



MAYOR AND COUNCIL MINUTES

Tuesday, August 15, 2006

8:00 P.M.

BOROUGH HALL COUNCIL CHAMBERS

Municipal Place

Emerson, NJ

This meeting was called to order at 8:05 pm. James Sinon led the Salute to the Flag followed by a moment of silence for Muriel Wassmann.

Mayor Setteducati commented that Emerson had lost one of its most praiseworthy volunteers with the passing of Muriel Wassmann on August 9th. Serving alongside her husband Bill, Muriel was a historian who, over many years, worked to restore and preserve history, not only in Emerson, but in the surrounding towns throughout the Pascack Valley area. Although handicapped for over 50 years, through her determination and enduring spirit, Muriel continuously and selflessly gave of herself in service to others. He considered it fortunate to have known Muriel for the last four years. Her perseverance through difficult circumstances had served as an inspiration for him adding that she was truly a wonderful person and would be greatly missed.

Mayor Setteducati read the Open Public Meetings Statement announcing that the meeting was called pursuant to the provisions of the Open Public Meetings Law. This meeting of **August 15, 2006** was included in a list of meeting notices sent to the Bergen Record and Ridgewood News on December 15, 2005 and advertised in said newspapers on December 17th & December 23, 2005; respectively, posted on the bulletin board in the Municipal Building on December 17, 2005 and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk of the Borough Hall.

ROLL CALL

Councilman Robert Belli-Present
Councilwoman Carole Costantin-Present
Councilman Christopher Heyer-Present
Councilman Kenneth Hoffman-Present
Councilman Frank Milone, Jr.-Present
Council President Brian Todd-Present
Mayor Steven Setteducati-Present

Also present were Joseph Scarpa, Borough administrator, Carol Dray, Borough Clerk and Gordon Meyer, Esq. in the absence of William Smith, Borough Attorney.

I. Approval of Minutes:

- a). Regular Meeting of May 2, 2006

APPROVED 9/19/06

Motion to approve the meeting minutes of the Regular Meeting of the Mayor and Council of May 2, 2006 with corrections was moved by Councilman Todd, seconded by Councilwoman Costantin and carried unanimously.

VII. CORRESPONDENCE

Mayor Setteducati announced that copies of the correspondence are on file in the Office of the Municipal Clerk.

#06-70 letter dated 7/28/06, re: Support of NJ Hospitals, S. Mitchell, Pascack Valley Hospital

#06-71 letter dated 7/28/06, re: Cablevision, A. E. Falk, V.P.

#06-72 letter dated 8/4/06, re: Bergen Municipal Employee Benefits Fund, Fund Commissioner

#06-73 letter dated 8/3/06, re: Hackensack Golf Club-Pond dredging, Job & Job, P.E.

#06-74 letter received 8/7/06, ADA Training, County. Executive, D. McNerney

#06-75 letter received 8/10/06, Paper Street Property Nuisance, K. Dzibela

VIII. PROCLAMATIONS AND PRESENTATIONS

In Honor of Eagle Scout James Sinon

Mayor Setteducati presented James Sinon with a proclamation in his honor in recognition of his achievement for attaining the distinction of the rank of Eagle Scout in the presence of his family and pronounced August 16th, 2006 James Sinon Day.

Fire Chief Carlos also presented Mr. Sinon with a gift certificate in appreciation of his effort for completion of a project on their behalf.

IX. APPOINTMENT AND PERSONNEL CHANGES

1. Appointments

a) Council liaisons

Motion to confirm the Mayor's appointment to the following Council committees as:

Finance Committee: Councilman Milone 1st and Councilman Todd 2nd

Recreation Commission: Councilman Heyer 1st and Councilman Belli 2nd

Insurance Fund Commissioner: Councilman Belli

was moved by Councilman Belli, seconded by Councilwoman Costantin and carried unanimously.

X. ORDINANCES-FIRST READING

None

XII. ORDINANCES-SECOND READING AND PUBLIC HEARING

1310-06 CAPITAL ORDINANCE TO APPROPRIATE THE SUM OF \$104,504 FOR THE REPLACEMENT OF THE HVAC SYSTEM IN THE PUBLIC LIBRARY IN, BY AND FOR THE BOROUGH OF EMERSON, IN THE COUNTY OF BERGEN, NEW JERSEY AND TO TRANSFER UNEXPENDED BOND ORDINANCE BALANCES AND REAPPROPRIATE SAME TO FINANCE SUCH APPROPRIATION.

☞ Councilwoman Costantin **moved** to open the meeting for public comment on this ordinance only, seconded by Councilman Hoffman and carried.

☞ Seeing no hands, Councilwoman Costantin **moved** to close the meeting for public comment, seconded by Councilman Belli and carried.

Councilman Hoffman commented that he was under the impression that a letter or communication had been received by the Library Board trustees on behalf of the governing body recommending that the trustees pay 50% of the replacement cost for the library’s HVAC system. Councilwoman Costantin denied that a letter to that effect was written but communications between the two parties did take place by email. Councilman Hoffman indicated he was troubled by the implication that a recommendation had been made “on behalf of the governing body”. Mayor Setteducati did not know what Councilman Hoffman was specifically referring to but agreed that a representation of approval by the governing body when a matter had not been voted upon by the Council would be inappropriate but maintained that no one had taken any action on behalf of the governing body. He concluded that the situation was hypothetical unless Councilman Hoffman could produce what he claimed was presented to the Library Board since the mayor was not aware of what Councilman Hoffman was talking about. Councilman Hoffman had asked for the communication several times from the Library Board of Trustees but had yet to receive it. He argued that the matter was another example of the practice of excluding some members of the council from discussions.

☞ **Motion** to adopt Ordinance #1310-06 was **moved** by Councilwoman Costantin, seconded by Council President Todd, seconded by and carried by roll call vote.

RC: Council members:

- Milone-yes
- Costantin-yes
- Belli-yes
- Heyer-yes
- Todd-yes
- Hoffman-yes

Mayor Setteducati announced that Ordinance No. 1310-06 was duly adopted by a vote of 6-0.

X. OLD BUSINESS

Discussions:

1. Library-Temporary Air Conditioning Unit

Since it would still be a matter of time until the permanent unit would be installed, Councilman Hoffman questioned if a temporary unit would be purchased for \$12,000. Councilwoman Costantin stated that no decision would be made and Mr. Scarpa replied

that the Library Director was aware of the rental proposal but was of the opinion that cooling the meeting room was sufficient. It was his understanding that the library ultimately decided that they would not pay for the rentals out of their own funds. Gail Kovacs, a treasurer and trustee of the Emerson Library, requested a point of clarification and was given the floor by Mayor Setteducati. She confirmed that the library board decided not to accept the proposal because they were under the impression that one unit would not be sufficient to cool the main area; it would require four \$12,000 units for a total amount of \$48,000 per the recommendation of an engineer that the library board spoke with. Mr. Scarpa could not confirm that Ms. Kovacs' information was correct. Councilman Hoffman commented then that the matter would wait until the HVAC system was installed and that was confirmed by general consent. Councilman Belli suggested that the senior center might be opened for use by library patrons in extreme weather until the system was installed.

XIII. FINANCIAL ACTION

Resolution No. 149-06, re: Bond Anticipation Note for \$1,029,500

☞ **Motion** to approve Resolution No. 149-06 was moved by Councilman Belli, seconded by councilman Milone and carried by roll call vote.

RC: Council members:

Milone-yes
Costantin-yes
Belli-yes
Heyer-yes
Todd-yes
Hoffman-yes

Resolution No. 160-06, re: Authorizing Exigency for HVAC /heating System in Emerson Public Library

Mr. Scarpa explained how this particular resolution would expedite the bidding process for speedier installation of the heating system at the library.

☞ **Motion** to approve Resolution No. 160-06 was moved by Councilwoman Costantin, seconded by councilman Milone and carried by roll call vote.

RC: Council members:

Milone-yes
Costantin-yes
Belli-yes
Heyer-yes
Todd-yes
Hoffman-yes

XIV. NEW BUSINESS

1. Proposed changes to Fence Ordinance 290-40

This matter was postponed until the next meeting by Mayor Setteducati. Councilman Hoffman asked if existing barbwire fencing be grandfathered and what if a portion of barb

fencing needs to be replaced. Mr. Meyer opined that typically a change in legislation was prospective unless it was determined to be detrimental to a person's safety adding that the matter warranted further examination.

Ordinance No. 1306-6

Mayor Setteducati questioned the status of the Armenian Home and why it was not on the agenda. There was confusion about its introduction and whether the ordinance had been properly tabled until the next meeting. It was determined to have been tabled for recommendation by the Planning Board and for non-advertising. Mr. Meyer advised that it should be tabled until the next meeting.

☛ **Motion** to table the second reading of the Armenian Home Zoning Ordinance until the next meeting was moved by Councilwoman Costantin, seconded by Councilman Hoffman and carried unanimously.

XV. REPORTS

1. Mayor and Council

Councilman Milone gave the month ending **Finance and Revenue** Report.

Councilwoman Costantin had no report to give.

Councilman Belli had not report to give.

Councilman Heyer gave the **Emerson Volunteer Ambulance Corps** and **Emerson Volunteer Fire Department** activity report for the month of June.

Mayor Setteducati reported that the **Planning Board** would be discussing the issue of Redevelopment at their next meeting in preparation of the request for proposals and quotes. Mayor Setteducati added that he would be going through extraordinary efforts to reach out to businesses and property owners.

He reported that the senior **housing project** was moving along swiftly and the Washington Mutual Bank was also progressing smoothly as well as the **shopping center** demolition. The revenue from construction fees was estimated at \$250,000 for the Stop & Shop alone. In case anyone wondered, the large pieces of wood on the site would be used as the sound barrier wall.

2. Office of the Borough Administrator

Mr. Scarpa:

- Invited Councilman Todd to speak in regard to replacing a resigning police dispatcher and Mayor Setteducati suggested that the matter be considered first under closed session.
- The bus stop at the Marshall's shopping center was the responsibility of the borough and the dome was in the process of repair.
- Mayor Setteducati had received a parking complaint from a resident on Union Street and the Traffic Officer recommended that the council pass an ordinance assigning a no parking area because of the narrowness of the street. With the council's approval, Mr. Meyer would pass along the information to Mr. Smith to prepare the ordinance.
- The funds were in place to go out to advertise for the snow melter.
- The position of deputy municipal clerk had been advertised in all appropriate places.
- The borough planner had reported the master plan reexamination would be ready in September and the public hearing should take place by late September or early October.

Mayor Setteducati refreshed the member's memory in regard to the contribution by the shopping center developer for a snow melter.

3. Office of the Municipal Clerk-Ms. Dray had not report.
4. Borough Attorney had no report for open session.

XVI. PUBLIC COMMENT

*In the interest of time, speakers are limited to **five (5) minutes**. Speakers with prepared statement should provide **eight (8) copies** for the Council.*

Before opening the meeting for comments from the public, Mayor Setteducati reminded everyone to turn off their cell phones, keep their comments as brief as possible and try to limit them only to governmental issues of concern to an Emerson resident. He further requested that if a subject matter was addressed and answered, to please refrain from repeating it unless they had something new to contribute. A five-minute rule was in effect for each speaker at the discretion of the council. Mayor Setteducati asked that everyone do their part to be civil, to the point and respectful of another's point of view and opinion. He further warned that speaking out without recognition would not be tolerated and a second warning could result in ejection from the council chamber.

☛ **Motion** to open the meeting for comments from the public was moved by Councilwoman Costantin, seconded by Councilman Heyer and carried unanimously.

Michael Saudino, 116 Randolph Ave. member of PBA Local 206 and son of Emerson police chief Saudino, read a statement opposing what he alleged to be a personal attack upon his father and accused Mayor Setteducati of waging a personal vendetta against his father.

Beverly Dunn, 131 Grand Blvd., complained about the weeds and port-a-john at the lot at Linwood Ave. and Grand Blvd. Mayor Setteducati believed that Mr. Scarpa had followed up on her complaint but offered to speak to the contractor himself personally. Mr. Scarpa stated that a summons had been written and the contractor could be billed for any work done by the DPW.

Mr. Pfister, 31 Franklin Ct., was disgusted by the bad manners and behavior of the people who address the mayor and council. He urged the Council to establish rules and regulations for behavior at public manners. Mayor Setteducati agreed but added that although parliamentary rules and bylaws were in place he had found it difficult to enforce order even with police presence.

Chief Saudino, Emerson Police Chief, agreed with Mr. Pfister and volunteered that he had left the last meeting because he had also been sickened by the behavior and did not condone it. He clarified for the benefit of the council members that the police could ask someone to leave but they had no right to physically remove someone unless a complaint was signed against that person. He maintained that only the governing body could make the

determination to have someone removed and the police could request but could not use physical force unless the person was under arrest. He also maintained that he had instructed his officers likewise that unless a complaint was signed they were not to physically remove an individual from the council chambers due to case law and liability concerns. He had explained that to Councilman Todd prior to that meeting and he had understood that Councilman Todd had agreed with him. When the incident occurred at the last meeting, Chief Saudino had been in his office and the officers had been instructed of the procedure.

Mr. Meyer advised that there was distinction between a police officer requesting a person to leave a room and an arrest. Chief Saudino agreed but his point was that once the person refused, in the absence of a signed complaint, the police could not use physical force and he and his men had to abide by that rule. Councilman Todd questioned that the procedure described by the Chief meant that in order to have a person escorted from the council chambers it required a member of the governing body to first file a complaint? To which Chief Saudino responded that the person would be held downstairs in the police department until the complaint was signed. Mayor Setteducati believed that the person in question at the last meeting had not even been asked to leave by a police officer.

☞ Seeing no more hands, Councilman Belli moved to close the meeting for comments from the public, seconded by Councilman Heyer and carried unanimously.

XVII. CONSENT AGENDA-Resolution No. 150-06

☞ **Motion** to approve the Consent Agenda without Resolution No. 150-06 was moved by Councilman Heyer, seconded by Councilman Hoffman and approved unanimously by roll call vote.

RC: Council members

Milone-yes
Costantin-yes
Belli-yes
Heyer-yes
Todd-yes
Hoffman-yes

Ca151-06 Approve Bill List

Ca152-06 Approve Investments

Ca153-06 Approve Bergen Municipal Employee Benefits Fund membership Renewal

Ca154-06 Approve 50/50 Raffle License #491-06 for the Church of the Assumption to be held on September 24, 2006 between the hours of 2:00 p.m. to 6:00 p.m. at the Assumption Academy Auditorium.

Ca155-06 Approve 50/50 Raffle License #492-06 for the Church of the Assumption to be held on October 14, 2006 between the hours of 8:00 p.m. to 11:00 p.m. at the Assumption Academy Auditorium

Ca156-06 Approve Casino Night Raffle License #493-06 for the Church of the Assumption to be held on October 14, 2006 between the hours of 8:00 p.m. to 11:00 p.m. at the Assumption Academy Auditorium

Ca157-06 In Support of the New Jersey League of Municipal ties position to amend the Police and Fire Interest Arbitration Act

APPROVED 9/19/06

Ca158-06 Authorize Mayor and Council to enter into Community Development Grant agreement with the County of Bergen for the purpose of using \$22,409.00 for the Rehabilitation of existing bathroom to comply with ADA requirements

Ca159-06 Approve 50/50 Raffle License #494-06 for Alpine Learning Group, Inc. to be held on October 16, 2006 at 8:00 p.m. at the Hackensack Golf Club

Ca161-06 Approve overtime pay for Municipal Clerk

Ca162-06 Authorize Borough Administrator to seek bids for Snow Melter

Ca163-06 Strikes and Spares, Special Ruling to Permit Renewal of "Inactive" License

Ca164-06 Correcting Resolution No. AO15-06

Ca165-06 Authorize the Agreement to Renew Membership in the Bergen County Municipal Joint Insurance Fund

XVIII. CLOSED SESSION RESOLUTION No. 166-06

☛ **Motion** to add the subject of police dispatcher and close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 166-06 was moved by Councilman Camporeale, seconded by Councilman Heyer and carried unanimously

#06-8/15-31 Personnel-DPW

#06-8/15-32 Personnel-Administrator's Contract

#06-8/15-33 Personnel-Police Dispatchers

XIX. RECONVENE

☛ **Motion** to reconvene was moved, seconded and carried by council.

XX. ACTIONS TAKEN AS A RESULT OF CLOSED SESSION DISCUSSIONS

1. Police Dispatchers

☛ **Motion** to advertise for full and part time dispatchers was moved by Councilman Todd, seconded by Councilwoman Costantin was carried unanimously.

2. Borough Administrator's Contract

☛ **Motion** to approve the extension of the Borough Administrator's contract under the same terms for two additional years effective to 2009 and to approve his pursuit in education for certification as a Certified Financial Officer was moved by Councilman Milone, seconded by Councilwoman Costantin and carried unanimously.

3. HVAC System

☛ **Motion** to award TRANE the contract to replace the HVAC system at the Emerson Public Library based on Boswell Engineering's recommendation and price quote of 54,800 was moved by Councilman Belli, seconded by Councilwoman Costantin and carried unanimously.

4. 1307-06 Amended Salary Ordinance-Introduction

a) 1st Reading-Introduction

The Borough Clerk read the number and title of the ordinance introduction.

APPROVED 9/19/06

**ORDINANCE NO. 1307-06
AMENDED ORDINANCE TO FIX THE SALARIES, WAGES, COMPENSATION
AND OTHER TERMS OF EMPLOYMENT OF CERTAIN EMPLOYEES OF
THE BOROUGH OF EMERSON FOR THE CALENDAR YEAR 2006**

Councilwoman Costantin **moved** to approve the ordinance on first reading by Consent, seconded by Councilman Belli and carried by roll call vote.

RC: Council members

Milone-yes

Costantin-yes

Belli-yes

Heyer-yes

Todd-yes

Hoffman-yes

Council President Heyer announced that Ordinance No. 1307-06 would be advertised in the August 18th edition of the Ridgewood News, posted on the official bulletin board and on file in the Borough Clerk's office. A second reading and public hearing prior to adoption would take place at the Regular Meeting of the Mayor and Council on September 5, 2006 at 8:00 pm in the Council Chambers here in the Municipal Building.

XXI. ADJOURNMENT

With no other business to discuss, Councilman Belli moved to adjourn the meeting, seconded by Councilman Heyer at 10:15 p.m.

Carol Dray, RMC

October 3, 2006