

INDEPENDENCE TOWNSHIP COMMITTEE
Meeting held at the Municipal Building, 286 B Route 46, Great Meadows, NJ,
October 4, 2016 7:00PM

The Workshop Meeting of the Township Committee of Independence Township, Warren County, New Jersey was called to order by Mayor Robert Giordano at 7:00pm. Mayor Giordano made the following announcement: meeting starting early due to weather conditions, “Adequate notice of this meeting was given in accordance with the Open Public Meetings Act by providing a schedule of regular meetings to the Star Gazette and The Express –Times, posting a copy thereof on the Township bulletin board and filing a copy thereof in the office of the Municipal Clerk.” The Pledge of Allegiance to the American Flag was led by Mayor Giordano.

Roll Call:

The following members of the Committee were in attendance: Mr. Feula, Mrs. Kelsey, Mr. Williams, Mr. Cogle and Mayor Giordano.

**Mayor made the following Appointment:
Bernard RE to the IMUA**

EXECUTIVE SESSION:

WHEREAS: N.J.S. 2:4-12, Open Public Meetings Act, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist:

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Independence, County of Warren, State of New Jersey, as follows:

The public shall be excluded from discussion of the hereinafter specified subject matters; The general nature of the subject matter to be discussed is as follows:

Binding Litigation/Contract Negotiations

It is anticipated at this time that the above matter will be made public upon completion of the matter discussed. This Resolution shall take effect immediately.

A motion was made by Mr. Cogle to approve this Resolution at 7:05 pm., seconded by Mr. Feula and followed by a roll call of all ayes.

Motion was made by Mr. Cogle at 8:05 p.m. to exit the executive session, Mr. Williams seconded by followed by a roll call of all ayes.

Mayor Giordano stated that the executive session was to discuss binding litigation/contract negotiations and no action will be taken at this time.

Consent Agenda:

RESOLUTION # 16-71

RESOLUTION APPROVING SETTLEMENT OF LAWSUIT

WHEREAS, Independence Township (“Township”) employed Joseph DeWitt as a Special Officer for the years 1981 to 2014; and

WHEREAS, Special Officer DeWitt alleged that the Township had refused to reappoint him because of his age; and

WHEREAS, Special Officer DeWitt demanded compensation from the Township, but the Township felt it had done nothing wrong; and

WHEREAS, Special Officer DeWitt instituted suit against the Township in the matter of *Joseph DeWitt v. Independence Township Mayor and Council*, Superior Court of New Jersey, Law Division, Warren County, Docket No. WRN-L-407-15 (“Lawsuit”); and

WHEREAS, the Township requested its insurance carrier to take over the defense of the Lawsuit, and the carrier agreed; and

WHEREAS, the Township made a motion for summary judgment alleging that there was no basis for the claim by Special Officer DeWitt; and

WHEREAS, the Court denied that motion for summary judgment on the ground that discovery was necessary; and

WHEREAS, the Court then ordered the parties to mediation prior to discovery being conducted; and

WHEREAS, at the mediation the attorney supplied by the insurance carrier and the plaintiff’s attorney agreed to settle the case for a total of \$10,000, including all attorney fee claims by the plaintiff; and

WHEREAS, the Township did not wish to consent to the settlement since it felt it had done nothing wrong; and

WHEREAS, the insurance company then advised the Township that under the Policy of Insurance issued by it that if the Township did not agree to the settlement, then going forward all of the costs of the defense and any possible judgment, would be borne by the Township; and

WHEREAS, under the Township’s insurance policy, there is a \$20,000 deductible and a 20 percent co-insurance clause; and

WHEREAS, the Township was advised that if it continued the lawsuit, the attorneys’ fees to bring the case to trial would exceed \$25,000 and the attorney supplied by the insurance carrier strongly urged the Township to enter into the settlement pointing out that even though the case for the defense was strong the costs of trial would far exceed \$10,000; and

WHEREAS, the Township Committee is frustrated by the fact that for economic reasons it cannot fully litigate the case, but recognized that it would be unfair to the taxpayers to burden them with the costs to defend the matter when these costs would substantially be in excess of the amount of the proposed settlement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Independence, County of Warren, State of New Jersey, that it reluctantly approves the settlement of the claim by Special Officer DeWitt, even though the Township believes it had no liability for the claims set forth in the Lawsuit.

Resolution 16-72: Approval of Junior Fire Department Member (*Brendan Thomas Green*)

WHEREAS, there is a need for members on the Independence Volunteer Fire Department; and

Whereas, *Brendan Thomas Green* has made application for membership to the Fire Department and has been approved by the Membership Committee; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Independence, that *Brendan Thomas Green* is hereby approved as a Junior member of the Independence Volunteer Fire Department.

Resolution 16-73: A RESOLUTION TO AFFIRM THE TOWNSHIP OF INDEPENDENCE CIVIL RIGHTS POLICY WITH RESPECT TO ALL OFFICIALS,

APPOINTEES, EMPLOYEES, PROSPECTIVE EMPLOYEES, VOLUNTEERS, INDEPENDENT CONTRACTORS, AND MEMBERS OF THE PUBLIC THAT COME INTO CONTACT WITH MUNICIPAL EMPLOYEES, OFFICIALS AND VOLUNTEERS

WHEREAS, it is the policy of Independence Township to treat the public, employees, prospective employees, appointees, volunteers and contractors in a manner consistent with all applicable civil rights laws and regulations including, but not limited to the Federal Civil Rights Act of 1964 as subsequently amended, the New Jersey Law against Discrimination, the Americans with Disabilities Act and the Conscientious Employee Protection Act, and

WHEREAS, the governing body of Independence Township has determined that certain procedures need to be established to accomplish this policy

NOW, THEREFORE BE IT ADOPTED by the Township Committee of Independence Township that:

Section 1: No official, employee, appointee or volunteer of the Township of Independence by whatever title known, or any entity that is in any way a part of the Township shall engage, either directly or indirectly in any act including the failure to act that constitutes discrimination, harassment or a violation of any person's constitutional rights while such official, employee, appointee volunteer, or entity is engaged in or acting on behalf of the Township's business or using the facilities or property of the Township.

Section 2: The prohibitions and requirements of this resolution shall extend to any person or entity, including but not limited to any volunteer organization or inter-local organization, whether structured as a governmental entity or a private entity, that receives authorization or support in any way from the Township to provide services that otherwise could be performed by the Township.

Section 3: Discrimination, harassment and civil rights shall be defined for purposes of this resolution using the latest definitions contained in the applicable Federal and State laws concerning discrimination, harassment and civil rights.

Section 4: The Township Attorney shall assist the Township Administrator shall establish written procedures for any person to report alleged discrimination, harassment and violations of civil rights prohibited by this resolution. Such procedures shall include alternate ways to report a complaint so that the person making the complaint need not communicate with the alleged violator in the event the alleged violator would be the normal contact for such complaints.

Section 5: No person shall retaliate against any person who reports any alleged discrimination, harassment or violation of civil rights, provided however, that any person who reports alleged violations in bad faith shall be subject to appropriate discipline.

Section 6: The Township Attorney shall assist the Township Administrator to establish written procedures that require all officials, employees, appointees and volunteers of the Township as well as all other entities subject to this resolution to periodically complete training concerning their duties, responsibilities and rights pursuant to this resolution.

Section 7: The Township Administrator shall establish a system to monitor compliance and shall report at least annually to the governing body the results of the monitoring.

Section 8: At least annually, the Township Administrator shall cause a summary of this resolution and the procedures established pursuant to this resolution to be communicated within the Township. This communication shall include a statement from the governing body expressing its unequivocal commitment to enforce this resolution. This summary shall also be posted on the Township's web site.

Resolution 16-74: Approval of Junior Fire Department Member (*Jeffrey Pennington*)

WHEREAS, there is a need for members on the Independence Volunteer Fire Department;
and

Whereas, *Jeffrey Pennington* has made application for membership to the Fire Department and has been approved by the Membership Committee; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Independence, that *Jeffrey Pennington* is hereby approved as a Junior member of the Independence Volunteer Fire Department.

Resolution 16-75: Authorizing Execution Of An Agreement With The Morris County Cooperative Pricing Council To Renew Membership Therein For The Period Of October 1, 2016 through September 30, 2021

Res. No. 16-76: Appointment OEM

***BE IT RESOLVED* by the Township Committee of the Township of Independence the following appointment is hereby made:**

***Whereas* the Township Committee recognizes the importance and the need for additional staffing in the Township of Independence Office of Emergency Management to assist during times of disasters, that *Ernest Kinney* be appointed to the Office of Emergency Management for a three (3) year Term of Office, commencing on October 4, 2016 and terminating on December 31, 2019.**

A motion was made by Mr. Cogle to approve Resolutions 16-71 through and including 16-76 as written. Mr. Feula seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mrs. Kelsey, Mr. Cogle, Mr. Williams, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with five (5) affirmative votes.

Review Driveway Permit Application Resolution Eric Cross-set for October 11, 2016

Public Comment:

Cindy Neumann has issues with the new Township website, she stated very hard to follow, liked the old site better.

Mayor Giordano reported a new date for the November meeting of November 1, 2016 at 7:00pm

EXECUTIVE SESSION:

WHEREAS: N.J.S. 2:4-12, Open Public Meetings Act, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist:

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Independence, County of Warren, State of New Jersey, as follows:

The public shall be excluded from discussion of the hereinafter specified subject matters; The general nature of the subject matter to be discussed is as follows:

Personnel

It is anticipated at this time that the above matter will be made public upon completion of the matter discussed. This Resolution shall take effect immediately.

A motion was made by Mr. Cogle to approve this Resolution at 8:10 pm., seconded by Mrs. Kelsey and followed by a roll call of all ayes.

Motion was made by Mr. Cogle at 8:45 p.m. to exit the executive session, Mayor Giordano seconded by followed by a roll call of all ayes.

Mr. Giordano stated that the executive session was to discuss binding litigation/contract negotiations and no action will be taken at this time.

Adjournment:

Motion made by Mrs. Kelsey seconded by Mr. Cougle the meeting adjourned at 8:50pm, with no further business before them and followed by a unanimous roll call.

Respectfully submitted,

Deborah M. Hrebenak, RMC
Clerk/Administrator