MINUTES
REGULAR COUNCIL MEETING
TOWNSHIP OF MONROE
AUGUST 24, 2015

A.) OPENING CEREMONIES

CALL TO ORDER

The Regular Council Meeting of the Township of Monroe was called to order at approximately 8:10 PM by **Cncl. Pres., Frank Caligiuri** in the Court 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.: South Jersey 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.

Cncl. Pres., Caligiuri stated the Clerk has placed a sign-in sheet at the rear of the Court Room. If anyone would like to address Council during the Public Portion, please sign in and you will be asked to come forward to the microphone. Kindly state your name for the record.

SALUTE TO FLAG - INVOCATION

Cncl. Dilks led the assembly in the Pledge of Allegiance to Our Flag and **Pastor Robert Ralph of New Brooklyn United Methodist Church** offered the Invocation.

ROLL CALL OF TOWNSHIP OFFICIALS

Cncl. Walter Bryson	Present	
Cncl. Marvin Dilks	Present	
Cncl. Rich DiLucia	Present	
Cncl. Bob Heffner	Present	
Cncl. Bart McIlvaine	Present	
Cncl. Cody Miller	Present	
Cncl. Pres., Frank Caligiuri	Present	
Mayor Daniel Teefy	Present	
Solicitor, Charles Fiore	Present	
Business Adm., Kevin Heydel		Excused
Engineer, Chris Rehmann	Present	
Dir. Of Code Enforcement, George Reitz	Present	
Dir. Of Public Safety, Jim Smart	Present	
Dir. Of Public Works, Bob Avis	Present	
Deputy Mayor Andy Potopchuk	Present	
Township Clerk, Susan McCormick	Present	

SPOTLIGHT ON BUSINESS - Investors Bank

The Clerk noted the representatives of Investors Bank were unable to attend this evening and would like to reschedule their presentation at a future meeting.

PROCLAMATIONS / CERTIFICATES - None

APPROVAL OF MINUTES

Cncl. Bryson made a motion to approve the minutes as submitted of the Council Work Session, Regular Council Meeting and Closed Executive Session of July 27, 2015. The motion was seconded by **Cncl. Miller** and unanimously approved by all members of Council.

B.) CORRESPONDENCE - None

C.) RESOLUTIONS SCHEDULED - PUBLIC PORTION

Cncl. Miller made a motion to open the Resolution Scheduled-Public Portion. The motion was seconded by **Cncl. Heffner** and unanimously approved by all members of Council. With no

C.) RESOLUTIONS SCHEDULED - PUBLIC PORTION *(cont'd)*

one wishing to speak **Cncl. Miller** made a motion to close the Resolutions Scheduled-Public Portion. The motion was seconded by **Cncl. Dilks** and unanimously approved by all members of Council in attendance.

Cncl. Miller made a motion to bracket for Consent Agenda Resolutions R:128-2015 through R:135-2015. The motion was seconded by **Cncl. Heffner** and unanimously approved by all members of Council.

R:127-2015 Resolution Appointing Member To The Monroe Township Open Space Advisory Committee

Cncl. Miller made a motion to open nominations for a member of the Monroe Township Open Space Advisory Committee. The motion was seconded by **Cncl. Heffner** and unanimously approved by all members of Council.

Cncl. Heffner nominated **Robert Toomer** as a member of the Monroe Township Open Space Advisory Committee. **Cncl. Dilks** seconded the nomination.

With no other nominations **Cncl. Miller** made a motion to close nominations. The motion was seconded by **Cncl. Dilks** and unanimously approved by all members of Council.

ROLL CALL VOTE TO APPROVE THE NOMINATION OF ROBERT TOOMER AS A MEMBER TO THE MONROE TOWNSHIP OPEN SPACE ADVISORY COMMITTEE
ALL AYES

Tally: 7 Ayes, 0 Nays, 0 Abstain, 0 Absent. The nomination of **Robert Toomer** was duly approved.

CONSENT AGENDA
RESOLUTIONS R:128-2015 THROUGH R:139-2015

R:128-2015 Resolution Awarding A Contract For Professional Services To Adams, Rehmann & Heggan Associates, Inc. For Engineering Services Associated With The Irrigation System *(Design & Permitting Services)* At The Owens Park Project Within The Township Of Monroe, County Of Gloucester, State Of New Jersey

R:129-2015 Resolution Authorizing The Reduction Of An Irrevocable Standby Letter Of Credit In The Amount Of $315,812.00 For Williamstown TVC-ARC, LLC For Site Plan #463-SP, Block 3901, Lot 1.03

R:130-2015 Resolution Authorizing The Renewal Of A Certain Plenary Retail Consumption License Within The Township Of Monroe, County Of Gloucester, State Of New Jersey

R:131-2015 Resolution Awarding A Contract For Professional Services To Omni Recycling LLC, For The Township Of Monroe County Of Gloucester, State Of New Jersey

R:132-2015 Resolution Amending The 2015 Capital Budget Township Of Monroe, County Of Gloucester

R:133-2015 Resolution Of The Township Council Of The Township Of Monroe Authorizing The Monroe Township Police Department To Accept Donations From The Monroe Township Police Canine Foundation, A NJ Nonprofit Corporation To Be Placed On A Special Line Item In The Police Budget To Be Earmarked For The Monroe Township Police Canine Unit

R:134-2015 Resolution Of The Township Council Of The Township Of Monroe Authorizing The Mayor To Execute The Green Acres Project Agreement And Any Amendments Thereto Between The State Of New Jersey, Department Of Environmental Protection, Green Acres Program And The Township Of Monroe

R:135-2015 Resolution Of The Township Council Of The Township Of Monroe Authorizing The Mayor To Execute An Amended Developer's Agreement As To Stirling Glen I Section Only With Hovbros Stirling Glen, LLC And Hovbros Fries Mill, LLC For Subdivision #1713, Block 14201, Lot 1 And Block 14801, Lot 12

C.) RESOLUTIONS SCHEDULED - PUBLIC PORTION *(cont'd)*

R:136-2015 Resolution Approving The Bill List For The Council Meeting Of August 24, 2015

R:137-2015 Resolution Authorizing Closed Executive Session Of The Township Council Of The Township Of Monroe To Discuss Affordable Housing Litigation **(REMOVED FROM AGENDA)**

138-2015 Resolution Authorizing The Acceptance Of An Irrevocable Standby Letter Of Credit In The Amount Of $1,999,150.00 For Certain Site Improvements For "Stirling Glen 1" Development Phase 1, Section 1, Subdivision # 1713, Block 14201, Lot 1

R:139-2015 Resolution Of The Township Council Of The Township Of Monroe Authorizing The Participation Agreement Between The Township Of Monroe And Hutchinson Pursuant To The New Jersey Clean Energy Program

Cncl. Miller made a motion to approve Resolutions R:128-2015 through R:135-2015. The motion was seconded by **Cncl. Dilks** and unanimously approved by all members of Council.

D.) ORDINANCES

Cncl. Pres., Caligiuri turned this portion of the meeting over to **Ordinance Committee Chairman, Cncl. Dilks. Cncl. Miller** made a motion to open the Public Hearing for the ordinances listed on the agenda for Second Reading. The motion was seconded by **Cncl. Pres., Caligiuri** and unanimously approved by all members of Council.

Salvatore Siciliano, Attorney representing Mark Fera of Fera's Jewelry stated he had the opportunity to meet most members of Council while reviewing Ordinance O:27-2015 (Dealers of Precious Metals) paragraph by paragraph over the last ten months and he was in attendance to ask that this ordinance not be adopted this evening. He was prepared to go through the ordinance again tonight but if the solicitor had no objections he would like to ask that two previous correspondences, the first dated October 16, 2014 addressed to the former mayor and the second dated January 20, 2015 addressed to the Solicitor be made part of the record. **Solicitor Fiore** explained what Mr. Siciliano was suggesting was rather than reading the correspondences into the record it be made part of the permanent record and that is fine. Mr. Siciliano indicated we have a number of concerns with this ordinance. The first and foremost is Mr. Fera has been operating a lawful business for more than three decades and by the admission of Council and law enforcement there have been no issues with the operation of his business and in fact he has been commended by this township and police department on a number of occasions for his efforts. Mr. Fera is now being asked to use the efforts of his private business in almost a form of conscription to work with the police department using the Rapid System, which is outdated, flawed and used by only one or two communities within Gloucester County. On the occasions where the subcommittee viewed the Rapid System so Mr. Fera could show how his business functions on a day to day basis and how it would not be possible for him to document and input the information the system crashed. Mr. Fera now takes a photograph of every single item he purchases and uploads that so the police have immediate access to that information. Mr. Fera is operating a business licensed by the State of New Jersey and he has always complied and never been cited for any problems. No other merchant is required to spend their time to further law enforcement or to spend $200.00 per year for the software that is potentially problematic. The current ordinance structure details and invests power solely in the chief of police and that is without appeal, without check or without the opportunity for a court or a magistrate on any other tribunal such as this Council to review it and that lends itself to abusive discretion. If there is a court challenge or constitutional challenge it will face itself on shaky ground because in American there is a system of checks and balances. In an earlier version of the ordinance Mr. Fera could only compensate by way of check and even if that were a diminutive amount he was not permitted to use the legal and lawful United States currency. That section was amended and an arbitrary dollar amount of $200.00 was set up over a seven day period after which a check must again be issued and there is no explanation or reason for a merchant that has never had an issue with the police department to do that. There are a multitude of issues with regard to the assay process, which requires the precious metal to be melted down to determine the true value whether it is silver or gold and there is no distinction in this ordinance between white gold or

D.) ORDINANCES *(cont'd)*

yellow gold it generally just speaks of gold and there is an inconsistency between this ordinance and New Jersey State law where one speaks to a ten day period and one speaks to a five day period. There is even internal inconsistency even with dealing with jewels being removed from a ring and that is highly problematic. One of the main items that we struggled with when looking at this ordinance is why is there a need for this ordinance at this time. Is there a spike in crime, is there a reason why crime has gone up dramatically in Monroe Township or is there an increase in burglaries in the surrounding communities. Mr. Siciliano requested that if Council decides to move this ordinance forward with all the problems associated with it that it be amended to be prospective as opposed to retrospective so that it would apply to future businesses rather than to established businesses like Mr. Fera's that have been part of the community for thirty years. Mr. Siciliano added he serves as solicitor in a number of towns where gold and cash for gold businesses appear to be cyclical, they come into the community for six or eight months and then they move on so it may be more appropriate for this council to pass the ordinance for any new applicants established after this date providing an exception or grandfathering in of your established merchants. Mr. Siciliano noted he would provide to council in writing one final point that he wanted to share regarding the United States Supreme Court decision on June 22, 2015 in the case of the City of Los Angeles vs Patel, which deals with hotel and motel operators. He explained hotel and motel operators are regulated and in this circumstance the police, with no reason to suspect those business owners of doing anything wrong in the operation of their business, would demand the hotel/motel guest list with no notice and for no apparent reason. Law enforcement stated they were trying to eradicate drugs, prostitution or other transient types of illegal activities and this case went through the City of Los Angeles through the State courts all the way to the United States Supreme Court where the decision was reversed. The US Supreme Court found in a situation where there is a lawful, legal business not suspected of doing anything wrong and you are going after their customer information/data that is an unreasonable search and seizure violative of the constitution. You may look at it and say Mr. Fera doesn't have a hotel or motel and we are not asking for his guest list but you are asking for the same sort of information as you are asking for his customer list with very little notice or no notice in some circumstances. We are not talking about a circumstance where the police suspect him of doing anything improper because if that were the case there are warrant requirements and law enforcement would have to go to the courts for that. This is a relatively new case that will be shared with Solicitor Fiore, as it is decisional law for the entire Country. It does not just effect Monroe Township, Gloucester County or even the State of New Jersey but it is a nationwide decision from the United States Supreme Court, which said it was invalid for police to seek that information from lawful merchants. Mr. Siciliano requested Council consider that as well. He noted he was finished with his comments but would be happy to answer any questions Council may have.

Council had no questions but **Cncl. Pres., Caligiuri** commented that the legislation is not directed specifically towards Mr. Siciliano's client, it is directed to all the entities in this township that offer to purchase gold. The second issue Mr. Siciliano brought up was why now and that is because legislation evolves over time. When cars were invented there was not a seatbelt law but because people were injured in accidents over time legislation evolved to protect people that drive cars. The reason for the law was an attempt to protect those who may be suffering loss as a result of burglaries so that jewelry is not easily sold in exchange for cash. Cncl. Pres. Caligiuri asked Mr. Fiore whether there was any compelling reason why this ordinance should not be brought up for a vote so Council can decide at that point whether or not we want to subject the ordinance to additional review by the Ordinance Committee. Before Mr. Fiore could answer **Mr. Siciliano** requested to speak; noting Cncl. Pres., Caligiuri's point of seatbelts and the auto industry was a very good point but what is critical in the evolution of that is when the Federal Government and the National Highway Transportation Safety Board passed those regulations they did not go back retroactively to require automobile manufacturers to retrofit every car on the road with seatbelts. Cncl. Pres., Caligiuri noted that is correct and your client will not be asked to go back through his records and input a lot of data concerning gold products that he purchased. Mr. Siciliano felt it would be appropriate for Council to consider new businesses that purchase gold or jewels as Mr. Fera is regulated by the State of New Jersey, his license is in good order, he has his mercantile license and has never been cited by Code Enforcement or the Police Department, which has a vehicle to either go to court or for the State to pursue it. If you have a merchant that is a member of your community and taxpayer, he is not your problem. Council should think about what the cost will be to his business because it is almost like good business

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

owners/citizens are being penalized. Mr. Siciliano noted on the agenda this evening you recognized Investors Bank so if Council is taking the steps to recognize your good corporate citizens why do you want to penalize one that has been here for years. Cncl. Pres., Caligiuri advised we are not penalizing one, this ordinance applies to everyone in town who purchases gold or second hand goods. Some of them may not be as ethical as Mr. Fera, we don't know that. Mr. Siciliano replied there are only two businesses in town authorized to do business in this fashion and that was brought out during the months of discussion on this ordinance. He added if he was wrong about that Council should tell him and again he urged Council to amend this ordinance to pertain only to new businesses. The last point he wanted to make was that when the United States Supreme Court authors opinions they are heavy, weighty and they take a lot of time to digest and in fairness to Mr. Fiore, when he spoke to him this afternoon he did not have time to give him a copy of that case to review. So to be fair to Mr. Fiore, to Council and to the residents there would be no harm in carrying this ordinance to the next meeting to give him *(Mr. Fiore)* the opportunity to review this court decision.

Cncl. Heffner questioned if we grandfather Mr. Fera isn't that giving him an unfair business advantage because during the subcommittee meetings it was stated that people want cash they don't want checks so why would anyone go to a new business that pays by check when they can go to Mr. Fera that pays cash. Mr. Siciliano replied he didn't believe so in any way; adding that you are speculating about a business that may or may not ever come to your town. There could be ten cash for gold businesses that open up or there may be none and you have no way of knowing that until it happens. He added he has concerns that he expressed to Council many times during the meetings and he didn't believe it was appropriate to exclude and define how currency transactions should take place in Monroe Township as opposed to the rest of the United States. Cash is a legal instrument, even the Federal Government in their banking regulations place a limit of $10,000.00 in cash and only that limit becomes a reportable transaction where some document must be recorded to show that level of cash. That is not suggesting that a person walking down the street with $15,000.00 in cash cannot perform a transaction, they can. This Council is proposing to eliminate cash transactions. The original ordinance called for the elimination of all cash transactions but the current proposal steps it without a seemingly rational definition to up to $200.00 to one individual person over a seven day time period and then thereafter cash is prohibited. He felt cash cannot be prohibited in the United States and that is why he has met with Council over the last several months to urge them not to take this course of action. In regards to the unfair business advantage he did not believe that it was unfair at all if the stated purpose of the ordinance as set forth in the preamble is consistent with goals to keep an established business and an ethical merchant conducting business. Safeguards can be put in place for those that are somewhat less ethical and less scrupulous but they should not apply to his client.

Solicitor Fiore noted he briefly went through the City of Los Angeles opinion and he questioned whether Mr. Siciliano would or would not agree that that case is based upon a challenge to the City of Los Angeles' ordinance requiring that hotel books be open to the police department without probable clause. Meaning it was based upon a Fourth Amendment challenge that it was basically a warrantless search. Mr. Siciliano replied yes and basically that is what will happen here. Mr. Fiore questioned would you agree that there is already an ordinance on the books that has a reporting requirement and essentially the only change is the mode of reporting. We are going from an archaic hand written, photo copying method of sending information to the Police Department verses the Rapid System, which appears to be Mr. Fera's greatest objection because he didn't like the mechanisms involved in that system and presented another system that we looked at. Mr. Fiore noted Mr. Fera attended a meeting without his Counsel and when we left that meeting we thought we had an agreement to try the other system because he didn't like the Rapid System. The Committee could state that for the record and in fact Cncl. Bryson even turned from opposing the ordinance to looking at a system that would work for everybody. The City of Los Angeles case deals with creating an ordinance whereby they had to open their books without probable cause and a warrantless search in violation of the Fourth Amendment while we are just changing the mechanism of reporting and the denomination of over $200.00 to be paid by check within a seven day period. **Mr. Siciliano** felt it is the same because Mr. Fera is being forced to open his books without any probable cause whatsoever. Mr. Fiore added doesn't the New Jersey State Statute already allow that because

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

the law requires reports. Mr. Siciliano replied no, not without probable cause. The license associated with State requires appropriate notice and then he provides the information. What is being contemplated now is exactly what the City of Los Angeles vs Patel is against. It is without probable cause, he is going to have to open his books, his transactions of what was purchased, the money spent and if cash or check were given. That is the essence of his business and again it is without probable cause. Mr. Fiore noted if he understands Mr. Siciliano's argument he is challenging the ordinance on all four corners whether it is this ordinance or the old ordinance. Mr. Siciliano replied yes in light of the Patel case absolutely, the challenge has broadened to the entire ordinance. When we started this conversation in October the Patel case was not argued at that point. Mr. Fiore replied it was argued on March 3, 2015 and decided June 22, 2015 and that is a quick turnaround for any court. Mr. Siciliano agreed adding for the United State Supreme Court to hear an argument on a case and within four months issue a decision is fast. Mr. Siciliano noted members of Council have all been gentlemen and a pleasure to deal with and he is happy to hold this conversation because even though there is disagreement everyone has been professional the entire time. He added he was surprised and somewhat happy that Council had considered the other system because Rapid is only used in one other place in Gloucester County. It is being used in North East Maryland, the eastern shore and in Florida. The other system is used in other communities as well as in Philadelphia so in terms of law enforcement those who are committing burglaries and stealing rings and watches are more likely to come out of Philadelphia down Route 42 to make a buck at Mr. Fera's store then they are to drive to East Maryland. To the extent that there are other options presented that would be refreshing but in looking at the ordinance no other options were presented, as the system is identified and there is no choice. He questioned if there could be a choice of two different systems to let the business owner figure out which is the best one for his needs to be incompliance. He added Mr. Fera actually has a third system where he uploads a photograph of items purchased making immediately identifiable and accessible to law enforcement as opposed to key stroking into one particular outdated system. We know it is outdated because the company has not done a software upgrade in a decade or more and when technology upgrades are not there systems are not efficient enough to help law enforcement, which is what the stated goal is in the ordinance.

Cncl. DiLucia noted he was the chairman of the committee and at the last meeting he asked Mr. Fera if any system was acceptable to him and at that time he stated no so it's on the record that no matter what system we chose Mr. Fera was not agreeable to it. Cncl. DiLucia indicated he wanted to comment on this so the people watching the meeting on television could get an understanding and a perspective of why Council was doing this. In coordination with the police department we felt the ordinance was needed to protect the citizens, not just the citizens of Monroe but any citizen that experienced the loss of precious jewelry, coins or whatever the case may be. We tried to develop something to insulate against burglars from coming to Monroe so this ordinance did not get developed because we wanted to make it difficult for businesses in this town, to the contrary we want to be business friendly but we also have an obligation to protect the residents and that was foremost in our minds. We tried to find a balance between that and what was acceptable to the jewelers and the coin dealer from the Amish Market. Cncl. DiLucia noted during one of the meetings he asked Mr. Fera if this was a *"what else argument"* and he answered no so he *(Cncl. DiLucia)* said then why don't you lay out for us the areas that are in dispute and maybe we can come to a compromise that everyone can live with. Mr. Siliciano replied that he did that. Cncl. DiLucia added yes but it appeared no matter what we would have invoked would not have been acceptable to Mr. Fera because he was asked if there was another system that he would accept and he said no. Cncl. DiLucia noted he was the one that suggested paying by check because he felt that was a way to discourage people from trying to pawn stolen goods since checks are worthless to people with phony identification. He figured that would be another layer of protection since a reputable person will take a check and get their money. Mr. Fera raised an objection to that and when asked what would be a reasonable threshold for that he said $100,000.00. Later on during the discussions it appeared to him *(Cncl. DiLucia)* that Mr. Fera would accept a minimal amount because he continued to say many people were bringing in $20.00, $40.00 and $50.00 worth of merchandise and to pay them by check would be cumbersome. When Council looked at that we felt it could be a deterrent to his business and $200.00 would be a reasonable amount of money if someone came in with a small amount of silver or gold. Cncl. DiLucia noted for the record he wanted to say that is why Council approached the ordinance, not to penalize the merchants, but to protect the residents. **Mr. Siciliano** noted he appreciates the

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

comments and Council's time and went on to say that he was present at the meetings and the one gentleman who owned the coin store in the farmer's market said that if this ordinance went into effect he would simply stop doing business. Cncl. DiLucia noted and Council recognized that too and said we would pay for the system for all the people initially required to have it so we removed the financial problem from him and Mr. Fera. Mr. Siciliano replied yes you are taking steps for the $200.00 initial investment but that does not address it on an annual basis or any updates of the software. Is this body prepared almost on a contractual basis moving forward to have the citizens of Monroe pay for a software update, as the ordinance is not clear on that issue. He also expressed concerns over the time it will take to inventory a small amount of silver or jewelry. Cncl. DiLucia noted we also addressed that and said he didn't have to do that. Mr. Siciliano felt that wasn't very clear. He again expressed his concerns regarding the $200.00 allowed to be paid by cash stating the law does not make a distinction between a check, cash or debit card, it is all currency that is legally and lawfully permitted. The final point speaks to protecting the residents and Mr. Fera previously stated thieves stealing from residents in Monroe Township do not come to his store they go to Atlantic City or Philadelphia and law enforcement would probably say that as well. Mr. Siciliano noted he appreciated Council's comments and thanked them for their time.

Mark Fera addressed the issue of unfair advantage over a new business if they had to use Rapid and he didn't. He noted the State was considering a law over a year ago that would have put Rapid statewide but that was defeated but in that law they carved out Vineland and other towns that already had laws in effect. He felt carving out his business and Greg's from Williamstown Fine Jewelry and Diamonds would not be an unfair advantage. The ordinance says the Rapid System is necessary but the system currently in place provides the police with color photographs of every item purchased, the license number, description, phone number and the address of the individual that sold it and that system could be grandfathered for him and Greg. The only objection the police have is that maybe Monroe Township will become a hotbed of activity because the police departments in other towns can't see what is being purchased here. He noted it would be very easy for him to email the information to all 544 municipalities in New Jersey or beyond because all he has to do is click send and all the police departments would have daily access to the people selling to him and pictures of the items purchased. That would be a fair compromise and a way to resolve the issue of out of towners selling to him and the other police departments being blind as to what he is buying. He added he has tried to work with council and originally he and his attorney were supposed to meet with the Solicitor, Greg and the police department representative to hash out the issues, as there are many that got lost in the shuffle. We never did sit down to have a fruitful meeting but letters were sent back and forth, things were stalled, and there was not a lot of feedback from him. The concerns he has with the Rapid System is that it is a for profit corporation making money off the labor of those uploading information into their system and that is in clear violation to the Fourteenth Amendment of involuntary servitude. He noted his labor and that of all the other precious metal buyers in Florida and Maryland and the few towns in this County are making someone wealthy. Mr. Fera noted his proposal at the last Council Meeting was to have the police department upload the information if they feel it is necessary to perform their work or have Rapid upload it because they are profiting from it. He noted he does not agree with the Rapid System or Leeds on Line, which is a much better system and that is why he has objections to the ordinance. It is not because he doesn't want to cooperate with the police, but he has substantial fundamental objections that he believes are on constitutional grounds. He suggested Council consider having a meeting with the police, Mr. Fiore and his counsel to try to hash this out one more time by going over the objections point by point. He urged Council to consider grandfathering the two existing businesses and any new businesses would have to use the Rapid System, as he felt that would be a fair compromise. He pleaded with Council to consider it and to meet one last time to try to come to some agreement on this matter.

Cncl. Miller made a motion to close the Public Hearing. The motion was seconded by **Cncl. Bryson** and unanimously approved by all members of Council.

O:27-2015 An Ordinance Of The Township Council Of The Township Of Monroe Deleting Chapter 237 "Precious Metals" And Establishing A New Chapter Entitled "Dealers Of Precious Metals, Gems, And Second Hand Goods"

D.) ORDINANCES *(cont'd)*

Second Reading: The above ordinance was published in an official publication for the Township of Monroe. This portion was opened to the public.

Cncl. Miller stated this ordinance has been the subject matter of extensive discussion over the past eight to ten months. There were multiple Ordinance Committee Meetings that took place which included input from the vendors, counsel on behalf of the vendors and representatives from the Monroe Township Police Department. The end conclusion resulted in amending the ordinance. The compelling reasons were to allow the township to better protect the public by providing the Monroe Township Police Department and law enforcement agencies throughout the State the ability to investigate crimes of theft and burglary that are associated with the sale of stolen second hand items. We took into account everyone's position and believe the legislation will be beneficial to all.

Cncl. Miller made a motion to approve Ordinance O:27-2015 for Second Reading and Public Hearing. The motion was seconded by **Cncl. Heffner.**

ROLL CALL VOTE TO APPROVE O:27-2015 FOR SECOND READING AND PUBLIC HEARING - 6 AYES, 1 NAY (Bryson), 0 ABSTAIN, 0 ABSENT

Cncl. Bryson stated he was voting no, not on the same conditions that Mr. Fera or his lawyer mentioned this evening, but he has his own objections that he still holds to.

Tally: 6 Ayes, 1 Nay, 0 Abstain, 0 Absent. Ordinance O:27-2015 was duly approved for Second Reading and Public Hearing.

O:28-2015 An Ordinance Of The Township Council Of The Township Of Monroe To Amend Chapter 65 Of The Code Of The Township Of Monroe Entitled "Personnel Policies"

Second Reading: The above ordinance was published in an official publication for the Township of Monroe. This portion was opened to the public.

Cncl. Miller made a motion to approve O:28-2015. The motion was seconded by **Cncl. Heffner.**

ROLL CALL VOTE TO APPROVE ORDINANCE O:28-2015 FOR SECOND READING AND PUBLIC HEARING

Tally: 5 AYES, 0 NAYS, 2 ABSTAIN WITH CAUSE (Bryson, DiLucia), 0 ABSENT

Cncl. Bryson stated he Abstained with Cause because this ordinance directly affects him. **Cncl. DiLucia** stated he Abstained with Cause because this ordinance conflicts him.

Tally: 5 Ayes, 0 Nays, 2 Abstain with Cause, 0 Absent. Ordinance O:28-2015 was duly approved for Second Reading and Public Hearing.

O:29-2015 An Ordinance Of The Township Council Of The Township Of Monroe To Amend Chapter 267 Of The Code Of The Township Of Monroe, Entitled "Vehicles And Traffic" *(Stop Intersections)*

Second Reading: The above ordinance was published in an official publication for the Township of Monroe. This portion was opened to the public.

Cncl. Miller made a motion to approve Ordinance O:29-2015 for Second Reading and Public Hearing. The motion was seconded by **Cncl. Heffner.**

ROLL CALL VOTE TO APPROVE ORDINANCE O:29-2015 FOR SECOND READING AND PUBLIC HEARING - ALL AYES

Tally: 7 Ayes, 0 Nays, 0 Abstain, 0 Absent. Ordinance O:29-2015 was duly approved for Second Reading and Public Hearing.

O:30-2015 An Ordinance Of The Township Council Of The Township Of Monroe To Amend O:25-99 Vacating And Extinguishing All Public Rights In And To A Certain Dedicated

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

Public Street Or Roadway In The Township Of Monroe, County Of Gloucester, State Of New Jersey To Wit; A Portion Of A Certain Unimproved And Dedicated Road Known As Madrone Avenue And Reserving Any Easements Currently Held By The Township And Other Persons/Entities And Transferring An Equal Portion Of The Vacated Street To Block 3704, Lot 20 And Block 3704, Lot 21

First Reading: A copy of this ordinance was posted on the bulletin board at the Municipal Complex. Additional copies were made available to the public.

Cncl. Miller made a motion to approve Ordinance O:30-2015 for First Reading and Publication. The motion was seconded by **Cncl. DiLucia** and unanimously approved by all members of Council.

O:31-2015 An Ordinance Of The Township Council Of The Township Of Monroe Granting Renewed Consent And Permission To South Jersey Gas Company To Use The Public Streets To Furnish Gas For Light, Heat And Power In The Township Of Monroe, County Of Gloucester, State Of New Jersey

First Reading: A copy of this ordinance was posted on the bulletin board at the Municipal Complex. Additional copies were made available to the public.

Cncl. Miller made a motion to approve Ordinance O:31-2015 for First Reading and Publication. The motion was seconded by **Cncl. Pres., Caligiuri** and approved by all members of Council with the exception of **Cncl. Heffner** who **Abstained with Cause** as he works for the Gas Company.

O:32-2015 Bond Ordinance Authorizing The Completion Of Various Capital Improvements At Earling E. Owens Memorial Park In And For The Township Of Monroe, County Of Gloucester, New Jersey; Appropriating The Sum Of $140,000 Therefor; Authorizing The Issuance Of General Obligation Bonds, Bond Anticipation Notes Or Other Debt Obligations Of The Township Of Monroe, County Of Gloucester, New Jersey, In The Aggregate Principal Amount Of Up To $70,000; Making Certain Determinations And Covenants; And Authorizing Certain Related Actions In Connection With The Foregoing

First Reading: A copy of this ordinance was posted on the bulletin board at the Municipal Complex. Additional copies were made available to the public.

Cncl. Miller made a motion to approve Ordinance O:32-2015 for First Reading and Publication. The motion was seconded by **Cncl. McIlvaine** and unanimously approved by all members of Council.

O:33-2015 Bond Ordinance Authorizing The Acquisition Of Various Pieces Of Equipment And Completion Of Various Capital Improvements In And For The Township Of Monroe, County Of Gloucester, New Jersey; Appropriating The Sum Of $1,310,000 Therefor; Authorizing The Issuance Of General Obligation Bonds Or Bond Anticipation Notes Of The Township Of Monroe, County Of Gloucester, New Jersey, In The Aggregate Principal Amount Of Up To $1,244,500; Making Certain Determinations And Covenants; And Authorizing Certain Related Actions In Connection With The Foregoing

First Reading: A copy of this ordinance was posted on the bulletin board at the Municipal Complex. Additional copies were made available to the public.

Cncl. Miller made a motion to approve Ordinance O:33-2015 for First Reading and Publication. The motion was seconded by **Cncl. DiLucia** and unanimously approved by all members of Council.

O:34-2015 An Ordinance Of The Township Council Of The Township Of Monroe Establishing Chapter 232 Of The Code Of The Township Of Monroe, Entitled "Invasive Plants"

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

First Reading: A copy of this ordinance was posted on the bulletin board at the Municipal Complex. Additional copies were made available to the public.

Cncl. Bryson made a motion to approve Ordinance O:34-2015 for First Reading and Publication. The motion was seconded by **Cncl. Miller** and unanimously approved by all members of Council.

E.) **REPORTS AND OTHER MATTERS**

Cncl. Bryson reported attending an OEM Safety Committee Meeting that addressed how the police, fire departments, EMS and OEM would work together so the township is prepared to help the citizens in the event of some major occurrence such as a hurricane, straight line winds or a terrorist attack. Installing a generator at the Public Works Department diesel fuel pumps to get equipment out and connecting the municipal building's generator to the Police Department's gas pumps were discussed. He noted if that could be incorporated into the six year plan it would be a real asset to the township. **Mayor Teefy** noted after the June storm he and the Director of Public Works, Bob Avis were discussing getting Public Works up and running from an electrical standpoint so Bob is getting estimates now. This building and other buildings were also discussed and we are evaluating the situations. Cncl. Bryson noted he had no report from the Historical Society or the Board of Health since no meetings are held in August. The Historical Society's next meeting is scheduled for September 4th and he urged residents to attend as there are several upcoming events. Cncl. Bryson reported Applebee's, which was a pet project for this Council, the former Mayor and Mayor Teefy, is open. He noted he was unable to attend the Grand Opening but did attend the training opening and that was great. He also spoke of the outlet mall that recently opened in Gloucester Township and he urged everyone to drive carefully especially in developments as school will be starting and children will soon be waiting at bus stops. He also extended best wishes for a happy holiday.

Cncl. Dilks noted he also attended the OEM meeting along with the other members of council and he commended OEM Coordinator Frank McLaughlin for doing a great job in training Council to let everyone know what was going on. He also reported attending National Night Out on August 6th at Owens Park; noting many people were there, the set up was great and Cncl. Miller did a great job singing the National Anthem.

Cncl. DiLucia noted he had no committee meetings to report on. He went on to say that he has been talking a lot about the economy, loss of jobs and about how Wall Street seems to be prospering and now the Dow Jones has dropped 1500 points in the last three days. Today it dropped almost 600 points and the tragedy of this is that instead of having a defined benefit plan for retirement most people have a 401K and at this point in time they are the people who will really suffer from the drop in the market. Six years ago people found out they lost 40% of their savings. Hopefully we are not seeing a recurrence of that but unfortunately people that were getting ready to retire and were depending on those 401Ks are not sleeping too well tonight. This is something that was predictable because of underemployment and high unemployment. The figures the government gives are fudged, the economy isn't good. People are being laid off from much higher paying jobs and we are looking into the issue of abandoned houses throughout the township and that is an indication of how the economy is hurting a lot of people. He added he hoped the decline in the market is just temporary for the sake of the people that only have 401Ks to depend on.

Cncl. Heffner noted he had no committee meetings and there was nothing to report on from the Zoning Board Meeting. He reported attending National Night Out; noting the Police Department gave out about 1,000 hotdogs and those participating did a great job. He also reported attending the Emergency Management Meeting where some valuable lessons were learned in regards to the June storm. One of the biggest things that came out of that meeting for him was that residents need to be prepared; they can't depend on the town or government to do everything for them. He noted the first thing his mother taught him to do in an electrical storm was fill the tub with water because you never knew when the electric might go out and that works in areas with wells and septic. Storms seem to be getting worse and weather patterns seem to be changing so residents need to take care of themselves first because sometimes we can't do

E.) **REPORTS AND OTHER MATTERS** *(cont'd)*

everything everybody wants. He reported Applebee's soft opening was a very nice night out. He extended best wishes to them and spoke of the township pictures throughout the building; noting he was partial about the sports wall. Cncl. Heffner noted an ordinance prohibiting vehicles on township property was passed a couple months ago and signs have been put up at the old American Training Center on Malaga Road and another will be going up at the old Wagner Complex. That ordinance was put in place to protect township property as well as that of residents near the high tension lines because people are tearing up their properties with ATVs, four wheelers and dune buggies and most of those people are from out of town. That is illegal so now every time he sees a car back there he calls the police. Warnings are being issued but that will be coming to an end and the police will start writing tickets and that fine is $1,000.00. Cncl. Heffner cautioned you have been warned, no more excuses, stop riding back there.

Cncl. Miller reported National Night Out was truly a wonderful event. The Chairman of the Municipal Alliance Commission, Michele Perez does a phenomenal job for the township. The money provided for this event was from the Municipal Alliance Commission. No meeting was held this month but the Commission is working with the Gloucester County Prosecutor's Office to be more active in our schools. Coming up within the next few weeks the Municipal Alliance Commission will essentially be educating our teachers about what to look for if they see someone that they suspect is using drugs. This is not to seek harsh punishment on anyone it is to get them the help and the resources they need to correct the problem. He also reported attending Applebee's Grand Opening Ceremony and noted the food is good but he urged everyone to be patient with the new employees, as they are still learning. Cncl. Miller reported attending the school board meeting and one item discussed was the complete streets policy that we are trying to incorporate to address the issues of providing safe accessible routes to school and we also want to incorporate bike lanes. He thanked the township engineer for his help and noted Sustainable Monroe Township and a few members from the school board will be participating in the discussion from this point on.

Mayor Teefy reported National Night Out was a great success and he commended the Municipal Alliance Commission for putting it all together and moving it to Owens Park where there is more room for some of events. Various organizations distributed information and Police K-9 officers from Monroe and other local municipalities did a great job getting kids involved in their presentation and right after that the helicopter landed giving kids a chance to look inside it. The Municipal Alliance is changing the game with their drug and alcohol awareness programs and are getting recognition throughout the State. Three members were the main speakers at a County event and they are trying to make a difference in our schools. Things don't change right away but it will be interesting to see in a couple of years if there is a difference in the drug use in our town, as we have had too many ODs. He noted he had five or six people come up to him at National Night Out to say they heard what is being done and they want to get involved so he pointed them in the right direction and let them take the ball and run with it. The Mayor reported Applebee's opened and they did a great job with the Williamstown theme. Historical and current pictures of the township, team pictures and a neighborhood board that shows the different sections of town are located throughout the restaurant. There is even a picture of his son's leg in a dogpile when they won the South Jersey Group IV title. The Mayor cautioned that people need to use the jug handle to get into Applebee's they can't just make a left at the intersection. The Mayor reported the bridge project on Malaga Road has been causing problems but that project is supposed to be completed by September 4th. They are also working on the Janvier Road Bridge and will be repairing the one on Bluebell Road. The work being done is for preventative measures so the bridges do not fall apart in the future. Another slow ongoing project is the paving of Winslow Road. The section between Brooklyn Road just past Walnut Street will begin on Wednesday. The Mayor noted we expected the timing to be better on Malaga Road so we apologize now for any inconvenience this will cause to our residents but we want to get this done before school starts, as it is the worst section of Winslow Road. Mayor Teefy reported an initial training session was held for the Community Champions Program, a shared services program with the County for the registration of foreclosed/abandoned properties. This fall these properties will begin to be registered and the abandoned homes that residents have been emailing him about will be used as our test program by the Solicitor and BA to see how the registration works. A Mayor's meeting was held on Friday and one thing we have been pushing for is the improvement to Rt. 322 and Fries Mill Road intersection. The intersection plans were finally sent

E.) REPORTS AND OTHER MATTERS *(cont'd)*

to the NJDOT and Senators Sweeney and Madden are pushing for it and we are pushing from our end. We received an email from the DOT that said this intersection is on their priority list to move forward so hopefully we will see something done in 2016.

G.) ADJOURNMENT .

With nothing further to discuss **Cncl. Bryson** made a motion to adjourn the Regular Council Meeting of August 24, 2015. The motion was seconded by **Cncl. Heffner** and unanimously approved by all members of Council in attendance.

Respectfully submitted,

Susan McCormick
Susan McCormick, RMC
Township Clerk

Fred J. Caliguiri
Presiding Officer

These minutes were prepared from excerpts of the tape-recorded proceedings of the Regular Council Meeting of August 24, 2015 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 _____ Date 9/14/15
Approved as corrected _____ Date _____

This letter included in the August 24, 2015 Council Meeting Minutes and made part of the record as requested by Salvatore Siciliano Attorney for Fera's Jewelry.

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January 20, 2015

Via Electronic and Regular Mail

Charles A. Fiore, Esquire
Law Office of Charles A. Fiore
34 S. Main Street
PO Box 525
Williamstown, NJ 08094

RE: Monroe Township Ordinance, § 237-3
Fera's Jewelers

Dear Mr. Fiore:

As you are aware, the undersigned counsel represents the interests of Fera's Coins and Precious Metals, Inc. Kindly consider this letter as a summary and confirmation of the meeting which took place Tuesday, December 9, 2014 during which time, myself, my client, yourself, members of the Monroe Township Ordinance Sub-Committee, as well as newly elected, however unsworn, members of the Monroe Township Council, met and reviewed proposed changes to the Monroe Township Ordinance, specifically Chapter 237 – Dealers of Precious Metals, Gems and Secondhand Goods.

As we discussed at the outset, there have been two (2) recent amendments which have been passed by the New Jersey Assembly. The first are amendments to N.J.S.A. 51:6A-1, which address buyers on the basis of bulk values, duties and serialized receipts and photographs. The second are amendments to N.J.S.A. 2C:21-36, Sale of Secondhand Jewelry. Based on the brief summary sheet which was provided, it appears that the amendments were approved January 17, 2014 and took effect approximately mid April, 2014. Consistent with our conversations, my office has contacted the Majority Leader's office, Assemblyman Greenwald, in order to obtain a copy of the legislative intent for the amendments to the statute.

Additionally, Mr. Fera indicated that all of the clients to his store are required to complete an Affidavit which contains information attesting to the fact that the goods are not stolen, are for a lawful purpose and there are certain representations and obligations which are created by the sellers of these goods to Mr. Fera. We are in the process of obtaining a copy of this Affidavit and will provide a sample to you.

With regard to the agreed upon proposed amendments, we reviewed on December 9, 2014, in detail, the concerns which were set forth in our offices' letter of October 16, 2014. It appears that many of our concerns were favorably met by members of the subcommittee so that it is our hope that during the 2015 Legislative session of the Monroe Township Council, an amendment may be introduced and passed by Council to modify the particular ordinance. In addition to the items which were agreed upon and will be detailed below, the parties also agreed to contact representatives of the software data system known as Rapid System in order to coordinate a demonstration and determine the technological feasibility of this system. Further, it was agreed, very graciously on the part of the Monroe Township Council officials that Mr. Fera will be invited to participate in this meeting and demonstration so that he, as a first-hand user of these items, may have direct input into the practicality of the system which has been mandated to be utilized by all business merchants dealing in precious metals. The goal as stated that in the next few weeks your office would reach out to representatives of the Rapid System so that the goal was perhaps, at the January 9, 2015 meeting of the Monroe Township Council, an informal discussion may be had and the item may be placed upon the Agenda at that time for formal review by Township Council. We know now this did not occur. A representative of Rapid Systems was not available for the January 9, 2015 meeting. It is my understanding that your office is continuing its' efforts to schedule this meeting with the Rapid System Representative.

The items which were agreed to with regard to Amendments are listed below. Initially, our office had expressed a concern with regard to §273A(2) which contained a morality clause, specifically (morale, character and business responsibility as deemed necessary by the Monroe Township Police Department or for the protection of the public welfare). It was agreed by the members of the Committee informally that these requirements of the morality clause would be deleted in their entirety.

Next, with regard to §273-6 entitled Dealer' responsibilities, requirements and recordkeeping, there was conversation among the members of the subcommittee with regard to the cost of the software program and, more importantly, the viability of the software program. As was set forth above, you had indicated that on behalf of the Township, you would contact the manufacturer of the electronic database software program to coordinate a demonstration and feasibility of the application to the software. If the software is in a state where it is functional, than the parties agree to work together to utilize their best efforts to achieve a result consistent with the

Ordinances' goals; however, if it appears, as has been Mr. Fera's assertion that the software is not feasible and unworkable, the parties agree again, in good faith, to work together so that it would appear that all of the requirements of the Ordinance which have been enunciated and articulate a legitimate government interest, have been satisfied by Mr. Fera. There was discussion with regard to the waiving of a business fee or a business license that does not appear to be appropriate in this context.

With regard to §237-6(B)(3) as well as (B)(5), this appears to present an inconsistency in that within a forty-eight (48) hour time period, a form must be generated by the software program which requires the signature of the seller, this was agreed to be impractical and unworkable as the time parameters which were set forth would not be consistent and the sellers would not return to the merchant's premises to sign the form after the transaction occurred.

With regard to §237-6(C), also appears to be problematic in that recent amendments to the State statute now require items to be held for ten (10) business days that would appear to overrule the five (5) days set forth in the Ordinance.

With regard to §237-6(E), the requirement that all transactions must be completed by bank check was agreed by the parties to be eliminated and not place any limitations on Mr. Fera or any other merchant in terms of the receipt of the conduct of the business other than lawful currency of the United States of America.

§237-6(F) again appears to be impractical in terms of the inspection. It was agreed by the parties that this can be modified to add a provision which would indicate that, upon a reasonable notice or the insertion of some period of time.

Also there was conversation by Mr. Fera with regard to other descriptors which were not presently included which should be modified to include industrial scrap, white gold, yellow gold, which may be more inclusive and allow additional information to be obtained and retained by law enforcement.

Finally, it appears that moving forward, the parties are agreeing to work together in good faith. Members of the Township Committee have agreed to hold in abeyance any enforcement efforts with regard to the current Ordinance. It appears to be the next critical juncture would be the meeting with the software manufacturer and demonstration, to determine the practicality and viability of the proposed system.

Please extend, on behalf of my client, Mr. Fera, our continued thanks to the members of the Monroe Township Sub Committee and its' elected officials for their willingness to work together to achieve a mutually beneficial result for all concerned.

Thank you for your continued courtesies extended,

In closing, I remain,

Very truly yours,

SICILIANO & ASSOCIATES, LLC

By: Salvatore J. Siciliano
Salvatore J. Siciliano, Esquire

SJS/tl
cc: Mark Fera (markfera@yahoo.com)
Gilbert J. Scutti, Esquire (gjscsq@gmail.com)
file

This letter included in the August 24, 2015 Council Meeting Minutes and made part of the record as requested by Salvatore Siciliano Attorney for Fera's Jewelry.

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October 16, 2014

Via Regular Mail and Facsimile (856) 875-1412

Mayor Michael Gabbianelli
125 Virginia Avenue
Williamstown, NJ 08094

RE: Monroe Township Ordinance, § 237-3
Fera's Jewelers

Dear Mayor Gabbianelli:

This office has been retained to represent the interests of Fera's Coins & Precious Metals, Inc., commonly known as Fera's Jewelers. It is my understanding that Monroe Township has recently amended its "precious metals" ordinance to include new and overly stringent requirements on dealers of precious metals, gems and second hand goods. Mark Fera, the President of Fera's Jewelers, has retained my office to challenge the ordinance because of its significant impact on the operations of his business.

As you may be aware, Mr. Fera has been in the jewelry business for more than thirty (30) years. During that time, he has always cooperated with members of law enforcement. Furthermore, he has been rarely cited by the New Jersey Division of Weights and Measures. He has also been a steady presence at Monroe Township Council meetings, where he has clearly stated his objections and made council aware of the detrimental effects the new ordinance will have on his business. He is also one of two jewelry stores in Monroe Township affected by the ordinance and, as such, feels that he is being targeted by the municipality.

The New Jersey Office of Weights and Measures is the entity responsible for the oversight of transactions dealing with precious metals. N.J.S.A. 51:6A-1 outlines the duties imposed on buyers of precious metals. Pursuant to the statute, buyers such as Mr. Fera must (1) clearly and prominently display his name, address, and the price being paid for the purchase of precious metals as required by the Superintendent of Weights and Measures; (2) include his name in all advertisements concerning precious metals; (3) weigh the precious metals in plain view of the seller on State certified scales that have the certification prominently displayed; (4) test the fineness of the precious metals, if necessary, in front of the seller; (5) keep and issue to the seller a serialized receipt for at least one (1) year that has the address of the buyer, date of transaction, name of precious metal being purchased, fineness and weights of precious metals being purchased, prices paid for the precious metals, and the name, address and signature of the person selling the precious metal. In addition to these extensive requirements, the buyer must also obtain proof of identity from each person attempting to sell precious metals and retain the precious metal for at least forty-eight hours in the form it was sold. The buyer must also allow the New Jersey Office of Weights and Measures to inspect his receipts and operation at any reasonable time, and secure a bond for compensating those who are injured by a seller's wrongful act or fraudulent behavior. Finally, the buyer is required to maintain digital photographs of the precious metals purchased for at least one (1) year.

Monroe Township's ordinance will have a significant negative impact on Mr. Fera's jewelry business. It is arbitrary, overbroad and violative of his constitutional rights in several respects.

Section 237-3, entitled "Application and issuance of license," outlines the new township registration and licensure process. Paragraph A(2) is particularly concerning because it requires Mr. Fera and others to be fingerprinted, and subjects him to an investigation of his "moral character and business responsibility as deemed necessary by the Monroe Township Police Department for the protection of the public welfare." To begin, "moral character" and "public welfare" are difficult terms to define, and are subject to the prejudices and interpretations of the individual defining them. There is no definition of "good moral character" or "public welfare" in the ordinance, nor is there a prescribed method of evaluating each application to ensure fairness. This can only lead to arbitrary and capricious results, particularly when left to the discretion of one individual. This portion of the ordinance is unconstitutional, and would be subject to a successful challenge if left unchanged. Another key deficiency of this section exists because a businessperson who is denied a license under this section is left with no recourse. There is no mechanism for appealing a denial of a business license under the ordinance.

The ordinance also improperly delegates decision making authority regarding business licenses to the police department. There is no precedent for granting a police department such power.