

## MONTAGUE TOWNSHIP COMMITTEE MEETING

March 9, 2010

### MINUTES

Mayor Barbagallo called the session to order at 7:05 p.m. and indicated that adequate notice has been provided to the New Jersey Herald and The Sunday New Jersey Herald for publication in which notice was given of the date, time, place and general agenda of meetings in accordance with the Open Public Meetings Act, P. L. 1975, c. 231.

**FLAG SALUTE:** All present were asked to join in the Pledge of Allegiance.

**ROLL CALL:** Acting Clerk Picinich was asked to call the roll.

**Present were:** Deputy Mayor Brislin, Committeeman Ponce, Committeeman Teufert, Committeeman Zitone and Mayor Barbagallo. Also present were Attorney Garofalo and Acting Clerk Picinich.

**Absent:** None

#### **PUBLIC PARTICIPATION REGARDING AGENDA ITEMS**

**Louanne Cular** requested the words "Former Municipal Clerk of Frankford Township" be stricken from the prior minutes, stating that she spoke as a taxpayer and never represented herself as former Municipal Clerk of Frankford Township at any meetings. She also requested the words "with inaccurate information" (referring to her statements and the letter she submitted) also be stricken because there was no legal opinion as to her statements during that meeting. She also voiced her displeasure over her own and Mrs. Barbara Utter's names being placed in boldface type, after which the Clerk assured her this is standard procedure when members of the public make comments for the record.

Mr. Garofalo stated that the minutes would not be approved at this meeting because a requested recording of another meeting contained both regular and executive session audio. He will check with the Department of Community Affairs to determine the procedure for release of the audio.

He advised Ms. Cular that her comments were well taken since the wording of the Statute is hard to understand, but the procedure and advertising of the bond ordinance were executed to perfection. Mayor Barbagallo stated that he was unaware of the 2/3 vote needed to pass the ordinance on second reading, and could have summoned Mr. Brislin, who was at home assisting a client with tax preparation. Mr. Garofalo agreed that the ordinance could have been passed, and reminded everyone again that the procedure was legally sound.

#### **PRESENTATION OF AWARD**

Mr. **Roy Shepherd**, president of the Tri-State Chamber of Commerce, presented Toni-Lu Martin with an award for her participation in their Holiday Parade. Ms. Martin accepted the award, with special thanks to Eddie Ibold, Kim Cusumano, Chris Thompson, Sharon Orce, Barbara Holstein, Jesse Brace, Joe Cooper, Charlie and Rhodi Teufert, and Ted Brace.

#### **APPROVAL OF MINUTES**

Mr. Teufert motioned to table the minutes. Mr. Zitone seconded, and the motion carried with all in favor.

#### **DEPARTMENT OF PUBLIC WORKS**

Mayor Barbagallo informed the public that the crew has been sweeping the roads and is currently working on the roads at the Country Club. Mr. Ponce reported that of the two vehicles damaged, one has been repaired and the other is going in for repair.

#### **RESOLUTIONS**

R 2010-31                      OUTSIDE LIEN REDEMPTION

Mr. Zitone motioned to adopt the Resolution. Mr. Brislin seconded, and the motion carried with a unanimous roll call vote.

R 2010-32                    AUTHORIZATION TO CANCEL TOWNSHIP  
TAX SALE CERTIFICATE

Mr. Brislin motioned to adopt the Resolution. Mr. Teufert seconded, and the motion carried with a unanimous roll call vote.

**ORDINANCES**            (First Reading)

ORD 2010-05                BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$145,000 FOR ACQUISITION OF REAL PROPERTY FOR AND BY THE TOWNSHIP OF MONTAGUE, IN THE COUNTY OF SUSSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$137,750 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION

Mr. Teufert motioned to open to the public. Mr. Brislin seconded, and the motion carried with all in favor. **Louanne Cular** stated that she would like to make some comments but would defer them to Public Participation since she didn't have her paperwork handy. Mr. Teufert asked why some of the over \$100,000 set aside for the fire house construction shouldn't be used towards this purchase. Mayor Barbagallo responded that was something that should have been put together by our Chief Financial Officer, who set up the procedure. He added that since he thought it would be a 1% loan, it would be foolish to strip the Township's investments. **Virginia Van Wagner** asked if the money is set aside for construction, isn't that different than using it for land purchase. Mayor Barbagallo said the money is in the capital account, and Mr. Teufert added that the land is needed on which to construct the fire house, and it doesn't matter which is done first. Mr. Brislin motioned to close to the public. Mr. Zitone seconded, and the motion carried with all in favor.

Mr. Brislin motioned to approve the Ordinance on first reading. Mr. Zitone seconded. Mr. Brislin encouraged the public to come forward with their comments at the next meeting. He added his concern that the Fire Department may turn it down. Mayor Barbagallo reminded Mr. Brislin that this Ordinance is not about buying the land, rather the financing, and it should be regulated through the Chief Financial Officer and the others involved. Mr. Teufert stated he was uncomfortable purchasing land the Fire Department may not want to use. On roll call: Mr. Brislin, Yes; Mr. Ponce, Yes; Mr. Teufert, Abstain; Mr. Zitone, Yes; Mayor Barbagallo, Yes. The motion carried by a majority.

**APPROVAL OF BILLS FOR PAYMENT**

Mr. Brislin motioned to approve the vouchers for payment. Mr. Ponce seconded, and the motion carried with a unanimous roll call vote.

**PUBLIC PARTICIPATION**

Mr. Brislin motioned to open to the public. Mr. Teufert seconded, and the motion carried with all in favor.

**Mark Utter** asked what recording was not yet available and was told by Mr. Garofalo it was from the meeting of January 19<sup>th</sup>, a recording he had requested. Mr. Utter wanted to know how it could be that both regular and executive sessions were on the same disk, and was told by Mayor Barbagallo both meetings took place in the same room. He further stated that he is opposed to the conduct of the committee and asked if an ordinance was passed to authorize the purchase of the land. Mr. Garofalo answered no, that none was necessary. Mr. Utter stated that this was done backwards, and that it was inappropriate for the committee to have done it this way. Mayor Barbagallo responded that it was all brought before the public and nothing was more open than the pursuing of this land. Mr. Utter voiced his averseness to the 'havoc' caused among the committee, and was told by Mayor Barbagallo and Mr. Garofalo that there are five separate opinions, and that is the way government works. The Acting Clerk advised there was an ordinance previously passed by the committee authorizing the acquisition of the land.

**Mark Krebs** wanted to know if anyone had done any research to determine if the Economic Development Commission Ordinance was repealed, stating he thought it was. He was told by Mayor Barbagallo that it appears in his Code Book, that he had not researched it, but knew a new ordinance establishing one was not adopted.

Attorney Garofalo advised the public that the law suit filed by activist Jesse Wolosky against Montague Township regarding OPRA fees had been dismissed.

**Louanne Cular** stated that many of Mr. Wolosky's complaints are still pending, including one against her personally as Records Custodian of Frankford Township.

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Mayor Barbagallo made a motion to amend the agenda to include hiring a permanent Clerk. Mr. Zitone seconded the motion, and it carried with all in favor. Mr. Garofalo indicated there would have to be a salary ordinance specifying the individual and her salary by the next meeting. Mr. Brislin motioned to hire Eileen De Fabiis as Municipal Clerk and Board of Health Secretary at an annual salary of \$55,000 plus health insurance benefits for herself only. Mr. Zitone seconded, and the motion carried with a unanimous roll call vote.

Mr. Brislin referred to an email the committee received from Bruce Padula, Esq. of Special Counsel Scarinci & Hollenbeck with respect to labor negotiations, and wanted to know if formal action needed to be taken. Mayor Barbagallo and Mr. Teufert responded that it was regarding the wording and needed a consensus of opinion only.

Mayor Barbagallo indicated he had intended to set up a conference call to take place in Executive Session regarding In Rem foreclosures but was unable to accomplish same.

Mr. Brislin motioned to enter Executive Session to discuss pending litigation regarding the construction official. Mr. Ponce seconded, and the motion carried with all in favor.

### **RESOLUTION R 2010-33**

**WHEREAS** the Township of Montague is authorized, pursuant to N.J.S.A. 10:4-12 to exclude the public from that portion of this meeting for purposes of discussing specific matters as permitted by N.J.S.A. 10:4-12; and

**WHEREAS** the Township intends to discuss certain matters which are deemed confidential pursuant to N.J.S.A. 10:4-12 in Executive Session; and

**WHEREAS** at this time the Township cannot determine the time when the discussions to be held in Executive Session will be made public, but will disclose the minutes of the Executive Session when the need for confidentiality no longer exists.

**NOW THEREFORE**, be it resolved by the Township Committee of the Township of Montague that this meeting shall be adjourned to an executive session (closed session) and the public will be excluded in order that the Committee may, in accordance with N.J.S.A. 10:4-13(a), discuss pending litigation regarding the Construction Official without taking action, and after reconvening this public meeting the Mayor or his designee will announce, if possible, the time when and the circumstances under which the discussion conducted in Executive Session will be disclosed to the public. This resolution is authorized and allowed by and pursuant to N.J.S.A. 10:4-13.

**NOW THEREFORE**, be it further resolved by the Township Committee that pursuant to N.J.S.A. 10:4-13(b) the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public is when the need for confidentiality no longer exists.

Mr. Teufert made a motion to close Executive and enter Regular Session. Mr. Brislin seconded, and the motion carried with all in favor.

### **ADJOURN**

Mr. Teufert motioned to adjourn. Mr. Brislin seconded, and the motion carried with all in favor at 8:03 p.m.

**Respectfully Submitted,**

**DESRIE W. PICINICH, CMR  
Acting Municipal Clerk**