

**TOWNSHIP OF COLTS NECK
TOWNSHIP COMMITTEE MEETING
APRIL 25, 2011
7:30 P.M. AT TOWN HALL**

The meeting of the Colts Neck Township Committee was called to order at 7:30 p.m. by Mayor Schatzle followed by a salute to the flag. The following statement was read by Township Clerk Bowden: "The notice requirements of the New Jersey Public Meetings Law has been satisfied by forwarding a News Release to the Asbury Park Press on April 6, 2011 stating the meeting of the Colts Neck Township Committee would be held on April 25, 2011 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 bulletin board and a copy is on file in the Office of the Township Clerk."

Roll call by Mr. Bowden indicated the following:

Present: Mayor James Schatzle; Deputy Mayor Jarrett Engel, Committeemen Edward Eastman, Jr., Michael Fitzgerald, and Russell Macnow.

Also Present: Administrator/Municipal Clerk Robert Bowden; Deputy Municipal Clerk Beth Kara, and Township Attorney Kerry Morgan, Esq.

Absent: None.

At the outset of the meeting, Mayor Schatzle advised the Township website received an e-government award from the Monmouth University Polling Institute and the Master of Arts in Public Policy Program as the best municipal website in Monmouth County and the most informative website within Monmouth County. Mayor Schatzle commended Mr. Engel, Ms. Kara, Dr. Vig, Mr. Anderson and Mr. Ceres for their work on behalf of the Township website. Mr. Engel stated the website is a true example of volunteer spirit within the community. The website has helped to achieve the goal of government transparency and to provide timely information to the community. Mr. Engel stated a great deal of time and effort was expended to redevelop the website and to keep it current. Mr. Engel stated while other sites have spent thousands of dollars on their sites, the Township site was redeveloped at zero cost to taxpayers. Mayor Schatzle will be receiving the awards tomorrow evening at Monmouth University.

1. **MAYOR'S PROCLAMATION:** Mayor Schatzle proclaimed the week May 1 through May 7, 2011 to be Municipal Clerk's Week within the Township of Colts Neck. After reading the Proclamation, Mayor Schatzle expressed his appreciation to Robert Bowden, Municipal Clerk; and Beth Kara, Deputy Municipal Clerk.

At 7:35 a.m., Mr. Eastman recused himself and left the building.

2. **ORDINANCE 2011-3:** AN ORDINANCE OF THE TOWNSHIP OF COLTS NECK IN THE COUNTY OF MONMOUTH AND THE STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 102 OF THE CODE OF THE TOWNSHIP OF COLTS NECK ENTITLED "DEVELOPMENT REGULATIONS" AND MORE PARTICULARLY ARTICLE VI, SUBSECTION 41 "ZONING MAP" was read by title at second reading by Mayor Schatzle. Mr. Bowden stated the Master Plan Re-examination Report recommends the expansion of the A-5, Rural Residential Zone, in the southeast portion of the Township, which is currently zoned A-1 (two acre). The second re-zoning is the expansion of the AG Zone along Squankum Road near the intersection of Obre Road. Ms. Morgan, Township Counsel, provided comments appended hereto. Mayor Schatzle opened the meeting to public comment.

Mr. Kenneth Pape, Legal Counsel, advised he and Mr. James Higgins, Licensed Professional Planner, are representing Mrs. Eastman, property

owner, tonight. Mr. Pape spoke of the Master Plan Reexamination Report and a report prepared by Ms. Cofone on behalf of Mr. Schlumpf outlining various development options under existing and proposed zoning in the above areas. Mr. Higgins stated he has reviewed the Master Plan Reexamination Report and the proposed ordinance and stated the ordinance is consistent with the Reexamination Report. Mr. Higgins stated the entire Township is designated environmentally sensitive and the proposed ordinance shows responsible planning and is the way to go.

Mr. Mitchell Jacobs, advised he is here representing Mr. Sal Alfieri tonight as well as Ms. Christine Cofone, Professional Planner, on behalf of Ms. Carol Schlumpf, property owner. Mr. Schlumpf owned the property over 50 years, and a zoning change would adversely impact the development of this property from 15 lots to 7 lots. Mr. Jacobs stated numerous homes within Colts Neck are on $\frac{3}{4}$ of an acre, and this will not adversely impact streams. Ms. Cofone, Professional Planner, prepared a fiscal impact statement with four scenarios, showing the greatest positive fiscal impact to the Township (\$76,261) with 11 single family homes. The second option (12 market rate and 3 affordable lots) would have a net fiscal impact to the Township of \$43,661. The third option is five market rate lots with a net fiscal impact to the Township of \$32,672, and the fourth option is 6 market rate and 1 affordable lots with a net fiscal impact of \$31,779. The revenues for all options are positive.

Mr. Tom Orgo, a resident, stated changing the A-5 Zone will not do any good for farmland. Mr. Orgo stated these landowners have had this property for a long time, and he questioned why other two acre zones within the Township are not impacted.

Mr. Fulton Wilcox, a resident, stated there are nitrates in both properties and questioned if anyone has computed the nitrate budget. Mr. Wilcox questioned where the nitrates end up and urged that the numbers on nitrates be obtained. Mayor Schatzle stated there have been no studies on nitrates.

Mr. Fitzgerald questioned if Mr. Pape prepared a report, to which he received a negative response. Mr. Fitzgerald stated under the Cofone report assumptions, several land parcels are less than two acres. Mr. Fitzgerald was advised three parcels are in that category, but it is anticipated every lot will have a home selling for \$1.75 million, noting that is the best price range for this project. Mr. Fitzgerald questioned if the 11 lot subdivision was favored by Ms. Schlumpf, to which he received an affirmative response. Mr. Fitzgerald stated while the school costs were included as part of the analysis, no impact on increased fire and police calls and road maintenance, etc., were included in the scenarios.

Ms. Virginia Amend, a resident and Editor of the Colts Neck Calendar, stated she would think the nitrate issue should be excluded since it can't be quantified.

With no further comments, Mayor Schatzle closed the meeting to public comment.

Mr. Fitzgerald stated he is deferential to the group that reviewed this issue; this is their recommendation. Mr. Fitzgerald spoke of Mr. Orgo's comment in that it doesn't help farming. Mr. Fitzgerald spoke of the objection of less money for retirement, noting the concern should be with the entire Township. Mr. Fitzgerald stated a small margin of error would adversely impact the Township. Mr. Fitzgerald does not see houses selling for \$1.75 million on a two acre lot.

Mr. Macnow stated farms are the farmers' 401Ks, their entire retirement packages. Mr. Macnow stated this zoning issue impacts someone who purchased this land 40+ years ago for farming, not someone who purchased 4-5 years ago as an investment. Mr. Macnow stated it is not right to pull the rug

out from them. Mr. Macnow stated there is no compelling evidence fiscally or environmentally, noting the western side of Town is zoned 1.5 acres and questioned if anyone complained then. Mr. Macnow stated we are seeing a long time Colts Neck resident doing what they thought they can do. Mr. Macnow stated a 10-12 acre subdivision can not be deleterious to the Township.

Mr. Engel stated it is most prudent to stand behind the Planning Board Master Plan.

Mayor Schatzle stated decisions made impact several decades and this is why Colts Neck looks as it does today. Mayor Schatzle stated he feels for those impacted.

Mr. Fitzgerald stated Mr. Eastman recused himself from this issue due to his close proximity. Mr. Fitzgerald stated it is incongruous when one person has to recuse himself, noting if two persons had to recuse, there would be a problem. Mr. Fitzgerald wants to determine the rule of necessity, and suggests legal research since all Township Committee members live in Colts Neck.

With no further comments, Mr. Fitzgerald made a motion to approve, seconded by Mr. Engel and carried by Messrs. Schatzle, Engel and Fitzgerald; Mr. Macnow opposed and Mr. Eastman had recused.

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

Township Counsel Morgan stated the legal decision was reached whereby Courts held a 2/3 majority of the full Governing Body is required to adopt zoning changes when a protest has been filed. Mr. Bowden stated there would be a decision within 7 days based on the validity of protests.

Mayor Schatzle called a five-minute recess at 8:32 p.m.

Mayor Schatzle re-convened the meeting at 8:38 p.m., at which time Mr. Eastman returned.

3. **RESOLUTION 2011-62: RESOLUTION SUPPORTING A-3412, SHARING THE BURDEN OF PROPERTY ASSESSMENT APPEAL REFUNDS** was read by title by Mayor Schatzle. Mr. Eastman stated this problem was experienced last year resulting from the revaluation appeals. Successful tax appeals impact negatively on municipal budgets in that as the tax collector for the school district, county and special districts, the municipality must fund the full cost of the legal defense of the assessment. In addition, since the State law guarantees to the county and the school district 100% of their levies, the municipality bears the full cost of any reimbursements resulting from the appeal (as well as the full burden for any uncollected taxes). The end results will be a further decline in the property tax base used to support municipalities, county governments and school systems. This legislation would ensure tax appeal costs are shared proportionately. Mr. Fitzgerald made a motion to approve, seconded by Mr. Engel and unanimously carried.

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

4. **RESOLUTION 2011-63:** RESOLUTION SUPPORTING NEW JERSEY DEPARTMENT OF TRANSPORTATION REVISION TO CENTERLINE MARKINGS ALONG A PORTION OF ROUTE 34 (FROM MILE POST 11.1 TO 12.0) TO A NO PASSING ZONE was read by title by Mayor Schatzle. Mr. Bowden stated this issue was discussed twice previously and not resolved, noting at the time the Township was involved in the NWS Earle housing litigation. Mr. Macnow questioned if this was a safety issue, to which Mr. Bowden responded the Police Chief is in favor of the change. Mr. Fitzgerald made a motion to approve, seconded by Mr. Macnow and unanimously carried.

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

5. **RESOLUTION 2011-64:** RESOLUTION AUTHORIZING AWARD OF BID, 30 YARD ROLL-OFF CONTAINERS FOR CLEAN UP DAY (\$13,020.00) was read by title by Mayor Schatzle. Mr. Bowden stated four bids were received, and Freehold Cartage was the lowest bidder. Mr. Bowden stated funding would shared by Clean Communities and Recycling Grant funds. Mr. Fitzgerald suggested next year's bid include a not to exceed figure. Mr. Engel made a motion to approve, seconded by Mr. Fitzgerald and carried by Messrs. Schatzle, Engel, Eastman and Fitzgerald; Mr. Macnow abstained.

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

6. **RESOLUTION 2011-65:** RESOLUTION AUTHORIZING RECREATION PROGRAM REFUND was read by title by Mayor Schatzle. Mr. Macnow made a motion to approve, seconded by Mr. Engel and unanimously carried.

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

7. **RESOLUTION 2011-66:** RESOLUTION AUTHORIZING RELEASE AND RETURN OF PERFORMANCE GUARANTEE, PLANING BOARD APPLICATION NO. 538 (C.S. HOMES OF COLTS NECK, LLC) was read by title by Mayor Schatzle. Mr. Bowden stated this is a policy decision to waive the two-year Maintenance Guarantee since the Performance Guarantee has been held in excess of the two-year period that would have been required for the Maintenance Guarantee. Mr. Bowden stated this is not unprecedented, and Mr. Gerken, Township Engineer, finds all is in order. Mayor Schatzle stated there has been deterioration of the curbing, and the catch basin needs to be cleaned as water is flowing onto a neighbor's property. Mr. Bowden stated the catch basin is a bubble drain that is not connected to a storm sewer. Mayor Schatzle requested an answer about the bubble drain and overall drainage at the site prior to releasing the performance guarantee. Mr. Fitzgerald made a motion to table, seconded by Mr. Engel and unanimously carried.

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

8. **DISCUSSION:** PRESCRIPTION PLAN OPTIONS. Mr. Fitzgerald presented various options to the current Township's prescription plan offerings to cut Township costs. Mr. Fitzgerald stated ten years ago, a 20% coinsurance plan made sense; however, times have changed and there are various cost saving alternatives. Mr. Bowden stated he will work with the Union heads and discuss this issue.
9. **ADMINISTRATIVE REPORT:** Mr. Bowden had nothing further to add to his report.
10. **MOTION TO APPROVE VOUCHERS:** Mayor Schatzle reviewed the vouchers and stated he recommends approval as follows:

Animal Control	\$82.78
Construction Trust	\$9,400.25
Current Fund	\$8,106,604.50
Escrow	\$3,167.37
Grant Fund	\$1,528.51
Trust Fund	<u>\$8,052.98</u>
TOTAL APPROVED:	\$8,128,836.39

Mr. Fitzgerald made a motion to approve seconded Mr. Engel, and unanimously carried. Mr. Macnow abstained from approving any T&M Associates bills.

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

11. **TOWNSHIP COMMITTEE REPORTS**

Mr. Macnow advised the State mandated a trust fund account be established and maintained for the Drug and Alcohol Alliance fundraising. Ms. Dedalis has spoken with Mr. Antonides and a trust fund account will be established and vouchers used to access these funds. Ms. Dedalis is questioning the need to follow the voucher process for purchases if the money raised through fundraising are not Township funds. Ms. Dedalis has also questioned the timeliness of payments through the voucher system. Mr. Bowden stated he will follow-up with Ms. Dedalis.

Mr. Engel had no report this evening.

Mr. Eastman had no report this evening.

Mr. Fitzgerald had no report this evening.

Mayor Schatzle had no report this evening.

12. **COMMENTS FROM THE PUBLIC**

Mayor Schatzle opened the meeting to public comment.

Ms. Elaine Mann, a resident, stated when the Alliance was run by Mr. John Grabowski purchases had to go through the voucher system. Ms. Mann is in support of the Alliance funds going through the voucher system.

Ms. Virginia Amend questioned the date and time of the Town-wide Clean up Day. Mr. Bowden stated a newsletter is being mailed to each resident and the notice is posted on the website.

Ms. Mann stated she will need a letter to Sandy for Clean Up Day. Mr. Bowden stated he will work with Ms. Mann..

Mr. Orgo questioned the tonnage figures for Clean Up Day given the shortened hours of operation. Mr. Bowden stated Clean Up Day will be 30 minutes shorter this year. Mr. Orgo stated he donated a dumpster to the Township for metals. Mr. Orgo stated there are at least ten companies collecting trash within the Township, and the heavy trucks are ruining the roadways. Mr. Orgo suggested the Township contract out these services to reduce the number of trash trucks on Township roads. Mr. Fitzgerald stated this issue was raised last year with Manalapan bidding out services for \$100 to \$150 per year. Mr. Fitzgerald is currently paying \$100 per quarter. If this service were bid, it would have to be collected as a tax. Mr. Bowden stated the biggest problem would be the 2% property tax cap. Mr. Fitzgerald stated there are other ways to accomplish this by limiting the days and the number of trash collections. Mr. Engel stated the Township is working with other municipalities and most particularly the Mayor of Marlboro. Mr. Orgo stated the front loaders are dropping garbage throughout the Town. Mr. Bowden stated he will speak with Manalapan and his peers on this issue. Mayor Schatzle stated Mr. Bowden will discuss this issue with the Police Chief.

13. **RESOLUTION 2011-67:** EXECUTIVE SESSION was read by title by Mayor Schatzle. Motion to approve was made by Mr. Fitzgerald, seconded by Mr. Macnow and unanimously carried by voice vote. Mr. Bowden stated the Governing Body is not expected to take further action this evening.

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

Meeting adjourned at 9:18 p.m.

Motion to adjourn Closed Session was made by Mr. Fitzgerald, seconded by Mr. Eastman and unanimously carried.

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

Motion to adjourn reconvene in Public Session and adjourn meeting was made by Mr. Fitzgerald, seconded by Mr. Engel and unanimously approved.

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

Meeting adjourned at 10:00 p.m.



Robert Bowden, Administrator/Municipal Clerk

Attachment

Ordinance 2011-3

Prior to presenting Ordinance 2011-3, I would like to take the opportunity to provide some legal guidance on the applicable statute that governs the amendment of a zoning ordinance, and particularly the ramifications of any Protest filed in connection with the amendment of a zoning ordinance.

N.J.S.A. 40:55D-63 requires that a protest against any proposed amendment or revision of a zoning ordinance may be filed with the municipal clerk, that is signed by the owners of 20% or more of either (1) the lots or land included in such change, or (2) of the lots or land extending 200 feet in all directions therefrom. Such protests should be filed prior to adoption of the ordinance.

On April 20th, 4 Protests were received by the Township Clerk from property owners of the land included in the proposed Ordinance 2011-3. Upon review of the lots included in the ordinance, Tim Anfuso, Township Planner, has verified that the 20% requirement has been satisfied.

Salvatore Alfieri, as attorney for one of the property owners that has filed a protest, has supplied supporting documentation to the Protests. Such documentation includes corporate resolutions and documentation from the County Surrogate's Office that intend to verify the authorization for the Protesting parties to act on behalf of the landowners on the deeds of record.

Shortly prior to this meeting I was supplied with additional documents to support such Protests. Though my initial review seems to indicate that the Protests may be valid, we reserve the right to inspect such documents more completely (since we received them today) to determine the validity of the Protests. The documents include corporate resolutions authorizing corporate action, and documents evidencing that Executors for certain properties are authorized to act on the deceased's behalf. We will return a determination of their validity within 7 days, and will contact Mr. Alfieri and the particular property owners as to our determination.

Moving forward, under the assumption of the validity of the Protests, Ordinance 2011-3 will be presented to the Township Committee this evening. The Ordinance was introduced in a public hearing on March 9th. The ordinance has also been reviewed by the Planning Board for comment. The Planning Board deemed Ordinance 2011-3 as consistent with the Board's Master Plan.

N.J.S.A. 40:55D-63 requires that in the event a Valid Protest of 20% or more of the lots or land in the proposed amendment to the zoning ordinance, that a favorable vote of two-thirds of all members of the governing body is required. Since this Committee is comprised of 5 members of its full governing body (all of whom are present), an affirmative vote of 4 is required to carry the ordinance.

(The members of the public will be given an a opportunity to speak on the issue at the Public Comment portion. Please identify your name and address, and if you have a professional here to speak on your behalf, please identify them. Following the Public Comment portion, a vote will be held on Ordinance 2011-3. Please keep in mind that if there are 4 votes in favor, the Ordinance will be carried, and if 3 or less votes, the ordinance will not be carried, unless the Petitions are determined to be invalid, in which case a majority vote of 3 would be required.