

MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
JUNE 7, 2012

A.) CALL TO ORDER & ROLL CALL

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

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

SALUTE TO THE FLAG

Cncl. Pres., Frank Caligiuri 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
Business Administrator, Kevin Heydel	Present
Solicitor, Charles Fiore	Present
Planner, Timothy Kernan	Present
Dir. Public Works, Robert Avis	Present
Deputy Clerk, Sharon Wright	Present

B.) APPROVAL OF MINUTES

Cncl. Walter Bryson made a motion to approve the minutes as submitted of the Ordinance Committee Meeting of May 2, 2012. The motion was seconded by **Cncl. Rich DiLucia** and unanimously approved by all members of Council in attendance with the exception of **Cncl. Marvin Dilks** who **Abstained**.

C.) PUBLIC PORTION

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

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D.) ORDINANCES FOR REVIEW

• Chapter 239 "Refuse Collection, Recycling and Source Separation"

Director of Public Works, Bob Avis noted the changes recommended for Chapter 239 are self explanatory and are being requested to clean up a couple of issues that relate to State laws. Cncl. Walter Bryson questioned whether recycling programs were available for electronics, as that can be profitable. Mr. Avis explained the township is currently recycling electronics with Magnum a recycling company located in Westville. Residents bring their electronic equipment to the Public Works yard and Magnum comes in, places it on pallets, shrink wraps it and takes it away. Township employees do not even touch it, Magnum does everything. Cncl. Bryson questioned whether there was any way the township could pick up the materials for residents. Mr. Avis explained the DEP has placed restrictions on picking up electronics at curbside because once the back of a TV is broken it becomes hazardous waste, which is another problem. The DEP requires electronics to be brought to a township site and placed in a storage area out of the weather, which is what we have been doing. Mr. Avis noted if a TV is placed at curbside and the back gets broken the landfill or the incinerator does not want it. Cncl. Rich DiLucia referred to the proposed changes and noted he understands the reasoning for branches being four feet long but he questioned why a recommendation was being made for branches to be three inches in diameter. Mr. Avis noted he spoke to other towns and they all require branches to be 3 inches in diameter, as the weight of branches four foot long by four or five inches in diameter is difficult for men to pick up. Residents with larger branches can bring them to the township yard, as a dumpster was purchased particularly for that purpose. Those branches are no longer taken to the landfill, as it is more cost efficient for Winzinger to pick up a 40 yard dumpster of branches for \$250.00 versus the previous cost of \$1,200.00. Mr. Avis also requested the language "or his/her designee" be added to section 239-11 Enforcement.

Cncl. Ronald Garbowski made a motion to move the proposed changes forward for First Reading at the June 26th Regular Council Meeting. The motion was seconded by Cncl. Daniel Teefy. Cncl. Sebastian polled Council and all were in favor of moving the recommendations forward for First Reading.

E.) MATTERS FOR DISCUSSION

• Solar Panels

Planner Tim Kernan spoke of how the State is promoting renewable resources such as wind and solar energy and how some towns will not allow ground panels on lots less than three acres, others require setbacks of 250 feet from the neighbor's property line and Haddon Township solar panel systems are permitted anywhere except the front yard as long as it meets the setback requirements. Mr. Kernan noted in his opinion when creating an ordinance the most important thing is to establish a minimum lot size and minimum setback for ground solar panel systems. Buffering is also a big issue and now with technology changing all the time towns are even looking at the color of panels since they now come in blue, black, thin film and shingle type panels. Cncl. Pres., Frank Caligiuri noted he compiled comments during the last

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E.) MATTERS FOR DISCUSSION (cont'd)

meeting and the principle objective is that solar panels are not visible from the street frontage or detract property values of neighboring homes but at the same time, the rights of a person who wants to install panels must be respected. Cncl. Pres., Caligiuri noted the value of electricity is going down to the point where it is no longer economical to purchase solar with the idea of selling enough electricity back to the utility company to supplement the cost so solar power at this point has become an expensive proposition. The PUC previously had rates for selling back electricity to the public utility but those rates are unregulated and are now a fraction of what they were when the big push was on for solar. People putting solar systems in their homes now are taking a chance on a significant capital expense and over regulating them may not be a good idea because the incentive to install them at this point is gone. Cncl. **Walter Bryson** requested Council consider solar system applications in two ways; by commercial and residential applications. He suggested residential areas be restricted to rooftop systems and ground solar systems to be permitted only on commercial sites. He also suggested Council consider wind power when creating an ordinance. Cncl. **Sebastian** questioned whether Cncl. Bryson wanted roof panels in all residential areas no matter what size lot a person had. Cncl. Bryson replied yes, he wanted it across the board because larger lots usually have larger homes that have more square footage on the roof that could hold larger solar systems. Cncl. Sebastian noted many people purchased mc-mansions, large homes on small lots that they can't afford so they try to cut expenses by installing solar panels that take up a large portion of their yards. That causes a distraction to the neighbors but a person with 30 acres could install ground solar panels in the back of the lot and that would not affect or be a distraction to any neighbors. Cncl. Bryson noted ground solar panel systems can be extremely dangerous to animals and children in residential areas, as the inverter/switch can be placed anywhere while the inverter/switch for rooftop panels are placed inside. **Solicitor Fiore** noted everyone is bringing up good points but should remember that municipalities are guided by the Municipal Land Use Law, which is the framework for what municipalities can do beyond State Statute. Mr. Fiore referred to Senate Bill S2006 (*included in Council packets*) dealing with municipalities regulating solar panels and noted Assemblyman Smith, who sponsored the bill, commented that he was returning the legislation with a recommendation to strike a better balance between promoting renewable energy and preserving a municipality's zoning authority. Mr. Fiore noted the issue Council is faced with is that people are leaning towards solar because it is a more efficient renewable energy and that must be balanced against the municipality's ability to regulate it. He felt Cncl. Bryson's recommendation is a noble effort but that would not be permissible under the law. He recommended Council regulate solar panels by lot size and setbacks or whatever way they can strike a balance. Allowing them only in backyards will not solve the problem due to the way subdivisions are built with backyards facing front yards. They cannot totally be precluded but can be regulated by establishing criteria for small lots such as panels cannot be more than a certain number high, 50 feet from the property's back and side lines, etc. Mr. Fiore noted Council has before them some good legislation from other communities some of which Mr. Kernan was involved with and we have the benefit of reviewing and utilizing the best parts of it to create the perfect ordinance. The Municipal Land Use Law was amended to include language to prevent certain restrictions such as charging a higher fee, which some municipalities were doing to prevent people from installing solar panels. Cncl. Sebastian noted S2006 states a municipality does not have authority to regulate ground solar panels if

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there are 10 or less however, it does not say how big those panels are. Cncl. Bryson noted as Council creates an ordinance they may be able to make recommendations to the State of ways to change their laws. Cncl. Ronald Garbowski noted if we have to go by the State regulations we should also include buffering as a regulation. Solicitor Fiore noted if 50 feet from the side and backyard lines and from the house was a requirement, in most instances ground solar systems would not be able to be installed in developments with small lots. Cncl. Sebastian noted the MLUL has setback regulations of 10 feet on each side and 30 feet in the rear and he questioned whether the township could make it larger or could they say it is a structure allowed within the building envelope. Mr. Fiore noted a garage or pole barn is not as offensive as a solar field and based upon that criteria it could be further back off the property line and closer to the building envelope. Cncl. Daniel Teefy noted he would like to see them on the roof but if we must have ground units we should require them to be fenced in with a six foot fence for safety reasons. Mr. Kernan noted when we look at this in detail for fencing and buffers at some point the installer or the homeowner must look into a shading analysis. Another issue is noise, as the inverters do hum. Commercial inverters are in the 65-70 decibel range at the inverter and that goes down over distance. Glare is another issue that should be considered. Cncl. Pres., Caligiuri felt the Middle Township Ordinance was very good. It does not limit the kilowatts, it requires a minimum lot size of one acre to install wind energy systems and the technical requirements look good with the exception of the noise level requirements, which should be limited to 55 decibels at the property line, as that should keep it reasonably quiet for everyone. Cncl. Caligiuri questioned whether Mr. Kernan prepared the Mantua Township Renewable Energy Ordinance. Mr. Kernan noted he worked with the Mantua Township solicitor on it and explained that a lot of it came from the State's model ordinance. He added once setbacks are taken into consideration we may not care what the minimum lot size is because the lot size will take care of itself. Cncl. Sebastian questioned whether council could restrict ground solar panels to a minimum lot size. Mr. Fiore advised that we could. The Mantua ordinance requires three acres or more but he didn't know if that had been challenged or not. He noted a minimum lot size may be justified here more than in other towns since most developments are cluster developments. Mr. Fiore suggested a comparison be made of the number of permit applications for the installation of rooftop systems versus ground systems. Mr. Kernan felt there were not many for ground systems. Cncl. Teefy recommended wind energy systems be prohibited in residential areas and permitted only in commercial areas. Cncl. Sebastian noted Mr. Fiore will be drafting a Renewable Energy Ordinance for Council to review at the next Ordinance Committee Meeting and he requested those from the public in attendance to state their suggestions/recommendations so Mr. Fiore could take that into consideration when drafting the ordinance.

Mary Cote, of the Fries Mill Civic Association noted Council addressed and covered everything the residents are concerned about. She showed pictures of the ground solar system located near the Serenity Woods basin and noted that conforms to the ordinance currently in place. She added if a fence was installed around it there would be shading and less electricity would be generated. Cncl. Sebastian explained since a Renewable Energy Ordinance has not

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yet been adopted employees follow regulations under the Land Use Law for auxiliary structures (*such as sheds*) when considering solar panel applications. Cncl. Teeffy noted the number of sheds permitted goes according to lot size and he questioned whether solar panels could be restricted by those same requirements, as they could be another structure on the property. **Dan Kozak** explained solar panels have no lot coverage because water can go through them and setbacks are what can control them. Mr. Kozak asked whether a shed/pole building the same size as the ground solar panels would be just as offensive to the residents as the ground solar panels are. **Robert Stapleton of Serenity Woods** replied that it would.

Roger Beam of Tall Oaks noted two issues not touched upon that concern him are the height of the solar panels in a confined area and if there would be a problem with a homeowner planting a tree on his property line that may in the future shade a neighbor's solar panel, as that would be encroaching upon his rights. Mr. Fiore noted we cannot restrict someone from planting a tree on their own property. **Mr. Kernan** noted height is clearly an issue that should be covered in the ordinance and the tree issue will be dealt with in the setback requirements.

Robert Stapleton noted homes must have a south facing roof for solar panels to work and due to the way developments are built ground panels in backyards can be facing front yards of a neighboring home. He noted windmills are also a concern because they are getting smaller and can be placed on two and three acre lots.

Cncl. Sebastian explained the Solicitor will draft an ordinance for Council to review at the next ordinance meeting. The adoption of an ordinance is an ongoing process and residents are welcome to attend all future meetings while it is being tweaked.

- Chapter 65/Employee Handbook

Business Administrator, Kevin Heydel explained the JIF is requiring the township to adopt and distribute an employee handbook to employees by July 1st or our deductibles from Employment Practices Liability will increase. The \$20,000.00 threshold we now have will increase to \$50,000.00 and the \$100,000.00 limit the township is required to pay may be increased to \$400,000.00 if that is not done. Mr. Heydel explained a handbook must be adopted because the MEL no longer covers the township for employment practices liability. That is now handled by a private company and before we could get by with just practicing what is included in the handbook but now it must be adopted. The handbook was derived from a template from the MEL and includes all Federal and State Statute requirements and includes some of our internal policies that were added. The township is also required to have a Policies and Procedures Manual in place. That is approximately 60% completed and will be distributed to the supervisors once it is done. **Cncl. Sebastian** questioned if the handbook was the same one that was presented to Council four or five years ago. Mr. Heydel noted it was but did include some changes that were requested by the MEL. Mr. Heydel explained we will have an Employee Handbook, a Policies and Procedures Manual and personnel policies codified in the code book. The Employee Handbook and the Policies and Procedures Manual will not be codified, as it would be too costly plus there are ongoing changes to them. Mr. Heydel

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recommended language be included in the code book stating that a Policies and Procedures Manual is on file in the Clerk's Office. Handbooks and manuals need to be amended occasionally and towns do that in various ways due to the different forms of government and divisions that are responsible for certain things. Atlantic City has the same form of government that we do and they include language in their code such as the following: "*The Township of Monroe shall develop and maintain a Personnel Policy Procedures Manual and shall develop an Employee Handbook that shall conform to applicable Federal and State employment laws and regulations. It shall be the duty of the Business Administrator or someone authorized and directed by the Business Administrator to continuously monitor and revise policies and procedures in the Township of Monroe Policies and Procedures Manual and in the Township Employee Handbook*". Mr. Heydel explained every time a change is made it should be done by ordinance. Cncl. Sebastian questioned whether this would oversee or limit any other handbook because the Police Department has their own. Mr. Heydel replied no and that is covered in this. He explained he must deal with Title 4A, union contracts plus the ordinance so he had to combine everything together to make sure there is a caveat to basically everything that is said in these documents. The Police Department has Standard Operating Procedures and that refers to this. Those SOP's do not cover all our policies so this would go to the police as well. Along with the handbook Mr. Heydel requested the following changes to Chapter 65 "Personnel Policies":

- § 65-14 Applicability of health and leave benefits (Any director and or employee appointed by the Mayor, who is employed less than ~~20~~ 30 hours per week, is not entitled to health benefits etc.
- § 65-15 Holidays - Add Thanksgiving Day
- § 65-16 Sick Leave - Section C. In addition, a certificate shall be required for all absence due to illness which exceeds 10 days in a ~~twelve-month period~~ calendar year
- § 65-17 Disability - Sections C. and E. of the disability schedule are changed from 100% and half salary to 75% and 50% Salary (Weeks)

Mr. Heydel also requested changes to Section 65-23-1 "Military leave benefits". He explained in 2004 when the war began Governor McGreevy passed an Executive Order that required employers to pay those on military leave the difference in their military pay and what they were paid from their regular jobs. The law states that a person in the National Guard would get the first 90 working days at full pay and after that they would be paid the difference between their military pay and their pay from here for the calendar year. The next calendar year the process begins again with them being paid for the first 90 days. The State Law requires those in the military reserve to be paid 30 days salary and we increased that to make it the same 90 days as the National Guard received because at that time there seemed to be no difference between the two. The township is required to hire veterans and any police officer who volunteers to remain in the reserves that gets called up for service will be paid 90 days plus their military pay and that could become very costly for the township. Mr. Heydel recommended the 90 day period be reduced to the 30 days for the reservists, as required by State Statute, as that is what other townships such as Glassboro have in their codes.

Mr. Heydel explained Council could adopt the Employee Handbook by resolution or the code could be amended to include the language regarding the Policies and Procedure Manual.

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Cncl. Sebastian suggested the handbook be adopted by resolution at the June 26th Council Meeting, as that would meet the July 1st deadline. He polled Council and all were in favor of moving the proposed changes to Chapter 65 forward for First Reading at the June 26th meeting. Mr. Heydel noted the third piece of this would be to include language under Personnel Policies regarding the Policies and Procedure Manual being updated as needed.

- Youth Sports Handbook/Background Checks

Cncl. William Sebastian noted he had requested the deputy clerk to contact Jim Bonder to get copies of the signatures of all the sporting organizations that attested to the Youth Handbook. Jim advised he had some but not all because some of the organizations signed it and took it with them. Jim has a meeting scheduled with members from those organizations on Monday, June 11th and will get copies at that time. Cncl. Sebastian noted he wants those signatures that everyone agreed to the handbook on file if Council is going to accept it. Cncl. Daniel Teefy noted they have been working on this handbook for approximately three years and everyone is pretty much in agreement with it. They have started a Parks and Rec Advisory Board that will meet every quarter. So far they have met twice and will be meeting again on Monday night and are accelerating those meetings to put their by-laws in place and appoint a chairman for the Board. Currently Jim Bonder is acting in that capacity but has advised that he will not be staying in that position as one of the Board members should be the chairman. The members have agreed to that and Bob Heffner was appointed as the Vice-Chairman of the Advisory Board. The Board is working on how they will run the different organizations, their finances, everyone using the same formats and the background checks. They have someone approved by Megan's Law to perform background checks and are discussing who would be responsible to approve or disapprove a flagged individual, as they are trying to keep personal issues private. In Washington Township the Chief of Police and Business Administrator review each case and the Chief makes the final call on it. Captain Howard Wiemer was in attendance representing Chief Smart, who is backing away from making the final call as he feels the Advisory Board should make the final decision. However, the Advisory Board is made up from presidents from each league, which amounts to twelve to fifteen people knowing someone's business and that is not the intent of the background check. Solicitor Fiore noted because of the confidentially issue it should lie with the chief. Cncl. Sebastian noted it's not the chief's choice if Council says the Chief and the BA are to be responsible for this. Cncl. Teefy felt the BA should not be involved; noting Washington Township is different than us and the BA is part of it because the township runs the organizations. Business Administrator Kevin Heydel questioned whether the township would have liability issues by adopting this handbook. Mr. Fiore replied that issue was looked at and clearly it would not but if we do not adopt it, there could be a greater liability issue. He went on to explain that Monroe is different from Washington and Winslow Township, which have township organizations. Monroe has private organizations using township facilities. However, when issues come up, the organizations contact Council looking for guidance from the town fathers. Mr. Fiore felt the issue of the background check clearly falls with the Chief or someone in the Police Department Administration, as confidentially is part of their job. Cncl. Sebastian noted to alleviate the township from liability we need to have the Police Department perform the proper procedure to

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determine whether a flagged individual should or should not be a coach. He felt that if the decision was made by the Advisory Board they could allow a person to coach based on whether they like him and the township could be held liable. Mr. Fiore explained the police will determine whether or not the crime constitutes a Megan's Law violation; not whether that person should or should not be a coach. Cncl. Teefy noted everyone is scrambling for coaches so the Advisory Board will allow a flagged person to coach until a determination is made by the Chief. Cncl. Bryson questioned if there is a timeframe involved for a person convicted of a crime under Megan's Law and if the person making the decision on behalf of the township could be held personally responsible if something was done to a child. Mr. Fiore explained if something happened 30 years ago the Board could decide to allow a person to coach but if something happened recently obviously that person should not be with kids. The person making the decision would not be held responsible as it would be a function made as a township official. Cncl. Teefy recommended the person making the decision be the Police Chief or his designee within the Police Department. Solicitor Fiore noted whoever is designated the decision must be made as expeditiously as possible because this will need immediate action. Cncl. Bryson noted Washington Township pays for all their background checks and he questioned whether we would be paying for them or would the individuals pay. Cncl. Teefy explained right now the Megan's Law group has federal grant money available to pay for background checks. They were afraid that money would run out this year but it has not; however, next year that money may not be available. The leagues are charging a \$5.00 registration fee that will be deposited into a township line item that will only be used for background checks. Washington Township did that and in three/four years the fund got so big they distributed the money back to the organizations. The Megan's Law group requires that if a person who signed up for a background check fails to show up that person will then have to pay for it themselves. Cncl. Teefy noted background checks and fingerprinting will be repeated every three years. Cncl. Sebastian questioned whether Council would adopt the handbook by ordinance or by resolution. Solicitor Fiore noted it should be done by ordinance. He questioned whether the handbook was going to be discussed at the Advisory Board Meeting on Monday night, as there is some verbiage that does not make sense. He noted he would be in attendance at that meeting and would like to address that during the meeting. He questioned whether they wanted to move on this right away. Cncl. Teefy noted he would like it to go for First Reading at the June 26th Council Meeting. The Board knows once this is codified it will not be a moving document and any changes they want will need to come before Council and any changes Council wants would need to be approved by the Board. The Deputy Clerk questioned whether the intention of Council was to codify the entire handbook because if so, it would be very costly. She noted just to codify a Chapter 175 (*land management ordinance*) the cost was \$3,500.00. Solicitor Fiore advised the entire handbook would not be codified it would be incorporated into the code by reference. Mr. Fiore will prepare the ordinance for First Reading at the June 26th Regular Council Meeting.

F.) NEW BUSINESS

Cncl. Walter Bryson reported the Historical Society has moved the old train station to the Hall Street School property.

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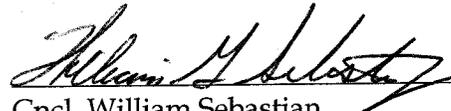
G.) OLD BUSINESS - None

H.) ADJOURNMENT

With nothing further to discuss Cncl. Pres., Frank Caligiuri made a motion to adjourn the Ordinance Committee Meeting of June 7, 2012. The motion was seconded by Cncl. Ronald Garbowski and unanimously approved by all members of Council in attendance.

Respectfully submitted,


Sharon Wright, RMC
Deputy Clerk


Cncl. William Sebastian
Presiding Officer

These minutes were prepared from excerpts of the recorded proceedings and hand written notes taken during the Ordinance Committee Meeting of June 7, 2012 and serve only as a synopsis of the proceedings. The official recording may be heard in the Office of the Township Clerk upon proper notification pursuant to the Open Public Records Law.

Approved as submitted *SW* Date 7/11/12
Approved as corrected _____ Date _____