

MINUTES  
ORDINANCE COMMITTEE MEETING  
TOWNSHIP OF MONROE  
FEBRUARY 6, 2013

**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		Excused
Cncl. Daniel Teefy	Present	
Ord. Chairman, William Sebastian	Present	
Business Administrator, Kevin Heydel	Present	
Solicitor, Charles Fiore	Present	
Capt. John McKeown	Present	
Lt. Stephen Farrell	Present	
Construction Official Jim Morrison	Present	
Deputy Clerk, Sharon Wright	Present	

**B.) APPROVAL OF MINUTES**

**Cncl. Rich DiLucia** made a motion to approve the minutes as submitted of the Ordinance Committee Meeting of December 5, 2012. The motion was seconded by **Cncl. Walter Bryson** and unanimously approved by all members of Council in attendance with the exception of **Cncl. Marvin Dilks** who **Abstained**.

**C.) PUBLIC PORTION**

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

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**D.) MATTERS FOR DISCUSSION**

- **Police Department Rules and Regulations**

**Ordinance Chairman, Cncl. William Sebastian** noted the proposed Police Department Rules and Regulations are pretty much cut and dry but after reviewing them he had one question which he spoke to the Chief about regarding the term "*General Order*". Chief Smart explained that basically General Orders are Standard Operating Procedures (SOP) or general in-house rules put forth by the chief of police that do not require approval by way of resolution from council. **Lt. Farrell** explained some police departments call their rules and regulations SOPs and some call them General Orders. Ours were formerly called SOPs but will now be referred to as General Orders. **Solicitor Fiore** explained he requested that the Rules and Regulations be presented at the Ordinance Committee Meeting as this is the proper setting for such a large document to be reviewed and discussed. The next procedure would be to adopt them by resolution at a Regular Council Meeting. **Cncl. Walter Bryson** questioned if this was needed for accreditation. **Lt. Farrell** replied no, it is part of getting accredited but if accreditation was taken out of the mix the Police Department is required by law to have General Orders, Policies and Procedures and Rules and Regulations. Our Police Department has no Rules and Regulations so they are a must whether we get accredited or not. **Solicitor Fiore** explained from a liability standpoint when there is litigation involving the police department, a plaintiff's attorney will question what the rules and regulations are and we need to be able to provide them with a copy. The Police Administration has the responsibility to provide everyone in the department with a copy of them and everyone must sign-off that they read and understand them. That is the most important part from a liability standpoint. **Capt. John McKeown** added part of the concept for the rules and regulations is about checks and balances and the balance of power. The Public Safety Director is named as the Appropriate Authority by the ordinance and by Council deciding whether the rules and regulations are fair all the power is not left in the hands of the Chief of Police. The Chief has the power for the day to day operations but this is on a broader scale and it requires the approval of Council according to the checks and balances in our form of government. **Cncl. Pres., Teefy** questioned whether the highlighted items at the end of the document were something they wanted to point out. **Lt. Farrell** explained he previously sent a draft to the Solicitor and the Director of Public Safety and some of the standards from that draft changed so he highlighted those changes to make sure everyone saw what was actually changed from the original document. **Cncl. Sebastian** noted the rules and regulations give teeth to the Chief because it describes disciplinary action. In the past former chiefs had problems and could not take disciplinary action because there were no rules and regulations to apply it to. **Capt. McKeown** explained the chief always has the New Jersey Civil Service Code to fall back on for the most serious violations that warrant long term suspension but in the day to day business, the rules and regulations are the basis for what should be utilized for minor discipline that keeps people in check. The Department did not have that so this is definitely a necessary step. **Cncl. Sebastian** polled Council and all in attendance were in favor of moving this matter forward to the regular council meeting. **Solicitor Fiore** advised he will prepare a resolution for the February 11<sup>th</sup> Council Meeting to adopt the Police Department Rules and Regulations.

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- **Chapter 104-18 Construction Code Fees**

Cncl. Pres., Teefy noted the proposed amendment to Chapter 104-18 raises some fees and streamlines/consolidates the ordinance. **Construction Official Jim Morrison** explained no fees were eliminated; the ordinance was just simplified because some of the language was obsolete and there was a lot of unnecessary duplication in it. Cncl. Sebastian noted some things were eliminated and not replaced but the last page of the ordinance states the items eliminated fall under the State Construction Code. He referred to the second to the last page and noted just about the entire page is crossed out. Mr. Morrison explained that deals with elevators, which are inspected by the State, the Construction Office has nothing to do with them. Cncl. Sebastian noted when residents need to know a particular fee not shown in this document they would need to go to Title 5, Chapter 23 of the New Jersey Administrative Code and he questioned if that was available in the Construction Office. Solicitor Fiore explained that avoids the need to change the code every time the fees are changed in the UCC Code and generally people go to the Construction Office to question specific fees anyway. Mr. Morrison advised the schedule of UCC fees is available in the Construction Office. He explained builders/developers come to his office to get a general idea of what the fees are because they affect the price of the house. Sometimes residents come in but rarely do we get complaints because our fees, even those being proposed are quite reasonable compared to other towns. Solicitor Fiore explained from time to time the DCA reviews the construction fees to make sure they are directly related to the amount of work involved with issuing the permit and inspection. Fees cannot be an exorbitant amount. Cncl. Sebastian questioned the justification for the above ground pool fee going from \$40.00 to \$75.00, almost twice the amount. Mr. Morrison explained the justification is \$40.00 was just too low when considering review of the plans, one or two inspections and the time it takes for the ladies in the office to prepare the permits. With no further questions Cncl. Sebastian polled Council and all were in favor of moving the proposed amendments forward for First Reading. Mr. Fiore advised he would prepare the ordinance for First Reading at the February 25<sup>th</sup> Council Meeting.

- **Chapter 37 "Length of Service Awards Program" (LOSAP)**

**Business Administrator Kevin Heydel** spoke of how he took over as the LOSAP Coordinator approximately a year and a half ago and how there seems to be disparity in the program regarding when participants are eligible. According to the Code the minimum age of 21 and 3 years of service is required for money to be deposited into an account. Many volunteers are 18 years old and must work four years to get it while a 19 year old can come in on December 25<sup>th</sup> and work while he is 19, 20 and 21 and be eligible in the third year without working that full third year. Cncl. **Rich DiLucia** questioned when the clock starts ticking towards those three years. Mr. Heydel advised if a person comes in at 18 the clock starts ticking at that time. **Solicitor Fiore** questioned whether the enabling Statute says the eligible age is 21. Mr. Heydel indicated he did not think so. Mr. Fiore's interpretation of the code was the clock starts ticking for a person to become eligible in the program at the age of 21 years old. Mr. Heydel noted that is included in our ordinance not in State Statute. Mr. Fiore noted according to the LOSAP requirements found in State Statute a person must be a certified fireman or

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emergency medical technician and must be 21 years of age, which means, 21 is the first year a person is eligible to be in LOSAP. People are not eligible between 18 and 21, the three year period begins at 21 so a person would not be eligible until age 24. Mr. Heydel advised that is not how it has been done. Most of our EMT's are 18 to 21 years old and will be gone by the time they turn 24 plus, to be fully vested, they must have completed five additional years to receive contributions. If a person only has four years they lose everything. Mr. Fiore noted the whole pre-ambule to LOSAP was to promote longevity and give people who served for years some sort of retirement, it was not for the people who work just three years. Cncl. Sebastian explained to be eligible for LOSAP individuals must earn 75 points a year by attending meetings, being on committees and responding to a certain number of calls and according to the law, a person must have five consecutive years of 75 points to be 100% vested in LOSAP. Many people never make 75 points a year or if they get them for only three years and in the fourth year get only 72, they must start all over again at year one. Cncl. DiLucia questioned whether the years of contribution would count towards vesting even if it was interrupted. He explained normally the vesting period is the years it takes to have the ability to collect a benefit and the 21 provision in most pensions prevent a person from accruing time before the age of 21. Mr. Heydel noted volunteers have had breaks in the years and have collected. Solicitor Fiore noted it states three years of service is required for eligibility in the program so basically they must serve the first three years and do not get credit for those first three years. Mr. Heydel noted people coming in at 19 as opposed to 18 are technically eligible for a payment in their third year. Mr. Fiore explained at that point they are eligible to begin their years of service to be in LOSAP. Mr. Heydel explained that third year has been counted in the past. Cncl. Sebastian read Section 37-7 B., which states *"Three years of service are required for eligibility in the program, and members will be vested after five years of accredited service as defined by the LOSAP program, and a participant cannot be vested for any benefits until after eight years of service."* Mr. Fiore explained that means a person must be in the organization three years before they can start accumulating LOSAP so whether they are 18 or 19 has been misapplied because they are not even eligible to begin the five years until after they are in for three. Mr. Heydel noted the money still gets deposited into their account but they do not have access to it until after they are 100% vested and if they never get vested, they forfeit everything. If they do not attain 75 points annually they get nothing. Cncl. Sebastian noted when LOSAP was first instituted the fire department had an individual speak about it and he is the one who said if a person does not get points in five consecutive years they must start over for their five years of accreditation. Mr. Heydel noted that is not the way it has been working. Cncl. Sebastian explained \$1,500.00 is deposited into an individual's account each year they make the points. Cncl. DiLucia questioned what the firemen and EMTs collect. Solicitor Fiore explained they receive \$1,500.00 a year times their number of years of service plus the interest rate for the program. Mr. Heydel noted many of the vested people have drawn on those accounts over the last few years due to hardships. Cncl. Sebastian explained \$350.00 must remain in the account of a person 100% vested because if all their money is taken out, they are no longer eligible for LOSAP and cannot get back in. Mr. Fiore noted this is a defined benefit and an incentive program to retain volunteers. Cncl. DiLucia explained it is a defined/fixed contribution and money withdrawn is based on what is accrued in interest. Mr. Heydel noted there is also a disparity in the actual time that firefighters must put in as opposed to what EMS puts in. The EMS people work twelve hour shifts at least once a

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week, which amounts to 700 hours a year and that is only worth 25 points. Cncl. Sebastian explained in the beginning of the program each group was responsible to define how an individual would get their 75 points. The Ambulance Association did it that way because it is a service organization and did not want everyone to get \$1,500.00 for responding to just one ambulance call. We want our people to be there for every call so if they want their \$1,500.00 they must perform. Mr. Heydel explained they get 1 point for overnight or standby duty but the schedule sets a maximum of 20 points for overnight duty so a person working 40 nights a year, can only get a maximum of 20 points for that service. Cncl. Sebastian noted they can get extra points for each year of service. He used himself as an example explaining this year he will have 33 years of service and will get 33 points up front and will need to go on rescue calls to pick up the other points. Cncl. Bryson noted the new members are the ones getting hurt by this plan because they are doing all the work and getting nothing. **Solicitor Fiore** noted there is disparity but is this something Council really wants to get involved in and assuming Mr. Heydel's interpretation of this is correct what plan does he have to fix the problems facing him. Mr. Heydel felt the five year vesting period should be that in the first year they are 20% vested, 2<sup>nd</sup> year 40% vested, 3<sup>rd</sup> year 60% vested etc.; it should not be all or nothing. Mr. Fiore noted we must follow the State Statute because that is the enabling Statute. Cncl. Sebastian recommended that Mr. Heydel and Solicitor Fiore get together to review what must be done according to State Statute and see how we can resolve these issues. **Cncl. DiLucia** questioned who funds LOSAP. Cncl. Sebastian noted the taxpayers fund it. Cncl. DiLucia felt Council should tread slowly on this due to the budgetary issues the township is facing. **Cncl. Pres., Teefy** requested Mr. Heydel give Council a copy of the LOSAP schedules and any additional information that he can on this matter. Solicitor Fiore questioned whether a contribution of \$1,500.00 was given every year to a person who is 100% vested or do they need to get the 75 points each year to get that money even though they are vested. Cncl. Sebastian explained individuals must have 75 points each year to get the money. A list of all those who qualify with 75 points is given to the BA each year and then \$1,500.00 is put into their account. He explained Rich Jacobi researched LOSAP and brought it forward to the firemen and ambulance association. A meeting was held at the fire house with a representative of Lincoln Financial who explained the various funds the money could be deposited into. Council discussed whether the five years vesting period must be consecutive and whether the money people forfeit goes back into the general fund. Mr. Heydel explained they do not need five consecutive years and there was one situation where money was placed into an account, that person quit without being vested so their account was closed and the money was pulled back. Mr. Heydel noted LOSAP has been in effect since 1999 and the first distribution was in 2002. Cncl. Bryson questioned how much was being deposited into LOSAP this year. Mr. Heydel noted \$135,000.00 (*half a penny*) is budgeted for LOSAP a year but that amount has not been paid out. Last year approximately \$105,000.00 was paid out to 50 Williamstown firefighters and 9 members of Monroe Ambulance and Rescue. Mr. Heydel was not sure how many from Cecil Fire Company received a payout. Cncl. DiLucia referred to Section 37-11 that stated "*this article shall not take effect unless it is approved by the voters at the next general election*) and questioned whether any amendments to the ordinance would need to be voted upon again. Solicitor Fiore explained changes to the ordinance would not need to be voted upon but to rescind LOSAP it would need to be voted upon at the next general election. Mr. Fiore indicated

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he would schedule a meeting with Mr. Heydel to address the LOSAP issues.

- **Chapter 175-135 "Signs"**

**Cncl. Sebastian** explained the sign ordinance was previously discussed by Council and sent to the Planning Board for their review and recommendation since it falls under Chapter 175. The Board did a cursory review and questions came up, some changes were made and the ordinance was sent back for Council to review them. The Planning Board questioned the way the ordinance is written, as it permits digital signs in any zone but residential. **Cncl. Sebastian** was not sure whether that was the intent of Council when they forward the ordinance to the Planning Board. He thought Council was only considering those signs for gas stations or commercial zones; not for agricultural zones and he questioned how far Council wanted to go with this. **Cncl. Pres., Teefy** noted Planning Board member Kwan Hui brought up the issue of sign corridors for four lane highways like the Black Horse Pike and two lane roads like Main Street or Rt. 322. **Solicitor Fiore** noted right now Main Street has turned into residential but if it ever converts back does Council want neon signs along that corridor as that could cause light/sign pollution. **Cncl. Sebastian** noted that area is zoned town center, which permits all zones. Originally the ordinance allowed a 50 foot square sign with 50% or a maximum of 25 feet digital but the Planning Board crossed that out and is allowing 50 square feet to be digital. He noted Council may want to tweak that language a little as our intention in regards to the uses for digital signs in the municipality may be different. **Cncl. Sebastian** noted during the Planning Board Meeting Jimmy Agnesino brought up the size of signs and how only allowing 50% to be digital would affect smaller signs such as the one at the Williamstown Fire House. Jimmy felt that only allowing half of the Fire House sign to be lit would be ludicrous because only a small portion would be lit. **Cncl. Pres., Teefy** felt a 50 foot sign would be fine on the Black Horse Pike but signs along Main Street should be more aesthetic. **Cncl. Sebastian** noted Council does not need to make a decision on this ordinance at this time, we can make suggestions for the Planning Board to review and after they review those suggestions they can send the ordinance back to Council who has the final say on what is included in it. **Dan Kozak** of the Zoning Office noted many people feel they get additional business from these signs they don't look at the aesthetic value. He personally does not like them and felt they should not be allowed at all plus due to the cost of digital signs coming down everyone along Main Street will be able to afford one and soon we may see one after another on that street. **Cncl. Sebastian** noted the Planning Board also discussed the length of time the message must stay on. The draft ordinance had listed 8 seconds but a member of the Board reduced that to 3 seconds. The Grand Theater sign changes every 3 seconds and **Cncl. Sebastian** has received complaints from people on Washington Avenue about it because when it flashes, it lights up the entire street similar to Broadway. He noted he spoke to the Zoning Official about reducing the lumes at night as required by the Zoning Board resolution. **Solicitor Fiore** questioned whether that resolution indicated what the standard is because there are many things subject to interpretation the way the ordinance is written. **Cncl. Sebastian** noted Tim Kernan did a very good job of researching this issue and did include the standards for lumes. **Cncl. Pres., Teefy** noted a member of the Planning Board timed signs along Main Street and the pike and found 3 seconds was enough time to read the signs when driving by. He suggested the Pfeiffer sign

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be changed from 3 to 5 and then to 8 seconds to see which time Council felt was best. He also questioned if we approve this ordinance is it enforceable retroactively. Solicitor Fiore replied no and Cncl. Sebastian explained if a business owner came back before a board requesting a change to the sign something could be done at that time. Discussion took place regarding the ordinance including a maximum luminance level of 750 cd/m<sup>2</sup>, how the computer sets the lumes, changes the time and messages, how the ordinance would be enforced, where these types of signs should be permitted, the square footage signs can be and the amount that should be digital. Cncl. Sebastian cautioned that once these items are defined a person can still go before the Zoning Board of Adjustment to seek relief from the ordinance. Mr. Fiore explained from a legal standpoint they would need to show the sign is inherently beneficial to the community, as a variance is the exception to the rule and the burden is upon the applicant to prove the positive, which must outweigh the negative. He noted in his opinion variances should be very seldom granted for extraordinary circumstances but he is not a Zoning Board attorney and this is not his area of the law. Cncl. Teefy suggested including language prohibiting digital signs in residential areas because now Zielke's Greenhouse or Radix Elementary School could install those types of signs right across from residential areas. Cncl. Sebastian explained under the Zoning Board rules you are supposed to be predisposed to grant a bulk and deny a use. The Use Variance is put into effect because that is what follows the Master Plan of the community. If someone comes in with a use change you are actually going against the intent of the municipality and the Board is predisposed to deny that use. That doesn't mean that they all get denied because if the attorney proves the positive and negative criteria and shows the beneficial use the Board is obligated under State law to approve it or the issue will be taken to court where it will be approved. If we finite this ordinance people will go before the Zoning Board of Adjustment but now there will be regulations in place for such things as sizes and lighting. They can request a waiver but that can be denied because it is not the intent of the municipality. He spoke of how the Goddard School took the township to court when the Board denied them opening a school at Tall Pines and how the court approved it where we didn't want it. Cncl. Pres., Teefy recommended the time for digital signs to change be set at 5 seconds and he questioned if Council had any other recommendations they would like taken back to the Planning Board. Cncl. Bryson requested the section dealing with real estate signs be kept in the ordinance, as that will eliminate short sale signs from being placed throughout the township in areas where there is nothing for sale. Cncl. Sebastian noted Dan Kozak has been dealing with those signs and also directional signs from developers. Mr. Kozak noted directional signs are being enforced but with some liberties for the developers in town to put at least one along the highway so people can find their development. Cncl. Pres., Teefy noted with technology changing future real estate signs or signs in commercial zones could be portable electronic messaging signs. Cncl. Sebastian requested Council review the ordinance and email Cncl. Pres., Teefy or him any changes so they can bring it up at the Planning Board meeting on February 14<sup>th</sup>. Cncl. Teefy noted by the end of the last Planning Board meeting everyone was confused about what was changed due to all the discussions that took place. Cncl. Sebastian agreed; noting there are more things that must be tweaked in the ordinance. He polled Council to see who was in favor of increasing the time from 3 to 5 seconds for messages to change and everyone in attendance was in favor of increasing the time to 5 seconds. Cncl. Pres., Teefy noted electronic signs located at the banks along Main Street do not include

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sponsors but the Grand Theater has Verizon listed as a sponsor on their sign. Cncl. Sebastian noted they told the Board they would be putting their sponsor names on the marquee for the Grand Opening Gala on February 16<sup>th</sup> and they were told they could not advertise, they could list the sponsor names for the gala but could not advertise for them. He added that will be taken back to the Planning Board for further discussion at their 14<sup>th</sup> meeting.

- **Mercantile Licenses**

Cncl. Sebastian explained the Economic Development Committee discussed mercantile licenses, which most municipalities in the County have and charge a nominal fee for, with the exception of Washington Township that charges \$30.00. The committee feels mercantile licenses would be beneficial because it would give them information they could utilize to market and bring new businesses into town. The fee would not generate much revenue because a \$10.00 fee would just cover the cost of the additional work placed on the Clerk's Office. Council questioned the process when a business wants to open in town. Dan Kozak explained they must go through Zoning first to see if the use is permitted and then it goes to the Construction Official who inspects the property. Businesses are also inspected yearly by the fire official. Businesses selling food must get a Board of Health license each year and the fee for that is calculated according to the square footage of the food area. Cncl. Teefy questioned whether those businesses were entered into a computer. Mr. Kozak explained forms are completed for the Zoning Office when a new business comes in and that is scanned and filed according to lot and block. There is no database where certain types of businesses can be searched. Cncl. Sebastian noted the fire inspector has a list of businesses but that just contains the name of companies that have their fire extinguishers and stove Ansul Systems inspected; it does not say what kind of business it is. Cncl. Pres., Teefy expressed his concerns that the township has no database the information can be scanned into and placed into an Excel spreadsheet. Council discussed whether in-home occupations would be required to get a mercantile license, the problems that would be encountered with enforcement and the problems there would be in getting businesses to pay the license fee. Solicitor Fiore noted last year he sent approximately 50 letters to people that refused to pay the \$25.00 fire inspection permit fee and out of those letters we only received 10 responses. He felt the Economic Development Commission would not necessarily be able to market businesses from a list of businesses. He suggested Council consider whether the \$10.00 fee would be enough to handle all the work the Clerk's Office will do, the database and the enforcement that will need to be done. Mr. Fiore noted this could be done prospectively but not retroactively because 50% of home occupations are not registered. Mr. Kozak added we have no way of tracking the ones that are registered in the Zoning Office unless we go lot by lot and block by block, which would be time consuming and just about impossible to do during normal business hours. He noted each year renewal notices would need to be sent out and right now there are issues getting people to pay for Board of Health licenses to the extent that he must go out and threaten some that their business will be closed down unless the \$25.00 fee is paid. Cncl. Sebastian and Mr. Kozak went on to explain the time consuming process the Zoning Office and Planning Board Office must go through to determine

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what zone a lot and block is located in. Cncl. Sebastian noted Tax Office forms have a space for the zone of a property and at the time the property information was put into the computer the zone should have been included as well. Tim Kernan can provide the information to the township for \$2,500.00 but someone here would need to input the information into the Tax Office system and Ninette has offered to do that in her spare time. Cncl. Sebastian noted no action will be taken on this at this time, as he will go back to the Economic Development Committee to see how important mercantile licenses are to them or if we can find another route to internally establish a list of businesses.

E.) ORDINANCES FOR REVIEW

• **Cap Ordinance**

**Solicitor Fiore** explained a Cap Ordinance is adopted each year, as it gives the township the legal ability to exceed the cap. **Cncl. Rich DiLucia** questioned whether this ordinance allows us to increase the budget 3.5% above last year's 1.8% increase in addition to the exceptions to the cap. **Business Administrator, Kevin Heydel** replied Mr. Coles could explain it better than he can but he felt it does allow an increase of 3.5% above the 1.8%. Cncl. DiLucia noted we are allowed 2% plus exceptions and then with the 4.5% estimated for the County tax reassessment, theoretically, taxes could increase by 6.5% without violating State Statute and this is asking for another 3.5% above that. Mr. Heydel explained Mr. Coles and the auditor recommended it be adopted even though it will not be used because our in-cap items are nowhere near that number. Cncl. DiLucia expressed his concerns that this could, if adopted, allow a 9.25% tax increase. Cncl. Sebastian asked Solicitor Fiore if we could go up to the extra 3.5% when it comes time to vote on the cap if this ordinance is not adopted. Mr. Fiore replied no, if Council does not give the authority by adopting this ordinance that cannot be done. Cncl. DiLucia questioned whether Mr. Heydel felt we would be going over 6.5%. Mr. Heydel explained we are nowhere near that on the expense side of the budget but the revenue side is the problem due to all the other factors and some taxpayers could be hit for more than 6.5% because of the Compliance Plan. Cncl. DiLucia questioned whether Mr. Heydel felt there would be a higher than 6.5% need in the municipal budget in August because if not, this ordinance is not needed. Mr. Heydel replied no and explained this ordinance was never needed in previous years but has always been adopted. Cncl. DiLucia noted he was uncomfortable adopting what is almost like a safety net, as it could cost more money. The Deputy Clerk advised the CFO informed her the ordinance is a safety net adopted every year prior to introduction of the budget and if it is not done prior to budget introduction, it cannot be done at all. Cncl. DiLucia noted he feels very comfortable without the safety net; adding there is no way he will vote for anything higher than 6.5%. He also noted our goal is to look at additional revenue in terms of the towing ordinance and charging for rescue service. **Cncl. Pres., Daniel Teefy** suggested the ordinance be placed on the Work Session meeting agenda so the CFO can explain why it is needed. Mr. Heydel advised he would email the auditor to see if he could give a brief explanation as to why it should be adopted, the benefits of it and the repercussions if it is not done. Cncl. DiLucia noted he understands it from last year and wants to make himself very clear that he will not vote for something that will increase taxes by 9.5%.

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He noted the County just arbitrarily picked out 4800 houses to reassess and some of those homes were reassessed two times already. Other homeowners who never appealed their taxes have homes totally over assessed and are looking at a 6.5% tax increase unless something is done to lower that. He noted in past years he voted for it when there was a chance we would need to go over the 2% cap but there is no way he will do that this year because of the problems we are having. Cncl. Sebastian noted further discussion of this matter will take place at the Work Session meeting of February 11th when Mr. Coles is available to explain why this is needed. Cncl. Pres., Teefy requested that Mr. Heydel email Auditor Nick Petroni to get a report and recommendation from him as well.

F.) NEW BUSINESS

• **COAH Fees**

Dan Kozak explained in 2007 the State approved the township's 1% COAH fee for new housing or any substantial addition in residential areas. In 2009 the Planning Board amended Chapter 175-89.1 to increase that fee to 1.5% but never sent the amendment to the State for approval. The State advised Mr. Kozak the 1.5% cannot be charged since it was never approved by them and since the township has only charged 1% he felt the code should be changed back for housekeeping purposes. He noted he would like to take this matter back to the Planning Board to make that change since it falls under Chapter 175. Council questioned the process of sending the 1.5% to the State for approval. Mr. Kozak explained how it would need to go through the Special COAH Master for State approval. He also felt that should not be done because it would increase cost for our residents building additional bedrooms on their homes. Mr. Fiore added it does not just affect developers it also affects the person building a single family home on a lot. Cncl. Pres., Teefy questioned whether this would affect the buyout or number of COAH homes developers are supposed to build. Mr. Kozak replied no, it affects nothing other than keeping our paperwork in order. Cncl. Walter Bryson noted according to State law all the money collected from that 1% is used to build COAH housing so if it is not collected that means every taxpayer in the township must subsidize it. Mr. Kozak explained the additional half percent would put additional burden on not only developers, but also on single family homeowners constructing an addition on their home. Cncl. Bryson spoke of how the developer pays 1% plus he makes provisions in his development for 20 COAH houses for every 100 market value homes he builds so he is actually paying 1% plus 20% of whatever he is building. Mr. Kozak noted his job is to calculate the money, make sure it is deposited into the correct account and that the books balance but he has no control over how, where or what the money is spent on. Cncl. Bryson questioned whether the State would take COAH funds not spent by a certain time. Solicitor Fiore noted they were going to take \$750.00 from the account but we protested so they never did. Mr. Kozak explained since this falls under Chapter 175 it must go to the Planning Board review and then they will make a recommendation to Council.

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F.) NEW BUSINESS (cont'd)

• **Vacating Maple Avenue**

Cncl. Pres., Daniel Teefy noted discussion took place at the Planning Board meeting regarding vacating Maple Avenue, a paper street located off of Winslow Road between Washington Avenue and Walnut Street. In 1948 the Culburn family built a house on what would be the middle of that street and Mrs. Culburn now wants the street vacated. Mr. Kozak explained the vault company is located next to the Culburn property and that property owner (of lots 5 and 6) does not want the street vacated because he uses it to get to his property, pick up his vaults and drive through to Filbert Street. If Maple Avenue is vacated he will not be able to do that and he will have no place to turn his truck around. Cncl. Sebastian explained they are hoping to vacate the street right at the corner of the house so that will give the owner of lot 6 the ability to come in off of Filbert, come down to the house and make a left onto lot 6 and then he can make a turn around on his own property. Cncl. Pres., Teefy noted Mrs. Culburn got affidavits from all the surrounding property owners with the exception of two and the owner of lot 5 and 6 does not want to give it up. She wants to sell the house but she can't because a part of it is located on township land. Cncl. Sebastian noted a portion of the street could be vacated as long as it does not go onto the other property owner's lot. Solicitor Fiore explained streets are vacated by ordinance once the Planning Board makes the recommendation to Council.

G.) OLD BUSINESS

Cncl. Rich DiLucia questioned whether any committee was looking into the towing issue. Cncl. Pres., Teefy advised the Public Safety Committee discussed it at their last meeting and will discuss it again at the next meeting scheduled for February 11<sup>th</sup> after the Regular Council Meeting. He noted the committee is reviewing the ordinance and looking to see if revenue could be generated for the township from towing. Solicitor Fiore noted our ordinance is not bad compared to the model towing ordinances on the NJ League of Municipalities website, the deadlines and review process just needs to be tweaked. Council discussed charging towers a fee, the township taking over the towing, getting additional revenue from EMS, establishing medical transport and third party billing for the Fire Department. A suggestion was made for the Public Safety Committee to contact Warren Stuart who has information on third party billing for the Fire Department. Cncl. Sebastian requested the Public Safety Committee address all those issues and make a recommendation to council.

Cncl. Walter Bryson questioned whether money from the Developer's Fund could be utilized by the Historical Society or was that money specifically for parks and recreation work. Major work needs to be done at the Hall Street School and the Ireland Hofer House and the Historical Society is trying to raise funds to make the improvements to the Train Station. Cncl. Sebastian suggested the Historical Society contact local construction companies to see if they would do the work in exchange for their business being advertised on the township website. Cncl. Bryson noted there are serious issues with the foundation and floor in the little school. The Historical Society budget is only around \$1,000.00 year so if there is a way to use any of the Developer's Fund to address those issues it would be greatly appreciated. The Comcast grant

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G.) OLD BUSINESS (cont'd)

has provided for some items inside the Ireland Hofer House but there are still issues that need to be addressed. Cncl. Pres., Teefy explained the Open Space/Rec Fund was established by referendum and is to be used specifically for parks and recreation and buying open space. The Developer's Fund is strictly for new Parks and Rec functions; not anything else.

Cncl. Rich DiLucia questioned Council's feelings on a dog park. He felt it would be good for the residents and also a way of raising some revenue. Washington Township has a dog park and charges non-residents a fee to use it but he was not sure whether residents are charged. Cncl. Sebastian requested Cncl. Bryson discuss that issue with the Parks and Rec Commission to see if a dog park could be located near an existing park.

Cncl. Sebastian noted Len Schwartz is in the process of preparing the Wind/Solar Energy Ordinance and he asked Cncl. Pres., Teefy if that could be placed on a Work Session Meeting instead of holding it to the next Ordinance Committee Meeting. Cncl. Pres., Teefy indicated that would be ok as long as everyone has the opportunity to review the changes.

Cncl. Pres., Teefy noted there is a movement to install a Nexturf Football Field at the high school. The cost of that project is approximately \$750,000.00. The Huddle Club is trying to raise half the funds and is wondering whether the township and the Board of Education would fund the other half of the project. This would provide an all purpose type field that would mainly be utilized by the high school but it would also be open for the township youth organizations to use as well. Solicitor Fiore questioned whether the varsity soccer team would be allowed to play on that field because last year they had to rent lights for their one night game when they were not allowed to play on the football field. Cncl. Sebastian noted if the township is putting up half the money, the township should have a say on who can play on it. Cncl. Pres., Teefy noted that is part of the discussion and they also suggested the township give Wal-Mart a year off from paying their property taxes of \$400,000.00 and then that money could be given to them for the field. Cncl. Sebastian noted legally that may not be permitted but there could be a fund drive through Wal-Mart. Cncl. Pres., Teefy explained he brought this issue up because they will be approaching Council with it, as the company they are dealing with has lowered the price to \$750,000.00 installed due to the economy. Cncl. Sebastian noted the problem the township has is that we are facing a 6.5% increase in taxes and now they want this. Cncl. Pres., Teefy explained the project could be funded through the Developer's Fund and the Open Space Fund similar to how money from those funds was utilized to complete work at Owens Park and Duffy Park. He explained contributions are no longer being made to the Developer's Fund so that balance is down to approximately \$430,000.00 but the Parks and Rec/Open Space Fund is funded through taxation so money is available in that account, plus Fazio is making a contribution each year, which is supposed to be for parks and rec. Council questioned how the Board of Education would deal with this since their teacher contracts have not settled yet, what benefit it would have to the taxpayers, how Council would sell this to their constituents and whether township organizations would be able to utilize the field. Cncl. Pres., Teefy explained the Huddle Club is not asking the School Board for money, they have commitments on line for some big dollars but would like to act now so they need additional funding. They sold it at the meeting by saying it makes the community better by providing a

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G.) OLD BUSINESS (cont'd)

state of the art facility and a great school system where people want to raise their children. Cncl. Teefy noted the field could be used by township organization at night after the football team is done or on the weekends. The Huddle Club is also talking about installing additional seating on the field and since they are State champs they feel this is the time to do it. Cncl. Sebastian noted he cannot see using tax dollars but felt that getting businesses to help out or using some of the Developer's Fund would be ok. Solicitor Fiore noted the Open Space Fund could not be used but the other fund could be. Cncl. Pres., Teefy noted the Parks and Rec/Open Space Fund can be used for both; he has read it numerous times and it is not just for Open Space. Mr. Fiore indicated he would review the original statute that allowed that fund to be created.

H.) ADJOURNMENT

With nothing further to discuss Cncl. **Walter Bryson** made a motion to adjourn the Ordinance Committee Meeting of February 6, 2013. The motion was seconded by Cncl. **Pres., Daniel Teefy** 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 February 6, 2013 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     3/6/13      
Approved as corrected \_\_\_\_\_ Date \_\_\_\_\_