

MANSFIELD TOWNSHIP COMMITTEE MEETING

July 25, 2007

This is a regular meeting of the Mansfield Township Committee. The notice requirements of the law have been satisfied for this meeting by notice to the Star-Gazette and the Express Times of the time, date and location thereof. Notice was also posted on the announcement board located in the Municipal Building.

Roll Call: Mr. Watters, Ms. Nerbak, Mr. Appleby, Mayor Baldwin

Salute to the flag was done by all.

Executive Session: Police Department and Personnel

Mr. Howard Vex, Esq. explained that the purpose of this executive session is to discuss a possible disciplinary matter and the police administration.

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12.

WHEREAS, the Township Committee of the Township of Mansfield 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 an Executive 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 Committee of the Township of Mansfield 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.

- (5) Matters Relating to the Purchase, Lease of 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.
- (7) Matters Relating to Litigation, Negotiations, and the Attorney-Client Privilege: 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 the 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 Committee of the Township of Mansfield, assembled in public session on July 25, 2007, that an Executive Session closed to the public shall be held on July 25, 2007 at 7:37 PM in the Mansfield Township Municipal Building, for the discussion of matters relating to the specific items designated above.

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

Mr. Watters made a motion to pass the Executive Session resolution, which was seconded by Mr. Appleby.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin

Nays: None

Return from Executive Session at 8:22pm.

Roll Call: Mr. Watters, Ms. Nerbak, Mr. Appleby, Mayor Baldwin

APPROVAL OF THE MINUTES:

Ms. Nerbak made a motion to approve the minutes of the June 27, 2007 meeting, which was seconded by Mr. Watters.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin

Nays: None

PAYMENT OF BILLS:

Ms. Nerbak made a motion to approve the bill list, which was seconded by Mr. Appleby.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None

Environmental Commission:

Mrs. Kathy Todd asked the Township Committee if there was any space in the Municipal Building for the Environmental Commission to have an office space.

Mayor Baldwin explained that the Township Committee has just been reviewing space in the municipal building and that the Committee had agreed to place money in the budget for next year to hire an architect to review space and how we could use the space that we presently have more efficiently. Mayor Baldwin also stated that the space is not presently available for an office. Mayor Baldwin asked Ms. Hrebenak whether there was any space that the environmental commission could use for the time being.

Ms. Hrebenak explained that she had spoken to Ms. Pante and through that discussion the environmental commission would need about 2 filing cabinet drawers which Ms. Hrebenak was trying to arrange space in the prosecutor's office.

ENGINEERS REPORT:

Mr. Mace stated that he received earlier today a copy of the Highlands response letter for the Wastewater Management plan and that he will forward that and a letter explaining the details of the request from them.

Mr. Mace explained that the driveway and parking lot on the recreation property are very close to being paved. The company had to install a filter fabric first since there is clay material in the soil. Another several weeks and this project should be completed.

Treasurer's Report:

Mr. Coppola explained that the pension numbers are in for next year ours will be \$150,000 which is about \$80,000 more than last year.

Mr. Coppola also had wanted to speak to the Township Committee about the hotel motel tax ordinance which he will wait for the final reading.

Consent Agenda:

2007-89 Lien Resolution
2007-90 Lien Resolution
2007-91 Lien Resolution
Mansfield Twp Ladies Auxiliary: Coin Toss
Mansfield Emergency Services: Coin Toss

Ms. Nerbak made a motion to approve the Consent Agenda, which was seconded by Mr. Appleby.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None

PUBLIC PORTION:

Paul Tarlowe, 40 Brookside Ave, asked if anything has been done yet about the flooding problem over by the Hasen Road bridge. Mr. Tarlowe asked about the Highlands response to the Township and why Mr. Mace and Mayor Baldwin went to the Highlands Council meeting and what it was that they were looking to achieve by going to the meeting.

Mayor Baldwin and Mr. Mace explained that they had gone to the Highlands Council meeting for the purpose of having the Township's Wastewater Management Plan endorsed by the Highlands and try to clear up whatever issues that they had. Which at this meeting the council did endorse the plan with 3 condition that were submitted on the letter that Mr. Mace received earlier today as he had explained earlier at this meeting.

Mr. Tarlowe asked if any of the discussions were in reference to the Simoff property or any of the other properties along Route 57.

Mr. Mace stated that there were no discussions of either of those topics.

Mr. Tarlowe asked if these letters could be received through an OPRA request.

Ms. Hrebenak explained that this is something that would need to be requested through an OPRA request.

Mr. Tarlowe asked if the letter that Mr. Mace had stated that he would be submitting to HMUA has been submitted yet.

Mr. Mace explained that the letter needed some fine tuning therefore it had not been submitted yet.

Mayor Baldwin asked if there were anymore comments from the public, being that there were none the public portion was closed.

RESOLUTION:

RESOLUTION 2007-92

WHEREAS, The Township of Mansfield Committee of the Township of Mansfield, County of Warren, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and,

WHEREAS, the Township of Mansfield Committee further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Township of Mansfield Committee has applied for funding to the Governor's Council on alcoholism and Drug Abuse through the County of Warren;

NOW, THEREFORE, BE IT RESOLVED by the Township of Mansfield, County of Warren, State of New Jersey hereby recognizes the following:

1. The Township of Mansfield Committee does hereby authorize submission of an application for the Mansfield Township Municipal alliance grant for calendar year 2007 in the amount of \$ 7,195.00.
2. The Township of Mansfield Committee acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

Ms. Nerbak made a motion to approve the passage of Resolution 2007-92, which was seconded by Mr. Watters.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin

Nays: None

ORDINANCE:

First Reading

Mayor Baldwin introduced Ordinance 2007-11:

ORDINANCE NO. 2007-11

**TOWNSHIP OF MANSFIELD
COUNTY OF WARREN
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND CHAPTER 2-8 OF THE CODE OF THE
TOWNSHIP OF MANSFIELD ENTITLED "POLICE DEPARTMENT."**

WHEREAS, the Township Council is of the opinion that Chapter 2-8 of the Code of the Township of Mansfield providing for the establishment and governance of a Township police department, ought be amended for the purpose of reorganizing and modernizing the department;

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Mansfield, Warren County, New Jersey, as follows:

Section I.

Chapter 2-8 of the Code of the Township of Mansfield be and hereby is repealed in its entirety and replaced with a new Chapter 2-8 entitled "Police Department." The new Ordinance shall consist of the following provisions:

A. Establishment of Police Department.

1. There is hereby created in and for the Township of Mansfield, a Police Department within the County of Warren, State of New Jersey, pursuant to the provisions of N.J.S.A. 40A: 14-118, et seq. This Ordinance is intended to ratify the existence and operation of the Police Department, which has historically operated within and served the Township of Mansfield, and at the same time satisfy statutory requirements of current New Jersey law.

2. The members of the Mansfield Township Police Department, as presently constituted as of the date of adoption of this Ordinance, are hereby continued in their respective offices or positions; and the salaries established by the Salary Ordinance now in effect shall prevail, and nothing contained in this section shall be considered as affecting the status, rank, tenure or any rights heretofore acquired by any member of the existing Department.

B. Statement of Goals and Objectives.

The Police Department shall preserve the peace; protect life and property; detect, arrest and prosecute offenders of the laws of New Jersey and the ordinances of the Township of Mansfield; direct and control traffic; provide attendance at and protection during emergencies; provide appearances in court; cooperate with all other law enforcement agencies; and provide training for the efficiency of its members and officers as well as perform all other duties and fulfill

all other responsibilities normally associated with the operation of a police department.

C. Composition and Chain of Command.

Said Police Department shall consist of one (1) Chief of Police, and such Lieutenants, Sergeants, Police Officers, Special Law Enforcement Officers and civilian employees as deemed necessary and appropriate by the Township Committee, hereinafter designated as the "Appropriate Authority". The Township Committee may, from time to time, leave one or more of the above positions vacant, as it deems appropriate in the best interests of the Township. The express purpose for identifying these offices is to establish a statutory line of authority from all police employees to a higher elected authority. Whenever any such office is intentionally left vacant, it will be deemed not to exist and it will be passed in the chain of command. The Township Committee may therefore recreate or resurrect an office that has been so abolished by naming a person to fill said office. No personnel may be appointed to the Mansfield Police Department until they have satisfied all statutory requirements and have complied with the selection process and standards established by the Rules and Regulations adopted by the Township Committee to govern said Police Department. No police officers shall be appointed to the Mansfield Township Police Department until they have successfully completed physical, and psychological examinations. In the event that the abolishment of an office results in a decrease in the members of the Police Department or demotion in rank, any termination or demotion shall be in the inverse order of appointment pursuant to and for the reasons established by N.J.S.A. 40A:14-143. Any promotions shall take into account due consideration of the length and merit of service of existing members of the department as required by N.J.S.A. 40A:14-129.

D. Appropriate Authority.

The Appropriate Authority is hereby designated as the Mansfield Township Committee. The line of authority in the Police Department shall be as follows:

1. The Chief of Police shall be the head of the police force and shall prescribe the duties and assignments and chain of command with respect to all subordinates and other personnel. The Chief of Police shall be vested with all other authority provided for in N.J.S.A. 40A:14-118.
2. The Chief of Police shall report monthly to the Police Commissioner.
3. The Police Commissioner shall report monthly to the Township Committee, and the Chief of Police shall report from time to time as requested by the Township Committee. The Committee shall be the final authority on all matters relating to the operation of the Police Department.

E. Police Department Rules and Regulations.

1. The Chief of Police, in conjunction with the Police Commissioner, shall be responsible for the periodic review and update of the Rules and Regulations for police personnel, which shall be known as the Rules and Regulations for the Police Department of the Township of Mansfield. Said Rules and Regulations, shall be in manual form and shall govern the conduct of and be binding upon the entire membership, sworn officers and civilian employees of the Police Department. The Rules and Regulations shall be promulgated and adopted by the Appropriate Authority.
2. Each sworn officer and each civilian employee shall be given a copy of same and is duty bound to be thoroughly familiar with the provisions of the Rules and Regulations and the Policies and Procedures of the Police Department.
3. The Chief of Police shall have the authority to issue written directives, policies and procedures with respect to the day to day operational conduct of the Police Department as well as the delegation of such of his authority as he may deem necessary to delegate from time to time for the efficient operation of the Police Department.

F. Hearing Authority.

1. The Chief of Police shall have the authority to discipline all sworn officers of the Police Department, including the authority to fine, reduce in rank, or suspend an officer for just cause and upon written complaint and a hearing, unless waived in accordance with applicable law.
2. With respect to reduction in rank or suspension, an officer of the Police Department may appeal the decision of the Chief of Police to the Police Commissioner. The Police Commissioner may hear the appeal or refer the matter for determination by the Township Committee. Notwithstanding the foregoing, the Township Committee may, in its discretion, elect to designate a hearing officer other than the Township Committee for the purpose of conducting the disciplinary hearing, receiving evidence, preparing a record, and submitting findings and a proposed recommendation of penalty, if any, to the Township Committee.
3. In addition to adjudicating appeals, the Police Commissioner and the Township Committee shall have the independent authority to initiate discipline of all officers in the Police Department, including the Chief of Police.

G. Charging Authority.

Only the Police Commissioner, the Township Committee or the Chief of Police may initiate major disciplinary charges against any member of the Police Department.

H. Emergency Directives.

Nothing contained herein shall infringe upon or limit the duty and authority of the Township Committee, or its designee, including, but not limited to, the Chief of Police to act to provide for the health, safety and welfare of the municipality in an emergency through special emergency directives pursuant to the provisions of N.J.S.A. 40A:14-118 and 40A:14-146.9.

I. Civilian Employees.

The Township Committee shall, in its discretion and in consultation with the Chief of Police, appoint civilian members to the Police Department. Said civilian employees will provide dispatch services, clerical duties and logistical services in support of the Police Department and shall perform other duties as directed by the Chief of Police. Civilian members of the department shall be governed by the policies and rules and regulations of the Department.

J. Appointment and qualifications.

1. All appointments to the Police Department shall be made by the Township Committee through appropriate Resolution.
2. No person shall be appointed as a sworn officer of the Police Department unless he or she:
 - a. is a citizen of the United States;
 - b. is not less than 21 nor more than 35 years of age in the case of a new hire or 45 years of age in the case of a lateral hire;
 - c. is sound of body and of good health sufficient to satisfy the Board of Trustees of the Police Retirement System of New Jersey that such applicant or appointee is eligible to membership in the retirement system;
 - d. passes such medical and psychiatric examinations as are directed and requested by the Mayor and Committee or the Chief of Police, under their direction;
 - e. is able to read, write and speak the English language well and intelligently;
 - f. is of good moral character and has not been convicted of any crime involving moral turpitude;

- g. has served a probationary period, not to exceed one year in accordance with N.J.S.A. 52:17B-68, pending his or her successful completion of a course at a qualified school recognized and approved by the New Jersey State Police Training Commission;
 - h. has a valid New Jersey driver's license;
 - i. has a High school diploma;
 - j. has not been convicted of any crime based upon a criminal background investigation.
3. The appointment of a sworn officer to the Police Department shall be made by the Township Committee.

K. Police Services.

Police services shall be available 24 hours per day, seven days per week.

L. Duties of Chief of Police.

The Chief of Police shall be the executive head of the Police Department and shall be directly responsible to the Police Commissioner and Township Committee for its efficiency and day-to-day operations. Pursuant to rules and regulations established by the Appropriate Authority, the Chief of Police shall be responsible for the day-to-day operation of the Department, including but not limited to:

- a. Administer and enforce the rules and regulations of the Police Department and any special emergency directive for the disposition and discipline of the Department and its members and officers;
- b. Have, exercise and discharge the functions, powers and duties of the Police Department;
- c. Administer and enforce the rules and regulations adopted by the Appropriate Authority;
- d. Prescribe the duties and assignments of all members and officers;
- e. Delegate such authority as may be deemed necessary for the efficient operation of the Police Department to be exercised under the Chief's direction and control;
- f. Report at least monthly to the Police Commissioner and make such other reports to the Police Commissioner and/or Township Committee as may be requested; and

- g. Maintain a graphic Table of Organization to show the divisional structure of the Police Department. The function and duties of each position in the Table of Organization shall be defined by policies established by the Chief of Police.

M. Discipline.

The Police Commissioner, The Township Committee or the Chief of Police shall determine the appropriate level of discipline in their sole discretion, based upon facts and circumstances surrounding the infraction and, if deemed applicable, any past disciplinary record.

N. Disciplinary Hearings.

Any required notice of charges, disciplinary hearing, as well as imposition of disciplinary action shall be in accordance with applicable law and departmental policies, rules and regulations.

O. Powers and Duties of Police Officers.

1. The rights, privileges, powers and duties of the sworn officers of the Police Department, including temporary officers and special policemen, shall be those prescribed by the laws of the State of New Jersey governing municipal police departments, by departmental policies and procedures, the ordinances and resolutions of the Township and such other rules and regulations as may from time-to-time be adopted by resolution of the Township Committee.
2. It is the obligation and duty of each sworn officer of the Police Department, regular, special or superior officers, to enforce all ordinances of the Township and to report and correct, if possible, all violations of these ordinances.
3. The Police Department, through its Chief, shall:
 - a. Preserve the public peace, protect life and property, prevent crime, detect and arrest offenders against the penal laws and ordinances effective within the Township, suppress riots, mobs and insurrections, disperse unlawful or dangerous assemblages and preserve order at all elections and public meeting and assemblages;
 - b. Administer and enforce laws and ordinances to regulate, direct, control and restrict the movement of vehicular and pedestrian traffic and the use of the streets by vehicles and persons and protect the safety and facilitate the convenience of motorists and pedestrians;
 - c. Remove or cause to be removed all nuisances in the public streets, parks and other public places of the Township;
 - d. Provide proper police attendance and protection at fires; and

- e. Provide for the attendance of its members in court as necessary for the prosecution and trial of persons charged with crimes and offenses, and cooperate fully with the law enforcement and prosecuting authorities of federal, state and county governments.

P. Hours of Employment.

Each officer of the Police Department shall devote 80 hours every two weeks as a minimum to the business, duties and work of the Department, and each officer shall be prepared to return for duty immediately on notice that his services are required in the event of an emergency. This shall not apply to special policemen who are given limited duties to perform. The Chief of Police shall have the authority to establish all shifts and schedules subject to any applicable provisions set forth in a collective bargaining agreement.

Q. Special Police.

1. No person shall be appointed as a special policeman unless he is a citizen of the United States, is able to read, write and speak the English language, is physically qualified and of good moral character and has not been convicted of any crime. Each special policeman shall be fingerprinted and his fingerprints shall be filed with the Division of the State Police and Federal Bureau of Investigation. The Chief of Police shall make reports to the Mayor and Committee concerning the eligibility and qualifications of any person proposed to be appointed a special policeman.

2. With the specific approval of the Chief of Police, any person, firm or corporation may engage the services of a special policeman for the purpose of directing traffic, guarding private property or otherwise maintaining peace and good order on the basis of paying to the Township such sum as provided in the Salary Ordinance.

R. Oath of Office.

Every person appointed to the Police Department shall, as a prerequisite to becoming a member thereof and before entering upon his or her duties as such, take and subscribe to an oath or affirmation as may be required and prescribed by the laws of the State of New Jersey.

S. Retirement.

All active officers of the Police Department, on attaining the age of 65 years, shall retire from service.

T. Probationary Service.

1. All new sworn officers appointed to the Police Department shall serve a probationary period of one year from date of graduation or hire, whichever is later, and no person holding such a probationary appointment as a police officer shall be given or accept a permanent appointment unless such person has successfully completed a police training course at an approved school. All appointments for existing members of the department to a new position shall be for a probationary period of ninety (90) days- from the appointment.

2. Continuation in the service is dependent upon the conduct of the appointee and his or her fitness to perform his or her duties. At the termination of the probationary period, if the conduct or performance of the probationer has not been satisfactory, that person shall be notified, in writing, that his or her probationary period with the Mansfield Township Police Department is to be extended for an additional period of six months or that the person will not receive absolute appointment, and the decision of the Chief of Police shall be final in this regard. In the event that the Chief of Police determines that there should not be an extension of the probationary employment for a period of six months, the Chief of Police shall so notify the person and shall make his recommendation to the governing body to the effect that his or her services shall be terminated. Should the Chief of Police agree to extend the probationary employment of the employee for a period of six months, the probationary employment will then continue for that six-month extension period, and, during the period of extended probationary employment, the job performance of the employee will continue to be observed and evaluated. At the completion of the extended six-month probationary term, the overall job performance of the employee will be reviewed and a determination will be made by the Chief of Police concerning whether the person shall be recommended for a permanent appointment. If, at the end of the six-month extension of the probationary employment, the conduct or performance of the probationer has not been satisfactory, that person shall be notified, in writing, that the person will not receive absolute appointment.

3. At or before the end of the probationary period, the Township Committee may discontinue, at the recommendation of the Chief of Police, the service of any such appointee, if the working test indicates that the appointee is unable or unwilling to perform the duties of his or her position satisfactorily or is of such reputation, habits and dependability as not to merit continuance in the public service. Failure to qualify in the use of a police weapon or complete other assigned training or inability to understand the functioning, application and use of any police equipment shall be sufficient reason for the discontinuance of any such appointee, though discontinuance may be made for causes other than those enumerated herein. In each such case, the Township Committee shall give written notice to the appointee whose service is discontinued.

U. Classes of patrolmen; advancements.

1. There will be five classes of patrolmen, which shall be known as "Patrolman Probationary" "Patrolman Step 1" "Patrolman Step 2" "Patrolman Step 3", "Patrolman Step 4" and "Patrolman Step 5".

2. Upon date of hire or graduation from a N. J. State approved PTC academy, whichever is later, the patrolmen shall advance from Patrolman Probationary to Patrolman Step 1 upon recommendation of the Chief of Police. The patrolmen will become eligible for additional advances in grade at the expiration of each additional year, upon the recommendation of the Chief, until they have reached Patrolman Step 5, and they shall be paid salaries designated in the Salary Ordinance under the established categories.

3. If the Chief of Police does not recommend an advance in grade from one step to the next, the advance in grade shall not occur, said advancement not being automatic but being dependent upon the recommendation of the Chief of Police.

V. Classes of Sergeants; advancements.

1. There will be two classes of sergeant, which shall be known as "Sergeant Step and "Sergeant Step 2".

2. The sergeant will become eligible for advance in grade at the expiration of each additional year, upon the recommendation of the Chief, until they have reached Sergeant Step 2, and they shall be paid salaries designated in the Salary Ordinance under the established categories.

3. If the Chief of Police does not recommend an advance in grade from one step to the next, the advance in grade shall not occur, said advancement not being automatic but being dependent upon the recommendation of the Chief of Police.

4. The promotion and continuation of the position of Chief of Police shall be the sole prerogative of the Township Committee.

Section II

All other ordinance provisions, which are inconsistent with the terms of this Ordinance, are hereby declared null and void and repealed.

Ms. Nerbak approved the introduction of Ordinance 2007-11 and stated that the public hearing be set for August 8, 2007, and requested that this be advertised, which was seconded by Mr. Appleby.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None

Second Reading

Mayor Baldwin opened the Public hearing for Ordinance 2007-08 Growth Share Ordinance, being there were no comments from the public the public portion was closed.

2007-08 GROWTH SHARE ORDINANCE

PURPOSE

WHEREAS, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) and the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“FHA”) that every municipality in New Jersey has an affirmative obligation to facilitate the provision of affordable housing; and

WHEREAS, the New Jersey Council on Affordable Housing (“COAH”) is the State administrative agency created pursuant to the FHA vested with primary jurisdiction for the administration of affordable housing obligations in accordance with sound regional planning considerations in New Jersey; and

WHEREAS, COAH’s Third Round Substantive Rules (N.J.A.C. 5:94-1 et seq.) implement a “growth share” approach to affordable housing production which requires affordable housing to be produced in conjunction with market-rate residential and nonresidential growth and development within the Township of Mansfield; and

WHEREAS, the Township of Mansfield desires to implement the “growth share” policies promulgated by COAH in its Third Round Substantive Rules in an effort to foster the production of affordable housing opportunities for qualified low and moderate income households through COAH’s third round, which extends from 1999 to 2014.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Township Committee of the Township of Mansfield that the Land Use Ordinance of the Township of Mansfield be and is hereby amended as follows:

The following new Section is hereby added to the Township of Mansfield’s Land Use Ordinance, to read as follows:

A. Applicability

1. Residential Development. Except as exempted in subsection B, all residential development that results in the construction of eight (8) or more new market-rate dwelling units in accordance with N.J.A.C. 5:94-1 et seq., shall be subject to the “growth share” provisions of this ordinance.
2. Non-residential development. Except as exempted in subsection B, all non-residential development that results in an increase in twenty-five (25) or more jobs in accordance with N.J.A.C. 5:94-1 et seq., shall be subject to the “growth share” provisions of this ordinance.

B. Exemptions

Developments that received preliminary or final approval from the Planning Board and/or Board of Adjustment, as applicable, prior to the effective date of this ordinance.

C. Residential Growth Share Provisions

All residential development which results in the construction of eight (8) or more new market-rate dwelling units in the Township of Mansfield shall provide one unrestricted affordable housing unit on-site for every eight market rate units constructed.

D. Non-Residential Growth Share Provisions

All non-residential development that results in an increase in gross floor area of any existing non-residential building or the construction of a new non-residential building in the Township of Mansfield shall provide one unrestricted affordable unit for every 25 jobs that results from the application of standards adopted by COAH (presently found in Appendix E of N.J.A.C. 5:94-1 et seq.) and based on use groups, as defined by the International Building Code (IBC) which has been incorporated by reference into the Uniform Construction Code (UCC). Non-residential developers shall construct an unrestricted affordable housing unit elsewhere in the Township of Mansfield.

E. General Provisions for Constructing Affordable Units

Affordable housing units being constructed on-site or off-site shall be in conformance with COAH's third round rules at N.J.A.C. 5:94-1 et seq. and the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq., including, but not limited to, requirements regarding phasing schedule, controls on affordability, low/moderate income split, heating source, maximum rent and/or sales prices, affordability average, bedroom distribution, and affirmative marketing.

Ms. Nerbak made a motion to approve Ordinance 2007-08 and requested that the results be advertised, which was seconded by Mr. Watters.

**Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None**

Mayor Baldwin asked Mr. Coppola to explain the Hotel Tax Ordinance.

Mr. Coppola explained that the Division of Taxation estimated that the revenue that the Township can expect from this is Ordinance is about \$18,000 to \$30,000 which will help the budget for next year.

Mayor Baldwin opened the public hearing on Ordinance 2007-10, seeing that there were no comments from the public the public hearing was closed.

O:2007-10

AN ORDINANCE OF THE TOWNSHIP OF MANSFIELD ESTABLISHING A HOTEL AND MOTEL ROOM OCCUPANCY TAX

WHEREAS, the Township Committee of the Township of Mansfield has determined that there should be, within the Township of Mansfield; a municipal hotel and motel room occupancy tax; and

WHEREAS, the Township Committee has been authorized by N.J.S.A. 40:48F-1 *et seq.* to enact such a tax.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Mansfield, County of Warren, State of New Jersey, that the General Ordinances of the Township of Mansfield are hereby amended to include the following provisions:

HOTEL AND MOTEL ROOM OCCUPANCY TAX

§ 1 Purpose

It is the purpose of this Ordinance to implement the provisions of P.L. 2003, c. 114, (N.J.S.A. 40:48F-1 *et seq.*), which authorizes the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate, not to exceed 3%, on charges of rent for every occupancy of a room or rooms in a hotel, motel or similar establishment subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 40 (N.J.S.A. 54:32B-3) (sales tax).

§ 2 Establishment of tax; amount

There is hereby established a hotel and motel room occupancy tax in the Township of Mansfield which shall be fixed at a uniform percentage rate of three percent (3%) on charges of rent for every occupancy of a hotel, motel or similar establishment subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 40.

§ 3 Effect on other taxes

The hotel and motel room occupancy tax established herein shall be in addition to any other tax or fee imposed pursuant to statute, local ordinance, or other legal means by any governmental entity upon the occupancy of a hotel, motel or similar establishment subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 40.

§ 4 Rules and regulations; violations and penalties

- A. All taxes imposed by this Ordinance shall be paid by the customer.
- B. A vendor may not assume or absorb any portion of the tax imposed by this Ordinance.

- C. A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax established by this Ordinance will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.
- D. Each assumption or absorption by a vendor of the tax established by this Ordinance shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense.
- E. The penalty for violation of the foregoing provisions shall be \$1,000 for each offense

§ 5 Collection

The hotel and motel room occupancy tax will be collected on behalf of the Township of Mansfield by the person collecting the rent from the customer. Persons required to collect this new tax shall be personally liable for the tax imposed, collected or required to be collected. Such persons shall have the same right in respect to collecting the tax from customers as if the tax were a part of the rent and payable at the same time; provided, however, that the Chief Financial Officer of the Township of Mansfield shall be joined as a party in any action or proceeding brought to collect the tax.

§ 6 Disposition of collected funds

- A. A person required to collect the tax must, on or before the twentieth (20th) day of each month, make and file a return for the preceding month with the Director of the Division of Taxation in the Department of the Treasury and submit all collected funds to the Director of the Division of Taxation in accordance with the general reporting requirements of N.J.S.A. 54:32B-17.
- B. The Director of the Division of Taxation shall certify to the State Treasurer on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of tax revenues collected in each municipality.
- C. The State Treasurer shall, thereafter, pay and distribute to each municipality the amount of revenues certified by the Director of the Division of Taxation.

§ 7 Notification of ordinance, effective date

- A. A copy of this Ordinance and any subsequent amendment hereto shall, immediately upon its passage, be transmitted by the Township Clerk to the State Treasurer as well as to every establishment within the Township of Mansfield that will be required to comply with the new requirements.
- B. The tax provisions established by this Ordinance or any amendment hereto shall take effect on the first day of the first full month occurring ninety (90) days after the date of transmittal of a copy of this Ordinance or amendment hereto to the State Treasurer.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

If any section, subsection, paragraph, phrase or sentence of these amendments to the General Ordinances of the Township of Mansfield are, for any reason, declared to be unconstitutional or invalid, such section, subsection, paragraph, phrase or sentence shall be deemed severable.

This Ordinance shall take effect immediately upon final publication as provided by law. The tax provisions hereof shall, thereafter, take effect on the first day of the first full month occurring ninety (90) days after the date of transmittal of a copy of this Ordinance to the State Treasurer.

Mr. Appleby made a motion to approve the passage of Ordinance 2007-10 and requested that the results be advertised, which was seconded by Ms. Nerbak.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None

COMMITTEE PERSON COMMENTS:

Mayor Baldwin asked Mr. Watters if there will be another Line Officers meeting for the Fire Companies.

Mr. Watters answered that the meeting is held on the last Monday of each month.

Ms. Nerbak made a motion to allow the Police Department to move into the recently vacated Construction Office with the understanding that if the space is need the Police Department will move out of this location, which was seconded by Mr. Watters.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None

Ms. Nerbak also made a motion to place money in next years budget for an architect to review the space that the Township has upstairs and downstairs to see if the space can be used more efficiently, also to include the vault spaces for compliance for records storage, which was seconded by Mr. Appleby who also asked if we could also see if the heating and cooling system could be changed to be more efficient.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None

Mr. Appleby made a motion to approve the Historical Preservation Grant for the Beattystown Church, which was seconded by Ms. Nerbak.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin
Nays: None

Mr. Appleby also stated that the Historical Commission is still working on the guidelines for the Historical Preservation Money program.

Mayor Baldwin stated that the DPW has paved 1.1 miles of road have been oiled and chipped and that 1.8 miles of road have been paved so far this year. Mr. Sliker is working on a shared services with Washington Boro and possibly Hackettstown for sweeper sharing.

Mayor Baldwin has also spoken to his contact in the state about the salt shed agreement for this year coming up.

Chief Ort showed the Township Committee the stickers that have the town emblem on them.

Mayor Baldwin stated that he believed that all of the Township purchased firetrucks and rescue equipment should have these displayed on the door in view.

Ms. Nerbak made a motion that the town emblem be supplied to the fire companies and the rescue squad to be displayed on the town owned vehicles using the smaller emblem on the doors of the vehicles in view, which was seconded by Mr. Appleby.

Ayes: Mr. Watters, Ms. Nerbak, Mr. Appleby, and Mayor Baldwin

Nays: None

The Township Committee agreed that we should go forward with planning for an auction.

Mr. Watters made a motion to adjourn at 9:32pm which was carried by all.

Respectfully Submitted,

**Dena Hrebenak
Registered Municipal Clerk**