

COMMITTEEMEMBER PUHAK OFFERED THE FOLLOWING RESOLUTION AND MOVED ITS ADOPTION:

RESOLUTION 2017-40
RESOLUTION FOR TERMINATION OF PUBLIC EMPLOYEE
JOSEPH MUZETSKA

WHEREAS, pursuant to N.J.S.A. 10:4-12(b)8 and Rice v. Union County Regional High School Board of Education, 155 N.J. Super. 64 (App. Div. 1977), a notice was mailed on January 4, 2017 by Certified Mail/RRR and regular mail to public employee, Joseph Muzetska, an employee of the Township of Shrewsbury who serves as Code Enforcement/Special Code Enforcement/Housing Inspector/Parking Enforcement Officer, requesting his presence on January 10, 2017 concerning Mr. Muzetska's request for medical leave and other issues concerning his employment with Shrewsbury Township ("Rice" letter); and

WHEREAS, Joseph Muzetska had previously on December 31, 2016 submitted a letter from Dr. Sumul N. Raval, requesting that Mr. Muzetska be excused for three months from work until March 31, 2017, but upon receipt of the "Rice" letter, at Mr. Muzetska's residence at 36 Rutland Place, Eatontown, New Jersey 07724, Mr. Muzetska indicated that because of his medical condition he could not appear before the Township Committee and hoped to reschedule the "Rice" hearing sometime in the future; though no time was specified; and

WHEREAS, as a result of the aforesaid request, a request was forwarded to Mr. Muzetska on January 26, 2017 via Certified Mail/RRR and regular mail to his address in Eatontown, New Jersey requesting release of medical records to a doctor assigned by the Township, namely Dr. Jared Schulman, and requesting that Mr. Muzetska see Dr. Schulman concerning his condition on February 6, 2017 at 10 am for an examination/evaluation; and

WHEREAS, Joseph Muzetska failed to authorize the release of the aforesaid records, and failed to appear at the Township's doctor's evaluation, but indicated through his wife, Barbara Muzetska, on February 14, 2017 that although he had received the aforesaid letters and requests, Mr. Muzetska's medical condition, while now residing in St. Thomas, Virgin Islands, would not allow him to appear before the Township Committee and apparently with regard to any doctors evaluation, and his future availability was not certain; and

WHEREAS, by "Rice" letter of February 2, 2017, Joseph Muzetska was advised of a hearing to be scheduled concerning his position in Shrewsbury Township to be heard on February 15, 2017, which Mr. Muzetska, through his wife in an email of February 14, 2017 indicated he could not appear because of his medical condition and his present residence in St. Thomas, Virgin Islands; and

WHEREAS, Shrewsbury Township has an Ordinance establishing a Personnel Code, subject to amendment, which provides under Section 11, entitled “Separation” for the basis of termination, and requires progressive discipline and lists grounds to discipline, including termination, and including but not limited to failure to report to work day or days prior to or following a vacation, holiday and/or leave and/or any other unauthorized day of absence, insubordination, unscheduled absence and chronic or excessive absence, violation of any Township rules or policies and other sufficient causes; and

WHEREAS, Joseph Muzetska has had a long history of disciplinary issues beginning at least in 2009 with complaints from Sandra Davis, Executive Director of the Alfred Vail Mutual Association; resulting in the Personnel Committee, per the Personnel Code, meeting with Joseph Muzetska concerning said complaints; a complaint from Jessica Kennedy of June 24, 2010 referred to the Personnel Committee; a complaint from Robert Parnell of June 18, 2011 concerning enforcement of the ordinances, leading to Personnel Committee review and a “Rice” letter of July 19, 2011 for a hearing scheduled on August 9, 2011 concerning Mr. Muzetska’s duties, hours of employment and certain problems associated with his job; and

WHEREAS, Mr. Muzetska requested that the aforesaid hearing be rescheduled based on an unsubstantiated illness, and the aforesaid hearing was rescheduled for November 10, 2011, in which Mr. Muzetska was required to provide monthly report of his duties as a Code Enforcement/Special Code Enforcement/Housing Inspector/Parking Enforcement Officer, and was warned that the issues raised do not appear to be totally resolved; and

WHEREAS, Shrewsbury Township, through its attorney, Gene J. Anthony, Esq., sent a letter to Joseph Muzetska, dated March 26, 2012, indicating that it had not received monthly reports on a regular basis in 2012 and requested enforcement of certain ordinances; and

WHEREAS, a complaint was filed by the law firm of Stark & Stark on behalf of Alfred Vail Mutual Association concerning the actions of Joseph Muzetska, leading to a “Rice” letter and request for a hearing, dated March 26, 2014, after a personnel meeting by the Personnel Committee on February 28, 2014, and Mr. Muzetska claimed unavailability due to medical conditions, but could not provide a return date for hearing; and

WHEREAS, Chief Financial Officer, Adeline Schmidt of the Personnel Committee issued a memorandum of March 27, 2014 requesting a meeting with Mr. Muzetska on March 28, 2014, addressing complaints and concerns with regard to Mr. Muzetska’s vacation and sick time, lack of detailed monthly Code Enforcement Reports, total hours of work per week, use of personal time while working for Shrewsbury Township, complaint from Alfred Vail Mutual

Association, complaints of hostile work environment and allowing non-Township employees to occupy Township vehicles utilized by Mr. Muzetska during work hours; and

WHEREAS, Mr. Muzetska continued to find reasons to not appear at “Rice” hearings, requesting an adjournment in April of 2014; May 27, 2014 and June 5, 2014; and

WHEREAS, a third “Rice” letter was sent out on September 4, 2014, concerning an Executive Session Hearing on the evening of September 23, 2014 concerning the continued absence of Mr. Muzetska from the job and his lack of utilization of a substitute other than a substitute obtained by the Township, and based on a need to address complaints raised by the law firm of Stark & Stark; and

WHEREAS, the aforesaid hearing of September 23, 2014 was held and all of the aforesaid complaints were addressed, and it was noted that under Section 1, Subsection 1(b) of the Personnel Ordinance, permanent, part-time employee is one who works regularly, but “less than 8 hours per normal working day and/or five days per week, but a minimum of 18 hours per week.” Mr. Muzetska was required once again to keep track and document by punching in on a time clock for the time that he was on the job (which he had failed to do in the past), was admonished once again that he had to produce detailed monthly Code Enforcement Reports (which he had failed to do on a regular basis); that he had violated Section 16, Subsection D, entitled, “Use of Equipment of Vehicles” of the Personnel Code by using municipal vehicles during work time with unauthorized person(s) within the vehicle; that he was required to read the Personnel Code concerning hostile work environment and conduct himself accordingly with regard to conduct with other employees and members of the official governing body and Mr. Muzetska was put on 30 day’s probation in addressing all of the aforesaid issues and correcting all violations; all of which was confirmed in writing to Mr. Muzetska by letter of October 6, 2014; and

WHEREAS, by letter authorized by the Township Committee of December 8, 2014 to Mr. Muzetska, Mr. Muzetska was put on notice that he was in violation of his probation in that he continued to not satisfy the requirements of a detailed monthly Code Enforcement Report, and that he had to respond to a complaint that was filed with regard to his performance by Michelle Six, of 71 Crawford Street; and

WHEREAS, Mr. Muzetska continued to be in violation of the requirements of the Personnel Code and directives of the Chief Financial Officer and the Township Committee throughout 2015 and 2016 and is now absent from the job, and will be for at least three months,

