

**MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
OCTOBER 5, 2011**

A.) CALL TO ORDER & ROLL CALL

The Ordinance Committee Meeting of the Township of Monroe was called to order at 7:00 PM by **Ordinance Committee Chairman, Cncl. William Sebastian** in the Second Floor Meeting Room of the Municipal Complex located at 125 Virginia Avenue, Williamstown, New Jersey.

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

SALUTE TO THE FLAG

Cncl. Rich DiLucia led the assembly in the Pledge of Allegiance to Our Flag.

ROLL CALL OF PUBLIC OFFICIALS

Cncl. Walter Bryson	Present
Cncl. Frank Caligiuri	Present
Cncl. Marvin Dilks	Present
Cncl. Rich DiLucia	Present
Cncl. Ron Garbowski	Present
Cncl. Daniel Teefy	Present
Ord. Chairman, William Sebastian	Present
Solicitor, Charles Fiore	Present
Deputy Clerk, Sharon Wright	Present

B.) APPROVAL OF MINUTES

Cncl. Ronald Garbowski made a motion to approve the minutes as submitted of the September 7, 2011 Ordinance Committee Meetings. The motion was seconded by **Cncl. Walter Bryson** and approved by all members of Council in attendance.

C.) PUBLIC PORTION

Cncl. Pres., Marvin Dilks made a motion to open the Public Portion. The motion was seconded by **Cncl. Frank Caligiuri** and unanimously approved by all members of Council in attendance. With no one wishing to speak **Cncl. Walter Bryson** made a motion to close the Public Portion. The motion was seconded by **Cncl. Pres., Marvin Dilks** and unanimously approved by all members of Council in attendance.

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D.) ORDINANCES FOR REVIEW

- Chapter 254 "Taxicabs"

Cncl. William Sebastian referred to a memo dated October 2, 2011 to Captain Howard Weimer from Patrolman Anthony Pease that addressed his concerns regarding cabs not having the company name on both sides of the vehicle, the owners not being residents of the township and criminal convictions of cab owners and drivers. In the memo Officer Pease recommended that a stricter taxicab policy be put in place to protect the citizens of the township. Cncl. Sebastian also noted the ordinance requires the fee to be displayed inside and outside taxicabs and that is not being done. Solicitor Fiore recommended Council review a list prepared by the Clerk's office, which detailed some of the problems they have encountered since the Taxicab Ordinance was adopted in February 2011.

- Background Checks

Mr. Fiore explained the Police Department can no longer fingerprint and check for felony records; they can only check to see if an applicant has any local violation. He recommended the burden of proof be placed upon the applicant, who should be required to submit a background check performed by an outside agency.

- Section 254-6 Fares

Mr. Fiore noted if the fare or company name is not on the side of the vehicle according to the ordinance the owner can be cited. Police officers do have the discretion to not issue citations if for instance the driver says lettering has been ordered and would be installed as soon as possible. If the vehicle still has no lettering after a couple of weeks then a citation should be issued. The Deputy Clerk noted Blue Cab is the only cab company licensed with the township. The other taxi companies operating out of the township picked up applications from the Clerk's Office but never came back to submit them. Mr. Fiore noted under that scenario the Police Chief can be requested to issue citations to anyone operating without a license. Cncl. Sebastian questioned whether the ordinance gives the police the right to pull over any cab just to see if they are licensed with the Township. Mr. Fiore replied yes. Council requested Mr. Fiore to send a memo to Chief Smart advising him that only Blue Cab registered his business and all other cab companies are not authorized to do business in the Township.

- Section 254-3 Applicants to be in good health, have good eyesight, be of good character etc.,

Solicitor Fiore recommended the language in this section be deleted from the ordinance since there are no State regulations requiring applicants to submit a doctor's note.

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D.) ORDINANCES FOR REVIEW (cont'd)

o Substituting/Transferring Vehicles

Cncl. Sebastian noted the ordinance does not address substituting or transferring vehicles or include a fee for that. Solicitor Fiore questioned whether the transfer involves the same amount of work as when a new license is issued. The Deputy Clerk explained it does because the cab owner needs a license from the township, which includes the vehicle vin number and insurance information, to take to Motor Vehicles to register the car. Transfer fees were discussed and Council felt a fee of \$50.00 should be established.

o Certified Abstract from Motor Vehicles

Solicitor Fiore recommended the ordinance require a certified abstract from the Department of Motor Vehicles and any application without that will be deemed incomplete. The Deputy Clerk questioned how out-of-state drivers applying for a taxi driver license would be handled. Mr. Fiore advised they would need to provide an abstract from the jurisdiction from which they hold a driver's license.

o Child Restraints

It was noted the current ordinance does not require child restraint seats and Council requested language be included in the ordinance requiring taxicabs to follow State regulations regarding child restraint seats.

o Number of Taxi licenses permitted

Council discussed the number of taxi licenses that should be permitted. Cncl. Caligiuri suggested one taxi license per 2,000 residents or up to a maximum of fifteen cab companies and Cncl. Sebastian suggested using the liquor license calculation of one for every 3,500 people, for a total of ten taxi licenses at this time. Council was in agreement with Cncl. Sebastian's suggestion.

o Enforcing Agent (Not specified in existing ordinance)

Cncl. Caligiuri recommended the Director of Public Safety or his designee be the enforcing agent. Cncl. Sebastian felt it should be the Police Chief or his designee, as the Director of Public Safety does not have enforcing powers. Cncl. Teefy questioned why it would just be the Chief of Police or his designee when all police officers can enforce laws. Solicitor Fiore explained the Chief can issue an SOP saying that all police officers have the right to enforce any and all ordinances. Cncl. Teefy noted a list of requirements is being created but no one is inspecting or checking to see if the cabs are in compliance with them. Cncl. Sebastian questioned whether Council wanted to establish the same procedures included in the Towing Ordinance and have the same people who inspect the towing companies inspect taxi companies. Solicitor Fiore explained the entire Police Department will enforce the ordinance and the enforcing agent is the contact person who will enforce the licensing aspect of it. After

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D.) ORDINANCES FOR REVIEW (cont'd)

further discussion on this issue a decision was made to name the Director of Public Safety as the enforcing agent.

Cncl. Caligiuri suggested including language in the ordinance that would require the applicant to certify under penalty of perjury and revocation of his license that information included in his application is correct. He felt a certification of this type would address all the requirements found in the ordinance and if any were not followed the owner would run the risk of losing his taxi license. Solicitor Fiore felt this type of certification would make the ordinance self-regulating.

Solicitor Fiore will prepare the amendments for review at the next Ordinance Committee Meeting.

- **Chapter 230 "Peddling & Soliciting"**

Cncl. Caligiuri noted Council must consider amending the Peddling and Soliciting Ordinance to protect residents operating home based businesses, such as Avon, Pampered Chef, Rainbow etc., as they do not sell door to door. He noted these people are paying property taxes either in the ownership of their homes or in their rent and they should be protected from this ordinance. He explained a situation occurred when a police officer, whose wife is an Avon lady, cited a resident under Chapter 230 for handing out Avon catalogs. **Cncl. Sebastian** noted dropping off pamphlets is not a restriction under the Peddling and Soliciting Ordinance, as that is not selling products door to door. **Cncl. Bryson** noted this ordinance even applies to him, as the definition of a peddler, solicitor, vendor and transient merchant is any person who goes house to house or place to place offering merchandise or services and he is a manufacturer's rep with a New Jersey sales license, an in-home office and one local customer he visits is Cross Keys Airport. **Cncl. Caligiuri** explained the intent of this ordinance was to protect taxpaying businesses from competition from people that pay no taxes in town. **Cncl. DiLucia** felt the ordinance was also to protect residents against fraudulent businesses. **Cncl. Caligiuri** noted he was not suggesting the \$50.00 picture identification fee be eliminated; just that the \$600.00 permit should be waived for residents paying property taxes. **Solicitor Fiore** felt the ordinance, as it currently exists is fine; Council just needs to carve out that exception. **Cncl. Caligiuri** recommended defining under Section 230-1 home based business owners as "*Monroe Township residents operating low traffic businesses from within their residencies in Monroe Township*" because once they are defined/identified, they can be exempted from the \$600.00 permit fee. **Dan Kozak** of the Zoning Office explained home businesses register and receive a one-time zoning permit for \$20.00. **Cncl. Bryson** noted he follows all State and Federal laws with his business but under this ordinance in addition to that he will be required to register his business and pay additional fees plus get zoning approvals. **Cncl. Sebastian** spoke of finding a 1999 newspaper article about the Peddling and Soliciting Ordinance being amended. He noted the intent of the ordinance at that time was to prevent mobile vendors going door to door, remaining in one place for more than 24 hours and from setting carts up anywhere in the township. Solicitor Fiore questioned whether there was a definition of home based occupations in the Municipal Land Use Law. **Cncl. Sebastian** was not sure if there was but

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D.) ORDINANCES FOR REVIEW (cont'd)

noted we have ordinances that pertain to home-based occupations and lawyers, doctors and dentists automatically qualify as in-home occupations. He explained when he registered his in-home business he paid the County \$50.00 to register his business name and the township \$20.00 for zoning. Cncl. Caligiuri noted Council does not want to knock anyone out of business and this ordinance could be interpreted that way. Cncl. Teefy felt the Avon lady should only be required to get an in-home zoning permit. Cncl. Sebastian noted there are restrictions and requirements in order to be eligible for an in-home occupation and the zoning official will confirm that those requirements are being met. He noted the 1999 ordinance was specific to mobile vendors and he suggested including the term "*mobile vendor*" as a definition in the new ordinance, as that would eliminate people who deliver such things as flowers or pizza. Cncl. Bryson expressed his concerns with Section 230-5 D that requires applicants to provide information about all the towns in NJ where they conducted business and Section 230-5 E that requires a copy of an original Social Security Card and/or a federal taxpayer ID. He also noted he did not understand Section 230-5 L that states "*the applicant to provide an instrument in writing nominating and appointing the Director of Code Enforcement as their power and authority in any matters connected to the license*". Solicitor Fiore explained under the law the Director of Code Enforcement is the one authorized to accept service and be served with the complaint on behalf of the business/individual licensed to do business in the township in the event someone is aggrieved by them. Cncl. Sebastian noted the ordinance permits vendors to be at one location for only four hours and he questioned if they were to move to another site does that site have to be approved as well. Mr. Fiore advised it would and the vendor would need to pay a peddling and soliciting fee and get zoning approval for each location. Discussion took place regarding whether a home-based business should be defined in the ordinance and exempted from the fee. Cncl. Caligiuri suggested also including in the definition "*independent agent/distributor for a larger company, ie: Rubbermaid, Pamper Chef, Avon, etc.*". Cncl. Teefy felt those types of independent agents should be protected but someone who starts a small business, such as a cupcake business in his home should register. Solicitor Fiore read the regulations for an in-home occupation as defined under Chapter 175-111 of the Township Code. Council discussed this section of the code and felt that this chapter would not work for the Peddling and Soliciting ordinance. Dan Kozak questioned why Council would consider changing the current ordinance for one issue instead of dealing with the enforcement person who initiated the incident. Cncl. Caligiuri noted this ordinance has only been in effect for a short period of time and within that time there is already a big problem that could lead to a lawsuit. Solicitor Fiore recommended the definition Cncl. Caligiuri suggested be included in the ordinance to address the issue. He added the ordinance will not be perfect, as other issues may come up in the future but at least this is an attempt to address the problems because the whole idea is that we want accountability from people going house to house. We may be infringing upon someone's rights by requesting they provide the township with their information but the greater good is protecting the public. Cncl. Sebastian requested Cncl. Caligiuri and the Solicitor meet to prepare the proposed amendments/definition. He indicated this matter will be placed on the November Ordinance Committee Meeting for further review.

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D.) ORDINANCES FOR REVIEW (cont'd)

• **Williamstown Square Economic Redevelopment & Growth Program (ERG)**

Cncl. Frank Caligiuri explained the State has a program available that allows, under unique and stringent conditions, a redeveloper to apply for a grant that consists of him collecting a new sales tax. The redeveloper, the Wainco-Benderson Group, qualifies for the grant and has already spent \$5,000.00 to apply for it. The reason he submitted an application is because he feels the shopping center is being built in a very risky area that currently has no commercial development. He is having trouble attracting renters and must compete with other commercial areas, as Kohls is soliciting shopping center owners for longer fixed rents and 40 year leases. The redeveloper wants this program available to him so he can reduce his cost of operation and provide more competitive rent opportunities. This will not cost the township a penny and the only thing the township needs to do is to adopt an ordinance of support and sign a letter in support of the redevelopment project. Cncl. Garbowski added the grant will make it more lucrative to draw businesses to the township, as the redeveloper will be able to charge less than the going rental rates. He noted Mr. Wainberg has a shopping center project in North Jersey that he has given up on because of infighting and non-support from the council. Discussion took place regarding who should sign the support letter. Solicitor Fiore noted under our law "governing body" has two meanings. Any time it references the "governing body" without any reference to a resolution or ordinance it refers to the Mayor and when it references a resolution or ordinance it is referring to Council. In this instance "governing body" refers to an ordinance therefore the Council President or Cncl. Caligiuri, as chairman of the Redevelopment Committee could execute the documents. Cncl. Caligiuri recommended two changes be made to the letter. He requested additional language be included in the second paragraph (*it is our hope that Williamstown Square shall seed the development of a much needed corridor with rateables to offset growing property tax demands on our residents*), as that will further reinforce the reason the township is supporting this program. At the end of the last paragraph he requested removing the second thank you statement and replacing it with "*Your consideration to this vital project is greatly appreciated*". Cncl. Sebastian noted the letter also states \$2.56 million will be generated in new taxes and he suggested adding the word "*approximately*" to that statement. Cncl. Sebastian polled Council as to their feelings about the ordinance and letter of support. All were in favor of moving the ordinance forward for First Reading and of Cncl. Caligiuri signing the letter of support with the recommended changes.

E.) MATTERS FOR DISCUSSION

Cncl. Walter Bryson referred to the Gloucester County Assessor's Office report and noted Monroe Township is the highest assessed township in the County. He questioned whether all the commercial reassessments in the township including the recent one that dropped the assessed value by \$1.7 million was included in the report and why Justin Commons and other PILOT programs were not included under the exemptions of total taxable values. He suggested Council get some clarification regarding this report from Jeff Coles, as it seems the township is assessed very high and that could make the tax portion due to the County even higher than 10%. Cncl. Sebastian explained when the township performed our

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E.) MATTERS FOR DISCUSSION (cont'd)

assessments we were assessing at a lower rate but the County now assesses at 100% of the value plus some of the other towns have not been re-evaluated yet. Cncl. Bryson noted our assessed value is 100% with a tax rate of \$2.38 and other towns are assessed at 55% but their rate is \$6.00, which means they are almost at 100% assessed value as well. What does not make sense is comparing our actual numbers to those of Washington Township, which has \$20 million in exemptions/abatements and their total taxable land is much less. Cncl. Caligiuri noted hospitals, the college and county properties are exempt and Washington Township has more structures/facilities like that. Cncl. Sebastian noted the County should be reassessing Washington Township soon because they are supposed to re-evaluate each municipality every three years. Cncl. Teefy was in agreement with Cncl. Bryson's suggestion and he recommended that the CFO explain the County Assessor's report to Council during the October 25th Council Meeting.

Cncl. Rich DiLucia requested Jeff Coles also provide Council with a financial breakdown on the revenue from the new traffic camera.

Solicitor Fiore questioned whether Council wanted Mary Beth Lonergan to attend the Special Council Meeting on October 17th. Cncl. Sebastian polled Council and everyone felt it would not be necessary for her to attend that meeting.

Cncl. Walter Bryson recommended the resolution Newfield adopted regarding alternate ways to deal with real estate taxes be placed on the next Council Meeting agenda for consideration.

Cncl. William Sebastian noted the BA has requested that Chapter 69 "Police Department" be revised to say "up to and not to exceed" a specific number of captains, lieutenants, sergeants etc. because police departments in other municipalities with a code that specifies the number of officers have requested promotions to fill those positions. He noted Chief Smart is happy with the number of officers we now have and by including "up to" we can stay below the number in the code. Cncl. Rich DiLucia suggested including language that the number of officers would be predicated upon the budget. Solicitor Fiore questioned whether the police contract specified the number of officers because the code and the contract should mirror one another. Cncl. Sebastian felt the contract did not include a specific number. Cncl. DiLucia explained under the "Management Rights" provision the contract would state the township has the right to identify the number of jobs and positions and creating those positions would be a legislative process that is based upon budgetary considerations. Council questioned whether the Chief could then argue there is sufficient money in the budget for additional officers. Cncl. DiLucia explained he could raise that issue, but it is Council's right to set the numbers and establish guidelines. Cncl. Sebastian explained the numbers were enumerated in the code to establish a definitive number for the police department's payroll. Promotions come with pay raises and in order for Council to have a better handle on what is being spent the number of officers was restricted to those that were in place at the time. The BA is now requesting the ordinance be amended again to stipulate "not to exceed", as that would allow the department to have fewer officers. Cncl. DiLucia explained the term "not to exceed" implies a

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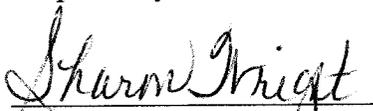
E.) MATTERS FOR DISCUSSION (cont'd)

specific number as opposed to saying the number is subject to fiduciary responsibility to do what is right. He added under a collective bargaining agreement the township always has the right to layoff and if there is a layoff, the township should have the right to layoff according to positions as opposed to numbers. If a number not to exceed is included in the code the argument could be that layoffs could not be done in certain areas. Solicitor Fiore noted past practice has been whenever there is a vacancy that position has been filled without any formula as to why it is being filled. Promotions have been given according to badge numbers, no tests are given and promotions are not based upon merit. Cncl. Sebastian noted the new chief has gotten away from that and promotions are now given by virtue of a person's experience; not their badge number. Solicitor Fiore noted there are now grievances coming in over a couple of those issues. Cncl. Sebastian noted the chief is willing to go to court over that, as it falls back to Title 40, which says the Chief of Police is responsible for the everyday operation of the Police Department, and the chief feels he cannot operate a good department if he has to promote someone who cannot do the job. Cncl. Sebastian requested the Solicitor to prepare the amendment to Chapter 69 for review at the next Ordinance Committee Meeting.

F.) ADJOURNMENT

With nothing further to discuss Cncl. Frank Caligiuri made a motion to adjourn the Ordinance Committee Meeting of October 5, 2011. The motion was seconded by Cncl. Pres., Marvin Dilks and unanimously approved by all members of Council in attendance.

Respectfully submitted,


Sharon Wright, RMC
Deputy Clerk


Presiding Officer

These minutes were prepared from excerpts of the recorded proceedings and the hand written notes of the Ordinance Committee Meeting of October 5, 2011 and serve as only a synopsis of the proceedings. That official recording may be heard in the Office of the Township Clerk upon proper notification pursuant to the Open Public Records Law.

Approved as submitted *sw* Date 11/2/11
Approved as corrected _____ Date _____