

**TOWNSHIP OF PARSIPPANY-TROY HILLS
TOWNSHIP COUNCIL AGENDA MEETING**

December 8, 2009

Public Invited – Public Participation

MEETING CALLED TO ORDER by Council President Cesaro at 7:30 p.m.

FLAG SALUTE

Roll Call:

Mr. Barberio	-	Present
Mr. dePierro	-	Present
Mr. Fox	-	Present
Ms. Grossi	-	Present
Mr. Cesaro	-	Present

OTHERS PRESENT: J. Lim, Business Administrator; J. Verrone, Esq., Township Attorney; J. Silver, Township Clerk

The purpose of this meeting is to set the Agenda for the Regular Township Council Meeting of December 15, 2009

FORMAL ACTION MAY OR MAY NOT BE TAKEN.

Adequate notice of this meeting has been provided in accordance with the requirements of the Open Public Meetings Law by filing the notice in the Office of the Township Clerk and by posting the meeting notice on the bulletin board at the Municipal Building on December 2, 2008 where it has remained posted since that date. A legal notice appeared in both the Daily Record and the Star Ledger on December 9, 2008. The 2009 meeting schedule was forwarded by fax to other local newspapers and local radio stations on December 2, 2008.

ORDINANCES

Second Reading(s) and Public Hearing(s) – 12/15/09 ON

Amending and Supplementing Chapter 290, Parks, Recreation Areas and Public Lands, Article II, Use Regulations; Permit Requirements (Re: Roller Hockey – Youth Non-Resident Fee) (09:43)

Granting Conservation Easement to NJDEP as a Condition of Two DEP Permits for a 16” Water Main Across Watnong Brook (09:44)

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Establishing Fire Zones and Regulating Parking at Grato Restaurant, 2230 Route 10 (Block 174, Lot 35.01) and Tabor Road Tavern, 510 Tabor Road (Block 174, Lot 36.01) (09:45)

Status of Adopted Ordinances:

<u>Ordinance Title and Number</u>	<u>Adopted Date</u>	<u>Mayoral Action</u>	<u>Effective Date</u>
Multi-Way Stop Intersections (09:38)	11/24/09	Approved	12/24/09
Refunding Bond Ordinance – Prior General Improvement Bond Issue (09:39)	11/24/09	Approved	12/24/09
Refunding Bond Ordinance – Prior Water Utility Bond Issue (09:40)	11/24/09	Approved	12/24/09
Refunding Bond Ordinance – Prior Sewer Utility Bond Issue (09:41)	11/24/09	Approved	12/24/09
Open Space Acquisition - 200 River Drive (09:42)	11/24/09	None	12/31/09

DISCUSSION/REMINDERS

Scheduled Meetings

12/15/09 @ 7:30 p.m.

**Regular Meeting
Public Invited – Public Participation**

1/5/10 @ 7:30 p.m.

**Organization Meeting/Agenda Meeting
Public Invited – Public Participation**

Presentation:

Environmental Advisory Committee Yearly Update (11/09) Presentation will be rescheduled for a future date.

Minutes for Approval:

Agenda Meeting of 11/10/09 ON*

Closed Sessions of 11/10/09 and 11/24/09 (Approval Only, Disclosure Upon Authorization of Township Attorney) ON*

Regular Meeting of 11/24/09 ON*

Discussion:

Obtaining Conflict Counsel in Connection with Pay to Play Reform Ordinance (11/09)
Consensus of Council was to amend the ordinance. Mr. dePierro will forward suggested revisions to the other members of the Council for their consideration. **NEXT AGENDA**

ARC/Morris Request for Refund of Monies Expended to Secure Building Permits for Major Renovations to Central Administrative Office (12/09) Mr. dePierro explained that ARC/Morris is a non-profit organization (which provides homes for individuals with intellectual and related developmental disabilities). Several group homes have been built in Parsippany. In connection with the last two built, ARC/Morris could have applied for COAH funding, but did not. Funds were raised elsewhere. The organization has since expended approximately \$16,000 in permit fees to update its main headquarters on the Greystone Property. It is now requesting that the Township refund all or part of the fees. Mr. dePierro asked if the Administration has a recommendation; questioning if the Township would be setting a precedent if monies are refunded. Ms. Lim indicated that, to her knowledge, the Township has not waived or refunded fees expended for office space, but has done so for low-income housing. She noted that ARC has been a great friend to the Township and it is incredibly hard to say “no” to this organization. However, the revenues for the Construction Office are already slightly below what was anticipated. This is money that was already paid to the Township; we would have to refund the money. She recommended not setting a precedent. Council Members agreed. However, Mr. dePierro reiterated his point that ARC could have applied for funds from the Township, but did not burden the Township. Ms. Verrone expressed her concern, from a legal perspective. If the Township has not given exemptions or refunds for permit fees to other not for profits, this would create an issue of the arbitrary treatment of some over others. Consensus of the members of the Council was not to authorize a refund. Ms. Lim is to formally advise the organization.

MAYOR

No Agenda Items

ADMINISTRATION

BID(S)

Taken:
11/5/09

Redesign and Upgrade of 16 MGD Wastewater Treatment Plant Ms. Lim reminded the Council that the Township received four bids; the low bid being close to \$21 million, \$7 million under the estimated cost. She explained that this project is eligible for a \$5 million grant through the stimulus money as well as for 75% of the funding of the loan at zero percent and 25% at the market rate obtained by the Trust, based on the Trust’s Triple A Rating. The interest rate of the loan portion will

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probably be the lowest interest rate we could possibly pay. The payback will be through the fees and, to a large extent, through the reduction in the electrical costs.

AWARD*

12/1/09 One New RME-4T Road Maintenance Vehicle, One New 2010 Wheel Loader Backhoe, New Heavy Duty Open Top Roll-Off Containers and New Rear Load Trash Containers AWARD*

12/2/09 16-Inch Transmission Main (Farney Pump Station to Route 53) AWARD*

12/3/09 Deck Structure to be Erected at Knoll West Country Club NEXT AGENDA

To Be Taken:

12/17/09 @ 11:00 a.m. Irrigation System for Jannarone Park NOTED

QUOTATION(S)/PROPOSAL(S)/QUALIFICATION(S)

Received:

5/28/09 Proposals for the Redesign, Permitting, Construction, Operation and Maintenance Services for Sludge Incinerators and Design, Permitting, Construction, Operation and Maintenance Services for a New Sludge Cake Receiving Facility at the Wastewater Treatment Facility NEXT AGENDA

Requested:

None

Resolution(s):

Awarding Contract for Medical Insurance to Connecticut General Life Insurance Company (a Subsidiary of CIGNA) (12/09) Ms. Lim noted that the Township received six proposals. Additionally, two others, Aetna and Healthnet, were asked for quotations, but declined to respond. She advised the Council that the Township's Health Insurance Broker solicited proposals from every carrier in the State. CIGNA, per Ms. Lim, would provide "equal to or better than" coverage. She further indicated that if the Township does not award a contract effective January 1, 2010, the cost to the Township would be an extra \$55,000 a month payable to Horizon, the current health insurance carrier.

A motion was made by Mr. Barberio, seconded by Council President Cesaro, to adopt a resolution awarding the contract (Attachment No. 1).

Roll Call:

Mr. Barberio	-	Yes
Mr. dePierro	-	Yes
Mr. Fox	-	Yes

Ms. Grossi - **Yes**
Mr. Cesaro - **Yes**

ENGINEERING

Update/Recommendation(s):

Italicized comments below are excerpts from a December 3, 2009 memo from Mr. Lizza, Municipal Engineer, to Ms. Lim:

Status of Road Resurfacing – Puddingstone Area (8/07) No change in status. **NEXT AGENDA**

Recommendations Relative to Mr. and Mrs. Lau’s Concerns – Escrow Requirement in Connection with Sidewalk Repair (10/07) *The Lau’s have expressed their unhappiness with the Township over the escrow fee and their belief that it is unnecessary and onerous on residents. Former Township Engineer Michael Pucilowski wanted to review the ordinance and draft changes to reduce the amount of escrow required for work performed between the property line and the edge of pavement in the Township right-of-way. However, this was not accomplished before his retirement.*

We recently received a letter from Mr. & Mrs. Fraga also expressing their displeasure with the escrow requirement and with the burden on the property owner to request the return of escrow funds. Many people do not request their escrow back after one year. In an effort to help residents, the Engineering and Finance Offices have been compiling a list of right-of-way escrows that have not been returned. This project started several months ago and several dozen escrows have been returned.

We will be reaching out to Michael Pucilowski to ask for his aid in reviewing the ordinances and making recommendations. Recommendations will be presented once the review has been completed.

Council Members agreed that revisions to the ordinance are necessary. Ms. Grossi felt that residents should not be required to post escrow. Mr. dePierro noted that the major concern is possible damage to underground utilities; the escrow is intended to fund any repairs. Consensus of the Council was to review the amount of escrow, noting that it may be excessive, and the period of time the money is held by the Township. Ms. Lim explained that one of the main reasons for the escrow is that the end of the driveway is almost always in the right-of-way; the reason the escrow is held for a year is to make sure that the pavement doesn’t sink and that the Township doesn’t end up with a rut in the right-of-way. She indicated that she thinks everyone is in agreement that \$1,200 is probably too much. Although it may be the right amount, it is too onerous on a homeowner. **NEXT AGENDA**

Camp Meeting Association Angle Parking Simpson Avenue (8/08) No change in status. **NEXT AGENDA**

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Troy Brook through the Hills of Troy (11/08) No change in status. **NEXT AGENDA**

Feintuch Property Corner of Littleton Road/Parsippany Boulevard (11/08) No change in status. **NEXT AGENDA**

711 Park Road – Fairview Estates (11/08) No change in status. Council President Cesaro felt the matter should remain on the agenda, despite the request of the Engineer to remove the item from the agenda at this time while the situation is monitored. **NEXT AGENDA**

Edgefield Drive No Parking Zone (Upper) (6/09) No change in status. **NEXT AGENDA**

Canterbury Estates Vacation of Lots 26 and 77 in Block 98 (5/09) No change in status. **NEXT AGENDA**

CHIEF FINANCIAL OFFICER

Resolution(s):

Amending Adopted Budget – EE Conservation Block Grant Program (12/09) **ON***

Amending Adopted Budget – Holiday Over the Limit Under Arrest 2010 Mobilization (12/09) **ON***

Transfers of 2009 Appropriations – Current Fund, Water Utility Fund, Sewer Utility Fund and Golf and Recreational Utility Fund (12/09) A motion was made by Mr. dePierro, seconded by Mr. Fox, to adopt the following resolution:

BE IT RESOLVED by the Township Council of the Township of Parsippany-Troy Hills that the following transfers between appropriations be and the same are hereby authorized to be made in conformity with the State Statutes in such cases made and provided, and

BE IT FURTHER RESOLVED that the Chief Financial Officer be and is hereby authorized to make the necessary entries on the books and 2009 budget in connection with said transfers:

<u>CURRENT FUND</u>	<u>FROM</u>	<u>TO</u>
Utilities		
Gasoline	150,000.00	
Interest on Bonds	55,000.00	
Insurance		
Worker Compensation		150,000.00
Payment of Bond Principal		55,000.00
TOTAL	205,000.00	205,000.00

WATER UTILITY FUND

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Interest on Bonds	35,000.00	
Payment of Bond Principal		35,000.00
TOTAL	35,000.00	35,000.00

SEWER UTILITY FUND

Interest on Bonds	66,000.00	
Payment of Bond Principal		66,000.00
TOTAL	66,000.00	66,000.00

GOLF & RECREATIONAL UTILITY FUND

Interest on Bonds	4,000.00	
Payment of Bond Principal		4,000.00
TOTAL	4,000.00	4,000.00

Roll Call:	Mr. Barberio	-	Yes
	Mr. dePierro	-	Yes
	Mr. Fox	-	Yes
	Ms. Grossi	-	Yes
	Mr. Cesaro	-	Yes

Canceling Tax Open Balances of Less than \$10 (12/09) ON*

Canceling Tax Overpayments of Less than \$10 (12/09) ON*

Canceling Old Tax Payments (12/09) ON*

Canceling Water/Sewer Balances (12/09) ON*

Canceling Sludge Overpayments and Outstanding Uncollectable Receivable Balances – Sewer Utility (12/09) ON*

Authorizing the Execution and Delivery of Loan Agreements to Be Executed By the Township and Each of the N.J. Environmental Infrastructure Trust and the State of New Jersey, Acting By and Through the DEP and Authorizing the Execution and Delivery of an Escrow Agreement, All Pursuant to the State Fiscal Year 2010 N.J. Environmental Infrastructure Trust Financing Program for Funding the Township’s Wastewater Treatment Plant Project (12/09) ON*

Determining the Form and Other Details of Not Exceeding \$33,200,000 General Obligation Bonds and Providing for Their Sale to the N.J. Environmental Infrastructure Trust and

the State of New Jersey Pursuant to the State Fiscal Year 2010 N.J. Environmental Infrastructure Trust Financing Program for Funding the Township's Wastewater Treatment Plant Project (12/09) ON*

Confirming the Details of the Sale of General Obligation Bonds, In the Aggregate Principal Amount of \$ _____ to the State of New Jersey Pursuant to the N.J. Environmental Infrastructure Trust Financing Program for Funding the Township's Wastewater Treatment Plant Project (12/09) ON*

ATTORNEY

Discussion:

Request of R. Garofalo, Esq., Representing Powder Mill Heights, Regarding Refuse Collection (11/09) Ms. Verrone advised that Mr. Garofalo responded to her request for additional information. He is, in turn, seeking a meeting with the Administration and vowing to cooperate with the Township to come to terms that are mutually acceptable to both parties. Ms. Lim advised that the matter has been referred to Greg Schneider (Director, Dept. of Public Works). He will conduct a site analysis and provide recommendations. Ms. Verrone explained that Mr. Garofalo was initially seeking reimbursement based on the most recent Supreme Court Case relative to providing these services to apartment complexes. In response, the Township has indicated that it will consider curbside pickup of trash, just as it provides curbside pickup to every other residence.

Mr. dePierro explained that the Township has agreed to pickup garbage for all of the apartments, just as it does for all of the homes, if the garbage is placed curbside. Some of the apartments, per Mr. dePierro, do not have enough frontage along the curb for curbside pickup; these are the ones who have continued to use private contractors to pickup the garbage. We are not required to go into private property and pick up from dumpsters. This probably saves the Township about \$3 million a year in tipping fees. If the garbage can be placed curbside, the Township is required to pick it up. He felt the Township is not obligated to reimburse the complex.

Ms. Verrone explained that some complexes are citing the most recent case. In that particular case, which was very fact specific, the Court determined that the municipality had an obligation to reimburse the apartment complex because it was arbitrary on the municipality's part to impose a curbside pickup on that particular apartment complex based on the way it was configured and the way the trash was being laid out on the curb. Some of the apartment complexes, including Powder Mill Heights, initially contacted the Township citing the Berk case decision and requesting reimbursement. The Township's position has been that, per Ms. Verrone, the Berk Case decision is fact specific; it only applies in specific instances where the services being rendered are really not equivalent to the kinds of services rendered to residential premises. The Township has indicated to particular apartment complexes that it will pick up its trash at curbside, as we do for other residences, and to the extent that the Township determines this is not a practical solution for a particular complex, it may have to engage in negotiations with the complex to make alternate arrangements with respect to picking up trash on site.

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Mr. Fox commented that the Township will have to legally do what it is legally obligated to do, but he felt, like many others, that these apartment complexes aren't paying their fair share currently. Mr. Fox felt that the Township should not give Mr. Garofalo anything; other members of the Council agreed. **NEXT AGENDA**

TOWNSHIP OFFICES / COMMITTEES

No Agenda Items

COMMUNICATIONS

Correspondence:

Melissa Natoli Fraga and David Fraga – Upset with Procedure and Amount of Escrow Required in Connection with Residential Driveway Repavement (11/18/09) (See discussion under “Engineering.”)

Roy Messmer – Regarding Pesticides on School Property and Questioning if the Board of Education is Complying with Fertilizer Ordinance (12/1/09) **NEXT AGENDA**

Resolution(s):

Mount Olive Township – Supporting the Enactment of P.L. 2009, C. 118 and Any Plan to Study the Expansion of the Pilot Program to Include Morris County

Chester Township – Supporting the Enactment of P.L. 2009, C. 118 and Any Plan to Study the Expansion of the Pilot Program to Include Morris County

Roxbury Township – Supporting the Enactment of P.L. 2009, C. 118 and Any Plan to Study the Expansion of the Pilot Program to Include Morris County

APPLICATION(S):

License(s):

2010 Renewal of Licenses – Amusement Games, Entertainment, Taxi/Limo, Tourist Accommodations ON*

Person to Person Liquor License Transfer from Dilip & Daxa Corp. to Jai Sainath Corp. t/a Shoppers Discount Liquors and Lord Nelson's Liquors (65-69 N. Beverwyck Road)

A motion was made by Mr. Barberio, seconded by Council President Cesaro, to adopt the following resolution:

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WHEREAS, an application has been filed for a **person to person transfer** of **Plenary Retail Distribution License No. 1429-44-014-004** heretofore issued to Dilip & Daxa Corporation for premises located at 65-69 N. Beverwyck Road, Parsippany-Troy Hills Township, New Jersey; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33;

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Parsippany-Troy Hills does hereby approve, **effective December 10, 2009**, the person to person transfer of the aforesaid Plenary Retail Consumption License to Jai Sainath Corporation t/a Shoppers Discount Liquors/Lord Nelson’s Liquors for premises located at 65-69 N. Beverwyck Road, Parsippany-Troy Hills Township, New Jersey and does hereby direct the Township Clerk to endorse the license certificate to the new ownership as follows: **“This license, subject to all its terms and conditions, is hereby transferred to Jai Sainath Corporation t/a Shoppers Discount Liquors/Lord Nelson’s Liquors, effective December 10, 2009.”**

Roll Call:	Mr. Barberio	-	Yes
	Mr. dePierro	-	Yes
	Mr. Fox	-	Yes
	Ms. Grossi	-	Yes
	Mr. Cesaro	-	Yes

Liquor License Renewal for the 2009-2010 Licensing Term – Ruby Tuesday Inc. (Pocket License) ON*

***Consent Agenda Items**

PUBLIC HEARING

Council President Cesaro opened the meeting to the public to speak on any topic, noting a five-minute time limit per speaker.

Scott Imhoff, 711 Park Road, stated that the flooding problem in his backyard has not changed since he brought the problem to the Council a year ago. The builder installed a pipe, but the water problem is still as bad as ever. This is not a localized problem; it affects his neighbors as well. He has had zero communication from the Engineer’s Office. This is a serious problem, not just for the homeowners, but a long-term legal problem for the Township.

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Mr. Fox commented that he noticed that work is being done on a catch basin. He asked if this will address the problem. Mr. Imhoff stated that he doesn't know what the catch basin is doing, except for hiding rocks for the builder.

Mr. Imhoff noted that the Township, in its ultimate wisdom, traded off the ability to construct two extra houses, at probably \$1.8 million market value, for a set of bathrooms and a large drainage pit, which will be nothing but a maintenance nightmare.

Ms. Lim confirmed that the Engineering Department has not signed off. Mr. Fox asked that the Engineering Department make sure that the problems are addressed before doing so. Mr. Imhoff indicated that he and his neighbors have been through this before. The Engineer's answer is to spend money on landscaping. Mr. Imhoff noted, however, that the problem is the result of construction not being correctly done and construction not done within code. He asked for action to be taken.

Ms. Grossi briefly reviewed the history of the matter, noting that the Engineering Department was supposed to work with the builder to complete the approved drainage plan. There is money in escrow, if the problems aren't resolved. Now, however, the Council is also hearing that the quality of what was approved doesn't meet the proper standards and will not fix the problem.

Bill Araujo, 721 Park Road, indicated that he is present this evening for two reasons, (1) to give the Township one last opportunity to correct a drainage problem, and (2) to get this issue on the record with the Township and this Council. He explained that he has had a five year battle regarding this problem, first with the builder, Bill Taylor, and then with the Township, which up to this point has been strictly verbal. If this has to be fought and resolved at a legal level, he indicated that he is afraid that certain involved parties may deny statements they have made to avoid embarrassment from the truth coming forward in any possible investigation.

He reviewed the specifics of the situation, pointing out that he has 25 years of experience in heavy construction, mainly site and utility work that primarily deals with drainage and sewer, water and storm drain pipe installation. He noted that this 18 house development was designed to have two seepage pits that the whole site would drain to. A major change was then made to the plans, to the substantial benefit of Bill Taylor. Instead of two seepage pits, a detention basin was built on the public property, a Little League Baseball Field. Where the pits were supposed to go, two additional homes were built. Whoever allowed this change to the plans made Mr. Taylor close to another million dollars. The homeowners in this development and the people in this Township have the right to question who is behind these changes and who approved them. He also felt that people have a right to know if New Jersey State Codes were ignored and/or violated. Additionally, he stated that he would like to see the revised plans, the submittals on these changes and the name and the license number of the professional engineer who redesigned the project. He noted that he was told by Paul McNeil (Engineering Department) that everything was done according to plan. That didn't convince him because there is no professional engineer that would design a job in which a homeowner is responsible for the drainage of a development. Paul McNeil, per Mr. Araujo, has excuses and suggestions to make homeowners responsible for the problem.

Peter Marotte, 22 Rose Court, noted that he too has a problem with flooding in the back of his home. He explained that residents have tried to resolve the problem many times. He indicated that Paul (McNeil) told his wife that the ground will perc. He advised the Council that he has about two and one-half feet of water in his backyard when it rains. He expressed his disappointment.

Ms. Grossi stated that there is obviously a huge problem with the drainage. If plans were changed, she would like to know what the Township's records show. She would also like to know the standard that should be used to deal with the existing drainage problem. Additionally, she stated that she does not doubt that Paul McNeil made the comments noted by the residents who spoke this evening; maybe someone needs to talk to Mr. McNeil regarding how he deals with the public. Ms. Grossi further explained that she wants to know what the plans were, including a history of the property, when the plans were approved, who approved the plans, what the drainage was supposed to be, what the standard for drainage should be and other related documentation. She asked if this information could be made available to the Council by the next meeting.

Mr. Fox commented that he has a problem with the "flip" remarks made by Mr. McNeil. This is not the first time this has come up. This must stop, pointing out that the employees of the Engineering Office are dealing with taxpayers and citizens.

Ms. Grossi noted that the Council has had repeated complaints from residents of the Engineering Department not returning phone calls; this too needs to be changed.

Darren Dragone, 18 Seaton Court, indicated that his home is back to back with Mr. Imhoff's home. He indicated that there is nothing in his plot plans for a drainage pipe or an easement. The builder installed the piping without his knowledge, supposedly to fix the problem, but the problem has not been corrected. He questioned who is responsible for the pipe if it gets clogged. If he was told that the homeowner would be responsible for the piping, he would not have approved its installation.

Jonathan Nelson advised that he is the **owner of Jonathan's Kosher Deli at 2900 Route 10**. He advised that he is present this evening regarding two separate issues.

The first is in regard to a tort claim, filed by his mother, due to auto damage resulting from a Township tree falling on her car. He provided a history of the incident. The Morris County Joint Insurance Fund (which insures the Township) denied the claim. Mr. Nelson read the denial letter dated November 12, 2009, which indicated that "the tree was healthy at the time the incident occurred; and no prior notice was made to the municipality of the tree needing maintenance. While denying liability in this matter, the municipality wished to call your attention to the immunity provided to governmental entities pursuant to N.J.S.A. 59:4-2 and 59:4-3." Mr. Nelson pointed out, however, that if the Township reviews its records, it is obvious that the Township was called on numerous occasions as to the condition of the tree. He expressed his hope that the Council can do something about getting this claim taken care of.

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The second issue is in connection with his business located in Powder Mill Plaza West. He noted that he has been at this location for 15 years and has never had a problem with the Township. He explained that about four years ago, when a switch was made from Verizon to CableVision, there were problems reading the water meter; estimated readings were done. He indicated that he takes full responsibility for what occurred, but by June of 2009 his water bill was at \$19,000, which is nothing compared to his next door neighbor, Minado, whose bill was \$90,000, and his other neighbor, Cinnamon, whose bill was \$38,000. Between the three businesses, \$150,000 is owed to the Township in water and sewer fees. He further explained that, in June, the businesses got "red tagged," meaning the water would be cut off if the balances were not paid in full within two days. Arrangements were made for payment plans; the balances to be paid off within three months. There were no negotiations. He noted that the Shopping Center has been getting false meter readings; it has been a real mess. However, all three businesses accepted that the money is owed; the bills, which include 18% interest over the first \$1,500, are being paid. He noted that he is down to \$3,000 which he will pay off within the next week to ten days. However, aside from the fact that the Township did not try to collect for years, he was told the other day that, in addition to the 18% interest, that at the end of the year, any balance over \$10,000 in water fees will incur an additional 6% penalty imposed on the entire Shopping Center, which, of course will be passed down to the tenants by the landlord. Mr. Nelson indicated that he hasn't verified this with anyone other than the individual he spoke with at the Water Department.

Ms. Grossi asked if there is an ordinance providing for the imposition of this additional tax. If so, she asked when it was adopted. She expressed her view that, in this case, there are some extenuating circumstances with the transfer over to CableVision. Ms. Lim noted that she has not heard of this additional tax; she will look into the matter.

Roy Messmer, 10 Drumlin Drive, stated that on December 29, 2008 the Council broke his heart and his faith in the Council, leaving him no choice but to contact the appropriate State agency. There is no way anyone could justify spending \$750,000 of taxpayers' hard earned money plus a premium increase for the year 2010 of 5.5%. He questioned why the Council Members voted for the JIF (Morris County Joint Insurance Fund). He reiterated that the Council did wrong and the Administration, the Council and Parsippany's Legal Counsel are all culpable to some extent. The Office of State Comptroller (OSC) did a thorough investigation and prepared a comprehensive 17 page report, which took 10 months. It was the first investigation of this type by the State of New Jersey. The OSC revealed that the procurement process for the JIF was not in accordance with legal requirements under State Law; therefore, it would appear that the three year contract is null and void. Mr. Messmer requested that the Administration put out to bid for quotes for Township insurance, including JIF to quote again, for the period March 1, 2010 to December 31, 2010 and for the full year of 2011. Additionally, he requested that the Administration notify JIF that a legal opinion would be forthcoming as to the legality of the Township's contract with JIF. In his opinion, the JIF's contract is "non-contractual" as it was done in violation of the Faulkner Act where the Council overstepped its lawful authority in awarding the contract. He concluded his comments by indicating that he has "his team working on future action."

On a different subject, Mr. Messmer pointed out that the Township goes onto Meadowbrook Gardens' property and picks up the garbage cans.

Tom Wyka, 1 Bennett Court, agreed with many of the comments made by Mr. Messmer. He asked Ms. Verrone if, on December 29, 2008, there was any obligation from her perspective to notify the Council of the requirements of the Faulkner Act.

Ms. Verrone, with respect to the Faulkner Act issue, noted that there were three proposals submitted to the Council by the Administration. The Administration made the recommendation with respect to Travelers. Although there was no formal vote by the Council to reject Travelers, the Council's position was made clear as to its rejection. In a perfect world, the Council's rejection of Travelers would have resulted in the matter going back to the Administration for further consideration and, possibly, mayoral recommendation of an alternate vendor, as was cited by the State Comptroller. However, the insurance coverage that the Township needed was expiring in two days; clearly some decision had to be made. While the Faulkner Act certainly gives the mayor the right to negotiate contracts, the Council must approve those contracts, but it need not be a rubber stamp. The Council chose not to be so under the circumstances that occurred on December 29th. The reasons were stated clearly on the record by the Council. There is nothing under the applicable law that would have required the selection of the lowest proposal. Under the Local Public Contracts Law, specifically the Extraordinary Unspecifiable Services to which the State Comptroller said that this procurement was subject, the contract must be awarded to the vendor whose response is most advantageous, price and other factors considered. The Council's decision to go with the third proposal submitted by the Administration, although it was not the Mayor's recommended proposal, was made for the reasons that, again, were totally set forth on the record. There is no reason to believe that the Council's decision would have been any different today than it was on December 29th regarding the reasons that it stated for its preference of the Morris (County) JIF and why it believed the JIF to be the best choice of the three proposals submitted by the Administration. Again, with respect to the Faulkner Act issue, Ms. Verrone explained that there is an inherent tension in this form of government between the Administration and the Council. Although the courts say that those two branches of government have to work cooperatively, under the circumstances of December 29th when a decision had to be made, the Council did the best it could do.

Mr. Wyka next discussed the Pay-to-Play Ordinance, noting that in the past week's Daily Record he offered an interpretation of the ordinance for free. He explained that if you are within one year of proposing to do business with the Township, you are under the limitations noted under Clause 1(d), specified by the timeframes in 1(a). If you are submitting a proposal and/or negotiating or performing on a contract, you are bound by the Clause 1(b), which indicates that no donations can be made. He questioned, "What is the issue?" Mr. Barberio asked if the Pay-To-Play Reform Ordinance has been amended in any other municipalities. The Township Clerk noted that she is aware of several towns having amended the ordinance. Ms. Verrone confirmed that there are a number of variations. Mr. Barberio indicated that he would like to know why these municipalities changed the ordinance. Mr. dePierro noted that, pursuant to Section 5 of the ordinance, "the contribution limitations prior to entering into a contract in Section 1(a) do not

apply to contracts which are required by law to be awarded to the lowest bidder.” Therefore, contracts awarded as a result of the bidding process, do not even fall under the ordinance. He expressed his interpretation that we are only talking about those contracts for professional services and no place in the ordinance does it allude to this fact. It appears that the limitations apply to every vendor. He felt that the ordinance is not clear and, if the Township is to follow it, everyone needs to understand it. Additional discussion ensued with Mr. Barberio noting that the problem is that people have different interpretations. Mr. Fox explained to Mr. Wyka that the Council is not going to accept his interpretation. The Council Members will accept their own interpretation. He further commented that this ordinance, in his mind, is a Democratic scam in order to cut off Republican funding. He expressed his belief that the Council and Mr. Wyka have the same interest at heart as far as pay-to-play is concerned. However, he doesn’t think that Mr. Wyka’s interpretation is going to be the Council’s interpretation.

Paul Giovanelli, 5 Moraine Road, noted that the newspaper article from Parsippany Life indicated that Parsippany’s form of government under the Faulkner Act allows the Council to approve or reject a vendor recommended by the Mayor; it does not give the Council the option of awarding a contract to its own preferred vendor. It is his understanding, from what the Township Attorney just stated, that while this may be true, the Township Council felt that there were extenuating circumstances which allowed it to contradict the Faulkner Act.

Ms. Verrone indicated that this is not what she is saying. She commented that “reasonable minds can differ with respect to the opinions that people take.” She indicated that she has great respect for the State Comptroller; he is providing guidance to municipalities with respect to procuring insurance services and making it clear that these services are extraordinary unspesifiable services. All she is suggesting is that in this form of government, where there is that inherent tension between the Administration and the Council, where the Administration’s obligation, duty and right is to present the contract for approval by the Council and the Council’s obligation, duty and right is to accept or reject the contract presented to it, and where in this instance, the Township’s contract for insurance coverage expired in two days and the Council was faced with three proposals submitted by the Administration and the recommendation made by the Mayor was rejected by the Council, whether by formal vote or by failure to move that particular resolution approving Travelers Insurance, in a perfect world courts would say that these two branches of government, when they come to a stalemate, should cooperate with each other to arrive at something palatable to each, but under these circumstances, the Council discussed, on the record, its reasons for not proposing a resolution that would have approved Travelers and why it would not select the second proposal and, therefore, took action approving Morris County JIF. She reiterated that, under the circumstances, the Council did what it thought it had to do in order to preserve coverage for the Township effective January 1st.

Mr. Giovanelli advised that the question he has still stands. It seems to him that the Township Attorney either disagrees with what the State Comptroller’s Office said about the behavior of the Council under the Faulkner Act or she feels that it is within the town’s right to violate the Statute. Ms. Verrone once again indicated that she respects the State Comptroller and his assessment. However, she noted that she had provided her opinion as to what she believes and she repeated, once again, that there is an inherent conflict between the Administration and the

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Council under this form of government and, as a result, courts generally say “work it out.” Courts don’t generally order one side or the other to give in. Under the circumstances that were presented on December 29, 2008, this was the way it was worked out.

Mr. dePierro pointed out that the State Comptroller didn’t consider that the Travelers’ proposal for one year was sprung on the Council at the twelfth hour. The Council had no way to provide a basis of comparison between the companies; a decision had to be made. Mr. Giovanelli commented that the question is still whether or not the Faulkner Act was violated.

Mr. Fox confirmed that the Council was in a difficult situation on that particular date. The State Comptroller’s Office, if they were really mad, would have made the Township forfeit the contract. Instead, they are going to monitor the Township in connection with every contract over \$2 million, where the norm is monitoring contracts over \$10 million. Mr. Fox commented that, personally, he doesn’t care if the Comptroller’s Office monitors the Township relative to contracts over \$100. It is good when people look over your shoulder. He pointed out, however, that he can imagine how infuriated taxpayers would be if the Council did not act on December 29, 2008, the Township did not have insurance coverage, and an incident occurred costing the taxpayers, instead of our insurance company. What the Council did was in the best interest of the citizens of this community; he does not regret the decision.

Pat Petaccia, 182 Hawkins Avenue, questioned if the Morris County JIF was one of the original proposals submitted. It was confirmed by the Council that the Morris County JIF began asking for information, in order to prepare a proposal, in June. Ms. Grossi explained that, when the Council found out that the broker for the Township was also a principal in the insurance company that the Township used for 15 years, the Council felt this was an inherent conflict and requested the Administration to obtain proposals from other insurance companies. Ms. Petaccia noted that what we have and what we always have had is an inherent conflict between the Mayor and the Council with no compromise at all. As a resident, she admitted that she was shocked and embarrassed reading the news articles about the Council and its selection of the Morris County JIF. The Township is out \$750,000, but what really amazes her is that no one knew that the Council overstepped its power. Additionally, what amazes her is that Betty Lou DeCroce is the Chairwoman of the Morris County JIF, married to Assemblyman Alex DeCroce, sits on Parsippany’s Board of Adjustment and had the resolution awarding the contract to the Morris County JIF already written. This gives the appearance of a “friends and family plan.” She commented that people expect more from their elected officials.

With regard to the Pay-to-Play Ordinance, Ms. Petaccia noted that Mr. Wyka is willing to sit down and discuss the concerns with the Council. She asked that everyone work together.

Annelise Catanzaro, 67 Midvale Avenue, commented that, in connection with the Pay-to-Play Ordinance, the general consensus was that the reason the ordinance was adopted was to save taxpayers’ money and to make a good faith effort to eliminate any potential bias in selecting a vendor. The issue is that the ordinance did pass in October in its current state and now the language in the ordinance is being questioned. She felt that the Council is “villainizing” Mr.

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Wyka for bringing the legislation forward even though the Council adopted the legislation. She questioned why didn't the Council care enough about the ordinance to read it carefully and make amendments before adopting it. Mr. Barberio explained that if the Council didn't pass the ordinance by a certain date, the legislation would go to referendum; if it did go to referendum, the legislation could not be amended for three years. Regardless, per Ms. Petaccia, this could have been done the right way if the Council took the time to do so in October.

Roman Hoshowsky, 919 Lake Shore Drive, advised that the Board of Education has come up with two different sets of numbers representing the number of students coming from Tivoli Gardens. Now the Board is citing FERPA, Family Education Rights and Privacy Act, to avoid cooperating and providing information to determine if there is overcrowding or if students are illegally attending school from this apartment complex. He noted that there are exceptions under the Act whereby this information can be released. He knows that the Board will fight the release of this information. However, he thinks it is important that this information be provided.

Additionally, he commented that people working for the Township should not have attitudes or act inappropriately. Residents deserve better.

Jerry Manning, 3 Oakdale, commented that all he got from listening to what has been said this evening is that Tom Wyka got another free campaign ad via Fred Snowflack's editorial in the Daily Record. If Mr. Wyka is so satisfied with the Pay-to-Play Ordinance he presented to the Council, why is he arguing about it. Additionally, Mr. Manning felt that Matthew Boxer, the State Comptroller, is a hypocrite, noting that the State, itself, does not award the lowest bid contracts because the only contracts the State accepts are union contracts, which are never the lowest bid.

Joe Raich, 8 Wolf Place, asked how long has the video camera been installed in the Council Chambers and when will it be turned on so that the people of Parsippany can see the transparency of their government. Ms. Lim noted that a new, upgraded camera with a wide-angle lens was just installed. Next week's meeting will be a "trial run."

Judy Hernandez, 5 Moraine Road, indicated that she worked with Tom Wyka to obtain signatures for the (pay-to-play) petition, which did seem to have a lot of bi-partisan support. She noted that she had commended the Council for adopting the ordinance. She stated that she really respects Mr. Wyka, but when she attends Council Meetings and hears this little bit of contention, it bothers her. She expressed her hope that everyone work together and that Mr. Wyka be treated with respect.

Dr. Paul G. King, 33 Hoffman Avenue, indicted to the members of the Council that they violated the Faulkner Act. If they chose to do so, that's fine with Dr. King as long as they also take responsibility for doing so. However, he has not heard anyone take responsibility for

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violating the Act, only explanations of why they violated the act. He has heard a lot of comments from both political sides who aren't happy with the Township being charged \$250,000 more, and even more as he now understands, for insurance that the Township could have had for less money for a year and then the new mayor would have plenty of time to present his choice of companies to the Council for consideration. Regarding the Pay-to-Play Ordinance, it appears that the Council adopted the legislation because they didn't dare give it to the people to choose because "they might stick it to you for three years." He asked the Council to stand by what it does.

Paul Sullivan, 149 Fieldcrest Road, agreed with a lot of what Dr. King said. He expressed his view that authorizing a one year contract with Travelers was a good opportunity. If the cost of Travelers increased the following year, the Township could reject it. He also asked if the Council could find out from the Morris County JIF why it was \$250,000 more than Travelers. Mr. Fox noted some of the services provided by the Morris County JIF that were not going to be provided by Travelers. Mr. Sullivan noted that Travelers had every bit of the insurance coverage, with lower deductibles and higher limits of liability. He noted that he does not know what educational services would have been provided by Travelers, but questioned if educational services were worth \$250,000. Mr. Sullivan then questioned whose fault was it that the matter came up on December 29th rather than at an earlier date. Ms. Grossi explained that this same problem has occurred in the past and the Council had been asking the Administration since January 2008 not to put the Council in the same position, to allow time for a choice to be made. Mr. Sullivan suggested that the insurance be put out for bid and that bids are received either October 1st or November 1st and then the decision could be made by December 1st. Council Members agreed that this is the way it should be done.

Seeing no one else come forward to speak, Council President Cesaro closed the public portion of the meeting.

MOTION TO ADJOURN: Mr. Barberio

SECONDED BY: Mr. Fox

Roll Call:	Mr. Barberio	-	Yes
	Mr. dePierro	-	Yes
	Mr. Fox	-	Yes
	Ms. Grossi	-	Yes
	Mr. Cesaro	-	Yes

MEETING ADJOURNED: 9:40 p.m.

Minutes approved: January 12, 2010

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
PARSIPPANY-TROY HILLS AWARDING CONTRACT FOR
INSURANCE SERVICES**

WHEREAS, the Township of Parsippany-Troy Hills has a need to acquire health insurance services as a non-fair and open contract pursuant to the provisions of P.L. 2004, c.19 (N.J.S.A. 19:44A-20.5 et seq.); and

WHEREAS, the procurement of insurance services, including health insurance, is an Extraordinary Unspecifiable Service (EUS) pursuant to N.J.S.A. 40A:11-5(1)(m), the procurement of which shall comply with N.J.S.A. 40A:11-5(1)(a)(ii); and

WHEREAS, the Business Administrator has determined and certified in writing that the value of these services will exceed \$17,500; and

WHEREAS, the Township's Health Insurance Broker issued a Request for Proposals to parties interested in providing health insurance services to the Township; and

WHEREAS, the Township received five (5) proposals, as follows:

	Estimated Annual Cost
CIGNA	\$7,185,329.29
North Jersey HIF	\$7,420,971.00
Oxford	\$7,613,181.91
Horizon	\$7,853,625.48
Integrity	\$8,091,051.96
Amerihealth	\$8,370,329.88; and

WHEREAS, the Business Administrator and the Mayor have reviewed the proposals received and recommend that a contract be awarded to Connecticut General Life Insurance Company (a subsidiary of CIGNA), 900 Cottage Grove Road, Bloomfield, CT 06152; and

WHEREAS, the term of this contract shall be from January 1, 2010 through December 31, 2010; and

WHEREAS, this firm has completed and submitted a Business Entity Disclosure Certification pursuant to P.L. 2004, c.19, which Certification provides that no contributions have been made that would bar the award of this contract, and further that no reportable contributions to municipal political or candidate committees of the elected officials of the Township will be made through the term of this contract; and

WHEREAS, this firm has further completed and submitted a c.271 Political Contribution Disclosure Form, which provided that no reportable political contributions (more than \$300 per election cycle) were made over the 12 months prior to submission to the committees of the government entities listed on the form; and

WHEREAS, the Chief Financial Officer of the Township of Parsippany-Troy Hills has certified in writing that funds will be available for this purpose in the following account(s):

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2010 Budget: Current Fund – Insurance:

2010 Budget: Water, Sewer and Golf & Recreation Utility- Other Expenses

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Township Council of the Township of Parsippany-Troy Hills authorizes the Mayor to enter into a contract with Connecticut General Life Insurance Company (a subsidiary of CIGNA), 900 Cottage Grove Road, Bloomfield, CT 06152 for providing medical insurance coverage in accordance with the proposal received from CIGNA; and
2. That the Business Disclosure Entity Certification, Chapter 271 Campaign Contribution Disclosure Statement, Stockholder Disclosure Form, the Determination of Value, the Certificate of Availability of Funds and Standard Certification Declaration for an Extraordinary Unspecifiable Service be placed on file with this resolution; and
3. This contract shall be awarded through a non-fair and open process and without a competitive bid pursuant to N.J.S.A. 19:44A-20.5 and as “Extraordinary Unspecifiable Services” pursuant to N.J.S.A. 40A:11-5(1)(a)(ii) and (1)(m); and
4. That a notice of this action be printed once in the official newspaper of the Township of Parsippany-Troy Hills.