

.MONTCLAIR, NEW JERSEY

September 6, 2016

The Council of the Township of Montclair, in the County of Essex, met in the First Floor Council Chamber in the Municipal Building, 205 Claremont Avenue, for a Conference meeting at 7:01 P.M.

STATEMENT OF SUNSHINE NOTICE  
PLEDGE OF ALLEGIANCE  
ROLL CALL

Present: Mayor Jackson, Deputy Mayor Hurlock, Councilors Baskerville, McMahon, Russo, Schlager and Spiller  
Absent: None

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On motion made by Mayor Jackson and duly seconded, the minutes of August 23, 2016 were approved by unanimous vote.

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PUBLIC COMMENT

Sandy Sorkin, 3 Marquette Road, proffered several questions regarding bill list items. He asked that additional information be provided regarding certain expenditures.

Adriana O'Toole, 48 South Willow Street, complained about the length of time to obtain building permits and inspections within the municipality. She also believes that certain proposed housing units in the Seymour Street redevelopment plan are inappropriate for the area.

Victoria Ostrer, 5 Roosevelt Place, asked if her email to the Township Council and Manager suggesting revisions to the Seymour Street Redevelopment Plan was received. She also addressed earlier concerns with the proposed Arts and Entertainment District and inconsistencies with the Township Master Plan. Other concerns:

- Additional tax revenue
- Use of eminent domain
- Congestion in the area.

William Scott, Co-chair Housing Commission raised several questions regarding the affordable housing component in the Seymour Street Redevelopment Plan. Township Attorney, Ira Karasick stated that changes in the COAH guidelines should address their concerns. They would provide flexibility to allow Montclair residents first opportunity to acquire affordable units. He further stated that no policy changes have been established as of this date. Mr. Scott also believes that the current redevelopment plan does not address "Family" units.

Lucy O'Brien, 5 Roosevelt reiterated concerns regarding the Seymour Street Redevelopment Plan including traffic and safety.

A resident of 38 Lexington Avenue, expressed concerns regarding the traffic flow in this area including increased bottlenecks. She asked that any plan address both pedestrian and vehicular traffic.

Robin Woods, 50 Pine Street, discussed new building developments in this area including the sale of Mt. Carmel Church. She also noted that several residents at the Mews did not receive notices of Planning Board meetings.

Ms. Kaplan, 5 Roosevelt Place, reported that a previous meeting of the Planning Board indicated that changes would be made to the Seymour Street Redevelopment Plan. She also highlighted that there would be additional congestion in the area. Ms. Kaplan urged the implementation of shuttle /jitney services, shared parking scenarios and the reduction of the footprints of decks proposed in the plan. She stated that the plan does not address any free or low rent space for arts and entertainment organizations.

A Resident, 29 S. Willow Street asked the Council to consider the concerns of many residents in the area including scaling back the development.

William Scheckel, 29 S. Willow Street, also asked the Council to reduce the scope of the Seymour Street Redevelopment Plan because of its size and detrimental impact on the area.

Joanne Smalls, a resident of Bloomfield Avenue supports the Seymour Street Redevelopment Plan especially as an arts and entertainment area which will be affordable to users. She also suggested affordable units designated for qualified members of the arts community.

Jason DeSalvo, member of the Planning Board outlined the steps regarding the plan and noted that the Township is only "at the beginning of the process."

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RECEIVE: HOME Corp Representatives

Julia Cerf, Director  
David Grill  
Deidre Malloy

Requested an additional \$75,000 for the completion of the Talbot Street project. She noted that HomeCorp has received a number of loans from local residents and they may also be eligible for funding from the State of New Jersey. At Councilor Spiller's request she explained certain cost "overruns" that were not identified in the original budget including landscaping, underground electrical wiring, decking and time delay charges.

The Council asked HomeCorp representatives to provide additional information before moving forward with this request.

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RECEIVE: Township Arborist, Steve Schuckman

Mr. Schuckman provided an update on the infestation of the Emerald Ash Borer in Montclair. Without treatment for this disease over 2,000 ash trees will die and need to be replaced.

Mr. Schuckman will be meeting with a New Jersey State field inspector to develop a plan. The plan may include one of three options:

1. Total removal
2. Preservation of some high quality trees with (biannual treatment)
3. Preservation of all ash trees (not realistic)

Mr. Schuckman stated that he is proud of the municipality shade tree department. Currently more trees are planted annually than need to be removed.

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#### ORDINANCES – SECOND READING/ADOPTION

The pending ordinance entitled: "AN ORDINANCE ADOPTING A REDEVELOPMENT PLAN FOR THE SEYMOUR STREET REDEVELOPMENT (O-16-025) passed first reading August 23, 2016 and upon second reading the title thereof was read by the Clerk who then reported that it had been published and posted and copies had been made available to the public as required by law and that an affidavit to that effect was in the office of the Municipal Clerk.

Mayor Jackson asked whether anyone present wished to address the Councilors regarding the proposed ordinance.

Ms. Talley discussed her response to comments received from resident Victoria Ostrer. Ms. Talley stated that Ms. Ostrer referenced the Council resolution designating the properties as an area in need of redevelopment. The first paragraph is incorporated into the Seymour Street resolution on page 6 where item 4 under the Be It Ordained section empowers the Council to use eminent domain when necessary. There is no need to add this section to the ordinance since it is explicitly indicated on page 6. The second paragraph that Ms. Ostrer wants to add involves the Plymouth parking lot which is not included in the Seymour Street redevelopment plan. Since this property is not included in the redevelopment plan, it does not make sense to include it in the ordinance.

Martin Schwartz, member of the Montclair Planning Board, believes this development is a "complete departure" for redevelopments within the Township. He addressed neighborhood residents' concerns about congestion, traffic and unsightly views. He believes that the Township benefits from this initiative from both a commercial and residential perspective. He urged the passage of the ordinance.

Resident, 5 Roosevelt Place, asked if alternative plans for use of the area including additional green space has been suggested.

Adriana O'Toole, 48 S. Willow Street, reiterated her objection to the entire Seymour Street Redevelopment Plan.

William Scott, 23 Cedar Avenue, asked the Council to delineate their commitment to an affordable housing formula for this plan.

A resident of 5 Roosevelt Place objected to the planned parking structures in a residential area. She asked if a developer had already been designated.

Steven Leavitt, 10 Roosevelt Place, cited safety concerns e.g., fire trucks, ambulances which may be hindered because of the proposed Seymour Street Redevelopment Plan. He also asked what obligations the owners of the Wellmont Theatre had regarding this project.

Jason DeSalvo, Planning Board member reiterated that the Planning Board worked tirelessly to address the concerns of residents objecting to this redevelopment plan. He cited a number of errors in a petition circulated by the objectors and in statements made by same.

Being no one wishing to be heard, Mayor Jackson closed the hearing.

On motion made by Mayor Jackson and duly seconded, the ordinance was adopted by the following vote.

Ayes: Deputy Mayor Hurlock, Councilors McMahan, Russo, Schlager and Mayor Jackson  
Nays: Councilor Baskerville, and Councilor Spiller

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The pending ordinance entitled: "ORDINANCE AMENDING MONTCLAIR CODE CHAPTER 327 TO INCREASE ON-STREET PARKING METER RATES" (O-16-033) passed first reading August 9, 2016 and upon second reading the title thereof was read by the Clerk who then reported that it had been published and posted and copies had been made available to the public as required by law and that an affidavit to that effect was in the office of the Municipal Clerk.

Mayor Jackson asked whether anyone present wished to address the Councilors regarding the proposed ordinance.

Township Attorney, Ira Karasick, outlined several amendments to this ordinance including parking fees and standard hours of operation for both on the street parking and off street parking. 8:00AM – 7:00PM.

Victoria Ostrer, 5 Roosevelt Place, asked if meter rates would reflect a different formula.

Gerry Tobin, 12 S. Mountain Avenue, representing Upper Montclair Business Association criticized the timing of this ordinance and requested that voting be deferred. He also asked for more time to discuss solutions to parking problems within the Township including short term parking.

Holly Felber, owner of Barbara Eclectic, asked how the proposed rates compare with these in similar municipalities.

Judy Rich, 15 Carolin Road, informed the Council that a number of surrounding towns have lower rates in the proposed rate structure also objected to the later hours of operation for parking meters especially for patrons of local restaurants and entertainment venue.

Phil Cantor, President of the Business Improvement District, reiterated concern with the 9PM implementation of meter fees. He asked that all meters continue to be enforced until 7:00 PM.

Israel Cronk, Executive Director, Business Improvement District, suggested that all business districts might come together to offer guidance in developing meter parking strategies..

Being no one wishing to be heard, Mayor Jackson closed the hearing.

On motion made by Mayor Jackson and duly seconded, the ordinance was adopted by unanimous vote.

Deputy Mayor Hurlock, offered an amendment that the operative hours for both on and off street meters be: 8:00 A.M. to 7:00 P.M.

Councilor Spiller, asked that Acting Manager Timothy Stafford work with appropriate staff to review the parking report and the consultant's recommendations and address concerns expressed this evening.

Mayor Jackson suggested that groups from all business districts, as well as residents, meet to address concerns expressed this evening. It was also suggested that this be assigned to either the Council, Economic Development Subcommittee or an ad hoc committee with members to be determined.

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The pending ordinance entitled: "ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION OF \$1,000,000 FOR THE PREPARATION AND EXECUTION OF A COMPLETE PROGRAM OF REVALUATION OF ALL REAL PROPERTY, INCLUDING APPROVED TAX MAP UPDATES" (O-16-034) passed first reading August 9, 2016 and upon second reading the title thereof was read by the Clerk who then reported that it had been published and posted and copies had been made available to the public as required by law and that an affidavit to that effect was in the office of the Municipal Clerk.

Mayor Jackson asked whether anyone present wished to address the Councilors regarding the proposed ordinance.

Being no one wishing to be heard, Mayor Jackson closed the hearing.

On motion made by Mayor Jackson and duly seconded, the ordinance was adopted by unanimous vote.

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NEW BUSINESS – RESOLUTIONS

On motion made by Mayor Jackson and duly seconded, the following resolution was adopted by unanimous vote.

WHEREAS, by resolution adopted April 19, 2016, the Township of Montclair, pursuant to advertisement duly made, awarded a contract to Lancha Construction for Gates Avenue Section 2, for an amount not to exceed \$252,397.31; and

WHEREAS, by memorandum dated August 1, 2016, the Township Engineer explained the circumstances that led to the expansion of the scope of the work and recommended that the contract be amended to reflect an increase in the amount of work and materials incurred to complete the contract under the expanded scope of work; and

WHEREAS, the proposed change order exceeds 20% of the original contract and is subject to the requirements and procedures established in Local Finance Board Regulation 5:30-11.1 et seq., particularly 5:30-11.9 (the “Regulations”); and

WHEREAS, if the Gates Avenue section 3 work for which Lancha Construction has billed \$92,247.00 had been performed by a state-approved contractor exempt from the bidding requirements of the Local Public Contracts Law, the cost would have been \$114,193.

WHEREAS, in the opinion of the Township Attorney, the proposed change order does not comply with the Regulations and the additional work should not have been authorized; however, the Township Attorney recommends that in view of the specific factual circumstances that occurred in this instance, the Council proceed to authorize a change order covering the work already performed by the contractor, subject to full public disclosure of those circumstances to the Local Finance Board and the Township’s auditors; and

WHEREAS, the Township Manager, in view of the Township Attorney’s opinion and recommendation, and considering that the proposed change order results in a saving to the Township, has indicated his concurrence with the Township Engineer’s recommendation; and

WHEREAS, based on the foregoing, the Township Council finds that the Regulations have not been followed but, relying on the Township Attorney’s recommendation and the Manager’s concurrence, and taking into account that in this case the error resulted in no additional cost to the Township and actually benefitted the public by saving over \$20,000, find that the fairest and most appropriate way to mitigate the noncompliance with the Regulations, and best serve the public interest, is to approve the proposed change order to the subject contract (Change Order #1) in the amount of \$92,247.00, subject to full disclosure of the facts concerning the authorization to perform addition work and the proposed change order, and the prompt implementation of corrective measures; and

WHEREAS, the Council requires that the Manager provide within 30 days a report detailing the corrective measures that have been implemented to avoid future violation of the Regulations; and

WHEREAS, funds for this purpose have been provided for in the 2016 Capital budget identified by Account Number C-04-16-001-000-102 in the accounting records of the Township; now therefore

BE IT RESOLVED, by the Council of the Township of Montclair, in the County of Essex, that the Township of Montclair enter into an agreement with Lancha Construction for Change Order #1 in the amount of \$92,247.00 to be charged to the account above or as otherwise determined to be correct by the Chief Financial Officer’s pending certification of funds; and

BE IT FURTHER RESOLVED, that the Council acknowledges that this change order does not comply with the Local Finance Board regulations and the Local Public Contract Law, and is approving the change order and requiring disclosure and corrective measures in order to mitigate, to the extent possible, the consequences of such non-compliance. **(R-16-161)**

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On motion made by Mayor Jackson and duly seconded, the following resolution was adopted by unanimous vote.

WHEREAS the Montclair Township Council strives to save tax dollars, conserve energy, preserve public and environment health, and build a community that is economically, environmentally, and socially sustainable; and

WHEREAS the Township Council wishes to benefit our residents now and into the future by encouraging community sustainability initiatives that are affordable to implement, environmentally responsible, and just and fair to all sectors of society; and

WHEREAS the Township of Montclair already began making its operations greener, less wasteful, and more energy efficient by conducting energy audits of Township buildings to find the most effective ways to reduce energy consumption; and

WHEREAS the Township of Montclair is participating in the Sustainable Jersey Program in order to save money, waste less, be more energy efficient, obtain related grants, and reduce our greenhouse gas emissions which contribute to climate change; and

WHEREAS to focus attention on Green issues and become certified with the Sustainable Jersey Program a Green Team must be established; now therefore

BE IT RESOLVED by the Montclair Township Council that we do hereby re-establish the Sustainable Montclair Green Team organized and assisted by the Township Sustainability Officer, and

BE IT FURTHER RESOLVED by the Montclair Township Council that the Sustainable Montclair Green Team will collaborate on achieving the required tasks necessary to enable the Township of Montclair to be more sustainable and also to become a certified Sustainable Community in the Sustainable Jersey Program. **(R-16-162)**

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On motion made by Mayor Jackson and duly seconded, the following resolution was adopted by unanimous vote.

WHEREAS, land use is an essential component of overall sustainability for a municipality; and

WHEREAS, poor land use decisions can lead to and increase societal ills such as decreased mobility, high housing costs, increased greenhouse gas emissions, loss of open space, and the degradation of natural resources; and

WHEREAS, well-planned and well-reasoned land use decisions can create transportation choices, provide for a range of housing options, create walkable communities, preserve open space, and allow for continued use of vital natural resources; and

WHEREAS, given New Jersey's strong tradition of home rule and local authority over planning and zoning, achieving a statewide sustainable land use pattern will require municipalities to take the lead; now therefore

BE IT RESOLVED by the Council of the Township of Montclair, in the County of Essex, that the Township Council resolves to take the following steps with regard to Township zoning ordinances and land use regulations with the intent of making Montclair a truly sustainable community, and to request that the Planning Board include these principles in the next master plan revision and to update the Township zoning ordinances accordingly:

- I. Facilities Siting We pledge, to the extent feasible and legally permissible, to take into consideration factors such as access to transit, walkability and bikeability, and proximity to other uses when siting new or relocated municipal facilities. The actions of a municipality when locating its own facilities can set a positive precedent and encourage other public and private sector entities to take into account sustainable land use considerations when locating their own facilities.
- II. Housing Variety We pledge, through the use of our zoning and revenue generation powers, to foster a diverse mix of housing types to meet the needs of people from all ages and walks of life. A variety of housing options from single family homes to one-bedroom apartments, including housing affordable to people with low, moderate, and middle incomes is vital to allow residents to live and work in a municipality through various stages of their lives.
- III. Natural Resource Preservation We pledge to preserve open space and create recreational opportunities within our municipality, to the extent feasible. As the most densely populated state in the nation, open space in New Jersey is at a premium. Preserving what is left of our open space for its ecological and recreational value is critical for a sustainable future. Further, if feasible, we pledge to complete a Natural Resources Inventory to identify and assess the extent of the Township's natural resources, and to link natural resource management and protection to carrying capacity analysis and land use planning and zoning.
- IV. Transportation Choices We pledge to create transportation choices within our municipality by considering all modes of transportation including walking, biking, transit, and automobiles when planning transportation projects. Given that emissions from transportation mainly passenger cars make up the largest share of the state's carbon footprint, creating transportation alternatives at the local level is critical to reducing the state's overall carbon footprint.
- V. Mix of Uses We pledge to use our zoning power to allow for a mix of uses in areas that make the most sense for our municipality and the region. Development is not needed in every municipality. But where development makes sense, land use patterns that segregate uses such as commercial and residential create an environment where the only feasible mode of transportation is the automobile. Allowing for a mix of compatible land uses residential units above retail stores, for example, can help reduce the necessity of driving by allowing people to walk to various destinations.
- VI. Green Design To the extent feasible and legally permissible, we pledge to incorporate the principles of green design and renewable energy generation when updating our site plan and subdivision requirements.

Green design strategies not only improve the environmental performance of buildings but lessen the impact of those buildings on the surrounding environment. Such strategies include energy efficiency, water conservation, indoor environmental quality, use of recycled or renewable materials, construction waste reduction, reduced auto use, tree preservation, native planting, and avoidance of environmentally sensitive features.

- VII. Regional Cooperation We pledge to reach out to neighboring municipalities concerning land use regulations, and to take into consideration their concerns when considering regional level zoning ordinances and regulations. Local land use regulations can often have regional impacts, even though they are determined exclusively by one municipality. For example, a large mall built in one municipality can affect traffic and retail opportunities in neighboring towns.
- VIII. Parking Regulations We pledge to review and reevaluate our parking regulations and requirements, with the goal of reducing, to the extent feasible and legally permissible, the amount of required parking spaces for development projects in the Township, and promoting shared parking. In areas where walking, biking, and transit are possible, stringent parking requirements can hinder the goal of creating vibrant centers that have a critical mass or people to support local arts, shopping, and other services. Flexible parking requirements decrease the amount of land dedicated to parking lots, storm water runoff, land clearing, and heat island effects, while promoting transportation alternatives to individual automobile use. We also pledge to evaluate areas to install safe and secure bicycle parking and to evaluate parking revenues including areas where fees for parking may or should be implemented. **(R-16-163)**

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On motion made by Mayor Jackson and duly seconded, the following resolution was adopted by unanimous vote.

WHEREAS, the Council of the Township of Montclair, in the County of Essex, State of New Jersey, recognizes that the Senior Citizen Advisory Committee provides vital information and outreach to seniors in the community at its annual "Seniorama"; and

WHEREAS, the Township Council further recognizes that its Lifelong Montclair initiative seeks to help coordinate resources and services designed to help seniors age in place; and it is incumbent upon not only public officials but also the entire community to take action to create an environment where seniors can choose to age gracefully in our community; and

WHEREAS, the topic for Seniorama 2016 is "Living is Learning, Planning, Doing", scheduled for Thursday, November 3, at the Salvation Army/AIM Hub in Montclair; and

WHEREAS, the Township Health Department has been notified that the grant is being awarded from Partners for Health Foundation for program supplies to help make Seniorama a success; now therefore

BE IT RESOLVED that the Council of the Township of Montclair, in the County of Essex, State of New Jersey, hereby recognizes the following:

1. The Township Council does hereby authorize acceptance of the Seniorama grant for September 1 to November 6 in the calendar year 2016 in the amount of \$4,732.00.
2. The Township acknowledges the terms and conditions for administering the Partners for Health grant, including the administrative compliance and audit requirements. **(R-16-164)**

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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: **\$927,319.88.**

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ACTING TOWNSHIP MANAGER'S REPORT: Timothy F. Stafford

**DISCUSSION/SEPTEMBER 20, 2016 AGENDA ITEMS**

1. Resolution authorizing the execution of a contract with Meadowlink/EZ Ride for operation of the Township of Montclair's senior citizens shuttle bus services
2. Ordinance amending Montclair Code Chapter 347 (Zoning), Article XXIII Historic Preservation
3. Resolution of the Township of Montclair authorizing refund of developer's escrow account balances
4. Resolution authorizing expenditure to purchase Internet access services for network separation
5. Resolution awarding contract for the purchase of one (1) 2016 Isuzu NRR truck chassis with 6 cubic yard rear loading packer body
6. Resolution awarding contract for the purchase of one (1) 2017 truck chassis with 29 cubic yard high compaction rear loading packer body
7. Resolution authorizing issuance of a refund of taxes for the property commonly known as 23 Midland Avenue and designated as Block 2210 Lot 1 on the Township Tax Maps
8. Resolution authorizing issuance of a refund for interest charged against the owner of the property commonly known as 170 Pine Street (Unit C) and designated as Block 4205 Lot 22 qualifier C0003 on the Township Tax Maps
9. Withdrawn
10. Proclamation commending Jim Johnson
11. Resolution authorizing the issuance of a refund for interest charged against owner of the property commonly known as 83 Bay Street (Unit 8) and designated as Block 4211 Lot 11 qualifier C0008 on the Township Tax Maps
12. Proclamation congratulating Salvation Army on 125<sup>th</sup> Anniversary
- 13. Bill Resolution**

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At 10:51 P.M. on motion made by Mayor Jackson and duly seconded, the conference meeting was adjourned by unanimous vote.

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ROBERT JACKSON

MAYOR

ATTEST:

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LINDA S. WANAT, MUNICIPAL CLERK