

**MINUTES
ORDINANCE COMMITTEE MEETING
TOWNSHIP OF MONROE
SEPTEMBER 2, 2015**

A.) CALL TO ORDER & ROLL CALL

The Ordinance Committee Meeting of the Township of Monroe was called to order at approximately 7:00 PM by **Cncl. Marvin Dilks** 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.: South Jersey 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

Solicitor Charles Fiore 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. Rich DiLucia	Present	
Cncl. Bob Heffner	Present	
Cncl. Bart McIlvaine		Excused
Cncl. Cody Miller		Excused
Ord. Chairman, Marvin Dilks	Present	
Mayor Daniel Teefy	Present	
Business Administrator, Kevin Heydel	Present	
Solicitor, Charles Fiore	Present	
Deputy Clerk, Sharon Wright	Present	

B.) APPROVAL OF MINUTES

Cncl. Bryson made a motion to approve the minutes as submitted of the Ordinance Committee Meeting of August 5, 2015. The motion was seconded by **Cncl. Heffner** and approved by all members of Council in attendance.

C.) PUBLIC PORTION

Cncl. Heffner made a motion to open the Public Portion. The motion was seconded by **Cncl. DiLucia** and unanimously approved by all members of Council in attendance. With no one wishing to speak **Cncl. Heffner** made a motion to close the Public Portion. The motion was seconded by **Cncl. DiLucia** and unanimously approved by all members of Council.

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D.) ORDINANCES FOR REVIEW

• Chapter 65-64 "Antinepotism"

Cncl. Dilks explained at the last Work Session Meeting discussion took place regarding the Antinepotism ordinance and a recommendation was made to address that issue at an Ordinance Committee Meeting. Cncl. DiLucia questioned what Mr. Fiore's legal opinion was on that, as there are two issues; one whether the police are exempt from the ordinance and the other is whether a supervisor's relative is exempt from the ordinance. Mr. Fiore replied his opinion is that police officer candidates are exempt from the ordinance because those positions fall under Civil Service regulations. Cncl. DiLucia requested clarification because he was under the impression that all positions in the town are Civil Service positions. Mr. Fiore responded for the most part but there are some unclassified positions where a person could be hired temporarily, seasonal or part-time and that falls outside the parameters of Civil Service. Cncl. DiLucia noted basically if everyone is Civil Service and people cannot be barred from being hired through Civil Service then we have a non-effective ordinance. Mr. Fiore replied police officer candidates are exempt, as there are specific statutes dealing with the Police Department and for the most part they are the only people hired from a Civil Service list. Most other positions are advertised in the newspaper pursuant to government requirements. Positions such as sanitation labors are not hired from a list because Civil Service allows you to hire people for temporary positions and then move them into a permanent position. Cncl. DiLucia questioned what would happen if a relative of an elected official or supervisor would apply for a sanitation position. Mr. Fiore explained if they are related to a director/supervisor they would not be permitted to be in that department. He noted last week there was a reference to two positions, which he would not name at this time but the Mayor and BA did receive an opinion from Brown & Connery the township's labor counsel, which stated "*the position falls under the Department of Community Affairs, it does not fall under the direct supervision of the HRO and therefore it is not violative of the ordinance*". Cncl. DiLucia noted that was not in the letter that they initially sent and he didn't get a copy of this one. Mayor Teefy advised this letter was just received today. Cncl. DiLucia added when he asked that question last week he was told it was in that attorney's opinion and as a result of that it raised some questions in his mind about Civil Service and why only four people applied for the police officer positions. He was aware of the residency requirement and looked to see whether that affected it and apparently that excludes police officers too. He added his first thought was since there is no residency requirement does the Civil Service list include people from the whole state because it can't be just confined to our municipality. Mr. Fiore explained Civil Service classifies and codes the list into three groups according to the municipality. The first list includes residents, the next list is county wide and the third is state wide. Mr. Heydel explained anyone who wants to become a police officer takes a Civil Service test and based upon their test scores and their veteran status they are ranked and can go to any town that doesn't have a residency requirement. We do have a residency requirement but State Statute does not allow us to limit our list for police officer positions to only township people but it further says when the list is generated it will be residents first, county and then state people. Mr. Heydel gave the following example: We want to hire five police officers. We request a list and the first includes residents of the municipality that has only one potential candidate, we get a second list of people from the county that has only two potential candidates so we would get a third list of maybe ten people from throughout the State that could be hired. Civil Service categorizes the list and

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does not intermingle the scores so you could have scores from 100 down to 70 on the first list, then on the county list 100 down to 90 but the township resident that scored a 70 would have preference. Cncl. DiLucia questioned whether that was a written procedure. Mr. Heydel replied yes, that is an actual State Statute. There are probably about twenty residents on the police list but we never get to twenty because usually we only hire one or two, we very rarely hire four. When hiring we call for a list of three people for every one position so we have a choice because some people may not be interested or may not follow the process and they get knocked off the list and we go to the next person. Civil Service has specific codes for each person on the list and if there is someone on that list that you don't want you have to have a very, very good reason why. Either they are not qualified, there is something found in their background check (*a very extensive background check is done on each police officer candidate*), or in their physiological exam so to go through the list is not an easy process. Cncl. DiLucia noted in the current situation we had a list of twelve and four officers were hired, the fourth being number twelve on the list, which means eight were disqualified. Mr. Heydel replied yes, they were either not interested or they didn't meet the notification requirements of the township. What happens is when a list is generated notifications are sent out to each candidate and the candidate has five days to send a letter to the Mayor's office to express their interest in the position and if they don't do that, in the required time, they didn't follow the process and they get bumped from the list. Cncl. DiLucia noted in the labor attorney's response he indicated two people disqualified themselves by either not responding or not showing up for the interview so that means there were six more. Mr. Heydel advised they either notified us too late or they were not interested in the position. He explained initially five people were scheduled for an interview. The first on the list was a veteran who would have been hired because that is a preferential hire unless there was some type of physiological issue but he did not show up for the interview. Cncl. Bryson questioned whether veterans had preferential hire over local, county or state people. Mr. Heydel explained veterans have preference on each level. Cncl. Bryson noted the antinepotism policy should have applied to the interview process and he questioned whether that was true. Mr. Fiore noted it doesn't state that so he didn't know whether that was true or not; adding he didn't know what the intent was. Cncl. DiLucia questioned whether Cncl. Bryson was talking about the word "*considered*" because if so he had the same question. Cncl. Bryson replied yes and Cncl. DiLucia went on to say the ordinance is misleading, as it appears to say you can't be a relative and be hired and then there are various exceptions. The ordinance has pretty strong language that says "*they should not be considered*", which indicates to him that the intent of the ordinance was not to interview those people. However, he does understand the Civil Service Statute supersedes that so of course that language would not apply; or does it? Mr. Fiore suggested taking a long hard look at the positions that aren't effected by the police hiring process to see what the clear intent was. He added the two applicable Statutes that Kevin was referring to are 40A:14-122.1 entitled "*Requirement of Residency in the Municipality*" and the section that rates the individuals included on the list is 40A:14-123.1a and that says "*Police Department's Priority of Eligibility for Initial Appointment*". Mayor Teefy questioned if everyone was okay with the way the hiring was done for the police officers. Cncl. DiLucia replied he wants to look at the Statute. Mayor Teefy advised there is a legal opinion from our labor attorney, who looks out for us to make sure we follow the law properly. Cncl. DiLucia noted until he investigates this he is not agreeing to it but if that's the way it is then those ordinances need to be rewritten to have more clarity because both of them

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are misleading. He added he researched the antinepotism ordinance and at the time it was adopted the mayor, who was an attorney, vetoed it and one of the reasons he put in writing was that it was a violation of a person's constitutional rights but in spite of that the ordinance was written so there is some ambiguity. There is always some ambiguity in legal language but it appears that this ordinance and the residency ordinance need to be clarified because most of the people here were under the impression that the residency requirement didn't exclude police. He added nor did he until he reviewed the ordinance to verify the opinion that Mayor Teefy sought from the labor attorney. He felt it was important to know why there was only four and if there were reasons why people were not interviewed. Mayor Teefy questioned how Cncl. DiLucia would clarify the ordinances. Cncl. DiLucia replied by at least saying the residency requirement does not include police officers, as that language would make it clear and the antinepotism ordinance should say the same, rather than just saying according to State Statute. The State Statute could be included but the ordinance should state what position is excluded so that everyone reading it understands it. He added he didn't and he reads a lot of legal things and he felt other Councilmembers didn't understand it either and thought because it was antinepotism some people couldn't be employed. He questioned why the other job (*which he wouldn't name*) isn't under the antinepotism law because clearly one person is a supervisor and the other is a relative that was hired. He added he did not receive an interpretation on that but heard tonight there is a legal opinion on it other than the solicitor's however first and foremost he would listen to our solicitor. Mr. Fiore noted that opinion was sought by the BA and the Mayor from an independent source. The individual Cncl. DiLucia was referring to was hired for the Department of Community Affairs and was related to the human resource officer and the opinion of the Administration is a human resources officer is not a supervisor over that individual. Cncl. DiLucia noted if she is not then she is not a human resource director. He added without reading the job description he is pretty sure that the HR person is involved in the interviewing process and if she is not, then she is not a human resource officer. With no further comments on this being made Mr. Fiore indicated he understood what his assignment is and would review this matter.

E.) MATTERS FOR DISCUSSION

- Chapter 295 "Nuisances"

Solicitor Fiore noted Cncl. Miller, Ernie Carbone and the Police requested the nuisance ordinance be reviewed due to recurring incidents happening along Main Street that do not give rise to a 2C violation but may be considered as a nuisance. Our nuisance ordinance has not been reviewed in a long time and most of the violations set forth in it were struck down by a case out of Atlantic City and they are now considered unconstitutional. The Police Department has foot patrols along Main Street and they wanted to be armed a little more clearly with some local ordinances that would be applicable when people are gathering and creating noise and disturbances along Main Street. Mr. Fiore noted he would meet with Cncl. Miller, Mr. Carbone and the police and will draft amendments for the October Ordinance Committee Meeting. **Mayor Teefy** noted we are looking at it town wide, not just the Main Street area. Mr. Fiore noted a big obstacle last year was the letter from Mr. Paff of the Libertarian Party that questioned whether

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2C violations were being amended to local ordinances. We don't do it here but other towns do it across the board and the State's biggest fight is that when violations of local ordinances and fines are collected all the money goes to the municipality. With State Statute violations half the money goes to the State to be used statewide and the other half goes to the municipality. It is a great tool to be utilized, as there are times when someone may have had a bad night and does something criminal but you don't necessarily want to charge them with something that will permanently affect their record. This is a useful tool but we need to sharpen it a little bit to apply it town wide to deal with some of our issues. Years ago many towns had local speeding ordinances so people would be fined according to the local ordinance but the State caught on and said no that is pre-empted by State Statute. Things such as underage drinking can't be cited under local ordinance because there is a State Statute that pre-empts it. **Cncl. Bryson** questioned if there was a way to include a provision for loitering because kids are loitering behind the Ireland House and screaming at the members of the Historical Society when they are walking into their meetings. **Mr. Fiore** noted gathering for no legitimate purpose has been contested many times because they say it is a freedom of speech and freedom of assembly. **Cncl. Pres., Caligiuri** noted a lot of the Nuisance Ordinance deals with pollution and the only two that really relate to general nuisances are 295-2 A. "*Any matter, thing, condition or act which is or may become detrimental or a menace to the health of the inhabitants of this municipality*" and 295-2 B. "*Any matter, thing, condition or act which is or may become an annoyance or interfere with the comfort or general well-being of the inhabitants of this municipality*". **Mr. Fiore** explained an example of how that is used is when a person involved in an isolated incident of technically resisting a police officer during a time when they had something going on in their life that caused them to act out of the ordinary and when they come to court a decision is made to drop the charge and rewrite it under that local ordinance. **Mr. Fiore** noted Chapter 215 has been used in the past to deal with nuisance issues and that basically mirrored the Atlantic City ordinance that was struck down as being unconstitutional. He explained Chapter 295 is a Board of Health ordinance dealing with health and this is what is generally used to enforce issues such as Tim Brown had. **Mayor Teefy** felt the ordinance that should be reviewed is Chapter 215. **Cncl. Dilks** advised this issue will be addressed again at the October Ordinance Committee Meeting.

- Bring Your Own Bottle (B.Y.O.B.) Regulations

Solicitor Fiore explained TCBY on Berlin Cross Keys Road is being sold and someone was inquiring about opening a B.Y.O.B. business there. Our ordinance does not regulate anything for that and when this issue was brought up a few months ago ABC said we can regulate it to an extent. We do not have a local ordinance so essentially everything goes. Facilities can allow beer and wine to be brought in but there are other issues that need to be clarified within a B.Y.O.B. ordinance. Other people are interested in opening a microbrewery and wanted to have a small eatery attached but right now they would not be permitted to give samples of the brew and sell food and we may be able to adopt an ordinance within the confines of ABC that would allow that. **Cncl. Dilks** questioned if people could bring their own bottle to any restaurant now. **Mr. Fiore** replied yes, effectively you can and he thought there is a very basic license that can be applied for through ABC for that. The Deputy Clerk advised there is no license for that. She

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E.) MATTERS FOR DISCUSSION (cont'd)

added she included in Council's packets the regulations for B.Y.O.B. found in the ABC handbook. **Cncl. DiLucia** noted from what he read restaurants cannot advertise B.Y.O.B and he questioned whether that was a State requirement because if it is that would not be able to be included in an ordinance. Mr. Fiore replied yes, that is a State requirement. In a local ordinance we could include the hours of operation, prohibit it on Sundays and include other things as well as long as they are not in violation of any State provisions. **Mayor Teefy** noted when he looked into this for the lady who wanted to open a painting studio he was shocked to find you cannot advertise because many establishments have B.Y.O.B. signs up, which means the State must not enforce their regulations. Mr. Fiore added Council may not want to do anything because it seems we get in trouble when we try to regulate things. He added he talked this over with the Clerk because when this question comes up the answer that ABC leaves it up to municipalities always slips our minds. **Cncl. Bryson** referred to Mr. Fiore's comments that food could not be served in a microbrewery and noted that is quite common throughout the country. Mr. Fiore explained you can bring food into a microbrewery but the owner cannot serve or generate the food there. The Mayor noted the Clerk issues no license for B.Y.O.B so what is her question. The Deputy Clerk explained the Clerk was wondering if there should be something in the Code to regulate it. Every time someone inquires now we tell them the township has no local ordinance and the State says unless there is a local ordinance prohibiting it restaurants can have B.Y.O.B. **Cncl. Heffner** questioned so why restrict them and Mr. Fiore added do we even want them to register because that isn't even necessary. Some comments (*inaudible on the tape*) were made and then **Cncl. Dilks** noted no action will be taken on this issue right now.

F.) NEW BUSINESS - None

G.) OLD BUSINESS

Cncl. Heffner reported the Towing Committee met to review some changes that we would like to see. Input from the Police Department is still needed and once we get a general consensus of what we're looking at then it will be sent out to the towers. Mr. Fiore indicated another meeting will be scheduled next week and after we get the input from the towers it will come back to the Ordinance Committee.

Cncl. DiLucia noted before coming to the last Council Meeting (*August 24th*) the Solicitor's office sent out a letter regarding the health insurance issue and at that time he had indicated he didn't have time to review it. Since that time he has reviewed the letter but didn't see any specific reference to a municipality having a right to do it (*eliminate health benefits for elected officials*). In the section that dealt with the calculation of hours for what constitutes a full time employee and he felt what he read gave a municipality latitude to justify a full time employee by local ordinance. He added he read just about the entire law and still didn't see anywhere that the intent was to undo that grandfathering provision. **Solicitor Fiore** advised that he has reached out to the

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G.) OLD BUSINESS (cont'd)

Attorney General's office to get a specific answer on this and is waiting for their response. Cncl. DiLucia noted he was going to suggest that because the Attorney General is the one that is supposed to clarify the intent of that law.

Cncl. Bryson referred to a report that was emailed to Council from the company logging in the vacant houses and asked Mr. Kozak if this was the start of that project. Mr. Kozak indicated he didn't know who was handling that project. Cncl. Heffner thought it might be Tara from the Construction Office but the **Business Administrator, Kevin Heydel** advised no one has been designated as a point person to gather and input the information. People have been trained, are signed in and know how to get into the system but we don't have anyone who knows what houses are vacant. He added he has been on vacation and didn't know whether the company went out and found houses on their own but he planned to go into the system to see if any were logged in or if anyone has paid the \$500.00 fee. Cncl. Bryson stated so what you are saying is the company is in place but we are not ready yet to do it. Mr. Heydel explained we are trained and should be going around town getting a list together of the empty houses throughout the township. Cncl. Bryson suggested checking with the Zoning Office to see if they have a list and Cncl. Heffner questioned whether Vicki in the Board of Health Office would have a list of vacant properties. Dan Kozak stated Vicki already gave her list to the company and only six are logged in. Mr. Fiore suggested Mr. Heydel ask Bob Avis to have his sanitation workers document the houses where no trash is being picked up. Mr. Heydel noted he would rather drive around town and write down the addresses of vacant homes so that he knows it's right because a house may look empty but if its not and we include it there will be problems.

Cncl. Heffner noted the gas lights in Forest Hills were previously handled by the homeowner's association but when that closed up the township took over the maintenance of those lights and he questioned if there was any way to find out if we are obligated to keep those gas lights. Mr. Fiore noted he would have to look to see if there is any documentation from when the Forest Hills Development was first approved obligating the township to continue those lights into perpetuity. Cncl. Dilks questioned whether those lights were in bad shape. Cncl. Heffner noted the Gas Company has made him responsible for the repair of the 220 lights in that development and they are in deplorable condition. He requested Mr. Heydel to find out what we are paying the Gas Company to maintain the lights because the estimates he is getting to repair them is very high. Mr. Heydel advised every time they are repaired the cost is \$3,000.00. Cncl. Heffner noted there are telephone poles throughout the development where electric lights could be installed and he questioned what the cost was for the light that was just installed on Green Avenue. Mr. Heydel advised it was around \$600.00. Cncl. Bryson questioned when gas lights go out does the gas leak from them. Cncl. Heffner replied yes and the problem is the lights are so old that parts are no longer available and have to be made to make the repairs. The cost to replace gas lights would be \$1200.00 to \$1500.00 per light and there are 220 in the development and the lights are not interchangeable so the entire thing would need to be replaced. The old section of Forest Hills has telephone poles and if we are talking about \$75,000.00 a year to maintain those gas lights it may be time to start thinking about changing them over. Cncl. Dilks questioned if that cost included the labor to install new gas lights. Cncl. Heffner replied no that is just for the lamps. The Gas Company is contracted to work on them and we are sent out twice

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G.) OLD BUSINESS (cont'd)

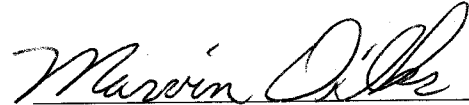
a month to basically just replace the mantels. Now, the lights are breaking to the point where we can't fix them any more so we just shut the gas off but that becomes a safety issue because there is no light in the area. Those lights are very costly so we need to find out if there is an agreement that we have to maintain them.

H.) ADJOURNMENT

With nothing further to discuss Cncl. DiLucia made a motion to adjourn the Ordinance Committee Meeting of September 2, 2015. The motion was seconded by Cncl. Heffner and unanimously approved by all members of Council in attendance.

Respectfully submitted,


Deputy Clerk Sharon Wright, RMC


Presiding Officer

These minutes were prepared from excerpts of the recorded proceedings and hand written notes taken during the Ordinance Committee Meeting of September 2, 2015 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 10/20/15
Approved as corrected _____ Date _____