

MINUTES
SPECIAL COUNCIL MEETING
TOWNSHIP OF MONROE
NOVEMBER 30, 2011

A.) OPENING CEREMONIES

CALL TO ORDER

The Special Council Meeting of the Township of Monroe was called to order at 7:00 PM by **Council President, Marvin Dilks** in the First Floor Room of the Municipal Complex located at 125 Virginia Avenue, Williamstown, New Jersey.

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

SALUTE TO FLAG

Cncl. Frank Caligiuri led the assembly in the Pledge of Allegiance to our Flag.

ROLL CALL OF TOWNSHIP OFFICIALS

Cncl. Walter Bryson	Present
Cncl. Frank Caligiuri	Present
Cncl. Rich DiLucia	Present
Cncl. Ronald Garbowski	Excused
Cncl. William Sebastian	Present
Cncl. Daniel Teefy	Present
Cncl. Pres., Marvin Dilks	Present
Solicitor, Charles Fiore	Present
Planning Board Solicitor, Len Schwartz	Present
Business Administrator, Kevin Heydel	Present
Township Clerk, Susan McCormick	Present

Cncl. Pres., Marvin Dilks deviated from the agenda in order to address the Salary Ordinance first and he turned this portion of the meeting over to **Ordinance Committee Chairman Cncl. William Sebastian**.

B.) ORDINANCES

O:28-2011 An Ordinance To Amend The Code Of The Township Of Monroe Fixing And Establishing Salaries And Rates Of Compensation Of Officers And Employees Of The Township Of Monroe, In The County Of Gloucester, State Of New Jersey (**First Reading and Publication**)

Cncl. Frank Caligiuri noted during the last meeting Council indicated they would bring this up for discussion and he questioned whether a decision was made not to do that. **Cncl. Sebastian** explained there was only one change to the salary ordinance as far as the money was concerned. The **Business Administrator, Kevin Heydel** advised that change is for the CFO, which was discussed and then there is another one for the Personnel Assistant and the Municipal Clerk that was not discussed. He noted he changed the CFO salary, left a blank and highlighted the two others that were to be discussed. **Cncl. Sebastian** questioned Mr. Fiore on whether council could take a vote this evening to move it forward and then have discussions between now and the Second Reading. Mr. Fiore explained if Council is going to discuss specific titles and make substantial changes it will need to go back for First Reading therefore a decision should be made tonight. **Cncl. Rich DiLucia** noted he thought Mr. Heydel was going to come back with some recommendations regarding the Human Resource job based on the fact that he is her supervisor. The other job in question falls under State Statute and we have no choice but to agree that person should get the highest rate unless the solicitor interprets it differently. He noted he reviewed the Supervisor Association contract she is under and there is a Severability Clause, which says that if the contract is in conflict with the law then the law supersedes the contract. In this event even though there is a collective bargaining agreement that says two percent, the law says five percent because of an equity issue with the Police Department and she would fall under the same category as the CFO. He questioned Mr. Fiore if he was correct regarding the Severability Agreement. Mr. Fiore noted he was 100% correct

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B.) ORDINANCES (cont'd)

and the issue is going to be that in the past there has been parity among the statutory positions of CFO, Township Clerk, Tax Collector and Tax Assessor, which they fall outside of the scope of a collective bargaining agreement. Cncl. DiLucia questioned whether he was correct in his view that Council had no choice but to increase the salary of that position because of the State Statute. Mr. Fiore noted the statute does not say that, it talks about negotiating in good faith and the position on that is, that in the past, it has always been the same percentage increase. Cncl. Caligiuri noted the Mayor has the authority to designate the salary and Council has the authority to delegate the upper limits and he questioned whether that was correct. Mr. Fiore explained Council establishes the range within the ordinance and the Mayor, who is the hiring and firing authority, sets the salary within the range. Cncl. DiLucia noted that range for one of the employees would need to come from the BA since he is privy to the information that would calculate the salary from three years ago. Council cannot do that and will agree that needs to be done and placed in the ordinance as the top of the range. Cncl. Sebastian requested Council first consider the increase included in the ordinance for the CFO position. Cncl. DiLucia requested information as to how that figure was calculated, as the calculation for the back pay could be somewhat complex. Council also needs to know the yearly rate because the increase is not just a straight number. Mr. Heydel advised he had that calculation and would email it to Cncl. DiLucia. Cncl. Sebastian felt there was a consensus from Council to table the ordinance until they received information regarding all three of those titles. Mr. Heydel expressed his concerns that if the ordinance was tabled there would not be enough time to approve it within 2011 and it must be approved because the CFO salary is contractual and that range must be increased this year. He spoke of preparing a spreadsheet showing what the back pay should have been, what back pay was owed and what the current rate is supposed to be. Cncl. DiLucia noted he would agree to accept that rate with the stipulation that it was upon Council review of the calculation and if there is a mistake it will be adjusted. Cncl. Caligiuri noted if the upper limit for the Clerk was increased by 5% that still does not impact the salary adjustment. Mr. Heydel noted that can be done but Council must look at the determination and interpretation of the statute because he has a pending legal opinion that is going to say the purpose of the statute is so the positions are not discriminated against; it does not say that the statutory positions must be equal in the raises they get. It says a raise cannot be denied or salaries cannot be reduced. Mr. Fiore added the State Statute states "*no such ordinance shall reduce the salary of or deny without good cause an increase*" so an increase cannot be denied. There are many interpretations of this and one is that the salary increase must be the same for all the positions, but it does not say that; it says you must be equitable. Mr. Heydel questioned whether it is equitable to piggyback on someone else's employment agreement because that is basically what is going on here. Council discussed the language in the State Statute. Cncl. DiLucia noted he was not willing to take the interpretation of Labor Counsel because they are not involved in the determination, as that comes from Statute, not a contract. If in fact the union wanted to file a grievance saying the 2% provision is in conflict with the Statute that would call for arbitration and that would bring in labor counsel. He noted our solicitor is supposed to give Council legal advice on State Statutes. He noted the way he interprets the Statute is that those positions shall have equality when it comes to the highest increase in the township and if he is wrong he wants to be told by someone other than labor counsel, as the only involvement they should have is dealing with the severability provision. Mr. Fiore noted the Administration felt that labor counsel was better suited to give an opinion because their area of expertise is interpreting the Statute as it applies to labor circumstances within the township. Mr. Fiore noted he was not prepared this evening to give an opinion because he thought labor counsel was going to do it but he will prepare one if Council wants him to. Cncl. DiLucia noted this is not a collective bargaining issue, they are questioning their rights under State Statute and that is the first decision that must be made. Mr. Heydel explained he left the ordinance blank for the salaries of the Clerk and Personnel Assistant because they reached out to Council and he was not asked to give his opinion on that. Cncl. DiLucia noted at the last ordinance meeting there was specific discussion about whether the Personnel Assistant would be moved to the higher job description or whether Mr. Heydel should make a combined job description and propose a rate for that. He noted Council cannot do that because we do not know what she does. Mr. Heydel noted if Council wants his recommendation he will say that she has assumed all of the duties of the Human Resource Officer; however, she does not want that specific title. She would like the title to be Personnel Assistant/Claims Coordinator because she has been named the township claims coordinator and handles all the claims. He suggested the salary range be increased up to \$55,000.00, as that is what she has requested, she is doing a great

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B.) ORDINANCES (cont'd)

job and a \$90,000.00 job has been eliminated. Cncl. Sebastian questioned whether that title is acceptable through Civil Service. Mr. Heydel advised it is because she is still a Personnel Assistant, we are just adding a local title to that, which is acceptable. Cncl. DiLucia questioned whether Mr. Heydel was confident that if he created a job description encompassing the higher title the job would get done, as he was concerned, that if the Personnel Assistant job description does not include Human Resource duties, in the future she could refuse to do that part of the work saying that is not part of her job. Mr. Heydel noted he would write a job description that adds to her current position and he was confident the work would get done. Cncl. Sebastian noted the ordinance would include a title of Personnel Assistant/Claims Coordinator with a top range of \$55,000.00 and the Mayor will decide to give her that or not. Cncl. Teefy felt Council was creating a position that did not need to be created. He felt Council would not need to do anything if she was placed in the correct title for the work she is doing and given a decent salary, as that range would give her years to grow her salary. Mr. Heydel noted that would require the Mayor to promote her and increase her salary if he so chooses. Cncl. Teefy felt that if she is not promoted to the higher title someone else with experience will need to be hired for the Human Resource position and they will not do that job for \$55,000.00, they will want more. Cncl. Caligiuri suggested passing it with the recommendation that the Administration migrates the two positions together, promote her to the higher position and eliminate the Personnel Assistant position. Mr. Heydel recommended her title be Personnel Assistant/Claims Coordinator and increase the salary to accommodate the work she is doing. Next year when the salary ordinance is done the Human Resource Officer position can be eliminated, but it must remain in place now since a person was paid from that title this year. He noted she came to Council requesting an increase to be put in place this year and retro back pay to June 1st when the former Human Resource Officer left our employment. Council noted the ordinance states January 1, 2011. Mr. Heydel explained that is when the ordinance is effective but that is not the date she would be paid retroactively. Mr. Fiore recommended that be clear in the ordinance because in the past it has been interpreted to be retroactive to January 1st. Mr. Heydel suggested the effective date of the ordinance be June 1st. Cncl. Caligiuri suggested making it a stipend of \$10,000.00 for the position of Acting Resource Officer. Mr. Heydel suggested making it a stipend for Claims Coordinator and leaving the Personnel Assistant at the current range. The stipend would not be retroactive unless Council wanted to make it retroactive to when she was named Claims Coordinator. Cncl. Bryson noted then next year this matter could be addressed again. Cncl. Teefy expressed concern that Council is allowing an individual to dictate what she will be paid instead of the business, which the township is, dictating what an employee should be paid, as the next person not satisfied with their salary will say she got more and I want mine as well. He felt when the Human Resource position was vacated she should have been promoted and paid \$48,000.00 to \$49,000.00, which would have made everyone happy. Now, because the Mayor did not do his job moving her into the right position Council is trying to coordinate retro. Cncl. Caligiuri noted there is no guarantee that he will do that and we may lose a good employee. Cncl. DiLucia noted the same thing happened with the CFO, as the administration function was not done and now Council is stuck making this decision. He noted the Mayor should promote her, she should request what she thinks the position is worth and if the Mayor does not agree, she should file a grievance. Solicitor Fiore suggested this issue be addressed at the Ordinance Committee Meeting on December 7th as that would still allow time for this ordinance to be adopted by the end of the year. That would give time to address the issues Council would like addressed and possibly the Mayor will provide some feedback or input. First Reading could then be held at the December 13th Council Meeting and the Second Reading could be held on December 27th. Cncl. Sebastian questioned whether Council could vote to move it forward during the Ordinance Committee Meeting. Mr. Fiore advised they could. Mr. Fiore requested Council email him or the BA any questions/concerns they may have regarding this matter. Cncl. Sebastian brought to Mr. Heydel's attention that he did not highlight it but the stipend for the Tax Search Officer was moved from the Deputy Tax Collector to the Tax Collector position. Mr. Heydel noted the only change he made to the ordinance was those highlighted, he made no other changes.

Cncl. Frank Caligiuri made a motion to Table Ordinance O:28-2011. The motion was seconded by Cncl. Rich DiLucia and unanimously approved by all members of Council in attendance.

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C.) RESOLUTIONS SCHEDULED - PUBLIC PORTION

Cncl. William Sebastian made a motion to open the Resolutions Scheduled-Public Portion. The motion was seconded by Cncl. Daniel Teefy and unanimously approved by all members of Council in attendance. With no one wishing to speak Cncl. Frank Caligiuri made a motion to close the Resolutions Scheduled-Public Portion. The motion was seconded by Cncl. Walter Bryson and unanimously approved by all members of Council in attendance.

R:196-2011 Resolution Authorizing Closed Executive Session Of The Township Council Of The Township Of Monroe To Discuss An Active Litigation Matter (*Blaze Mill Development*)

Cncl. William Sebastian made a motion to approve Resolution R:196-2011. The motion was seconded by Cncl. Daniel Teefy and unanimously approved by all members of Council in attendance.

CLOSED EXECUTIVE SESSION

Solicitor Fiore noted Council concluded a Closed Executive Session where the Blaze Mill litigation was discussed. There was no conclusion and no official action taken by Council at this point in time.

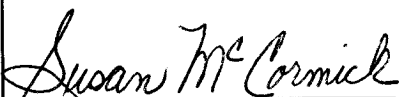
D.) GENERAL PUBLIC DISCUSSION

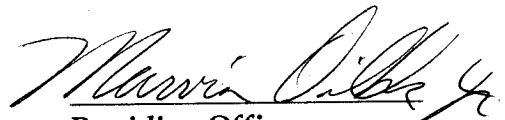
Cncl. Walter Bryson made a motion to open the General Public Discussion. The motion was seconded by Cncl. Rich DiLucia and unanimously approved by all members of Council in attendance. With no one wishing to speak Cncl. Frank Caligiuri made a motion to close the General Public Discussion. The motion was seconded by Cncl. Rich DiLucia and unanimously approved by all members of Council in attendance.

E.) ADJOURNMENT

With nothing further to discuss Cncl. Frank Caligiuri made a motion to adjourn the Special Council Meeting of November 30, 2011. The motion was seconded by Cncl. Walter Bryson and unanimously approved by all members of Council in attendance.

Respectfully submitted,


Susan McCormick, RMC
Municipal Clerk


Presiding Officer

These minutes were prepared from excerpts of the tape-recorded proceedings of the Special Council Meeting of November 30, 2011 and serve as only a synopsis of the proceedings. The official tape may be heard in the Office of the Township Clerk upon proper notification pursuant to the Open Public Records Law.

Approved as submitted Sm
Approved as corrected _____

Date 12/13/11
Date _____