

**INDEPENDENCE TOWNSHIP COMMITTEE**  
**Meeting held at the Municipal Building, Great Meadows, NJ.**  
**June 9, 2015 7:00 p.m.**

This is a regular meeting of the Township Committee of Independence Township, Warren County, New Jersey. This meeting was called to order by Mayor Robert Giordano at 7:02 p.m. with the following announcement: "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:**

**Present:** Mayor Robert Giordano, Carmen Feula, Deputy Mayor Glenn Williams, Glenn Cogle, and Debi Hrebenak. Also present were Attorney Leslie Parikh and Engineer Michael Finelli

**Absent:** Mrs. Kelsey

**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: Township Planner

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 p.m., seconded by Deputy Mayor Williams and followed by a roll call of all ayes.

A motion was made by Mr. Feula at 7:55 p.m. to exit the executive session, seconded by Mr. Cogle followed by a roll call of all ayes.

**Redevelopment Agreement-Woodmont Independence Urban Renewal, LLC –**  
Mayor Giordano stated that no action will be taken at this time.

**Land Use board Member Appointment –** Mayor Giordano appointed **Mark Rafalko** to the Board.

**Acknowledgement of a Donation made by Renee Mayberry to the Police**

**Department:** A donation of \$100 was made by Renee Mayberry to thank the department for an issue with her son.

**CONSENT AGENDA:**

**Resolution 15-49:**

On a motion made by Glenn Cogle and seconded by Deputy Mayor Glenn Williams the following resolution was adopted by the Township Committee of Independence on June 9, 2015.

**RESOLUTION GRANTING APPROVAL OF THE  
SUPPORT FOR WARREN COUNTY'S PURCHASE OF A  
DEVELOPMENT EASEMENT ON THE ESTATE OF  
GABRIELLA KLIMAS FARM BLOCK 14 LOTS 10 &  
12.01 IN INDEPENDENCE TOWNSHIP & BLOCK 101.02  
LOTS 43 & 44 IN MANSFIELD TOWNSHIP AND  
CONSISTING OF APPROXIMATELY  
195.7 (3%+) ACRES**

**WHEREAS**, the Committee of the Township of Independence has determined that the property known as the Estate of Gabriella Klimas Farm, owned by John F. Klimas, as Executor of the Estate of Gabriella Klimas located on Block 14 Lots 10 & 12.01 in Independence Township and Block 101.02 Lots 43 & 44 in Mansfield Township, consisting of approximately 195.7 (3%+) acres, has available for purchase a development easement in accordance with the requirements of the farmland preservation program; and

**WHEREAS**, the pressures from development have significantly heightened the degree of imminence of change of land use from productive agriculture to nonagricultural uses; and

**WHEREAS**, pursuant to N.J.A.C. 2:76-17.9A(b) on November 10, 2014 it was determined by the State Agriculture Development Committee (SADC) that the application for the sale of a development easement was complete and accurate and satisfied the criteria contained in N.J.A.C. 2:76-17A.9(a); and

**WHEREAS**, pursuant to N.J.A.C. 2:76-17A.11, on April 24, 2015 the State Agricultural Development Committee has certified a development easement value of \$3,700 per acre based on zoning and environmental regulations in place as of 1/1/04 and \$800 per acre based on zoning and environmental regulations in place as of the current valuation date of June 28, 2014 with an estimated total value of \$724,090; and

**WHEREAS**, the property is part of the approved Warren County Planning Incentive Grant Application and is funded by the Warren County Open Space, Farmland, Recreation and Historic Preservation Trust Fund; and

**WHEREAS**, the tract would encourage the survivability of production agriculture in Independence & Mansfield Townships, and said tract falls within a predetermined County Agricultural Development Area and is in the Central and Northeast Project Areas and property is located in the Highlands Preservation Area; and

**WHEREAS**, on May 13, 2015, the Mansfield Township Committee voted by resolution to approve the owner's application for sale of the development easement, but is not participating financially in the easement purchase; and

**WHEREAS**, the purchase of the development easement on the property will encourage the survivability of the productive agriculture in Independence and Mansfield Townships and Warren County; and

**WHEREAS**, preliminary approval for the purchase of development rights on this farm has been granted by the State Agricultural Development Committee; and

**WHEREAS**, the SADC is expected to grant final approval for funding amount on said application at its July 23, 2015 meeting; and

**WHEREAS**, pursuant to N.J.A.C. 2:76-17.13 on May 21, 2015, the Warren County Agriculture Development Board approved the funding for the development easement with estimated cost share with no cost share contribution by Independence Township as follows: Cost to be shared with the SADC as follows: SADC \$2,620 per acre, Warren County \$1,080 per acre.

**WHEREAS**, the WCADB approval will include the following conditions:

- a. One existing hunting cabin and shed on premises
- b. No existing agriculture labor housing on premises
- c. One non-severable exception of 1 acre around barn, garage and existing single family residence restricted to one unit
- d. No Residual Dwelling Site Opportunities (RDSO's)
- e. No preexisting non-agricultural uses on premises
- f. Access easements to be determined by title search
- g. No proposed trails

- h. SADC funding from Base grant, competitive round or both
- i. Warren County is requesting SADC funding for a 3% buffer on the final surveyed acreage

**NOW THEREFORE BE IT RESOLVED**, by the Township Committee of Independence as follows:

**The Township Committee of Independence hereby grants permission for the purchase of the development easement by the County of Warren under the Farmland Preservation Act as set forth above and will not be participating in cost share.**

**Resolution 15-50:** RESOLUTION (1) AUTHORIZING THE TOWNSHIP OF INDEPENDENCE ATTORNEY AND OTHER TOWNSHIP PROFESSIONALS TO PREPARE AND FILE A DECLARATORY JUDGMENT ACTION WITH THE SUPERIOR COURT SEEKING JUDICIAL APPROVAL OF THE TOWNSHIP'S COMPLIANCE WITH ITS THIRD ROUND MT. LAUREL AFFORDABLE HOUSING OBLIGATIONS IN ACCORDANCE WITH THE NEW JERSEY SUPREME COURT DECISION IN THE MATTER OF THE ADOPTION OF N.J.A.C. 5:96 AND 5:97 BY NJ COUNCIL ON AFFORDABLE HOUSING; AND (2) AUTHORIZING OTHER TOWNSHIP PROFESSIONALS AND OFFICIALS TO TAKE SUCH ACTIONS AS MAY BE APPROPRIATE TO IMPLEMENT AN UPDATE TO THE TOWNSHIP OF INDEPENDENCE HOUSING PLAN ELEMENT OF THE MASTER PLAN AND FAIR SHARE PLAN FOR THIRD ROUND MT. LAUREL AFFORDABLE HOUSING COMPLIANCE, TO UNDERTAKE A SURVEY OF ALL VACANT AND UNDEVELOPED LAND IN TOWNSHIP OF INDEPENDENCE BY BLOCK AND LOT, TO CONDUCT AN ANALYSIS OF THE TOWNSHIP'S HOUSING STOCK, AND TO CONDUCT SUCH OTHER STUDIES AS MAY BE DETERMINED NECESSARY.

WHEREAS, On March 10, 2015 the New Jersey Supreme Court issued its decision in the case of In Re Adoption of N.J.A.C. 5:96 and 5:97 by NJ Council on Affordable Housing, holding that, effective June 8, 2015, enforcement of the Fair Housing Act ("FHA") and the Mount Laurel Doctrine be transferred from the New Jersey Council on Affordable Housing ("COAH") to the New Jersey Superior Courts, due to COAH's failure to adopt Third Round Rules on municipal affordable housing obligations; and

WHEREAS, the New Jersey Supreme Court further ordered in that decision that municipalities which had either received Third Round Substantive Certification or been declared to have "participating" status by COAH are permitted to file a declaratory judgment action with its County's Superior Court within 30 days after the June 8, 2015 effective date of the decision; and

WHEREAS, the purpose of the declaratory judgment action is to seek a judicial declaration that the municipality's affordable housing plan presents a realistic opportunity for the provision of its fair share of present and prospective need for low and moderate income housing, such that the Township may receive, in effect, from the courts substantive certification and accompanying protection as afforded under N.J.S.A. 52:27D-313; and

WHEREAS, the New Jersey Supreme Court ruled that a municipalities' Third Round fair share obligation and housing plan must be evaluated under the prior round methodology; and

WHEREAS, the Township of Independence has "participating status"; and

WHEREAS, throughout and notwithstanding the period of uncertainty over new Third Round Rules, the Township of Independence has continued efforts to provide for low and moderate income housing opportunities in the Township; and

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

1. Township Attorney Leslie Parikh, Esq., along with members of her firm, is authorized to prepare and file a Declaratory Judgment action in the Superior Court on behalf of the Township seeking a judgment of compliance with the Township's Third Round affordable housing obligation and also seeking an order of immunity from Mt. Laurel builder remedy lawsuits during the process of adopting and filing the Housing Plan Element and Fair Share Plan with the Court as well as during the period of Court review of the Township's plan and all implementing ordinances.
2. Township Attorney Leslie Parikh, Esq., Planner David Banisch, and Township Engineer Michael S. Finelli, along with members of their respective firms are authorized to take such actions as may be appropriate to further both the preparation and implementation of the updated Housing Plan Element of the Township of Independence Master Plan and Fair Share Plan for Third Round Mt. Laurel Compliance, to undertake a survey of all vacant and undeveloped land in the Township of Independence by block and lot, to conduct an analysis of the Township's housing stock, and to conduct such other studies as may be determined necessary.
3. Proposals for these plans and studies shall be submitted in advance for review and approval by the Township of Independence Committee and/or Township of Independence Land Use Board.
4. This Resolution shall take effect immediately upon its passage. Resolution (1) authorizing the Township of Independence attorney and other Township professionals to prepare and file a declaratory judgement action With the superior court seeking judicial approval of the Township's compliance with its third round Mt. Laurel Affordable Housing obligations in accordance with the New Jersey Supreme Court decision in the matter of the adoption of the NJAC 5:96 and 5:97 by NJ Council on Affordable Housing; and (2) authorizing other Township professionals and officials to take such actions as may be appropriate to implement an update to the Township of Independence Housing Plan element of the Master Plan and Fair Share Plan for third round Mt. Laurel Affordable Housing compliance, to undertake a survey of all vacant and undeveloped land in the Township of Independence by block and lot, to conduct an analysis of the Township's Housing Stock, and to conduct such other studies as may be determined necessary.

**Resolution 15-51: WHEREAS**, the Township of Independence anticipates filing a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, in furtherance of the Supreme Court's March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the "Supreme Court Decision"); and

**WHEREAS**, Fair Share Housing Center ("FSHC"), through the services of David Kinsey, has prepared what it considers to be the statewide fair share numbers (the "FSHC Numbers") for use by the 15 vicinage Mt. Laurel Judges to calculate a municipality's affordable housing obligation pursuant to the Supreme Court Decision; and

**WHEREAS**, the Township of Independence desires to participate in the preparation of a statewide fair share analysis to be undertaken by Rutgers, The State University of New Jersey ("Rutgers"), through Dr. Robert W. Burchell, Principal Investigator, and various other experts employed by Rutgers in order to establish a rational and reasonable methodology (the "Burchell Fair Share Analysis") for determination of a municipality's obligation to provide a realistic opportunity through its land use ordinances for its fair share of the region's affordable housing needs in accordance with the Mount Laurel Doctrine as set forth in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Decision") and prior decisions of the Courts of New Jersey, and the Fair Housing Act, N.J.S.A. 52:27D-301 et. seq.; and

**WHEREAS**, Rutgers, utilizing Dr. Burchell as the Principal Investigator and author has agreed to prepare the Burchell Fair Share Analysis within 90 days of being retained to establish his view of the proper way to determine each municipality's fair share obligation; and

**WHEREAS**, Dr. Burchell estimates the cost to prepare the initial Burchell Fair Share Analysis will be \$70,000; and

**WHEREAS**, it is anticipated that there will be a need for Dr. Burchell to analyze any challenges to his conclusions and prepare a rebuttal report to said challenges which is not included in the \$70,000; and

**WHEREAS**, it is anticipated that if each municipality contributes \$2,000, there will be sufficient monies to pay the cost to prepare the initial Burchell Fair Share Analysis, to analyze any challenges to the Initial Fair Share Analysis and to Prepare A Rebuttal Report given the number of municipalities that have expressed an interest in retaining Burchell; and

**WHEREAS**, a Municipal Shared Services Defense Agreement (hereinafter MSSDA"), has been prepared (a) so that monies can be collected to enter into an agreement with Rutgers (hereinafter "the Rutgers Agreement") and so that Burchell, along with various other experts from Rutgers, can perform the tasks described above and (b) so that the rights and responsibilities of each municipality that wishes to sign the agreement to retain Rutgers are defined; and

**WHEREAS**, the MSSDA provides that the Law Offices of Jeffrey R. Surenian and Associates, LLC ("Surenian") will serve as the administrative entity to sign the Rutgers agreement on behalf of the municipalities that signed the MSSDA and paid the \$2,000 fee; and

**WHEREAS**, it is imperative given the time constraints for municipalities that wish to retain Burchell to sign the MSSDA and pay the \$2,000 fee so that Burchell can conduct the necessary analysis; and

**WHEREAS**, notwithstanding the foregoing, it is possible that the MSSDA may need to be changed as a result of ongoing negotiations with the Rutgers agreement following execution of the MSSDA and the payment of the \$2,000 fee; and

**WHEREAS**, in such an event, any member that objects to the changes that Rutgers may require shall have the opportunity to relinquish membership in the Municipal Group and to receive back the \$2,000 payment as more specifically set forth in the MSSDA.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Independence, as follows:

1. The terms and conditions of the MSSDA attached hereto are hereby approved, ratified and confirmed.
2. The amount of \$2,000 is hereby authorized to be expended by the Township of Independence for Rutgers through Dr. Robert Burchell, Principal Investigator to prepare the Burchell Fair Share Analysis.
3. A certification of funds authorizing the aforesaid expenditure has been signed by the Chief Financial Officer of the Township of Independence and is appended hereto.
4. The Mayor of Independence be and is hereby authorized to execute the aforesaid MSSDA to memorialize the participation of the Township of Independence in the preparation of the Burchell Fair Share Analysis and to take any and all actions reasonably required to effectuate said Agreement.
5. The Township of Independence hereby authorizes Jeffrey R. Surenian, Esq. to execute on behalf of the Township of Independence, the Research Agreement with Rutgers to initiate and complete Burchell Fair Share Analysis and to do such other actions to effectuate the purposes of said Research Agreement.

6. If further changes to the MSSDA are needed as a result of finalizing the Rutgers Agreement, within ten (10) days of notification by Surenian of the changes, the Township of Independence will inform Surenian if it objects to the changes and wishes to withdraw from the Municipal Group and obtain a refund of the \$2000 it paid.
7. This Resolution shall take effect immediately.

**Resolution 15-49:** Deputy Mayor Williams made a motion to adopt Resolution 15-49 as written. Mr. Cogle seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mr. Cogle, Deputy Mayor Williams, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with four (4) affirmative votes.

**Resolution 15-50:** Mr. Cogle made a motion to adopt Resolution 15-50 as written. Deputy Mayor Williams seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mr. Cogle, Deputy Mayor Williams, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with four (4) affirmative votes.

**Resolution 15-51:** A motion was made to adopt Resolution 15-51 as written. Mr. Feula seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mr. Cogle, Deputy Mayor Williams, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with four (4) affirmative votes.

## **DEPARTMENT REPORTS:**

Tax Collector - Posted

Construction/Zoning – No report.

Environmental – Mr. Ulmer was not present.

Treasurer – No report

Recreation/Green Acres – Nothing to report

Police – Report has been submitted. Chief Riley mentioned his recommendation for liquor license; resurfacing project over viaduct will be completed within the next couple of months; Barkers Mill Road project will start the end of June, Hazard Mitigation Plan is complete, request an amendment to overnight parking ordinance.

Emergency Services – No report.

DPW – Report was submitted. Specifications for the new truck have been submitted.

Delivery expected the end of December.

Municipal Clerk: Extremely busy at this moment.

Land Use Board – Mr. Feula stated that the Board is busy and the new attorney is working out well.

Seniors – Mrs. Walter gave a report.

Board of Education – No report.

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## **PROFESSIONAL REPORTS:**

Attorney Parikh: Indemnification Ordinance needs to be reviewed by the Committee.

Engineer Smith: Engineer Finelli has submitted a report and noted that Chief Riley deserves a lot of credit for all the work he does. Wastewater Management Plan moving

forward (fully detailed in his report). Russling Road plans and specs are moving along well and next month he will have a more definite starting date.

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**PUBLIC COMMENT:** Mr. Feula suggested that our DPW workers be given a personal day to be used at their discretion to thank them for their services this past Winter as the State of NJ did for their workers. A motion was made by Mr. Feula to give the personal day as discussed above. Mr. Cogle seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mr. Cogle, Deputy Mayor Williams, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with four (4) affirmative votes.

**BILLS:** A motion was made by Mayor Giordano to pay the bills as presented. Mr. Feula seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mr. Cogle, Deputy Mayor Williams, and Mayor Giordano

Nays: None recorded

Abstain: None recorded

Motion carries with four (4) affirmative votes.

NOTE: 8:20 pm – a five (5) minute recess was taken

**EXECUTIVE SESSION: 8:25 pm – 10:20 pm**

**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 matters

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 8:25 p.m., seconded by Mr. Feula and followed by a roll call of all ayes.

A motion was made by Mr. Cogle at 10:20 p.m. to exit the executive session, seconded by Deputy Mayor Williams followed by a roll call of all ayes.

Mayor Giordano stated that a number of issues were discussed. Mr. Feula made a motion to authorize the Township attorney to research and prepare an ordinance dissolving the Independence Rec Commission and establishing an Independence Rec Committee. This will in no way interrupt any sports program that is scheduled for this season or upcoming seasons. Attorney Parika restated the motion for the record. This will be introduced at the July Township meeting. Mr. Cogle seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mr. Cogle, Deputy Mayor Williams, and Mayor Giordano

Nays: None recorded

Abstain: None recorded  
Motion carries with four (4) affirmative votes.

**ADJOURNMENT:** A motion was made by Deputy Mayor Williams to adjourn the meeting at 10:25 p.m. Mr. Cogle seconded the motion with roll call as follows:

Ayes: Mr. Feula, Mr. Cogle, Deputy Mayor Williams, and Mayor Giordano  
Nays: None recorded  
Abstain: None recorded  
Motion carries with four (4) affirmative votes.

Respectfully submitted,

Deborah M. Hrebenak, RMC/CMR  
Municipal Clerk