

**MINUTES  
COUNCIL WORK SESSION MEETING  
TOWNSHIP OF MONROE  
SEPTEMBER 8, 2009**

**A.) OPENING CEREMONIES & ROLL CALL**

The regular scheduled Work Session Meeting of the Monroe Township Council was called to order by **Council President, Ronald T. Garbowski** at approximately 7:00 PM in the Conference Room on the first floor of the Municipal Complex, located at 125 Virginia Avenue, Williamstown, New Jersey.

This meeting was advertised pursuant to the New Jersey Open Public Meetings Act (*NJSA 10:4-6 thru 10:4-21*). Notices were placed in the official publications for Monroe Township (i.e.: Gloucester County Times, Courier Post and Philadelphia Inquirer). A copy of that notice has been posted on the bulletin board at the Municipal Complex.

**SALUTE TO OUR FLAG** - Cncl. Pres., **Ron Garbowski** lead the Assembly in the Salute 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. William Sebastian	Present	
Cncl. Daniel Teefy	Present	
Cncl. Pres., Ronald T. Garbowski	Present	
Mayor, Michael Gabbianelli	Present	(Arrived 7:10PM)
Business Admin., Kevin Heydel	Present	(Arrived 7:10PM)
Solicitor, Charles Fiore	Present	
Eng., Chris Rehmann, ARH	Present	
Dir. of Finance, Jeff Coles	Present	
Dir. of Public Safety, Jim Smart		Excused
Dir. of Code Enforcement, George Reitz		Excused
Dir. of Public Works, V. James Agnesino		Excused
Dir. of Community Affairs, Sandy Dilks	Present	
Twp Clerk, Susan McCormick	Present	

**B.) MATTERS FOR DISCUSSION**

• **Comcast Cable TV Franchise**

**Solicitor, Charles Fiore** referenced an opinion letter from former Solicitor, Jeffrey Albertson (*dated August 2, 1994*) and reported to council on the procedure utilized back in 1994 for the Cable TV Franchise Renewal. Mr. Fiore explained the municipality received notice from Comcast, via payment of the pre-paid application fee dated August 24, 2009, of their intent to move forward on the renewal of the franchise agreement for a period of fifteen (15) years. He went on to note consistent with the statute and the administrative code provision the municipality is now required to undergo what is known as an "*Ascertainment Phase*" and in

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**B.) MATTERS FOR DISCUSSION (cont'd)**

conjunction with this there are certain deadlines that the municipality must adhere to. One requirement is that of conducting a mandatory *Public Hearing* within sixty (60) to ninety (90) days from receipt of the formal application and it must be completed within 120 days. Mr. Fiore then briefly reviewed certain aspects of what must be included during the course of the public hearing for example: extension of cable TV throughout the entire community, cost sharing between certain governmental entities, programming, terms of the franchise, responsiveness to the municipal needs, upgrading the system along with a whole litany of items. He added that the cable company is required to give a presentation at the public hearing and to field any questions. Council members are encouraged to take any input from the public. The Solicitor indicated back some fifteen years ago the technology was not as well advanced but today the major complaint is associated with costs and programming issues. He explained any cost involved with cable TV are currently regulated through the Board of Public Utilities. Mr. Fiore advised that he would meet with the Township Clerk, review the procedure and set up some type of timeframe for the public hearings. He will come up with some type of summary that includes what input council has and what impact they can have upon the renewal.

**Cncl. Dan Teefy** questioned what impact, if any, Verizon would have on the procedure and if Verizon had submitted any type of contract to be the sole provider of cable services. **Solicitor Fiore** indicated that was an interesting question as Verizon is now in the market and under both federal and state regulation Comcast now has to offer to lease or at least offer the ability to use certain parts of their equipment to Verizon. This is a different part of the formula that needs to be taken into account; however, he could not address specifically what impact it may have on the public hearing.

**Cncl. Walt Bryson** posed a question with respect to the exclusivity that Comcast had in the prior agreement. Mr. Fiore advised that "yes" they were exclusive only because they were the only provider of the service and now there are multiple companies involved so this may also have some impact on the procedure.

- **Evergreen Environmental Property Donation**

**Solicitor, Charles Fiore** referred to his memo to the Mayor dated August 17, 2009 that summarized his research of a company called Evergreen Environmental. This entity is involved in the preservation of property for private gain and they go through a process and are able to obtain wetland credits that go into what is referred to as a "*Mitigation Bank*". The company is in the business of acquiring property, which is then deemed as a wetlands area and preserved through this program and at some point in time they sell the wetlands credits (*similar to pinelands credits*) through a wetlands mitigation bank. The memo summarizes that legally the municipality is permitted to partake in this type of exercise. One down side of this is the municipality would lose tax revenue as right now this property is taxed at approximately \$7,000.00 for the total acreage. The property is basically all a wetlands area and can be, at some point in time, banked and made part of our open space inventory. The advantages are that the township is dedicating open space and the fact is it will probably never be developed anyway. Mr. Fiore continued and noted as part of the process the entity must plant trees on part of the

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**B.) MATTERS FOR DISCUSSION (cont'd)**

property and monitor those trees over a five-year period. At the end of the five-year period the property is deed restricted, deeded back to the township and at the end of the process the township will receive a \$15,000.00 endowment to utilize for open space studies and things of this nature.

**Cncl. Walt Bryson** noted according to what he read the township can do nothing with that land except leave it as open space and that money (\$15,000.00) is given to the township upfront to maintain the trees. He suggested the area be made into a wildlife area with walking paths, as it could not be used for ball fields or anything like that. **Cncl. Sebastian** advised the township would receive the \$15,000.00 towards the end of the five year period, as that money is to maintain the trees that were planted during that time period. **Mayor Gabbianelli** explained the property is unbuildable swampland located on Blue Bell Road in the area of the bridge. The Mayor went on to explain the gentleman that contacted him buys wetland properties and transfers the credits and right now he needs someone to say they will take the ground; but, in five years if the township does not want it, we will not have to take it. The problem is the township will lose \$7,000.00 a year in property taxes and because there is no hunting allowed on township property, hunters will no longer be able to utilize an area that has been a prim hunting area for years. The property owner may end up giving it away possibly to a land trust or to the Department of Fish and Game but that would give the township a small stipend plus people would still be able to hunt there. The property will remain open space no matter who takes it over because it is wetlands. The Mayor noted if the township takes it we could negotiate/sell it to the Department of Fish and Game for a nominal fee. **Cncl. Rich DiLucia** questioned whether there would be any additional insurance cost for the property if the township took it over. Mayor Gabbianelli replied no, as the township is insured through the JIF and has blanket coverage for all municipal properties. **Solicitor Fiore** recommended a resolution be prepared for the next Council Meeting agenda to move forward with this and to authorize the Mayor to sign a letter of intent. **Cncl. Pres., Ron Garbowski** polled Council and all were in favor of Mr. Fiore's recommendation.

- **Suncatcher, Inc.**

**Business Administrator, Kevin Heydel** referred to the Suncatcher, Inc. presentation given at a previous council meeting and noted after being in contact with the Board of Public Utilities Office of Clean Energy he found the program is not as easy as they made it sound. The company took public statements in July regarding different programs so they do not have the regulatory authority set up yet. He noted from what he understands they will be bringing their recommendations to the board on September 16<sup>th</sup>. The board will then make its decision and after that is done there are still many things that need to be put into place to make this pilot program work. Mrs. Sharrow has requested the township sign a non-binding letter of intent in order to get subsidies but Mr. Heydel recommended that be deferred to the Solicitor, as he was not sure that was something the township should do. He noted everyone wants to save money but he questioned whether this would be the best cost saving opportunity or whether there are other alternative energies out there. **Mayor Gabbianelli** spoke of meeting with a retired South Jersey Gas Company executive/attorney who specializes in green energy and was just hired by

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**B.) MATTERS FOR DISCUSSION (cont'd)**

Cooper Levinson, a major law firm in Atlantic City. The Mayor explained this gentleman could possibly be our consultant and that would be at no cost to the township, as his fees would be paid by the end users. He felt the township should follow up with this as it may be beneficial. Mr. Heydel explained Solar energy may be a cost saving opportunity but there are many stumbling blocks since the township is subject to the Local Public Contracts Law and Suncatcher is talking about a fifteen year agreement when the pilot program may only be for two years. The Mayor added there is also a franchise fee that must be considered. Mr. Heydel noted he was uncomfortable with the pricing, as he was not familiar enough with this to say the township would be getting a good deal, which is why professionals should be consulted. He added anytime he looks at something like this he looks at the cell tower contract that was signed in 1992. Mayor Gabbianelli indicated that contract is coming up and he is not going to negotiate it too soon, as it states the property is ours or the tower comes to us. AT & T wants to renegotiate and a new carrier, MetroPC, is also going on the tower and they will be paying an additional \$500.00 per month for ground maintenance. The Mayor noted the township is currently getting \$1,400.00 a month for the tower and that is below market rate. Mayor Gabbianelli noted if we are looking to go into green energy there are established firms out there that must be considered for the protection of the township. **Cncl. Bryson** noted companies like Suncatcher, a windmill generation company or a hydropower plant must become an entity to generate power because they cannot sell their power directly to the township. The power would be sold to the electric company and then the township would be credited according to the company chosen as the provider. Mr. Heydel explained with solar energy the township could partner with someone to put the equipment on our roof or property, as that is in the regulatory guidelines they are setting up now. What is not in the regulatory guidelines is Suncatcher being located a mile away and feeding other entities by way of a net meter, as that would make it a utility. Mr. Heydel proceeded to explain the way net metering works. **Cncl. Sebastian** noted if everything goes as planned and the township gets credit from the electric company for generating the electricity that would make us the end user and he questioned whether we would then have to pay Cooper Levinson. Mayor Gabbianelli replied no because if we went into an agreement with Suncatcher they would pick up all the fees for Cooper Levinson. **Cncl. Sebastian** noted Suncatcher will pass that cost onto the township. Mayor Gabbianelli agreed that would probably happen since the township will be his only user. Mr. Heydel noted Suncatcher has a two megawatt solar farm that generates 2.2 million kilowatts and he was not sure if the township would utilize that amount. The electric company has been contacted to see just how much electricity the township uses and that information will be analyzed. In conjunction with that an energy audit is being explored. The township would pay 25% of that cost and the grant would pay the other 75%. Once a determination is made from the energy audit there is grant money available to improve buildings by making them greener with insulation, windows and other things such as that. Mr. Heydel noted he would be compiling the necessary information that must go to the Office of Clean Energy to begin the process for an energy audit. **Cncl. Pres., Garbowski** noted he would provide Mr. Heydel with some information on that, as he is working on obtaining 100% grant funding for Camden County College. **Cncl. Garbowski** explained during an energy audit they measure the building envelope and review all utility bills (*gas, electric and water usage*).

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**B.) MATTERS FOR DISCUSSION (cont'd)**

- **Resolution Releasing The Performance Guaranty Posted For "Corkery Plaza" Site Plan # 398-SP, Block 3601, Lot 23 And Substituting A Maintenance Guaranty In The Amount Of \$41,372.12**

**Solicitor Fiore** distributed the above tiled resolution to Council for review and explained this resolution would release the performance guaranty for Corkery Plaza (*Rite Aid, PNC Bank and an open pad that will be a Checkers Restaurant in the future*). **Mr. Fiore** explained generally at the end of a project and before the issuance of a CO the performance guaranty is released one last time for its most nominal amount. Based upon the financing and timing involved with this project the attorney on behalf of the applicant has been in constant contact with **Mr. Fiore** and **Mr. Rehmann** regarding releasing the performance guaranty and putting into place a maintenance guaranty in the amount of \$41,372.12. This maintenance guaranty would cover the cost of the outstanding items included in **Mr. Rehmann's** letter, dated September 8, 2009. **Mr. Fiore** explained the applicant needs this in order to move forward from construction financing to permanent financing and this is also an outstanding item that apparently is necessary for the issuance of their CO's. The Rite Aid Pharmacy is supposed to open tomorrow and that depends upon whether Council chooses to move forward with the action being sought tonight. **Mr. Fiore** explained generally the procedure would be to go to the performance guaranty but this is a little different than a residential development that may have a long list of outstanding items. A few years ago the township started requiring performance and maintenance guaranties to be put in place for commercial sites in order to ensure that improvements are completed in a timely and correct fashion and that process has worked. This is shortcutting the process and that is permitted under the Municipal Land Use Law. **Cncl. Bryson** questioned whether it was their responsibility to fix the turn when leaving that site. **Mayor Gabbianelli** explained there will be no right hand turns coming out of Corkery Lane and that will cause a problem with the traffic coming across the pike so the township is trying to help them get approvals for a right on green only. The Township has been in contact with NJDOT and the County engineer has also contacted a friend of his in the State to try and get this issue resolved. **Cncl. Dilks** referred to the punch list from ARH and posed questions to **Mr. Rehmann** regarding the video of the inverts for the storm system. **Mr. Rehmann** explained there is an issue in one spot and he was not sure whether the designer was not correcting the hydraulics because he didn't know how or because he was not getting paid to do it, but he (*Mr. Rehmann*) was going to insist upon that being corrected. **Mr. Rehmann** explained the request to release the performance guaranty was made because the bank will not give their final payment until the bonds are released so to help them financially \$41,000.00 will be put aside for the items that need to be completed. This is 120% of the bond amount but we have reduced the 30% retainage on the original bond and that is permitted under the Municipal Land Use Law. **Mr. Rehmann** noted he would not do that for a residential housing developer because he is representing the residents of the development but here, there are individual leases that have certain conditions that regularly require the developer to get things done. He noted Checkers has just gotten their building permit and before they get a certificate of occupancy his office will make sure everything is done. **Cncl. Sebastian** noted Council had seen this punch list before and he was concerned with who would be responsible for the work. **Cncl. Dilks** noted this site

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**B.) MATTERS FOR DISCUSSION (cont'd)**

is privately owned so even if something goes wrong it will be the responsibility of the property owner, not the township. With no further discussion Cncl. Pres. Garbowski requested a motion to move this resolution forward. **Cncl. Marvin Dilks** made a motion to move the Resolution releasing the performance guaranty for Corkery Plaza forward to the Regular Council Meeting agenda. The motion was seconded by **Cncl. William Sebastian** and unanimously approved by all members of Council. The Clerk noted for the record that resolution would be numbered R:199-2009.

**C.) PUBLIC PORTION**

**Cncl. Dan Teefy** made a motion to open the Public Portion. The motion was seconded by **Cncl. Walt Bryson** and unanimously approved by all members of Council. With no one else wishing to speak, **Cncl. William Sebastian** 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.

**D.) OLD/NEW BUSINESS**

**Cncl. Frank Caligiuri** questioned Mr. Fiore on whether there was any news regarding the 4-H deed. Mr. Fiore explained one of the outstanding issues is the title company did a title search on behalf of the State of New Jersey and found there were some notice deficiencies that occurred when the property was foreclosed upon approximately 15½ years ago. Mr. Fiore noted he had to actually physically go to Trenton and pull the foreclosure file and provide copies to the State and to the tile company for review. They are still being reviewed but hopefully all the deficiencies that appeared in the title report have been satisfied and the township should have an answer within a week or at least by the next council meeting.

**Cncl. Frank Caligiuri** noted at the last meeting discussion took place regarding the access agreement for K. Hovnanian; particularly regarding the McAloons. He noted he took exception to the fact that in paragraph 8 the resident loses all rights to any claim in the event the repairs do not work. The legality of this is being reviewed by our Solicitor and Cncl. Caligiuri had recommended to the residents that a disclaimer be included such as *"his signature only allows K Hovnanian to have access to his property so the terms of the agreement with Monroe Township can be fulfilled and that all other rights are reserved"*. The attorney for K Hov contacted the residents and crossed out the term *"all other rights reserved"*, which almost seems as if, by virtue of paragraph 8 that the developer would like to relieve himself of any liability. Solicitor Fiore noted Cncl. Caligiuri is right. Mr. McAloon signed the agreement and K. Hov is doing the work even with that language on the agreement; therefore, Mr. McAloon may still have a right directly against K. Hov. Mr. Fiore noted his concern was whether there would be a cause of action against the municipality and he felt there would not. Mr. Fiore noted in his opinion K. Hov accepted that language, is doing the work and the McAloons may proceed with a private remedy against K. Hov if the work is not done correctly.

**Cncl. Caligiuri** reported the 4-H is having a County Ho Down and Bar-B-Que on Friday, September 11<sup>th</sup> at 5:00 PM at the Mullica Hill Fairgrounds to raise funds for the nature trails of Monroe Township.

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**D.) OLD/NEW BUSINESS (cont'd)**

**Cncl. Daniel Teefy** spoke of the previous discussion regarding K & J Fencing and questioned whether they had been cited. **Mayor Gabbianelli** noted he believed that Fred Weikel did send out a violation notice. **Solicitor Fiore** reported that he spoke to Attorney Jerry Sinclair regarding the status of K & J Fencing's application and he indicated that all outstanding items with the Planning Board had been completed. There were two administrative items that needed clarification for the Pinelands and that should be done within the next 30 days in order to get the "No Call Up" letter. There is also a pending DOT application even though that property has had access to the Black Horse Pike for years. Since this is a new commercial entity they are required to file with the DOT and the timeliness of that is unknown, as it could take six months to a year before final Dot approval is received. Once that approval is received they will get their final CO. Mr. Fiore noted he encouraged Mr. Sinclair to speak to his client to use a little self help and clean up the property to make it look presentable. Cncl. Teefy noted the consistency of how the township deals with issues is always being discussed and he wanted to make sure that the handling of this issue was consistent to the way other issues were handled. Mr. Fiore felt the issue was being handled in a consistent manner. He also noted Verizon was also just cited for doing work without permits so the township is trying to establish that consistency.

**E.) COMMITTEE REPORTS**

**Cncl. Frank Caligiuri** reported a Re-development Committee Meeting is scheduled for Monday, September 14<sup>th</sup> at 6:00PM.

**Cncl. Pres., Ron Garbowski** requested that the Public Safety Committee schedule a meeting to discuss the letter from a resident requesting speed humps along Ames Road. **Mayor Gabbianelli** noted no new speed humps will be installed. He went on to explain that the residents of Grandview Avenue were polled and all but three wanted speed humps. The Police Department did some research and found the current trend throughout the Country is no speed humps because they slow down response time and damage equipment. The Mayor noted he had a meeting with the Chief of Police who advised the Police Department will begin issuing speeding tickets. Cncl. Garbowski requested the Public Safety Committee meet with the Chief of Police and the individual interested in setting up a speed watch program. **Cncl. Bryson** questioned if citizens establish a speed watch and report license plate numbers would the police issue tickets or give warnings. The Mayor noted if the police catch speeders they can issue a ticket but they cannot issue a ticket from a license plate number because they do not know who was driving the vehicle at the time of the incident.

**Mayor Gabbianelli** reported he had a meeting with Stuart Wainberg and his new partner and next Wednesday afternoon a meeting is scheduled with RD Management.

**Engineer, Chris Rehmann** reported that he hopes to have a draft memorandum of understanding prepared in regards to what the project is, who the participants will be and how the project would be delineated into who does what. The Mayor will review the memorandum first to ensure everyone is on the same page. Mayor Gabbianelli noted Stuart Wainberg should be responsible for the cost of the traffic light. Mr. Rehmann spoke of

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**E.) COMMITTEE REPORTS**

Wainberg Development paying for the traffic signals along Wrangleboro Road in Hamilton Township, not the county and he noted that the problem is Wainberg feels that if he installs the traffic signal it will not only provide access to his project, but it will also enhance the access to RD Management's development and he feels there should be some cost sharing. RD Management is saying why should we pay for a traffic signal for the competition across the street. Mr. Rehmann noted right now there is bickering back and forth and the township must specify what will be done here. What Nick Petroni said is that we will base everything on our numbers and on what we, as a township want and if it is a doable project, go ahead and if it is not a doable project it will not be done. Mayor Gabbianelli noted in November the Wal-Mart will be out of court and once that is built someone else will build if this project is not done. He noted he understands the PILOT but the township cannot give away the candy store either. Mr. Rehmann noted the Mayor made it perfectly clear that the township wants to end up with something, as we will not use the taxes to finance their project and that must also be conveyed to RD Management.

**F.) QUESTIONS REGARDING RESOLUTIONS SCHEDULED - 9/8/09**

**Cncl. Frank Caligiuri** questioned whether a CFO certification was needed for R:196-2009. The mayor noted funds were bonded and are available to cover the cost of the change order.

**Cncl. Walter Bryson** referred to Resolution R:195-2009 and questioned whether this deals with employee benefits and whether they still have a \$2.00 co-pay. **Business Administrator, Kevin Heydel** explained this resolution authorizes the township to stay in the South Jersey Regional Health Insurance Fund, which is an insurance fund of municipalities and boards of education. These entities pull their money together so there is no profit margin. Our rates are based upon our loss ratios/claims experience and our increases are 8% a year. Mr. Heydel noted the township has contractual obligations and when he tried to get out of that he was shot down by the different bargaining groups. He noted he is still trying to negotiate with Local 1360 and the Supervisor's Association and will type up a summary for Council to review so they can see the level of participation from these groups since there was a big deal made of it last year when he approached the Ordinance Committee regarding a change in the salary ordinance. **Mayor Gabbianelli** added 1360 is not coming to the table; the union has been called but they have an excuse every time and have cancelled two or three meetings. Mr. Heydel continued by noting 1360 has been allowed multiple committee negotiation meetings to discuss within themselves and yet the township cannot get a counter proposal from them. The union always wants to know more about the benefits and it is the same benefit package since 2000/2001. Mr. Heydel noted the Police co-pay is \$5.00 and they will go to \$10.00 as of 2010.

**G.) QUESTIONS REGARDING ORDINANCES SCHEDULED - 9/8/09**

**Cncl. William Sebastian** extended his appreciation to Cncl. Pres., Garbowski and Cncl. Daniel Teefy for co-chairing the September 2<sup>nd</sup> Ordinance Committee Meeting in his absence.

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**G.) QUESTIONS REGARDING ORDINANCES SCHEDULED - 9/8/09 (cont'd)**

**Cncl. Bryson** spoke of receiving complaints from residents living in the area of the bike path who are concerned with their safety due to robberies that have taken place on the bike path. He questioned whether signs could be placed on the bike path saying that it closes at dusk. Mayor Gabbianelli noted the township did not receive the grant for solar lighting on the bike path but this is an issue that can be discussed. Solicitor Fiore noted Council could adopt an ordinance that would prohibit the bike path from being utilized after dark/dusk. The Mayor noted the police caught two people last night with burglary tools on them. These people are not from town and are now in the County jail. He went on to say that these are sad times because some of the shop lifting cases are people stealing food for their families.

**Cncl. Pres., Garbowski** reminded everyone that the Liability Seminar is Thursday, December 9<sup>th</sup> at the Savoy Inn in Vineland.

**H.) ADJOURNMENT**

With nothing further for discussion, **Cncl. William Sebastian** made a motion to adjourn the Council Work Session of September 8, 2009. The motion was seconded by **Cncl. Marvin Dilks** and was unanimously approved by all members of Council present.

**Respectfully submitted,**

\_\_\_\_\_  
**Susan McCormick, RMC**  
**Municipal Clerk**

\_\_\_\_\_  
**Presiding Officer**

*These minutes were prepared from the tape-recorded proceedings and the hand written notes of the Council Work Session of September 8, 2009 and serves as only a synopsis of the proceedings. Portions of the official tape may be heard in the Office of the Township Clerk upon proper notification pursuant to the Open Public Records Law.*

Approved as submitted \_\_\_\_\_  
Approved as corrected \_\_\_\_\_

Date \_\_\_\_\_  
Date \_\_\_\_\_