



MINUTES
BOROUGH OF EMERSON
MAYOR AND COUNCIL
May 3, 2011
7:30 P.M.
Borough Hall-Council Chambers
Emerson, NJ 07630



Mayor Colina called the meeting to order at 7:33 pm. Mr. Reilly led the salute to the flag followed by a moment of silence in memory of the victims of 9-11 and also in gratitude to our special forces who honor us by their commitment to duty and their training; they are the leading edge in the battle against the global war on terror.

O.P.M.A. Statement

Mayor Colina read the Sunshine Statement announcing that the meeting of May 3rd, 2011 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 transmitted to the Bergen Record and Ridgewood News on December 22, 2010; 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:

PRESENT:

Mayor Colina, Councilman Browne, Councilwoman DiPaola, Councilwoman Garis, Councilman Rivers, Council President Shaw

ABSENT:

Councilman Lazar

Also present were Borough Clerk Carol Dray, Borough Attorney Scott Mooney, CFO Catherine Henderson, Borough Administrator Joseph Scarpa and Borough Auditor Gary Higgins.

III. EXCUSED ABSENCE of GOVERNING BODY MEMBER

- Council member Thomas Browne on April 12, 2011
- ☛ **Motion** to excuse the absence of Councilman Browne from the April 12th Mayor and Council meeting was **moved** by Council President Shaw, **seconded** by Councilwoman DiPaola and carried.

IV. PROCLAMATIONS & CITATIONS - None

V. PUBLIC COMMENT

Before opening the meeting for comments from the public, Mayor Colina 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 Colina 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 removal from the Council Chambers.

Agenda No.10 APPROVED

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

Afrim Hoxsa, 34 Broad Street thanked the Governing Body for their support and courage on an issue related to the Recreation Commission.

Ken Hoffman, 61 Emwood Drive asked about an item under new business related to the fire truck deficiency report. Councilman Rivers briefly explained and added that it would be discussed later in the meeting.

Seeing no more hands, Mayor Colina asked for a motion to close the meeting to comments from the public.

☞ **Motion** to open the meeting for comments from the public was **moved** by Council President Shaw, **seconded** by Councilwoman DiPaola and carried.

VI. APPOINTMENTS/RESIGNATIONS - None

VII. 2011 MUNICIPAL BUDGET ADOPTION

- Resolution #89-11 Waiver to Reading the Budget in Full

Borough Auditor Gary Higgins provided protocol on the process of adopting the budget. He stated that this budget was roughly \$150,000 below the 2% cap. He emphasized that the Governing Body and the administration did an admirable job bringing the budget in well beneath the new revised cap as well as below the state appropriation spending cap. Mayor Colina thanked Ms. Henderson, Mr. Scarpa and the Finance Committee, Council President Shaw, Councilman Rivers and all others who helped achieve that tough challenge.

☞ **Motion** to adopt Resolution #89-11 Waiver to Reading the Budget in Full was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried.

- Public Hearing - 2011 Municipal Budget

☞ **Motion** to open the meeting for comments from the public on the adoption of the 2011 Municipal Budget only was **moved** by Councilman Rivers, **seconded** by Councilwoman Garis and carried.

Seeing no hands, Mayor Colina asked for a motion to close the meeting to comments from the public on this topic.

☞ **Motion** to open the meeting for comments from the public on the 2011 Municipal Budget was **moved** by Council President Shaw, **seconded** by Councilwoman DiPaola and carried.

- Resolution #90-11 Amend 2011 Budget

☞ **Motion** to approve Resolution # 90-11 amending the 2011 Budget was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

- Resolution #91-11 Adoption of the 2011 Municipal Budget

☞ **Motion** to adopt Resolution #91-11 the 2011 Municipal Budget was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

- Resolution #92-11 Cancellation of Budget Appropriations

☞ **Motion** to approve Resolution # 92-11 Cancellation of Budget Appropriations was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

- Resolution #93-11 Emergency Appropriations

Mr. Higgins explained that this was related to the exigency declared for the sanitary sewer on Park Avenue and estimated the cost at approximately \$300,000. Mr. Scarpa added that this sewer disintegration emergency was located on Park Avenue and Hillcrest Avenue. He noted that complications ensued because the sewer line was twenty feet below the road and the pipe was made of asbestos. The entire length of Hillcrest needed to be resurfaced, and a storm drain water pipe that was in the way had to be moved. He detailed some of the expenses involved including sub-contractors and equipment rentals, DPW overtime, disposal of dirt, replacement stone, asbestos removal, manhole repairs and preventive pipe relining behind the homes on Park Avenue.

Mayor Colina thanked Council members who have gone over to take a look and talked to the neighbors. He also thanked the residents in the area for their understanding and bringing the DPW members refreshments.

☞ **Motion** to approve Resolution No. 93-11 Emergency Appropriations for \$300,000 was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

VIII. UNFINISHED BUSINESS

- Sale of Borough owned property-BLK 715 Lot 2 – Mr. Scarpa revisited the sale of this property and asked the Governing Body if they were okay with selling it. Council President Shaw asked that the Borough Attorney look into its ownership.
- Historical Preservation Commission – Mayor Colina announced that Councilman Lazar was not present and suggested postponing this item. Council President Shaw and Councilman Browne agreed. A Historical Preservation Commission member sitting in the public opposed the postponement and requested that it be moved along if possible as he and Historic Preservation Chairman Bill Wassman were present and prepared to answer questions.

☞ **Motion** to open the meeting to comments regarding this item only was **moved** by Councilwoman DiPaola, **seconded** by Councilwoman Garis and carried.

Ken Hoffman emphasized the urgency to move forward quickly because the dedication of landmarks was predicated on getting the Historic Preservation Plan Element done first. They were asking the Governing Body to direct the Land Use Board to start the process of creating a Historic Preservation Plan Element as part of its Master Plan as required in order for them to start designating landmarks. The Commission had come up with about 12 properties, possible 3 or 4 more, and designating each of them would take six or seven months at best.

Councilman Rivers expressed concern that there should be many levels of checks and balances in this process. Mr. Hoffman concurred stating that was one of the reasons why the process was lengthy. He anticipated that the first project they would work on was the train station. Council President Shaw asked about the impact on a homeowner of that designation. Mr. Hoffman acknowledged that it could restrict what a homeowner was allowed to do to the exterior, but not the interior. Based on questions from Council President Shaw, he said that nine of the properties were private homes and the others were Kuiken Brothers Lumber, the Emerson train station and the Emerson Hotel. Council President Shaw asked if this designation might affect the value of a home or the ability to sell it. Mr. Hoffman said that it was possible, but there were no objections from residents in Closter whose homes had been designated and some were very happy. He explained that if a homeowner did not want their residence designated as historical, they could attend a hearing or make a formal written protest but the final decision would be made by the Mayor and Council. He described it as a cooperative process and stressed that they did not want to be confrontational and would go to the property owner first and try to work with them.

Councilman Browne asked if there was a process to remove a home from historic designation. Mr. Mooney said that he thought the designation was for life and would carry with the deed, not the owner. Mr. Mooney also asked about potential litigation from homeowners who objected to the designation. Mr. Hoffman said that his feeling was to push it a little bit so that there was consistency as far as historical heritage in town.

Councilwoman Garis asked if there would be a tax break for the homeowner. Mr. Hoffman said that there was nothing. Mr. Scarpa asked for a list of the properties and Mr. Hoffman agreed to provide it. Councilman Rivers recommended that action on this topic should be postponed until Councilman Lazar was present to indicate his preference and view. Mr. Hoffman requested that it be placed on the next agenda.

☞ **Motion** to close the meeting to comments regarding this item only was **moved** by Councilwoman DiPaola, **seconded** by Council President Shaw and carried.

- Background Check Ordinance – Council President Shaw asked to table this item and said that he and Mr. Mooney were going to go through it and address it at the next meeting. Councilman Rivers reminded the Council that the ordinance was modeled in accordance with the Megan Kanka Foundation and that they did not want to do anything that would take the Borough out of their good graces with this. The Governing Body discussed whether the wording necessitated fingerprinting people performing auxiliary voluntary tasks like selling ice cream at the concession stand. Mr. Scarpa said that selling ice cream was not a ‘program’ per say and, in his opinion, the intent of the language in the ordinance covered sports programs line-itemed in the budget. Council President Shaw agreed that the intention of the ordinance was crystal clear but that someone had a concern that it potentially involved other people who had contact with children. He said that he would invite this individual to come in to discuss it.

- Appointing Library Sub-Committee – Mayor Colina said that there had been several conversations between the Governing Body and the Library Board of Trustees. The purpose and mission of appointing a subcommittee was intended to understand how monies were being spent, how progress was proceeding, what their needs were and to understand and enhance the relationship between them so that everyone could ultimately enjoy and be proud of the renovated library. He said that he wanted to meld the two entities into one team and that Councilwoman Garis and Councilwoman DiPaola would be involved with a third member named later. Councilwoman Garis said that the Library Board thought this was a very positive thing. Mayor Colina complimented Library Board President Bill Bierman for his diligence and commitment to the renovation.

Councilman Browne asked who was managing the project and if they were providing status reports. Mayor Colina said that his understanding was that the architect was the project manager and that the purpose of the subcommittee was to facilitate and expedite the process. Mr. Scarpa noted that the library's paid director was Jodi Fulgione and she was there during the day. He had been notified that they had been conducting construction progress meetings every week or so and said that the architect should be the one signing off on the work progress, not volunteers. Mr. Scarpa stated that he would be attending the next meeting with the architect and information should go from the architect to the director to himself during the day if there was an issue. The Governing Body agreed. Mayor Colina thanked all the volunteers for participating.

IX. NEW BUSINESS

- Fire Truck Deficiency Report – Councilman Rivers explained that the Fire Department was recently inspected by POSHA and a number of deficiencies had to be addressed before the next inspection. The pumpers had been tested by a third party company by placing a hose in still water and siphoning the water through the pumps, keeping a constant pressure for a length of time. Of the four trucks, three failed. He emphasized that this did not mean that they were not safe or in any danger, but just that it was something that needed to be corrected. He did note that it was probably not worthwhile to invest a lot of money in the two oldest vehicles and detailed the repairs necessary.

Councilman Rivers suggested initiating a proactive approach and asked the Governing Body to consider an emergency appropriation for the purpose of purchasing a new fire apparatus for delivery in 2012 or 2013. Mr. Scarpa agreed that it was not worth putting any more money into the two oldest vehicles. Councilman Rivers also mentioned that they had turnout gear for Fire Department members who did not show up for fires and new regulations required everyone in the department to have new updated turnout gear within two years. He explained that the Fire Department's first priority was to increase members' involvement as well as enforcing the 50% rule in their bylaws. He added that many of the organization's leaders thought that 50% was too high and wanted to consider reducing that. He asked them to try to do that internally but they could come to the Governing Body to discuss further if necessary. He concluded that this was something that they would ultimately have to address as they continued to be pinched by budget constraints, namely, the 2% cap. He emphasized that everyone loved, appreciated and wanted to foster town volunteers because they were vital to the town; however, they also had to be mindful of the fact that in a few instances, some volunteers were essentially hurting the Borough because they were not fulfilling their obligations.

Councilman Browne asked about the cost for the emergency appropriations and how Emerson's 50% rule compared with other towns. Councilman Rivers estimated the cost to be \$750,000 and that the rule varied by town. The Fire Department had put together a study which showed a 30%, 40% or 50% requirement but all surveyed enforced their bylaws except Emerson. He said that the Fire Department had to start enforcing the bylaws and their hope was to change them interdepartmentally. If not, they would come to the Mayor and Council because they had that authority. He explained that a 2/3rd vote was required within the Fire Department to make the change. If they reduced the requirement to 30% and enforced the bylaws, it would make sense. Otherwise they were not going to keep investing a lot of money and time. Mr. Scarpa said that there was an attendance issue, not just in Emerson but throughout the county. He hoped that this change would help.

Mr. Scarpa added that there was a list of items submitted by POSHA and they would all be addressed shortly. Part of the firehouse roof was replaced, the garage door emergency openers were repaired, plans for a fire suppression system above the industrial stove were in the works, and deficient turn out gear was disposed of. They were now pretty much in full compliance and ready for the reinspection.

X. INTRODUCTION OF ORDINANCES

SECOND READING AND PUBLIC HEARING:

1425-11 AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF EMERSON CHAPTER 73 THEREOF; PERSONNEL POLICIES, ARTICLE III, ENTITLED EXCUSED ABSENCES ESTABLISHING A LOWER ABSENTEE THRESHOLD THAN N.J.S.A. 40A:9-12.1

☞ **Motion** to open the meeting to comments from the public on Ordinance #1425-11 was **moved** by Councilwoman DiPaola, **seconded** by Councilman Rivers and carried.

Ken Hoffman, 61 Emwood Drive asked if compliance with this ordinance was up to the prerogative of the boards and commissions. Mr. Mooney opined that it applied across the board. Ms. Dray stated that it would be distributed to everyone that will be affected.

Seeing no more hands, Mayor Colina asked for a motion to close the meeting to comments from the public on this ordinance.

☞ **Motion** to close the meeting to comments from the public on Ordinance #1425-11 was **moved** by Councilwoman DiPaola, **seconded** by Council President Shaw and carried.

☞ **Motion** to adopt Ordinance #1425-11 on second reading was **moved** by Council President Shaw, **seconded** by Councilwoman DiPaola and carried by roll call vote:

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

1426-11 AN ORDINANCE AMENDING CHAPTER 274 ENTITLED VEHICLES AND TRAFFIC OF THE CODE OF THE BOROUGH OF EMERSON §274-42 SCHEDULE VI: PROHIBITED RIGHT HAND TURNS ON RED SIGNAL

☞ **Motion** to open the meeting to comments from the public on Ordinance #1426-11 was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried.

Seeing no hands, Mayor Colina asked for a motion to close the meeting to comments from the public on this ordinance.

☞ **Motion** to close the meeting to comments from the public on Ordinance #1426-11 was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried.

☞ **Motion** to adopt Ordinance #1426-11 on second reading was **moved** by Councilman Rivers, **seconded** by Councilwoman Garis and carried by roll call vote:

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

XI. REPORTS

- Administrator – Mr. Scarpa reported that the Port Authority was offering pieces of steel from the World Trade Center. He had requested a piece for the Borough since a resident at the time, Gary Albero, died in the terrorist attack and the request had been approved. He noted that it was considered sacred material and would have certain restrictions such as not being able to alter it. He said that the Borough would need to perform a fundraising for the memorial and come up with a location. He said that he would come up with more information but was not sure when they would receive the piece. He also discussed how to commemorate the tenth anniversary of September 11th. Mayor Colina suggested getting the Borough's religious and spiritual leaders together with members of the community to start working on a plan.

Mr. Scarpa said United Water would be starting work on the storm drains on Pine and Eagle Drives shortly with no cost to the Borough. He proposed having PNC Bank present a check for the \$2000 Police Department grant on June 14th. The Borough had also received an \$11,500 Clean Communities grant. He explained that these funds were used to purchase leaf bags for residents. Work was scheduled to begin next week on the Senior Citizen Center roof replacement; the funds were provided through a \$32,000 Community Development grant. He also proposed incorporating part of High Street in the road resurfacing project.

XII. RESOLUTIONS ON CONSENT AGENDA NO. 94-11

☞ **Motion** to approve Consent Agenda Resolution #94-11 was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

- Ca 95-11 Supporting Approval of Senate Bill S-54 to relieve regulatory requirements on certain county or municipal stream cleaning activities
- Ca 96-11 Tax Appeal Settlement – Long – 235 Forest Avenue – Block 906, Lot 3 for refund of \$2,675.94.
- Ca 97-11 Appointing Catherine S. Henderson as the Qualified Purchasing Agent and establishing the Bid Threshold to \$36,000 pursuant N.J.S.A. 40A:11-3a and N.J.A.C. 5:34-5 et seq. effective March 1, 2011 through December 31, 2011
- Ca 98-11 Approve 2010 Annual Recycling Tonnage Grant Application
- Ca 99-11 Approve Redemption of Tax Sale Certificate in the amount of \$25,145.44 – for Delapaz, Block 111, Lot 12
- Ca 100-11 Award Contract to Sidewalk Safety, Market Street, Saddle Brook for Specialty/Hybrid Repairs
- Ca 101-11 Exigency Repair – Sewer Main -Park Ave., Hillcrest Ave. & Lincoln Boulevard

Mr. Scarpa returned to his report to discuss ongoing issues with the ambulance and did not know what direction to take. He explained that there had been a lack of communication. Councilwoman DiPaola said that at a recent Ambulance Corps meeting, the ambulance was not discussed and she did not have any information to share.

Councilman Browne called a point of order because this item was not on the agenda. Mr. Scarpa said that it was going to be part of his report but forgot to bring it up. He said that he thought that this was a priority for them and the bond with money for the chassis had been approved. If they chose to buy a used ambulance from Leonia for \$30,000, they would not be able to use the bond and other financing would have to be arranged. Councilwoman DiPaola said that she had asked them to look at the 2003 Leonia ambulance and they thought it would cost approximately \$15,000 to refurbish the box after it was rechassied. Mr. Scarpa said that he was told the ambulances were in good shape mechanically. Mr. Scarpa asked that the Captain get in touch with him so they could meet with Councilwoman DiPaola.

☞ **Motion** to open the meeting to comments from the public regarding the Ambulance Corps issues just mentioned was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried.

Chris Knoller, Vice President of the Ambulance Corps discussed issues related to ambulance options.

Mr. Scarpa said not to give any company any money unless they had a state contract number because then bid specs would have to be drawn up and a specific company might not get the bid. Mr. Knoller said that they were getting a \$10,000 deposit check back and they were looking into options other than Leonia to see if there were any other ambulances with not as many miles on them. Council President said that if other options were being discussed, it needed to be discussed with them based on the fact that the Governing Body had allocated funds for a new chassis and they had a fixed dollar amount, not an open checkbook.

Mayor Colina asked Mr. Knoller to touch base with the leadership of the Ambulance Corps, and fill them in on this discussion. He added that Mr. Scarpa's suggestion about a conference call with the Captain was good and they would follow up on this. Councilman Rivers offered his assistance to work with Councilwoman DiPaola since he had worked with the Corps last year.

☞ **Motion** to close the meeting to comments from the public regarding the Ambulance Corps issues just mentioned was **moved** by Council President Shaw, **seconded** by Councilman Rivers and carried.

XIII. CLOSED EXECUTIVE SESSION - Resolution No. 102-11

☞ **Motion** to go into an executive session to discuss matters exempt from the public as duly noticed by Resolution No. 102-11 with removal of #11-5/03-13 was **moved** by Councilman Rivers, **seconded** by Council President Shaw and carried by roll call vote.

RC: Council members:

YES: Browne, Rivers, DiPaola, Shaw, Garis

#11-5/03-13	Personnel – Police - TABLED	N.J.S.A. 10:4-7
#11-5/03-14	Police Chief's Contract	N.J.S.A. 10:4-8
#11-5/03-15	Litigation – Police	N.J.S.A. 10:4-7
#11-5/03-16	Recreation – Personnel	N.J.S.A. 10:4-8

Agenda No.10 APPROVED

XIV. RECONVENE

☛ **Motion** to reconvene was moved by Councilman Rivers, seconded by Councilwoman DiPaola and carried.

XII. ADJOURNMENT

With no other business to address, at the request of Mayor Colina, a motion to adjourn was **moved** by Councilman Rivers, **seconded** by Councilwoman DiPaola and carried at 10:02 p.m.

Carol Dray, RMC/CMC/CMR
(Proofed 05/11/11)

May 5, 2011