

Approved: December 28, 2021

## **MONTAGUE TOWNSHIP COMMITTEE MEETING**

### **MINUTES**

**December 14, 2021**

**7:00 PM**

#### **OPENING STATEMENT**

Mayor Innella called the Montague Township Committee meeting to order at 7:05 p.m. after the Board of Health Meeting announcing that adequate notice had 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 the meeting according to the Open Public Meetings Act.

#### **FLAG SALUTE**

The Pledge of Allegiance commenced at the Board of Health Meeting prior to the Township Committee Meeting.

#### **ROLL CALL**

Present were: Ms. Martin, Mr. Merusi, Mr. Zitone and Mayor Innella  
Also present was Municipal Clerk Eileen DeFabiis and Municipal Attorney Rob Rossmeissl

Excused: Ms. Crawford

**MINUTES** Ms. Martin made a motion to table the approval of the Regular and Executive Session Meeting Minutes of November 23, 2021. Mr. Merusi seconded and the motion carried with a unanimous voice vote.

#### **ORDINANCES** (First Reading)

2021-18 AN ORDINANCE TO AMEND CHAPTER 54B OF THE CODE OF THE TOWNSHIP OF MONTAGUE, COUNTY OF SUSSEX, STATE OF NEW JERSEY, IN ORDER TO ESTABLISH RESTRICTIONS ON THE RENTAL OF RESIDENTIAL DWELLING UNITS FOR PERIODS OF SIXTY ('60') DAYS OR FEWER

Ms. Martin asked for clarification of draft Ordinance 2021-18, page 3, and section 3 regarding multi-family dwellings. Attorney Rossmeissl clarified that this section was included in case there ever is a multi-family dwelling that does not fall within the R-4 Zone. He added that on page 4, section 6 you can clearly see that short-term rentals of any property are strictly prohibited in the R-4 Zone. Ms. Martin added that in her opinion she would like to see section 3 of page 3 removed from the final version of Ordinance 2021-18. Mr. Zitone added that it was his understanding that they did not want the multi-family to be included because of the hardship that it could cause between neighbors within the complex. Attorney Rossmeissl further added that this provision could come off a little confusing because it is prohibiting short-term rentals in R-4, but it can seem like multi-family units can be rented as short-term rentals. Additionally the provision actually makes it more difficult to rent a multi-family as a short-term rental because if the provision was removed then down the line a multi-family unit was built outside of the R-4 Zone then there would not be the provision within the Ordinance requiring consent of all occupants. The Committee agreed to leave this provision in the Ordinance.

The Committee members then discussed the licensing fees, which was then decided to lower the fees to \$750 for the application fee and \$350 for the annual renewal fee.

Mr. Zitone made a motion to approve Ordinance 2021-18 with the above referenced change. Mr. Merusi seconded, and the motion carried with a unanimous roll call vote.

#### **ORDINANCES** (Second Reading)

2021-19 AN ORDINANCE OF THE TOWNSHIP OF MONTAGUE, COUNTY OF SUSSEX, STATE OF NEW JERSEY, PROVIDING FOR THE PURCHASE OF A 2022 FREIGHTLINER FOR THE TOTAL COST OF \$220,000.00, APPROPRIATING A SUM OF \$220,000.00 FROM THE CAPITAL IMPROVEMENT FUND IN THE CAPITAL TRUST

Mr. Zitone made a motion to approve this Ordinance. Mr. Merusi seconded. Mr. Merusi made a motion to open to public for discussion regarding Ordinance 2021-19. Mr. Zitone seconded, and the motion carried with a unanimous voice vote.

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With no comment from the public, Mr. Merusi made a motion to close to public. Mr. Zitone seconded, and the motion carried with a unanimous voice vote.

Municipal Clerk DeFabiis then called the roll, and the motion to approve Ordinance 2021-19 Carried with a unanimous roll call vote.

2021-20            AN ORDINANCE TO AMEND CHAPTER 53B OF THE CODE OF THE TOWNSHIP OF MONTAGUE, COUNTY OF SUSSEX, STATE OF NEW JERSEY, IN ORDER TO ENHANCE THE TOWNSHIP'S AUTHORITY TO ENFORCE ITS PROPERTY MAINTENANCE CODE

Attorney Rossmessl expanded upon this Ordinance and explained the provisions included within. Mr. Zitone made a motion to approve this Ordinance. Mr. Merusi seconded. Mr. Merusi made a motion to open to public for discussion regarding Ordinance 2021-20. Ms. Martin seconded, and the motion carried with a unanimous voice vote.

Tasha DeGeorge – Sleepy Hollow Road – Ms. DeGeorge commented that not even two-weeks ago a home burnt down in Port Jervis, New York and they already have it demolished with grass planted. It is ridiculous that Montague has been going on with the same houses for so long, what authority do they have in Port Jervis that the Township cannot do here?

Nina Fradl – Deckertown Turnpike – Ms. Fradl asked what the worst-case scenario with these hearings is. If the owner shows up to the hearing, can they keep delaying and delaying? Attorney Rossmessl replied saying the owner has a chance to make a pleading at the hearing before the enforcing officer, explaining their plans to abate the nuisance themselves. If an owner was noticed with a complaint and came to the hearing and didn't deal with the issue and were then summoned for a second time then in this type of scenario the Township would have the authority to take care of the issues itself because of the noncompliance even though someone has responded to the complaint.

Edison Avecillas – River Road – Mr. Avecillas asked who would be the official who presides over these hearings. Attorney Rossmessl replied saying it would be the Enforcement Officer, which could be either the Zoning Official or Construction Official. Mr. Avecillas asked if it would be possible to have someone in-between those, such as a Committee Member or Mayor. Attorney Rossmessl explained that according to state statute it must be an Official with the Township. Mr. Avecillas then asked if a structure is deemed unfit and eventually the Township clears the property. The value in these properties would be majorly depending on whether or not the potential buyer could rebuild on the lot, so would it be necessary that they keep some part of the foundation or the structure so that lot does not lose the value of being a buildable lot? Attorney Rossmessl said that with this Ordinance the Township has the ability to designate a dangerous condition and determine what needs to be done to abate that dangerous condition and then to abate. Therefore, if the Enforcing Official determines that leaving up a foundation or a partial structure is still dangerous then it would not be allowed. Mr. Avecillas said if a potential buyer has to jump through all the hoops of getting approvals and/or a variance to build on the lot they more than likely will not do so even if it is clean. It would be more appealing and valuable if the lot already has approvals and has a partial structure such as a foundation intact. Attorney Rossmessl lastly added that there is nothing in the Ordinance that does not allow the Enforcing Officer to determine it is okay to leave a partial structure or foundation it will simply be up to their discretion.

With no further comment from the public, Mr. Merusi made a motion to close to public. Ms. Martin seconded, and the motion carried with a unanimous voice vote.

Municipal Clerk DeFabiis then called the roll, and the motion to approve Ordinance 2021-20 Carried with a unanimous roll call vote.

#### **APPROVAL OF CONSENT AGENDA**

All items listed within an asterisk (\*) are considered to be routine and non-controversial by the Township Committee and will be approved by one motion. There will be no separate discussion of these items unless a Committee member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

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Ms. Martin made a motion to approve the Consent Agenda. Mr. Merusi seconded, and the motion carried with a unanimous roll call vote for all Resolution Items and with Mr. Zitone abstaining from the approval of the Vouchers.

**CONSENT AGENDA**

**Vouchers**

**RESOLUTIONS**

2021-121	COMPUTER SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT FOR YEAR 2022
2021-122	DEER CARCASSES REMOVAL SERVICE AGREEMENT FROM JANUARY 1, 2022 THROUGH DECEMBER 31, 2022
2021-123	RESOLUTION AWARDDING CONTRACT TO R&L DATACENTERS, INC. FOR PAYROLL SERVICES FROM JANUARY 1, 2022 THROUGH DECEMBER 31, 2022
2021-124	KYOCERA COPIER SERVICES CONTRACT
2021-125	OUTSIDE LIEN REDEMPTION (BL 7, LT 21.01)
2021-126	OUTSIDE LIEN REDEMPTION (BL 4, LT 24)
2021-127	TRANSFER RESOLUTION

**CORRESPONDENCE**

Sussex County Municipal Utilities Authority – FY 2022 Rate Schedule – The Committee acknowledged the receipt of the Sussex County Municipal Utilities Authority FY 2022 Rate. Mayor Innella commented that none of the rates that increased would affect the Township.

Montague Township Engineer Harold Pellow – New Mashipacong Road – Section III Grant Options – Mayor Innella explained that the NJDOT Trust Fund grants were recently sent out and all municipalities received grants, but they were cut down from what was initially requested. The Township of Montague requested \$245,608.00 in funding and received a grant of \$190,500.00 Harold Pellow’s office offered up the following suggestions: apply for the remainder for 2023 on Section IV, add an additional \$55,100.00 plus \$16,000.00 for design to the 2022 budget, or use only the grant of \$190,500.00 plus \$16,000.00 for design to the 2022 budget. The Committee will further discuss this at the first Township Budget Workshop Meeting on Thursday, January 20, 2022 at 4:30 PM.

Montague Township Engineer Harold Pellow – Year-End Report & Engineer’s Appointment for year 2022 – The Township Committee acknowledged receipt of the Year-End Report.

**NEW BUSINESS**

None

**OLD BUSINESS**

None

**REPORTS**

Recreation – Ms. Martin commented that the Township held their employee Christmas Party earlier today, which was very nice. The Recreation Department also hosted the Annual Tree Lighting Ceremony and Meet Santa Event on Saturday, December 4, 2021. There were possibly over 100 people who stopped by to visit Santa. The event was well attended and successful with many great compliments being received from the public. Mayor Innella then thanked all those who worked on making this year’s ceremony a huge success. Ms. Martin added that Provident Bank provided Hot Chocolate to those in attendance and ShopRite provided Cookies. Ms. Martin also added that she and Tasha DeGeorge had cleaned out the Recreation Closet and they were able to give many of the old items away.

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Construction Department – November 2021 – There were 17 permits issued for the month of November 2021 for a total collected of \$4,996.

Tax Collector – November 2021 - Current taxes collected for the month of November 2021 totaled \$795,237.82. Prepaid Taxes for 2022 totaled \$6,962.13. There were no prior year's taxes collected. Tax Title Lien's Receivable totaled \$11,941.51. Interest collected for the month of November totaled \$8,819.80 for a total collected for the month of November of \$834,045.96.

Mayor Innella announced that the County Department of Health updates the Township with daily figures of new positive Covid-19 cases and these numbers are going up, which is very concerning. The Committee will keep an eye on this and decide if they feel if it is necessary to close the building to the public once again.

**PUBLIC PARTICIPATION** (limited to three minutes per person)

Mr. Merusi made a motion to open to the public. Mr. Zitone seconded, and the motion carried with a unanimous voice vote.

Ellen Phelps – Shore Drive – Ms. Phelps attended the meeting in October when the short-term rental ordinance was in a draft stage. At that meeting, she spoke about an experience she had in her complex where one of the unit owners was using a home swapping application called homeexchange.com. Ms. Phelps added that the users of this app have no fee or exchange of money, but you can still have people coming in on a short-term basis under something like this home exchange. Attorney Rossmeissl commented saying, technically, if you swap houses with someone and you are in someone else's home for a period of time fewer than 60-days and they are using your home as the "consideration or cost" then technically it is still a short-term rental. Even though it is not written explicitly if a court were to look at this, there is still an exchange of something of value in order to stay at the home and would be covered by this Ordinance as a prohibited use.

Edison Avecillas – River Road – Mr. Avecillas asked for clarification on what the maximum amount of guests occupying a single short-term rental would be. Mr. Merusi responded saying eight. Mr. Avecillas asked if this is for any house size, even a one-bedroom. Mayor Innella replied that it is two-per bedroom for a maximum of eight. Mr. Avecillas added that it was his understanding from the last discussion of the short-term rental Ordinance that the occupancy load would be based on two-people per bedroom, plus two additional occupants. Attorney Rossmeissl clarified that as it is written now, it does not go by bedroom it only has an eight-person limit on short-term rentals. Mr. Avecillas asked if the Committee would consider including the language to reflect per bedrooms, because if the property is a four-bedroom home then you could certainly accommodate more than eight people. Mr. Avecillas also spoke in favor of allowing room rentals.

Nina Fradl – Deckertown Turnpike – Ms. Fradl asked if the Committee has done any sort of an analysis regarding the charge for application fees and/or how many short-term rentals do they think will be operating in the Township. Ms. Fradl said she is pleased that the Committee lowered the application fee, but it seems at this rate it is reinforcing investors doing short-term rentals rather than homeowners. Ms. Fradl said one of the original reasons she was in support of this Ordinance was to give people on fixed or limited incomes the opportunities to make money. Maybe the Committee could make an exception for people who are 65-years old or older or on Social Security or something.

There being no further comment from the public, Mr. Zitone made a motion to close to the public. Ms. Martin seconded, and the motion carried with a unanimous voice vote.

**EXECUTIVE SESSION**

Mr. Zitone made a motion to enter into Executive Session. Ms. Martin seconded, and the motion carried with a unanimous voice vote.

**MONTAGUE TOWNSHIP**

**RESOLUTION 2021-128**

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**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 Attorney Client Privilege without taking action, and after reconvening this public meeting action may be taken and the Mayor or her 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.

Clerk DeFabiis announced that Mr. Zitone exited the meeting prior to Executive Session. Therefore was not present or in attendance for the Executive Session.

Mr. Merusi made a motion to close Executive Session. Ms. Martin seconded, and the motion carried with a unanimous voice vote.

Mr. Merusi made a motion to open to Regular Session. Ms. Martin seconded, and the motion carried with a unanimous voice vote.

**ADJOURN**

Ms. Martin made a motion to adjourn at 8:28 PM. Mr. Merusi seconded, and the motion carried with a unanimous voice vote.

Respectfully submitted:

**EILEEN DEFABIIS, RMC  
MUNICIPAL CLERK**