

## **MONTAGUE TOWNSHIP COMMITTEE MEETING**

**June 29, 2010**

### **MINUTES**

Mayor Barbagallo called the session to order at 7:03 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:** Clerk DeFabiis was asked to call the roll.

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

**Excused:** Committeeman Teufert

### **MONTAGUE STUDENT COUNCIL**

Mayor Barbagallo read a Proclamation recognizing the Student Council volunteers for decorating the flower boxes in front of the DPW Building.

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

No member of the public wished to speak regarding agenda items.

### **MINUTES**

Mr. Brislin motioned to approve the minutes of the April 27 and May 3, 2010 Executive Sessions, May 3, 2010 Budget Meeting and June 15, 2010 Regular Session. Mr. Ponce seconded. Mr. Garofalo stated that the Open Public Meetings Act requires that the portions of executive session minutes that can be released, be released, and that the portions that cannot, be redacted. He noted that many municipalities 'sit' on executive session minutes, and that he did not think that a good practice, preferring instead to release them with redactions. Upon roll call, the motion passed unanimously.

### **PAYMENT OF VOUCHERS**

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

### **ORDINANCES**

(First Reading)

2010-10

AN ORDINANCE TO AMEND CHAPTER 54B OF THE CODE OF THE TOWNSHIP OF MONTAGUE, ENTITLED "RENTAL PROPERTIES REGISTRATION, LICENSING AND INSPECTION"

Mr. Brislin motioned to adopt the ordinance. Mr. Zitone seconded, with discussion. He asked if the registration referred to per owner, per property. Mayor Barbagallo responded yes, that it is a one-time fee at the change of occupancy, for CO's only. Upon roll call, the motion carried with a majority of the members present, Mr. Zitone voting no.

The above Ordinance was introduced and passed upon first reading at a regular meeting of the Township Committee of the Township of Montague on June 29, 2010. It will be further considered for final passage at a meeting to be held July 13, 2010 at the Municipal Building, 277 Clove Road, Montague, NJ.

### **RESOLUTIONS**

R 2010-63

A RESOLUTION AUTHORIZING SPECIAL COUNSEL TO EXECUTE CONSENT ORDER AND AUTHORIZING TURNOVER OF ESCROWED FUNDS TO ROBERT WASSERMAN, ESQ., CHAPTER 7 TRUSTEE FOR SKYMARK HOLDINGS, INC.

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

R 2010-64 A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTAGUE ENDORSING THE SUBMISSION OF THE 2010 RECYCLING TONNAGE GRANT APPLICATION OF THE NJDEP

Mr. Zitone motioned to adopt the resolution. Mr. Ponce seconded, and the motion carried with a unanimous roll call vote of the members present.

R 2010-65 RESOLUTION OF THE MAYOR AND COMMITTEE OF THE TOWNSHIP OF MONTAGUE ESTABLISHING THE MINIMUM WEEKLY HOURLY REQUIREMENT FOR FULL TIME STATUS IN THE STATE HEALTH BENEFITS PROGRAM.

After discussion wherein Mr. Brislin wished to change the Resolution to reflect 35 minimum weekly hours for health benefits qualification, Mayor Barbagallo wished to establish 25 minimum hours, and Mr. Garofalo suggested no change be made to the Resolution, Mr. Brislin motioned to approve the Resolution for voting purposes. Mr. Zitone seconded. Upon roll call, the motion did not carry with all members present voting no except for Mayor Barbagallo, who abstained, stating he was not sure everyone understood the Resolution. Mr. Brislin expressed his intention to make a motion changing the number to 35 hours because there is a question as to whether the Township Committee ever passed the 2004 Revision to the 2004 Personnel Policy referencing 35 hours as full time. The Clerk advised Mr. Brislin that Montague Township's 35 hour designation had previously been sent to the State Health Benefits Plan. Mr. Zitone noted that the Committee cut an employee down in hours but allowed the retention of benefits, and asked how that could be done with Mr. Brislin's suggestion. Mr. Brislin responded that there was never a vote on the benefits. Mayor Barbagallo said that is a problem because it was voiced, there was no opposition, and he did not want to go back on his word. He said that another problem would be if the Committee decided to increase hours with the hope of reestablishing full time, the employee would still be without health benefits. Mr. Ponce stated that there was more than one employee who would be affected by this Resolution. Mayor Barbagallo said this would be opening the door to more problems.

Mr. Brislin then motioned to approve a new Resolution with the same verbiage as 2010-65, changing the hours from 25 to 35 per week, consistent with the personnel policy:

R 2010-70 RESOLUTION OF THE MAYOR AND COMMITTEE OF THE TOWNSHIP OF MONTAGUE ESTABLISHING THE MINIMUM WEEKLY HOURLY REQUIREMENT FOR FULL TIME STATUS IN THE STATE HEALTH BENEFITS PROGRAM.

Mr. Zitone seconded the motion, and upon roll call, the motion carried with a majority of the members present, Mayor Barbagallo abstaining.

R 2010-66 RESOLUTION OF THE MAYOR AND COMMITTEE OF THE TOWNSHIP OF MONTAGUE ESTABLISHING 25 HOURS AS THE WEEKLY WORK WEEK FOR CLERICAL EMPLOYEE IN THE TOWNSHIP CONSTRUCTION DEPARTMENT

Mr. Garofalo advised that in light of the last resolution, R2010-70, this resolution increasing the clerical employee's hours for health benefits no longer makes sense. Mr. Zitone motioned to table the Resolution. Mr. Brislin seconded, and upon roll call, the motion carried with a majority of the members present, Mayor Barbagallo abstaining.

R 2010-68 AMENDING RESOLUTION 2010-57 (LIQUOR LICENSE RENEWAL 2010-2011)

Mr. Brislin motioned to approve the Resolution. Mr. Zitone seconded, and the motion carried with a unanimous roll call vote of the members present.

R 2010-69 LIQUOR LICENSE RENEWAL 2010-2011

Mr. Brislin motioned to approve the Resolution. Mr. Zitone seconded, and the motion carried with a unanimous roll call vote of the members present.

### **NEW BUSINESS**

Volunteer of the Year - Mr. Brislin motioned to recognized Ruth Owen as 'Volunteer of the Year' for 2010. Mr. Zitone seconded. Mr. Brislin noted that Ms. Owen has been president of the Montague Seniors Citizens Club for the past five years and has been active in other volunteer activities. The motion carried with a unanimous roll call vote of the members present. The committee to determine the male 'Volunteer of the Year'.

Vacating a portion of Red Hill Road - Mayor Barbagallo indicated that a portion of this road was vacated in 1976. Mr. Garofalo recommended this be started over since the document produced was an introduction of an ordinance, not proof of final adoption. The Clerk advised the committee that the County wished to know if this was going to be recorded or not, that a title insurance company is looking into it, and that it had not been recorded with the County. Mr. Garofalo recommended that since no one knows what happened back in 1976, the Committee should think about it before taking action. Mr. Brislin motioned to table this matter until the next Committee Meeting. Mr. Zitone seconded with discussion. He asked what would be done in the meantime. Mayor Barbagallo responded that the planner, Harold Pellow & Associates, should be contacted. Mr. Ponce stated that the portion in question is at the bottom bend of the dirt road, going through the Conservatory and out to State land near Duck Pond and will never be used. With no one opposed to Mr. Brislin's motion, it carried with all present in favor.

### **UNFINISHED BUSINESS**

Sharon Yarosz - Re: Frances Biccum - Land Use Board 06-22 - Mr. Garofalo explained that this matter involves legal fees from the Land Use Board attorney William Haggerty for filling in for Ms. Yarosz as Land Use Board Secretary due to of a conflict of interest. Mr. Garofalo said he had spoken with Mrs. Yarosz and was told that the sitting committee at that time approved. Mr. Zitone motioned to pay Mr. Haggerty. Mr. Brislin seconded, and the motion carried with a unanimous roll call vote of the members present.

Mr. Brislin recognized Deputy Clerk Desrie Picinich for passing the State exam and obtaining certification as a Registered Municipal Clerk.

Economic Development Commission - Mr. Brislin indicated there are seven individuals interested in service on this Commission, three of whom are current members of the Land Use Board. He noted that Mark Krebs had correctly informed the Committee that the Commission had previously been abolished, and that an Ordinance needed to be adopted. He suggested that Glen Barbagallo, Gene Crawford, Jim Guimes, Emma Masset, Mark Krebs, Sheila Houghs, and himself prepare an Ordinance to re-create either an Economic Development Commission or Economic Development Committee. Asking members of the Committee if any were interested in serving, Mr. Zitone said he was, and Mr. Brislin made the appropriate motion to include him. Mr. Zitone seconded, and the motion carried unanimously by all present.

### **REPORTS**

DPW Reports 5/26, 6/15, 6/29 -

Mayor Barbagallo read highlights of the reports, including the repair of potholes in and around town.

Recreation -

Co-Chair of the Recreation Commission Meg Snyder requested authorization to spend \$383.25 for equipment, much of which will be used on Montague Day. Co-Chair Barbara Holstein added that the equipment will also be used for activities occurring not only on Montague Day but throughout the year. Mr. Zitone motioned to approve the request. Mr. Brislin seconded, and upon roll call the motion carried unanimously with the members present.

Barbara Holstein stated that since the inception of the current Commission, she has been asking where the money that was paid to Recreation for soccer and tee shirts went, and was told by Committeeman Teufert there was a fund, but not one the Commission could access. She stated that the Commission cannot account for those soccer items with the budgets they were given. Mr. Brislin stated there are three accounts, one of which is called *Recreation Department*, which shows ad sales for the Montague Day Book and Montague Day tee shirts.

The Clerk stated for the record that she had asked for the submission of all Recreation accounts and had received only two, that the account given to Mr. Brislin was totally different than what she received.

Ms. Holstein referred to the accounts as Accounts 1, 2 and 3. She stated that Account 1, *Recreation Account 2010*, shows a balance of \$5,805.45; Account 2, which they had been asking for since January and has just now surfaced, has a balance of \$3,689.00; and Account 3, *Recreation Reserve Funds*, with no explanation other than showing a balance forward, has a balance of \$8,650.00. She requested an investigation. Mayor Barbagallo stated there is absolutely no reason to have three accounts.

Mr. Ponce inquired as to who was asked for information on these accounts. The Clerk stated that Meg Snyder and Barbara Holstein requested the information, and that she went to Toni-Lu Martin, who gave her only two accounts. Ms. Snyder stated that they had been told by Mr. Teufert there was a trust fund, but were given no explanation as to what it was, where it was, or what was in it. She continued, that after requesting a meeting with Ms. Martin to explain what was in the account and what the funds could be used for, they were given virtually no information, adding that when they finally went to Ms. Martin's office to ask her, they were told the account did not exist.

Ms. Holstein stated that when she was in Ms. Martin's office, she was shown a ledger that had \$10,000 in it that was appropriated for a park, and was told that was the only account that could not be used. She added that the reason this is being brought to the Committee's attention is because it was her understanding that the monies left at the end of the 2010 budget year go back into the general fund, but that the monies earned from Recreation in the "trust account" with the \$3600 balance, can only go back into Parks and Recreation. Mayor Barbagallo said she would get an answer to her questions.

Mr. Brislin stated that he had obtained the latest account from Toni-Lu Martin, who was very cooperative and provided the information he specifically asked for, suggesting he speak with Gail Magura, CFO, to find out what the money could be used for. Mayor Barbagallo stated that unless someone comes up with a story that makes sense, all funds should be in one account. He explained that as volunteers for the town, whatever money is left from the budget is returned to the town, and the money should not be spread out like this.

Referring to the general ledgers of the account labeled *Recreation and Education O&E*, Ms. Holstein stated that going back through the years '06, '07, '08 and '09, the account shows no credits, no money coming in for any tee shirts sold, and no money from soccer, but the current 2010 ledger showing expenditures reflects a line item credit in the amount of \$117.00 for "overcharge on lumber - Recreation", the only credit shown in five years. She indicated that no lumber had ever been purchased. Mayor Barbagallo said you shouldn't argue over a credit, to which Ms. Holstein replied that if she's complaining that the money that is supposed to be credited to an account has not been credited, that she would certainly point out a credit that should not be there. Mayor Barbagallo stated there may be a perfectly good explanation for this, but that they would get to the bottom of it.

### **PUBLIC PARTICIPATION**

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

**Mark Venetti** introduced himself as the new president of Community Corporation of Highpoint, Inc. He indicated his desire to start a mutually beneficial relationship between CCHP and the Township. He asked that the Committee consider appointing a liaison to attend as many CCHP meetings as possible, while he or Mr. Jordan Denner will attend the Township Committee meetings. Mr. Brislin offered to attend, and Mayor Barbagallo expressed his interest in attending some meetings as well.

With no one else wishing to speak, Mr. Brislin motioned to close to the public. Mr. Zitone seconded, and the motion carried with all in favor.

Upon advice from counsel, the committee decided to discuss a matter scheduled for Executive Session in Regular Session.

Although admitting internal problems regarding the erroneous inclusion of items for 'Montague Day' in specifications for the Park & Ride project, Mayor Barbagallo indicated his displeasure over KSM Engineering's services over the past few years, citing failure to provide documentation, lack of responsiveness and failure to complete projects. He suggested using a different engineer for future projects instead of firing the firm. Mr. Garofalo advised that special engineers can be hired. Mayor Barbagallo suggested that the township use another engineer for any new projects, but was concerned about the Youngman project involving a retention pond overflow problem, and he believed KSM should stay with that one. Mr. Ponce stated that KSM can never finish what it starts. Mr. Zitone indicated that he had spoken with Mike O'Krepky of KSM regarding the Park & Ride project, and that the problem was that extras were added and the engineer from the Delaware Joint Toll Bridge Commission wants a drawing of each one. A discussion ensued among Mayor Barbagallo, Mr. Zitone and Mr. Ponce regarding problems with a generator, change orders and where the blame should be placed.

**Mark Utter** suggested one or two Committee members be immediately put in charge of the project and get it done. He indicated that from what he was hearing, it sounds like the cut sheets did not go from the electrician to the township engineer to be approved. Mayor Barbagallo stated there were two different generators, one quieter than the next, and a line running to the First Aid Squad building needed two breakers, and there was a question as to if it could be added. Mr. Utter stated that may be the problem, that the additional load may require a larger generator.

**Ted Brace** asked questions and made comments inaudible to this transcriber since he spoke from the back of the room. However, Mayor Barbagallo responded to his statements that no one submitted the specs of the generator to the 'Bridge', the 'Bridge' claimed they never got the specs for the generator, and that the contractor claimed no one told him which generator to use. He added that the quieter generator had been chosen, but was told it would be held only until June 30, after which the price would go up. He added that the inclusion of 'Montague Day' items on the specs caused additional problems and did not know who was responsible for that.

Mayor Barbagallo indicated that every time the contractor was called they got the same information "I can't get the information from the engineer". The Clerk stated the engineer does not return phone calls. Mr. Zitone said there should be a job meeting every week, and that the problems are arising from the change orders. Mayor Barbagallo replied that when there is a change order, it is the engineer who is the first to get it.

The Committee discussed whether to prepare a Rice Notice. Mr. Brislin motioned to send a Rice Notice to the engineer. Mr. Ponce seconded. Mr. Brislin suggested Mr. Zitone call to express the frustration the Committee is experiencing with his firm. On roll call the motion did not pass, with Mr. Brislin and Mr. Ponce voting yes, and Mr. Zitone and Mayor Barbagallo voting no. Mayor Barbagallo motioned to take a good look at the situation, see where we stand, and from there take an action.

**Mark Krebs** asked a question which was inaudible to this transcriber as he spoke from the back of the room. However, Mayor Barbagallo replied that 'he is not going to renege on what was done, rather what he didn't get the specs on or anything referring to 'Montague Day'. He stated that he had asked all of that be changed. Mr. Zitone asked who asked for the change orders. Mayor Barbagallo responded it was done at a meeting.

Mr Brislin motioned to enter Executive Session for the purpose of discussing an overtime issue with the Plumbing Inspector. Mr. Zitone seconded, and the motion carried with all present in favor.

## **RESOLUTION R 2010-67**

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

Mayor Barbagallo announced that the Executive Session discussion regarded overtime by a public official and how much to pay for his time during a court appearance. Mr. Zitone suggested \$100.00. Mr. Ponce seconded, and the motion carried with a unanimous roll call vote of the members present.

**ADJOURN**

With no further business to come before the Committee, Mr. Zitone motioned to adjourn. Mr. Brislin seconded, the motion carried with all in favor, and the meeting adjourned at 8:48 p.m.

**Respectfully Submitted:**

**Eileen DeFabiis, RMC  
Municipal Clerk**