

**MINUTES  
COUNCIL WORK SESSION  
TOWNSHIP OF MONROE  
JULY 22, 2013**

**A.) OPENING CEREMONIES & ROLL CALL**

The regular scheduled Work Session Meeting of the Monroe Township Council was called to order by **Council President, Daniel P. Teefy** at approximately **7:00 PM** in the Conference Room on the first floor 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.: South Jersey Times, Courier Post and the Sentinel of Gloucester County). A copy of that notice has been posted on the bulletin board at the Municipal Complex.

**SALUTE TO OUR FLAG** – Cncl. Ronald Garbowski led the Assembly in the Salute to Our Flag.

**ROLL CALL OF PUBLIC OFFICIALS**

Cncl. Walter Bryson	Present	
Cncl. Frank Caligiuri	Present	
Cncl. Marvin Dilks		Excused
Cncl. Rich DiLucia		Excused
Cncl. Ronald Garbowski	Present	
Cncl. William Sebastian	Present	
Cncl. Pres., Daniel Teefy	Present	
Mayor, Michael Gabbianelli	Present	
Business Admin., Kevin Heydel		Excused
Solicitor, Charles Fiore	Present	
Engineer, Chris Rehmann	Present	
Dir. of Finance, Jeff Coles	Present	
Dir. of Public Safety, Jim Smart	Present	(Arrived 7:25PM)
Dir. of Code Enforcement, George Reitz	Present	
Dir. of Public Works, Bob Avis		Excused
Municipal Clerk, Susan McCormick	Present	

**B.) MATTERS FOR DISCUSSION**

• **Bus Shelters**

Cncl. Pres., Daniel Teefy spoke in reference to a request from a resident for the installation of bus shelters at certain locations along the Black Horse Pike. **Business Administrator, Kevin Heydel** received an email from the resident advising him that she had been in contact with NJ Transit and they advised they could install the shelters but it would require approval of the governing body. The Clerk then advised that the particular locations referred to in the email are officially designated as "bus stops", this took some time as the township has routinely designated "bus stops" via resolution, there is no formal list included within an ordinance. She further explained that currently the township has an agreement with Eller Media (*Clear Channel*) in effect until 2014; they also have a

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

provision in their agreement that they will install additional bus shelters. The question being that NJ Transit does not allow for advertising in the shelters they install however with Clear Channel some revenue is realized for the township through the advertising. **Solicitor Fiore** indicated that perhaps the contract with Clear Channel could be renegotiated in advance and perhaps they would agree to install at these locations. He will review the agreement and get in touch with Mr. Heydel on this. This matter will be addressed again with a report due for the next council work session.

• **Blaze Mill Update**

**Cncl. Pres., Daniel Teefy** referred to the information submitted to council members for review and requested the solicitor to update council on the matter. **Solicitor Charles Fiore** advised the judgment represents the finding of the court (*Fairness Hearing*). The matter involved the Rt. 322/Fries Mill Road project regarding Blaze Mill, LLC who filed a COAH lawsuit against the township. Originally, it had to do with some 600 homes and through negotiations, whittled it down to two hundred fifty (250) with fifty-six (56) rehab units off-site, with a monetary contribution set forth in the agreement. He continued to advise as part of the process Mary Beth Lonergan, Special COAH Master provided testimony, there was some testimony on the part of the township and some discussion (*on the record*) as to how everyone thought this was best suited for the township based upon the potential of 600 single family homes located in the pit. In the long run, it was the 250 homes that were approved subject to all outside approvals such as MMUA approval, DOT approvals and all other entities that touch upon the property. This did not waive the requirement that the applicant must go through site plan approval and all items covered under the MLUL. Mr. Fiore continued and noted one of the requirements under the agreement dated July 15, 2013 (*Blaze Mill Development Group, LLC v. Township of Monroe, et al*) is the municipality *is required* to adopt an ordinance that will implement the agreement. He spoke of what the township may want to see in the ordinance such as simple facades design, design standards (*with recommendation of the Planner*), off-set of the units, etc. and once the ordinance is adopted it will go before the Planning Board. Mr. Fiore also noted part of the agreement spoke of the fifteen (15) acre buffer between the townhomes and Hunter Woods; there will be a tie-in to the bike path and a fifteen (15) acre commercial development on the corner with the right to have the developer expand that if he chooses to do so. The judge in reviewing it, along with the representations from Mary Beth Lonergan, was very positive. The judge applauded the township for their efforts in attempting to comply with COAH. Mr. Fiore explained we now have to pass the ordinance, submit a spending plan to the Special Master as well as to COAH for approval. Conceptually it is a good plan with adhering to our Affordable Housing responsibility. Is it the best of all situations? No, it is not. One of the things it did do was to act as impetus for moving forward with the intersection. Mr. Fiore spoke on COAH and how it is a necessary evil. It is part of what we are living with, within our system. It has been in existence since 1980. **Cncl. Walter Bryson** commented that under normal COAH situations you don't have any rule, as far as traffic, as far as the number of people, as far as the Municipal Utilities, etc. you have no control over any matters of this nature, it is the COAH applicant that has control. **Solicitor Fiore** responded that he would 110% disagree with that, there

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

is still home rule, COAH does not trump the MLUL. It would from the standpoint as to density at times, but the density we are talking about is not volatile, we are creating our ordinance to deal with that. In simplistic terms you still have to design a roadway that is going to work, you still have to be able to bring water into the project and COAH is not going to say you will put in 800 units but we are going to violate your rights to regulate under zoning and site plan. Site plan still takes place and if you look at the agreement and you look at the ordinance to be drafted it is not going to take any of those rights away from us. **Cncl. Frank Caligiuri** questioned how many additional houses did we wind up with, over and above the original approval. The solicitor responded the number is 250 with 56 market to affordable (*off-site*). He continued and noted there is much work that Mr. Kernan's firm will be working on, and much work for council with respect to adopting the ordinance. Again, it is the town's ordinance to adopt and you will see in the agreement it gives you a lot of latitude as to what you can do. **Mayor Gabbianelli** then stressed the Ordinance Committee has to do their job and that is the way it has to be. He spoke of the towing ordinance and urged council to let's make sure that we do this ordinance right, adding that he could sit there to voice his opinion, as he does not have a vote but we have to do, what we have to do and do the right thing. **Cncl. William Sebastian, Ordinance Committee Chairman** noted that the Mayor was always welcome to the meeting to comment. **Mayor Gabbianelli** noted he did not want to come because what is the sense, I don't have a vote.

**Solicitor Charles Fiore** did suggest that in drafting the ordinance perhaps a committee of council, Leonard Schwartz, Tim Kernan and a committee of the Planning Board and himself first assemble (*in caucus format*) to attempt to come up with a draft. After which, both boards could review the draft as there is a ninety (90) day time period from July 15<sup>th</sup> to, at least, have the first reading of the ordinance. Mr. Fiore spoke of an update in the NJ Planner with regard to an Affordable Housing update as to what COAH is requiring us to do. He explained there was an order from June 7, 2013 that basically said we must immediately file our "*Spending Plan*", if not account for what happened with the Trust Fund monies. At a meeting the other day, with a representative from the Governor's office, it was said we would be glad to do it (*give the money up*) as long as COAH is going to negate our obligation to do anything. Mr. Fiore added the June 7<sup>th</sup> order said that you have to immediately comply. Then the case was appealed to the Appellate Division and they ruled that we have thirty (30) days from July 12<sup>th</sup> to file our plan. He spoke of a formula to be utilized. We now not only have to track the money, we have to track it "first in, first out". The solicitor indicated the order is very, very confusing and he perceives even more litigation, or at least additional litigation, following up and appealing further actions. There was a brief discussion on the tracking of the money. **Cncl. Walter Bryson** noted that the Department of Community Affairs wants the money to spend on whatever program they want to spend it on for Affordable Housing. What they are doing to us as a local township is to turn around and say, you still have your obligation, you are still going to have to pay for it, but we took your money. **Solicitor Fiore** noted what was interesting, in drafting our response to COAH, is that in the order from superior court (*Section B, last page*) it says that we provide a draft spending plan to the Special Master and to COAH. Now, an interesting question that he will raise in our response is that we are under a court

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

order to submit our spending plan to the Special Master and COAH does that obviate our need now to respond. **Cncl. Pres., Teefy** questioned if that was the spending plan with the monies coming from Blaze Mill or is that the total spending plan. It was indicated to be the total spending plan.

**Mayor Gabbianelli** then explained there are a couple of things going here, one was discussion with the diocese (*Catholic Charities*) on an agreement, the problem there is they have no money. He spoke with Curtis Johnson on several occasions about the property location and we have some COAH money, but would it buy the property.

No, but we could have bonded if we had other money coming in. He noted he had no problem bonding for that because COAH money pays the interest, pays everything. So, when the money comes in, it gets paid. However, they (*diocese*) have no money to develop the property and there is no money in sight at this time.

**Solicitor, Charles Fiore** added that probably one of the most important provisions discussed was found on page 11 of the agreement. The provision was that the township and the Planning Board are hereby granted continued immunity from exclusionary zoning law suits, including but not limited to, exclusionary zoning law suits. Therefore, we are Ok with our 3<sup>rd</sup> round certification/obligation as long as everything is submitted in a timely fashion, we would have that protection, if anyone would come in and attempt to file a Builder's Remedy lawsuit. **Cncl. William Sebastian** as a point of clarification noted the solicitor's letter is dated July 15<sup>th</sup> but questioned the date on the actual court papers. The solicitor noted July 15<sup>th</sup> was the correct date and what happened was that he had sent an unsigned copy of the order however in today's mail he received the signed order from the court. There was some concern with the timeframe (*90 days*) as it relates to the ordinance the municipality is required to adopt that will implement the agreement. Mr. Fiore then added they might totally disagree with the ordinance that we are in the process of adopting, and they have the right to challenge that. Conceptually, they understand the premise, but we have to do an ordinance and it is the job of both the Ordinance Committee and Council to draft an ordinance that you are satisfied with and is in conformance with the court order. **Cncl. William Sebastian** questioned if they sign the settlement before we sign off on the ordinance or is the ordinance codified before they sign the settlement? Solicitor Fiore explained this is a court order approving the settlement agreement. It is a settled case. Then you are going to review the settlement agreement and the recommendations of the Special Master as well as the final judgment when drafting the details of the ordinance. Mr. Fiore went on to note amazingly enough there were no objectors, there was someone from Fair Share Housing, and there were no residents present. Some letter objections were filed and they were noted in the order.

- **R:152-2013** A Resolution Committing Funds From The Affordable Housing Trust Fund For An Affordable Housing Assistance Program In Accordance With The Requirements Of The Council On Affordable Housing (COAH) And N.J.A.C. 5:97-8.8

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

- **R:153-2013** A Resolution Authorizing The Mayor To Enter Into A Memorandum Of Understanding With Diocesan Housing Services Corporation For The Purpose Of Advancing An Affordable Senior Housing Rental Development

**Cncl. Pres., Daniel Teefy** noted that **Planner, Tim Kernan** was in attendance to advise council on the content of the resolutions. Mr. Kernan explained that COAH had corresponded with the township on the COAH Plan, Spending Plan, Development Fee Ordinance, etc. indicating that all is complete and they were in the process of their review. This took place about the same week the township decided to pull out of COAH and go into the courts. The above referenced resolutions are just trying to help protect the township in keeping the trust fund monies. He explained the governor's office is saying if you do not have a binding contract to spend the money, we can take it. Because of this court decision (*discussed above*) there has to be due process and at the end of the day if the state really tries to take the township's money there has to be a hearing. Mr. Kernan continued and advised we are just trying to put as much stuff back into COAH's hands to show the town is committed to spending the money. Since the Spending Plan was done in the end of 2008, early 2009 it has been the intention of the township to fund some of the project for the Diocesan Housing Services, Corporation but the money that was projected to be collected, over the years, started to dry up. Mr. Kernan explained that entering into a MOU with the Diocesan Housing Services, Corporation (*Resolution R:153-2013*) might help to show the state that the township is committed to spending the money, when the money starts as development picks up again. He then referred to **Resolution R:152-2013** explaining that 30% of whatever monies are in the trust fund must be spent on affordability assistance. If they are going to try to take money, they do not even have the right to even touch the first 30%. **Cncl. Pres., Teefy** questioned what Mr. Kernan referred to as affordable assistance. Mr. Kernan explained affordable assistance is the same as the market to affordable program, much like what is being done in Blaze Mill. It could also be in a format with *down payment assistance*. The Mayor indicated he felt something like this is the best way to go, and this is what we would like to try to establish. Mr. Kernan advised this assistance program could also include renter's assistance with security deposits. **Cncl. Pres., Teefy** questioned how people would know that a program such as this is available and if they qualify. Mr. Kernan replied it could possibly be placed on the township website; however, he would have to check on this to verify exactly what options were viable. **Cncl. Frank Caligiuri** noted that obviously, this is a qualified expenditure from our COAH fund but we are still under obligation to have so many COAH units. Mr. Kernan responded that this was correct. **Cncl. Caligiuri** questioned if there would be a deed restriction. The Mayor indicated that if we assist them (*renter's assistance*) there is a deed restriction. Mr. Kernan then noted there will still be a number that the township has to meet someday. **Cncl. Caligiuri** then posed a question with regard to regular affordable assistance and does that qualify to reduce our (*indiscernible*). Mr. Kernan responded, it would have to be a rental unit that is in the plan such as Justin Commons. **Cncl. Walter Bryson** then noted when you spend that money (*COAH funds*) to do administrative work and to do assistance on the rentals that means that money is ultimately coming away from what our obligation is to build these COAH homes. Personally, he would rather see us say I would like this amount of money, this is our obligation for ten COAH homes and I want a credit for ten COAH

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

homes. He felt that is what we should be pushing for and not only us but also every other affected township in the state. The solicitor agreed with Cncl. Bryson on this. **Cncl. Bryson** then noted knowing how left the state is, and he is a moderate person, this town at some point in the future (*4 or 5 years*) when the market comes back and houses are expensive, we are going to have an obligation to COAH for multi-million dollars. He added it will be even if they take away. He has been trying to get someone in Trenton to even acknowledge the fact that we have received money from builders, we have a credit to build so many COAH homes and they are just coming along and taking the money away willie nillie with no credit to us. Do I get any answers? NO, not a one and it has been two months. Mayor Gabbianelli noted nobody cares, the judge in the Mt. Laurel case is the only guy who made a decision and do you think anybody cares. Discussion continued.

**Tim Kernan** then spoke with regard to the second resolution noted above (**R:153-2013**) and explained the funding source that Catholic Charities goes after is the HUD 202 program. It has been dry since 2011 as the Federal government has not put any money into it. So right now Catholic Charities really does not have a funding source, they are hopeful, it may come back sometime in the future, whereas Justin Commons was built with state low-income housing funds. The mayor added that was at the end of the funding. Mr. Kernan noted there is still some state low-income housing tax credits and because of Super Storm Sandy there is a lot more money being put in but it is being earmarked for certain counties but if they don't spend it, it may trickle back west (*so to speak*). There are two different funding sources for someone like Catholic Charities to do a senior rental building versus the Justin Commons project. If that HUD 202 program did not dry up in 2011 they may have broken ground by now, if the town did bond, and you did adopt a resolution in 2008 intending to bond if need be. He added this town has done all the things that should be done; the state just says you have not spent all of it every year. Even if you are saving a big chunk to put down on a project such as Catholic Charities, for the state that is not good enough. Mr. Kernan advised that a response to the state is due by August 2, 2013 regarding the Certified Financials and other information including the Completeness Letter from Spring '09, the letter referenced in the resolution from Curtis Johnson, Catholic Charities. Both he and the solicitor are putting together a packet for submittal to the state.

**C.) PUBLIC PORTION**

**Cncl. Ronald Garbowski** made a motion to open the Public Portion. The motion was seconded by **Cncl. William Sebastian** and unanimously approved by all members of Council in attendance. With no one wishing to address Council **Cncl. Walter Bryson** made a motion to close the Public Portion. The motion was seconded by **Cncl. William Sebastian** and unanimously approved by council members in attendance.

**D.) NEW BUSINESS - None**

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**E.) OLD BUSINESS**

**Solicitor, Charles Fiore** reported that he followed-up on the matter with respect to Rex Avenue. He noted he spoke with Steve Smith who advised that he was out at the property during a couple of rain events and basically found nothing. One of the neighbors had referenced that orange water was washing across the street and attempting to earmark it as coming from the Smith property. Mr. Smith advised Mr. Fiore that the water is actually running along one particular property and picking up gravel from across the street, but it is not coming from the pond. It is actually running to the low lying part and Mr. Smith said he could berm it off but it would just push it onto another property. Mr. Smith indicated that he would attempt to help but it is nothing directly related to his basin. If it is coming from his property, he will certainly help.

**F.) COMMITTEE REPORTS**

**Cncl. William Sebastian** noted there had been some discussion with regard to towing and putting it out to bid. He advised he contacted one of the directors with the New Jersey Towing Association and he is willing to come down and answer any questions we may have as a municipality. However, he is unable to come on the first Wednesday of the month as it conflicts with their meetings. **Cncl. Sebastian** spoke with Cncl. Pres., Teefy on having him at the next Council Work Session on August 26<sup>th</sup> to speak on various items. He added if we are looking into the premise of going out to bid there are certain things that must be included in the bid package and this gentleman would be able to assist with that. Cncl. Sebastian noted this may not be in effect to move forward with the bid process for this coming year. The solicitor advised that council would have to move pretty quickly if they chose to move forward with this (*out to bid*). Cncl. Sebastian also spoke of tweaking the towing ordinance currently in effect as far as timeframes, etc. so we are covered for the next year if we do not have an ordinance in place to go to bid. Some problems the towers had with the existing ordinance were discussed. **Cncl. Sebastian** will contact the gentleman to determine his availability.

**G.) QUESTIONS REGARDING RESOLUTIONS SCHEDULED – 7/22/13**

**Solicitor Charles Fiore** spoke on Resolutions R:143-2013 *thru* R:145-2013 scheduled on the Regular Council Meeting agenda. He advised they deal with replacement Performance Guarantees for “The Enclave at Monroe” the former Federal Hill site. He explained Federal Hill was defaulting on their bonds, we filed suit and then the project was brought out by Beazer Homes. He explained the figures within the resolutions are reflected in the prior Performance Bond numbers. Mr. Fiore noted, that in conversation with the attorney for “The Enclave at Monroe” his understanding was they might be coming in with some changes. Therefore, there may be an amended plan; if so, there will be yet another replacement bond. These resolutions are just to move the project forward under the old bond numbers. If that particular concept comes in on an amended plan and it is approved, the bond numbers are going to change and built into the developer’s agreement. It will then be their obligation, before the plans are signed, to come in with the new bonds. They will need to reviewed and again approved by council. He then spoke on Resolutions R:146-2013 *thru* R:148-2013 also scheduled on the Regular Council Meeting agenda and explained

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**G.) QUESTIONS REGARDING RESOLUTIONS SCHEDULED (cont'd)**

they are for releasing the prior bonds posted for "Federal Hill" as the project is no longer owned by them, it is owned by Beazer Homes. He spoke of a change involving a dead end street where you can't cut through from Rt. 555 to Rt. 322 (*dead end at Rt. 322*). He also spoke of some drainage issues that were brought up and may be discussed through the site plan process (*amended site plan*). There is also a new developer's agreement (*Resolution R:154-2013*) between the township and Beazer Homes. Mr. Fiore explained it is our standard form of agreement with the exception of page 2, section 4A which includes the language *if in the event they would come in with a change they would have to post subsequent Performance Bond*. These bonds would then have to be accepted by Council.

**Solicitor Fiore** then made one last comment and advised that Resolution R:150-2013 dealing with "Serenity Woods" be removed from the agenda. He advised the attorney for the insurance company has the agreement and they have some questions for Mr. Rehmann regarding the punch list. Mr. Rehmann has been over this punch list a thousand times and there have been many meetings in regard to this project. He added it is a comprehensive punch list and Mr. Rehmann has given them every benefit of the doubt. Mr. Fiore explained that he indicated to the local attorney that we need to move this matter forward, with the litigation, we can't wait. Obviously if we are going to resolve it, we are going to resolve it. Mr. Fiore advised, they did however, address some of the site issues with respect to the three (3) remaining lots. It was noted that Resolution R:150-2013 would be removed from the Regular Council Meeting agenda.

**Cncl. Walter Bryson** questioned **Resolution R:151-2013** *Resolution Of The Township Council Of The Township Of Monroe Authorizing The Mayor To Execute The Urban County Cooperation Agreement With Eligible Municipalities For The Community Development Block Grant Entitlement And Home Investment Partnership Program Funds*. **Cncl. Pres., Teeffy** explained what that does is allow each municipality to go in with the county as an Urban area so they can get funding from the state throughout the counties. Since we are under 200,000 in population there is value to grouping within the county. The mayor added it is more in the area of Shared Services.

At this time, **Director of Public Safety, Jim Smart** advised he had an opportunity to meet with the new Medical Director. He was in the township for an extended period (*2:30PM - 10:00PM*) last Tuesday and he ran along with the paid crews and got a feel for how Monroe Township is operating. He also had a chance to meet with administrators and chiefs advising them of what he has to offer. He will be able to supply services to the township as a whole, be it fire department or EMS as long as the training fits.

**H.) QUESTIONS REGARDING ORDINANCES SCHEDULED - None**

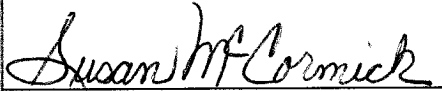


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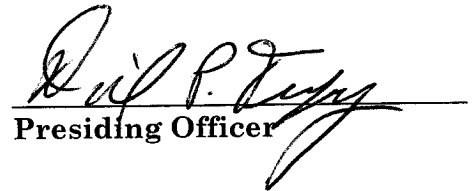
I.) ADJOURNMENT

With nothing further for discussion, **Cncl. William Sebastian** made a motion to adjourn the Council Work Session of July 22, 2013. The motion was seconded by **Cncl. Ronald Garbowski** and was unanimously approved by all members of Council.

Respectfully submitted,



Susan McCormick, RMC  
Municipal Clerk

  
Presiding Officer

*These minutes were prepared from the tape-recorded proceedings and the hand written notes of the Council Work Session of July 22, 2013 and serves only as a synopsis of the proceedings. Portions of 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

AmJ

Date

8/26/13

Approved as corrected

\_\_\_\_\_

Date

\_\_\_\_\_