

TOWNSHIP OF PEMBERTON

SPECIAL MEETING

MAY 4, 2009

6:00 P.M.

1. Council President Stinney announced that notice of this meeting was given in accordance with the Open Public Meetings Act and led the assembly in the Pledge of Allegiance, followed by roll call.

PRESENT

Richard Prickett
Sherry Scull
Tom Inge
Ken Cartier
Diane Stinney

ABSENT

Also present: Business Administrator Chris Vaz, Township Solicitor Andrew Bayer, Deputy Township Clerk Amy Cosnoski

2. Chairwoman Stinney called the meeting to order at 6:00 pm.
3. BUSINESS FOR DISCUSSION AND/OR FORMAL ACTION, AS ADVERTISED: For the purpose of discussing a personnel matter involving a Township employee and Council member. Formal action may be taken.

Council President Stinney informed Council is holding this hearing because an employee filed a complaint and Council must decide what action if any should be taken as a result of the employee's complaint and information from the special investigator's report. Mrs. Stinney stated to Mr. Inge that he elected to have this discussed publicly. Mr. Inge agreed. Mr. Prickett asked if he is able to talk about any parts of the investigation report. Mrs. Stinney replied that he will when his turn comes. Mr. Prickett stated that he needs to be able to do that right now because he had a problem with one of the aspects. Mrs. Stinney stated to Mr. Prickett that at this time, it won't happen. Mr. Prickett stated to Mrs. Stinney that she needs to hear him out. Mrs. Stinney replied that she needs to let him know that there is a point of order and.....Mr. Prickett interjected that there is a point of order and this is the time for him to be able to say what he has to say here. Mrs. Stinney replied that it will not be at this time right now. Mr. Prickett continued that he consulted with Mr. Bayer as well as the lawyer that investigated this matter.....Mrs. Stinney interjected and stated to Mr. Prickett that there is a point of order and he will have an opportunity to speak.....Mr. Prickett continued that he does not feel that he can take part in this because there was a complaint filed against him and it appears that it was determined that the Councilman's statements which were made during the formal Council meetings were not inappropriate or defamatory, so he must recuse himself

from this discussion. Mrs. Stinney stated that he may. Mr. Prickett continued that it is appropriate to do this at this time. Mr. Prickett remarked to Mrs. Stinney that he wished she had the experience to understand that. Mrs. Stinney replied to Mr. Prickett that he is more than welcome and it is not about the experience but it is about the respect that Council gives one another. Mr. Prickett left the meeting at this time. Mrs. Stinney noted that a report has been received and it is on file. Mrs. Stinney relayed that an investigation was requested by the Council in regards to the complaint of the employee, Mr. Tom McNaughton. Mrs. Stinney informed that Mr. Inge did not make a comment during the investigation. Mrs. Stinney offered the opportunity to Mr. Inge to comment. Mr. Inge stated that he would like to reserve the opportunity to comment later. Mrs. Stinney responded that Council is here tonight to make a decision as to whether action will be taken and will not be able to do that fairly without hearing Mr. Inge's comments. Mr. Inge asked his attorney, Mr. Christopher Baxter, to come forward and assist him. Mrs. Stinney asked Mr. Baxter to come forward. Mr. Baxter came forward and asked Mr. Inge what he would like him to do. Mr. Inge informed that he had prepared a statement for the Council and the residents of the Township and asked Mr. Baxter to read it for the record. Mr. Baxter read Mr. Inge's statement which is attached hereto and made a part of these minutes. Mrs. Stinney stopped Mr. Baxter while he was reading Mr. Inge's statement regarding pay raises for Bob Benash, Construction Office and Maurice Jones, UEZ Coordinator and noted that it was not advertised that Council would be discussing pay raises for the names that Mr. Baxter is reading and asked Mr. Baxter to discard that and deal with the matter as the charges as it appears. Mr. Bayer commented that he would give Mr. Baxter through Mr. Inge some latitude in this so that there is no complaint about the record. Mr. Bayer noted that Mrs. Stinney's point is that maybe he could talk about the position and not the person. Mr. Baxter replied that he is just going to read the statement from Mr. Inge and added that this is a public meeting and asked Mr. Bayer if he is correct. Mr. Bayer responded yes and added the concern would be employment and personnel of other people not directly involved. Mr. Baxter commented that he would try to redact on the fly if he sees something. Mr. Baxter continued reading Mr. Inge's statement. Mrs. Stinney again interrupted Mr. Baxter when he read the portion of Mr. Inge's statement highlighting the Mayor's recent statements regarding his conflict of interest while sitting on the land use board reviewing Mr. Inge's application for a sports bar and stated no. Mr. Baxter stated to Mrs. Stinney that this is a public meeting and Mr. Inge is entitled to an opportunity to be heard. Mrs. Stinney replied that she did not advertise this as such and she hopes Mr. Baxter keeps it nice and clean. Mr. Baxter continued reading Mr. Inge's statement. Mrs. Stinney commented that for the record, Mr. Inge's statement is duly noted. Mr. Inge forwarded a copy of his statement to the Deputy Township Clerk. Mrs. Stinney relayed that while Council heard the statement of the round-about pay raises and some of the Planning Board and those things, she would like to read a portion of the complaint. Mr. Bayer suggested to Mrs. Stinney to ask Mr. Inge if he had anything else he would like to add. Mrs. Stinney asked Mr. Inge if he had anything else. Mr. Inge replied that he did not have anything else at that time but would like to be able to answer any other questions if he feels that things were said inappropriately. Mrs. Stinney confirmed Mr. Inge's comments and read the following from the Investigative Report from Earp Cohn, P.C., "On the evening of February 4, 2009, the Pemberton Township

Council debated and ultimately adopted by a vote of 3 to 2, Ordinance No. 5-2009". Mr. Inge stated to Council President Stinney that he would appreciate it if she would read the entire report in to the record. Mrs. Stinney agreed. Mr. Bayer remarked to Mrs. Stinney that it is up to her and it is a long report. Mr. Inge indicated that the residents should be able to hear the entire report and not just portions of the report. Mrs. Stinney agreed and read the entire Investigative Report for the record. The Investigative Report from Earp Cohn, P.C., is attached hereto and made a part of these minutes. Mrs. Stinney advised that in the Township of Pemberton Employee Complaint Form, Mr. McNaughton was asked what is your requested remedy for this complaint and Mr. McNaughton stated disciplinary action up to and including the maximum penalty allowed for such an incident, a public apology for his actions and public retraction of all negative statements made by Mr. Inge towards him on February 4, 2009. Mr. Inge stated to Council President Stinney that he has quite a few questions for the attorney that made this report. Mrs. Stinney replied that he is not here tonight. Mr. Inge confirmed that Mrs. Stinney is telling him that the person that prepared the Investigative Report is not here to answer questions about the report. Mrs. Stinney responded that the attorney is not here and she just read her findings. Mr. Inge apologized and clarified that Council is having a meeting and is trying to prosecute a Council member.....Mrs. Stinney interjected and stated she is not prosecuting anybody.....Mr. Inge continued of Pemberton Township and the person that Council hired cannot appear and therefore he cannot rebut anything that is in the report. Mrs. Stinney asked Mr. Inge if he had this report earlier and she was hired to just do the report and Mr. Inge's attorney.....Mr. Bayer tried to interject.....Mrs. Stinney stated to Mr. Inge that Council is not here for a prosecution and as she read earlier, the Council has to decide what action if any.....Mr. Inge interjected that is Mrs. Stinney's opinion and his opinion is that this Council along with the Business Administrator and along with the Mayor will do anything they possibly can to discredit him.....Mrs. Stinney interjected and stated to Mr. Inge to let her tell him what this is about. This is not about the Council.....Mr. Inge continued and commented to Mrs. Stinney that he let her speak and asked her to let him speak.....Mrs. Stinney continued that she needs Mr. Inge to perfectly understand that this is not about Council, the Mayor or Mr. Vaz and this is about the personnel matter involving a Township employee and a Council member and has nothing to do with the Mayor, herself or anyone. This is the Council as a whole in regards to the complaint. Mrs. Stinney noted to Mr. Inge that she tried to say to Mr. Baxter earlier that this had nothing to do with the salaries or anything; it has to do with the investigative report that the investigator was hired to do. Mrs. Stinney continued that Council is not going to hire her to come and ask the questions. Mrs. Stinney asked Mr. Inge where he got that and added that they had an opportunity to do that. Mr. Inge commented that he had an opportunity and also asked for an open meeting.....Mrs. Stinney interjected that he has it right now. Mr. Inge continued that if this information is going to be brought forth in a Township meeting, he has the right to question the person that did the report. Mr. Inge stated to Mrs. Stinney that he let her speak and he would appreciate it if when he is speaking, she would not interrupt him. Mr. Inge commented to Mrs. Stinney that she does it during regular Council meetings and continues to want to interrupt him at special hearings. Mrs. Stinney interjected that she just wants to keep him on target and that's all. Mr. Inge replied that he is on target and commented to Mrs.

Stinney that she can never keep him on target. Mr. Inge conveyed to Mrs. Stinney that he would appreciate it if she would give him the same respect that she gives.....Mrs. Stinney interjected and stated that she does respect Mr. Inge.....Mr. Inge continued and stated a couple of other Council members. Mr. Inge commented that in this report.....Mr. Baxter is speaking from the audience but is not near the microphone and is inaudible. Mrs. Stinney stated to Mr. Baxter no, Mr. Inge wants to talk.....Mr. Baxter continues talking from the audience.....Mrs. Stinney stated to Mr. Baxter that in a second he can speak and he has had his turn.....Mr. Inge stated that he would like at this time for his attorney to speak for him. Mr. Baxter commented to Mrs. Stinney that copies of the Investigative Report.....Mrs. Stinney interjected and stated that she doesn't know who he is and asked him to come to the microphone and state his name. Mr. Baxter informed he is Christopher Baxter.....Mrs. Stinney interjected that those are the rules and what we do. Mr. Baxter stated to Mrs. Stinney to please do not interrupt him again and he has the floor now.....Mrs. Stinney interjected that she is trying to get the public in order and that's the part of the Council President. Mr. Baxter commented to Mrs. Stinney that she did it again. Mr. Bayer stated to Mr. Baxter that the Council President is the Chair of the meeting and that's how it works and she did not yield the floor to him yet. Mr. Baxter conveyed that Mrs. Stinney called him up and asked him to state his name as she didn't know who he was and he thought she was yielding the floor. Mrs. Stinney remarked that Mr. Inge asked if Mr. Baxter could speak on his behalf and that is what he said. Mr. Baxter informed that he has a question for Mrs. Stinney in that if the Investigative Report that she read in to the record is available for the public to review tonight. Mr. Bayer advised Mrs. Stinney that this section of the meeting is not open to the public and the answer is since it's been read in to the public, at the end of the meeting if she wants to make it available, she can do that. Mr. Baxter asked what the solution is. Mrs. Stinney informed she will make it available at the end of the meeting during the public portion part. Mrs. Stinney remarked to Mr. Baxter that she wanted to assure him that because of the record and because of the taping that all of those that come to the microphone continue to state their names. Mrs. Stinney asked Mr. Bayer what Council's options are. Mr. Bayer replied since Mr. Inge is a Councilman, the options are quite limited legally. There are two basic options; one is do nothing and the other is consider a resolution of censure which would express the Council's displeasure with the conduct that the investigator found. Mr. Bayer advised those are the two legal options. Mr. Cartier asked Mr. Bayer what a resolution of censure is. Mr. Bayer explained that if this had been an employee of the Township that engaged in that kind of conduct and noted that in the original letter that Mr. Vaz put out on this indicated that he normally would have investigated it but because it involved a Councilman he wouldn't do so, but typically if an employee was found to have engaged in objectionable conduct, there would be a range of discipline that the public employer could impose against that employee. Since Mr. Inge is a Councilman, those typical types of discipline are not available. Mr. Bayer reiterated that all Council can really do is nothing or a resolution of censure which his research reveals is basically an expression of displeasure in relationship to the conduct. That's really about all it is because Council does not have the power to suspend Mr. Inge or any of the typical employee discipline matters that can go on. Council's options are very limited. Mrs. Scull commented to Mr. Bayer that Mr. McNaughton

had asked for an apology and if Mr. Inge were to issue an apology if he desired to, could Council consider it done and over without having to go forward with a resolution of censure. Mr. Bayer replied that would be up to the Council as a whole but absolutely if that was satisfactory to the Council. Mrs. Stinney asked if the resolution of censure is basically saying that Council is sorry as a whole or what. Mr. Bayer answered that it would basically be an expression of the Council's displeasure in the conduct that the investigator found to have occurred out in the hallway. Mr. Bayer continued that apologizing on behalf of the Council to the employee on the Council's behalf in essence is what it could say. Mr. Cartier stated he has an obvious question and he thinks he knows the answer but asked if Mr. Inge is willing to apologize for his comments. Mr. Inge conveyed that he never mentioned Mr. McNaughton's name or Mr. McNaughton's title in the comments he made out in the hallway to residents. Mr. Inge is a graduate of Cheyney University from December of 1981 and does not use words such as "ain't" and that is not in his vocabulary. Mr. Inge conveyed that the different things that people have stated that he said, if the Council had looked at that, he doesn't believe the Council would be asking him to apologize because there is nothing that he read or feels that there is nothing that he did. Mr. Inge feels he has the same freedom of speech as any resident in this Township and if he opted to apologize for the right of his freedom of speech, he would be doing not only an unjust to himself but also an unjust to the residents of this Township, an unjust to his father who joined the service and grew up in Alabama where his rights as an African American were hindered by the color of his skin. Mr. Inge will not apologize for something that he feels that he did not do anything wrong. Mrs. Scull asked Mr. Inge if he told Mr. McNaughton that he was a joke because that is in the investigative report several times and since Mr. Inge didn't talk to the investigator. Mr. Inge replied that he did not say that to Mr. McNaughton and he did not say Mr. McNaughton, you're a joke. Mr. Inge added that the Administrator called an employee to his office and asked that employee why they didn't fill out a report or contact the person that is doing the investigation. Mr. Inge remarked that he finds that very hard to understand where the Administrator had the authority to do that and he would think that by hearing this, the Council should look in to that and see if Administration has done something very illegal by contacting an employee and asking them when they were not on duty at a Township meeting that evening but when they were on duty, to come in to their office and ask them why they didn't contact the attorney to fill out a report. Mr. Inge reiterated that is very hard for him to accept. Mrs. Stinney commented to Council that there are a couple of options and Council can take a short break. Mrs. Stinney reiterated Mr. Bayer's information that Council can vote to do nothing or read the resolution and come back and make their decision. Mr. Inge stated to Mrs. Stinney that he would hope Mrs. Stinney would open the meeting to the public and give the public a chance to speak. Mrs. Stinney replied according to the law of the public open meetings act, there is general public comment. Mrs. Scull advised that since there is not going to be an apology, Council needs to take a few minutes and look at the resolution. Mrs. Stinney asked Mr. Cartier if that is his concern. Mr. Cartier replied yes.

Mrs. Stinney recessed the meeting at approximately 6:52 pm and reconvened the meeting at approximately 7:07 pm.

Mrs. Stinney conveyed that the Investigative Report from Attorney Carol Harding has been heard, Mr. Inge's attorney, Mr. Baxter has been heard and Mr. Inge has been heard. Council has been given two options. One option is to do nothing; the other option is to adopt a resolution that Council read and went over and is basically Council's apology to the Township employee. Mr. Inge commented to Council President Stinney that he had asked prior to taking a break that this meeting be opened to the public and there are members of the public that were at the meeting on February 4th and members of the public that were out in the hallway and to be fair, the attorney that did the investigative report is not present and Council should listen to the members of the public at this time. Mr. Inge conveyed that if Council makes a ruling before listening to the residents of Pemberton Township, Council will again be doing an injustice to the residents of the Township. Mrs. Stinney replied that as she stated, she will open this up for general public comments and Council did forward the information over to Mr. Inge and this is Council's decision. Council has paid for and hired the attorney, Carol Harding and does have Ms. Harding's investigative report. Mr. Inge asked Council President Stinney how she hired Ms. Harding. Mrs. Stinney replied it was through the consent of the full Council. Mr. Inge asked Mrs. Stinney when she did this and if there was an ordinance drafted. Mr. Bayer informed when the Township did the RFP's at the end of last year, there is a list of Conflict Counsel who have been hired on an as needed basis and that was a process Mr. Inge participated in as well. Mr. Bayer continued there are a number of attorneys under contract with the Township for conflict services. Mr. Inge asked if the Council approved this and was there a resolution drafted stating that they would pay for a special attorney. Mr. Bayer replied there was a discussion as was noted earlier in this meeting that this could have been done in Closed Session given the employment nature of it but we are out in public because that was requested by Mr. Inge. Mr. Bayer continued that back in time, this was a matter that was discussed in Executive Session given the personnel nature of the matter and that was where the discussion of a special investigator was brought forth he believes. Mr. Inge stated to Mr. Bayer that he still hasn't answered his question. Mr. Bayer informed that as a matter of law, once there is someone under contract as there are special matters throughout the year, if there is a decision by the Council depending on the subject, the Mayor or whoever it is to proceed with a matter, Council does not then adopt a resolution authorizing it. If they are under contract, they are then assigned the matter either through Administration or through Council. Mr. Bayer added that he is not commenting on the substance but is commenting on the procedure and wants to make sure that it is clear. Mr. Inge commented that he thought Council approves all billing and all bills pertaining to the Township. Mr. Bayer replied Council does. Mr. Cartier stated the Township has not received a bill as of yet and asked Mr. Vaz if that is correct. Mr. Vaz answered that he has not received a bill. Mr. Inge asked if Council approved this. Mrs. Scull answered yes. Mr. Inge then asked if this was done in Closed Session and after the Closed Session there was not a resolution approving this. Mr. Inge commented that usually when Council approves something, a resolution is brought up and is made. He did not recall this being brought out in to the public and thinks if Council plans on spending tax payers' money, they should let the tax payers know this. Mr. Bayer responded that the only answer is that there are a number of law firms under contract with the Township which were procured pursuant to the state law and Township

ordinance. The Council authorized Ms. Harding's firm to go forward and there was not a public resolution acknowledging it given the sensitive personnel nature of it at the time. Mr. Bayer explained there was no agreement from either the complaining employee or Mr. Inge at that time that the matter be discussed in public so there would have been no way to do a confirming resolution at that time. Mr. Bayer reiterated that it was not necessary since the firm was under contract with the Township already. Mr. Inge begged to differ with Mr. Bayer and wanted it on the record that he does not agree with Mr. Bayer's statement. Mrs. Stinney stated to Mr. Inge that Council forwarded a letter to him on February 23rd requesting an interview and inviting him to identify witnesses to the alleged event and he chose not to so Council at this time will decide whether they will do nothing or add the resolution of censor. Mr. Cartier remarked that his only statement and he did ask the question of the union and Mr. McNaughton that if this resolution is adopted if their remaining complaints would be dropped and he was told yes, there would be no further action considered on behalf of the union and Mr. McNaughton if this is approved this evening. Mrs. Scull asked if that included the PERC complaint. Mr. Cartier responded yes, he was told that includes the PERC complaint. Mrs. Stinney asked Council if they would accept the resolution or if the consensus is to do nothing. Mr. Cartier commented that he has asked the question once already this evening and would ask Mr. Inge again if he is sure he does not want to apologize to Mr. McNaughton. Mr. Inge replied he does not. Mr. Cartier commented that he would consider the resolution. Mrs. Scull asked what the number is for the resolution. Mrs. Stinney informed it will be 110A-2009.

Motion by Scull and Cartier to add Resolution No. 110A-2009 to the agenda. Scull, yes; Cartier, yes; Inge, abstain; Stinney, yes. Motion carried.

Motion by Scull and Cartier to approve Resolution No. 110A-2009.

Mrs. Stinney asked Council if they had any further discussion. Mrs. Scull replied no.

Scull, yes; Cartier, yes; Inge, abstain; Stinney, yes. Motion carried.

Mr. Inge stated that he would like to make a comment. Mrs. Stinney stated she will read the resolution and replied to Mr. Inge that he will. Mr. Bayer suggested to Mrs. Stinney that it should be available to the public. Mrs. Stinney conveyed the resolution will be available to the public as requested by the attorney. Mrs. Stinney read the following resolution:

RESOLUTION NO. 110A-2009

A RESOLUTION CENSURING TOWNSHIP COUNCILMAN THOMAS R. INGE
WHEREAS, ON FEBRUARY 6, 2009, THOMAS MCNAUGHTON, THE TOWNSHIP'S SUPERVISOR OF PUBLIC WORKS, FILED AN EMPLOYEE COMPLAINT FORM WITH THE TOWNSHIP'S BUSINESS ADMINISTRATOR (THE "MCNAUGHTON COMPLAINT") ALLEGING THAT MCNAUGHTON WAS "VERBALLY ATTACKED IN A HARASSING AND INTIMIDATING MANNER" BY COUNCILMAN THOMAS INGE ON FEBRUARY 4, 2009 IN THE HALLWAY OF THE MUNICIPAL BUILDING (THE "INCIDENT"); AND
WHEREAS, MCNAUGHTON SPECIFICALLY ALLEGED WITHIN THE MCNAUGHTON COMPLAINT THAT COUNCILMAN INGE CONFRONTED MCNAUGHTON DURING A BREAK FROM THE FEBRUARY 4, 2009 PEMBERTON TOWNSHIP COUNCIL MEETING AND, IN A RAISED VOICE, PUBLICLY BERATED MCNAUGHTON IN FRONT OF THIRD PARTY WITNESSES BY YELLING "YOU SHOULDN'T EVEN BE WORKING HERE, YOU WERE HIRED ILLEGALLY, YOU'RE A JOKE" AND "YOU AIN'T WORTH NOTHING, YOU'RE A JOKE" WHILE ADVANCING TOWARDS MCNAUGHTON IN A THREATENING MANNER AND POINTING HIS FINGER AT MCNAUGHTON; AND
WHEREAS, AS A RESULT OF THIS INCIDENT, MCNAUGHTON, WHO WAS HIRED ACCORDING TO THE PROCEDURES ESTABLISHED BY THE NEW JERSEY CIVIL SERVICE REGULATIONS AND IS A TENURED PUBLIC EMPLOYEE, FILED THE MCNAUGHTON COMPLAINT WITH THE BUSINESS ADMINISTRATOR; AND
WHEREAS, PEMBERTON TOWNSHIP HAS AN OBLIGATION TO FULLY AND DILIGENTLY INVESTIGATE ALL COMPLAINTS FILED BY MUNICIPAL EMPLOYEES; AND

WHEREAS, INVESTIGATING AND RESOLVING EMPLOYEE COMPLAINTS NOT ONLY FOSTERS AND PROMOTES HARMONIOUS EMPLOYEE RELATIONS AND STRENGTHENS A LABOR-MANAGEMENT RELATIONSHIP THAT IS CHARACTERIZED BY MUTUAL RESPECT FOR THE COMMON DIGNITY THAT ALL INDIVIDUALS ARE ENTITLED TO, BUT IT ALSO SERVES THE FUNCTION OF PROTECTING THE TOWNSHIP FROM POTENTIAL LIABILITY CLAIMS; AND

WHEREAS, BECAUSE THE MCNAUGHTON COMPLAINT WAS FILED AGAINST A MEMBER OF THE PEMBERTON TOWNSHIP COUNCIL, IT WAS NECESSARY FOR THE BUSINESS ADMINISTRATOR TO REFER THIS EMPLOYEE COMPLAINT TO THE TOWNSHIP COUNCIL FOR FURTHER INVESTIGATION; AND

WHEREAS, THE TOWNSHIP COUNCIL RETAINED CAROL HARDING, ESQ. OF EARP COHN, P.C. (THE "INVESTIGATOR") TO PERFORM AN INVESTIGATION OF THE ALLEGATIONS RAISED THROUGH THE MCNAUGHTON COMPLAINT; AND

WHEREAS, THE INVESTIGATOR INTERVIEWED SIX WITNESSES AND REVIEWED MULTIPLE DOCUMENTS AS PART OF HER INVESTIGATION OF THE INCIDENT; AND

WHEREAS, WHILE MS. HARDING ATTEMPTED TO INTERVIEW COUNCILMAN INGE, SHE WAS ADVISED THAT COUNCILMAN INGE WOULD NOT PARTICIPATE IN THE INTERVIEW DUE TO A CRIMINAL INVESTIGATION PENDING AT THE TIME; AND

WHEREAS, THE CRIMINAL COMPLAINT FILED AGAINST MR. INGE WAS DISMISSED BY THE COURT BUT NEVERTHELESS, COUNCILMAN INGE NEVERTHELESS REFUSED TO COOPERATE AND PROVIDE A STATEMENT TO THE INVESTIGATOR CONCERNING THE INCIDENT; AND

WHEREAS, ON MARCH 23, 2009, THE INVESTIGATOR CONCLUDED HER INVESTIGATION OF THE INCIDENT AND PROVIDED HER FACTUAL FINDINGS TO THE TOWNSHIP COUNCIL IN THE FORM OF AN INVESTIGATION REPORT (THE "INVESTIGATION REPORT"); AND

WHEREAS, THE INVESTIGATION REPORT CONCLUDED THAT "[T]HE FACTUAL ASSERTIONS SET FORTH IN THE MCNAUGHTON COMPLAINT ARE SUBSTANTIALLY TRUE" AND THAT WHILE "[T]HE WITNESSES INTERVIEWED IN THIS INVESTIGATION DIFFERED IN THEIR RECOLLECTION OF THE EXACT WORDS UTTERED BY INGE", THEY "WERE CONSISTENT IN THE SUBSTANCE OF HIS STATEMENTS"; AND

WHEREAS, THE TOWNSHIP COUNCIL HAS DETERMINED THAT IT IS APPROPRIATE TO ADOPT THIS RESOLUTION IN ORDER TO EXPRESS ITS DISAPPROVAL OF COUNCILMAN INGE'S CONDUCT WITH REGARD TO THE INCIDENT.

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, AS FOLLOWS:

1. THE TOWNSHIP COUNCIL HEREBY FINDS AND DECLARES THAT COUNCILMAN INGE'S ACTIONS DURING THE INCIDENT WERE INCONSISTENT WITH THE STANDARDS OF DECORUM AND DIGNITY REQUIRED OF ALL PEMBERTON TOWNSHIP COUNCIL MEMBERS AND FINDS THAT IF SUCH ACTIONS HAD BEEN TAKEN DURING THE ACTUAL COUNCIL MEETING, THEY WOULD HAVE VIOLATED THE DECORUM REQUIREMENTS SET FORTH WITHIN THE COUNCIL'S BY-LAWS AND COULD HAVE RESULTED IN COUNCILMAN INGE'S REMOVAL FROM THE MEETING.
2. THE TOWNSHIP COUNCIL ALSO FINDS AND DECLARES THAT COUNCILMAN INGE'S ACTIONS DURING THE INCIDENT WERE INCONSISTENT WITH THE PROVISIONS OF THE FAULKNER ACT WHICH REQUIRES, IN N.J.S.A. 40:69A-37.1, THAT "[A]LL CONTACT WITH THE EMPLOYEES, AND ALL ACTIONS AND COMMUNICATIONS CONCERNING THE ADMINISTRATION OF THE GOVERNMENT AND THE PROVISION OF MUNICIPAL SERVICES SHALL BE THROUGH THE MAYOR OR HIS DESIGNEE".
3. FOR ALL OF THESE REASONS, THE TOWNSHIP COUNCIL HEREBY FORMALLY CENSURES COUNCILMAN INGE FOR HIS ACTIONS DURING THE INCIDENT.
4. COUNCILMAN INGE IS HEREBY DIRECTED TO HEREAFTER CONDUCT HIMSELF IN A MANNER THAT COMPORTS WITH THE HIGHEST STANDARDS OF LEGISLATIVE CONDUCT, WITH THE DIGNITY AND DECORUM OF THE PEMBERTON TOWNSHIP COUNCIL, AND WITH THE PROVISIONS OF THE FAULKNER ACT AND WITH THE COUNCIL'S BY-LAWS.
5. THAT TOWNSHIP COUNCIL REQUESTS THAT THE BUSINESS ADMINISTRATOR CONVEY THE TOWNSHIP COUNCIL'S REGRET AND APOLOGY TO EMPLOYEE THOMAS MCNAUGHTON

Mr. Inge commented that earlier Mrs. Stinney stated that he had the opportunity to come forth with witnesses. Mr. Inge informed that it is not his job to conduct an investigation. It was the person's job that did the investigation to come out and ask witnesses for statements. Mr. Inge did not recall seeing the person that did the report come out to any Council meetings after this incident to ask residents if they were out in the hallway or if they heard anything. Mr. Inge conveyed that he doesn't think that with him making a statement and bringing forth witnesses would have changed anything. There is not a person in the room tonight or a resident in Pemberton Township that would have thought this meeting would end in any other way that it has ended. Mr. Inge stated that you can call it what you want to call it. This Administration has shown nothing but malice towards him and they have done everything they could against his family and his businesses. Mr. Inge continued that this Council has sat up here for two and one half years and has done nothing to stop the Mayor and the Business Administrator from conducting business against him and his family for the last two and one half years; doing everything in their power, using tax payers money to come after him because he stands up for the residents of this Township. (The audience applauds) Mr. Inge stated no matter what the three Council members try to do, no matter what Mr. Vaz tries to do and no matter what the Mayor tries to do, he will be sitting up here on Council and doing what he thinks is best for the residents of Pemberton Township. (The

audience applauds) Mrs. Stinney asked the public to hold their applause and stated to them that they can applaud later. Mrs. Stinney thanked Mr. Inge for his comment. Mr. Inge informed he is not done yet. Mrs. Stinney apologized. Mr. Inge advised at this time he would like his attorney to come up and.....Mrs. Stinney reiterated when we get ready to open up the meeting to the public. Mrs. Stinney commented that she has not had the opportunity to say anything and she just wished that all of those that plan to come forward this evening would have perhaps contacted Mr. Inge to let him know that they would have liked to have been included in the report. It would have given her an opportunity to see a version of Mr. Inge in a written report. Mrs. Stinney noted that no one should be called names. She tries to through the Council and the public has heard her say throughout tonight's meeting, excuse me, I'm sorry, and I apologize. Mrs. Stinney tries to be respectful because she doesn't want anyone else to think anything different of her. She raises her children and grandchildren the same way. She has taught her neighbors and friends to do the same. Mrs. Stinney accepted the resolution because she felt there was an honest apology that was due to Mr. McNaughton.

GENERAL PUBLIC COMMENTS.

Motion by Scull and Cartier to open the meeting to general public comments.

Mrs. Stinney as the public to please come forward and print their name for those that would like to speak during general public comments. Mrs. Stinney yielded to Mr. Inge in that he asked for his attorney to please come forward. Mrs. Stinney yielded to Mr. Baxter. **Mr. Christopher Baxter: 1.** Spoke to Mr. Inge briefly before the break and Mr. Inge indicated that to the extent that a resolution was passed he wanted him to express his rejection of that resolution. That with respect to the invitation to speak and provide another side to the investigation, he was exercising what he is entitled to exercise which is his constitutional right to remain silent. At the time that inquiry was made, there was a criminal complaint that had been lodged against him and he did not have to step forward at that point in time and was entitled to exercise his fifth amendment right and did appropriately at that point in time. For Mr. Inge to be under a criminal charge and then come forward and provide a full blown statement would not have been consistent but the right that is attached to anybody when a criminal charge is filed against them. Mr. Inge wanted to make sure that Council understands that. Mr. Inge also perceives that this resolution in many ways violates his civil rights including the right to free speech. Mr. Inge takes the position that he is entitled to say what he wants to say within the confines of decorum to the people that he was with outside and not directing comments obviously to Mr. McNaughton. Mr. Inge feels that is all that he did and that was a free speech right that he had and that he enjoys both on the dyas as well as out in the hallway during breaks in the meetings. He was merely exercising that right. Mr. Inge also indicated that he feels that his due process rights were violated this evening in a number of respects. One to the extent that he was not given an opportunity to review any written statements that were generated by the Earp Cohen firm from any of the people that were investigated or interviewed. There is no way for him to analyze the quantity or quality of those statements to determine whether or not they had the

veracity necessary that would ultimately lead to the resolution that was passed tonight. He lost that opportunity because they weren't provided to him; he was merely given the report that was read in to the record which Mr. Baxter knows for the record was not even provided to the members of the general public that are here tonight. It was read in to the record with the promise that it would be disseminated after the meeting; after Council action had been taken. Mr. Inge did not have the opportunity to confront any of the witnesses that were referenced in the investigative report other than Mr. McNaughton. Mr. Baxter relayed that it is his understanding that none of the people who were interviewed aside from Mr. McNaughton are present this evening and asked Council President Stinney if that is accurate. Mrs. Stinney replied she didn't look out in to the audience. Mr. Baxter continued that for Mr. Inge not to have the opportunity to confront those witnesses, he believes is also a due process violation. Mr. Inge believes it is a violation that he did not have the opportunity to at least question the investigator about the methods used in the investigation, the way in which the investigation took place other than these interviews and whether there were in fact written statements. The fact that that person is not here this evening sort of ham strings him and does not allow him to present his side of the case so to speak and it doesn't allow the Council to hear the whole case. Mr. Baxter advised Mr. Inge has asked him to present to Council the opportunity to rescind the resolution they just passed and to invite Council to do that if they want to and take action on that. Mr. Baxter stated Mr. Inge would have to make that motion formally since he is on Council but wanted him to extend the invitation to rescind the resolution they just passed. Mr. Bayer commented to Mrs. Stinney that it's up to her and she doesn't have to.

Bonnie Schemelia: 1. Mrs. Schemelia informed she was a resident for thirty years and is an employee of the Township. Mrs. Schemelia stated how saddened she is by watching this entire meeting. She has been in Mr. Inge's shoes several times as an employee and would say to Mrs. Stinney that she is a very good Chairperson and tries to keep order and much as she can. However, she is appalled at Mrs. Scull's actions of huffing and puffing when things are stated and she does find that offensive. Mrs. Schemelia conveyed that Mr. Inge deserved better than what he got here tonight. The resolution was passed before Council heard from any of the public. Mrs. Schemelia continued that they were all in the hall and no one seems to care about anybody but the people that give them the information that they want to act on; they don't want the truth. (The audience applauds). Mrs. Stinney asked the public to bring their comments forward so there can be order.

Marisa Wilkins: 1. Mrs. Wilkins is also a resident of Pemberton Township and an employee. Mrs. Wilkins informed she was also present during the meeting. She was standing face to face with Mr. Inge as he was stating all of the items that he did state and at no time did he state what was on that report. It was a travesty and no one came to her and asked her to make a report out.

Jason Mitchell: 1. Mr. Mitchell advised he has been a resident of the Township since February 1996. Understands that Council has censured Mr. Inge and asked if that is true. Mrs. Stinney replied yes, Council did a resolution of apology. Mr. Mitchell brought to the attention of Council that one year ago in March of 2008, he was arrested by the Police Department and charged with crimes. Mr. Mitchell continued that two days after his arrest, the Chief of Police held a press conference at which the Chief made numerous disparaging remarks about him and handed out press flyers that were loaded with distortions and falsehoods. Eventually the

charges made against him were dropped. Mr. Mitchell has not asked for any apologies and expected the Chief, as a professional, to come forward to him and apology to him for the terrible things he said to the news media which was carried on broadcast news and reprinted in hundreds of thousands of copies of newspapers. Mr. Mitchell informed that he personally finds politics very distasteful. He would rather go on living his life. Mr. Mitchell expressed hope that members of this Council will get pass this situation and work for the good of the residents of this Township because all of the money that is being spent on the side issues is a waste and could be better spent taking care of the children of the Township, providing better services for the people of this Township and we all deserve better than that. (The audience applauds). **Deborah Dixon: 1.** Ms. Dixon is a resident of Pemberton Township and also a Township employee. Ms. Dixon was also at the meeting on February 4th, out in the hallway and no one came to her and asked her and she was also standing with Mr. Inge and a few other people during conversations and at no time did she ever hear Mr. Inge approach Mr. McNaughton or say those things to him. Ms. Dixon wanted to make that known. **Sueann Price: 1.** Ms. Price is a Township resident and doesn't understand why we are here. This was taken to court and a judge found no credibility to this case and this case was thrown out. Any time Mr. Inge has brought anything to this Council to be investigated, Council has found no reason to investigate. On one instance when Mr. Inge wanted the Planning Board investigated for their actions against him, a judge found him credible and two members of the Planning Board were removed and the Council still found no reason to investigate. When the Solicitor helped the Mayor after the last Planning Board meeting when the Mayor refused to recuse himself, he asked for an investigation. Again, the Council refused to investigate. If there are substitute lawyers, why wasn't another lawyer used instead of the Solicitor. Ms. Price noted he gave direction and if she gives direction to somebody, she is giving him advice. Ms. Price stated there is something going on here other than Mr. Inge being the only Republican on the Council and maybe that is held against him but he doesn't act as Republican. Mr. Inge states things that are good for this Township and thinks that Council needs to work with him and get behind him and stop fighting him at every turn. (The audience applauds). **Steve Skulimuski: 1.** Seconded what Ms. Price stated. Mr. Inge asked the Council back in February of 2008 to do an investigation on what he perceived to be the illegal if not at least unethical actions of Mayor Patriarca and two members of the Planning Board. This Council in February refused to take any action. In August of 2008, six months later, Mr. Skulimuski came forward and asked for the same thing and pointed out to the Council the Township Code that he believed that the Mayor had violated. Mr. Skulimuski continued that Mr. Prickett asked Mr. Archer at the time to get back to Council as to whether they could do an investigation. That is the only thing Mr. Prickett asked to do and Mr. Skulimuski can show the Council that in the minutes if they care to see them. The Solicitor took it upon himself to basically do an investigation which he should not have done. The Solicitor should have done what was done in this case; a special counsel should have been hired because the investigation was requested against the Mayor who he represents. The Solicitor should have recused himself from that as he did in this case. Mr. Skulimuski continued that he came back with the opinion that the judge didn't find anything wrong. Mr. Skulimuski disagreed with that and added that Council will hear that again at a later date. Mr. Skulimuski commented

to talk about hypocrisy, two Council members that sat on the dais and stated they were not going to vote to investigate because they weren't going to go against what a sitting judge said. Tonight, there was a sitting judge that stated there was no basis for anything but yet two Council members, Mrs. Stinney and Mrs. Scull, both voted for this resolution and that is very hypocritical. Mr. Skulimuski conveyed that everybody came here tonight knowing that this would be exactly what it was and that was a witch hunt. (The audience applauded). **George Petronis: 1.** He is also a resident of Pemberton Township. Wanted to make sure that he is absolutely clear in understanding that at this point there are no legal proceedings against Mr. Inge either criminal or civil and asked if that is correct that there are no court actions against Mr. Inge of any sort. Mr. Baxter replied none that he is aware of. Mr. Petronis stated he wanted to make sure that he understood that correctly that as far as any violation of law, there is no violation of law being asserted by anyone at this point. Mr. Bayer informed there is a tort claim notice that has been filed, there is a PERC complaint that has been filed and there was a complaint of hostile work environment filed by an employee of the Township which led to this matter. Mr. Bayer added that Mrs. Stinney read the report. Mr. Bayer stated there is not a civil law suit pending. Mr. Petronis commented the only thing is there may be a union action against Mr. Inge. Mr. Bayer added and also a tort claim notice and a notice that there was a tort claim that was intending to be filed against the Township for the action. One has to wait six months until one can file. Mr. Petronis confirmed that it has not at this point been filed and that is not against Mr. Inge, that is against the Township. Mr. Bayer replied that Mr. Inge was named as one of the responsible parties in the notice and if a complaint is filed, you can't do it until six months after the notice of tort claim is filed under the law. Mr. Petronis commented that as one of the more outspoken residents of the town, he is concerned about what has happened here tonight. Speaking to some of his fellow residents, there seems to be a general sense in the town shared by a lot of people that this is a town that will "get you" if you stand up to them. All actions against Mr. Inge have been dropped. There may or may not be a tort complaint against the Township which could be viewed as an attempt to pressure the Council in to taking action. The resolution as Council adopted it, states no legal precedent on which Council bases censuring Mr. Inge. Mr. Petronis expressed that he is very much afraid that what Council is doing here tonight is setting a precedence which will be seen by residents of this town as representing a danger to them if they choose to speak up against officials or employees of this Township. Mr. Petronis seconded Mr. Inge's attorney's request that Council rescind the resolution for the good of the town. Mr. Petronis confirmed with Mr. Baxter that he has not spoken to him before tonight and has never met him. (The audience applauds). **Mr. Christopher Baxter: 1.** In reference to Resolution No. 110A-2009, asked if that was a written resolution that was prepared in advance of this Council session. Mrs. Stinney replied she asked Mr. Bayer to give Council options. Mr. Baxter stated the number 110A designates that there was more than one and asked if resolution 110 was an option a or option b or if that is just the way they are numbered. Mr. Bayer replied no, it had to do with a resolution that had that number already that was completely unrelated to the matter; it was just another matter. Mr. Baxter asked if there were multiple written draft resolutions other than the one that was voted on or other option resolutions. Mrs. Stinney replied no because she thinks that all Mr. McNaughton asked

was for a public apology for the actions. Mr. Baxter stated that was not his question and his question was if in advance of the meeting other than Resolution No. 110A-2009, were there any other resolutions prepared in advance. Mr. Bayer replied no. Mr. Baxter asked if there was only one. Mr. Bayer responded that the advice as he stated publicly, so there is nothing to hide, was either adopt a resolution that said something like what the draft said or do nothing. Mr. Bayer expressed he didn't really see much of anything in between and if they did nothing, there wouldn't be a need for a resolution acknowledging Council wasn't doing anything and Mr. Baxter is an attorney for a board and he knows that. Mr. Baxter just questioned if that was an item and he understands there was a push by Mrs. Scull to add that resolution to the agenda but it was prepared in advance and there was a potential that Council was going to take action on that having been advised by their attorney, but that was an option and why that resolution was provided like they are traditionally when you walk in to a meeting for the members of the public to see before it is voted on. Mrs. Stinney stated either or. Mr. Bayer noted that as a matter of practice here, resolutions until they are adopted are not public record and draft resolutions are not provided to the public and asked Mrs. Cosnoski if that is correct. Mrs. Cosnoski replied resolutions are neverMr. Bayer interjected that the title of the resolution is on the agenda, but not the resolution itself. Mr. Baxter commented to Mrs. Stinney that a public meeting for Pemberton Township, in advance whether there are sort of form resolutions to be passed, are those provided in a meeting package with the agenda for the public before the meeting. Mrs. Stinney and Mr. Bayer replied yes and Mr. Bayer added generally they are. Mr. Baxter then asked if they have been voted on yet and will be provided to the public just like Resolution No. 110A-2009 had not been voted on but had been prepared in advance of the meeting and asked if that was correct. Mrs. Scull commented that Council was all hoping they weren't going to need Resolution No. 110A-2009. Mr. Baxter stated he is not concerned with what Council's hopes were but the fact remains that the resolution was prepared in advance and was not provided to the public with the agendas and asked if that was accurate. Mr. Bayer answered no and the resolution.....Mr. Cartier interrupted and stated no resolutions are provided to the public in advance of voting on them. Mr. Cartier continued that we provide titles of resolutions in advance on the agenda to the public. Mr. Baxter replied that he is confused then because he thought he was answering a couple of questions and.....Mr. Inge interjected that he thought the Council President answers the questions.....Mr. Cartier interjected that Mr. Baxter was answered incorrectly because Council does not provide resolutions in advance of the meeting. Mr. Baxter asked Mrs. Stinney if that will be available for public inspection after the meeting. Mrs. Stinney answered yes. **Ms. Edna Inge: 1.** She is Mr. Inge's sister and she is also very surprised at what has happened here tonight. Ms. Inge has heard Mrs. Scull mention many times as well as Mrs. Stinney that they like to hear good things about Pemberton Township. That is not happening because it seems to her that we choose for it to be that way. The things that have happened here do not need to happen here. There is a lack of respect for people on Council and in the Township. As she has heard many people speak tonight that they were here the night of this meeting with the CWA and the Supervisors getting their raises, three years going up, two years retroactive and she is a person that believes that they should get these raises; however, she did not think this was the time for them to get the raises. Ms. Inge

conveyed that everything that was stated did not happen in the hallway. She thinks it is all scuttle butt just to make something snowball and get bigger and bigger and bigger. Ms. Inge expressed that the ordinance or bylaw or whatever it was is suppose to stop people from speaking up and is a great injustice. She is going to exercise her right and tell Council how she feels; right, wrong or indifferent as Mrs. Stinney does. Ms. Inge stated to Mrs. Stinney that she wants order in this room because this is her house and she's up there with the gavel. Ms. Inge informed that she is a resident of Pemberton Township and she intends to be heard. If things aren't right, it's coming out just the way it is. (The audience applauds).

There being no one else indicating a desire to be heard, Mrs. Stinney closed the meeting to public comments.

The meeting was adjourned at approximately 7:48 pm.

Respectfully submitted:

Amy P. Cosnoski, RMC
Deputy Township Clerk