

Approved: October 10, 2023

## **MONTAGUE TOWNSHIP COMMITTEE MEETING**

### **MINUTES**

**SEPTEMBER 26, 2023**

**7:00 PM**

#### **OPENING STATEMENT**

Mayor Zitone called the Montague Township Committee meeting to order at 7:00 p.m. announcing 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 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: Mr. Innella, Mr. Krumpfer, Mr. LeDonne, Mr. Merusi and Mayor Zitone  
Also present was Municipal Clerk Dana Klinger.

Absent: None

#### **MINUTES**

Mr. Merusi made a motion to approve the Regular Meeting Minutes of September 12, 2023. Mr. Krumpfer seconded, and the motion was carried with a unanimous roll call vote.

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

*None*

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

*None*

#### **RESOLUTIONS**

2023-106 A RESOLUTION AUTHORIZING THE SALE OF SURPLUS PERSONAL PROPERTY NO LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

Municipal Clerk Klinger stated that these items are to include a 2011 John Deere SJ310 Backhoe, a Gledhill Plow, and a Swanson Sander. Mr. Krumpfer made a motion to approve Resolution 2023-106. Mr. Merusi seconded, and the motion was carried with a unanimous roll call vote.

#### **CORRESPONDENCE**

Montague Volunteer Fire Department – Request for approval for Junior Membership for Dustyn Berkenbush – Mr. Merusi made a motion to approve the Junior Membership request for Dustyn Berkenbush. Mr. LeDonne seconded, and the motion then carried with a unanimous roll call vote.

#### **NEW BUSINESS**

Qualified Purchasing Agent Services – Municipal Clerk Klinger explained that the Township of Montague currently has a shared services agreement with Lynda Knott of Stillwater Township for QPA services. Ms. Knott is retiring at the end of the year and her replacement will not hold this certification; therefore, the Township will have to seek these services elsewhere. Municipal Clerk Klinger reached out to some other towns to express interest in entering into a shared services agreement for QPA services. Andover Township is willing to enter into an agreement for up to 3 years at a cost of \$2,500 per year. These services will allow the Township to increase its bid threshold to \$44,000 rather than \$17,500, which ultimately cuts down on the costs associated with going through a formal bid process. Mr. Merusi made a motion to move forward with Andover Township in drafting a shared services agreement for QPA services for a term of 3 years. Mr. Krumpfer seconded, and the motion carried with a unanimous roll call vote.

Shared Services Renewal – Tax Collection – Mayor Zitone stated that the current Shared Services Agreement with the Town of Newton for Tax Collection services is set to expire at the end of the year. Municipal Clerk Klinger has reached out to the Town of Newton to see if they would be interested in renewing this agreement for a term of 3 years. The Town of Newton said

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they would like to continue this agreement with a 2% increase each year for a term of three years. The Committee all agreed that the Tax Collectors work very well and everyone in the community is happy with their services. Mr. Merusi made a motion to move forward with renewing a shared services agreement with the Town of Newton for Certified Tax Collection Services. Mr. Innella seconded, and the motion was then carried with a unanimous roll-call vote.

Community Center – Open Recreation Activities/Game Days - Mr. Innella said that he has mentioned this to the Recreation Committee, but he would like to start, opening the Community Center, maybe a day each month for a few hours, for open recreation activities and game days. The township could purchase a few games, cards, etc. Mr. Innella added that he was speaking with the HPCC, and they were willing to also donate some items, such as ping pong tables. Mr. Innella stated that he would also be willing to volunteer his time to open the building. Mr. LeDonne commented that they did discuss this at the last Recreation Committee meeting and all of the members were in favor of this, but they just need to plan for the storage of the games. Mr. LeDonne stated that the only other concern is having the help to execute this because everyone on the Rec. Committee is already maxed out. Mr. Krumpfer asked about what sports were offered at the school that the children could participate in. The Committee Members were all in favor of moving forward with his item, Mr. Innella will make a few phone calls to get things moving.

Foreclosure Strategy – Mr. Krumpfer stated that he is interested in discussing the strategy that is used when selecting properties to foreclose/auction. Many people have asked if they can offer input on properties that they may want to purchase themselves. Mr. Krumpfer asked if it were possible before the next round of foreclosures to have time for the public to input on these selections. Mayor Zitone replied by saying that every discussion relating to foreclosures or land sale auctions is always held at a public meeting in open session, so the public always has the opportunity to comment. Mayor Zitone further added that they are limited by budget in how many properties they can foreclose on each year, which may present some conflict. Attorney Rossmeissl further added that anyone from the public can always express their interest or input to the Township at any time for consideration.

Mayor Zitone also announced that Benjamin Smith is going to be honored as an Eagle Scout on Sunday, October 1, 2023, at 3:00 PM at the Minisink Church Pavilion if any of the members of the Committee wish to attend. Mayor Zitone added that this is a tremendous honor for Ben.

### **OLD BUSINESS**

Sprinkler System Update – Mayor Zitone stated that he spoke with the Architect Charles Schaffer last week and he is working on getting the Sprinkler Project bid specs finished up and is waiting for the engineer on the final size of the water tank. Attorney Rossmeissl further added that he also spoke to Mr. Schaffer today and he stated that the Mechanical Engineer needs to take a glance at this, and then Attorney Rossmeissl will do his legal review and the Request for Proposal can be sent out.

### **REPORTS**

*None*

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

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

Tasha DeGeorge – Sleepy Hollow – Ms. DeGeorge expanded upon Mr. Krumpfer's question regarding the sports/activities that the Montague School offers. The school offers Cross-Country, Soccer, Girls on the Run, Basketball, Volleyball, Archery, Various Clubs, Softball, and Track. Ms. DeGeorge added that this year the track team took first place county-wide.

Charles White – Representation of JJ's Salvage and Towing of River Road (Junkyard) – Mr. White stated that there have been some discussions/complaints from some of the neighboring property owners of 303 River Road. Mr. White went on to say that he believes that everyone can agree that it is a pre-existing non-conforming use. There were some issues on the property that have since been taken care of, these include the following items. There was a complaint that there were many trees that were removed, Mr. White further added that in no way is there going to be any clear-cutting happening. The trees that were removed had either already fallen or were on the brink of falling, these were removed simply to protect the property. The vehicles that were on BL 16, LT 5, or 299 River Road were moved to this location while the tree removal efforts were being made and they have since been moved back to 303 River Road. Mr. White then stated that the Township Code does not have anything required as far as side setbacks or rear

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setbacks for this pre-existing non-conforming use. It does, however, have front setbacks from the roadway. The owner of the property has cleaned up the front area and removed the vehicles that were in the front. Mr. White then stated that he has some photos throughout the years and can show the committee that those vehicles have been there forever. The owner's intentions are to not be any worse than what it was when the code was adopted. The owner wants to be allowed to use the front as an area where someone can drop off a vehicle and then he can move it up as fast as possible, or if there is a situation where the terrain is too muddy or snow-covered, he may need additional time before he can move the vehicles out of the front area. There are tow trucks and some additional equipment that are out there, the R&T plates that are typically on these vehicles have been stolen recently. Mr. White further added that the no trespassing signs that the property owner posted have also been removed, as well as the survey markers. Mr. White additionally added that if anyone would like to walk the property then they are more than welcome to meet with the owner, and he will escort them around for liability reasons. The site plan that was supplied by the property owner, Mr. Mele, which was done in 2020 is the only one in existence and this was drawn up with the location of where the cars are right now, so for the last year Mr. Mele has been cleaning up the cars and bringing them in, there are parts strewn throughout the whole section, Block and Lot of the salvage yard. Mr. White further stated that the owner of the salvage yard provided the Township with a survey, which had a dotted area that was noted as the Salvage Yard within the parcel, but to ask for a site plan and then use that site plan to say that is the only place that the vehicles can be, seems unsusceptible. Furthermore, the same surveying company amended the existing map to add a note that basically says that this is the location of the vehicles at the time that the site plan was drawn. Mr. White stated that he would like to drop that off to the Township so that in the future this will be clarified. Mr. White ended by saying that his client purchased a piece of property with a pre-existing, non-conforming use and he is just trying to keep the use going, which is his constitutional right. Mayor Zitone stated that it may be the owner's constitutional right, but you still must be neighborly. Mr. White replied saying that his client completely agreed with this and that if their only complaints were about the cars that were located on the lot at 299 River Road and the trees that were addressed, nothing else has been changed. Mr. White further added that he has aerial photos from 2005 where the neighboring property didn't even have a home on it yet, and the location of the cars except for the ones that were put on Lot 5 are still identical. Mr. White then asked for clarification regarding an ordinance that Mayor Zitone provided to Mr. White regarding hours of operation, which Mr. White believes was an older ordinance that has since been replaced. Attorney Rossmeyssl will review and get back to Mr. White on this. Attorney Rossmeyssl then went on to say that speaking rather vaguely here when thinking of the terms of a preexisting non-conforming use, what does the use look like today relative to what it looked like back at the time before the Township Code had changed or was established? Attorney Rossmeyssl stated that there are also portions of the Peace and Good Order Code within the General Administration section that apply to all properties whether pre-existing or not. Mr. LeDonne then asked Mr. White for clarification on whether they are claiming that the vehicles have not expanded outside of the footprint since 2005. Mr. White responded by saying that they have not expanded, there is one open spot, and the rest is covered by trees, the only designated area in existence is the area that the owner gave to the township within his site plan that showed where those cars were in 2020. Mr. LeDonne stated that there were never cars that far back under the tree cover, and an aerial view should be shown. Attorney Rossmeyssl added, that putting the map aside or the section where the cars have supposedly always been or where the junkyard is operating, another issue with the pre-existing use, as a legal concept, is if there is a pre-existing use the question is does the operation look like it did before the ordinance was put into place. Mr. White feels that the operation looks better than it did, and it is easy to look up the pictures. Mr. Innella also added that this is not the first time that they have had neighbor disputes. Mr. Innella's advice is always that it is easier to be a good neighbor and work together. The owner of the property knows what he has done with the property as far as cars go, and hopefully, he will be willing to move the cars back, so the neighbors don't have to look at them. Mr. White stated that the owner has tried to cooperate quite a bit. Mr. White then stepped aside and said he is willing to answer any questions that may come up from other members of the public.

Darren Ponce – Millville Road – Mr. Ponce commented that Mr. White is totally incorrect when it comes to where the vehicles were prior to Mr. Mele taking ownership of the Junkyard. He himself has photographs from two years ago of the Woodline and there were no cars in those areas. Mr. Ponce further added that he also has aerials and there are no cars in the woods. Mr. Ponce agreed that Mr. Mele does have a constitutional right to operate his business, he does not have any issue with this, the business has always been there, but the cars have never been this close to the property lines. The cars are being brought out into the woods with oil and antifreeze, which could be a huge fire hazard. Mr. Ponce also stated that the signs that were recently put up have not been touched and are still up on the area boarding his property and Mr. Barbagallo's property.

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Joe Barbagallo – River Road - Mr. Barbagallo stated that he has never touched any property signs that Mr. White referenced, in fact, he would never go on any property without permission. Mr. Barbagallo stated they just don't want to see the vehicles from the junkyard of his property. Mr. Barbagallo agreed that Mr. Mele did clean up some downed trees and he also took down some good trees, which opened up the view to get the cars up to where they are now. Anyone who has lived in this town for years knows that these cars were never in the areas that they are now. Mr. Barbagallo stated that he spoke with Mr. Mele when he first purchased the property, and he told him that he intended on bringing a whole bunch more in. Mr. Barbagallo stated he does not care if the owner stacks the cars 10 high, he simply does not want to see them, he has a beautiful home and piece of property and now this has become his view.

Caitlin Statkus – River Road – Ms. Statkus stated that she lives directly next to the Junkyard and has recently met Mr. Ponce and Mr. Barbagallo for the first time, and they spoke to her regarding some of the issues they have been having. Mr. Statkus stated that she bought her home knowing completely that it was next to a Junkyard, she is never going to have a view where the cars are not visible, and this does not bother her at all. Mr. Mele has been an excellent neighbor who has been very friendly and very helpful. Ms. Statkus added that she does, however, feel that Mr. Ponce and Mr. Barbagallo have a point when it comes to the fluids in the vehicles. Ms. Statkus stated that along the property line, there are a lot of Ash trees that are all dying and are falling lately. There was even a tree that fell, and a truck labeled “poison” became visible. She does have concerns about what could be seeping into the ground, but she does not want to hinder Mr. Mele's operation either. Ms. Statkus hopes that collectively everyone can reach some type of agreement. She personally would like to see a groundwater test run annually, because her well is pretty close to this property. Ms. Statkus ended by saying she cannot speak for anyone else's experiences, but she feels that Mr. Mele has been a fine neighbor to her. Ms. Statkus also noticed that her property markers have also been removed along that side.

Darren Ponce – Millville Road – Mr. Ponce asked if there was any update received regarding obtaining a copy of the NJDEP Permit for the Junkyard. Mayor Zitone replied saying that they have not received any update from the property owner.

Mr. White - Representation of JJ's Salvage and Towing of River Road (Junkyard) Mr. White then addressed the public in response to Mr. Ponce's question regarding the NJDEP license. Mr. White stated that the NJDEP officer did meet with the property owner and an engineer out on the property. The application was completed and filled out and the NJDEP has the application, but they have not moved forward with it, they said it is pending status and they have no issue with the continuation of the business being run. Mr. White further added that the application was submitted in 2021. Mr. White said that the DEP Officer stated that he had been in contact with the Township. Mayor Zitone and Municipal Clerk Klinger confirmed that neither had been contacted regarding the application. Municipal Clerk Klinger asked Mr. White if he could provide the Officer's name. Mr. White stated that the Officer from the DEP was Mr. Spencer Dimick and Brian Freilich was the principal engineer. Mr. Krumpfer asked if there is any reason that the vehicles that had gone into the woods could not be brought back into the footprint again. Mr. White stated that he and his client believe that they are in the footprint, they can show pictures that basically show that it hasn't ever left except for going on to Lot 5, which has been corrected. All the vehicles are still on Lot 7 and in the same spot that all the aerials show, but there are a few stragglers in the woods like there have always been. Mr. Krumpfer added that this seems to be the bone of contention, so it seems like if this could be resolved he would suspect that it might put this all to bed. Mr. LeDonne further added that there are not a few stragglers, the vehicles are well into the woods and out of the footprint and all that they are asking is to get the cars back into the footprint, no one is looking to shut them down or take money out of his pocket, they just want him to do the right thing. Mr. LeDonne stated that there are even cars up on the rock farm walls. Mr. White said the only ones on the rock walls he is familiar with were on Lot 5 and they have been removed. Mr. LeDonne rebutted saying they are still on the north side of the property. Attorney Rossmeissl added that from the Townships' perspective, this does have to do more with the general expansion of the use than it does with the expansion of the footprint that keeps getting mentioned. Attorney Rossmeissl understands what Mr. White is saying about the footprint basically being a non-existent issue, but even if that is the case, depending on how significant the expansion is that is an issue in and of itself for a non-conforming use. Mr. Krumpfer then asked Mr. White if they were to get photos that are apparently floating around, he would then be able to go back to his client and say this is what we are looking at. Mr. White replied that if the Township can identify what the original footprint was then he will discuss it with his client. Lastly, Mr. White asked if Mayor Zitone could email the pictures that were discussed, and they will compare them to the pictures that they have and of what is on the site, and they will decide if there has been an expansion. Mr. White also stated that

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as far as the property markers go, he is glad to hear that no one has taken those, and they will work on putting those back up as well as the no-trespassing signs. Mr. White also asked that this item be placed on the next meeting agenda. Mr. Barbagallo quickly added that Mr. Steven Kelly with the NJDEP confirmed that no application existed regarding the property at 303 River Road, would Mr. White be willing to provide a copy of that application from 2021? Mr. White will forward a copy to Municipal Clerk Klinger.

Caitlin Statkus – River Road – Ms. Statkus additionally commented that there have been kids on 4-wheelers late in the night riding around in the area, so there are definitely people in the area going through the properties that do not belong there and if property markers and/or no trespassing signs were removed, she would put it much more likely that it was the kids riding through than something done in a malicious sense.

Edison AVECILLAS – River Road – Mr. AVECILLAS expressed his appreciation to the Montague Township Committee for how far they have come and for being open-minded and business-friendly to Short-Term Rentals within the Township and now up to five units within the High Point Country Club. Mr. AVECILLAS stated that by allowing STRs they are opening doors to the continuous improvement of the Township. Mr. AVECILLAS stated that he does have some concerns, however, with the amended STR Ordinances, including the provision regarding shared roads and driveways. Mr. AVECILLAS asked who this was geared toward. Is this provision for just the HPCC or Montague as a whole? Mayor ZITONE stated that it was included for both the HPCC and Montague as a whole, but more so in the HPCC as there are many more shared driveways and parking areas. Mr. AVECILLAS is a property owner outside of the HPCC who has an STR that operates on a private road and one with a private road that has an easement to it. Mr. AVECILLAS feels that this provision is an overreach and an infringement on property real estate title law, but also decades-long agreements between previous property owners that agreed upon an access easement. Mr. AVECILLAS further added that he feels that matters between two neighbors should solely be left between those neighbors, he does understand that neighbors come in and file complaints. They want the Township to be involved with everything to some extent. There is a need for it at times, but there is really no need for the Township to burden themselves and spend money and time to resolve every concern or complaint that at times has only been discussed with one party rather than both. Mr. AVECILLAS spoke regarding issues he has had with a neighbor and the usage of the private road with easement rights as well as false complaints that this neighbor has filed with the Township regarding the operation of his STR. Mr. AVECILLAS is concerned that this new amendment may re-hatch issues that he has had with his neighbor in the past.

There being no further comment from the public, Mr. LeDonne made a motion to close to the public. Mr. Merusi seconded, and the motion was carried with a unanimous voice vote.

### **EXECUTIVE SESSION**

Mr. Merusi made a motion to approve Resolution 2023-107 to enter the Executive Session. Mr. Innella seconded, and the motion carried with a unanimous voice vote.

## **MONTAGUE TOWNSHIP**

### **RESOLUTION 2023-107**

**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 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.

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**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. Innella made a motion to close the Executive Session. Mr. LeDonne seconded, and the motion was carried with a unanimous voice vote.

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

Mr. Innella made the motion to approve an increase of \$10 per hour to the Interim Zoning, Housing, and Code Enforcement Officer, Kevin Kervatt effective October 1<sup>st</sup>, and to amend the shared services agreement with Sussex Borough to reflect this increase, Mr. LeDonne seconded. Deputy Clerk Klinger then issued this approval Resolution 2023-108, the motion was then carried with Mr. Innella, Mr. Krumpfer, Mr. LeDonne, and Mayor Zitone all voting yes and Mr. Merusi voting no.

**ADJOURN**

Mr. Krumpfer made a motion to adjourn at 8:22 p.m. Mr. Merusi seconded, and the motion was carried with a unanimous voice vote.

Respectfully submitted:

**DANA KLINGER, RMC  
MUNICIPAL CLERK**