

COUNCIL OF THE TOWNSHIP OF MONROE

MINUTES

REGULAR MEETING – MAY 5, 2014

The Council of the Township of Monroe met in the Municipal Building, 1 Municipal Plaza, for a Regular Meeting.

The Regular Meeting was Called to Order at 7:00 p.m. by Council President Gerald W. Tamburro with a Salute to the Flag.

UPON ROLL CALL by the Township Clerk, Sharon Doerfler, the following members of Council were present: Councilman Stephen Dalina, Councilman Michael Leibowitz, Councilwoman Elizabeth Schneider, Council Vice-President Leslie Koppel and Council President Gerald W. Tamburro.

ALSO PRESENT for Council: Mayor Richard Pucci, Business Administrator Wayne R. Hamilton, Township Attorney Joel L. Shain and Engineer Mark Rasimowicz.

There were approximately twenty (20) members of the Public present in the audience.

Council President Tamburro requested the Township Clerk to read the following **SUNSHINE LAW** into the record:

In accordance with the Open Public Meetings Act, it is hereby announced and shall be entered into the Minutes of this meeting that adequate notice of this meeting has been provided by the following:

1. Posted on January 3, 2014 on the Bulletin Board of the Office of the Township Clerk in the Municipal Building, 1 Municipal Plaza and remains posted at that location for public inspection;
2. Printed in the **HOME NEWS TRIBUNE** and **CRANBURY PRESS** on January 3, 2014;
3. Posted on the Bulletin Boards within the Municipal Complex;
4. Posted on the Monroe Township website; and
5. Sent to those individuals who have requested personal notice.

In accordance with Chapter 3, Section 17 of the Monroe Township Code, Public Comment shall be limited to five (5) minutes unless further time is granted by the Council President.

The following **PROCLAMATION** of Mayor Richard Pucci was read into the record:

***HOLOCAUST DAYS OF REMEMBRANCE
Sunday, May 4, 2014 – Sunday, May 11, 2014***

UPON MOTION made by Councilman Dalina and seconded by Councilman Leibowitz, the **CLAIMS** per run date of **04/24/2014** were approved for payment as presented.

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| ROLL CALL: Councilman Stephen Dalina | Aye |
| Councilman Michael Leibowitz | Aye |
| Councilwoman Elizabeth Schneider | Aye |
| Council Vice-President Leslie Koppel | Aye |
| Council President Gerald W. Tamburro | Aye |

UPON MOTION made by Councilman Leibowitz and seconded by Council Vice-President Koppel, the **Minutes** of the **March 31, 2014 Agenda Meeting** and **April 7, 2014 Regular Meeting** were approved as written and presented.

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| ROLL CALL: Councilman Stephen Dalina | Aye |
| Councilman Michael Leibowitz | Aye |
| Councilwoman Elizabeth Schneider | Aye |
| Council Vice-President Leslie Koppel | Aye |
| Council President Gerald W. Tamburro | Aye |

UPON MOTION made by Council Vice-President Leslie Koppel and seconded Councilwoman Elizabeth Schneider, an Ordinance, of which the following is the title, was moved on second reading for final passage: **ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK.**

ORDINANCE as follows: (O-5-2014-005)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to .5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Township Council of the Township of Monroe, in the County of Middlesex, finds its advisable and necessary to increase its **CY 2014** Budget by up to **3.5%** over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Township Council hereby determines that a **3.0%** increase in the budget for said year, amounting to **\$991,424.16** in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the Township Council hereby determines that any amount authorized hereinbelow that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Monroe, in the County of Middlesex, a majority of the full authorized membership of this governing body affirmatively concurring, as follows:

SECTION 1. In the **CY 2014** budget year, the final appropriations of the Township of Monroe shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5%, amounting to **\$1,156,661.52**, and that the **CY 2014** municipal budget for the Township of Monroe be approved and adopted in accordance with this ordinance; and

SECTION 2. Any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as a exception to final appropriation in either of the next two succeeding years; and

SECTION 3. A certified copy of this ordinance, as introduced, be filed with the Director of the Division of Local Government Services within five days of introduction; and

SECTION 4. A certified copy of this ordinance, upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

SECTION 5. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance shall be the same and are hereby repealed.

SECTION 6. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 7. This Ordinance shall take effect upon final passage and publication as provided by law.

Council President Tamburro opened the Public Hearing to Council and Public discussion of this Ordinance.

PUBLIC:

Robert Zeglarski, 162 Tournament Dr. – stated that this Ordinance, in its beginning paragraph states the Local Government Cap Law provides that in preparation for its' annual budget, the Municipality shall limit any increase in its budget to ½% unless authorized by Ordinance to increase it to up to 3.5 %. He stated he believes this is what this Ordinance is all about.

In the third paragraph it explains that the Township Council finds it necessary to increase the 2014 Budget up to 3.5 % over the 2013 Budget.

Section 1. of the Ordinance states that the final appropriations of the 2014 Budget will be increased by 3.5 % or \$1,156,662.00, almost \$1.2 million.

He asked for an explanation as to why we need an appropriations increase of 3.5 %.

Administrator Hamilton explained that once again, there are two different Caps; the levy Cap, which limits the amount to be raised from taxes from one year to the next and then there is the appropriations Cap. The law originally was a 5% appropriations Cap. They dropped it down to 3% and then you were allowed to go to 3.5%, which is what the town chose to do because every year you lose the amount you are allowed to bank from two years earlier. To keep the levels, in the event we get hit with something unexpected, the 3.52% rate is kept, which is actually what has been done in the past.

Hy Grossman, 15 Doral Dr. – agreed that we need to keep the difference in the tax levy vs. the appropriations in mind. They are two different Caps.

He asked for an update in the legislature on the extension of the limits on arbitration awards.

Administrator Hamilton explained that the law was allowed to lapse and the Senate passed a Bill unanimously and the Assembly Speaker & Governor are trying to work out a compromise and what is going to happen with the 2% Cap.

Maryann Lester, 44 Avenue I – referenced the general liability insurance, which went up \$55,000. She was told that this discussion is strictly on the Budget Cap Ordinance only.

Robert Roche, 18 Muirfield Blvd. – asked for further clarification. The appropriation is going up 3.5% as a precautionary measure in the subsequent year. When this appropriation goes up, the revenue and appropriations, this year, have to balance.

Administrator Hamilton repeated that we are talking two different things and reaffirmed that this is establishing a "Cap Bank" up to 3.5%. A municipality can bank the difference.

As Council Vice-President Koppel and Councilwoman Schneider regularly moved and seconded the adoption, an Ordinance of which the following is the title, was passed on Second Reading and Final Adoption: **ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK.**

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| ROLL CALL: | Councilman Stephen Dalina | Aye |
| | Councilman Michael Leibowitz | Aye |
| | Councilwoman Elizabeth Schneider | Aye |
| | Council Vice-President Leslie Koppel | Aye |
| | Council President Gerald W. Tamburro | Aye |

UPON MOTION made by Council Vice-President Koppel and seconded Councilman Dalina, an Ordinance, of which the following is the title, was moved on second reading for final passage: **ORDINANCE AMENDING CHAPTER 78 OF THE CODE OF THE TOWNSHIP OF MONROE ENTITLED “PERSONNEL POLICIES AND PROCEDURES”**.

ORDINANCE as follows: (O-5-2014-006)

BE IT ORDAINED by the Township Council of the Township of Monroe, County of Middlesex, State of New Jersey that Chapter 78 of the Monroe Township Code entitled “Personnel Policies and Procedures” be amended and supplemented as follows: (Bracketed [] text is to be [deleted] and **text in red** is in addition to existing text)

SECTION 1.

§ 78-42 Longevity.

Longevity is compensation for an employee’s years of service to the township and is provided to employees in accordance with applicable collective bargaining agreements.

For management/**non-union** personnel who are not covered by a collective bargaining agreement or individual employment contract, the following longevity compensation is provided in addition to any raise to which the employee may be entitled:

| | |
|------------------------------------|--------------------|
| Start of the 5 th year | 5% of base salary |
| Start of the 10 th year | 6% of base salary |
| Start of the 15 th year | 8% of base salary |
| Start of the 20 th year | 9% of base salary |
| Start of the 25 th year | 11% of base salary |

To receive this benefit an employee must be a full-time employee during each year of service for which they seek longevity pay and must continue as full-time employees to remain eligible.

Full-time Employee hired after June 1, 2014 shall no longer be eligible for longevity compensation.

SECTION 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance shall be and the same are hereby repealed.

SECTION 3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

SECTION 4. This ordinance shall take effect upon final passage and publication as provided by law.

SO ORDAINED, as aforesaid.

Council President Tamburro opened the Public Hearing to Council and Public discussion of this Ordinance.

PUBLIC:

Hy Grossman, 15 Doral Dr. – asked about the four (4) new hires for 2014.

Administrator Hamilton explained this Ordinance states that all new employees hired after June 1st will not be provided with the “Longevity Benefit” that are non-union employees.

Mr. Grossman asked if anyone is being hired between now and June 1st and Administrator Hamilton responded, possibly one (1).

Robert Zeglarski, 162 Tournament Dr. – stated that this Ordinance only affects management and non-union personnel hired after June 1st and asked if the contracts of union personnel already have ended this eligibility for longevity.

Administrator Hamilton would not comment as he is starting contract negotiations and right now, union personnel are entitled to the benefit.

As Council Vice-President Koppel and Councilman Dalina regularly moved and seconded the adoption, an Ordinance of which the following is the title, was passed on Second Reading and Final Adoption: **ORDINANCE AMENDING CHAPTER 78 OF THE CODE OF THE TOWNSHIP OF MONROE ENTITLED “PERSONNEL POLICIES AND PROCEDURES”**.

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|------------|--------------------------------------|-----|
| ROLL CALL: | Councilman Stephen Dalina | Aye |
| | Councilman Michael Leibowitz | Aye |
| | Councilwoman Elizabeth Schneider | Aye |
| | Council Vice-President Leslie Koppel | Aye |
| | Council President Gerald W. Tamburro | Aye |

Copy of the Ordinance Duly Filed.
O-5-2014-006

UPON MOTION made by Councilman Dalina and seconded by Councilman Leibowitz, an Ordinance, of which the following is the title, was moved on second reading for final passage: **ORDINANCE AMENDING CHAPTER 39 OF THE CODE OF THE TOWNSHIP OF MONROE ENTITLED “FEES”**.

ORDINANCE as follows: (O-5-2014-007)

BE IT ORDAINED by the Council of the Township of Monroe, County of Middlesex, State of New Jersey that Chapter 39 of the Code of the Township of Monroe is hereby amended as follows:

SECTION 1.

§ 39-1. Title.

§ 39-2. Purpose.

§ 39-3. Fees enumerated.

§ 39.4. Board of Education exemption.

§ 39-1. Title

This chapter shall be known as the “Codification of Fees and Costs of the Township of Monroe.

§ 39-2. Purpose

This chapter is adopted in order to advise the citizens of the township, and any and all persons doing business with the township, of the various fees charged for services rendered by the departments of township government and to provide ready access to any and all such information.

§ 39-3. Fees enumerated.

J. Monroe Township Utility Department fees and charges.

RATE SCHEDULE

PART 1 – SEWER SERVICE

SECTION A – DEFINITIONS

A “UNIT” shall be defined as follows:

1. Residential:
 - (a) Each single family dwelling.
 - (b) Each single family apartment dwelling in a multiple family structure or structures.
2. For users other than residential:, including each tenant in a non-residential building, an Equivalent Dwelling Unit of sewage flow shall be deemed to equal 140143 gallons per day of sewage flow. Example: 140143 gal/day x 365 days = ~~51,100~~ 52,195 gal/year = one unit.

SECTION B – ANNUAL SERVICE CHARGES

- | <u>Classification</u> | <u>Minimum Annual Service Charge</u> |
|---|--------------------------------------|
| 1. Residential (as defined in Section A (1) above). | \$259.00per unit |
| 2. All users other than residential: | |
| (a) For the first unit or portion thereof, a minimum annual service charge of \$259.00. | |
| (b) For those users whose quarterly sewage flow exceeds 12,775 gallons based on metered water consumption or actual sewage flow the rate shall be as follows: | |

| Quarterly usage (#of Gallons) | | Rates |
|---------------------------------------|--|---------------------------------------|
| From: | To: | |
| 0 | <u>12,775- 13,049</u> gallons per qtr. | \$64.75 per quarter |
| <u>12,775-13,049</u> gallons per qtr. | And over | \$64.75 plus \$5.68 per 1,000 gallons |

SECTION D – CONNECTION FEES AND CHARGES

1. The initial fees for the right to connect directly or indirectly to the Utility Department’s sewer system shall include a connection charge or fee per unit, as well as fees for applications, review, and inspection of work to be accomplished by the applicant in keeping with the Utility Department’s “Rules and Regulations Governing Applications to the Monroe Township Utility Department for Construction of Comprehensive Sewer Systems in the Township of Monroe.” These connection fees, which are one-time initial service charges for the right to connect to the Utility Department’s sewer system, are calculated in accordance with N.J.S.A. 40A:26A-11 and are an integral part of this Rate Schedule.

2. The connection fee for each unit shall be ~~\$2,974~~ \$3,022. Connection fees for single family homes not part of a real estate development are payable at the option of the applicant in two installments with the initial installment paid prior to the time of the connection and the second payment due within one year. Interest shall accrue and be due to the Utility Department 1% per month on the unpaid balance. In the case where the system is under construction but not yet available for connection, connection fees can be paid at the option of the applicant in two (2) installments without interest.

In the case of real estate developers, the connection fees for any development of ten (10) or less units shall be payable at the time of final approval.

In any development of more than ten (10) units, connection fees for the first ten (10) units shall be payable at the time of final approval with the balance of connection fees payable in groups of ten (10) units at a time in advance of the building permit.

PART II – WATER SERVICE

SECTION A – DEFINITIONS:

A. "UNIT" shall be defined as follows:

1. Residential
 - a) Each single family dwelling
 - b) Each single family apartment dwelling in a multiple family structure or structures.
2. Other than Residential: includes each tenant in a non-residential building, One Equivalent Dwelling Unit of potable water shall equal ~~493~~ 189 gallons per day of estimated water consumption or fraction thereof. In a building with more than one tenant or occupant, each separate tenant or occupant shall be calculated separately. Example: ~~493~~ 189 gal/day x 365 days = ~~70,445~~ 68,985 gal/year = one unit.
3. IRRIGATION: One equivalent unit of water used for irrigation shall equal ~~570~~ 476 gallons per day of water consumed or fraction thereof. Connection fees set forth in Section I shall be applicable.

SECTION I – CONNECTION FEES AND CHARGES

1. The initial fees for the right to connect directly or indirectly to the Utility Department's water system shall include a connection charge or fee as well as fees for application review and inspection of work to be accomplished by the applicant in keeping with the requirements of the Utility Department 's Rules and Regulations. These connection fees, which are one-time initial service charges for the right to connect to the Utility Department's water system, are calculated in accordance with NJSA 40A:31-11 and are an integral part of this Rate Schedule.
2. The potable water connection fee for each unit shall be ~~\$3,394~~ 3,322.00 and the irrigation connection fee shall be \$0.00. Connection fees for single family homes not part of a real estate development are payable at the option of the applicant in two (2) installments with the initial installation paid prior to the time of the connection and the second payment due within one year. Interest shall accrue and be due to the Utility Department at 1% per month on the unpaid balance. In case the system is under construction but not yet available for connection, connection fees can be paid at the option of the applicant in two (2) installments without interest. In the case of real estate developers, the connection fees for the development shall be payable at the time of final approval.

In any development of more than ten (10) units, connection fees for the first ten (10) units shall be payable at the time of final approval with the balance of connection fees payable in groups of ten (10) units at a time in advance of the building permit.

3. For a user other than residential with estimated potable water consumption in excess of 193 189 gallons per day and/or 579 476 gallons per day for irrigation, then the connection fee shall be based on the number of units as defined in Section A (2) above. Fractional number of units shall be calculated to the next highest unit.

SECTION 2. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance shall be and the same are hereby repealed.

SECTION 3. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 4. This Ordinance shall take effect twenty (20) days after passage, adoption and publication according to law.

SO ORDAINED, as aforesaid.

Council President Tamburro opened the Public Hearing to Council and Public discussion of this Ordinance.

PUBLIC:

Robert Zeglarski, 162 Tournament Dr. – commented on this Ordinance which amends Township Code and is specific to “Sewer and Water” Service. He proceeded to name the various changes and asked to what entity is the connection fee paid first.

Council President Tamburro explained that it is paid to the Utility Department.

He next asked how the Utility Department amassed \$46 million dollars in surplus from sewer connection fees which the town has used as a miscellaneous surplus over the past 5 years.

Administrator Hamilton explained that the amount of money that was amassed was over a multi-year period and they were reserving those funds for major capital improvements that the Utility Department was about to embark on when the Township took it over. The town made a decision that it would not be fair to the current residents to have those improvements made that would last 20-30 years. Due to the state of the economy, some of those funds were used for tax appeals. He also pointed out that those funds not only included water & sewer connection fees but cash surplus.

Mr. Zeglarski then mentioned the potable water connection fee of \$3,322 asking why is it so much more than sewer connection fees.

Council President Tamburro stated that Mr. Barnes, the MTUD Director will talk about this but also noted that the rates change annually as required by State Statutes.

Mr. Barnes explained what the connection fees are based on, which the Utility is mandated to annually change the value of the system by the number of connections.

As Councilman Dalina and Councilman Leibowitz regularly moved and seconded the adoption, an Ordinance of which the following is the title, was passed on Second Reading and Final Adoption: **ORDINANCE AMENDING CHAPTER 39 OF THE CODE OF THE TOWNSHIP OF MONROE ENTITLED “FEES”**.

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| ROLL CALL: | Councilman Stephen Dalina | Aye |
| | Councilman Michael Leibowitz | Aye |
| | Councilwoman Elizabeth Schneider | Aye |
| | Council Vice-President Leslie Koppel | Aye |
| | Council President Gerald W. Tamburro | Aye |

UPON MOTION made by Councilman Leibowitz and seconded by Councilman Dalina, an Ordinance of which the following is the title was introduced on first reading for final passage:
ORDINANCE RELEASING, VACATING AND EXTINGUISHING ANY AND ALL PUBLIC RIGHTS IN AND TO PORTIONS OF FULTON STREET AND LIBERTY STREET.

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| ROLL CALL: | Councilman Stephen Dalina | Aye |
| | Councilman Michael Leibowitz | Aye |
| | Councilwoman Elizabeth Schneider | Aye |
| | Council Vice-President Leslie Koppel | Aye |
| | Council President Gerald W. Tamburro | Aye |

Councilman Leibowitz asked if this is a paper street that is being vacated and Engineer Rasimowicz stated that both Fulton and Liberty are paper streets.

Copy of the Ordinance Duly Filed.

Council President Tamburro asked for a Motion to open the Public Hearing on the 2014 Municipal Budget as introduced on April 7, 2014.

UPON MOTION made by Councilman Leibowitz and seconded by Council Vice-President Leslie Koppel the Public Hearing was opened on the 2014 Municipal Budget.

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| ROLL CALL: | Councilman Stephen Dalina | Aye |
| | Councilman Michael Leibowitz | Aye |
| | Councilwoman Elizabeth Schneider | Aye |
| | Council Vice-President Leslie Koppel | Aye |
| | Council President Gerald W. Tamburro | Aye |

Mayor Pucci – complimented the Business Administrator, Chief Financial Officer and the Council Members for the effort put forth in putting the budget together.

He proceeded to mention the various facts/situations that have confronted the town for the past 5 years and the impacts made on our residents.

Business Administrator Hamilton – Gave statistical back-up to what the Mayor pointed out.

Public:

Hy Grossman, 15 Doral Dr. – Commended the Mayor on his statements. He stated he is very worried about the binding arbitration Cap expiring and the impact it will have on municipalities.

He next touched on the commercial tax appeals being an unknown element.

An item of interest he found in the budget is compensated absences in the amount of \$2,702.00 in various Departments. In the 2013 budget there are reserves in the amount of \$332,000 and in 2014 the number is \$2,000. Administrator Hamilton explained the numbers.

Maryann Lester, 44 Avenue I – asked why the General Liability Insurance line is increased to \$55,000 in one year.

Administrator Hamilton explained it is also inclusive of most of the commercial lines of insurance. As a result of the Hurricane Irene & Sandy experiences, every government entities' insurance has increased.

UPON MOTION made by Councilman Dalina and seconded by Councilman Leibowitz the Public Hearing on the 2014 Municipal Budget was Closed at 7:20pm.

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| ROLL CALL: | Councilman Stephen Dalina | Aye |
| | Councilman Michael Leibowitz | Aye |
| | Councilwoman Elizabeth Schneider | Aye |
| | Council Vice-President Leslie Koppel | Aye |
| | Council President Gerald W. Tamburro | Aye |

UPON MOTION made by Councilman Leibowitz and seconded by Council Vice-President Leslie Koppel, the 2014 Municipal Budget that was introduced on April 7, 2014 was Adopted.

ROLL CALL: Councilman Stephen Dalina Aye
Councilman Michael Leibowitz Aye
Councilwoman Elizabeth Schneider Aye
Council Vice-President Leslie Koppel Aye
Council President Gerald W. Tamburro Aye

R-5-2014-115 RESOLUTION AUTHORIZING THE ADOPTION OF THE 2014 MUNICIPAL BUDGET.

Copy of Resolution Duly Filed.

Under the Consent Agenda, Council Vice-President Leslie Koppel wanted an update regarding Item #15.w. – Forsgate Drive, Applegarth Rd and Links Drive Intersection Improvements, asking who the bid was awarded to and when will the work begin.

Administrator Hamilton explained that money was certified in a few Ordinances that apply to this intersection. The award is for \$694,988.63 to Top-Line Construction. They were one of six bidders. The County share of this is in excess of \$521,000.

Engineer Rasimowicz stated that work will start once the contracts are in place, which is approximately 6-8 weeks. It is about a 3 month long project.

Administrator Hamilton also stated that when the Capital Ordinances are introduced in the month of June, they will have to amend the original Ordinance and to recognize the 75% contribution from Middlesex County.

UPON MOTION made by Councilman Dalina and seconded by Councilman Leibowitz, the following entitled Resolutions were moved for adoption under the **CONSENT AGENDA**, as hereinbelow set forth:

ROLL CALL: Councilman Stephen Dalina Aye
Councilman Michael Leibowitz Aye
Councilwoman Elizabeth Schneider Aye
Council Vice-President Leslie Koppel Aye
Council President Gerald W. Tamburro Aye

RESOLUTIONS adopted under the **CONSENT AGENDA** are as follows:

R-5-2014-116 RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING HOMEOWNERSHIP ASSISTANCE LOAN REPAYMENT AGREEMENT WITH THE OWNER OF AN AFFORDABLE HOUSING UNIT LOCATED AT BLOCK 14.11, LOT 1- CO23D.

R-5-2014-117 RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING HOMEOWNERSHIP ASSISTANCE LOAN REPAYMENT AGREEMENT WITH THE OWNER OF AN AFFORDABLE HOUSING UNIT LOCATED AT BLOCK 14.11, LOT 1-CO33D.

R-5-2014-118 RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING HOMEOWNERSHIP ASSISTANCE LOAN REPAYMENT AGREEMENT WITH THE OWNER OF AN AFFORDABLE HOUSING UNIT LOCATED AT BLOCK 14.11, LOT 1-CO69D.

R-5-2014-119 RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING HOMEOWNERSHIP ASSISTANCE LOAN REPAYMENT AGREEMENT WITH THE OWNER OF AN AFFORDABLE HOUSING UNIT LOCATED AT BLOCK 1.14, LOT 65.1-C1182.

R-5-2014-120 RESOLUTION AUTHORIZING RELEASE OF CASH PERFORMANCE GUARANTEE AND ESCROW FEES POSTED FOR KENNETH WARD (PB-1091-10).

- R-5-2014-121 RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES POSTED FOR ROBERT YOUNG (PB-1096-11)
- R-5-2014-122 RESOLUTION GRANTING ADVICE AND CONSENT TO THE RE-APPOINTMENT OF MARK REMSA AS PLANNING CONSULTANT TO THE OPEN SPACE AND FARMLAND PRESERVATION COMMISSION.
- R-5-2014-123 RESOLUTION REFUNDING THIRD PARTY LIEN PREMIUM PAYMENT.
- R-5-2014-124 RESOLUTION REFUNDING TAX OVERPAYMENTS.
- R-5-2014-125 RESOLUTION AUTHORIZING AWARD OF CONTRACT TO HATCH MOTT MACDONALD FOR PROFESSIONAL SERVICES FOR 2014 WATER SYSTEM MASTER PERMIT UPDATE FOR THE MONROE TOWNSHIP UTILITY DEPARTMENT ("M.T.U.D.").
- R-5-2014-126 RESOLUTION AUTHORIZING AWARD OF CONTRACT TO HATCH MOTT MACDONALD FOR PROFESSIONAL SERVICES FOR WATER SYSTEM HYDRAULIC MODEL CALIBRATION FOR THE MONROE TOWNSHIP UTILITY DEPARTMENT ("M.T.U.D.").
- R-5-2014-127 RESOLUTION AUTHORIZING THE BUSINESS ADMINISTRATOR TO PREPARE AND ADVERTISE REQUEST FOR QUALIFICATIONS ("RFQ's) FOR PROFESSIONAL MANAGEMENT AND SUPPORT SERVICES FOR THE MONROE TOWNSHIP UTILITY DEPARTMENT ("M.T.U.D.")
- R-5-2014-128 RESOLUTION AUTHORIZING AND GRANTING PERMISSION TO THE MONROE TOWNSHIP DEPARTMENT OF RECREATION TO CONDUCT A PUBLIC DISPLAY OF FIREWORKS. (July 4, 2014 in Thompson Park)
- R-5-2014-129 RESOLUTION AUTHORIZING AWARD OF BID FOR FEDERAL ROAD IMPROVEMENTS AND GUIDE-RAIL INSTALLATION.
- R-5-2014-130 RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE GUARANTEES POSTED FOR MONROE TOWN PLAZA – WAWA (PB-1118-12).
- R-5-2014-131 RESOLUTION AUTHORIZING AWARD OF CONTRACT TO JOHNSON, MIRMIRAN & THOMPSON, INC. FOR ENGINEERING SERVICES FOR THE MONROE TOWNSHIP UTILITY DEPARTMENT ("M.T.U.D.").
- R-5-2014-132 RESOLUTION OF THE MONROE TOWNSHIP COUNCIL PROVIDING ITS SUPPORT TO THE DESIGNATION OF FEDERAL ROAD, A MUNICIPAL ROADWAY, BEING UTILIZED AS PART OF THE DETOUR ROUTES DURING THE TEMPORARY CLOSING OF PERRINEVILLE ROAD (CR625) BETWEEN FEDERAL ROAD AND DEY GROVE ROAD FOR PURPOSES OF CONSTRUCTION TO BRIDGE 5-B-131 AND CULVERTS 5C-123 AND 5C-124 WITHIN THE TOWNSHIP OF MONROE, COUNTY OF MIDDLESEX.
- R-5-2014-133 RESOLUTION AUTHORIZING AWARD OF CONTRACT TO RYCON SOLUTIONS FOR HEALTH PHYSICS CONSULTING SERVICES FOR THE MONROE TOWNSHIP UTILITY DEPARTMENT ("M.T.U.D.").
- R-5-2014-134 RESOLUTION GRANTING PERMISSION TO MAKE-A-WISH FOUNDATION TO CONDUCT A DISPLAY OF FIREWORKS.
- R-5-2014-135 RESOLUTION AUTHORIZING PAYMENT OF ADDITIONAL FEES TO SHAIN, SCHAFFER & RAFANELLO, P.C. RELATED TO REPRESENTATION OF THE TOWNSHIP IN THE MATTER OF A DISPUTE WITH ARCO CONSTRUCTION, INC. REGARDING CONSTRUCTION OF THE MONROE SENIOR CENTER AS EXTRAORDINARY LITIGATION.

- R-5-2014-136 RESOLUTION AUTHORIZING MODIFICATION TO A PROFESSIONAL SERVICE CONTRACT AWARDED TO REALTY APPRAISAL COMPANY FOR A COMPLETE REVALUATION OF ALL REAL PROPERTY IN THE TOWNSHIP OF MONROE, MIDDLESEX COUNTY.
- R-5-2014-137 RESOLUTION AUTHORIZING AWARD OF BID FOR AN ADULT MINI BUS FOR THE MONROE TOWNSHIP OFFICE OF SENIOR SERVICES.
- R-5-2014-138 RESOLUTION AUTHORIZING AWARD OF BID FOR FORSGATE DRIVE, APLEGARTH ROAD AND LINKS DRIVE INTERSECTION IMPROVEMENTS.
- R-5-2014-139 RESOLUTION AUTHORIZING THE EXECUTION OF A LICENSE AGREEMENT WITH E. I. DU PONT DE NEMOURS AND COMPANY TO ENTER INTO A PORTION OF THE PROPERTY COMMONLY KNOWN AS PLOT "D" IN BLOCK 2500, AS SHOWN ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF OLD BRIDGE, MIDDLESEX COUNTY, NEW JERSEY FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, OPERATING AND MAINTAINING THEREON A FORCE SEWER MAIN.

Council President Tamburro read the legal opinion from Shain, Schaffer & Rafanello in regard to using surplus funds generated from the MTUD into the record.

LETTER AS FOLLOWS

SHAIN, SCHAFFER & RAFANELLO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
(908) 953-9300
FAX (908) 953-2969

SUITE 105
150 MORRISTOWN ROAD
BERNARDSVILLE, NEW JERSEY 07924
REPLY TO BERNARDSVILLE OFFICE

NEW YORK OFFICE
872 MADISON AVENUE, SUITE 2A
NEW YORK, NEW YORK 10021

May 5, 2014

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

VIA EMAIL & REGULAR MAIL

Wayne Hamilton, Business Administrator
Township of Monroe Municipal Complex
1 Municipal Plaza
Monroe Township, New Jersey 08831-1900

Re: Use of Surplus Funds Generated from MTUD

Dear Mr. Hamilton:

You have asked us to review the legal implications of a request that the Township use surplus funds from the Monroe Township Utility Department ("MTUD") to fund capital improvements for the Monroe Township School District ("District") and/or service the District's debt. We have researched the applicable law and find that such use of surplus funds is not allowed.

The Monroe Township School District is a separate independent governmental unit governed by its duly elected Board of Education. The District is subject to the State Education Law, N.J.S.A. 18A et. seq., which was enacted by the Legislature pursuant to the State's Constitutional mandate, Article VIII, Section IV of the New Jersey Constitution, to provide "a thorough and efficient" free public school system. The District develops its own budget, which is subject to voter approval when the 2% levy cap is exceeded. Thus, the Township's budgeting process is separate and distinct from the school district's budgetary process.

In developing its budget, the Township is constrained by Municipal Law, Title 40, and the Local Budget Law, N.J.S.A. 40A:4-1 et. seq. Municipal Law only allows the transfer of "unappropriated" surplus funds from a municipality to its school district. N.J.S.A. 40:48-17.1. Transferred funds must be identified in the annual municipal budget. Thus, such a transfer cannot be made until the fiscal year after the surplus has been realized.

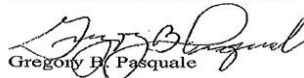
Mr. Wayne Hamilton, Business Administrator
May 5, 2014
Page 2

The MTUD surplus, however, is not an "unappropriated" surplus. Specifically, N.J.S.A. 40A:4-62 restricts the spending of funds generated by "the operation of publicly owned or operated utility" to the operation and upkeep of the utility. When the operation of the utility results in a surplus, N.J.S.A. 40A:4-35 provides that the Township may include some or all of the surplus as "miscellaneous revenue" in the Municipal budget. When the operation of the MTUD results in a deficit, however, the Township is required to include an appropriation for that deficit in its budget. Id. Thus, the monies generated by the MTUD are allocated funds and may not be transferred to the School District.

Finally, even if the transfer of MTUD funds were allowed under the law, which it is not, the School District could not use the funds for capital improvements. N.J.S.A. 18A:22-45 specifically restricts the use of transferred surplus funds to: i) the service of bonded debt; ii) the payment for bonded projects in lieu of issuing bonds for the project; iii) the retirement of bonds; and iv) the payment of the School Board's general fund expenses not to exceed \$50,000.00.

Very truly yours,

SHAIN, SCHAFFER & RAFANELLO, P.C.



Gregory B. Pasquale

GBP:dal

cc: The Honorable Richard Pucci, Mayor (via email)
The Honorable Gerald W. Tamburro, Council President (via email)
George Lang, Finance Officer (via email)
Sharon Doerfler, Clerk (via email)

Mayor - No Report

Administrator – No Report

Engineer – No Report

Council:

Councilman Leibowitz – No Report

Councilman Dalina – gave an update on Mikey Nichols. He celebrated his 18th Birthday last weekend with family & friends. He explained that he and Council President Tamburro met at the Nichols house along with the Nichols, Jack MacNaboe, from the Construction office, and a family friend Steve Savino, who is an Architect, regarding upgrades to be made to the house in order to meet Mikey's needs. Recommendations were made by the Kestler Institute on how to prepare the home. Councilman Dalina advised they will be reaching out to the community to enhance the house in order to get Mikey home. Mikey's plans are to attend the Prom and his High School graduation. A Trust Fund is will be available by the end of the week for all donations.

Council President Tamburro added that what was being done at present is Phase 1, which is getting him into the house and working on the living quarters. Phase 2 will be an exercise room for re-hab.

Councilwoman Schneider – No Report

Council Vice-President Koppel – Thanked the Administrator and Mayor for all their hard work on the Budget.

She spoke about a recent 60 Minute Show where people are living into their 90's & 100's and reflected on our many Retirement Communities and the possibility of their living in Monroe for possibly 3 decades. She recognized that many of our seniors are active in the community and recommends that many more embrace the town and volunteer.

She next stated that she received a letter from the Watershed Assn. commenting on the 117 volunteers who participated in the clean-up. It was by far the largest amount of volunteers the Association has seen at any clean-up event in any Township ever.

Council President Tamburro stated that the State finally re-established COAH and came out with housing requirements for each of the towns in the State. Our professional Planner, Mark Remsa, has not been able to review it completely yet, but it looks like a lower number than before. We are not quite sure how much credit they gave us for the past years. He will have a better understanding of that within the next few weeks and will possibly give an update at the June Meeting.

PUBLIC:

Robert Roche, 118 Muirfield Blvd. – asked if the legal opinion can be posted on the website and Council President Tamburro stated it will be posted tomorrow.

Mr. Roche also spoke about the excessive spike in land values. His land value went up 300%. The building did not go up all that much. Council President Tamburro advised him to see the Tax Assessor.

Hy Grossman, 15 Doral Dr. – questioned Item #15.u. – Modification to a contract for Realty Appraisal Company.

Administrator Hamilton responded that when the project was awarded it was for \$1,195,265. Through the course of the revaluation, there was a 4.6% increase in the line item growth in the township. As a result, it brings a \$55,000 modification.

Mr. Grossman next asked that status of the traffic light on Routes 522 & 613.

Administrator Hamilton explained that he has good news. The one piece of property in bankruptcy has finally been resolved. The Deed was recorded with the County today. There is one last property owner that is not co-operating, therefore we are filing for condemnation.

Mark Klein, 7 Crenshaw Court – complimented Administrator Hamilton on the budget. He noted that when all the tax appeals were paid, 62% of that money was for the schools. He also mentioned the many problems encountered by the town with flooding and numerous snow storms and yet no additional debt was incurred.

He also mentioned how Mayor Pucci was the first and only Mayor to buy back properties uninhabitable due to Super Storm Sandy.

On Items #15.a.,b.,c. & d. he asked if they were affordable housing and if they were loans and to whom have they been given. He was not given the names of the individuals, but rather, was told the communities in which the units are located.

He then questioned the new Affordable Housing requirements which were explained by Council President Tamburro.

Mary Ann Lester, 44 Avenue I – questioned Item #15.t. – Administrator Hamilton explained it is a Modification to a Professional Service contract awarded to Shain, Schaffer & Rafanello for representing the Township in a dispute with Arco Construction/Senior Center Project, in the amount of \$50,000.

She next questioned Item #15.v. – Mini Van for the seniors, asking the cost and if it is a replacement or an additional van. Administrator Hamilton explained it is a replacement and was awarded to Alliance Bus in the amount of \$52,150.

Next she asked the cost of operating the Monroe Township Utility Department and Administrator Hamilton responded “over 14,946,665.

Gary Busman, 7 Monarch Rd. – mentioned that the Stonebridge Mens Club has dedicated a major portion of their proceeds from their August 2014 Golf Tournament to Mikey Nichols.

Robert Zeglarski, 162 Tournament Dr. – watched the Mayor’s TV Program and commented on our Public Library and how he was pleasantly surprised to discover the very comprehensive Library that Monroe does have. He has also attended the many Programs that they offer.

He next mentioned that he requested a copy of a Resolution granting advice & consent to the re-appointment of Mark Remsa as the Planning Consultant to Open Space and Farmland Preservation Committee and was told Resolutions are not available to the Public until acted upon by Council.

Council President Tamburro explained that Resolutions are works in progress until they are passed at a Council Meeting. They can be obtained tomorrow.

Mr. Zeglarski then cited a Bergen County Superior Court Assignment Judges’ opinion on this matter where he ruled that the Midland Park Board of Education, which posts its’ Public Meeting Agendas on-line prior to each meeting, must also post the attachments and supplemental documents.

He stated he would like to review Resolutions after the Agenda Meeting.

Michele Arminio, 9 Nathaniel St. – stated that the Agenda Meeting has the same Resolutions on as the Regular Meeting. She does not see the harm in having the public see them.

She pointed out that if the town gets correspondence, should it not be read at the beginning of each meeting. It would be public record.

Council President Tamburro stated they will take it under advisement.

Administrator Hamilton added that he did not feel that this would be humanly possible.

She next spoke on COAH. Her understanding is that the developments that are pending now with affordable housing units in them, that they would not be satisfying the previous COAH responsibility. Is this correct?

Council President Tamburro stated this is what Mr. Remsa is looking into. He also stated that we were given double credit for certain kinds of housing, which also needs to be verified.

She next stated that the Planning Board & Council are responsible for the developments and changes in Ordinances that perpetuate and expand the development potential in Monroe. The high density stuff that is bringing more kids into the school system is 100% on the Planning Board and the Township Council. The fees and the costs that are incurred then go to the Board of Ed and they have no control over how many people they are getting. She again appeals to the Planning Board and Council to think carefully about the high density development that is being thrust onto the Township as a whole.

Steve Gorbe, 113 Gravel Hill-Spotswood Rd. – stated that Chapter 108-5-22 regarding Domesticated Animals was last amended 3/2/1992. He feels this Ordinance should be reviewed and updated. We are no longer a domesticated farm animal Township. Gone are the dairy farms, chicken farms & swine farms. Many of the farms have been turned into retirement communities, commercial properties, residential developments, green acres, school, ball fields, senior center and fire stations. Residents that do not live in retirement communities should not be at the mercy of inconsiderate individuals who operate under an obsolete-outdated Ordinance.

Mr. Gorbe next asked why the Fire Consolidation Meeting was cancelled. Administrator Hamilton responded that Councilman Leibowitz, the Council liaison to the Study, was out of town. Mr. Gorbe stated he feels this is being pushed off.

Councilman Leibowitz explained that the meeting date was decided upon when he was away and therefore could not attend. There are many people whose schedules must be coordinated.

Virginia McGinnis, 326A Nantucket Lane – She believes the tri-party agreement has been signed as of last week, to which Administrator Hamilton agreed,

She proceeded to read an article from the Rossmoor News. She also outlined the events that took place April 30th, asking what is being done to fix the storm drainage system.

Administrator Hamilton read an e-mail received from Jane Baumer who gave the facts & figures of what was pumped from Rossmoor.

Mr. Horbatt from DPW explained that he was in continuous communication with Rossmoor and Wayne Hamilton and pro-active measures were taken with the problem. The Utility Dept. was called in to mobilize their large pump. The flooding was prevented.

Steve Riback, 23 Riviera Dr. – spoke on the impact fiscal analysis presented to the Planning Board by JSM with regard to the understating of the numbers of expected students and overstating the anticipated tax revenue. The Planning Board had its own Demographer do a report and he believes a lot of the Planning Board Members expressed disappointment in that Report. The School Board had a Report done and it seemed to be the most realistic of the three. He asked if there was any way there could be a set standard so that if a developer wants to come into this town and build a development, his impact analysis must meet a certain level of standards. Council President Tamburro indicated that he read all three Reports and each seemed clouded.

Engineer Rasimowicz implied that the Planning Board requested that the three Reports be done with strict criteria. The numbers did come up higher but did not reach the numbers that the Board of Ed Demographer had. Developing a standard, as Mr. Riback requested, is something that would be taken up with the Planner at the Planning Board level.

UPON MOTION made by Councilman Dalina and seconded by Councilman Leibowitz, the meeting was Adjourned at 8:40pm.

| | | |
|------------|--------------------------------------|-----|
| ROLL CALL: | Councilman Stephen Dalina | Aye |
| | Councilman Michael Leibowitz | Aye |
| | Councilwoman Elizabeth Schneider | Aye |
| | Council Vice-President Leslie Koppel | Aye |
| | Council President Gerald W. Tamburro | Aye |

SHARON DOERFLER, Township Clerk

GERALD W. TAMBURRO, Council President

Minutes were adopted on June 4, 2014