

TOWNSHIP COMMITTEE SPECIAL MEETING – AUGUST 25, 2020 – 5:00 P.M.

This is a Virtual Meeting. Video and audio access to the meeting is via townhallstreams.com/towns/neptune_nj. When an agenda item is reached that allows for public comment, comments will be taken via text to 908-415-3680.

Mayor Lane calls the Special Meeting to order at 5:00 p.m. and asks the Clerk to call the roll:

ROLL CALL

PRESENT/ABSENT

Dr. Michael Brantley
Kevin B. McMillan
Carol Rizzo
Nicholas Williams
Robert Lane, Jr.

Also present at the dais: Gene Anthony, Township Attorney; Vito D. Gadaleta, Business Administrator; and Richard J. Cuttrell, Municipal Clerk.

Mayor Lane announces that the notice requirements of R.S. 10:4-18 have been satisfied by the publication of the required advertisement in The Coaster and the Asbury Park Press on August 20, 2020 which included a notice of virtual meeting with web access instructions, posting the notice on the Board in the Municipal Complex, and filing a copy of said notice with the Municipal Clerk. In addition, the meeting agenda, resolutions and ordinances are posted online at www.neptunetownship.org.

WORKSHOP DISCUSSION ON AMENDMENT TO POLICE DEPARTMENT ORDINANCE

PUBLIC COMMENTS - Public comments submitted via text to 908-415-3680.

RESOLUTIONS

Res. # 20-284 – Appoint members to the Police Committee.

Offered by: _____ Seconded by: _____
Vote: Brantley, _____; McMillan, _____; Rizzo, _____; Williams, _____; Lane, _____.

Res. # 20-285 – Authorize an Executive Session as authorized by the Open Public Meetings Act.

Offered by: _____ Seconded by: _____
Vote: Brantley, _____; McMillan, _____; Rizzo, _____; Williams, _____; Lane, _____.

ADJOURNMENT

ORDINANCE NO. _____
TOWNSHIP OF NEPTUNE
COUNTY OF MONMOUTH
STATE OF NEW JERSEY

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT
VOLUME I, CHAPTER II OF THE TOWNSHIP CODE OF
THE TOWNSHIP OF NEPTUNE, SECTION 2-10 OF THE
CODE, ENTITLED "POLICE DEPARTMENT"**

BE IT ORDAINED by the Township Committee of the Township of Neptune, County of Monmouth, State of New Jersey that Section 2-10 of the Township Code of the Township of Neptune, entitled, "Police Department" is hereby amended, revised and/or supplemented as follows:

§2-10.1 Department Established.

There is hereby created in and for the Township of Neptune Police Department, which shall consist of such employees and officers as shall be deemed necessary by the Township Committee and may include a Police Chief in accordance with N.J.S.A. 40A:14-118. The Township Committee shall, from time to time, determine the number of employees and officers of the Police Department together with their compensation. The structure of the Police Department will include, at a maximum, of seventy-eight (78) sworn law enforcement officers, who shall consist of a maximum of one (1) Police Chief; one (1) Deputy Police Chief; three (3) Captains, seven (7) Lieutenants, fourteen (14) Sergeants and fifty-two (52) police officers. The Township Committee shall also appoint from amongst its members a Police Committee composed of up to five (5) members, but at a minimum, two (2) Township Committeepersons and the Township Business Administrator shall be members. The remaining two (2) possible members may be comprised of one (1) non-police officer/employee of Neptune Township and one (1) resident of Neptune Township, appointed at the discretion of the Township Committee. One (1) of the Township Committeepersons shall be designated as the Chairperson of the Police Committee by the Police Committee members. The Township Committee will endeavor, within six (6) months of the adoption of the Ordinance, to fill one (1) or more of the remaining Police Committee membership, other than the two (2) Committeepersons and the Township Business Administrator.

§2-10.2 Designation of Appropriate Authority.

In accordance with the provisions of N.J.S.A. 40A:14-118 and all rules, regulations and Court decisions as to same, the Police Committee is hereby designated as the Appropriate Authority, subject to the ultimate and final approval of its actions/recommendations by the Township Committee.

§2-10.3 Responsibilities of Police Department, Police Committee and Chief of Police.

- a. **Police Department:** The Police Department shall preserve the public peace; protect life and property; detect, arrest and prosecute offenders of the laws of New Jersey and the ordinances of the Township of Neptune; direct and control traffic; provide attendance and protection during emergencies; provide appearances in court; cooperate with all other law enforcement agencies; provide training for the efficiency of its members and officers.
- b. **Police Committee:**
 1. The Police Committee shall report to the Township Committee and shall be responsible to review the performance of the Police Department and report such to the Township Committee. It shall serve as the administrative and oversight body of the Police Department. It shall review and recommend to the Township Committee for its approval all proposed and promulgated rules and regulations for the government of the Police Department and for the discipline of its employees. The Police Committee's duties include, but are not limited to:
 - (a) Establishing the procedures to be followed by the Chief of Police and other subordinate officers for the purchase of equipment and supplies. Such procedures may include the requirement that the Police Committee review all expenditures with regard to the equipment and supplies and recommend actions as to same by the Township Committee.
 - (b) The Police Department and Chief Financial Officer shall keep a record of all business transacted by the Police Department and recommend approval of all bills for the expenses of the Police Department to the Township Committee after review and approval of the Police Committee.
 - (c) The Police Department shall keep and maintain accurate records and submit an annual report to the Township Committee, on or before January 31, which shall assess the operations of the Police Department, and its personnel, equipment and property.
 - (d) The Police Department shall keep and maintain all records, reports, documents and other data required to be kept and maintained by the Federal and/or State government, with the Police Committee's right of review to the extent allowed by law, after a decision of the majority of the Police Committee at a meeting of same to conduct such review.
 - (e) The Police Department shall keep and maintain a record of all appointments, dismissals, removals, resignations and deaths of officers and other department employees as they take place, with such other information as may be necessary, with the Police Committee's right of review to the extent allowed

by law, after a decision of the majority of the Police Committee at a meeting of same to conduct such review.

- (f) The Police Department and Chief Financial Officer shall develop the annual budget for the Police Department, in conjunction with the Police Committee. The budget approval shall be done by the Township Committee. Review of all expenditures prior to same occurring shall be reviewed by the Police Committee and Chief Financial officer with final approval by the Township Committee.
 - (g) The Police Chief shall analyze crime trends and statistics to ensure that the Police Department makes the best use of available funds, personnel, equipment and supplies, with the Police Committee's right of review to the extent allowed by law after a decision of the majority of the Police Committee at a meeting of same to conduct such review.
 - (h) The Police Committee and the Police Chief shall jointly evaluate the effectiveness of work program and procedures of all organizational components within the Police Department and developing effective work methods for subordinates.
 - (i) The Police Committee, in conjunction with the Police Chief or designee, shall undertake special studies pertaining to police functions and promoting close coordination of planning efforts.
 - (j) The Police Committee, in conjunction with the Police Chief or designee, shall establish and maintain helpful and cooperative relations with civic and business organizations, schools, and court offices, and with other groups and public authorities and other jurisdictions, and with others interested in the maintenance of law and order.
2. The Chief of Police or highest ranking sworn law enforcement officer in the absence of the Chief shall report directly to the Police Committee and the Police Committee shall receive weekly or other periodic reports, as designated by the Police Committee, from the Chief of Police or highest ranking sworn law enforcement officer in the absence of the Chief.
 3. The Police Committee shall also be responsible for ensuring that all Police Officers and employees are compensated in accordance with State and Federal Wage and Hour requirements.
 4. The Police Committee shall be appointed by the Township Committee. The members of the Police Committee shall serve for a term of two (2) years from the date of their appointment.

5. In addition to the two (2) members of the Township Committee appointed to the Police Committee and a third (3rd) other Police Committee members as set forth above, the Township Committee may also authorize on its own, or after the Police Committee requests same, any professional needed to accomplish its duties, including the Township Labor Counsel, the Township Attorney, the Township Chief Financial Officer or any other consultant or professional necessary to assist the Police Committee in its functions.

c. Chief of Police:

1. If a Police Chief is appointed, he/she shall exercise any and all of the rights, authorities, powers and responsibilities reserved solely to the Chief of Police pursuant to N.J.S.A. 40A:14-118.
2. If a Police Chief is not appointed, any and all of the rights, authorities, powers and responsibilities reserved solely to the Chief of Police, pursuant to N.J.S.A. 40A:14-118, shall be delegated to a Chief Law Enforcement Officer, which shall be highest ranking sworn law enforcement officer in the Department.

§ 2-10.4. Appointment of Officers and Probationary Period.

a. No person shall be appointed as a member of the Neptune Township Police Department unless he/she:

- (1) is a citizen of the United States;
- (2) is not less than twenty-one (21) years of age or older than thirty-five (35) years of age, except under certain circumstances provided by law;
- (3) shall have graduated from high school or possess a General Equivalency Degree (GED);
- (4) shall possess an associate's degree or sixty (60) college/university credits from an accredited college/university or be honorably discharged from active duty services in any branch of the U.S. military;
- (5) is sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System (PFRS) as to his/her eligibility for membership in the retirement system;
- (6) is able to at least read, write and speak the English language well and intelligently;
- (7) has no indictable criminal history conviction and is of good moral character;

- (8) shall have successfully passed the police officer's entry level written, and if part of same, physical examination administered by the New Jersey State Association of Chiefs of Police and currently on a valid active list. This requirement may be issued by the Township if the candidate successfully completed a New Jersey Police Training Commission (PTC) approved basic training course for police officers or has successfully completed a PTC approved training course for Special Law Enforcement Officer Class II (SLEO II) at the Monmouth County Police Academy and is eligible for a waiver of training under PTC guidelines.
- (9) successfully passes a physical examination and a psychological examination as part of a conditional offer of employment.
- b. No police officer shall be entitled to a permanent employment as a police officer in the Neptune Township Police Department unless said police officer has successfully completed a period of one (1) year after successful completion of either: (1) employment with the Neptune Township Police Department, if already having successfully completed a police training course (not a special law enforcement course); or, (2) a police training course at a school approved and authorized by the Police Training Commission (PTC) and Department of Law and Public Safety of the State of New Jersey. As to §b(2) herein, if the police training course is not taken by the police officer at the start of his/her retention by the Department, the probationary period shall be extended so that one (1) year of probation shall follow the successful completion of the training course. Once the one (1) year probationary period is completed, the Township Committee shall determine whether or not to make the probationary officer permanent. Up to and through the expiration of said probationary period, the Township Committee may terminate the police officer's employment with the Township Police Department at any time without cause by a resolution of the Township Committee.

§ 2-10.5. Excess Duty During State of Emergency.

- a. Whenever an emergency exists, as provided by Statute or as declared by the Mayor, the Chief of Police is hereby authorized to summon and keep on duty any member of the Police Department for such a period of time in excess of ordinary duty hours which, in the sole discretion of the Chief of Police, is necessary to adequately perform the duties of the Police Department and to preserve public safety and welfare in the Township.
- b. Members of the Police Department shall be compensated for time on duty in excess of their regular hours of duty at the same rate per hour as they are paid for regular duty. This additional compensation shall be in lieu of any compensatory time off and in addition to the regular salary paid to members of the Police Department.

§ 2-10.6. Special Police Officers.

- a. The position of Special Police Officer in the Neptune Township Police Department is hereby established.

- b. The Mayor, subject to the approval by resolution of the Township Committee, shall appoint Special Police Officers for a term not exceeding one (1) year and shall not revoke such appointments without cause or hearing, unless the appointment is for four (4) months or less. Such Special Police Officers shall carry out their duties and responsibilities under the direct supervision of the Chief of Police and their powers, rights and duties shall be specifically defined by the Chief of Police, pursuant to the statutory duties of a Special Law Enforcement Officer and within the scope of their training as determined by the Police Training Commission. These powers, rights and duties, however, shall immediately cease at the expiration of the term for which they were appointed, or upon revocation of their appointment. The resolution approving appointment of Special Police Officers shall designate the rate of pay if any.
- c. No person shall be appointed as a Special Police Officer unless he or she is a citizen of the United States and of the State of New Jersey; is able to read, write, and speak the English language well and intelligently and has a high school diploma or equivalent; is physically qualified and of good moral character, shall not have been convicted of any crime/offense; and, has successfully undergone the same psychological testing that is required of all full-time police officers in the Township. Every such Special Police Officer shall be fingerprinted and his fingerprints shall be filed with the Division of the State Police and Federal Bureau of Investigation. Reports shall be made by the Chief of Police to the Township Committee in writing concerning the eligibility and qualifications of any person proposed to be appointed a Special Police Officer.
- d. *Class One Officers (Class I)*. Class I Officers shall be authorized to perform routine traffic detail, spectator control and similar duties. Class I Officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an Officer of this class shall be strictly prohibited and no Class I Officer shall be assigned any duties which may require the carrying or use of a firearm.
- e. *Class Two Officers (Class II)*. Class II Officers shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the commission. Class II Officers are not authorized to carry an off duty weapon.
- f. *Class Three Officers (Class III)*.
- (1) Class III Officers shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer while providing security at a public or non-public school or a county college on the school or college premises during hours when the public or non-public school or county college is normally in session or when it is occupied by public or non-public school or county college students or their teachers or professors. While on duty in the jurisdiction of employment, an officer may respond to offenses or emergencies off school or college

grounds if they occur in the officer's presence while traveling to a school facility or county college, but an officer shall not otherwise be dispatched or dedicated to any assignment off school or college property.

- (2) In order to be appointed as a Class III Officer, the person must be: a retired law enforcement officer in good standing who is less than sixty-five (65) years of age whose retirement does not include a retirement resulting from injury or incapacity or the officer's return to work does not violate Federal or State law or regulation as to a return to work; has served as a duly qualified, fully trained, full time officer in any law enforcement position eligible for participation in PFRS or in any Federal or bi-state law enforcement agency or as a member of the State Police and was separated from that prior service in good standing; is physically capable of performing the functions of the position, determined in accordance with PTC guidelines; possess a NJ PTC Basic Police Officer certification or a NJ State Police Academy Certification or other proof of basic police training approved by the PTC; has completed the training course for safe school resource officers developed pursuant to N.J.S.A. 52:17B-71.8a; and, is hired in a part-time capacity.
- (3) The use of a firearm by a Class III Officer shall be authorized pursuant to the provisions of N.J.S.A. 40A:14-146.14b. A Class III Officer shall not be authorized to carry a firearm while off duty unless the officer complies with the requirements of subsection I of N.J.S.A. 2C:39-6 authorizing a retired law enforcement officer to carry a handgun.

§ 2-10.7. Employment of School Crossing Guards.

- a. Pursuant to N.J.S.A. 40A:9-154.1, the Township Committee shall have the power, by resolution, to employ Police Officers or any other authorized personnel to act as School Crossing Guards.
- b. Such Adult School Crossing Guards shall receive compensation as established by resolution of the Township Committee.

§ 2-10.8. Establishing the Rules and Regulations of the Police Department.

The Police Committee, as the "Appropriate Authority" shall, from time to time as may be necessary, adopt and amend the rules and regulations for the government and discipline of the Police Department and employees thereof subject to approval of the Township Committee. Said rules and regulations may fix and provide for the enforcement of such rules and regulations and the enforcement of penalties for the violation of such rules and regulations. All employees of the Police Department shall be subject to such rules and regulations and penalties.

§ 2-10.9. Disciplinary Actions.

Discipline of employees and police officers will be imposed consistent with New Jersey State statutes and the Rules and Regulations of the Neptune Township Police Department. Employees may be subject to discipline for violating laws, statutes, ordinances, rules and regulations and written directives. Disciplinary hearings shall be conducted by the Township Administrator or designee.

§ 2-10.10. County Mutual Aid Agreement.

- a. Participation by the Township of Neptune in a County-wide compact which shall be known as "The Monmouth County Mutual Aid Agreement" is hereby authorized.
- b. This subsection is created pursuant to N.J.S.A. 40:48-1(6) and N.J.S.A. 40A:14-156.1 and is adopted as a reciprocal agreement with all municipalities participating in the County-wide mutual aid compact. Pursuant to this agreement, the Township of Neptune shall render assistance to any participating municipality by providing members of the Neptune Township Police Department, upon request, to help preserve the public peace and order.
- c. The municipality requesting assistance shall compensate the officers at an agreed-upon rate by forwarding payment to the municipality, which will then compensate those officers who rendered assistance.
- d. In the event that an officer is injured while rendering assistance, the municipality providing assistance shall be primarily responsible for any costs as a result of the injury. Nothing in the Agreement shall serve as a bar to the municipality providing assistance from seeking indemnification from the municipality receiving assistance.
- e. This subsection is separate and distinct from any mutual aid agreements previously entered into between the Township of Neptune and any other municipalities and shall remain in full force and effect until specifically repealed by an affirmative act of the governing body.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. Any ordinance that is inconsistent with the provisions of this Ordinance shall be repealed as to their inconsistencies only.
2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion shall be deemed a separate district and independent provision and such holding shall not affect the validity of the remaining portions thereof.
3. This Ordinance shall take effect after final adoption and publication in accordance with law.

RESOLUTION #20-284 - 8/25/20

****NOT ADOPTED – CARRIED UNTIL SEPTEMBER 14TH MEETING***

APPOINT MEMBERS TO THE POLICE COMMITTEE

WHEREAS, Section 2-10.1 of the Township Code provides for a three member Police Committee to serve as the Appropriate Authority as provided for in State Statute; and,

WHEREAS, the Township Committee desires to remove all current members and appoint three new members to serve on the Police Committee effective immediately,

THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Neptune hereby removes Dr. Michael Brantley, Nicholas Williams, and Adrienne Sanders as members of the Police Committee and hereby appoints the following members to the Police Committee, effective immediately, under the current language of Section 2-10.1 of the Township Code, and to serve until the appointment of a successor(s):

Mayor Robert Lane, Jr., Township Committee member
Carol Rizzo, Township Committee member
Vito D. Gadaleta, Business Administrator, non-police officer employee

BE IT FURTHER RESOLVED, that a certified copy of this resolution shall be forwarded to the Business Administrator, Township Attorney and Chief of Police.

RESOLUTION #20-285 – 8/25/20

AUTHORIZE AN EXECUTIVE SESSION AS AUTHORIZED BY
THE OPEN PUBLIC MEETINGS ACT

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and,

WHEREAS, this public body is of the opinion that such circumstances presently exist,

THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Neptune, County of Monmouth, as follows:

1. The Public shall be excluded from discussion of and action upon the hereinafter specified subject matters.
2. The general nature of the subject matter to be discussed is as follows:
Litigation – Police Committee Consultant
3. It is anticipated at this time that the above stated subject matters will be made public when matters are resolved.
4. This Resolution shall take effect immediately.