

TOWNSHIP OF MOORESTOWN
TOWNSHIP COUNCIL
OFFICIAL ACTION MEETING

July 24, 2023

(This meeting was held in-person and virtually/telephonically)

The Regular Meeting of the Moorestown Township Council was called to order by Mayor Gillespie at 7:00 p.m. at Town Hall, Council Chamber, 111 West Second Street, Moorestown. Attendance was as follows:

Nicole Gillespie, Mayor
Quinton Law, Deputy Mayor
Sue Mammarella, Councilmember
Jake Van Dyken, Councilmember
David Zipin, Councilmember

Kevin E. Aberant, Township Manager
Patricia L. Hunt, Township Clerk
Douglas Heinold, Township Solicitor

CALL TO ORDER: At 7:00 p.m., Mayor Gillespie read the Open Public Meetings Act statement in full, as printed on the agenda.

MAYOR'S STATEMENT

"Notice of this meeting has been provided in accordance with the Open Public Meetings Act" by:

1. Posting a copy of the agenda on the bulletin board at the Municipal Complex.
2. Filing a copy of the agenda in the office of the Township Clerk at the Municipal Complex.
3. Emailing a copy of the agenda to the Burlington County Times and Courier Post.
4. Forwarding written notice to each person who has requested copies of the regular meeting schedule.

All of the above posting, filing and mailing have taken place on July 21, 2023.

MOMENT OF SILENCE AND FLAG SALUTE: The Official Action meeting began with a moment of silence and flag salute.

ROLL CALL: Mayor Gillespie took roll call; all were present.

PROCLAMATIONS & PRESENTATIONS: None

DISCUSSION:

Reports from Council:

Mr. Van Dyken said that the Full Throttle Field is unbelievable; people are using it.

Ms. Mammarella advised that Sustainable Moorestown is looking at grants for EV charging stations. The Appearance Committee met last week and reviewed the plans for the North Lenola Sbar affordable housing site. She encouraged all to go see Music Man at the Methodist Church, noting she had a small part in the play.

Mr. Law advised that the Lenola Streetscape project is coming along; the street light issue has been resolved. The Better Together Advisory Committee is working on the dedication of the Armydis Sordon Park (formerly Beech Street Park). Mr. Law thanked Senator Singleton for attaining \$500,000 in funding for the Township to improve Yancy-Adams Park and the Town Green in front of Town Hall.

Mayor Gillespie advised that the Economic Development Advisory Committee meets tomorrow. They are meeting with business owners along Lenola Road and Camden Avenue. She advised on the Environmental Advisory Committee meeting noting they will meet with applicants monthly. Mayor Gillespie also commented on Moorestown Theater and the Music Man. Mayor Gillespie advised of the mustard seed garden at the 1st Presbyterian Church noting it is a lovely addition to the community. She also complimented the whiffle ball field. Mayor Gillespie advised on the upcoming traffic and public safety listening session she and Mr. Law will be hosting.

Upcoming Meeting(s): Mayor Gillespie read the upcoming meetings aloud.

August 7, 2023 – 7:00 p.m. (Official Action)

August 21, 2023 – 7:00 p.m. (Official Action)

Agenda Updates: None.

Adopting Consent Agenda Resolution No. CA 07 24 2023: Mayor Gillespie asked for a motion to adopt the Consent Agenda.

MOTIONED BY: Mr. Zipin
SECONDED BY: Ms. Mammarella
ABSENT: None
VOTE: All in favor

RESOLUTION APPROVING CONSENT AGENDA CA 07 24 2023

WHEREAS, Consent Agendas include routine items of business which are not controversial; do not require individual discussion; and are voted upon as one item by the Governing Body; and

WHEREAS, any item may be removed from the Consent Agenda by the request of any Council Member; and

WHEREAS, if so removed, said item(s) will be treated as a separate matter(s); and

WHEREAS, the Township Council has reviewed the Consent Agenda and determined that the matters listed are matters, which require official action; but do not require further deliberation or discussion.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey, that it hereby:

- ___x___ a. Approves the Consent Agenda as written on the agenda.
_____ b. Approves the Consent Agenda as written with the exception of the following:
_____ c. Requests that all matters on the Consent Agenda be handled separately.

MANAGER’S REPORT: Mr. Aberant reported:

A walkthrough will be held tomorrow in connection with the Lenola Streetscape project.

A meeting is scheduled with R&V Engineers concerning improvements to Yancy-Adams Park and the Town Green (in front of Town Hall).

SoMax performed an in-person evaluation on the wastewater treatment plant.

The Police Department has circulated a survey to residents in Lenola concerning traffic on Browning and will later provide recommendations.

Mr. Zipin recused himself from affordable housing items and left the room.

AFFORDABLE HOUSING – RESOLUTIONS: The Township Manager read the resolutions by title.

154-2023 AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE AFFORDABLE HOUSING TRUST FUND FOR SERVICES RECEIVED IN CONNECTION WITH THE DEVELOPMENT AND IMPLEMENTATION OF A HOUSING PLAN FOR MOORESTOWN TOWNSHIP, BURLINGTON COUNTY (SURENIAN)

156-2023 “REASONS” RESOLUTION IN SUPPORT OF PROCEEDING WITH ADOPTION OF ORDINANCE 14-2023 DESPITE MOORESTOWN TOWNSHIP PLANNING BOARD’S DETERMINATION AS TO LOT SPECIFIC “INCONSISTENCY” DETERMINATION

Mayor Gillespie opened the floor to the public on both resolutions.

Robert Connor 134 Country Club Drive, began to ask questions concerning the land swap. He was advised that his comments do not pertain to the resolutions at hand and his comments would be properly made under the public hearing for the ordinance.

Mayor Gillespie asked for discussion by Council. There was none.

Mayor Gillespie asked for a motion to adopt Resolution 154-2023.

MOTIONED BY: Mr. Law
SECONDED BY: Ms. Mammarella
ABSENT: None
RECUSED: Mr. Zipin
ROLL CALL VOTE: All in favor

Mayor Gillespie asked for a motion to adopt Resolution 156-2023.

MOTIONED BY: Ms. Mammarella
SECONDED BY: Mr. Van Dyken
ABSENT: None
RECUSED: Mr. Zipin
ROLL CALL VOTE: All in favor

AFFORDABLE HOUSING - ORDINANCES ON SECOND READING: The Township Manager read Ordinance 14-2023 by title. He advised this ordinance is a redo of the ordinance adopted in 2021, which was invalidated by the judge who found a conflict of interest with Mr. Zipin's vote in the matter.

14-2023 AMENDING CHAPTER 180 ENTITLED "ZONING" OF THE TOWNSHIP OF MOORESTOWN TO REZONE BLOCK 7401, PROPOSED LOT 1.02 (UNNUMBERED LOT ON BORTON LANDING ROAD) TO AMF-6 ZONING DISTRICT, AND TO REZONE BLOCK 7401, LOT 3 (200 HARTFORD ROAD) TO BP-2 ZONING DISTRICT

Mayor Gillespie opened the public hearing.

Robert Connor, 144 Country Club Drive, asked who chose the lot and why Lots 5 and 6 were not chosen. Mr. Aberant advised that Lockheed Martin did not offer Lots 5 and 6; they did not want anything in the vicinity of Westfield and Centerton Roads due to national security concerns. Mr. Connor felt this was an opportunity to revisit the proposed affordable housing location. Mr. Heinold advised that the Township prevailed in court on all counts, with the exception of the conflict of interest count, which the court indicated that they did not discern there was intent. Discussion was held. Mr. Connor urged Council to go reconsider. Mr. Connor was advised that the land swap was a fair swap and if the Township were to "go back," it would put the entire judgement of compliance at risk.

Pete Miller, 518 Devon Road, expressed concern with Lockheed Martin's late hour concern when they knew about the intended use of the property since 1985. He questioned the Township's negotiation with Lockheed Martin finding the Township has more leverage. Mr. Miller was advised that the Township did negotiate; and he advised of the benefits. Discussion was held.

Greg Newcomer, 235 Fellowship Road, provided a long history on the affordable housing issue and what the Township has been confronted with and worked through. He said people need housing. He supported Council in this measure.

Gary Friedmann, 7 Baldwin Hill Place, did not agree with the “security risk” finding. He asked how the traffic would be managed. Mayor Gillespie advised that Council is aware of the traffic concerns and the developer is addressing some of the issues; the matter will be addressed by the Planning Board. He was advised of the Township’s constitutional obligation to fulfill its plan and the inherent risks involved with upsetting the plan. Mr. Heinold addressed tax credits.

Mayor Gillespie asked for a motion to close the public hearing.

MOTIONED BY: Mr. Van Dyken
SECONDED BY: Mr. Law
ABSENT: None
RECUSED: Mr. Zipin
ROLL CALL VOTE: All in favor

Mayor Gillespie asked for discussion by Council. There were no comments.

Mayor Gillespie asked for a motion to adopt the ordinance on second reading.

MOTIONED BY: Mr. Van Dyken
SECONDED BY: Ms. Mammarella
ABSENT: None
RECUSED: Mr. Zipin
ROLL CALL VOTE: All in favor

The Township Manager read Ordinance 15-2023 by title.

15-2023 AUTHORIZING THE EXCHANGE OF THE PROPERTY OWNED BY THE TOWNSHIP OF MOORESTOWN COMMONLY KNOWN AS THE NAGLE TRACT, LOCATED AT 200 HARTFORD ROAD AND ALSO KNOWN AS BLOCK 7401, LOT 3, WITH A 12.5 ACRE PARCEL OF LAND OWNED BY LMC PROPERTIES, INC. LOCATED ON BORTON LANDING ROAD AND KNOWN AS PROPOSED BLOCK 7401, LOT 1.02 WHICH IS A PORTION OF EXISTING BLOCK 7401, LOTS 1 AND 2

Mayor Gillespie opened the public hearing. There were no comments.

Mayor Gillespie asked for a motion to close the public hearing.

MOTIONED BY: Ms. Mammarella
SECONDED BY: Mr. Van Dyken
ABSENT: None
RECUSED: Mr. Zipin
ROLL CALL VOTE: All in favor

Mayor Gillespie asked for discussion by Council. There were no comments.
Mayor Gillespie asked for a motion to adopt the ordinance on second reading.

MOTIONED BY: Mr. Law
SECONDED BY: Mr. Van Dyken
ABSENT: None
RECUSED: Mr. Zipin
ROLL CALL VOTE: All in favor

AFFORDABLE HOUSING - ORDINANCES ON FIRST READING: None

Mr. Zipin returned and took his seat at the dais.

ORDINANCES ON SECOND READING: None.

ORDINANCES ON FIRST READING: None.

CONSENT AGENDA RESOLUTIONS: The Township Manager read the consent agenda resolutions by title. Mr. Aberant advised that the County had to certify the tax rate and he expects the tax bills will be mailed out the first week of August.

153-2023 AWARDING A CONTRACT TO CORE & MAIN LP FOR PURCHASE AND DELIVERY OF WATER METERS IN AN AMOUNT NOT TO EXCEED \$60,000

155-2023 AUTHORIZING THE CANCELLATION OF WATER AND SEWER CHARGES DUE TO DUPLICATE CHARGES, AN OVERESTIMATE, A MISREAD, LEAK REPAIRS, AND A POOL FILL IN THE 1ST QUARTER

157-2023 AWARDING A CONTRACT TO U.S. TANK PAINTING, INC. FOR WESTFIELD ROAD TANK PAINTING AND ALTITUDE VALVE REPLACEMENT IN THE AMOUNT OF \$1,481,000

158-2023 AUTHORIZING THE EXTENSION OF THE TAX PAYMENT GRACE PERIOD FOR THE 3RD QUARTER FROM AUGUST 10, 2023 TO SEPTEMBER 8, 2023

Mayor Gillespie opened the floor to the public. There were no comments.

Mayor Gillespie asked for discussion by Council. There was none.

Mayor Gillespie asked for a motion to adopt the resolutions.

MOTIONED BY: Ms. Mammarella
SECONDED BY: Mr. Van Dyken
ABSENT: None
ROLL CALL VOTE: All in favor

MINUTES: June 26, 2023 Official Action: Mayor Gillespie asked for discussion or a motion to approve the minutes.

MOTIONED BY: Mr. Law
SECONDED BY: Ms. Mammarella
ABSENT: None
ROLL CALL VOTE: All in favor

APPROVAL OF EXPENDITURES: Mayor Gillespie asked for comment or a motion to approve the bill list. Mr. Zipin recused himself.

MOTIONED BY: Mr. Law
SECONDED BY: Ms. Mammarella
ABSENT: None
RECUSED: Mr. Zipin
ROLL CALL VOTE: All in favor

COMMENTS FROM THE PUBLIC (Items listed on and/or off the Agenda):

Eric Gentilly, 85 Brooks Road, asked what the Township is doing in response to the recent rash of burglaries in town. Mayor Gillespie advised on all the measures Council has taken to step up the Police Department. She advised that there will be a public safety listening session on Wednesday and invited him to attend. Mr. Gentilly inquired about the Township's affordable housing obligations; he was advised.

Kathy Sutherland, 417 North Church Street, asked about the status of the Harper Drive site. She was advised and told that they expect a shovel in the ground later this year. Ms. Sutherland reminded all that a Navy Commander spoke to the public at a Council meeting about the security issues. She herself queried the Commander at that meeting about why this is an issue after all these years. He advised that the issue got lost in the shuffle. She expressed her desire to see this through to fruition.

Matt Ragan, 620 North Washington Avenue, said that in his opinion, the judge's decision was misguided; he praised Mr. Zipin stating that Mr. Zipin is one of the most honorable, ethical people he knows and he is glad that he serves on the Township Council.

CLOSING COMMENTS BY COUNCIL:

Mr. Zipin expressed his disappointment with the talk on social media. He provided a background on his employment history with the State and local government and the fact that he feels he has a good sense on the Mount Laurel Doctrine. He advised that his current position is an Ethics Officer for the New Jersey Housing and Mortgage Finance Agency (HFMA). He advised when serving on Council, he relies on the guidance of the Township Solicitor, which has no bearing on his State position. He said that whatever actions were taken with the input of the solicitor were

made with the best interest of the Township. He too disagreed with the (broad sweep) appellate court decision and expressed concern with the cause and ultimate effect (having to recuse himself on any issues before Council and the Planning Board that have to do with affordable housing). He said the effect is not the intent of the conflict law. However, he is now hamstrung on issues that do not relate to his employer or what he wants to do for the betterment of the town.

Mr. Van Dyken agreed with Mr. Ragan attesting to Mr. Zipin's integrity. He also agreed with the decision(s) of Council. Mr. Van Dyken read a statement into the record which expressed his grave disappointment with the measures the public go to on social media. He found their comments to be cowardly, irresponsible, and unethical. He reminded the public that Council too has private lives and warned that if that ever happened to him, he will take appropriate action.

Ms. Mammarella thanked all for attending and invited all to read the letter from the United States Navy concerning national security concerns; she would not think of questioning the Navy on the issue. Ms. Mammarella expressed her respect for all members of Council. She said that she looks to Mr. Zipin when she has questions of ethics; he is the most ethical, thoughtful person; he is a thinker. She supported Council's actions and felt it did the absolute best it could do under the circumstances.

Mr. Law advised that every decision he makes he asks himself, how does this affect the taxpayers. He found it to be sad that people would question the Navy and its decision. He reiterated that the court upheld the rezoning and the land swap and felt that people are trying to cloud that aspect. He stood firm on the Navy's position and their expertise concerning national security. He said no one wanted to do the land swap. He felt the Council was protecting the Township from a national security risk and builders remedy lawsuits and meeting its constitutional obligation. He complimented Mr. Zipin.

Mayor Gillespie thanked all for attending. She clarified that Council's action tonight with regard to Ordinances 14 and 15-2023 was procedural. She expressed her dismay with some eluding that Mr. Zipin owed an apology; she felt he deserved an apology. She felt his exclusion from participation in the process will be a loss to the Township.

CLOSED SESSION (IF NECESSARY) (RESOLUTION NO. CS 07 24 2023): Mayor Gillespie asked for a motion to adopt Resolution CS 07 24 2023 Authorizing Closed Session for purposes of discussing matters Relating to the Purchase, Lease or Acquisition of Real Property or the Investment of Public Funds and Matters Relating to Litigation, Negotiations and the Attorney-Client Privileges.

MOTIONED BY: Ms. Mammarella
SECONDED BY: Mr. Law
ABSENT: None
ROLL CAL VOTE: All in favor

RESOLUTION NO. TCOA CS 07 24 2023
AUTHORIZING CLOSED SESSION

WHEREAS, the Township Council of the Township of Moorestown is subject to certain requirements of the Open Public Meetings Act, N.J. S. A. 10:4-6, et seq., and

WHEREAS, the Open Public Meetings Act, N.J.S.A 10:4-12, provides that a Closed Session, not open to the public, may be held for certain specified purposes when authorized by Resolution, and

WHEREAS, it is necessary for the Township Council of the Township of Moorestown to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

_____(1) *Matters Required by Law to be Confidential:* Any matter which, by express provision of Federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.

_____(2) *Matters Where the Release of Information Would Impair the Right to Receive Funds:* Any matter in which the release of information would impair a right to receive funds from the Government of the United States.

_____(3) *Matters Involving Individual Privacy:* Any material, the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to, information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

_____(4) *Matters Relating to Collective Bargaining Agreements:* Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

 x (5) *Matters Relating to the Purchase, Lease or Acquisition of Real Property or the Investment of Public Funds:* Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

_____(6) *Matters Relating to Public Safety and Property:* Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

x (7) *Matters Relating to Litigation, Negotiations and the Attorney-Client Privileges:* Any pending or anticipated litigation or contract negotiation in which the public body is, or may become, a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

(8) *Matters Relating to the Employment Relationship:* Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

 (9) *Matters Relating to Potential Imposition of a Penalty:* Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party bears responsibility.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey, assembled in public session, that a Closed Session closed to the public shall be held in the Town Hall, 111 West Second Street, Moorestown, New Jersey, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Council that the public interest will no longer be served by such confidentiality.

Mayor Gillespie advised that there will be no formal action when Council returns to the public; noting, however, all are welcomed to stay.

At 8:35 p.m., Council entered into closed session.

At 9:06 p.m., Council returned to the public meeting. Due to the sensitivity of the matters, Council had nothing to report.

ADJOURNMENT: At 9:08 p.m., there being no further business, a motion was made to adjourn.

MOTIONED BY: Mr. Van Dyken
SECONDED BY: Mr. Law
ABSENT: None
ROLL CALL VOTE: All in favor

PATRICIA L. HUNT, RMC
Township Clerk