

## **MINUTES OF SPECIAL MEETING OF APRIL 7, 2009**

The special meeting of the Frelinghuysen Township Committee was held in the Municipal Building, 210 Main Street, Johnsonburg, New Jersey and was called to order at 1:00 p.m. by Mayor Durling.

### **SUNSHINE LAW STATEMENT:**

Under the provisions of the Open Public Meetings Act, adequate notice of this meeting was provided by posting notice on the Township bulletin board and by e mailing notice to the Express-Times and New Jersey Herald.

### **ROLL CALL:**

Those present were: Mayor Dale Durling, Deputy Mayor Frank Desiderio, Committeeman Debra Natyzak-Osadca, Committeeman Alan DeCarolis, Committeeman David Boynton, Attorney Edward Wacks and Clerk Brenda Kleber.

### **OLD BUSINESS:**

The Attorney announced that the purpose of the special meeting is to discuss a personnel matter concerning an employee. The Clerk advised that a Rice Notice had been sent to the employee and he responded in writing that he would not be in attendance and asked that this meeting be held in open session. The meeting then was held in open session.

The attorney stated that the first topic of the meeting would be the Richard Smith matter. On March 19, 2009 he sent a letter to Mr. Smith outlining the terms of Mr. Smith's resignation and asked that he sign an agreement and general release for which Mr. Smith did not responded. A comment from Mr. Smith was made to the Clerk that he had 21 days instead of the 7 days as stated in the letter. Federal law states that he has 21 days; however, Mr. Wack's letter gave him 7 days to respond along with the provisions of the contract that he receive severance pay for 60 days along with providing him with favorable references. Since Mr. Smith did not accept the terms of the contract, the Township Committee was given the following options: 1) have him continue in the suspended position he currently is in; 1A) put a time limit on him to make a decision 2) have him continue without pay and 3) terminate him for failure to communicate.

Mayor Durling questioned the 21 days as stated in the contract. Mr. Wacks explained that assuming Mr. Smith signed the letter; he has 21 days from the time he accepted to change his mind as per Federal Law with regard to a certain class action he could bring against the town.

After discussion, motion was made by Desiderio, seconded by Boynton to have the attorney issue a letter stating that the Township Committee has accepted his resignation effective March 25, 2009 and his 21 days started on March 25, 2009. He has until 4:00 p.m. on April 15, 2009 to deliver the signed letter of resignation. If this letter is delivered he will be entitled to severance pay for 60 days effective March 25, 2009. If the letter is not delivered, termination will be effective March 25, 2009 with no severance. After discussion of the motion, roll call was as follows: Natyzak-Osadca-yes, DeCarolis-yes, Desiderio-yes, Boynton-yes, Durling-yes.

### **RESOLUTIONS:**

WHEREAS, it is necessary to discuss items dealing with possible litigation in private or executive session; and

WHEREAS, under the Open Public Meetings Act (number 3 of the permitted exceptions to the requirements that a public body hold its meetings in public) it is permissible that such matters be discussed in executive or private session.

NOW, THEREFORE BE IT RESOLVED, on this 7<sup>th</sup> day of April, 2009 that the Township Committee of the Township of Frelinghuysen will adjourn to private or executive session

to discuss the above mentioned and results or portions of that discussion will be made known in a reasonable length of time.

Motion was made by Boynton, seconded by DeCarolis to enter into Executive Session. Roll call vote: Natyzak-Osadca-yes, DeCarolis-yes, Desiderio-yes, Boynton-yes, Durling-yes.

**EXECUTIVE SESSION:**

Motion was made by Boynton, seconded by Desiderio to return to public session. All in favor. Upon returning, motion was made by Boynton, seconded by Desiderio to hire David Burton Brady of Brady & Correale, Morristown, New Jersey. All in favor. The professional agreement and legal services agreement will be finalized at the regular meeting.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Brenda J. Kleber, RMC