning permit and this will put another step before that. Cncl. Sebastian noted the Zoning Official is the one who refers them to one of the boards. Mr. Fiore explained the problem is they are not being referred to the boards therefore things such as landscaping, fencing in dumpsters and handicap parking are not being addressed. Cncl. Sebastian added when going before a board, applicants have the option to request a site plan waiver and the board can grant that waiver or deny it. Mr. Kozak noted the only exception to going before a board is in-home occupations. Cncl. Teefy made a motion to place this matter on a future meeting agenda. No one seconded the motion as Council continued to discuss it and then questioned whether a committee should review it. Mr. Fiore recommended the Law Committee review it. Mr. Kozak spoke of how the Zoning Official has ten days to make a decision on an application and if no decision is made approval is automatic so to prevent that from happening the Zoning Official would deny it. Mr. Fiore noted once a zoning permit is denied by State Statute it goes before the Zoning Board because the applicant is appealing the Zoning Official's denial. If the Zoning Official requests a site plan then it would go before the Planning Board. Discussion took place on whether it should be a requirement to provide a site plan or an official waiver of site plan to the Zoning Officer prior to him issuing a zoning permit. Mr. Fiore felt the regulations must be defined more clearly by ordinance with respect to interpretation of the law. Cncl. Sebastian noted if an ordinance requires the Zoning Officer to send an applicant to one of the boards it would be mandating an expense to any business coming in while at the same time we are trying to be business friendly. Mr. Fiore noted the township can also be business unfriendly by being inconsistent where one person can pay \$25.00 for a zoning permit and another person needs to do a tree count in order to develop a property. Cncl. Ron Garbowski questioned whether we could come up with a cursory review of some sort with a small fee to cover the cost of the professionals. Mr. Fiore explained in Washington Township an escrow fee is paid for a committee of the Planning or Zoning Board to hold an informal review of an application to tell the applicant what direction to go. Cncl. Sebastian did not approve of that procedure, as he felt it could cause problems if three individuals from a board made deals and then passed the information on to the other four board members; plus, at a meeting like that there is no public portion. He spoke of attending meetings with the Mayor and Solicitor, as liaison to the board, regarding the Conversion Law and of reporting on that meeting to the Zoning Board. He noted he took a poll of the Zoning Board to see if any voting members had ever attended one of the Thursday meetings because of all the newspaper articles and no member of the Board attended any of those meetings when applicants were present. Mr. Fiore noted in the informal review process decisions are not supposed to be made. Cncl. Sebastian noted Council needs to come up with a mechanism to put this in the hands of the boards without it seeming like we just want another \$750.00. Cncl. Bryson questioned when an applicant is before either board, who is to be notified and how far away do they have to be from the property involved in the application. Cncl. Sebastian explained notification must be made by the applicant or his attorney to people within 200 feet from any point of the property and

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E.) MATTERS FOR DISCUSSION (cont'd)

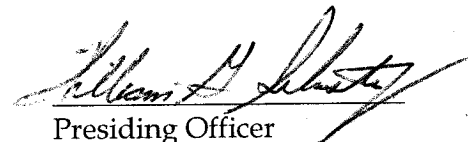
that list comes from the Tax Assessor's Office. The notification must be sent certified or it can be personally delivered as long as someone signs for the delivery. Mr. Fiore noted in his practice he usually sends notification by certified and regular mail. A signed receipt must be given to the Planning or Zoning Board secretary and an affidavit of proof that all the people were served is submitted or the meeting should not be conducted. Cncl. Sebastian explained the names on the list must be checked against the receipts, as there may be a person that did not get noticed because their name was not given to the applicant by the Tax Assessor. In other instances a person may think their property is within the 200 feet when actually it is 202 feet. Dan Kozak noted there is an exception to that. He explained if a person within 200 feet was not notified within the time period and the applicant went to them, explained the situation and had an affidavit signed that the person was not against the application the applicant could ask the board to continue and deem that application complete with that exception. Cncl. Bryson questioned if the person was never notified what options do they have. Mr. Fiore explained they could file a "*Complaint In Lieu of a Prerogative Writ*" in Superior Court. Many times people throw the regular mail away and do not pick up their certified mail which is why they do not get notified; but, if the regular mail is delivered and the certified is returned as unclaimed it is presumed to be good service. Mr. Fiore also explained that applicants are required to contact all utility companies and that the notification is sent to the owner listed on tax bills not the person living at the property. Cncl. Sebastian noted the Law Committee will look into the mechanism that will address this issue.

F.) ADJOURNMENT

With nothing further to discuss Cncl. Ronald Garbowski made a motion to adjourn the Ordinance Committee Meeting of November 2, 2011. The motion was seconded by Cncl. Daniel Teefy 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 November 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 SW Date 12/7/11
Approved as corrected _____ Date _____