TABERNACLE TOWNSHIP COMMITTEE
CLOSED SESSION MINUTES - JANUARY 22, 2019

In attendance
Kimberly A. Brown, Deputy Mayor; Stephen V. Lee, IV, Committeeman (telephone conference); Samuel R. Moore, III, Township Committee; Joseph Yates, IV, Township Committee and Joseph W. Barton, Mayor were present.

Administrative Team
Douglas A. Cramer, CPWM, Administrator; Rodney R. Haines, CMFO, Chief Finance Officer; Peter C. Lange, Jr., Township Solicitor and La Shawn R. Barber, RMC, Municipal were present.

The Governing Body met with Solicitor Lange to discuss (1) ongoing litigation matters involving Fran Brooks v. Township of Tabernacle under Docket # BUR - L-001048-18, (2) ongoing contract negotiations – proposed terms and conditions concerning an agreement with TRS (Tabernacle Rescue Squad) for the provisions of emergency medical services and (3) contract negotiation with respect to the contract terms with Tabernacle Fire Company #1.

Brooks vs. Tabernacle Township

Solicitor Lange provided a brief overview regarding another lawsuit Ms. Brooks filed against the Township in which she amended her complaint twice with permission of the court. There have been several management conferences with the court. Discovery is scheduled which is aimed at having a trial in March 2019 if the matter is not resolved.

The principal claims being made are surrounding three different topics:
1) Township’s policies concerning executive session minutes with respect to their preparation, approval and release.

Solicitor Lange spoke that historically our practice has been to approve the minutes as form and content shortly after each meeting and then to release by Resolution when the subject matter is no longer sensitive or the Township interest would not be compromised. The Township adopted Resolution 2018-90 on August 27, 2018 to give some structure to that process. Municipal Clerk Barber spoke of being comfortable with having the (MRC) Minutes Review Committee regularly visit and continue to go through the process of review for closed session minutes for release and have Township Committee report on those findings; there were no objections. It was determined that the Township would follow the process in Resolution 2018-80.

2) Alleged additional documentation that supports Attorney’s billing; as previously indicated, there are no other documents that exist other than Solicitor Lange’s bills which are regularly provided to the public.

Several years ago, it was expressed to Solicitor Lange that he was providing a significant amount of unnecessary data in his bills which may violate the attorney client privilege. Solicitor Lange was asked to consider limiting some of the detail included his billings. Ultimately, Solicitor Lange determined to make some adjustment. There are no other such documents.

3) Documents related to the Hall’s placing a temporary trailer on the formerly Brick property while their existing residence is being reconstructed. The letter was not provided.

Mr. Hall wrote a letter requesting permission authorizing the placement of a trailer; which has been done in this Township for decades. Ms. Brooks authorized many approval trailer Resolutions herself when she was on Township Committee. Solicitor Lange expressed that it is a hardship to require individuals to seek LDB approval when there is a compelling hardship and/or an emergency, but that it is necessary under the law. The OPRA request referenced block and lot information. Therefore, Ms. Brooks was provided everything from the block and lot files. The letter was to be acted on by the Township Committee by Resolution; a subsequent OPRA request did not provide a permit application was being processed. Ms. Brooks received all the documents and still filed suit. The resolution allowing the trailer was rescinded and, therefore the related suit was dismissed without cost. Given that the government documents were not provided over a period of months, it was recognized that there is some exposure to attorney’s fees. Solicitor Lange was directed to attempt to settle the matter.

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4) Seeking civil penalty pursuant to claims that the Municipal Clerk and Technical Assistant knowingly, purposefully and willfully withholding documents and violating the statue on purpose.

Solicitor Lange indicated that the claim that Township employees purposely violated OPRA and knowingly withheld documents is ridiculousness; Ms. Brooks felt deprived of documents in which she ultimately received. Solicitor Lange indicated that awarding a civil penalty is exceedingly rare and that it is not likely that the court would award such a penalty under the facts of the case. It was stated that it will be necessary to file all government records in a timely way as it was discovered that the Technical Assistant Love was in possession of the zoning permit application.

Members of the Township Committee held discussion with Chief Finance Officer Haines and expressed their frustrations as it relates to cost to the Township. Solicitor Lange indicated that the litigating matter through a trial may be more costly than settling the matter in light of the exposure to fees. The Committee directed Solicitor Lange to attempt to settle the matter short of agreeing to a civil penalty. Discussions held how to limit exposure and compromise for the cost of the litigation; Chief Financial Officer Haines will have to budget for this action.

**Contract Negotiations – TRS**

Township Committeeman Moore and Solicitor Lange provided an overview regarding the ongoing contract negotiations and proposed terms and conditions concerning the agreement with TRS (Tabernacle Rescue Squad) for emergency medical services. Discussions were held several times with President Wood, Chief Jackson and TRS Attorney for concessions to be made on both sides.

Solicitor Lange provided a lengthy and highlighted discussion regarding the draft agreement for provision of emergency medical and rescue responder services between Tabernacle Township and Tabernacle Rescue Squad, Inc. All of the principal terms of the agreement were discussed in order to understand each Committee person’s opinions and to determine whether or not a majority of the Committee would support adoption of the proposed agreement.

Discussions were held with Chief Finance Officer regarding payments and cost for services made by the Tabernacle Rescue Squad in the past.

Solicitor Lange discussed the draft Facility Use / License Agreement by and between Tabernacle Township and Tabernacle Rescue Squad, Inc. for the use of the emergency services building owned by Tabernacle Township. It was clear throughout the negotiation process this is not a lease and the Township reserves the right to use the building for its own purpose. The Township would have control of the building except for accommodating the provisions of emergency services and rescue by the squad.

There was general discussion among members of the Township Committee regarding TRS’ contributions to the debt service for the use of the building. Chief Finance Officer spoke of prior payments and cost made for all services by Tabernacle Rescue Squad and spoke of the difference with the Township paying for a capital ordinance for a fire truck.

Deputy Mayor Brown spoke about the original concept for the emergency service building was supposed to be a building just for the TRS until Township got involved and made the building larger from which TRS was planning to build. The Township envisioned all of emergency services in one location; debt service is increased.

Committeeman Moore expressed his role as negotiator for emergency services and feels the contract is reasonable and spoke of the importance of change for both sides of leadership, so all members of emergency services could work jointly together for the life and safety of anyone involved.

Mayor Barton spoke of wanting a consensus by the Township Committee to allow Township Attorney to obtain a different OIG Opinion with respect to in-kind contributions. Solicitor Lange will provide an estimate for Township consideration.
Contract Negotiations – Tabernacle Fire Company #1

Solicitor Lange provided discussion contract negotiations and terms with Tabernacle Fire Company #1. Chief Finance Officer Haines spoke of his concern with respect $90,000.00 contribution to the TFC#1; reciting statute that addresses 50% of funds received shall be for purchase of fire equipment, material equipment and supplies. Mr. Haines addressed Township obligation to strengthen their contract with TFC #1 regarding their recording of financial accountability. Administrator Cramer and Committeeman Moore will advise TFC #1 of their concerns of possible modification to their contract.

Seeing no further business, members of the Township Committee came out of executive session and returned to the open meeting.

Respectfully submitted,

La Shawn R. Barber, RMC
Municipal Clerk

APPROVED: 4/29/2019

RELEASED DATE: 12/4/2019