



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
AUGUST 4th, 2009
7:30 P.M.



Call to Order

Mayor Lamatina called the meeting to order at 7:40 pm. Joseph Burgis led the salute to the flag followed by a moment of silence.

O.P.M.A. Statement

Mayor Lamatina read the Sunshine Statement announcing that the meeting of August 4, 2009 had been adequately noticed and was in compliance with the provisions of the Open Public Meetings Law. Further, that the meeting was included in the Annual Meeting Notice Resolution sent to the Bergen Record and Ridgewood News and advertised in said newspapers; posted on the bulletin board in the Borough Hall, Municipal Place, Emerson, NJ 07630 and has remained continuously posted as the required notices under the Statute. In addition, a copy of the notice was on file in the Office of the Municipal Clerk and had been available to the public since its approval by the governing body.

Roll Call:

Mayor Louis J. Lamatina-Present
Councilman Steven Bair –Present
Councilman Browne - Present
Councilman Heyer - Present
Council President Hoffman - Present
Councilman Lazar - Present
Councilman Loffredo - Absent

Also present were Jane Dietsche, Deputy Clerk, substituting for Borough Clerk Carol Dray, Phil Boggia, Borough Attorney, and Joseph Scarpa, Business Administrator.

I. APPOINTMENTS/RESIGNATIONS

- Council President Hoffman **moved** to appoint Brendan Rizza as a regular member of the Emerson Volunteer Fire Department, **seconded** by Councilman Heyer and carried by roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

II. NEW BUSINESS

- Audit Discussion – Audit

The Borough Auditor, Mr. Higgins, had not arrived at this point in time in the meeting; therefore, Mayor Lamatina suggested that the discussion be tabled until his arrival.

III. UNFINISHED BUSINESS

- Kinderkamack Road Concept design plan – Council Review & Discussion/Public Hearing

Mr. Jahr, of Maser Consulting, had not arrived at this point in time and; therefore, Mayor Lamatina tabled the discussion until his arrival later in the evening.

- Redevelopment Plan Review

Mr. Burgis, the Borough Planner, referenced a letter dated July 14, 2009, from the Mayor and Council requesting his review of the Redevelopment Plan. The letter contained proposed revisions to the original plan suggested by Councilman Bair and agreed upon previously by the Council as a whole. Mayor Lamatina remarked that the purpose of the discussion was to receive Mr. Burgis' feedback on those revisions and authorize Mr. Burgis to proceed with the modifications of the plan. Mr. Burgis stated that most of the changes were minor and would be fairly simple to modify and would not require too much of his time; however, he did want to give some extra thought to building height and the procedure for removing certain block and lots from the plan that had already or would make improvements in conformance to the Plan.

Building Height- Mr. Burgis explained that the original plan, in most instances, allowed for three stories. In addition, depending on slope or grade, it was possible that four stories could be allowed which the Council was now indicating they wanted eliminated completely from the plan. The letter referenced 2 ½ stories and 3 but completely eliminated four stories. He explained that it simply required modifying the bulk area chart and plan wherever it referenced building heights. After a lengthy discussion, it was agreed that 3 stories would be the maximum given topographical circumstances but 2 ½ stories the preference. Additionally, the Council had asked if an exemption could be made to building height if an applicant had filed by October 1, 2009. After examining case law, in his opinion, the applicant must conform to the ordinance at the time of the decision of the Planning Board. The Borough Attorney concurred. Mr. Burgis stated that he was confident that the Redevelopment Plan was a very viable one with the building height of three stories and in fact encouraged redevelopment because of the extra floor space.

Removing sites from the Redevelopment Plan- Mr. Burgis explained that to formally remove a property from the plan, the zoning ordinance would need to be amended by a public hearing which would be burdensome especially since the project now was not under the design of one redeveloper but individual property owners. Typically, properties are not physically removed. Mayor Lamatina reconsidered the question citing the example of Oritani Bank who had made all the improvements in conformance to the plan. Mr. Burgis answered that typically those properties remain in the zone but the Planning Board resolution can stipulate and the fact finding be stated that the applicant had met all the requirements of the Redevelopment Plan and;

therefore, the municipality would not utilize eminent domain. Mr. Burgis recommended that any Planning Board resolution memorializing a development improvement reference that the Governing Body would take a similar action for that particular development and to amend the resolutions to reflect the same for any developer within the zone who had made improvements in conformance to the Plan thus far. Mr. Burgis recommended utilizing that method as the uniform procedure for any property owner in the redevelopment zone entering into an agreement of development with the borough to avoid the borough of being accused of spot zoning.

Properties North of Chestnut- Mr. Burgis concurred with Mayor Lamatina that those blocks and lots were in the study but not in the plan and were not recommended to be in the actual plan. They were identified in the study in error.

Mr. Burgis requested clarification for what he understood after the discussion that from a topographical aspect the maximum height of three stories remain in the plan. There were no objections. Mayor Lamatina stated that the revised plan would be voted upon when presented by Mr. Burgis in two to three weeks. Councilman Lazar cautioned that he had been informed by most of the property owners in the Redevelopment Zone that they preferred only two and a half stories and invited Mr. Burgis to canvass the property owners with him.

- Audit Discussion – Audit

Mr. Higgins reported on the 2008 Municipal Audit he had prepared and explained the four recommendations he had made. He credited the CFO for a job well done. CFO/Treasurer, Ms. Henderson, reminded the Council to sign the Group Audit.

- Kinderkamack Road Concept Design Plan- Council Review & Discussion/Public Hearing

Mr. Jahr had arrived and Mayor Lamatina invited him to participate in the discussion. Mayor Lamatina referenced a letter from Farouk Ahmad, Director of the Bergen County Department of Planning and Economic Development commenting on the preliminary review of the Kinderkamack Road Concept Plan prepared by Mr. Jahr. Mr. Jahr commented that he had received it. Mayor Lamatina summarized the content of the letter from the County stating it was complimentary and positive to some of the concepts in the road plan but it also contained recommendations identifying some of the elements that needed work.

Mr. Jahr gave a detailed description of the concept plan and some of the modifications that were recommended including those made by other borough officials. He noted that a computer controlled electronic signaling system was already in the works to be part of the plan that would control ultimately all the lights in Emerson but most important and immediate, the signals between Ackerman Avenue, Linwood Avenue and the railway crossing to create a more organized and safer traffic pattern warning that not all the congestion problems can be eliminated. It had been his intention to present a more moderate improvement. Mr. Jahr explained the federal government pre-emption order for some of the signalization improvements at request of Mayor Lamatina. The federal government was waiting on the borough to start the project before beginning the work of the signalization improvements. In designing the plan, Mr. Jahr had focused on the area

between Ackerman and Linwood and the vicinity of Locust Ave. The County, on the other hand, was focused on extending the work to Lincoln Blvd. Mr. Jahr maintained that the goal should be to get the center of town under way. Mr. Jahr pointed out some other issues that the County referenced in the letter that he was not clear on and was concerned over the lack of open dialogue between his office and the County. He explained numerous issues where the design, from an engineering point of view, might not be well understood by the County. Councilman Browne was troubled that communication between Mr. Jahr and the County seemed nil. Mr. Jahr stated he had had zero conversations with the County. Mayor Lamatina confessed that he was confused as he had heard Mr. Jahr comment earlier in the meeting that he was in constant communication with the County. Mr. Jahr explained that what he had meant was that he was constantly trying to communicate with the County but they did not return his phone calls and, in fact, Mr. Ahmad had been a no-show at a meeting that Mr. Jahr had scheduled with Mr. Ahmad. Mayor Lamatina offered to call Mr. Ahmad to set up a meeting with Mr. Jahr, but Mr. Jahr declined outlining the proper protocol. Mr. Jahr claimed that the County wanted to see more traffic capacity through Emerson and that could only be accomplished by adding more lanes and modest changes in the right of way. He reminded the Council that they had made it clear that would not be acceptable but because it was a County road, the reality was that some negotiation was inevitable. He also warned that no one but the municipality can obtain the easements. He added that an open dialogue between he and the design engineers at the County would be necessary for the project to come to a logical conclusion, not the Mayor and Council. Mayor Lamatina pointed out to Mr. Jahr that; although the letter was addressed to the Council, Mr. Jahr had been copied on the letter. Further, he reminded Mr. Jahr that prior to tonight he had been given Councilman Bair's and others' comments and he himself had suggested and it was agreed to by the Council previously to wait to hear from the County for their preliminary comments. Mr. Jahr maintained that the plan was given to the County out of order and Mayor Lamatina remarked that the Plan was even given to the newspaper before the County and questioned the common sense of the County learning about the borough's concept plan by reading articles printed in the newspaper instead from the borough itself. There were opposing comments and views from the Council but Mayor Lamatina summed up the discussion stating that Mr. Jahr will digest the County letter and return to the Mayor and Council with his comments and recommendations. Next, a response will be made to the County by drafting a letter identifying Mr. Jahr as the point person for the project, that further communications would be between municipal engineer and County engineer only and that the comments from this evening's public hearing along with the recommendations in County's letter and those from the Mayor and Council would all be incorporated into a revised concept plan after a report from Mr. Jahr, memorialized by resolution by the Governing Body and then all forwarded to the County by Mr. Jahr.

☞ **Motion** to open the meeting to comments from the public on the Kinderkamack Concept Design was **moved** by Council President Hoffman, **seconded** by Councilman Lazar and carried.

Gina Calogero, 3 S. Dorchester, requested a walk through of the plan for the benefit of those who had not seen it.

Mayor Lamatina agreed and asked Mr. Jahr to walk the public through the plan which he did so in a detailed fashion.

Gary Schwinder, 99 Linden Avenue, commented on traffic flow on Emerson Plaza East and West and the unusual widths and angles of the corridor.

Vincent Donato, 128 Vivian Avenue, commented that he was opposed to condemning the gas station on the corner of Linwood and Kinderkamack Road and offered some minor suggestions to the concept plan.

Gary Schwinder, 99 Linden Avenue, commented on traffic back ups when train crossing gates are down, bus stops and train stops. In his opinion, the plan exacerbated back ups.

Danielle DiPaola, 93 Union Street, was concerned with prohibiting left hand turns in the area of Linwood, Emerson Plaza East and West limiting access into that neighborhood.

Mayor Lamatina read Traffic Officer Mottley's traffic study report into the record and is on file in the Municipal clerk's office.

Liz Petriano, 92 Orchard Avenue, questioned some of the left hand turns, wondered who was paying for what and felt out of the loop as far as the County was concerned.

Gary Schwinder, 99 Linden Avenue, commented about four lanes in front of the bus station and suggested an extra wide south bound lane.

☛ **Motion** to close the meeting to comments from the public about the Kinderkamack Road Concept Plan was **moved** by Councilman Lazar, **seconded** by Council President Hoffman and carried.

Mayor Lamatina encouraged the public to email any more questions about the concept plan to the Administrator@emersonnj.org who would address them with Mr. Jahr and the Council.

Mayor Lamatina complimented the public on their comments and summed up Mr. Jahr's next step to revise the plan as he saw fit and report back to the Mayor and Council at a later date.

Mr. Jahr recommended appointing a sub-committee of the governing body to whom he can speak with and was completely miffed about the lack of communication between himself and the County engineers. Mayor Lamatina mentioned Mr. Jahr would personally deliver the plan to the County and copy the Mayor and Council. Mr. Jahr maintained that letter from the County in some areas was completely contradictory to what he understood from the borough and would seek direction from the Mayor and Council for approval of what it was exactly the town wanted him to do. Again, Mayor Lamatina repeated that Mr. Jahr was the expert and he could come back in two weeks and discuss how he wanted to respond the County if he so chooses. Mr. Jahr responded that he had no problem responding to the plan with the consensus of the Mayor and Council. Mr. Jahr was instructed to email the administrators and copy Mayor and Council.

- Hybrid Police Vehicle

Emerson Police Chief Michael Saudino commented on the amperage required for a police vehicle and added no hybrid has been rated as a police unit package. His recommendation was to remain with a gas powered Ford Explorer. On the question of propane, he was confused that Westwood now seemed to have a change of heart about using propane. He recommended waiting and seeing how Westwood succeeded and that it would cost more in the long run to package a police vehicle for hybrid use.

- Referendum question – Sale of Broadway

Council President Hoffman had drafted a ballot question with the interpretative statement that was discussed at the last meeting but the actual possible revenue amount of the paper street calculated by the assessed value of the proposed lots had been left open. Mr. Scarpa had asked the Tax Assessor to assess the value of the lots and with Mr. Niehoff's report; Ms. Psota estimated the value of each lot to be between \$275,000 and \$300,000 or \$1.65 million on the low side for all six lots. At the request of Councilman Lazar, Council President Hoffman explained what a non-binding referendum question was - merely a consensus of the voters that would not legally prevent the sale of the paper street. The consensus of the Council was to put the possible revenue value in the question to read: 'exceed \$1 million dollars'.

☞ **Motion** to open the meeting to comments from the public on whether there should be a referendum question only was **moved** by Council President Hoffman, **seconded** by Councilman Bair and carried on a roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

Council President Hoffman re-read the proposed ballot statement and interpretative statement for the benefit of the public present.

Mayor Lamatina invited the public to speak.

Liz Petriano, 92Orchard, supported the referendum and was opposed to developing Broadway.

Phyllis Rizzi Rooney, 5 Oakland Avenue, was opposed to developing Broadway and queried why it had been proposed to begin with. Mayor Lamatina explained it was the fiduciary responsibility of elected officials to explore and consider possible ways of bringing revenue into the town.

Gary Solimando, 104 Broadway, agreed that the question was worded well and supported the referendum.

Pat Palagonia, 2 Oakland Avenue, was opposed to the discussion and the referendum. She advocated turning the paper street, Broadway, into a park and leaving it as open space.

Rob Fecci, 80 Erie Street, questioned why the extra costs for emergency services, sanitation workers and educating children who might move into the proposed homes were not factored in the ballot question. Councilman Lazar remarked that six more homes would have no impact on any town services as the fire department was manned by volunteers and no need would exist to hire additional police or DPW employees. Mayor Lamatina referenced an engineer's report from May 2007 for the public to view about the proposed lots. Councilman Lazar, speaking as a certified expert in the field of construction codes, added that it was a state law that any development of a sub-division or building lot must now conform to zero run-off and it was feasible that development of Broadway might even improve any alleged flooding in that area because of the stricter development standards.

Gary Schwinder, 99 Linden Avenue, asked where the public was when four new homes were built in his neighborhood adding that the governing body at that time did not give those residents who opposed the development the benefit of placing the proposition as a question on an election ballot. He stated that all four houses were built and all sold for over a million dollars. In contrast to what the residents predicted, the developer actually corrected the water problems in that area by installing a 60,000 gallon retention pit and there as been no water run-off. Four families moved into four homes with two children each and no additional town services were required. Mr. Schwinder thought the referendum question was worded well and speaking from his experience, advised those residents opposing the proposed development of Broadway to get the word out to the voters if they were looking for support.

Gary Solimando, 104 Broadway, read from a statement and wondered if an environmental impact study would be done and at whose expense. Council President Hoffman replied that an environmental impact study was not required but he had walked the property and observed the foliage.

☞ **Motion** to close the meeting to comments from the public on the Broadway referendum question was **moved** by Councilman Lazar, **seconded** by Councilman Heyer and carried.

BROADWAY REFERENDUM QUESTION

☞ **Motion** was **moved** by Council President Hoffman to place the proposed sale of the paper street, Broadway, as a referendum question and interpretative statement hereto previously read above inserting the \$1 million dollar amount on the next General Election ballot; **seconded** by Councilman Heyer and carried by roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

IV. INTRODUCTION OF ORDINANCES

1381-09 AN ORDINANCE AMENDING THE CODE OF EMERSON CHAPTER 236 ENTITLED SITE PLAN REVIEW § 236-5 TITLED ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

☞ **Motion** to introduce Ordinance #1381-09 on first reading was **moved** by Councilman Heyer, **seconded** by Councilman Bair and carried by roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

Mayor Lamatina announced that Ordinance #1381-09 would be further considered at a Public Hearing to be held on August 18th, 2009 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the August 7, 2009 edition of the Ridgewood News. He added that this ordinance was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building where copies would be available to the General Public at no charge.

1382-09 AN ORDINANCE AMENDING CHAPTER 274 ENTITLED VEHICLES AND TRAFFIC §274-53 TITLED SCHEDULE XVII: TIME LIMIT PARKING- TO LIMIT PARKING ON THE NORTHSIDE OF PASCACK AVENUE BETWEEN KINDERKAMACK ROAD AND THE PASCACK VALLEY SHOPPING CENTER

☞ **Motion** to introduce Ordinance #1382-09 on first reading was **moved** by Councilman Heyer, **seconded** by Council President Hoffman and carried by roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

Mayor Lamatina announced that Ordinance #1382-09 would be further considered at a Public Hearing to be held on August 18th, 2009 at 7:30 p.m. in the Council Chambers of the Borough Hall, Municipal Place, Emerson, N.J. and published in the August 7, 2009 edition of the Ridgewood News. He added that this ordinance was on file in the Clerk's Office and posted on the official bulletin board of the Municipal Building where copies would be available to the General Public at no charge.

V. REPORT

▪ ADMINISTRATOR

Mr. Scarpa reported that he prepared bid specifications for an energy audit and received two bids: one for \$11, 698 and the other \$25,000. The lowest bidder was Steve Winters Associates. But since the money had not been budgeted for to award the bid, Mr. Scarpa suggested using the money left over from a previous bond that would require an amending bond. Mayor Lamatina said to place the matter on the next meeting agenda for formal action since no one had had an opportunity to review any information about the company. He also reported that the contract for the drainage improvement on Longview/Hill/Ross would be awarded that evening, and bids would be opened tomorrow to contract for work to improve the damage done on Lincoln Boulevard from the last storm. A grant was submitted to the County Open Space for improvements to Centennial Park recommended by Council President Hoffman and a safety gate at Jim Wagner Park for a total of about \$32,000 that would most likely be awarded sometime in October.

VI. PUBLIC COMMENT

☞ **Motion** to open the meeting for comments from the public was moved by Council President Hoffman, seconded by Councilman Lazar and carried.

Liz Petriano, 92 Orchard Avenue, questioned how the building height in the Redevelopment zone was decided to be three stories, alleged that the redevelopment was slowly destroying the town and commented that the hooting of the train whistles were cute and gave the town a quaint, country feel and hoped that it would keep the rest of the people out.

☞ **Motion** to close the meeting for comments from the public was moved, seconded and carried.

VII. RESOLUTIONS ON CONSENT AGENDA NO. 156-09

Matters listed below are considered routine and will be enacted by one motion to the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item be removed for consideration.

☞ **Motion** to approve the Consent Agenda Resolution No. 156-09 was **moved** by Council President Hoffman, **seconded** by Councilman Heyer and carried by roll call vote.

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

- Ca 157-09 Certification of Governing Body of the Annual Audit
- Ca 158-09 Award bid for Longview Drive Drainage Project
- Ca 159-09 Approve Change Order #1 for 2009 Road Program to D & L Paving Contractors, Inc., PO Box 507, Nutley, NJ 07110 for \$20,101.63
- Ca 160-09 Appoint Professional Services of DART Computer Services Inc. by Pay to Play Alternate Method
- Ca 161-09 Chapter 159 – Highway Safety Grant
- Ca 162-09 Bergen County Open Space Trust Fund Municipal Park Improvement Program
- Ca 163-09 Municipal Representative for Open Space Committee – Joseph Scarpa
- Ca 164-09 Authorize Police Car Lease

VIII. CLOSED EXECUTIVE SESSION - Resolution #165-09

☞ **Motion** to close for an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 165-09 was **moved** by Councilman Lazar, **seconded** by Councilman Bair and carried by roll call vote

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

- #09-8/4-29 - Litigation – Savino - N.J.S.A. 10:4-12-7
- #09-8/4-30 – Litigation – A. Solimando – N.J.S.A. 10:4-12-7
- #09-8/4-31 - Police Negotiations – N.J.S.A. 10:4-12-7

IX. RECONVENE

Motion to reconvene was moved by Councilman Bair, seconded by Council President Hoffman and carried

Deny Payment of Fit for Duty Evaluation

Emerson Police Officer Mark Savino's request for the borough to pay the professional service fee for his fitness for duty evaluation by a psychiatrist of his choosing was **moved** by Councilman Bair, **seconded** by Council President Hoffman and carried by roll call vote.

APPROVED MIN 9-15-09

RC: Council members:

Browne-Yes
Lazar-Yes
Loffredo-Absent
Hoffman-Yes
Heyer-Yes
Bair-Yes

XII. ADJOURNMENT

With no other business to address, at the request of Mayor Lamatina, Councilman Heyer **moved** to adjourn the meeting, **seconded** by Councilman Bair and carried at 11:37 p.m.

Carol Dray, RMC/CMC/CMR
Municipal Clerk

August 27, 2009