

MONTCLAIR, NEW JERSEY

January 29, 2013

The Council of the Township of Montclair, in the County of Essex, met in the Conference Room of the Municipal Building, 205 Claremont Avenue, for a Conference Meeting at 7:03 P.M.

Present: Mayor Jackson and Councilors Baskerville, Hurlock, McMahon, Schlager, and Spiller

Absent: Deputy Mayor Russo

STATEMENT OF SUNSHINE NOTICE

Discussion: Resolution to correct real estate tax bills for various properties incorrectly assessed in 2012.

Resolution 8A will be added to tonight's agenda.

Township Manager's Report: Preview of agenda items

- a. Ordinance to amend Traffic Ordinance – portion of Highland Avenue no parking
- b. Ordinance to amend Traffic Ordinance – portion of Highland Avenue two hour parking
- c. Resolution authorizing the execution of a professional services agreement with Piazza & Associates, Inc to serve as administrative agent of the affordable housing units in the Township
- d. Resolution authorizing 2013 Community Development Block Grant (CDBG) applications
- e. Resolution authorizing execution of a professional services agreement with McManimon, Scotland, & Baumann, LLC, as bond counsel for the Township
- f. Resolution authorizing the renewal of professional services agreement with Genova Burns & Giantomasi as labor and employment counsel and special
- g. Resolution authorizing a professional services agreement with Nowell Amoroso Klein Bierman, P.A. as special tax counsel for the Township
- h. Resolution authorizing appointments to the Montclair Early Childhood Corporation
- i. Resolution authorizing emergency temporary appropriations
- j. Resolution authorizing execution of agreement with First Mountain Arboriculture LLC for arborist consulting services

Councilor Spiller offered scenarios for a more cost effective provision of arborist services including sharing the cost of a full-time arborist with other communities.

Township Manager Marc Dashield will explore other possibilities.

At 7:21 P.M., on motion made by Mayor Jackson and duly seconded, the following resolution was adopted by unanimous vote:

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matters.
2. The general nature of the subject matters to be discussed are as follows: Personnel and Contract Negotiations
3. We do not anticipate that the matters discussed will be made public.
4. This resolution shall take effect immediately.

At 7:46 P.M., on motion made by Mayor Jackson and duly seconded, the Executive Session was adjourned by unanimous vote.

At 7:47 P.M., the Conference Meeting was reconvened.

The Council posed several questions to the Township Manager regarding the Bill List.

At 7:55 P.M. on motion made by Mayor Jackson and duly seconded, the Conference Meeting was adjourned by unanimous vote.

The Council of the Township of Montclair, in the County of Essex, met in the Council Chamber of the Municipal Building, 205 Claremont Avenue, for a Regular Meeting at 8:03 P.M.
Present: Mayor Jackson and Councilors Baskerville, Hurlock, McMahon, Schlager, and Spiller
Absent: Deputy Mayor Russo

STATEMENT OF SUNSHINE NOTICE

PLEDGE OF ALLEGIANCE

On motion made by Mayor Jackson and duly seconded, the minutes of January 22, 2013 were approved by unanimous vote.

PUBLIC COMMENT

Mayor Jackson asked whither anyone present wished to address the Councilors regarding any matters of interest or importance.

Nick Fiornesciente, 165 Valley Road, suggested that the proposed water pumping station be situated in the wooded area of Nishuane Park away from the school. He also suggested possibly constructing the well on the wooded side of Mountainside Pool. Mr. Fiornesciente recommended the implementation of speed bumps instead of four-way stops to deter speeding.

Hayward Wheaton, 12 Warren Place, expressed concern regarding the proposed development of land in the area of Lackawanna Plaza. He especially objected to any use of this parcel for what he characterized as a "prison."

Paul Rabinovitch, 505 Highland Avenue, thanked Councilor Hurlock and Township Manager Dashield for their assistance in dealing with Montclair State University students who park in their neighborhood disrupting local residents.

Township Manager Marc Dashield stated that the proposed Highland Avenue parking ordinance will have a second reading on February 12 (changed to February 26 to conform with legal advertising statutes) after which time a resolution will be adopted to waive the twenty-day implementation period.

Stewart Gleason, 498 Highland Avenue, objected to the ordinance as proposed. He also believes that allowing cars to park on both sides of the street is beneficial because it slows traffic. Mr. Gleason does not think that Montclair State University is motivated to solve the student parking problem.

Councilor Hurlock addressed Mr. Gleason's concerns.

James Harris, Nine Pleasant Avenue, addressed the issue of affirmative action as it applies to contracts for municipal projects and services. He requested that the Township provide an affirmative action impact statement.

Gary Trabka, 495 Highland Avenue, appreciates that the Township is pursuing a solution to the Montclair State University student parking problem; however, he does not believe the policy allows residents to have the kind of flexibility they currently enjoy.

Jeanne Samet, 501 Highland Avenue, also thanked the Council for providing solutions to the Highland Avenue parking concerns.

There being no one else wishing to be heard, Mayor Jackson closed the public comment portion of the meeting.

COUNCIL COMMITTEE REPORTS

Economic Development Advisory Committee

This committee has addressed the following:

- DCH development agreement
- Kensington project
- Hurricane Sandy communication problems, i.e. better utilization of technology and of social media

The committee will be again on February 4.

Montclair: Super Bowl Destination

Councilor Schlager reported on a number of proposed activities in conjunction with this designation

Education Subcommittee

Councilor Spiller met with the Council's Education Committee Advisory Board members and received updates from each group. He noted that a goal of the participants is to develop ways for all members to work together.

Services and Communication

Councilor Baskerville stated that this group will be working closely with the Parks and Recreation Advisory Committee. Several of their suggestions include finding space for a skate park and open space for vest pocket gardens. The Advisory Committee also plans to work with the Communication Committee.

Mr. Dashield indicated that an RFP for a grant writer has been issued.

Mayor Jackson noted Deputy Mayor Russo’s absence due to his mother’s illness and sends thoughts and prayers.

NEW BUSINESS – ORDINANCES/FIRST READING-INTRODUCTION

Councilor Hurlock introduced the following ordinance and made a motion which was duly seconded, that it pass first reading and be further considered for final passage at a regular meeting of the Township Council to be held on February 26, 2013:

“ORDINANCE TO AMEND THE TRAFFIC ORDINANCE – HIGHLAND AVENUE BETWEEN MT. HEBRON ROAD AND MOUNTAINSIDE PARK” (O-13-04)

The motion was adopted by unanimous vote.

Councilor H introduced the following ordinance and made a motion which was duly seconded, that it pass first reading and be further considered for final passage at a regular meeting of the Township Council to be held on February 26, 2013:

“ORDINANCE TO AMEND THE TRAFFIC ORDINANCE – HIGHLAND AVENUE BETWEEN MT. HEBRON ROAD AND MOUNTAINSIDE PARK” (O-13-05)

The motion was adopted by unanimous vote.

NEW BUSINESS – RESOLUTIONS

On motion made by Mayor Jackson and duly seconded, the following Consent Agenda resolutions were adopted by unanimous vote:

WHEREAS, the Township of Montclair is required to engage a professional firm to serve as the administrative agent for the Township’s 87 affordable housing units pursuant to N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5, authorizes municipalities to enter into contracts for professional service without public bidding; and

WHEREAS, the Township issued a Request for Proposals (RFP) to provide the required professional services and, in response to the RFP, the Township received two proposals from professional consultants; and

WHEREAS, after review of the proposals, the Township decided to retain Piazza & Associates, Inc. has the best pricing structure for the requested scope of services with a fee not to exceed \$4,800; and

WHEREAS, Piazza & Associates, Inc. specializes in administering affordable units and is a recognized leader in the field of affordable housing administration; and

WHEREAS, this contract is being awarded in accordance with the requirements of the New Jersey “Pay-to-Play” Law, N.J.S.A 19:44a-20.5 et seq.; and

WHEREAS, Piazza & Associates, Inc. has completed and submitted a Business Entity Disclosure Certification certifying that it has not made any reportable contributions to any political or candidate committee in the Township of Montclair in the previous one year period, and the subject contract will prohibit said corporation from making any reportable contributions during the term of this contract; now therefore,

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that the Mayor and Township Clerk be and are hereby authorized to execute and attest an agreement with Piazza & Associates, LLC to provide administrative agent services to the Township at a cost not to exceed \$4,800 and in a form approved by the Township Attorney; and

BE IT FURTHER RESOLVED that notice shall be published in the Montclair Times stating the nature, duration, service and amount of the attached agreement and that copies of this Resolution and the agreement are on file and available for inspection in the office of the Township Clerk. (R-13-15)

WHEREAS, there exists a continued need for specialized legal services in connection with the authorization and issuance of bonds or notes of the Township of Montclair in the County of Essex, State of New Jersey, including the review of such procedures and the rendering of approving legal opinions acceptable to the financial community; and

WHEREAS, such special legal services can be provided only by a recognized Bond Counsel firm, and the law firm of McManimon, Scotland and Baumann, L.L.C., is so recognized by the financial community; and

WHEREAS, McManimon, Scotland and Baumann, L.L.C. has for many years provided the Township of Montclair with highly qualified and professional services as bond counsel; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5 authorizes the Township to enter into contracts for professional services without competitive bidding; and

WHEREAS, this contract is being awarded in accordance with the requirements of N.J.S.A. 19:44A-20.5 et seq. applicable to non-fair and open contracts; and

WHEREAS, McManimon, Scotland and Baumann, L.L.C. has completed and submitted a Business Entity Disclosure Certification certifying that he has not made any reportable contributions to any political or candidate committee in the Township of Montclair in the previous one year period, and the subject contract will prohibit said individual from making any reportable contributions during the term of this contract; and

BE IT RESOLVED, by the Council of the Township of Montclair, in the County of Essex, that the Mayor and the Township Clerk be and they are hereby authorized to execute and attest the annexed agreement with the law firm of McManimon, Scotland and Baumann, L.L.C., to provide specialized legal services in connection with the authorization and issuance of bonds or notes by the Township, for the period from January 1, 2013 through December 31, 2013.

BE IT FURTHER RESOLVED that notice shall be published in the Montclair Times stating the nature, duration, service and amount of the attached agreement and that copies of the Resolution and agreement are on file and available for inspection in the office of the Township Clerk. (R-13-17)

WHEREAS, pursuant to prior resolutions adopted by the Township Council, the Township has entered into professional services agreements with the law firm of Genova Burns & Vernoia (now known as "Genova Burns & Giantomasi") to provide legal services required by the Township in labor and employment matters and litigation; and

WHEREAS, the Township has a continued need for legal counsel to represent the Township in labor and employment matters and special litigation; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5, authorizes the Township to enter into contracts for professional services without competitive bidding; and

WHEREAS, this contract is being awarded in accordance with the requirements of N.J.S.A. 19:44A-20.5 et seq. applicable to non-fair and open contracts; and

WHEREAS, Genova Burns & Giantomasi has completed and submitted a Business Entity Disclosure Certification certifying that it has not made any reportable contributions to any political or candidate committee in the Township of Montclair in the previous one year period, and the subject contract will prohibit said firm from making any reportable contributions during the term of this contract; now therefore,

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that the Township renew its Professional Services Agreements with the firm of Genova Burns & Vernoia (now known as "Genova Burns & Giantomasi") as labor and employment counsel and special litigation counsel for the Township, for the period from January 1, 2012 through December 31, 2012, to perform such legal work and provide legal services as directed; and

BE IT FURTHER RESOLVED that the Mayor and Township Clerk be and they are hereby authorized to execute and attest the annexed agreement with Genova, Burns & Giantomasi for provision of the aforementioned legal services for the period from January 1, 2013 through December 31, 2013; and

BE IT FURTHER RESOLVED that notice shall be published in the Montclair Times stating the nature, duration, service and amount of the attached agreement and that copies of this Resolution and the agreement are on file and available for inspection in the office of the Township Clerk. (R-13-18)

WHEREAS, Nowell Amoroso Klein Bierman, P.A. has represented the Township in connection with real estate tax appeals filed with the Essex County Board of Taxation and the New Jersey Tax Court, and in other tax matters; and

WHEREAS, Nowell Amoroso Klein Bierman, P.A. continues to represent the Township in tax appeals which remain pending in the New Jersey Tax Court; and there exists a continued need for the Township to engage experienced legal counsel with special expertise and experience in real estate taxation and the representation of municipalities in real estate tax appeals; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5, authorizes the Township to enter into contracts for professional services without competitive bidding; and

WHEREAS, this contract is being awarded in accordance with the requirements of N.J.S.A. 19:44A-20.5 et seq. applicable to non-fair and open contracts; and

WHEREAS, Nowell Amoroso Klein Bierman, P.A., has completed and submitted a Business Entity Disclosure Certification certifying that it has not made any reportable contributions to any political or candidate committee in the Township of Montclair in the previous one year period, and the subject contract will prohibit said corporation from making any reportable contributions during the term of this contract; now therefore

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that the Township enter into a Professional Services Agreement with Nowell Amoroso Klein Bierman, P.A. for a one-year period commencing January 1, 2013 and ending December 31, 2013 in accordance with the terms of the fee proposal letter, in order to continue its existing representation and to provide additional professional services as may be assigned by the Township; and

BE IT FURTHER RESOLVED that the Mayor and Township Clerk be and they are hereby authorized to execute and attest the aforesaid agreement with Nowell Amoroso Klein Bierman, P.A. at the same rates as 2012; and

BE IT FURTHER RESOLVED that the Township Clerk shall publish notice in the Montclair Times stating the nature, duration, service and amount of this Professional Services Agreement, and further stating that copies of this Resolution and the agreement are on file and available for inspection in the Township Clerk's office. (R-13-19)

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that ANGELA DURHAM-KNIGHT and STEPHANIE FITZGERALD be and they hereby are REAPPOINTED to serve as MEMBERS of the Board of Trustees of the Montclair Early Childhood Corporation effective immediately and terminating July 1, 2015. (R-13-20)

WHEREAS, the Township of Montclair has a need to engage an arborist to provide consulting services for the Township during the year 2013; and

WHEREAS, the Township issued a request for proposals to provide the required arborist consulting services and in response the Township received two proposals; and

WHEREAS, after review of the proposals by Township staff and preparation of a written report, the Township Manager has recommended that the Township award a contract to First Mountain Arboriculture L.L.C. to provide the required arborist consulting services for the calendar year 2013; and

WHEREAS, this contract has been awarded in accordance with a fair and open process pursuant to N.J.S.A. 19:44a-20.5 et seq.; now therefore

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that the Township Manager be and he is hereby authorized to execute an agreement with First Mountain Arboriculture L.L.C. to provide arborist consulting services to the Township of Montclair for the year 2013 subject to the appropriation of funds and certification of available funds by the Chief Financial Officer. (R-13-22)

On motion made by Councilor Schlager and duly seconded, the following resolution (R-13-16) was adopted by unanimous vote:

WHEREAS, the Township of Montclair continues to participate in the Essex County Community Development Program, and a resolution of the Township Council ranking applications for such funding is a requirement of the 2013 Community Development Program; now therefore

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that the following 2013 Community Development Block Grant applications be submitted by Montclair Township with the designated priority:

| Priority | Organization | Project Summary | Grant Request |
|----------|--|---|---------------|
| 1 | Montclair Township | Glenridge Avenue Streetscape Improvement Project - Phs. 2 | \$180,000 |
| 2 | Counseling Outreach Prevention Education (COPE) | Specialized Services for Children and Families | \$49,000 |
| 3 | Montclair Neighborhood Development Center (MNDC) | Project Oasis | \$50,000 |
| 4 | HOME Corp | Housing, Opportunity, Preparation and Education program | \$30,000 |
| 5 | Neighborhood Child Care Center (NCCC) | Professional staffing for special needs children | \$60,000 |
| 6 | BlueWaveNJ Public Interest Foundation (BWPIF) | After school tutoring and summer enrichment | \$46,950 |
| 7 | Interfaith Hospitality Network | Case management services | \$30,300 |
| 8 | United Way | Job Resource and Skill Building Center | \$50,000 |
| 9 | Family Service League | Counseling for low-income families and rape victims | \$20,000 |

On motion made by Councilor McMahon and duly seconded, the following resolution (R-13-21) was adopted by unanimous vote:

WHEREAS, an emergent condition has arisen in that the Township is expected to enter in contracts, commitments or payments prior to the 2013 budget and no adequate provision has been made in the 2013 temporary budget for the aforesaid purposes, and

WHEREAS, N.J.S. 40A:4-20 provides for the creation of an emergency temporary appropriation for said purpose, and

WHEREAS, the emergency temporary appropriations requested in the year 2013 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) will include the following:

| Description | CURRENT FUND | | |
|---|---------------------------------------|--------------|-------------------------------------|
| | 2013 temporary budget rescinded | requested | 2013 temporary budget adopted |
| Essex Sandy Grant | \$.00 | \$ 31,946.00 | \$ 31,946.00 |
| Payment of Notes and Bans | \$ 1,229,000.00 | \$206,000.00 | \$1,435,000.00 |
| Payment of Bond Anticipation Notes- School | \$ 0.00 | \$270,000.00 | \$ 270,000.00 |
| Montclair Early Childhood | \$.00 | \$ 16,250.00 | \$ 16,250.00 |
| Subtotal | | \$524,196.00 | |

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, State of New Jersey, (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. Emergency temporary appropriations are hereby increased in the amount of \$524,196.00 as per the schedule.
2. Said emergency temporary appropriations will be provided for in the 2013 budget.
3. That one certified copy of this resolution be filed with the Director, Division of Local Government Services.

On motion made by Councilor Baskerville and duly seconded, the following resolution (R-13-23) was adopted by unanimous vote:

WHEREAS, in year 2011, the Township conducted a town-wide reassessment of all properties which was posted on the tax rolls for year 2012; and

WHEREAS, the properties located at block 3111 lots 7, 14, and 17, block 3112 lots 10 and 11, block 4107 lots 12, 24, 29, and 62 were reassessed at a value that did not take into account the affordable housing deed restriction on each property; and

WHEREAS, these properties were mistakenly assessed at a substantially higher value than was warranted by the deed restriction; and

WHEREAS, each property paid 2012 taxes and possibly estimated taxes for 2013 based on the incorrect reassessment; and

WHEREAS, the Tax Assessor has recommended that corrections be made to the 2012 assessments of these properties, as set forth below; now therefore

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that the 2012 reassessments of the following properties are hereby corrected and revised as follows:

| <u>Block, Lot</u> | <u>Address</u> | <u>2012 Reassessment Value</u> | <u>Corrected Value</u> |
|-------------------|----------------|--------------------------------|------------------------|
| 3111, 7 25 | Mission Street | \$162,400 | \$115,100 |
| 3111, 1453 | Mission Street | \$191,400 | \$124,200 |
| 3111, 1759 | Mission Street | \$178,300 | \$124,500 |
| 3112, 1024 | Miller Street | \$174,700 | \$109,500 |
| 3112, 1126 | Miller Street | \$167,900 | \$104,400 |
| 4107, 1262 | Mission Street | \$226,600 | \$155,800 |
| 4107, 2424 | Mission Street | \$157,600 | \$104,800 |
| 4107, 2914 | Mission Street | \$180,600 | \$124,500 |
| 4107, 6258 | Maple Avenue | \$205,100 | \$148,800 |

BE IT FURTHER RESOLVED that the Tax Collector is hereby authorized and instructed to calculate and refund or credit the amount of taxes overpaid as a result of the incorrect 2012 reassessment for the above-referenced properties.

On motion made by Councilor Schlager and duly seconded, the following resolution was adopted by unanimous vote:

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that said bills be and they are hereby ordered paid and that warrants be drawn on the Treasurer to the order of such person for the amount respectively as hereinafter stated to wit: \$895,717.44.

REPORTS AND COMMUNICATIONS

The Municipal Clerk reported that she had filed in her office a list of reports and communications received since the last meeting.

On motion made by Mayor Jackson and duly seconded, the following reports and communications were accepted and ordered to be made part of the minutes of this meeting.

FILED:

From the NJDEP – No Further Action Letters for the following addresses:
491 Highland Avenue
Ten Kenneth Road

Councilor Baskerville joined Blue Wave and Cease Fire New Jersey members during their recent rally for gun control. She also attended a meeting of “Building One New Jersey.” Councilor Baskerville highlighted the “Land Use and Circulation Draft” dated January 16, 2013. A copy will be posted on the Township’s web site.

Councilor Spiller recently attended a Business Improvement District meeting and will address their request for the Township to process BID assessments. He congratulated all of Montclair’s outstanding student athletes.

Councilor McMahon announced the annual Montclair Ambulance Unit St. Patrick’s Day fund raising event on March 16 at the Commonwealth Club. This year’s honoree is former Township Manager Joseph Hartnett.

Councilor Hurlock participated in several events including a meeting of the Yantacaw Park Conservancy. He also attended the Mt. Hebron School Comedy Night and the Council's Education Advisory meeting. Councilor Hurlock announced the following upcoming events: First Ward Meeting and First Ward Clean-up Day.

Township Manager Marc Dashield provided an update on the proposed Nishuane Well hearings. The staff is currently reviewing all comments. Upon conclusion of the staff review, information will be provided to the Township Council for consideration and posted on the Township web site.

Township Attorney Ira Karasick reviewed the parameters of the deeds covering the areas for the proposed Nishuane water pumping station.

Municipal Clerk Linda Wanat referenced a letter from the U.S. General Services Administration notifying the Township that the site of the former Social Security building on Bloomfield Avenue may be used for services for the homeless. The letter also addressed other scenarios the municipality might consider for future use of the site.

At 9:16 P.M. on motion made by Mayor Jackson and duly seconded, the meeting was adjourned by unanimous vote.

ATTEST:

ROBERT JACKSON MAYOR

LINDA S. WANAT MUNICIPAL CLERK