

TOWNSHIP OF MOORESTOWN  
TOWNSHIP COUNCIL  
OFFICIAL ACTION MEETING

February 11, 2019

The Regular Meeting of the Moorestown Township Council was called to order by Mayor Petriello at Town Hall, Council Chamber, 111 West Second Street, Moorestown at 7:01 p.m. Attendance was as follows:

Lisa Petriello, Mayor  
Nicole Gillespie, Deputy Mayor  
Brian Donnelly, Councilmember  
Michael Locatell, Councilmember  
Victoria Napolitano, Councilmember

Thomas H. Neff, Township Manager  
Patricia L. Hunt, Township Clerk  
Kevin E. Aberant, Jr., Township Solicitor

**MAYOR'S STATEMENT:** At 7:01 p.m., Mayor Petriello 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 Annual Meeting Schedule on the bulletin board in the Municipal Complex and emailing a copy to the Courier Post, Philadelphia Inquirer and all those requesting copies on January 8, 2019.
2. Posting a copy of the amended meeting notice and the agenda on the bulletin board at the Municipal Complex.
3. Filing a copy of the amended meeting notice and the agenda in the office of the Township Clerk at the Municipal Complex.
4. Forwarding a copy of the amended meeting notice and the agenda to the Courier Post and the Philadelphia Inquirer.
5. Forwarding a copy of the amended meeting notice and the agenda to each person who has requested copies of the regular meeting schedule.

All of the above posting, filing and mailing have taken place on the 8<sup>th</sup> day of February, 2019.

**MOMENT OF SILENCE and FLAG SALUTE:** At 7:02 p.m., the Official Action meeting began with a moment of silence and the flag salute.

**DISCUSSION**

Reports from Members of Council:

Mr. Locatell advised that last week was the Citizen of the Year dinner and two deserving people, Debbie and Dave Hess, were honored. He said it was a great event.

Ms. Gillespie advised that there is a lot going on with the Recreation Advisory Committee. She advised that a lot of cleanup by the Strawbridge Lake Beautification Committee (who has raised a lot of money) is happening along Strawbridge Lake (Haines Drive). Ms. Gillespie advised

that the Beautification Committee is looking for volunteers for its paddle board race in June. Ms. Gillespie encouraged all to see the photography exhibit at the Perkins Center for the Arts.

Ms. Napolitano advised on the upcoming Open Space Advisory Committee and Sustainable Moorestown meetings.

Mayor Petriello advised on the upcoming Tree Planting and Preservation Committee meeting. Mayor Petriello advised that she has reappointed Police Chief Lee Lieber as Emergency Management Coordinator (term expiring December 31, 2021). Mayor Petriello commended the high school Interact Club noting it held its annual Soup for the Soul event; another successful event – raising money for hunger in the Delaware Valley.

Mayor Petriello read the upcoming meetings aloud:

1. Upcoming Meeting(s) **Municipal Complex – 111 West Second Street**
  - a. February 25, 2019 - 7:00 p.m. (Workshop) 7:30 p.m. (Official Action) (Council Chambers)
  - b. March 11, 2019 - 7:00 p.m. (Workshop) 7:30 p.m. (Official Action) (Council Chambers)
2. Agenda Updates, if necessary: None.
3. Adopting Consent Agenda Resolution No. CA 02 11 2019: Mayor Petriello asked for a motion to adopt the consent agenda resolution.

MOTIONED BY: Mr. Donnelly  
SECONDED BY: Ms. Gillespie  
VOTE: All in favor

**RESOLUTION APPROVING CONSENT AGENDA  
CA 02 11 2019**

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 item(s):  
\_\_\_\_\_
- c. Requests that all matters on the Consent Agenda be handled separately.

**PRESENTATIONS AND PROCLAMATIONS:** Mayor Petriello advised that she presented the following proclamation at the Citizen of the Year Dinner and asked that same be marked into the record. She commended the Hess' and thanked them for all they have done for the town.

### PROCLAMATION

*WHEREAS, David Hess and Debbie Browning-Hess have been named Moorestown's "Citizen of the Year" for their dedication to the Moorestown community through their leadership and involvement in countless civic activities including but not limited to Moorestown Youth Activities Council; and*

*WHEREAS, David Hess and Debbie Browning-Hess have given freely of their time, expertise and interpersonal skills in order to improve the quality of life in Moorestown and beyond, including leadership and volunteer services in the following community activities and events:*

- ☞ Donating to area food banks*
- ☞ Donating flowers to the Vietnam Veterans Memorial*
- ☞ Making Main Street beautiful with hanging baskets and seasonal decorations*
- ☞ Volunteering their tractor and time for parades on Main Street*
- ☞ Collecting for Code Blue and contributing substantial time to STEM Steps Out*
- ☞ Served on Sustainable Moorestown and Moorestown's Open Space Committees*

*WHEREAS, these are only a representative sample of the many accomplishments and remarkable humanitarian efforts David Hess and Debbie Browning-Hess, have spent years volunteering for and supporting that benefit Moorestown and the community.*

*NOW, THEREFORE, I, Lisa Petriello, Mayor of the Township of Moorestown in the County of Burlington, State of New Jersey, do hereby proclaim:*

**February 6, 2019 as**

### **CITIZEN OF THE YEAR DAY - HONORING**

**David Hess and Debbie Browning-Hess**

*and ask that all citizens join me in expressing sincere thanks for the outstanding service David Hess and Debbie Browning-Hess have so generously given to our community, and offering congratulations and best wishes to them for continued success in all of their future activities.*

*Given, under my hand and the Seal of the Township of Moorestown this Sixth day of February in the Year of Our Lord Two Thousand Nineteen. Lisa Petriello, Mayor*

**ORDINANCES ON SECOND READING:** The Township Manager read Ordinance 1-2019 on second reading by title.

**1-2019 AN ORDINANCE OF THE TOWNSHIP OF MOORESTOWN  
AUTHORIZING THE ACQUISITION OF REAL PROPERTY KNOWN AS  
BLOCK 2300, LOT 7.4 IN THE TOWNSHIP OF MOORESTOWN**

Mayor Petriello opened the public hearing. There being no comment, Mayor Petriello asked for a motion to close the public hearing.

Mr. Locatell felt this was a smart acquisition (satisfying one of its affordable housing obligations).

MOTIONED BY: Mr. Locatell  
SECONDED BY: Ms. Gillespie  
VOTE: All in favor

Mayor Petriello asked for discussion or a motion to adopt the ordinance on second reading.

MOTIONED BY: Mr. Locatell  
SECONDED BY: Ms. Gillespie  
ROLL CALL VOTE: All in favor

The Township Manager read Ordinance 2-2019 on second reading by title.

**2-2019 AMENDING CHAPTER 125, SCHEDULE A, ENTITLED “PARKS  
AND RECREATIONAL FACILITIES” TO RENAME “LITTLE  
WOODS” AS “BARBARA RICH’S LITTLE WOODS”**

Mayor Petriello opened the public hearing. There being no comment, Mayor Petriello asked for a motion to close the public hearing.

MOTIONED BY: Mr. Locatell  
SECONDED BY: Ms. Napolitano  
VOTE: All in favor

Mayor Petriello asked for discussion or a motion to adopt the ordinance on second reading.

Ms. Gillespie advised that she recently became aware, after performing research, that the woods were named after Silas Little, former prominent resident, and forester. She stressed that Barbara Rich is very deserving; however, she asked if the Little family has been consulted. There was a brief discussion. Mr. Neff suggested continuing the matter and finding out in the interim.

Discussion was held on the fact that the public hearing has been closed. Mr. Locatell and Ms. Napolitano expressed their strong support for adopting the ordinance this evening.

A motion to adopt the ordinance on second reading was made:

MOTIONED BY: Ms. Napolitano

SECONDED BY: Mr. Locatell

Discussion on the procedure was had.

Ms. Hunt advised that a roll call vote should be held on the motion. Mr. Locatell noted that if a vote is taken and the majority is “no,” passage will fail and the ordinance will have to be re-introduced. Ms. Napolitano expressed her disappointment noting this has been a subject of discussion since December and no one had raised a concern. Mr. Locatell noted that Ms. Rich was greatly responsible for the acquisition of the property from the beginning. He felt it appropriate to have her name attached to the site. Ms. Gillespie advised that residents have raised the question to her (regarding the name) and she feels it appropriate to raise the question before Council. Mr. Locatell suggested the matter move forward.

Mr. Aberant advised on the protocol to move forward or to withdraw the motion to adopt.

After discussion, Ms. Napolitano said she did not want to delay the matter, but she felt that if a vote was taken, passage would fail, so therefore, she withdrew her motion to adopt the ordinance in order to allow for more time (to reach out to the Little family) as suggested by Ms. Gillespie.

Mr. Aberant advised of protocol. If a “no” vote prevails, the ordinance would have to start over.

A motion to vacate the motion to close the public hearing and to continue the public hearing until the February 25, 2019 meeting was made.

MOTIONED BY: Ms. Gillespie

SECONDED BY: Mr. Donnelly

ROLL CALL VOTE: All in favor, with the exception of Mr. Locatell, who abstained.

Ms. Gillespie advised that she will take on the follow up work with the Little family.

**ORDINANCES ON FIRST READING:** None.

**CONSENT AGENDA RESOLUTIONS:** The Township Manager read the Consent Agenda Resolution by title.

**67-2019 APPROVING PARTICIPATION IN THE SAFE AND SECURE COMMUNITIES GRANT PROGRAM ADMINISTERED BY THE STATE OF NEW JERSEY DEPARTMENT OF LAW AND PUBLIC**

**SAFETY AND ACCEPTANCE OF A GRANT SUB-AWARD OF  
\$60,000**

Mayor Petriello opened the floor for public comment. There being none, the floor was closed.

Mayor Petriello asked for discussion or a motion to adopt the resolution.

MOTIONED BY: Mr. Locatell  
SECONDED BY: Ms. Gillespie  
ROLL CALL VOTE: All in favor

**MINUTES:** Mayor Petriello asked for discussion or a motion to adopt the minutes.

1. January 7, 2019 Reorganization
2. January 28, 2019 Regular and Closed Session

Mr. Donnelly asked that the January 28, 2019 minutes be revised to insert the word “unilaterally” before the word “settle” (page 11, fifth paragraph, first sentence).

A motion was made to adopt with the minutes with the revision requested by Mr. Donnelly.

MOTIONED BY: Ms. Gillespie  
SECONDED BY: Mr. Locatell  
ROLL CALL VOTE: All in favor

**APPROVAL OF EXPENDITURES:** Mayor Petriello asked for discussion or a motion to approve the expenditures.

MOTIONED BY: Mr. Locatell  
SECONDED BY: Ms. Gillespie  
ROLL CALL VOTE: All in favor

**MANAGER’S REPORT:** Mr. Neff advised PCH contested an application filed with the Zoning Board (failure to act within timeframe set by statute) and that matter was heard in Superior Court today. The judge referred the matter back to the Zoning Board.

Mr. Neff provided an update concerning the Lenola Improvement (Streetscape) Project. He advised that Council approved a contract with McCormick Taylor for engineering and design with the understanding that Taylor Design would be brought in as part of the team. However, Scott Taylor has advised that he and McCormick Taylor could not come together on an agreement. Mr. Neff advised that while Mr. Taylor’s fees would not be reimbursable from the New Jersey Department of Transportation (NJDOT), the Township would utilize him on a very limited basis to facilitate a transition. If it is determined that Scott Taylor is needed for anything more than the transition, the matter would be brought before Council.

Mr. Locatell expressed concern with the project being stalled into a second month because a contract was not extended by Council to Taylor Design at reorganization and he feels a contract needs to be extended because they were the point person on the job; they prepared and filed the grant application and prepared the drawings. He felt every delay risks the million dollar grant the Township received. Mr. Neff felt that the Township has been moving the project forward and did not feel the NJDOT would rip the grant away from the Township as long as it is moving forward. He advised that a kickoff meeting is scheduled and the site will be walked by the parties. Mr. Locatell suggested that Taylor Design be appointed to do the design work. Mr. Neff advised that they will be involved with the transition. Ms. Napolitano expressed her concern noting that the negotiations Mr. Taylor had with the County are not set in stone and could be subject to risk. Mr. Neff indicated that Mr. Taylor will be involved with the site walk. Mr. Locatell and Ms. Napolitano urged that Taylor Design be appointed to the project instead of bringing it back to Council later. Mayor Petriello acknowledged their comments and said she is comfortable with the recommendation of staff. Ms. Gillespie agreed with the Mayor finding the matter can be brought back to Council, if and when need be. Ms. Napolitano expressed her frustration with the decision finding it to be an adamant refusal to adding them as part of the project.

A motion was made by Mr. Locatell to amend the agenda to add a resolution to hire Taylor Design as an alternate designer for the TAP grant.

MOTIONED BY: Mr. Locatell

SECONDED BY: Ms. Napolitano

ROLL CALL VOTE: All in favor, with the exception of Ms. Gillespie and Mayor Petriello, who voted no and the motion failed. (motion to amend the agenda must be a unanimous vote).

**COMMENTS FROM THE PUBLIC** (Items **listed and not listed** on the Agenda):

Laura Romano, 222 Evergreen Drive, advised that there are no Little family members residing in town, but she has contact information for family in North Carolina. She suggested removing the apostrophe from the word "Rich's" to bring the two names together.

Carol Radomsky, 6 Meadow Drive, advised that her attorney, in furtherance of Mr. Donnelly's comments at the last meeting, advised that the case between the residents and Pennrose cannot be mediated, as suggested by Mr. Donnelly at the last meeting. She read a letter from her attorney aloud which advised that Pennrose said the Township has not reached out to them about mediation/unit reduction and absent that, they are obligated to produce seventy-five units on the tract. She said it is up to the Township to advise Fair Share Housing on an alternate site/proposal. At that time, Pennrose can agree or not.

Mr. Donnelly said the residents are represented and then there is another individual who is represented. In order for a mediation to occur, all the residents that are represented would have to agree to mediate. If one person says no, it's not worth the Council --- Ms. Radomsky (cut him off) said this is different than what was said two weeks ago. Mr. Donnelly said what he said was, if the builder and the residents are willing to mediate, I would suggest that Moorestown participate in

mediation along with Fair Share Housing and the builder and the residents in a global resolution to reduce the footprint and we would then (without speaking for all on Council) --- I would support reducing the footprint there, moving the obligation to another site. Ms. Radomsky said the Township must first approach Fair Share Housing to revisit the matter. Mr. Aberant advised that the Council is meeting with its new special counsel for affordable housing. He advised that Council is not at liberty to make comment at this time. Ms. Radomsky said her point was to advise Mr. Donnelly that his suggestion at the last meeting was not a feasible way for the residents to address the matter. Ms. Radomsky said that Pennrose is not willing to mediate with the residents until they are told that they can talk with the residents about an alternative, they are not willing to do it. Their response at this time is that nobody from the Township has reached out to them and said anything about mediation unit reduction and absent that, they are obligated to produce seventy-five units.

Daryl Fox Tonia, 12 Meadow Drive, said it has been said several times that the residents did not object to a 100-bed nursing unit that was being proposed. She wanted it clarified that at that time, residents were not being sued – that is her objection. She said her objection is that she and seventy other residents are being sued. She felt the comments about not complaining about the nursing home is unfair. Mr. Locatell advised that when the assisted living facility was approved there was no knowledge of a restrictive covenant. When the Pennrose site was proposed, there was no prior knowledge of the restrictive covenant. That was the context of his comments in the past. She expressed her dismay with the fact that Council members have represented that the residents were not opposed to a 100-bed nursing facility but it is opposed to affordable housing. She felt Council could have stopped everything when it found out the residents were being sued. She also noted that the judge has stated that the Township needs to have an alternative plan. The judge and Beth McManus had both stated at the August 8<sup>th</sup> hearing that this plan can change due to constraints on the Pennrose site. In closing, Ms. Fox Tonia said that she is not opposed to affordable housing; she is opposed to being sued. She also commented on the impact to the school system indicating one cannot deny that there will be an impact. She appreciated that Ms. Gillespie has acknowledged same. Ms. Gillespie said the Council has inherited a very complicated legal settlement. She said her read on the agreement is that the judge said if there is a valid deed restriction, you “shall” come up with an alternate mechanism. She advised that it is not that Council is not willing, it just does not have enough information to share at this point.

Kathy Sutherland, 417 North Church Street, asked for clarification to be provided on why the residents are being sued. Mr. Aberant advised that they are being sued because the owner of the property wants to develop it in a way that is contrary to the restriction of record. He advised that in order to be able to develop, Pennrose needs a judge to say that the covenant is not valid (or does not cover what they are proposing to do, per Mr. Locatell). Everyone’s property that is subject to the covenant must be joined in the matter. Discussion was held. Mr. Aberant noted that the Township is not party to the complaint and he was reluctant to make any representations as he does not represent the Township with regard to Pennrose/residents matter. Ms. Sutherland felt that the covenant is very obsolete and vague. Noting that Church Street is mainly low to moderate income housing, Ms. Sutherland took exception to the fact that nobody wants it in their backyard. She said affordable housing is not supposed to greatly impact one area of town and that is why she is adamant when people say not in my backyard; her area has its fair share. She expressed her concern with the tractor trailer traffic and the amount of traffic on her street. She requested that another traffic study be done. Mayor Petriello advised that it is on the radar.

Pamela Richards, 304 Colonial Avenue, recommended that all members of Council and the Planning and Zoning Boards be familiar with properties that are being discussed as a matter of the agenda and to know what they are talking about. She noted that the Township's zoning ordinances, in large part, do not accommodate affordable housing. Ms. Richards noted that the public sees open spaces and they think all that land is available. First of all, that land is privately owned and the property owner has a right to do what they want with their property. Ms. Richards suggested that presenters at Council and Board meetings show presentations with live current pictures of properties. She expressed her appreciation for Council's hard work.

Fred Sutherland, 417 North Church Street, asked if any Council members have read the 1998 case, Care One v. Moorestown Township. He suggested Council read it. Mr. Neff said he would look it up and distribute it to Council.

Mayor Petriello closed the floor

**CLOSING COMMENTS BY COUNCIL:**

All members of Council thanked the public for attending.

**CLOSED SESSION (Resolution No. CS 02 11 2019)**

**Matters Relating to Litigation, Negotiations and Attorney-Client Privileges**  
*(Affordable Housing)*

Mayor Petriello asked for a motion to adopt Resolution CS 02 11 2019 to enter into closed session for purposes of discussing matters relating to Litigation, Negotiations and Attorney-Client Privileges *(Affordable Housing)*

MOTIONED BY: Mr. Locatell  
SECONDED BY: Ms. Gillespie  
VOTE: All in favor

**RESOLUTION NO. TCOA CS 02 11 2019**  
**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.

\_\_\_\_\_ (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.

\_\_\_\_\_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 Petriello advised that Council does not anticipate taking action when returning.

At 8:16 p.m., Council entered into closed session.

At 9:55 p.m., Council returned to the public meeting. Due to the sensitivity of the matters, Council had nothing to report.

**ADJOURNMENT:** At 9:55 p.m., there being no further business, a motion was made to adjourn.

MOTIONED BY: Mr. Donnelly  
SECONDED BY: Mr. Locatell  
VOTE: All in favor

PATRICIA L. HUNT, RMC  
Township Clerk