MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
MAY 2, 2012

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	Present	
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. Ronald Garbowski made a motion to approve the minutes as submitted of the Ordinance Committee Meeting of April 4, 2012. The motion was seconded by **Cncl. Frank Caligiuri** and unanimously approved by all members of Council in attendance with the exception of **Cncl. Walter Bryson** 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.

Robert Stapleton approached Council on behalf of residents from the Serenity Woods Development regarding a ground solar panel system that was installed on a Biden Lane

C.) **PUBLIC PORTION** *(cont'd)*

property that backs up to the Serenity Woods basin. Mr. Stapleton submitted pictures of the 69 foot wide by 13 to 14 foot high solar panel system for Council to see and explained all side and rear yard requirements were met but he felt the unit is too big for the lot and that will have an adverse effect on the property values of homes on Serenity Court. He expressed concern that more people would install these units and he would be looking at a solar farm across from his home. Mr. Stapleton suggested Council adopt an ordinance regulating solar energy systems and requested the following be included in that ordinance:

1. Minimum lot size regardless of whether setbacks and side yard requirements are met
2. Maximum array width and height requirements based on lot size; the bigger the lot the larger array and height
3. Should be located in rear of property on residential developmental lots, some flexibility should be given to the owner with a large property of 3 acres or more and properties with irregular shapes
4. Should not be permitted to face the front (panel side or support side) of any house or business within 500 feet
5. All property owners within 500 feet should have a voice in the approval process whether a variance is required or not
6. In addition to screening on the back of the solar panels, fencing should be required around the structure in a residential neighborhood to prevent children from climbing on it, at times 600 volts may be coming off the back…squirrels, chipmunks and mice have been known to chew on electrical wires
7. Warning signs should be posted
8. No cutting/removal of trees should be permitted beyond the limits of what is needed to get the sun position at its lowest point. Cutting/removal of trees should be a condition of the ordinance since a site can meet all other requirements but when trees are cut/removed after the project is approved and construction begins now the array is visible. The ordinance should require the installer to provide an elevation view on a plan with layout, etc. showing the tree heights, distances from the array and how much of the trees will be cut/removed. This way the neighbors notified will be able to see what's going to be exposed.
9. Moratorium on any future ground array solar systems until a new township ordinance is in effect

Mr. Stapleton noted he has a solar system located on the back roof of his home with 42 panels that generate 9.5 kilowatts. He explained if one panel is shaded all the other panels get reduced to the level of the shaded panel. The Biden Avenue home has 55 panels, which he felt could be oversized because of the trees in the area. When that system was installed trees located near the retention basin were taken down but the neighbors would not allow him to remove any of their trees, which could be the reason why this system is so big. Mr. Stapleton requested that until an ordinance is in place regulating them that solar panels not be constructed.

C.) PUBLIC PORTION *(cont'd)*

Council posed questions to Mr. Stapleton regarding the size of the Biden Avenue solar system, whether the entire structure was inspected by the electrical inspector, whether it was certified and whether there was a shutoff for the safety of firemen. Mr. Stapleton advised the system is 69 feet long, it was inspected, as it has an inspection sticker on it but he did not know if it was certified. Cncl. Sebastian explained, in regards to the shutoff for the safety of firemen, during a house fire, the firemen will pull the electric meter off, which cuts all power to the house, but, that does not cut the power coming from the solar system, which is a concern. Mr. Stapleton explained if the power utility is lost coming into the house the solar system will not work, it shuts down completely so if they pull the meter the system is dead because it needs current to work. **Cncl. Bryson** questioned Cncl. Sebastian in his capacity of a Zoning Board liaison if this property owner would have been required to notify residents within 200 feet that this solar system was being installed. Cncl. Sebastian replied no, because there was no application for this since it met all requirements and does not fall under the MLUL. **Solicitor Fiore** explained one of the things that must be considered when adopting an ordinance is the State statute that deals with what can and can't be regulated in regards to solar systems. Many times state government is blind as to what the needs are of local people because they are pushing solar energy but they are not taking into account the effects it has on residential neighborhoods such as Serenity Woods. He referred to the sample ordinance from Mantua that has a three acre requirement and noted this ordinance appears to be well written and may address the concerns of Mr. Stapleton and the other residents. Mr. Fiore noted he didn't know if that ordinance had been challenged in court but he felt it could be because it was subtly over restrictive since most residential lots are not three acres. **Cncl. Sebastian** spoke of a house in Hunter Woods that has solar panels on the ground in the side yard and pictures of that property were circulated for the members of Council to see. Cncl. Caligiuri noted he read over all the sample ordinances and there are some good and bad points in all of them. He felt the Mantua Township ordinance is good but does not cover all issues and recommended Council take the best points from all the ordinances in order to craft a better one. Cncl. Sebastian noted Planner, Tim Kernan, will be at the June Ordinance Committee Meeting to discuss this issue. **Cncl. Teefy** questioned if there was a way Council could stop the installation of solar panels until an ordinance is adopted. Mr. Fiore replied, no, we do not have the authority to do that unless there would be an issue where they would be life threatening in some fashion. **Cncl. Garbowski** noted ground panels are unsightly and he requested Council take into consideration the location, on the roof or on the ground, when creating an ordinance.

Mary Cote, of the Fries Mill Civic Association, spoke of holding a meet and greet meeting where sample ordinances from Washington Township, Greenwich and Mantua were reviewed. She noted all the ordinances have good and bad points. The Greenwich ordinance contains an "Abandonment Claus" that requires a ground solar system to be dismantled if it is no longer in service and she suggested that clause be included in a township ordinance. She also noted when ground solar panels are installed they are going in according to the regulations for accessory buildings. In this particular case the homeowners did nothing wrong, as he followed all requirements but in the future some consideration needs to be given to surrounding homeowners because the panels are unsightly. Mrs. Cote also questioned what the time frame was for the Serenity Woods developer to finish the road, as the last house

C.) **PUBLIC PORTION** *(cont'd)*

was built on Serenity Court approximately four years ago and the roadway still has four inch gaps in the area of the sewer pipes. **Solicitor Fiore** explained several letters were sent to the developer's attorney over the past year and the developer was given an April 30, 2012 deadline in which to set forth the time frame to complete those improvements. Mr. Fiore noted his letter indicated that if the developer did not respond he would request Council to authorize and draw upon the performance bond in place that deals with the roadway, sidewalks, manhole covers, unfinished basins and the landscaping that died. The developer did not respond by the deadline so in addition to getting authorization from Council to draw upon the bonds he would be requesting the engineer prepare a final punch list to ensure everything that needs to be done is listed. The developer has been blaming everything on the economy but residents of that development are living on an unpaved street and getting no break on their taxes. Mr. Fiore explained performance bonds are for when a developer defaults. There are two ways of posting a guaranty, by posting cash or an insurance policy bond. When an insurance company is convinced that the developer has defaulted they have two options; they can either give the municipality the money to finish the improvements or they can contract to have the work done. Generally it is more beneficial for the insurance company, under the direction/supervision of the engineer, to contract the work themselves and then turn the streets over to the township because a municipality must go out to bid and pay prevailing wage to complete the work.

Dave Rosser, a resident of Serenity Court, referred to the sample solar panel ordinances and noted some of the other municipalities not only took into consideration maintenance but also environmental sensitive issues for dismantling the panels. Mr. Rosser also expressed his concerns that property values of the homes in Serenity Woods have already diminished because of the solar panels on Biden Lane.

Denise Patterson, a resident of Serenity Woods and the real estate agent who sold all the houses on Serenity Court, spoke of how she recently listed 1820 and 1848 Serenity Court. The home located at 1820 will go as a short sale. The one located at 1848 will not, as that home was a cash purchase and was only placed on the market because the homeowners no longer want to look at solar panels. At the time the homes in Serenity Woods were purchased the residents paid approximately $100,000.00 more than the residents in surrounding developments just so they could be in that little private setting. They saw the plans and knew nothing would be built on the basin, which is part of the reason they paid the additional money. Mrs. Patterson noted the solar system is a monstrosity and she questioned whether the builder and the residents could pay to have trees planted along the basin just to camouflage the panels. She noted the home with the panels has been landscaped with a buffer between the house and the solar panels so the homeowner does not have to look at them.

Mr. Rosser showed a Google map picture taken of the Biden Avenue home a year ago which compared to a picture taken recently shows the number of trees that were removed to install the solar system. He noted by taking down half a forest this resident was not going green and demonstrated a selfish act that adversely affects the entire community because Serenity Woods residents will probably never get their money back. He noted a wiser more intelligent manner of measuring how we protect our community is needed.

C.) **PUBLIC PORTION** *(cont'd)*

Cncl. Ronald Garbowski questioned whether the resident had permission to take down the trees in the basin. **Business Administrator, Kevin Heydel** questioned whether the plans for the basin included the trees that the developer may have authorized to be taken out and if so, the performance bond should cover the cost of trees to buffer the area for the residents. Cncl. Caligiuri explained new trees would be on the plans but not established ones. Cncl. Sebastian noted the homeowner has the right to remove trees on his own property but not off his property. Solicitor Fiore suggested trees that would not affect the basin be installed between the street and the basin, as that would buffer the Serenity Court residents. He also reviewed the Abandonment Claus in the Greenwich Ordinance and felt the twelve month time period was too long and recommended that it be shortened to six months.

Mrs. Patterson questioned if residents could be notified prior to the installation of a ground solar system, as that could open up discussions and possibly a different conclusion. Cncl. Sebastian explained if an individual is required to go before the Zoning Board for a variance under the MLUL property owners within two hundred feet from any point of the property line must be notified. That gives the surrounding neighbors the opportunity to come before the Zoning or Planning Board to express their concerns before the applicant and the Board. The problem in this instance is, there was not an ordinance in place regulating solar panels so the regulations for a single structure was followed and because they met all the rear and side yard setbacks and height requirements they were given permission to move ahead. If any regulations had been violated they would have gone before the Zoning Board of Adjustment and everyone within two hundred feet would have been notified.

Discussion took place in regards to whether the electricity being generated by the Biden residence was primarily being used by the homeowner or was there excess being sold back to the electric company. Mr. Stapleton explained the electric company gives homeowners a credit for excessive electricity and that is applied to future bills. Mr. Fiore explained the municipality can regulate the structure but cannot regulate that as it is permitted by the Public Utilities Commission. Discussion continued regarding types of buffers and the residents suggested evergreen trees be installed so that the panels are camouflaged during the winter months as well. Cncl. Sebastian explained the developer would decided what types of trees will be planted. **Cncl. Teefy** felt Council should move quickly on the maintenance bond to get the work done and the basin turned over to the township because if it is left up to the developer, who has done nothing in years, it will not get done. Cncl. Sebastian explained the planner must be involved in planting the trees, as there are requirements for how far trees must be apart, the distance from the curb, etc. Mr. Kernan is scheduled to be in attendance at the June Ordinance Meeting so this matter can be addressed at that time. Cncl.Garbowski questioned whether Council could include language in the ordinance that would require homeowners installing standalone solar systems to go before the Zoning Board for a conditional use because then all neighbors would be notified and given the opportunity to comment. Solicitor Fiore noted he would take a look at that issue, as he felt State statute allows them in all zones but does give the municipality the authority to control the side yard setback, buffering, etc. The residents in attendance noted they were satisfied that Council was trying to help them and that an ordinance would be addressed so this does not happen to other homeowners in the future.

C.) PUBLIC PORTION *(cont'd)*

With no one else wishing to speak **Cncl. Ronald Garbowski** made a motion to close the public portion. The motion was seconded by **Cncl. Walter Bryson** and unanimously approved by all members of Council.

D.) ORDINANCES FOR REVIEW

- **Chapter 175-54C & 175-151.1 - Wireless Communications Facilities**

Cncl. Frank Caligiuri explained the State mandated the amendments for wireless communication facilities due to some municipalities requiring applicants to go through the entire site plan review process to add an antenna to an existing cell tower. This legislation takes that requirement away. Cncl. Sebastian added now basically all the applicant needs to do is to meet the standard that the tower will support the antenna. **Cncl. Bryson** noted cell towers have impact on public health and he questioned if there were any restrictions regarding how much wattage towers could have. Cncl. Sebastian noted there is no impact to public health according to professionals that come before the Planning and Zoning Boards unless you are within ten feet of the antenna at the top of the tower. The towers do not affect people on the ground. He explained when a tower goes before the Planning and Zoning Boards they must follow the rules and regulations established by Statute and in the past every time a carrier went to put an antenna on an existing tower they had to go before one of the Boards. To eliminate that requirement the State has mandated the municipality to adopt an ordinance saying that is no longer a requirement. Cncl. Bryson expressed his concerns in regards to the number of antennas being added to towers, the wattage and how low they are being placed on towers. He indicated he would like that number to be restricted because the lower they are placed on a tower the more danger they are to people in that area. Cncl. Sebastian explained the antennas are high because the lower they are the less distance the wireless communication travels so companies want to keep them high. Cncl. Sebastian polled Council and all were in favor of moving the amendments to Chapter 175-54C and 175-151.1 forward for First Reading at the May 8th Regular Council Meeting.

- **Chapter 175-90 – Agriculture**

Cncl. William Sebastian noted the proposed amendment to Chapter 175-90 "Agriculture" was requested by the Planning Board. He explained the language in the original ordinance allowed owners of a certain size agricultural site to perform their own study under the Resource Conservation Plan and submit it to the Soil Conservation District for review. **Cncl. Pres., Frank Caligiuri** noted he was the person who brought this issue up. He explained the ordinance previously stated *"the Conservation Plan shall be prepared by the appropriate soil conservation district"* and *"if prepared by the operator such plan shall be submitted to the Soil Conservation District for review"*. It allowed for two options for the preparation of a soil conservation plan and that was for either the owner or the district to prepare it when there are other options such as an engineer or planner preparing the plan. Rather than limiting it to just those two parties Cncl. Caligiuri recommended additional verbiage of *"or otherwise reviewed and*

D.) **ORDINANCES FOR REVIEW** *(cont'd)*

approved by", as that opens the door for any appropriate person to submit/prepare a plan, including the operator and the plan will still be subject to review and scrutiny by the Soil Conservation District. Cncl. Caligiuri went onto explain the language dealing with swine and livestock were removed from the ordinance as they are covered under a Board of Health ordinance, which states swine must be in an agriculture zone on a minimum one acre lot. Livestock is addressed under Section 6 of this ordinance. Cncl. Sebastian expressed his concerns that poultry was being permitted in R-2 zones. Cncl. Pres., Caligiuri explained to have poultry in an R-2 zone the ordinance requires two acres. Cncl. Sebastian polled Council and all were in favor of moving the amendment to Chapter 175-90 forward for First Reading at the May 8th Regular Council Meeting.

- **Chapter 175-135 - Signs**

Cncl. Sebastian noted Dan Kozak requested Chapter 175-135 G. (8) be amended to remove language that allowed real estate directional signs, as developers were putting those types of signs up all over the township. The amendment also establishes violations and penalties of not less than $50 or more than $500. Cncl. Sebastian questioned who will determine the fine amount. **Solicitor Fiore** advised the judge would determine what fine is paid. Mr. Kozak noted he didn't request the penalties but the Planning Board felt there should be some type of penalty in case developers do not comply with the ordinance. **Cncl. Bryson** questioned whether there were limitations to the size of signs placed on lots for sale, as there is a huge sign advertising a few lots for sale on Corkery Lane. Mr. Kozak explained that is permitted because the property owner is advertising on his own lot that he will build custom homes to suit. Cncl. Sebastian polled Council and all were in favor of moving the amendment to Chapter 175-135 forward for First Reading at the May 8th Regular Council Meeting.

- **Chapter 267-50 - Parking Prohibited Certain Hours (*Virginia Avenue*)**

Council discussed where the prohibited parking should be on Virginia Avenue and the times it is to be prohibited. **Cncl. Caligiuri** suggested the timeframe be from midnight to 6:00 AM. Dan Kozak recommended the parking be prohibited in front of the municipal building from the driveway by the mailbox to the Police Department driveway. Solicitor Fiore indicated he would contact the Police Department for a measurement of that area to include in the ordinance.

- **Chapter 65 - Article VII - Technology Policy**

Cncl. Sebastian noted he had no problem with the ordinance and the only issue he found is that two sections, Section 65-89 "Policy" and Section 69-89 "Procedure", contain some of the same language. **Cncl. Daniel Teefy** noted the language in the ordinance is standard policy in the industry and he questioned whether the employees will be signing off when they receive it. **Solicitor Fiore** noted this policy should be given to employees along with the Employee Policy Handbook, which they are supposed to sign for. Cncl. Sebastian noted current employees already have that so this policy will just be distributed to them. It was noted the

D.) ORDINANCES FOR REVIEW *(cont'd)*

ordinance states the clerk will distribute copies of the policy and Council requested that language be changed, as the Administration should be the one handling that. Discussion took place regarding whether there was a current employee handbook. The Deputy Clerk explained the Business Administrator created one but there were some issues when employees refused to sign for it. Cncl. Sebastian noted no action was taken on it when it came before Council, as the BA was still in the process of making changes to it. Solicitor Fiore recommended the ordinance include additional language that this policy will be included in any employee policy manual adopted by the municipality and that the BA distribute it by attaching it to everyone's paycheck. **Cncl. Rich DiLucia** explained contracts contain a clause that says under a management rights provision anything that is addressed in a collective bargaining agreement is not superseded by a policy. He explained people not covered by a collective bargaining agreement must abide by the policy but people covered under a collective bargaining agreement do not have to follow the policy. Cncl. DiLucia added employees could be directed by their collective bargaining representatives to return the technology policy if it's distributed with paychecks and if they do, the Administration should just make a notation in their personnel file that they were offered a copy and refused it. Cncl. Teefy noted this policy contains nothing about remote access to township data and he questioned whether anyone has access from outside the building. Cncl. Sebastian felt only the IT personnel would be able to do that. Solicitor Fiore noted he would check with IT to see if anyone has that access. Cncl. Teefy noted there should also be a policy to restrict flash drives. Cncl. Sebastian questioned whether Mr. Fiore had forwarded a copy of this to Sean Dalton, who requested any policy the township adopted be sent to him for review. Mr. Fiore indicated he did not but would forward a copy to Mr. Dalton. Cncl. Sebastian spoke of how employees within the building can access other departments such as the tax office information. He explained Ninette works between the Planning Board Office and the Tax Office during tax quarters and she made a recommendation to include zoning information on the tax records. Ninette has offered to input that information into the computer so zoning information can be quickly accessed when an applicant comes before the Planning or Zoning Board. This could be done by cross referencing ARH's GPS information and the planner's information but the cost would be approximately $2,500 to get the information. Mr. Kozak noted initially it will be time consuming to input fifteen zones into the computer but once it's done it will save time for employees that now have to try to figure out which zone a property is in by comparing the lot shapes on the zoning map. Cncl. Sebastian requested Mr. Fiore make the changes to the technology ordinance and forward it to Sean Dalton for his review and recommendation.

E.) MATTERS FOR DISCUSSION

- **Solar Panels**

Cncl. Bryson questioned whether the size of solar panels can be restricted based upon the square footage of the property and if residential systems could be regulated to allow for only rooftop systems. **Cncl. Pres., Caligiuri** noted some of the sample ordinances require a minimum lot size for ground systems and he felt Council should review the sample ordinances

E.) MATTERS FOR DISCUSSION *(cont'd)*

and pick out good points from each to include in our ordinance. **Cncl. Dan Teefy** referred to the solar panel system on Biden Lane and asked if that resident could have built a shed that big on his property. **Dan Kozak** explained solar panels are not considered impervious coverage because rain can still go through to the ground while a building covers the ground. Mr. Kozak suggested Council review the ordinances for wind energy as well because that could be another issue in the future. Cncl. Pres., Caligiuri noted some of the ordinances require solar panels to be twelve inches off the roof and expressed his concerns that wind shears could lift the panels and the roof right off the house. Cncl. Bryson noted there are solar panels that look like shingles and they are no more expensive than the glass panels. Cncl. Sebastian noted this issue will be placed on the June Ordinance Meeting when Planner, Tim Kernan is available to address the information he has on this.

F.) NEW BUSINESS

Cncl. Walter Bryson questioned whether no parking/standing signs could be installed along Malaga Road between Corkery Lane and the Black Horse Pike, as residents are afraid trucks going to the Wal-Mart will be parking there at night. It was explained that is a County road and the township cannot place signs there.

G.) OLD BUSINESS - None

H.) ADJOURNMENT

With nothing further to discuss **Cncl. Walter Bryson** made a motion to adjourn the Ordinance Committee Meeting of May 2, 2012. The motion was seconded by **Cncl. Ronald Garbowski** and unanimously approved by all members of Council in attendance.

Respectfully submitted,

Sharon Wright, RMC
Deputy Clerk

Cncl. William Sebastian
Presiding Officer

These minutes were prepared from excerpts of the recorded proceedings and hand written notes taken during the Ordinance Committee Meeting of May 2, 2012 and serve only as a synopsis of the proceedings. The 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* 6/7/12
Approved as corrected _____ *Date* _____