

**TOWNSHIP OF COLTS NECK  
COMMITTEE MEETING  
SEPTEMBER 14, 2016, 7:30 P.M.  
TOWN HALL**

The meeting of the Colts Neck Township Committee was called to order at 7:30 p.m. by Mayor Orgo followed by a salute to the flag. The following statement was read by Municipal Clerk, Ms. Kara: "The notice requirements of the New Jersey Public Meetings Law have been satisfied by forwarding a News Release to the Asbury Park Press on December 17, 2015 stating that the regular meeting of the Colts Neck Township Committee would be held September 14, 2016 at 7:30 p.m., Colts Neck Town Hall, 124 Cedar Drive, Colts Neck, New Jersey. The notice requirements have been posted on the Township website and a copy is on file in the Office of the Township Clerk."

Roll call by Ms. Kara indicated the following:

Present: Mayor Thomas Orgo, Committeemen Russell Macnow, J.P. Bartolomeo, and Edward Eastman, Jr.

Also Present: Municipal Clerk Beth Kara; Township Counsel John O. Bennett, III, Esq.

Absent: Deputy Mayor Michael Fitzgerald, Township Administrator Kathleen Capristo

**1. APPROVAL OF MINUTES:**

MEETING OF AUGUST 10, 2016. Mr. Bartolomeo made a motion to approve, seconded by Mr. Eastman and unanimously carried.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo			X			
Deputy Mayor Fitzgerald						X
Macnow			X			
Bartolomeo	M		X			
Eastman	S		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

MEETING OF AUGUST 24, 2016. Mr. Macnow made a motion to approve, seconded by Mr. Eastman and unanimously carried.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo			X			
Deputy Mayor Fitzgerald						X
Macnow	M		X			
Bartolomeo			X			
Eastman	S		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

MEETING OF AUGUST 30, 2016. Mr. Macnow made a motion to approve, seconded by Mr. Eastman and carried by Messrs. Macnow and Eastman; Messrs. Orgo and Bartolomeo abstained.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo					X	
Deputy Mayor Fitzgerald						X
Macnow	M		X			
Bartolomeo					X	
Eastman	S		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

2. **MAYOR'S PROCLAMATION:** HONORING 10U TRAVEL BASEBALL TEAM, 10U NATIONAL EAST DIVISION CHAMPIONS. Head Coach Chris Montalvo spoke of the season that led up to winning the three playoff games in one weekend, with the final winning game against Howell for the championship. Mayor Orgo read the proclamation in full, which recognized the team lineup of Charles Whalen, Jason Cappelleri, Owen Gulka, Pierson Barc, Rishabh Kambham, Will Tencza, Alexander Marx, Christopher Montalvo, Daniel Albano, Eric Lukenda and Logan Thompson and coaching staff of Head Coach Chris Montalvo and Assistant Coaches Eugene (JR) Gulka, Stephen Marx, Joe Albano and Brant Thompson. The team and coaches received a round of applause.

Mayor Orgo called for a brief recess while photographs were taken.

Mayor Orgo called the meeting to order.

3. **SWEARING IN OF FIRE POLICE OFFICERS:**

- **ARTHUR RASKIN:** Mr. Arthur Raskin was sworn in recognizing his promotion to Lieutenant by Counsel Bennett while his grandsons, Dylan and Dallas, held the bible. Mr. Vince Cerullo presented Mr. Raskin with his bars and Mr. Ray Shebell presented his badge.
- **JOHN DANO:** Mr. John Dano was sworn in as a new member by Counsel Bennett while his wife and daughter held the bible. Mr. Vince Cerullo presented Mr. Dano with his badge.

Both members received a round of applause and photographs were taken.

Mr. Cerullo announced First Responders Day is being held at Colts Neck High School on Saturday, September 24. Mr. Shebell thanked the Township Committee for their support of equipment and noted the Fire Police are now the best equipped and best trained in the County.

4. **ORDINANCE 2016-16:** AN ORDINANCE OF THE TOWNSHIP OF COLTS NECK IN THE COUNTY OF MONMOUTH AND THE STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 102, ARTICLE VI, SUBSECTION 102-46.5 OF THE CODE OF THE TOWNSHIP OF COLTS NECK ENTITLED, "WIRELESS TELECOMMUNICATIONS, TOWER AND ANTENNAS" was read by title at second reading by Mayor Orgo. The ordinance makes Township code consistent with the 2014 FCC report and order as well as promotes the use of small network nodes to supplement capacity in high data usage areas. The Planning Board found it consistent with the Township's Master Plan. Hearing no comments from the Township Committee, Mayor Orgo opened the public hearing. Hearing no comments, Mayor Orgo closed the public hearing. Mr. Macnow made a motion to approve, seconded by Mr. Eastman and unanimously carried.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo			X			
Deputy Mayor Fitzgerald						X
Macnow	M		X			
Bartolomeo			X			
Eastman		S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

5. **ORDINANCE 2016-17:** AN ORDINANCE AMENDING AND REVISING CHAPTER 120, FIREARMS, OF THE CODE OF THE TOWNSHIP OF COLTS NECK was read by title at second reading by Mayor Orgo. The ordinance changes the lot size for discharge of a gun from five acres to three acres or larger, and would include a parcel that is the aggregated contiguous acreage of more than one landowner. In addition, farmland leased from the Township is an exception to the no discharge on Township property prohibition. Hearing no comment from the Township Committee, Mayor Orgo opened the public meeting.

Mr. Alan Ryan, resident, commented this is a great idea and thanked the Township Committee.

Hearing no further comments, Mayor Orgo closed the public meeting. Mr. Macnow made a motion to approve, seconded by Mr. Eastman and unanimously carried.

RECORD OF VOTE					
Committeeman	M S	Yes	No	NV	Ab
Mayor Orgo		X			
Deputy Mayor Fitzgerald					X
Macnow	M	X			
Bartolomeo		X			
Eastman	S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

6. **RESOLUTION 2016-110:** RESOLUTION AUTHORIZING THE PARTICIPATION INTO A MUNICIPAL SHARED SERVICE DEFENSE AGREEMENT TO RETAIN NASSAU CAPITAL ADVISORS, LLC FOR THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS was read by title by Mayor Orgo. The agreement includes an initial report fee capped at \$1,000, the provision for further research, and testimony at depositions and trial on behalf of the Township with respect to the initial report. Mr. Macnow made a motion to approve, seconded by Mr. Eastman and unanimously carried.

RECORD OF VOTE					
Committeeman	M S	Yes	No	NV	Ab
Mayor Orgo		X			
Deputy Mayor Fitzgerald					X
Macnow	M	X			
Bartolomeo		X			
Eastman	S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

7. **RESOLUTION 2016-111:** RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO A THIRD PARTY POWER SUPPLIER TO PROVIDE ELECTRIC GENERATION SERVICE TO COLTS NECK COMMUNITY ENERGY AGGREGATION (CNCEA) – ROUND II PROGRAM PARTICIPANTS AND TO PROVIDE GOVERNMENT ENERGY AGGREGATION SERVICES IN CONNECTION WITH THE CNCEA ROUND II PROGRAM PURSUANT TO N.J.A.C. 14:4-6 was read by title by Mayor Orgo. Mr. Macnow advised the Township began the Energy Aggregation Program for electric generation services two years ago and the term is expiring December 2016. Mr. Robert Chilton, Gabel Associates, advised the new 24-month contract with TriEagle Energy, LP would begin with the December 2016 meter read date for each electric account served at the contract price of \$0.08959/kwh. Anticipated savings over the 24-month period is \$300 per average household, and if the JCP&L rate drops below the contract rate, the Township has the ability to opt out. Participating residents may opt out of participating in the program at any time. Mr. Macnow made a motion to approve, seconded by Mr. Eastman and unanimously carried.

RECORD OF VOTE					
Committeeman	M S	Yes	No	NV	Ab
Mayor Orgo		X			
Deputy Mayor Fitzgerald					X
Macnow	M	X			
Bartolomeo		X			
Eastman	S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

Mr. Chilton left the meeting.

**8. MOTION TO ADOPT A CONSENT AGENDA:**

All items listed on the "Consent Agenda" are considered routine by the Township and are adopted or approved collectively by a single motion and roll-call vote of a majority of the Township Committee. If discussion is desired on any item, it is considered separately.

**\*RESOLUTION 2016-112:** RESOLUTION AUTHORIZING REFUND OF TAX OVERPAYMENT FOR 2016, THIRD QUARTER, BLOCK 20, LOT 2.1; AND BLOCK 20, LOT 2.1Q (164 LAIRD ROAD)

**\*RESOLUTION 2016-113:** RESOLUTION CONFIRMING APPOINTMENT TO THE HISTORICAL PRESERVATION COMMITTEE, MR. JAMES C. SCHATZLE

**\*RESOLUTION 2016-114:** RESOLUTION APPOINTING DEPUTY REGISTRAR OF VITAL STATISTICS, MS. LINDA STAGLIANO

**\*RESOLUTION 2016-115:** RESOLUTION AUTHORIZING ACCEPTANCE OF SPECIAL PERFORMANCE GUARANTEE, BLOCK 53.01, LOT 6 (91 OBRE ROAD)

Mr. Bartolomeo made a motion to approve, seconded by Mr. Macnow and unanimously carried.

RECORD OF VOTE					
Committeeman	M S	Yes	No	NV	Ab
Mayor Orgo		X			
Deputy Mayor Fitzgerald					X
Macnow	S	X			
Bartolomeo	M	X			
Eastman		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

**9. ADMINISTRATIVE REPORT:**

Mayor Orgo advised Rockfest organizer, Steve Warendorf, is seeking the Township Committee's approval to consume beer and wine in Bucks Mill Park during the upcoming September event. The Certificate of Insurance was received this evening and has been reviewed and accepted as complying with Township requirements. Mayor Orgo called for a voice vote, and the Township Committee approved the request unanimously.

- 10. MOTION TO APPROVE VOUCHERS:** In Mr. Fitzgerald's absence, Committeemen Macnow and Bartolomeo reviewed tonight's vouchers and recommend the following for approval:

Animal Control	\$557.30
Capital Fund	\$855,937.10
COAH	\$885.00
Construction Trust	\$29,431.68
Current Fund	\$748,146.21
Escrow	\$34,438.17
Farmland Preservation Trust	\$1,131.00
Grant Fund	\$11,345.68
Trust Fund	\$33,688.07

TOTAL \$1,715,560.21

Mr. Macnow set aside one payment to Brown and Brown, pending clarification, and Mr. Bartolomeo made a motion to approve, seconded by Mr. Eastman and unanimously carried. \*Mr. Macnow abstained from approving vouchers payable to Sakoutis Brothers.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo			X			
Deputy Mayor Fitzgerald						X
Macnow			X*		X*	
Bartolomeo	M		X			
Eastman	S		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

#### 11. TOWNSHIP COMMITTEE REPORTS

Mr. Macnow advised the issue of civilian housing at NWS Earle previously settled in 2009 is once again active with the DOD seeking to rent 20 units to civilians. Prior rental were restricted to military-related individuals (DOD employees, veterans, retired military, etc.). The Township Committee is seeking guidance from Counsel.

Mr. Macnow then read from a prepared statement. OPRA requests recently filed with the Township of Colts Neck sought production of the written factual findings and recommendations of hearing officer Robert O'Hagan, JSC (ret.) rendered in conjunction with the disciplinary action taken by the Township against Police Chief Kevin Sauter. The requests put the Township in a classic catch-22 situation. Although personnel records are generally not subject to OPRA, Chief Sauter's request that the matter of his disciplinary hearing and the subsequent opinion by the hearing officer be discussed in public, conveyed that Chief Sauter was in fact waiving his rights to OPRA protection. In the absence of clear legal guidance from the courts, the Township was left with two choices: deny the requests and face lawsuits by the requestors, or produce the document and likely face a lawsuit by Chief Sauter. The Township, in hopes of avoiding exposing taxpayers to damages, sought guidance from the courts by filing a declaratory judgment to determine if it was legally obligated to produce the document. The court indicated that it was unlikely to entertain Colts Neck's request for a legal determination. As a result, the Township dismissed the lawsuit and is now forced to make a disposition of the OPRA requests notwithstanding the lack of clarity in the law. As such, the Township has made a determination that the document should be produced. Colts Neck is mindful of the protection afforded public employees by OPRA. However, under the circumstances it believes that Chief Sauter waived that protection. Mr. Macnow noted Chief Sauter has instituted legal proceedings against the Township appealing his suspension and indicated at this time, no additional responses to questions or comments will be made on this subject this evening.

Mr. Macnow advised the COAH GAP issue is planned for Supreme Court hearing next term. Mr. Eastman noted although this is on an expedited schedule, it is uncertain if it will be heard before next year.

Mr. Bartolomeo reported 121 new students enrolled in the K-8 schools this year, which is a shift in enrollment patterns.

Mr. Bartolomeo reported the Historical Preservation Committee is planning a historic Christmas at the Montrose Road school house December 11. The Committee is applying for a grant for capital improvements for electric and heat. In addition, the tree previously planted is being replaced, and DPW is being requested to water the new tree.

Mr. Bartolomeo reported Soccer opened Saturday with the ROTC participating and the fields look great.

Mr. Bartolomeo reported he attended a wonderful 9/11 Ceremony Sunday at Town Hall.

Mr. Bartolomeo reported the core site at Town Hall had a facelift, and Mayor Orgo deserves recognition for the many improvements, as he was the push behind this initiative.

Mayor Orgo reported he attended the 9/11 Ceremony at Town Hall and it was beautiful. It was estimated 250 people attended the ceremony.

Mayor Orgo reported the CNBA Pig Roast is scheduled for Tuesday, September 20, 6:30 p.m. at the Community Center in Bucks Mill Park.

Mayor Orgo reported Rockfest is scheduled for September 23-24 in Bucks Mill Park.

Mayor Orgo reported Farmland Preservation met Monday evening, and the Crystal Brook acquisition is anticipated for completion around the first of the year.

Mayor Orgo reported the paving funded by the Transportation Trust Fund has stopped and will not continue until next year. The intersection of Route 537 and Creamery Road will be paved to facilitate snow plowing this winter.

Mr. Bartolomeo reported a caregivers support group will be meeting the first Tuesday of each month from 6:30 p.m. to 8:30 p.m. in the small room at the Library for the remainder of 2016. The Woman's Club is having their garage sale at the Community Center in Bucks Mill Park this Friday and Saturday.

Mayor Orgo reported security cameras are now installed at Town Hall.

12. **PUBLIC COMMENTS:** Hearing no further comments from the Township Committee, Mayor Orgo opened the meeting to public comments.

Ms. Elaine Mann, resident, spoke of the Earle housing issue and Congressman Smith's support, which led to resolving this issue previously. Ms. Mann questioned the mechanic staffing at DPW and was advised by Mayor Orgo that repairs are also handled by the County under a shared services agreement. Ms. Mann questioned why Fire and First Aid need to fundraise and suggested this be resolved at budget time by billing \$100 per household. Mr. Macnow advised there is a statutory cap on municipal funding volunteer organizations. Mayor Orgo advised the fundraising monies are not used for capital equipment purchases.

Mr. Fulton Wilcox, resident, questioned Resolution 2016-110. Counsel Bennett advised it is a collective group of municipalities with each paying a maximum of \$1,000 for services related to COAH. Since this pertains to active litigation, further details are not disclosable.

Mr. Gregory Calderon, resident, questioned if Tinton Falls still has the obligation to educate the children housed at Earle. He was advised Tinton Falls does have this obligation for students in grades K-8; while Freehold Regional (Colts Neck High School) is obligated for students in grades 9-12.

Mr. Jeffrey Sauter, resident, spoke of the number of OPRA requests and the number of GRC complaints he has filed, as well as his previous ACLU decision. Mr. Sauter spoke of the Township expending \$75,000 in legal costs for his OPRA and ACLU filings to date and \$10,000 so far for the Police Chief's issue. and spoke of money better spent on COAH and Earle litigation.

Mr. Alan Ryan, resident, stated he is a member of the Fire Department for 24 years, and the 9/11 Ceremony was well done. Mr. Ryan questioned the Earle housing issue, and Mr. Macnow discussed. Mr. Ryan questioned the shared services resolution and Counsel Bennett advised the cost was \$16,500 in total and no participating town's contribution would exceed \$1,000. The Region 4 area of this agreement includes towns in Monmouth, North Ocean and Middlesex Counties.

Ms. Elaine Mann questioned the cost of cleaning the Town Hall core site and was advised approximately \$8,000 through a shared services agreement with the County. Ms. Mann spoke of Clover Hill Road trees and Mayor Orgo advised if you see a dead tree or branch, call Town Hall to report it.

Mayor Orgo noted brush collection zones are now the same as recycling collection zones and collection dates are on the Township's website.

Hearing no further comments, Mayor Orgo closed the meeting to public comment.

13. **RESOLUTION 2016-116:** EXECUTIVE SESSION was read by title by Mayor Orgo. Mr. Macnow made a motion to approve, seconded by Mr. Bartolomeo and unanimously carried by voice vote. Mayor Orgo stated the Township Committee is not expected to return to take action this evening.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo			X			
Deputy Mayor Fitzgerald						X
Macnow	M		X			
Bartolomeo		S	X			
Eastman			X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

Meeting adjourned at 8:45 p.m.

Motion by Mr. Macnow seconded by Mr. Eastman and unanimously carried to adjourn Closed Session.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo			X			
Deputy Mayor Fitzgerald						X
Macnow	M		X			
Bartolomeo			X			
Eastman		S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

Motion by Mr. Macnow seconded by Mr. Bartolomeo and unanimously carried to reconvene in public session and adjourn meeting.

RECORD OF VOTE						
Committeeman	M	S	Yes	No	NV	Ab
Mayor Orgo			X			
Deputy Mayor Fitzgerald						X
Macnow	M		X			
Bartolomeo		S	X			
Eastman			X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						

The meeting adjourned at 9:35 p.m.



Beth Kara, RMC, CMC  
Municipal Clerk