

TRIMBLE & ARMANO
By: John W. Trimble, Jr., Esquire
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Turnersville, NJ 08012
Phone: (856) 232-9500
Attorneys for Plaintiff, Cheryl Potter

CHERYL POTTER

Plaintiff

vs.

MICHAEL PANTALEO, ELK
TOWNSHIP COMMITTEEPERSON,
CAROLYN KING SAMMONS, ELK
TOWNSHIP COMMITTEEPERSON,
BILL RAINEY, ELK TOWNSHIP
COMMITTEEPERSON, PHIL
BARBARO, ELK TOWNSHIP MAYOR,
WAYNE SWANSON, ELK TOWNSHIP
DEPUTY MAYOR and ELK TOWNSHIP
COMMITTEE

Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
GLOUCESTER COUNTY

DOCKET NO:

Civil Action

VERIFIED COMPLAINT IN LIEU OF
PREROGATIVE WRIT

The plaintiff, Cheryl Potter, by way of verified complaint in lieu of prerogative writ, against defendants, Michael Pantaleo, Elk Township Committeeperson, Carolyn King Sammons, Elk Township Committeeperson, Bill Rainey, Elk Township Committeeperson, Phil Barbaro, Elk Township Mayor, Wayne Swanson, Elk Township Deputy Mayor, and Elk Township Committee, states as follows:

1. Plaintiff Cheryl Potter is a resident of Elk Township, Gloucester County, New Jersey whose address is 200 Harrison Avenue, Elk Township, New Jersey 08028.

Trimble & Armano
Attorneys at Law
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2. Defendant Michael Pantaleo is a Committeeperson of Elk Township Committee with a primary place of business located at 667 Whig Lane Road, Monroeville, Elk Township, Gloucester County, New Jersey 08343.

3. Defendant Carolyn King Sammons is a Committeeperson of Elk Township Committee with a primary place of business located at 667 Whig Lane Road, Monroeville, Elk Township, Gloucester County, New Jersey 08343.

4. Defendant Bill Rainey is a Committeeperson of Elk Township Committee with a primary place of business located at 667 Whig Lane Road, Monroeville, Elk Township, Gloucester County, New Jersey 08343.

5. Defendant Phil Barbaro is the Mayor of Elk Township with a primary place of business located at 667 Whig Lane Road, Monroeville, Elk Township, Gloucester County, New Jersey 08343.

6. Defendant Wayne Swanson is the Deputy Mayor of Elk Township with a primary place of business located at 667 Whig Lane Road, Monroeville, Elk Township, Gloucester County, New Jersey 08343.

7. Elk Township Committee is the governing body of Elk Township with a primary place of business located at 667 Whig Lane Road, Monroeville, Elk Township, Gloucester County, New Jersey 08343.

8. Pursuant to the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-1 et seq., all meetings of public bodies are mandated to be open to the public with limited exemptions as set forth in the statute.

9. Discussions of the budget are not exempt from the OPMA nor are zoning issues.

10. On or about April 19, 2010, the Elk Township Committee went into a closed session to the exclusion of the public "to discuss possible litigation" pursuant to Resolution 56-2010. *(See Minutes of April 19, 2010 attached hereto as Exhibit "A")*.

11. The closed session discussions of April 19, 2010 were memorialized as follows:

The planning board approved a subdivision based on incorrect information provided by the applicant. There were 3 parcels of ground that the applicant did not own, therefore making this an invalid subdivision. The applicant will be denied a zoning permit and will need to go back to the planning board for approval.

There was a discussion on declaring a part of the township a redevelopment zone. Creating this zone will allow the township to obtain 100% of the property taxes, and the area will not be subject to zoning regulations. Mr. Considine will consult further with Mr. Duffield.

Motion by Mr. Rainey, seconded by Mr. Swanson to adjourn the closed session, all were in favor, the session adjourned at 9:44PM.

(See closed session Minutes of April 19, 2010 attached hereto as Exhibit "B").

12. On or about May 18, 2010, the Elk Township Committee went into closed session to the exclusion of the public to "discuss contract negotiations" pursuant to Resolution 65-2010. *(See Minutes of May 18, 2010 attached hereto as Exhibit "C")*.

13. The closed session to the exclusion of the public of May 18, 2010 were memorialized as follows:

The Closed Session was called to order at 8:20pm, by Mayor Barbaro.

Mr. Considine explained to committee the budget is over the levy cap and cannot be adopted as it is, cuts will need to be made.

Committee reviewed the figures and discussed the possible reduction of municipal staff, closing the MUA, the possibility of a 3rd party taking over the construction department and waiving the open space tax for one year. It was also mentioned to ask the police to open their contract for discussion.

The volunteer ambulance squad was mentioned. The residents are currently paying for the county EMS and also the township squad.

Motion by Mr. Pantaleo, seconded by Mr. Swanson to adjourn the closed session, all were in favor, the session adjourned at 9:10PM

(See closed session Minutes of May 18, 2010 attached hereto as Exhibit "D").

14. On or about April 12, 2011, the Elk Township Committee went into closed session to the exclusion of the public to "discuss Personnel Motion" pursuant to Resolution 50-2011. *(See Minutes of April 12, 2011 attached hereto as Exhibit "E").*

15. On or about April 12, 2011, the Elk Township Committee met in closed session to the exclusion of the public. The meeting was memorialized as follows:

The Closed Session was called to order at 5:06 pm, by Mayor Barbaro

Present were Mr. Pantaleo, Mr. Rainey arrived at 5:10 pm, Mrs. Sammons, Mr. Swanson, Mayor Barbaro, Mr. Duffield, Mr. Considine, Mrs. Pine, Mrs. Foley, Mrs. Andreassi and Mrs. Trifiletti

Mr. Duffield explained to all that this meeting is being held because of some very difficult budget decisions are going to have to occur. It may effect [affect] some job positions.

Mr. Considine explained the proposed budget currently meets the state guidelines. Some of the proposed cuts are:

Construction Control reduced to 10 hours per week starting May 1, 2011

Planning/zoning secretary reduced to 35 hours per week starting May 1, 2011

Police records reduced to 35 hours per week starting May 1, 2011 and

Tax collector assistant reduced to 8 hours per week starting May 1, 2011

Mayor Barbaro stated the committee could possibly make additional changes to the budget.

(For the record, Mr. Rainey arrived at 5:10 pm.)

Mr. Duffield explained to the individuals that were present, they were entitled to hear what could happen before it is discussed in public.

Mrs. Andreassi asked why her hours were being cut in half.

Mrs. Foley asked if this is for the entire year.

Mr. Swanson asked how much it would cost to put these positions back into where they were?

Mr. Considine responded he will get the figures to committee. He also stated this is a draft budget and can change. It is not final until the budget is adopted.

Motion by Mr. Swanson, seconded by Mrs. Sammons to adjourn the closed session, all were in favor, the session adjourned at 5:19 pm.

(See closed Minutes of April 12, 2011 attached hereto as Exhibit "F").

16. The aforementioned records of the closed sessions of the Elk Township Committee were obtained through the Elk Township Open Public Records Act (OPRA) in redacted form.

17. As a candidate for Gloucester County Freeholder, defendant Michael Pantaleo has stated "We will hold public budget hearings." (See Capelli, Heritage and Pantaleo website <http://cutcountytaxesnow.org/our-platform/> attached hereto as Exhibit "G").

18. Despite the representations made by Michael Pantaleo, he has participated in numerous violations of the OPMA.

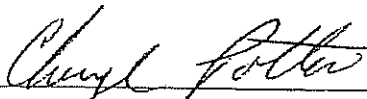
WHEREFORE, Plaintiff demands judgment against Defendants, Michael Pantaleo, Elk Township Committeeperson, Carolyn King Sammons, Elk Township Committeeperson, Bill Rainey, Elk Township Committeeperson, Phil Barbaro, Elk Township Mayor, Wayne Swanson, Elk Township Deputy Mayor, and Elk Township Committee, seeking the following:

- A. An injunction prohibiting Defendants from any future violations of the OPMA by discussing budget matters in closed sessions.
- B. Defendants to produce, or for in camera review, the following:
 - a. All 2010 through 2011 Elk Township Committee closed session minutes in unredacted form;
 - b. All 2010 through 2011 Elk Township Committee transcripts of closed sessions;
 - c. All 2010 through 2011 Elk Township Committee audio tape recordings and/or video recordings of closed sessions;
 - d. And/or any and all other record(s) of closed session discussions
- C. Attorney fees and costs of suit.
- D. All other relief the court deems equitable.

VERIFICATION

CHERYL POTTER, does certify as follows:

1. I am the Plaintiff in the foregoing Verified Complaint.
2. The factual allegations of the Verified Complaint are true to the best of my knowledge and belief.
3. The foregoing statements made by me are true. I am aware that if any of them are willfully false, I am subject to punishment.



CHERYL POTTER
Plaintiff


Dated:

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1(c), John W. Trimble, Jr., is designated as trial counsel for the plaintiff, Cheryl Potter, in the above matter.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

I certify in accordance with R. 4:5-1 that there are no other proceedings either pending or contemplated with respect to the matter in controversy in this action and no other parties who should be joined in this action.



JOHN W. TRIMBLE, JR., ESQUIRE
Attorney for Plaintiff, Cheryl Potter

Trimble & Armano
Attorneys at Law
900 Route 168
Suites B1-B2
Lumersville, NJ 08012

I certify that the foregoing statements made by me are true. I understand that if any of the foregoing statements are willfully false, I am subject to punishment.



JOHN W. TRIMBLE, JR., ESQUIRE
Attorney for Plaintiff, Cheryl Potter

Trimble & Armano
Attorneys at Law
900 Route 168
Suites B1-B2
Turnersville, NJ 08012

**TOWNSHIP COMMITTEE
WORK SESSION
MINUTES
APRIL 19, 2010**

The work session of the Elk Township Committee was held on the above date in the Municipal Building. The meeting was called to order by Mayor Barbaro at 7:32PM.

The Open Public Meeting Notice was read.

The Salute to the Flag was recited.

Present were Mr. Creta, Mr. Pantaleo, Mr. Rainey, Mr. Swanson, Mayor Barbaro, Mr. Considine, CFO and Mrs. Pine, Township Clerk and Mr. Alexander, Superintendent of Public Works.

Approval of March 16, 2010 Work Session, March 24, 2010 Special Meeting and April 1, 2010 Regular Meeting

Motion by Mr. Rainey, seconded by Mr. Swanson to approve the minutes of the March 16th, March 24th and April 1st, 2010 meetings, all were in favor, motion carried.

ORDINANCE

O-34-2010 – Creating a New Chapter of the Code of the Township of Elk Entitled "Indemnification" – Title Only

Motion by Mr. Rainey, seconded by Mr. Swanson, to approve Ordinance O-34-2010, upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Rainey	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

RESOLUTIONS

R-55-2010 – Resolution to Affirm the Township of Elk Civil Rights Policy

Motion by Mr. Rainey, seconded by Mr. Pantaleo, to adopt and approve said resolution, upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Rainey	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

R-56-2010 – Resolution to Go Into Closed Executive Session to Discuss Possible Litigation

Motion by Mr. Rainey, seconded by Mr. Swanson, to adopt and approve said resolution, all were in favor, motion carried.

TOPICS:

Mr. Alexander solicited bids for the cleaning of the municipal building and restrooms in the garage and recreation park. A contract is being drafted by the school and will be ready for the May 6th meeting. Mr. Alexander will also get prices on the cleaning of the carpets and floors.

Mr. Pantaleo stated the economic development committee is concerned with several houses in the township that appear to be abandoned.

Mr. Swanson spoke with the construction official about several of the abandoned houses in the township. The process of notifying the owners has begun.

Mr. Creta reminded committee if the township were to foreclose and sell, several of the lots are very small and there is no language that can be put on a deed to deem the property un-buildable. Mr. Swanson will continue to check with the construction official and keep committee updated.

Mr. Alexander and Mr. Swanson conducted interviews for the position of P/T public works employee. They gave a recommendation for the new hire. He is experienced in small engines, lawn care, auto body and is familiar with most of the equipment of the township.

Mr. Pantaleo would like to hold off hiring someone until the budget is reviewed. He feels in these economic times the township committee should look at the current spending. He does not feel comfortable hiring someone at this time. We should look at the budget and compare and prioritize spending.

Mr. Rainey explained the grass growing season is here and the department is down an employee. Once they get behind it is difficult to catch up with the mowing.

Mayor Barbaro stated this hire is replacing someone who left and if he is hired now and the budget figures come in and can not be afforded, we have the option to eliminate the position.

Committee approved the hiring of the P/T employee, not to exceed 30 hours per week at the rate of \$10 per hour.

The township has been notified by the NJ DOT that we are responsible for 30% of the cost of the installation of the traffic beacon at Bridgeton Pike (SR 77) and Fislerville Road (CR 618). The approximate cost to the township will be \$15,000. This will be in addition to the 50% of the cost of the electricity that will be shared with Harrison Township. This will need to be placed in the budget if we are going to install the light. Mayor Barbaro will contact Mayor Manzo of Harrison and see if they are willing to share in the cost of the installation.

Ordinances O-24-2010 through O-33-2010 were introduced at the April 1st meeting. They are all based on an Editorial Analysis that was performed in 2008 on the current Code of the Township of Elk.

Ordinance O-27-2010, Noise ordinance, Mr. Rainey questioned the number of different times. The clerk will review and contact the solicitor for clarification.

O-29-2010, Peddling and Soliciting ordinance, Mr. Pantaleo asked if the size of the sign is a conflict with the sign ordinance. The clerk will talk to the solicitor.

Mr. Pantaleo stated the Economic Development Committee has been discussing putting together a solar request for proposal to have solar panels installed on the closed dump on Laux Road.

Mr. Slack, Chairman of Economic Development stated the committee has been approached by a developer to make the old dump a solar farm. The dump is a clear site. The committee has looked at different options, one where the township would invest in the infrastructure, and the second would be the township is the landlord. The second option seems to be the best for the township at this time. Lisa Morina from the Gloucester County Economic Development has been contacted and thinks this is a project worth pursuing.

Mr. Morella thinks the township will benefit from leasing the land. Mr. Morella further explained to committee the benefits on solar and leasing the closed landfill. If the committee leases the land it could be for 15 to 20 years at approximately \$1500 to \$2000 per month. After the lease is up, the agreement can state the equipment must be removed or the company will leave the

equipment at no cost to the township and they will have to train the township on the operation of the system.

The mayor would like economic to review the request and report to committee. Committee will take economics input into consideration and discuss with the solicitor.

PUBLIC PORTION:

Motion by Mr. Swanson to open the meeting to the public, seconded by Mr. Pantaleo, all were in favor, motion carried.

Lorianne Eck, 289 Clayton Aura Road, asked who read and reviewed the codes. Mayor Barbaro explained an editorial analysis was performed on the Code of the Township of Elk and these ordinances are correcting and updating the code book.

Also, Mrs. Eck would like to reiterate that the railroad crossings are terrible. Mayor Barbaro explained the county has contacted the railroads with the concern. They are currently working their way down the line.

Cheryl Potter, 200 Harrison Avenue, would like to know if there is a better way to take care of abandoned houses, than boarding them up. A neighborhood that has boarded up homes looks deplorable.

Ed Pearson, 1448 Ferrell Road, asked about the houses that are already boarded up. They are real eyesores.

Motion by Mr. Rainey to close the public portion, seconded by Mr. Swanson, all were in favor, motion carried.

PAY BILLS:

Motion by Mr. Rainey to Pay the Bills, seconded by Mr. Pantaleo, upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Rainey	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

Mr. Pantaleo asked if an item is budgeted and the account is already expended, where does the money come from to pay the bill? Mr. Considine explained if it is in the temporary budget, committee adopts an emergency temporary resolution. A budget will be adopted and the tax bills that come out in July, will reflect the new budget. A temporary budget of 26.25% of the prior year, is adopted in the beginning of the year.

RECESS:

Motion by Mr. Rainey seconded by Mr. Swanson to recess the regular meeting, all were in favor the meeting recessed at 8:55 PM.

Motion by Mr. Rainey to re-enter the regular meeting, seconded by Mr. Swanson, all were in favor, the committee entered the meeting at 9:44 PM.

Soccer would like to use the sign to advertise registration.

Motion by Mr. Pantaleo to adjourn, seconded by Mr. Rainey, all were in favor, the meeting was adjourned at 9:46 PM.

Respectfully Submitted,

Debora R. Pine, RMC, CMC

ELK TOWNSHIP
CLOSED SESSION
MINUTES
APRIL 19, 2010

The Closed Session was called to order at 9:08pm, by Mayor Barbaro.



The planning board approved a subdivision based on incorrect information provided by the applicant. There were 3 parcels of ground that the applicant did not own, therefore making this an invalid subdivision. The applicant will be denied a zoning permit and will need to go back to the planning board for approval.

There was a discussion on declaring a part of the township a redevelopment zone. Creating this zone will allow the township to obtain 100% of the property taxes, and the area will not be subject to zoning regulations. Mr. Considine will consult further with Mr. Duffield.

Motion by Mr. Rainey, seconded by Mr. Swanson to adjourn the closed session, all were in favor, the session adjourned at 9:44PM

Respectfully submitted,

Handwritten signature of Debora R. Pine.

Debora R. Pine, RMC, CMC

**TOWNSHIP COMMITTEE
WORK SESSION
MINUTES
MAY 18, 2010**

The work session of the Elk Township Committee was held on the above date in the Municipal Building. The meeting was called to order by Mayor Barbaro at 7:30PM.

The Open Public Meeting Notice was read.

The Salute to the Flag was recited.

Present were Mr. Creta, Mr. Pantaleo, Mr. Swanson, Mayor Barbaro, Mr. Considine, CFO and Mrs. Pine, Township Clerk. Mr. Rainey and Mr. Alexander were absent.

Approval of May 6, 2010 Regular Meeting, April 19, 2010 Closed Session, May 6, 2010 Closed Session

Motion by Mr. Pantaleo, seconded by Mr. Swanson to approve the minutes of May 6, 2010 Regular Meeting, April 19 and May 6, 2010 Closed Session, all were in favor, motion carried.

RESOLUTIONS:

R-59-2010 – Resolution Awarding Bid to Asphalt Paving Corporation for the Reconstruction of Jackson Avenue, Leddon Street and Roosevelt Avenue

Mr. Pantaleo questioned the amount of the engineering fees, if it is part of the grant and if the amount can be changed. Mr. Considine stated the engineering fees in reference to design phase cannot be paid out as part of the grant. There is testing that can be paid out of the grant. The amount is a fixed amount unless there is a change order. Mr. Considine suggests awarding the base bid and alternates 1 and 2.

The bid to be awarded after discussion will be the base bid plus alternates 1 and 2 for a total amount of \$177,296.62.

Motion by Mr. Swanson, seconded by Mr. Pantaleo, to adopt and approve said resolution, upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

R-62-2010 – Resolution Approving the Budget for the 2010-2011 School Year for the Elk Township Board of Education

Mr. Pantaleo directed a comment to the residents. He stated as an elected official this situation is bittersweet. The recommendation is to cut the school budget but will still result in a tax increase. This is unfortunate. He will vote yes on this, however reluctantly. The mission was to balance the budget without jeopardizing the quality of education of the students. During these tough economic times we are being forced to raise taxes and that is a difficult thing to do. He understands the responsibility to the students, parents, residents and senior citizens and takes it seriously.

Motion by Mr. Pantaleo, seconded by Mr. Creta, to adopt and approve said resolution; upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

R-63-2010 – Resolution Determining and Certifying Amounts to be Raised for School Taxes for the 2010-2011 School Year for the Delsea Regional School Budget

Motion by Mr. Creta, seconded by Mr. Swanson, to adopt and approve said resolution, upon roll call motion carried.

Roll Call:	Mr. Creta	No
	Mr. Pantaleo	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

R-64-2010 – Resolution Designating Signatory on Elk Township Fire Safety Penalty Account
Motion by Mr. Swanson, seconded by Mr. Pantaleo, to adopt and approve said resolution, upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

R-65-2010 – Resolution To Go Into Closed Executive Session to Discuss Contract Negotiations and Personnel

Motion by Mr. Swanson, seconded by Mr. Pantaleo, to adopt and approve said resolution, all were in favor motion carried.

R-66-2010 – Resolution Appointing Class II Special Officer for the Elk Township Police Department – Anthony Bean

Motion by Mr. Pantaleo, seconded by Mayor Barbaro, to adopt and approve said resolution, upon roll call motion was denied.

Roll Call:	Mr. Creta	Abstain
	Mr. Pantaleo	Yes
	Mr. Swanson	No
	Mayor Barbaro	Yes

R-67-2010 – Resolution Authorizing Public Works to Clean Block 141 Lot 5 – 150 Douglass Street

Motion by Mr. Swanson, seconded by Mr. Pantaleo, to adopt and approve said resolution, upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

TOPICS:

Tony Dariano, Construction Official was present to discuss making changes to The Code of the Township of Elk, Chapter 54, Construction Codes, Uniform. The state has increased the amount of fees allowed to be charged for permits. The fees currently being charged in Elk Township is below the state fees. The fees that are collected are to be used to run the construction department. Mr. Dariano would like to eventually get a computer for his desk and purchase a new program for the department. The program is the Mitchell Humphrey program and will also work with the zoning office and tax office. He believes the cost of the program is based on the population of the township. He is not looking for the computer and program at this time. He is hoping the increase of the permit fees will bring in additional revenue to hopefully purchase the computer and program in the near future. He would like to have minimum fee of \$65 for all permit.

Committee will review the proposed changes with the compare to the current Chapter 54 and discuss at the next work session.

PUBLIC PORTION:

Motion by Mr. Swanson to open the meeting to the public, seconded by Mr. Pantaleo, all were in favor, motion carried.

Frank Goss, 131 Railroad Avenue, read in the paper that the school advertised a meeting in the paper for a 7am meeting on May 20th. The meeting is at 7pm according to the school. Mr. Goss would like to file a complaint with the township committee about the incorrect meeting time.

Motion by Mr. Swanson to close the public portion, seconded by Mr. Pantaleo, all were in favor, motion carried.

PAY BILLS:

Motion by Mr. Creta to Pay the Bills, seconded by Mr. Pantaleo, upon roll call motion carried.

Roll Call:	Mr. Creta	Yes
	Mr. Pantaleo	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

Mrs. Pine received a request for having baby changers installed in the restrooms in the park. Mr. Considine will look into the costs and installation.

RECESS:

Motion by Mr. Swanson seconded by Mr. Pantaleo to recess the regular meeting, all were in favor the meeting recessed at 8:06 PM.

Motion by Mr. Pantaleo to re-enter the regular meeting, seconded by Mr. Swanson, all were in favor, the committee entered the meeting at 9:10 PM.

Motion by Mr. Creta to adjourn, seconded by Mr. Swanson, all were in favor, the meeting was adjourned at 9:10 PM.

Respectfully Submitted,

Debora R. Pine, RMC, CMC

ELK TOWNSHIP
CLOSED SESSION
MINUTES
MAY 18, 2010

The Closed Session was called to order at 8:20pm, by Mayor Barbaro.

Mr. Considine explained to committee the budget is over the levy cap and cannot be adopted as it is, cuts will need to be made.

Committee reviewed the figures and discussed the possible reduction of municipal staff, closing the MUA, the possibility of a 3rd party taking over the construction department and waiving the open space tax for one year.

It was also mentioned to ask the police to open their contract for discussion.

The volunteer ambulance squad was mentioned. The residents are currently paying for the county EMS and also the township squad.

Motion by Mr. Pantaleo, seconded by Mr. Swanson to adjourn the closed session, all were in favor, the session adjourned at 9:10PM

Respectfully submitted,



Debora R. Pine, RMC, CMC

ELK TOWNSHIP COMMITTEE
SPECIAL MEETING MINUTES
APRIL 12, 2011

The Special Meeting of the Elk Township Committee was held on the above date in the Municipal Building. The meeting was called to order by Mayor Barbaro at 5:00PM.

The Open Public Meeting Notice was read.
The Salute to the Flag was recited.

Present were: Mr. Pantaleo, Mr. Rainey, arrived at 5:10 pm, Mrs. Sammons, Mr. Swanson, Mayor Barbaro, Mr. Duffield, Solicitor, Mr. Considine, CFO, and Mrs. Pine, Township Clerk.

RESOLUTIONS:

R-50-2011 – Resolution to go into Closed Executive Session to Discuss Personnel

Motion by Mr. Swanson, seconded by Mr. Pantaleo to adopt and approve said resolution, all were in favor motion carried.

R-51-2011 – Emergency Temporary Resolution Prior to Final Adoption of the Budget

Motion by Mr. Pantaleo, seconded by Mr. Swanson to adopt and approve said resolution, upon roll call motion carried.

Roll Call:	Mr. Pantaleo	Yes
	Mrs. Sammons	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

RECESS:

Motion by Mr. Swanson, seconded by Mrs. Sammons to recess the meeting, all were in favor the meeting recessed at 5:02pm.

The Closed Session was called to order by Mayor Barbaro at 5:06pm.

Motion by Mr. Swanson, seconded by Mrs. Sammons to adjourn the Close Session, all were in favor the meeting adjourned at 5:17pm.

Motion by Mr. Swanson, seconded by Mr. Pantaleo to re-enter the regular meeting, the meeting was reconvened at 5:20pm.

TOPICS:

Mr. Duffield stated Steve Considine, CFO will summarize the proposed draft Budget for 2011. He explained there are some personnel issues and this is the time to discuss those issues.

Mr. Considine explained to committee this is a proposed draft budget for Elk Township for 2011. We are under the 2 CAPS for the year. The first being a Levy CAP, which is the amount we can raise in taxes and the second an Appropriations CAP, which is the amount we are allowed to spend subject to certain considerations. The proposed budget in draft form meets both those requirements. What it equates to is a proposed tax increase of 2.5 cents. It raises our local tax rate to .574 from .549. We are \$483,000 under the Appropriations CAP, which means we can spend \$483,000 more, however, we are \$1400 under the Levy CAP, meaning we cannot raise any more money to support the budget. Although there is spending authority, we do not have the revenue to match it, so we cannot spend the \$483,000. The overall budget is \$4,308,000 for 2011, last years overall budget was \$4,571,000, meaning the overall budget decrease is \$246,000. Based on this proposed budget the average tax increase, based on the average home assessed at \$232,000 will be approximately \$58.00.

As it specifically relates to tonight's personnel discussion, several line items in this budget are reduced such that if we were to keep people in positions at their current hourly allotment per week we would not have enough money in that line item to make it to December 31st. Specifically, in

construction, reduce hours to 10 per week, planning/zoning to 35 hours per week, tax collector assistant to 8 hours per week and police record clerk to 35 hours per week. Further the police salaries and wages line item cannot support all the salaries we currently have. Proposed in this line item budget would be a reduction in the salaries for the police department such that there would be one less police officer working for Elk Township. All these hourly changes will take effect at the end of April, first pay in May.

In addition the farm land preservation tax is back in for 1 cent. This tax is in addition to the 2.5 cent, so if the budget is adopted as proposed it will be a 3.5 cent tax increase. If committee would like to keep it out a resolution will need to be adopted prior to the introduction of the budget.

Our problem is revenue and we do not have the ability to put more revenue in this budget. As it has been mentioned before, we took a one-time fix in December of \$203,000 that is reflected in this budget. We will not have that \$203,000 again, that is a one time fix that is getting us inside the CAP's that we are currently under. That was achieved by cancelling old ordinances that are complete, so that is a one time source of revenue we do not have any longer. So while that is great for the 2011 budget, please keep in mind that we are entering 2012 with \$203,000 less revenue than we have today. Our surplus has decreased steadily over the past several years. At the end of 2010 our surplus balance was \$179,000. With a \$4.5 million dollar budget that is not a lot of money. Mr. Considine has projected the maximum amount that can be taken in surplus, and leaving the rest as the amount to be raised by taxation. As a financial officer he does not recommend taking any more surplus, we need to stop that slide down or we will go into the negative and we cannot be a negative. \$179,000 is not a lot of cushion. The projected surplus at the end of 2011 will be \$342,000. In 2010 we received from the county \$178,000 back for the revaluation that was completed right before the county took over our tax assessment. We were reimbursed for that cost. We will never see that \$178,000 again. So the revenue generation is down \$178,000 in addition to the \$203,000.

Mayor Barbaro asked if the line items that we are discussing are not instituted, can the budget be introduced as such.

Mr. Considine stated the budget can be introduced any way committee would like, however, there will not be enough money to make payroll come October or November. He will not make payroll because we will not have the authority to spend the money. Mr. Considine will entertain any options committee has.

The budget is already down \$240,000 from last year. There will not be any line items with money to transfer from.

Mayor Barbaro asked if any of these potential changes can be reversed before the years end if circumstances change?

Mr. Considine explained committee has the authority to make changes provided there is money coming into the budget. He cautions committee that he does not see how any additional money will come in unless it is a grant. Other than a grant he does not see money coming into this budget.

Mayor Barbaro, asked other than grant money, other revenue sources or less revenue sources through shared services such as if something changes in one line item that allowed the township not to have an outlay in one line item can that money be used?

Mr. Considine explained that if there is money that is not used it can be transferred in November or December.

Even found money, such as a donation or a jump in construction revenue, this money cannot be used until 2012.

Mr. Pantaleo, asked about debt obligation, where does he think that is going to be, will it be stable, is this something we need to consider going forward?

Mr. Considine explained in total the debt service goes up. The permanent financing is set and there is an exact figure. What we do not know is the temporary financing, those are any projects that have been funded since our last full bonding. They are subject to market rates. If we get a good rate for a year on our temporary financing that is great, if the rates start to creep up we will pay more in the subsequent years budget. As debt retires the interest payments on the permanent go down. Permanent stuff will drift down and temporary stuff is subject to the market. Elk has been very

conservative in its capital program. We have only been doing roads that are pretty much being paid for by the state, although there are certain things that the township needs to kick in, that is why we have ordinances for these items. We leverage the state money to do the road and throw in a little bit of Elk money to complete the project. He does not see any major capital projects in the future.

Mr. Swanson wanted to clarify if the township was to do a shared service, with someone else providing a service, money saved would not be able to be used in this budget.

Mr. Considine explained, if we stopped doing something in Elk, we would need to stop paying on our end and start paying someone else to provide the service. If it costs us less, we are still not generating revenue.

We have to introduce and adopt a budget based on where we stand at that given moment.

If the shared service did not cost the township, the money would sit there and go into surplus for 2012.

There is no way change a budget once it is adopted.

Mr. Considine would not recommend the introduction of a budget if it cannot be supported on the day it is introduced. That would be bad policy.

Mayor Barbaro, asked for clarification on if money is not used in a particular line item, can the money be used in 2011?

If a budget is introduced it can be amended before adoption subject to certain limitations on those line items, up or down a couple of percent. If it does not change by a couple percent those line items can be amended. If it is more than a couple of percent the budget will need to be reintroduced.

PUBLIC PORTION:

Motion by Mr. Rainey to open the meeting to the public, seconded by Mr. Swanson, all were in favor, motion carried.

Chief DeFalco, asked what is the total cost to keep the officer? And how long do we have to introduce the budget?

Mr. Considine stated the salary, fringe, benefits, all costs is around \$70,000-\$75,000 and we are past the date to introduce.

Bill Lesh, PBA Local 122, 510 Sharp Drive, Mickleton, handles collective bargaining for the PBA Local 122. He has listened to all the comments, understands the difficult times and thinks there is time before the budget is introduced to sit with committee, department heads and chief and see where the money can be saved. That way these jobs, positions and cuts can be saved. He knows it can be done.

Dave Reilly, 107 34th Avenue, spoke to request the recreation committee budget be kept at the \$11,000 figure to support the local sport organizations, scholarships to Elk students, annual tree lighting, egg hunt, movie nights, events for senior citizens and other community events. This amounts to approximately \$8.70 per household per year or .16 cents per week.

Ken Brant, 347 Elk Road, does not feel it is right to spend money on other organizations and have a police officer to see his job. As a resident he is not opposed to a tax increase.

Motion by Mr. Rainey to close the public portion, seconded by Mr. Swanson, all were in favor, motion carried.

Mr. Pantaleo would like set up a meeting with Mr. Lesh to discuss possible proposals as opposed to the cuts.

Mr. Duffield explained if there are more than 2 committee members to attend any meeting 48 hour notice will need to be provided to the newspapers. If the intent is to introduce the budget on Tuesday and there are any changes the changes will need to be received as soon as possible.

Mr. Considine explained we are past the date to introduce. If committee is making changes that effect how much you are spending, the longer you do not make the change the less effect that change will have on the budget.

Mr. Pantaleo would like to hear the proposal to possibly save jobs.

MOTION TO PAY BILLS:

Motion by Mrs. Sammons to Pay the Bills, seconded by Mr. Rainey, upon roll call motion was carried.

Roll Call:	Mr. Pantaleo	Yes
	Mr. Rainey	Yes
	Mrs. Sammons	Yes
	Mr. Swanson	Yes
	Mayor Barbaro	Yes

Motion by Mr. Swanson to adjourn, seconded by Mr. Pantaleo, all were in favor, the meeting was adjourned at 5:50PM.

Respectfully Submitted,

Debora R. Pine, RMC, CMC
Township Clerk

ELK TOWNSHIP
CLOSED SESSION
MINUTES
APRIL 12, 2011

The Closed Session was called to order at 5:06pm, by Mayor Barbaro

Present were Mr. Pantaleo, Mr. Rainey arrived at 5:10 pm, Mrs. Sammons, Mr. Swanson, Mayor Barbaro, Mr. Duffield, Mr. Considine, Mrs. Pine, Mrs. Foley, Mrs. Andreassi and Mrs. Trifiletti

Mr. Duffield explained to all that this meeting is being held because of some very difficult budget decisions are going to have to occur. It may effect some job positions.

Mr. Considine explained the proposed budget currently meets the state guidelines. Some of the proposed cuts are:

- Construction Control reduced to 10 hours per week starting May 1, 2011
- Planning/zoning secretary reduced to 35 hours per week starting May 1, 2011
- Police records reduced to 35 hours per week starting May 1, 2011 and
- Tax collector assistant reduced to 8 hours per week starting May 1, 2011

Mayor Barbaro stated the committee could possibly make additional changes to the budget.

(For the record, Mr. Rainey arrived at 5:10 pm.)

Mr. Duffield explained to the individuals that were present, they were entitled to hear what could happen before it is discussed in public.

Mrs. Andreassi asked why her hours were being cut in half.
Mrs. Foley asked if this is for the entire year.

Mr. Swanson asked how much it would cost to put these positions back into where they were?

Mr. Considine responded he will get the figures to committee. He also stated this is a draft budget and can change. It is not final until the budget is adopted.

Motion by Mr. Swanson, seconded by Mrs. Sammons to adjourn the closed session, all were in favor, the session adjourned at 5:19 pm.

Respectfully submitted,

Debora Pine, RMC, CMC
Township Clerk

CAPELLI, HERITAGE & PANTALEO

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OUR PLATFORM

Things Capelli, Pantaleo and Heritage will accomplish as Freeholders:

We will continue the work of current GOP Freeholders Larry Wallace and Vince Nestore toward the successes they have already started. We will help Larry and Vince enact sweeping changes to county government.

Transparency:

We end the back room deals that resulted in the freeholder board being found guilty of violating the state's open public meetings and open public records law.

We will hold public budget hearings where all departments will present their budget requests and the operational needs of each department will be scrutinized to reduce the size and cost of government.

We will tape and publish on the county website freeholder meetings as well as the budget hearings on the municipalities local cable access stations so everyone can see their county government in action.

Fiscal Responsibility:

We will look to sell off county assets that are not needed and get them back on the tax rolls.

We will work to roll back the 45% increase in spending that took place over the past 3 years. We will start with the ridiculous salary and benefits paid to the county administrator and his being given a five year contract. The County administrator makes more than the federal directors of the CIA, IRS, FEMA, NASA and the EPA among others. We find this outrageous and an affront to our hardworking taxpayers.

We will reduce the number and cost of outside professionals; we will cap their fees and reduce the county's costs.

Job Creation:

We will work to make Gloucester County the low tax haven in South Jersey.

We will create incentives and an environment that will make us the first choice for business development, especially in the "Green Collar" field of renewable energy.

We WILL NOT abuse eminent domain to take the private property of our citizens for speculative development projects.

We will treat ALL residents and business owners fairly and as partners in progress, REGARDLESS of their political affiliation.

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Our Tweets

- Tonight, we will be at the Woolwich GOP wine and dine at Cedarville Winery from 6pm to 8pm. Come join Barb, Penni and Mike.
- Have a happy July 4th! Special thanks to all our country's heroes both home and abroad for keeping us safe! #IndependenceDay #gop #FB
- Vince and I are now on Twitter. Please #follow us and tell your friends. #gloucestercounty #cutcountytaxesnow

What They're Saying

"If two Republicans can cause such a long needed stab at transparency by the Board, one can only imagine what changes three of them would bring."

~ Scott Beyer, Williamstown, 2/6/11

"Barbara Capelli, Mike Pantaleo and Penni Heritage...have the most private and public experience to give Republicans the best opportunity to take control of the freeholder board in more than 25 years."
~ Leslie Miles, Williamstown, 5/27/11

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